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 | November 22, 2021 | *4:00 P.M.

*** Please note time change for this meeting is due to a Closed Executive Session beginning at 4:00 P.M., Regular Business Meeting will begin at 5:30 P.M.**

RECESS TO CLOSED EXECUTIVE SESSION* City Administrator, Chris Kukulski's Annual Review

*Note: The Executive Session will be closed, as allowed in Section 2-3-203(3), MCA, as discussions relate to matters of individual privacy and wherein the demands of individual privacy exceed the merits of public disclosure.

CALL TO ORDER: Mayor Cole

PLEDGE OF ALLEGIANCE: Mayor Cole

INVOCATION: Councilmember Shaw

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

MINUTES:

- October 21, 2021
- October 25, 2021
- November 8, 2021 **(Pending)**

COURTESIES:

PROCLAMATIONS: The 16 Days of Activism Against Gender Violence

COUNCIL REPORTS:

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 6 and 7 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. **2021 Tracked Excavator.** (Opened 10/19/21) Recommend rejecting all bids.

B. **Professional Consulting Agreement** with SRF Consulting to complete the MET Transit 5-Year Transit Development Plan; $150,470.

C. **Memorandum of Understanding** between the City of Billings and the Continuum of Care (CoC) for reimbursement of FEMA funds for the non-congregate shelter.

D. **Declaration** of surplus equipment and authorizing MET to dispose of 17 buses via advertisement and solicitation of offers before taking to auction or salvage.

E. **Acknowledge Receipt of Petition to Discontinue** a portion of the alley within Block 191 within the Billings Original Townsite and set a Public Hearing for December 20, 2021.

F. **Final Expedited Minor Plat** - Big Sky King Subdivision.

G. **Resolution** establishing compliance with reimbursement under Internal Revenue Code for the South TIF Construction Projects.

H. **Third/Final 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.

I. **Third/Final Reading Ordinance** repealing Article 7-1700-Medical Marijuana, Billings, Montana City Code (BMCC) and adding Article 7-2000 - Marijuana Regulations, BMCC.

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

1. October 18, 2021
2. October 25, 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 SPECIAL REVIEW 992:** a special review to allow an automobile collision repair center greater than 5,000 square feet in a Corridor Mixed Use 2 (CMU2) zoned district, for a proposed 18,554 square foot building, on Lot 13, Block 1, Montana Sapphire Subdivision, a 2.187-acre parcel of land, generally located at 4130 Kari Lane. Montana Sapphire, LLC, owner; Nick Fore, Cross Development, agent. Zoning Commission recommends conditional approval and adoption of the findings of the 9 review criteria. (Action: approval or disapproval of Zoning Commission recommendation.) *Quasi-Judicial

- *Presented by: Karen Husman, Planner*

Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, and review of the Zoning Commission's recommendation for conditional approval and adoption of the findings of the 9 review criteria, I move to approve Special Review 992.

3. **PUBLIC HEARING AND FIRST READING ORDINANCE** repealing and replacing Article 7-900, Billings, Montana City Code (BMCC), granting a renewal cable system franchise to Spectrum Pacific West, LLC, locally known as Charter Communications, Inc. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

- *Presented by: Stacy Tenney, Deputy City Attorney*

Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the first reading ordinance repealing and replacing Article 7-900, BMCC, as recommended by staff.

4. **PUBLIC HEARING AND FIRST READING ORDINANCE** amending Article 14-600, Billings, Montana City Code (BMCC) - Regulation of Fire / Security Alarm Systems. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

    - *Presented by: Mike Spini, Fire Marshall and Lt. Shawn Mayo, Police Department*

    Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve first reading ordinance amending Article 14-600, BMCC, as recommended by staff.

5. **PUBLIC HEARING AND FIRST READING ORDINANCE** prohibiting adult-use marijuana dispensaries. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

    - *Presented by: Gina Dahl, City Attorney*

    Recommended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the first reading ordinance prohibiting adult-use marijuana dispensaries, as recommended by staff.

6. **TAX INCREMENT FINANCING ASSISTANCE** from South Billings Boulevard Urban Renewal District (SBBURD) to KSKC Properties, LLC for improvements located at 3218 South Frontage Road; up to $779,524. SBURA Board recommends approval. (Action: approval or disapproval of SBURA Board recommendation.)

    - *Presented by: Wyeth Friday, Planning Director and Jim Tevlin, SBBURD Consultant*

    Recommended Motion: I move to approve the Tax Increment Financing Assistance from SBBURD to KSKC Properties, LLC for improvements located at 3218 South Frontage Road, as recommended by the SBURA Board.

7. **CITY ADMINISTRATOR'S Annual Performance Evaluation.**

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: 11/22/2021
Title: 2021 Tracked Excavator; Bid
Presented by: Debi Meling
Department: Public Works
Presentation: No

RECOMMENDATION

Staff recommends that City Council reject all bids.

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

The purchase of a tracked excavator is an addition to the fleet that is in the approved FY22 Equipment Replacement Plan (ERP) and FY22 Street/Traffic budget. The tracked excavator was advertised on October 8th and October 15th, 2021, in the Y*ellowstone County News* and on the City's website. Bids were opened on October 19th and four bids were received. Three of the bids did not meet minimum requirements and the bid that did meet minimum requirements was higher than the amount budgeted. Staff is recommending that the bids be rejected. Staff will re-evaluate the operational needs of the division and determine the best way to proceed with an equipment purchase to most effectively meet those needs.

ALTERNATIVES

City Council may:

- Reject all bids; or
- Approve the purchase of the tracked excavator. If the bid that met requirements is accepted, the budget will be exceeded.

FISCAL EFFECTS

The City received four bids for the 2021 tracked excavator as shown below:

Vendor	Base Price
RDO Equipment	$76,000.00*
Tractor & Equipment	$92,772.00
Bobcat of Big Sky	$67,650.00*
Prosource Machinery	$65,904.00*

*Bid does not meet minimum requirements.

The 2021 tracked excavator was budgeted in FY22 using Street Maintenance funds. The Tractor & Equipment bid is the lowest, responsible bid but is greater than the amount budgeted for this equipment.

City Council Regular

Date:	11/22/2021
Title:	Approval of Consulting Agreement with SRF Consulting to complete the MET Transit 5-Year Transit Development Plan
Presented by:	Rusty Logan
Department:	Transit
Presentation:	No

RECOMMENDATION

Staff recommends that the City Council approve the Consultant Agreement with SRF Consulting to complete the MET Transit 5-Year Transit Development Plan.

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

The Aviation and Transit Department, MET Transit Division, is requesting that City Council approve a Consultant Agreement with SRF Consulting to complete a 5-Year Transit Development Plan. This plan will provide a road map for MET Transit for the immediate future to meet changing demands as the City of Billings continues to grow. MET intends to regularly update this plan as goals and priorities are identified and accomplished.

A Request for Proposals was advertised in the *Yellowstone County News* and on the City's Website on September 24, October 1 and 8, 2021. Three firms initially showed interest; however, the City of Billings only received one proposal. Both non-submitting firms were directly contacted to determine why proposals were not received; both firms indicated they had decided they did not have the available resources to dedicate to another consulting project at this time, as other projects were already in progress. The single proposal received from SRF Consultants was reviewed by the RFP scoring committee and was determined to have met all requested criteria regarding scope, quality, and expected cost. The scope of work includes elements focused on data collection regarding all aspects of the operation, community engagement and feedback, service analysis and scenario development, and overall goals and priorities for the period of study. The anticipated schedule for the plan would see the final plan reviewed for approval in the Summer of 2022. All aspects of the plan will comply with Federal Transit Administration regulations, as well as other applicable laws.

This project is identified in the 2022 Billings Urban Area Unified Planning and Work Program (UPWP), which was most recently recommended for approval by the City Council on August 08, 2021. The UPWP was ultimately approved by the Policy Coordinating Committee on August 17, 2021. The UPWP is developed annually in conjunction with the Municipal Planning Organization (MPO) and identifies tasks to be completed using Federal Highway and Federal Transit dollars allocated to the MPO and MET Transit Division.

ALTERNATIVES

City Council may:

- Approve the Consultant Agreement as proposed; or
- Not approve the Consultant Agreement and direct staff on how to proceed. Not approving this Agreement means the City Council is not approving the completion of a funded project in the 2022 Billings Urban Area Unified Planning and Work Program (UPWP) that was already approved by the Policy Coordinating Committee.

FISCAL EFFECTS

The cost of the Consultant Agreement to complete the MET Transit 5-Year Transit Development Plan would not exceed the Agreement amount of $150,470. Funding for this project will be 80% Federal, 20% local, and is programmed in the Unified Planning and Work Program, utilizing Federal Transit Administration section 5303 funds.

City Council Regular

Date:	11/22/2021
Title:	Memorandum of Understanding between the City of Billings and The Continuum of Care
Presented by:	Chris Kukulski, City Administrator
Department:	Finance
Presentation:	No

RECOMMENDATION

Staff recommends City Council approval of the Memorandum of Understanding between the City of Billings and The Continuum of Care.

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

Yellowstone County Health Officer John Felton signed a Health Order in October 2020, providing signed authorization to open a Non-Congregate Shelter that could be reimbursed by FEMA funds. Under the Housing Authority of Billings, it was determined that the most reasonable Non-Congregate Shelter would be at the Off the Street Shelter run by the Continuum of Care.

FEMA pre-approved the application to open a Non-Congregate Shelter which ran from November 23, 2020 until March 31, 2021 according to the state and local health emergency status. The shelter provided 20 rooms available to high-risk individuals over the age of 65, those requiring quarantine while awaiting test results, or those positive cases of COVID-19 without any other options for shelter. The individuals in quarantine and isolation would remain in their rooms 24/7 until cleared to leave by healthcare or public health officials. Off the Streets Shelter provided rooms, food, security, cleaning, and other incidentals at a total expense of $325,643.04.

The FEMA application must be applied for through a local government entity on behalf of the shelter because a private entity is unable to apply alone. If the Memorandum of Understanding is approved by City Council, the City will apply for reimbursement of funds for the shelter. Once reimbursement is approved and received through FEMA, the City will remit the funds to the shelter.

ALTERNATIVES

City Council may:

- Approve the Memorandum of Understanding with Continuum of Care to apply to FEMA for reimbursement; or,
- Not Approve the Memorandum of Understanding with Continuum of Care to apply to FEMA for reimbursement

FISCAL EFFECTS

Other than administrative staff time reviewing the application for reimbursement, no expenses will be incurred by the City. The expenses have already been incurred by the CoC and reimbursement, if approved by FEMA, will flow through the City as a pass-thru agency.

Attachments

MOU CoC and City of Billings

AGREEMENT BETWEEN
THE CITY OF BILLINGS
AND
THE CONTINUUM OF CARE

I. Parties and Authorities

The Continuum of Care (CoC) is a coalition of public agencies and private, nonprofit organizations whose mission is to create sustainable pathways to safe and stable housing for people who are at risk of or actually experiencing homelessness in Yellowstone County. The CoC operates "Off The Streets" shelter utilizing a Memorandum of Agreement between United Way of Yellowstone County, HAB Development, Riverstone Health, HRDC District 7 and other local partners.

The Yellowstone County Unified Health Command (UHC) is an alliance in Yellowstone County, Montana comprised of command staff from RiverStone Health, Billings Clinic, St. Vincent Healthcare, and Yellowstone County Disaster and Emergency Services. The UHC is a part of the coordinated emergency response for COVID-19 and is a subcommittee of the Local Emergency Preparedness Committee. In this capacity, the UHC participates in the County's Unified Command during activation of the county's Emergency Operations Center (EOC), which, by federal mandate, operates under the National Incident Management System (NIMS). The UHC also uses NIMS for processes, procedures, and systems. All core members of the UHC are NIMS compliant, as is Yellowstone County's Emergency Operations Plan (EOP), which directs the UHC operations in an emergency. The Unified Health Command coordinates plans to address the region's immediate and ongoing health problems.

Yellowstone County UHC has worked to identify, contact, and as appropriate quarantine, monitor, and/or test individuals in Yellowstone County who have been potentially exposed to COVID-19, in coordination with the State of Montana Department of Public Health and Human Services (DPHHS) and the U.S. Centers for Disease Control and Prevention (CDC). The UHC has identified that high-risk individuals who test positive for COVID-19, but do not require hospitalization, still require the need for isolation; and high-risk individuals who have been exposed to COVID-19, as documented by a state or local public health official or medical professional, but do not require hospitalization, still require the need for quarantine. Pursuant to Section 50-2-118 of the Montana Code Annotated (MCA), a Local Public Health Officer in carrying out the purpose of the public health system shall take steps to limit contact between people in order to protect the public health from imminent threats.

Steps to mitigate the spread of COVID-19 in Yellowstone County, based on the significant increase of cases reaching over 50/100,000/day for a single Morbidity and Mortality Weekly Report (MMWR) for the week ending October 10, 2020, were taken under City-County Health Officer's Order issued on October 26, 2020, which also outlines standards for Emergency Non-Congregate Sheltering (NCS). In response, Local Government Agencies are directed by the non-congregate sheltering order to take all necessary actions to identify both public and private

facilities, secure available space, and enter into any contracts or mutual aid agreements that may be necessary to procure, equip, or operate non-congregate shelters throughout the state.

II. Purpose and Background

COVID-19 is a respiratory disease that can result in serious illness or death, and is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person. The virus is spread between individuals who are in close contact with each other (within about six feet) through respiratory droplets produced when an infected person coughs or sneezes. It may be possible that individuals can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose or eyes.

On March 1, 2020, Donald J. Trump, President of the United States, by the authority vested by the Constitution and the laws of the United States of America, including sections 201 and 301 of the National Emergencies Act and consistent with section 1135 of the Social Security Act (SSA), as amended, do hereby find and proclaim that the COVID-19 outbreak in the United States constitutes a national emergency;

On March 11, 2020, the World Health Organization announced that the COVID-19 outbreak can be characterized as a pandemic, as the rates of infection continue to rise in many locations around the world and across the United States;

On March 12, 2020, Governor Steve Bullock declared a state of emergency to exist in Montana related to the communicable spread of COVID-19 (Executive Order 2-2020);

On March 13, 2020, President Trump declared a national state of emergency due to a nationwide outbreak of COVID-19;

On March 13, 2020, Montana renewed its committment to a unified, coordinated response to stem the spread of COVID-19. Under MCA § 10-3-302(3), a declaration of emergency by the President of the United States establishes continuing conditions of emergency. Governor Bullock, pursuant to authority as Governor under the Montana Constitution and MCA § 10-3-103, and under other applicable statutes, amended Executive Order 2-2020 to run concurrent to the emergency declaration of the President of the United States, establishing continuing conditions of the state of emergency, as defined in MCA § 10-3-103 and 10-3-302(3);

On March 15, 2020, Governor Bullock, under the Constitution, Article VI, Sections 4 and 13, and MCA § 10-3 and MCA § 50-1, and other applicable provisions of the Constitution and Montana Law, directed the following measures be enacted statewide effective immediately:

- School Closure
- Nursing Home Visitation Suspended
- Public Guidance Regarding Social Distancing
- Transportation – limited waivers on motor carriers
- National Guard Resources

Expiration of this directive was set to run concurrent to the end of the declared state of emergency in Executive Orders 2-2020 and 3-2020;

On March 16, 2020, Yellowstone County's Health Officer determined that the potential spread of COVID-19 constituted a public health emergency and actions must be taken to avert and minimize the outbreak of this communicable disease. Pursuant to MCA § 50-2-118, a local health officer in carrying out the purpose of the public health system shall take steps to limit contact between people in order to protect the public health from imminent threats, including but not limited to ordering the closure of buildings or facilities where people congregate and cancelling events;

On March 28, 2020, in consultation with public health experts, health care providers, and emergency management professionals, Governor Bullock determined that to protect public health and human safety, it is essential, to the maximum extent possible, individuals stay at home or at their place of residence;

On March 31, 2020, the President declared a major disaster for the State of Montana (DR-4508-MT);

On March 31, 2020, the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) recognized that non-congregate sheltering may be necessary in this Public Health Emergency to protect public health and save lives;

On June 17, 2020, FEMA Policy 104-009-18 provided flexibility to applicants to take measures to safely conduct noncongregate sheltering activities through December 31, 2020, in the event of a Stafford Act declaration;

On January 29, 2021, FEMA provided flexibility to applicants to take measures to safely conduct noncongregate sheltering activities, issuing a Stafford Act declaration on or after June 1, 2020 through June 30, 2021;

On August 17, 2021, Joe Biden, President of the United States, announced continued support for COVID-19 response and recovery assistance by extending 100% federal funding to state, local, tribal and territorial governments and certain private nonprofits, for eligible emergency actions through Dec. 31, 2021. This policy continues 100% reimbursement for costs associated with deployment of National Guard personnel under Title 32 Orders for COVID-19 missions.

Yellowstone County, the most populous county in Montana, is home to 184,000 residents. Billings, the county seat, is the state's largest city with more than 117,000 citizens. Billings serves as a regional medical hub for a 600-mile radius, spanning eastern Montana, along with portions of the Dakotas and Wyoming. The region's major health care providers include Billings Clinic and St. Vincent Healthcare. The pandemic has affected not only the healthcare system, but local citizens that are experiencing homelessness in the most compromising of times. Signs of inflation in Billings are appearing and the cost of housing has taken a steep jump, in many cases pricing out those who might otherwise be able to afford a home. Year to date, the average home price in Billings is up 22 percent. Rental properties, if you can find them, are up 8 percent.

In Yellowstone County, people experiencing homelessness are an extremely vulnerable population. During the pandemic, their exposure is magnified. Across the nation, COVID-19 hit homeless populations hard with high infection and mortality rates.

The purpose of this Agreement is to set forth the Parties mutual agreement and goal that Montana residents in Yellowstone County who are experiencing homelessness have access to non-congregate shelter during the COVID-19 pandemic, and to address the Parties responsibilities related to ensuring compliance with the Yellowstone County's Health Officer non-congregate sheltering order, which are necessary to protect immediate public health and safety for individuals who do not have a suitable place of isolation and quarantine.

III. Responsibilities

QUARANTINE AND ISOLATION (Q&I) SITE AT OFF THE STREETS SHELTER, OPERATED BY THE CONTINUUM OF CARE

A. The Continuum of Care (CoC) shall:

1. Establish a Facility intended to be used as a temporary housing location for such individuals. The Facility is not intended to be used for the provision of medical care. In the event an individual housed at the Facility is in need of medical or health care, other than emergency response services, the CoC shall direct those individuals to seek health care services from a licensed health care facility.
2. The CoC intends to use the former Western Inn Motel, recently purchased by HAB Development, for the purpose of operating a non-congregate sheltering location for local residents ordered to isolate and/or quarantine by the Yellowstone County Health Officer, but who do not have a home or other suitable place of isolation or quarantine.
3. CoC partners developed a collaboration to operate a non-congregate shelter in accordance with direction and guidance of health officials by the appropriate state or local entities, and in accordance with the criteria of non-congregate sheltering for the COVID-19 emergency. In no event shall the operation of the Facility be intended to include the provision of medical or health care services.
4. HAB Development will provide the Facility to the CoC in good working order. CoC partners will provide for cleaning, security enhancements, and routine maintenance and repairs needed for operations or as a result of operations.
5. The CoC will be responsible for making physical security improvements to the Facility as deemed necessary in working directly with HAB Development.
6. HAB Development will leave all furnishings and mattresses in the Facility.
7. HAB Development will not be responsible for damage done to furnishings and mattresses based on normal wear and tear or anticipated usages associated with operation of the Facility for the purposes set forth herein.
8. CoC partners will be responsible for actual costs and seek reimbursement of said expenses through available and appropriate funding sources.
9. The CoC will coordinate contracted staffing, cleaning and meals.
10. In order to apply for funding and reimbursement, the CoC will obtain detailed,

itemized invoices from its purchases to verify eligible costs pursuant to this Agreement, and shall retain all copies of all cost-supporting records and documentation in compliance with section VI. (6) of this Agreement.
11. The CoC will submit through the local Disaster and Emergency Services Coordinator the application for FEMA eligibility for non-congregate care and adhere to the requests of DES for a census tracker to docment admissions for unsheltered quarantine and isolation.

B. City of Billings

The City of Billings shall submit an application to FEMA for reimbursement through the FEMA Public Assistance Program for eligible expenses incurred under this Agreement and reimburse the Continuum of Care with all FEMA Public Assistance dollars received.

IV. Costs

1. The Continuum of Care shall not seek reimbursement of any cost where duplicate funding is available from another state or federal program.
2. The Continuum of Care will submit invoices and any other documentation that the City of Billings may require.
3. Costs incurred by the Continumm of Care shall be reasonable pursuant to applicable federal regulations and federal costs principles. A cost is considered reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

V. Points of Contact

City of Billings
Chris Kukulski, City Adminstrator
kukulskic@billingsmt.gov

Continuum of Care
Kari Boiter, Director
kboiter@hrdc7.org

VI. General Provisions

1. **Notice of Federal Requirements** - The Continuum of Care understands and acknowledges that the State is relying in part on available Federal funds to meet its obligations under this Agreement. As such the Continuum of Care agrees to comply with

all applicable federal, state, and local laws, regulations, policies, directives, procedures and requirements in the conduct of the Work.

The Continuum of Care shall comply with the provisions of the Uniform Administrative Requirements, Cost Principles and audit Requirements, found at Title 2 CFR Part 200. Further, the Continuum of Care understands and agrees that 2 CFR 200.326 and Appendix II to Part 200 require all contracts funded in a whole or in part with federal monies to include the provisions set forth in Attachment A, hereinafter incorporated into this Agreement, and will abide by these terms as applicable in performing the services under this Agreement.

2. **Liability Requirements** – Each party to this Agreement shall be responsible for its own acts and omissions and those of its officers, employees and agents. In no event shall either party be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits. In the event that an agency is subject to liability, suits, losses, judgments, damages or other demands which are due to the acts or omissions of the other agency, the other agency will not be held harmless. This Agreement and the legal relations between the parties will be governed by and construed in accordance with the laws of the State of Montana Thirteenth Judicial District Court, Yellowstone County, applicable to contracts made and performed in Montana and without regard to conflicts of law doctrines unless certain matters are preempted by federal law.

3. **Remedies** – In the event Continuum of Care violates any term of this agreement or does not properly procure and document costs, the City of Billings may recoup any state or federal funds spent under this Agreement. In the event a state or federal audit concludes that state or federal monies were spent in violation of state or federal law and regulation. Continuum of Care will be responsible for paying back any amounts of money the audit determines were not spent properly.

4. **Confidentiality** – The parties agree that they shall not use any information, systems, or records made available to either party for any purpose other than to fulfill the obligation specified herein. The parties agree to be bound by the same standards of confidentiality that apply to the employees of either agency and to the State of Montana. Each partner specifically agrees to comply with state and federal confidentiality laws and regulations applicable to the programs under which this Agreement is funded.

5. **Compliance with Federal and State Laws, Rules and Regulations** – each partner agrees to comply with all federal and state laws, rules, regulations and auditing standards which are applicable to the performance of this Agreement.

6. **Records Retention and Audits** – All records relating to costs, work performed and supporting documentation for expenditure of the funds transferred by the City of Billings to Continuum of Care, along with copies of all deliverables submitted to the City of Billings pursuant to this Agreement, shall be retained and made available by the Continuum of Care for audit by the State of Montana (including but not limited to City of Billings, the Auditor of the State of Montana, Inspector General or duly authorized law

enforcement officials) and agencies of the United States government for a minimum of three (3) years from the date that the State submits to FEMA the final expenditure report for this project. . If any litigation, claim, negotiation, audit, request for information, or other action involving this Agreement is initiated during this time period, the Continuum of Care shall retain such records until the audit is concluded and all issues are resolved.

7. **Audit Exceptions**
   a. Continuum of Care shall be responsible for receiving, replying to and arranging compliance with any audit exception by any state or federal audit of this Agreement as it pertains to Continuum of Care performance of the Agreement.
   b. The City of Billings shall be liable for any audit exception that results solely from its acts or omissions in the performance of this Agreement. The Continuum of Care shall be liable for any audit exception that results solely from its acts or omissions in the performance of this Agreement. In the event that the audit exception results from the acts or omissions of both Continuum of Care and City of Billings, then financial liability for the audit exception shall be shared by the parties in proportion to relative fault. In the event of a dispute concerning the allocation of financial liability for audit exceptions, the parties agree that the dispute shall be referred to the Office of the Governor for a final, binding determination which allocates financial liability.
   c. For purposes of this Agreement, the term "audit exception" shall include federal disallowances and deferrals.

8. **Drug-Free Workplace** – Continuum of Care and the City of Billings shall comply with all applicable state and federal rules, regulations and statutes pertaining to a drug-free workplace. The Continuum of Care and the City of Billings shall make a good faith effort to ensure that all employees do not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way while working on state, county or municipal property.

9. **Anti-Discrimination –** Pursuant to MCA Section 49-2-303 and MCA Section 49-3-207,, no part of this contract shall be performed in a manner which discriminates against any person on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disabilities, sexual orientation, gender expression, gender identity, or national origin by the persons performing the contract. Any hiring shall be on the basis of merit and qualifications directly related to the requirements of the particular position being filled.

10. **Governing Laws** – This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suite between the parties arising out of this Agreement shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.

11. **Waiver** – The waiver by the City of Billings of any occurrence of breach or default is not a waiver of such subsequent occurrences of breach and default, and the City of Billings retains the right to exercise all remedies mentioned in this Agreement.

VII. Effective date and Termination

This Agreement shall be effective on upon full execution of all parties and shall terminate the sooner of 12/01/2021, or when an additional source of funding becomes of available to Continuum of Care. Should another source of funding not become available to Continuum of Care on or before 12/01/2021, the parties through mutual written agreement may extend this Agreement until 12/31/2021.

VIII. Amendment, Dispute Resolution, Cancellation or Termination

This Agreement constitutes the entire agreement between the parties. This Agreement may be amended at any time in writing and by mutual consent of both parties. The Administrator of the City of Billings and the Director of the Continuum of Care shall resolve any disputes between themselves concerning responsibilities under, or performance of, any of the terms of this Agreement.

The Agreement may be cancelled by either party upon sixty *(60)* days written notice ***except***, where the cancellation is for cause (i.e., a material or significant breach of any of the provisions of this Agreement), then it may be canceled immediately upon delivery of written notice to the other party.

This Agreement may be terminated immediately in the event there is a loss of funding. A notice specifying the reasons for termination shall be sent as soon as possible after the termination, in accordance with the procedures set forth herein. The City of Billings will be released from its obligations on the date funding expires.

IX. Signature Page

By signing this Agreement, all parties have reviewed the Agreement and find it accurately reflects a general understanding of the respected responsibilities to establish this collaboration.

_____	_____
Chris Kukulski	Kari Boiter
City Administrator	Director
City of Billings	Continuum of Care

ATTACHMENT A

2 CFR 200.326 and Appendix II to Part 200 require all contracts funded in a whole or in part with federal monies to include the following provisions where applicable. For purposes of this Attachment the term "contractor" refers to the Continuum of Care.

A. **Construction Work**: Should any "construction work" as that term is defined in 41 C.F.R. 60-1.3 then following provisions shall apply:

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action toensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

   Employment, upgrading, demotion, or transfer; recruitment or recruitment 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 to be provided setting forth the provisions of this nondiscrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

8. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

   Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

   The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

B. **Contract Work Hours and Safety Standard Act**

Should costs under this Agreement exceed $100,000 for the cost employment of mechanics or labors, excluding the purchase of supplies or materials or article ordinarily available on the open market, or contracts for transportation or transmission of intelligence the following provisions shall apply:

1. *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to

work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

3. *Withholding for unpaid wages and liquidated damages.* The the City of Billingsshall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

4. *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

C. Clean Air Act

1. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. Contractor agrees to report each violation to the the City of Billingsand understands and agrees that the the City of Billingswill, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

D. The Federal Water Pollution Control Act

1. Contractor agrees agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. Contractor agrees to report each violation to the the City of Billingsand understands and agrees that the the City of Billingswill, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

E. Suspension and Debarment

1. Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Contractor is required to verify that none of Contractor's principals (defined at 2

C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

2. Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

3. This certification is a material representation of fact relied upon by the City of Billings. If it is later determined that Continuum of Care did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City of Billings, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

F. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352

Contractors who apply or bid for an award of $100,000 or more shall file the required certification (see Attachment 1). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

G. Procurement of Recovered Materials

1) In the performance of this contract, Continuum of Care shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
    - Competitively within a timeframe providing for compliance with the contract performance schedule;
    - Meeting contract performance requirements; or
    - At a reasonable price.
2) Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive- procurement-guideline-cpg-program.
3) Continuum of Care also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.
    a. Access to Records

        i. Continuum of Care agrees to provide the City of Billings, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and

records of Continuum of Care which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

ii. Continuum of Care agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

iii. Continuum of Care agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

iv. In compliance with the Disaster Recovery Act of 2018, the the City of Billings and Continuum of Care acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Continuum of Care, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Continuum of Care understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

_____
Signature

_____
Kari Boiter, Continuum of Care Director

_____
Date

City Council Regular

Date: 11/22/2021
Title: Declaring 17 Used MET Transit Buses as Surplus Equipment for Disposal
Presented by: Rusty Logan
Department: Transit
Presentation: No

RECOMMENDATION

Staff recommends that the City Council declare 17 MET Transit buses as surplus equipment and allow MET to dispose of the buses via direct sales or negotiated sales in conjunction with advertised availability, and disposing of any remaining units via auction and salvage.

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

MET Transit has 17 used 35-foot heavy-duty buses that have been replaced by recently purchased and received new 32-foot heavy-duty buses. The 17 buses are retired Gillig Phantoms that were originally purchased between the years of 2004 through 2007 and have a combined mileage of over 7.6 million miles. These buses have exceeded their useful life and were replaced using Transit specific funds. Bus manufactures do not traditionally accept trade-ins as new buses are sold factory direct, meaning a robust dealer network is not available to handle used buses. Due to the age of these vehicles, parts are difficult to source, making the vehicle difficult to maintain in full working capacity. Traditionally, similar vehicles being disposed of by MET Transit have received very little interest at public auction, resulting in very low bids or vehicles being sent to be scrapped. Staff feels the most effective and valuable method of disposing of these vehicles is to solicit quoted offers by running ads both locally and nationally indicating availability of the used buses in print and digital publications to attempt to attract buyers who may be seeking vehicles of this type. If all vehicles are not disposed of in this manner, the vehicles will then be sold via auction and scrapped if not sold.

ALTERNATIVES

City Council may:

- Approve declaring the 17 Transit buses as surplus equipment and allow MET to dispose of the buses via advertisement and solicitation of offers before taking to auction or salvage; or
- Not Approve this action and advise staff on how to proceed.

FISCAL EFFECTS

It is estimated, based on past auction sales, that the buses could sell within the range of $1,500 to $5,000 per vehicle, depending on condition. At least two units are not in a state that is reasonable for repair and may result in a lower sale or salvage figure. Staff estimates that revenues should be at least $8,000 via private sales, but this figure may change.

City Council Regular

Date:	11/22/2021
Title:	Acknowledge Receipt of Petition to Discontinue Portion of the Alley within Block 191 within the Billings Original Townsite and Set a Public Hearing
Presented by:	Debi Meling
Department:	Public Works
Presentation:	No

RECOMMENDATION

Staff recommends that the Council acknowledge the receipt of a petition to discontinue a portion of the alley within Block 191 of Original Townsite and set a public hearing for December 20, 2021.

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

The Montana Rescue Mission (MRM) is proposing to expand their campus at Minnesota Avenue and South 29th Street. With the expansion, they would like to close off one-half of the east-west alley from South 28th Street to South 29th Street. Attached is an exhibit showing the portion of alley proposed to be discontinued. The L-shaped portion of the alley from South 28th Street to 1st Avenue South will stay in place and continue to be operational for emergency vehicles and solid waste pickup.

The Montana Rescue Mission is proposing to fence off the portion of the alley in order to allow free and safe movement within the campus. MRM originally wanted to vacate the alley, however, with the sanitary sewer main located in the alley, City staff prefers to keep this portion of alley as right-of-way. Vacation of the alley would have changed ownership of the alley to MRM. Discontinuance closes off the alley to public access but still remains public right-of-way and still allows for City maintenance of the sewer line.

ALTERNATIVES

The Council may:

- Approve acknowledgment of petition to discontinue the above-mentioned alley and set a public hearing for December 20, 2021.
- Do not acknowledge the petition and terminate the discontinuance process. If not approved, the petitioner would need to keep the alley open.

FISCAL EFFECTS

There is minimal cost to the City to acknowledge this petition and set a public hearing date.

Attachments

Petition to Discontinue
Location Exhibit

DocuSign Envelope ID: C6779E52-971B-43CE-B8A3-AFD7ECF1F5C5

REQUEST TO ~~VACATE~~ DISCONTINUE PUBLIC RIGHT-OF-WAY
CITY OF BILLINGS

Description of Right-of-Way to be ~~vacated~~ discontinued:

Discontinue the use of the alley located between Minnesota Avenue and 1st Avenue South from South 29th Street to the east on half block.

We, being all the abutting property owners, request of the City Council the ~~vacation~~ discontinuance of the above described:

____Street **X____Alley** **_____Other R/W**

SIGNATURE	DATE	PROPERTY OWNERSHIP
		Lots 14-19, Block 191 Billings Original Townsite

(Additional signatures, if needed, can be on additional sheets.)

WE, the utility companies and governmental departments, listed below, approve, or disapprove this request as noted by our signatures.

	Approved By/Date	Disapproved By/Date
City Public Works	DocuSigned by: Chris Hertz	
Heights Water	N/A	
Montana Dakota Utilities	DocuSigned by: Mark Unger	
Northwestern Energy	DocuSigned by: Kane Clawsch	
Charter	DocuSigned by:	
CenturyLink	DocuSigned by: Annette Zohner	
City/Co. Planning	DocuSigned by:	

(A letter of explanation may be attached with "See Attached Letter" entered in the appropriate signature slot.)

Petitioner's interest in ~~vacating~~ discontinuing the public right-of-way: The Montana Rescue Mission seeks to discontinue use of a portion of the alley through Block 191 of the Billings Original Townsite. It is desired to eliminate the existing approach from South 29th Street and half block of alley to become an extension of the outdoor space for the unified campus. All existing utilities will be accessible for maintenance.

The petitioner acknowledges and understands that the City will appoint an appraiser to estimate the value of the real property being vacated, and the petitioner agrees that the fee for the appraiser will be borne by the petitioner(s).

ATTACHMENTS:

DocuSign Envelope ID: C6779E52-971B-43CE-B8A3-AFD7ECF1F5C5

__X__ **Title Report(s)**
__X__ **Comments from all Utilities**
__X__ **Map of R/W to be Vacated**
_____ **Traffic Accessibility Study (When required by the City)**

AN APPLICATION FEE OF $200 MUST ACCOMPANY THIS PETITION.

Fee Received By:_____ **Date:**_____
City Engineers Office

A DEPOSIT FOR AN APPRAISAL MUST ALSO ACCOMPANY THIS REQUEST.

Deposit Amount:_____

Received By:_____ **Date:**_____
City Clerk

Copies of City of Billings Ordinance No. 80-4269 and 90-4822, establishing the procedure and compensation to the City of Billings for Discontinuance and Vacation of City Streets, Alleys, and Rights-of-Way, are attached for reference.

The application fee, as stated in BMC 22-602, will be set by the City Administrator after review by the staff. The City Clerk will advertise the public hearing at least one week before the petition is acted upon by the City Council.

This petition is to be returned to the City Clerk, PO Box 1178, Billings, MT 59103. (First Floor, City Hall)

This petition must be accompanied by the statements and reports as listed in BMC 22-601 (a), (b), (c), (d), (e), and (f). (Copy attached)

CONTACT PERSON FOR PETITION:

Bryan Alexander
Telephone No.: 406-869-3343
Mailing Address: 1300 N. Transtech Way
Billings, MT 59102
Date: May 18, 2021

CITY COUNCIL ACTION:_____

DATE:_____

EXHIBIT A

MONTANA RESCUE MISSION ALLEY DISCONTINUANCE

WITHIN

BILLINGS ORIGINAL TOWNSITE BLOCK 191

PREPARED FOR : MONTANA RESCUE MISSION

PREPARED BY : SANDERSON STEWART

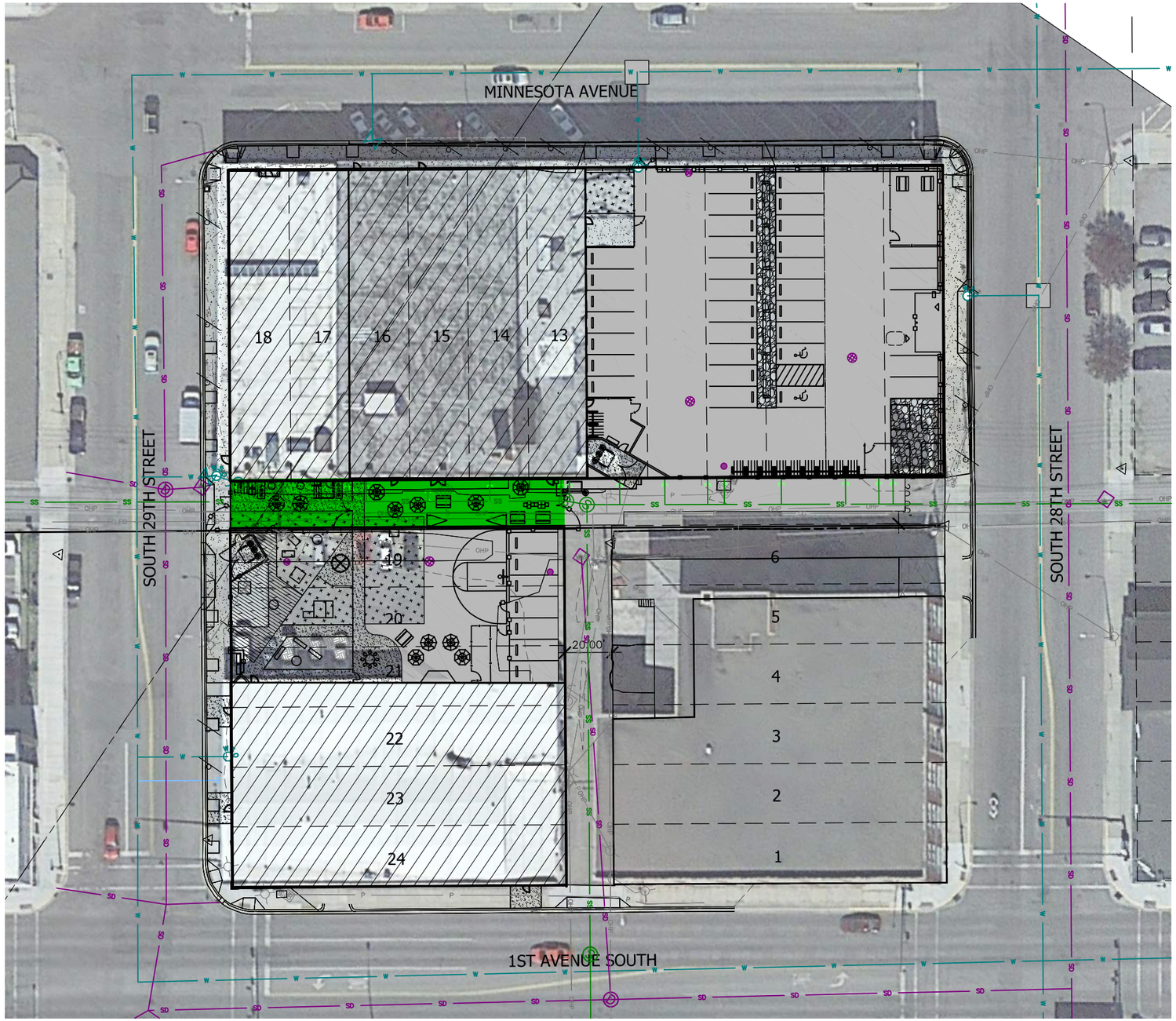
NOVEMBER 2021

BILLINGS, MONTANA

NORTH

25 0 25 50

SCALE: 1" = 50'



LEGEND

	EXISTING
GUYWIRE	
GAS METER	
POWER METER	EM
ELECTRIC JUNCTION BOX	EJB
POWER POLE	
LIGHT POLE	
SIGN	
BOLLARD	BOL
SANITARY SEWER MANHOLE	S
WATER VALVE	
FIRE HYDRANT	
STORM DRAIN MANHOLE	D
CATCH BASIN	
CURB STOP	
SANITARY SEWER	
STORM DRAIN	
WATER	
CURB AND GUTTER	
EDGE OF ASPHALT	EDGE OF EX ASPHALT
FIBER OPTIC	
GAS PIPELINE	
UNDERGROUND POWER	
OVERHEAD POWER	
CONTOUR	3157
TURNING MOVEMENT EXTENTS	

City Council Regular

Date:	11/22/2021
Title:	Big Sky King Subdivision - Final Expedited Minor plat
Presented by:	Monica Plecker
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

Staff recommends the City Council approve the final expedited plat and SIA of Big Sky King Subdivision.

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

On October 27, 2021, Performance Engineering applied for final expedited minor plat approval for Big Sky King Subdivision. An expedited subdivision is a subdivision that:
1. Meets the definition of a first minor subdivision from a tract of record; and
2. Legal and physical access to all lots is provided; and
3. No land in the subdivision will be dedicated to public use for parks or playgrounds; and
4. The plat has been approved by the Montanan Department of Environmental Quality or County Environmental Health whenever approval is required or the plat has been approved by the City of Billings Public Works Department for sanitary water, sewer and storm water facilities; and
5. No public improvements are needed.

This subdivision meets all those criteria. It is a lot of record, Certificate of Survey 1718 Amended, Parcel 1; all lots will have access off Grand Avenue; they are not required to dedicate parkland; they will connect to existing water and sewer lines in Grand Avenue and public improvements are not required by City Engineering at this time.

The proposed subdivision creates 2 lots for commercial development. Proposed Lot 1 has an existing business on it, proposed Lot 2 is vacant. The subject property is generally located at 1438 Grand Avenue. The current zoning is Corridor Mixed Use 2 (CMU2). Staff has reviewed the application and determined that the proposed plat has met all the requirements of development for the 2 lot minor and is forwarding a recommendation of final approval to the City Council. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

ALTERNATIVES

The City Council may approve or disapprove the expedited plat of Big Sky King Subdivision. If the City Council chooses to deny the final expedited plat, the denial must be because the criteria in required by BMCC 23-305 have not been met. These criteria are provided in the Background section of this staff report. Staff finds the final plat meets the criteria outlined.

FISCAL EFFECTS

The final plat of this subdivision will have no financial impact on the Planning Division.

Attachments

Final Plat
SIA

PLAT OF

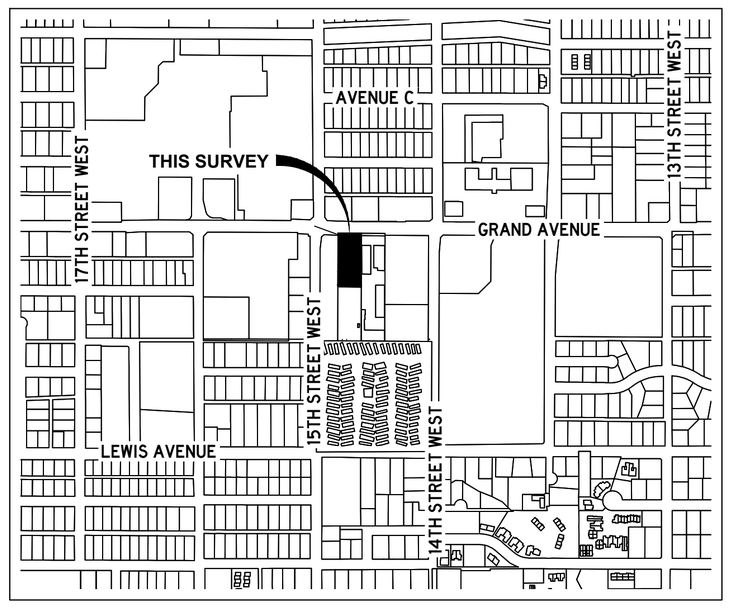
BIG SKY KING SUBDIVISION

BEING TRACT 1 OF C.O.S. 1718, AMENDED, LESS GRAND AVENUE RIGHT-OF-WAY LOCATED IN THE NE 1/4 OF THE NW 1/4 OF THE NW 1/4, SECTION 5, TOWNSHIP 01 SOUTH, RANGE 26 EAST, P.M.M., CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : BIG SKY KING PROPERTIES, LLC

PREPARED BY: PERFORMANCE ENGINEERING, LLC

DATE OF SURVEY : APRIL 2021



VICINITY MAP

LEGAL DESCRIPTION AND OWNER CERTIFICATION

I, the undersigned owner, do hereby certify that I have cause to be surveyed, aggregated, and platted in to lots, blocks, roads and other divisions and dedications, as shown on this plat hereunto included, said tract being situated in the NE 1/4 of the NW 1/4 of the NW 1/4 of Section 5, Township 01 South, Range 26 East, P.M.M., City of Billings, Yellowstone County, Montana, said tract being more particularly described as Tract 1 of Certificate of Survey 1718, Amended (Document No. 1076197), less Grand Avenue Right-of-Way (Document No. 315545).

Said tract contains 0.858 acres, more or less, in gross.

This survey is not subject to review by the Montana 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."

Dated this _____ day of _____, 20_____.

_____
_____ of Big Sky King Properties, LLC
(Print Title)

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 Big Sky King Properties, LLC, who signed the forgoing 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 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 the NE 1/4 of the NW 1/4 of the NW 1/4 of Section 5, Township 01 South, Range 26 East, P.M.M., City of Billings, Yellowstone County, Montana, said tract being more particularly described as Tract 1 of Certificate of Survey 1718, Amended (Document No. 1076197), less Grand Avenue Right-of-Way (Document No. 315545).

Said tract containing a net and gross area of 0.858 acres, more or less.

Said tract subject to all easements and right-of-ways of record or apparent on the ground.

This survey was conducted in accordance with the provisions of the Montana Subdivision and Platting Act, Sections 76-3-101 through 76-3-625, MCA.

_____
Mark W. Kadrmas
Registered Land Surveyor
State of Montana

MONTANA
MARK W. KADRMAS
No. 51414 LS
LICENSED LAND SURVEYOR

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

CERTIFICATE OF APPROVAL

STATE OF MONTANA)
:ss
County of Yellowstone)

We hereby certify that we have examined the plat of Big Sky King Subdivision and find that said plat conforms with the requirements of the laws of the State of Montana, and the requirements of 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:_____
Deputy Mayor

Attest:_____
City Clerk

ERRORS AND OMISSIONS REVIEW

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

Dated this _____ day of _____, 20_____.

Reviewed by_____

CERTIFICATE OF CITY ATTORNEY

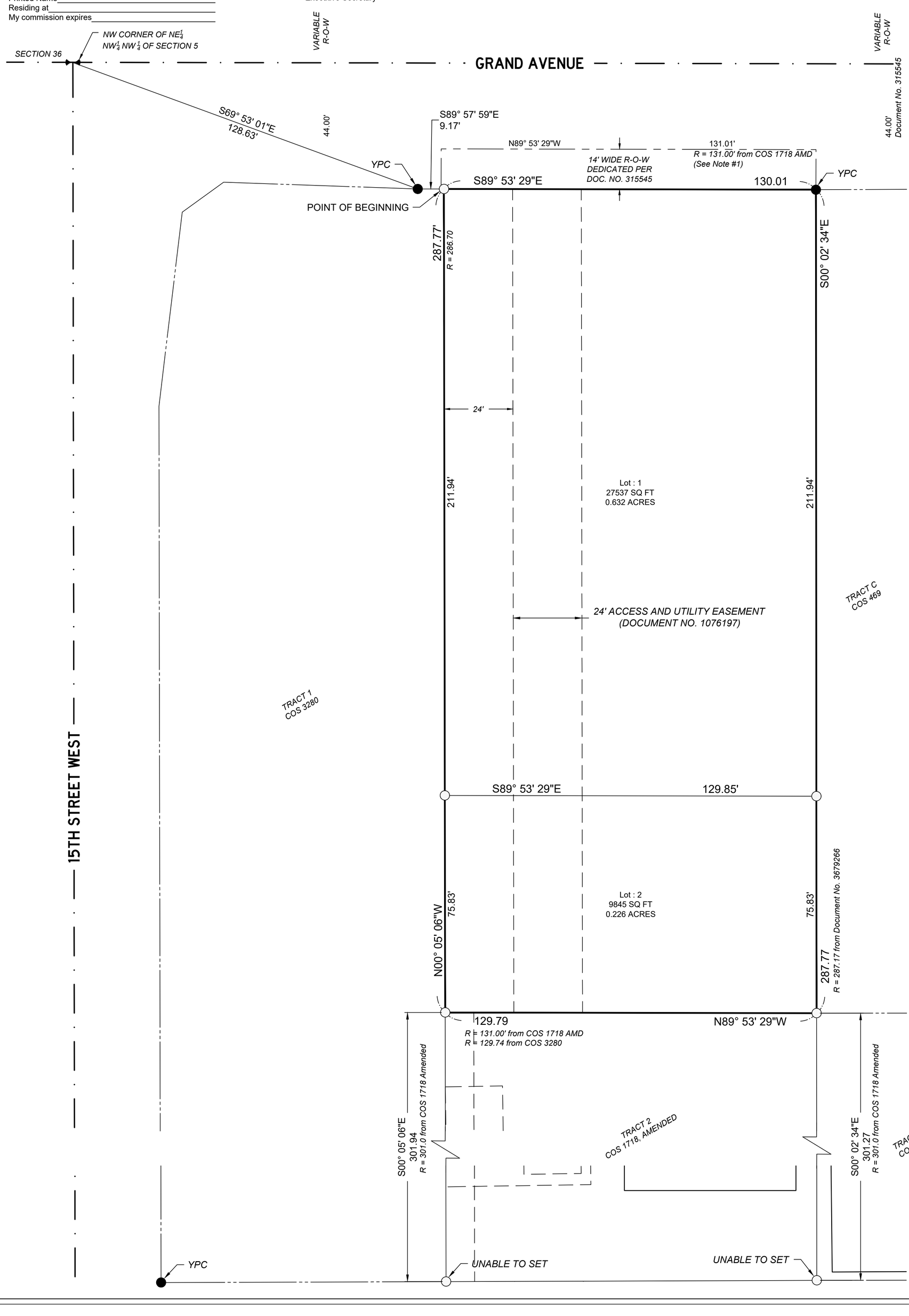
This document has been reviewed by the City Attorney's office and is acceptable as to form.

_____ _____
Date 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) and 76-3-207(3), MCA.

_____ _____
Date Yellowstone County Treasurer
Deputy



SURVEYOR'S NOTES

Note #1: Following the recording of COS 1718 Amended in November of 1977 as Document No. 1076197, additional right-of-way was taken for the widening of Grand Avenue. Said right-of-way is apparent on the ground as being 44 feet; an addition of 14 feet to the original 30 feet shown in 1977.
Per COS 3280, recorded in January of 2005 as Document No. 3389795, the right-of-way width for Grand Avenue is 76 feet, showing 44 feet on the south and 32 feet on the north.

LEGEND

PROPERTY LINE	———
SECTION LINE	— · —— · —
FOUND PROPERTY CORNER, AS DESCRIBED	●
SET PROPERTY CORNER	○

BASIS OF BEARINGS

Bearings shown on this survey are derived from a low distortion Lambert Conformal Conic single parallel projection with parameters as follows:

Latitude of Origin : 45° 47' 00" N
Longitude of Origin : 108° 25' 00" W
Mapping Scale Factor : 1.0001518

Grid distances shown hereon are - for practical purposes - equal to ground distances.

0 20 40
IN FEET

SHEET 1 OF 1

10/22/2021 10:11:55 AM PEC STANDARD BW.CTB
C:\Users\KinsleeHagel\Dropbox (PEC Billings)\PEC Billings Team Folder\Big Sky King Properties\2021-044 Burger King Grand Lot Split\CAD\DWG\Plat\21-044 Prelim Plat.dwg

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

Big Sky King Subdivision

Table of Contents
(City of Billings)

I.	Variances	2
II.	Property Conditions and Information for Lot Purchasers	2
III.	Transportation	3
	A. Streets	3
	B. Sidewalks	3
	C. Street Lighting	3
	D. Traffic Control Devices	3
	E. Access	4
	F. Billings Area Bikeways and Trail Master Plan	4
	G. Public Transit	4
IV.	Emergency Service	4
V.	Storm Drainage	4
VI.	Utilities	5
	A. Water	5
	B. Sanitary Sewer	5
	C. Power, Telephone, Gas, and Cable Television	6
VII.	Parks/Open Space	6
VIII.	Irrigation	6
IX.	Soils/Geotechnical Study	6
X.	Phasing of Improvements	6
XI.	Financial Guarantees	6
XII.	Legal Provisions Applying to Subdivider	6

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

Big Sky King Subdivision

This agreement is made and entered this 26th day of October, 2021 by and between Big Sky King Properties, LLC whose address for the purpose of this agreement is **4401 US HIGHWAY 3, BILINGS, MT 59106**, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the plat of Big Sky King Subdivision located in the City of Billings, Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning as an expedited plat which is deemed to not require preliminary review; 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 Big Sky King 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.

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

A. 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 by the completion of the conditions set forth in the Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

B. 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.

C. 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 with Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

III. TRANSPORTATION

A. Streets

- No streets are proposed as part of this subdivision agreement. Access to the proposed Big Sky King Subdivision exists off Grand Avenue through an access easement previously dedicated through the proposed Lot 1. An address marker will be required to be placed on the access from Grand Avenue showing an address of 1436 Grand Avenue.

B. Sidewalks

- No sidewalks are proposed as part of this subdivision agreement. Sidewalk currently exists along Grand Avenue and along 15th Street West.

C. Street Lighting

- No street lighting is proposed as part of this subdivision agreement as lighting already exists within the boundary of the proposed Big Sky King Subdivision.

D. Traffic Control Devices

- No traffic control devices or modifications are proposed as part of this subdivision.

E. Access

- No new access points are proposed as part of this subdivision agreement. Access to the proposed Big Sky King Subdivision currently exists through an approach off Grand Avenue and an access easement previously dedicated through Lot 1, that will remain in place with the submittal of the corresponding plat of the proposed Big Sky King Subdivision. An address marker will be required to be placed on the access from Grand Avenue showing an address of 1436 Grand Avenue.

F. Billings Area Bikeways and Trail Master Plan

- The subdivision is located within the planning area of the Billings Area Bikeway and Trails Master Plan. The plan identifies a visionary long range bikeway along Grand Avenue.

G. Public Transit

- Access to public transit services from the proposed subdivision currently exists.

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.

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.

Two (2) flat grate inlets currently serve the subject property. No improvements or additions to the current drainage system are proposed as a part of the subdivision.

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

Lot 1 of the proposed Big Sky King Subdivision is currently being served with a 2" water service. As per the original site plan for the existing building on Lot 1, a 1-1/2" water service as been extended south from an existing curb valve near Grand Avenue through Lot 1 and ending with a cap on Lot 2.

B. Sanitary Sewer

Lot 1 of the proposed Big Sky King Subdivision is currently being served with sanitary sewer. As per the original site plan for the existing building on Lot 1, a 6" sanitary sewer service has been extended south from an existing sewer service near Grand Avenue through Lot 1 ending with a cap on Lot 2; however, this sewer service is presently tied to a storm drain main in Grand Avenue. The property owner shall re-route the sanitary sewer service to the sanitary sewer main in Grand Avenue prior to the occupancy permit being issued for the future building on Lot 2.

C. Power, Telephone, Gas, and Cable Television

The subdivision is currently served by power, telephone, gas, and cable providers through a 24' access and utility easement running along the western edge of the property. Not additions or improvements to the current system are proposed.

VII. PARKS/OPEN SPACE

There is no parkland requirement for proposed Big Sky King Subdivision, as this is a minor subdivision [MCA 76-3-621(3)(b)]. Additionally, the property is zoned commercial therefore no parkland is required per City of Billings Subdivision Regulations.

VIII. IRRIGATION

There are no irrigation facilities located on or adjacent to the Big Sky King Subdivision.

IX. SOILS/GEOTECHNICAL STUDY

No geotechnical investigation was required.

X. PHASING OF IMPROVEMENTS

No phasing is proposed as part of this subdivision.

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" *Big Sky King Properties, LLC*

By: Janice Rehberg

Its: Member

STATE OF MONTANA)
: ss
County of)

On this 26th day of October, 2021, before me, a Notary Public in and for the State of Montana, personally appeared Janice L Rehberg, known to me to be the Member of *Big Sky King Properties, LLC*, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

Tamara Frank

Notary Public in and for the State of Montana
Printed Name: TAMARA FRANK
Residing at: Laurel MT
My commission expires: 12-02-2022

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

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 incident to the above 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 describe as follows:

Big Sky King Subdivision

Signed and dated this 26th day of October, 2021

Big Sky King Properties, LLC

By: Janice Rehberg

Its: member

STATE OF MONTANA)
: ss
County of)

On this 26th day of October, 2021, before me, a Notary Public in and for the State of Montana, personally appeared Janice L. Rehberg, known to me to be the Member of *Big Sky King Properties, LLC*, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

Tamara Frank

Notary Public in and for the State of Montana
Printed Name: TAMARA FRANK
Residing at: Laurel MT
My commission expires: 12-02-2022

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

City Council Regular

Date:	11/22/2021
Title:	Resolution Establishing Compliance with Reimbursement under Internal Revenue Code for the South TIF Construction Projects
Presented by:	Andy Zoeller, Finance Director
Department:	Finance
Presentation:	No

RECOMMENDATION

Staff recommends that the City Council approve the attached resolution that will allow the City to reimburse expenses related to projects within the South Billings Boulevard Urban Renewal District that it will incur prior to issuing bonds for the project.

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

The City will be selling tax increment bonds to finance design, construction and installation of street improvements on Vaughn Lane, Mitchell Avenue, Morgan Avenue, Ryan Avenue and Hillview Lane. The City needs to expend monies related to these projects before the funds are available for the bond sale proceeds. Under IRS rules, the attached resolution must be approved in order for the City to reimburse those pre-sale expenses from the bond sale proceeds.

ALTERNATIVES

City Council may:

- Approve the resolution and proceed with the projects with the ability to reimburse expenses when the bonds are sold; or
- Not Approve the resolution, in which case the City will have to suspend certain areas of work until the bonds are sold or will have to find alternative ways to pay for the expenses incurred prior to the bond sale.

FISCAL EFFECTS

This resolution will not result in additional costs to the projects.

Attachments

resolution

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution No. _____ entitled: "RESOLUTION RELATING TO THE FINANCING OF PROPOSED IMPROVEMENTS WITHIN THE SOUTH BILLINGS BOULEVARD URBAN RENEWAL DISTRICT; ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on November 22, 2021, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Council Members voted in favor thereof: _____ _____; voted against the same: _____ _____; abstained from voting thereon: _____ _____; or were absent: _____.

WITNESS my hand and seal officially this 22nd day of November, 2021.

(SEAL)

_____
City Clerk

RESOLUTION NO. _____

RESOLUTION RELATING TO THE FINANCING OF PROPOSED IMPROVEMENTS WITHIN THE SOUTH BILLINGS BOULEVARD URBAN RENEWAL DISTRICT; ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE

BE IT RESOLVED by the City Council of the City of Billings, Montana (the "City"), as follows:

Section 1. Recitals.

1.01 The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that bonds be issued and the reimbursement allocation be made from the proceeds of such bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

1.02 The City desires to comply with requirements of the Regulations with respect to certain projects hereinafter identified.

Section 2. Official Intent Declaration.

2.01 The City proposes to undertake certain improvements within the South Billings Boulevard Urban Renewal District (the "District"), consisting of the design, construction and installation of street improvements, including with respect to Vaughn Lane, Mitchell Avenue, Morgan Avenue, Ryan Avenue, and Hillview Lane (collectively, the "Project").

2.02 Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds (as hereinafter defined), (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Project have heretofore been paid by the City and no expenditures will be paid by the City until after the date of this Resolution.

2.03 The City reasonably expects to reimburse some or all of the expenditures made for costs of the Project out of proceeds of bonds in an estimated maximum aggregate principal

amount not to exceed $3,000,000 (the "Bonds") after the date of payment of all or a portion of the costs of the Project. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

Section 3. Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

Section 4. Reimbursement Allocations. The City Finance Director shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Project. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds or the Project and shall specifically identify the actual original expenditure being reimbursed.

PASSED AND APPROVED by the City Council of the City of Billings, Montana, this 22nd day of November, 2021.

_____
Mayor

Attest: _____
City Clerk

(SEAL)

City Council Regular

Date:	11/22/2021
Title:	Zone Change 1001 - Text Amendment for Marijuana Businesses - Third Reading
Presented by:	Nicole Cromwell
Department:	Planning & Community Services
Presentation:	No

RECOMMENDATION

Zoning Commission Recommendation

The Zoning Commission recommended the City Council approve the zoning text amendment for marijuana businesses, based on their 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.

City Council Action 1st Reading

The City Council conducted a public hearing on first reading on October 25, 2021, and did not adopt the recommended changes from the Zoning Commission outlined in items one, two and three above. The Council voted to adopt the recommended changes in items four and five, keep the required separation distance of 1,000 feet as originally proposed, added behavioral health facilities as a protected use, and deleted CMU1 and CMU2 as zone districts where dispensaries would be allowed. The City Council stated findings of the ten review criteria (See Summary Section) to support the adoption of the amended draft on first reading. A second reading is required to adopt the ordinance.

Ballot Results and City Council Action 2nd Reading

The ballot concerning whether to approve or disapprove Adult Use Dispensaries resulted in a majority vote against allowing Adult Use Dispensaries in Billings on November 2. On second reading of the zoning ordinance on November 8, the City Council updated the proposed language to reflect this result by prohibiting this use within the city limits.

The City Council also made four other amendments to the second reading draft including:

1) Retaining the arterial setback of 150 feet for all dispensaries;
2) Adding protected uses and 1,000 foot buffers for those uses from cultivation, processing and manufacturing locations;
3) Adding behavioral health facilities to the list of protected uses in Sec 27-1005.R and 27-1006.F; and
4) Adding marijuana testing laboratories as an allowed use in the EBURD-CW and EBURD-IS zone districts.

A third reading of the zoning ordinance is required to adopt the second reading changes and is being conducted at this meeting.

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 assisted 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. One of those two locations may be in "good standing" with the city - M.A.C. Further research based on the new zoning and business license regulations will be needed to determine M.A.C.'s compliance and standing. 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. However, with the ballot measure vote on November 2, the enactment of these zoning regulations and the enactment of the City's Marijuana Business License regulations, no adult-use dispensaries are allowed within the Billings City Limits.

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.

The City Council did not follow the Zoning Commission recommendation in its entirety when it adopted the zoning ordinance on first reading on October 25, or on second reading on November 8, as described in the recommendation section of this memo. Further, Billings Voters on November 2nd voted not to allow Adult-Use Marijuana Dispensaries in the City of Billings per the ballot measure that the Billings City Council had placed on the ballot. Therefore, the Attached Ordinance has been amended to reflect this change and other changes outlined in the recommendation section of this memo. The City Council will consider this amended ordinance on third reading at this meeting.

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.

Zoning Commission Hearing and Recommendation

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.

City Council Hearing and First Reading

The City Council conducted a public hearing on first reading of the amendment on October 25, 2021. The Council received the Zoning Commission recommendation, a presentation of Planning staff and public testimony from Becky Bey and Christine Lundgren of the Substance Abuse Connect organization, Allison Corbyn of Big Sky EDA, Ming Cabrera an owner of commercial property in Billings Heights, Tina Volek of the West End Task Force, and Richard King, Chair of the Rimrock Neighborhoods Task Force. The Council asked questions regarding the separation distance requirements, the rationale of the Zoning Commission recommendations, and whether the City Council could amend the draft regulation. Staff clarified the issues for the Council.

Council member Mike Yakawich made a motion to approve the proposed zoning ordinance with amendments to the proposed ordinance that restores the original 1,000-foot separation distance, eliminates CMU1 and CMU2 as zone districts where dispensaries could be allowed, and includes behavioral health facilities as a protected use requiring the 1,000-foot separation distance. Council member Yakawich stated the reasoning for the amendments is to better protect the public health, public safety and general welfare of the entire city from the unknown impacts of marijuana businesses. The motion was seconded by Council member Shawn Brown. The Council voted 7 to 3 to approve the amendment(s). Mayor Cole requested staff update the findings for the ten zone change criteria that reflects the City Council's findings for the revised draft ordinance.

City Council Second Reading Hearing and Ballot Result

On November 2, 2021 the ballot question on whether to approve or disapprove adult use dispensaries in the city limits was decided. The majority of voters caste votes against allowing this use in the city limits. The City Council adopted changes to the approved first reading zoning ordinance to clearly prohibit the use within the city limits. The Council made four other changes to the second reading draft ordinance (detailed above in the Recommendation section). A third reading of the ordinance is required at this meeting to adopt these changes.

ALTERNATIVES

The City Council may:

- Adopt the revised findings of the 10 review criteria and approve the revised text amendment approved by the City Council at its first and second reading public hearings on October 25, 2021, and November 8, 2021; 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 January 1, 2022, when the new state laws allowing marijuana businesses takes 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, growing, processing, transportation and testing 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 financial impacts.

SUMMARY

The City Council shall consider, among other things, the following findings as revised and updated by the City Council on October 25, 2021 and November 8, 2021:

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 proposed regulations are intended to prevent some predictable consequences of allowing a business that is still considered illegal in many states and to prudently allow businesses in zone districts that will have the least impact on existing neighborhoods, retail and commercial businesses. 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 businesses that sell, cultivate, process and manufacture marijuana products in areas where similar types of business already exist in the CX, I1 and I2 zone districts will make these uses more predictable in those areas. Allowing dispensaries - a retail activity - in additional zone districts of CMU1 and CMU2 will introduce a potential incompatible use in those districts and will not protect the public health and general welfare.

The proposed 1,000-foot buffer from marijuana dispensaries, cultivations, processing and manufacturing to residential neighborhoods, religious facilities, parks with playgrounds, day care centers, youth centers and behavioral health facilities will reduce any potential negative impacts from this new land use in Billings. The City Council finds there are many unknown impacts from this use and the 1,000-foot buffer to these sensitive land uses will be prudent and protective while this new business is being established within the city limits. The regulations also require an arterial setback for all dispensaries so the separation requirements along with 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 dispensaries, cultivation, processing and manufacturing businesses from sensitive uses and limiting the businesses to potentially compatible zone districts such as CX, I1 and I2.

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 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 dispensaries, cultivation, processing and manufacturing 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 promote compatible urban growth?
The zoning amendment promotes compatible urban growth in the areas of the City that are zoned CX, I1 and I2. The intended uses may not be 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 dispensaries, cultivation, processing, manufacturing and transportation. Testing Laboratories will be allowed in additional zone districts - Downtown Support (DX), Central Business District (CBD), EBURD Central Works (CW) and EBURD Industrial Sanctuary (IS) since no sales or production of marijuana would occur at these facilities. DX, CBD, CW and IS already 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 for dispensaries, cultivation, processing, manufacturing and transportation and the CBD, DX, CW and IS zones for testing laboratories in Billings.

Attachments

ZC 1001 Ordinance third reading
APA Journal Article Winter 2021
American Journal of Public Health
Cannabis in Medicine - Articles
Letter of Comment Neil Kiner to City Council
Co and WA Marijuana Access Studies
Crash Fatality Rate Study
Journal of Criminal Justice on Marijuana Legalization 2021
AHA - Marijuana smoke impact on heart health
NIDA Marijuana Research Report
RMHIDTA
APA Zoning Practice Marijuana Aug. 2016
Neil Kiner Green Bee comment Oct 5 2021

Mike Dayton - owner in EBURD
Map for Potential Locations of Dispensaries Cultivation Processing and Manufacturing

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

The amended table shall read as follows:

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											27-1005
Marijuana Dispensary – Adult Use														~~PR~~	~~PR~~	~~PR~~											~~27-1005~~
Marijuana Dispensary – Combined Use														~~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), EBURD-CW and EBURD-IS 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			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

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 feet from religious institutions, primary and secondary educational facilities, public parks that contain a children's playground or playfield, day care centers, youth centers, behavioral health facilities and neighborhood residential zones ("protected use" as defined in subsection 27-1802.G) as measured from the exterior of the occupied building space of the marijuana dispensary to the property line of the protected use. A neighborhood residential zone includes any Planned Development zone district that allows residential uses.
(b) Required separations are not subject to reduction, adjustment, or variance and dispensaries shall not be approved within the distances specified.

2. Combining Marijuana Uses.
(a) A marijuana dispensary may not be combined with another marijuana use, such as a transportation, cultivation, testing laboratory or processing facility, unless the required separation distances can be met for the dispensary use.
(b) All marijuana uses are considered Primary Uses for the purposes of zoning.

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

4. Setback from arterial street property lines.

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

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

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

4. Prohibited uses. The following types of uses will not be approved as home occupations:
(a) Uses involving large or oversized goods or materials;

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

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

F. Marijuana Cultivation, Processing/Manufacturing & Transporters.

1. Separation distances.

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

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

2. Enclosed structure required.

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

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

3. Transporters and Storage.

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

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

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

27-1402.B. Sign permit required.

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

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

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

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

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

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

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

Section 27-1402.C.4

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

……

4. Public signs.

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

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

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

(d) Bench signs. Bench signs on benches located on active, fixed bus routes, controlled or authorized by the Billings MET. The benches must be located on active, fixed routes. Signs shall be removed from or prohibited on benches located in prohibited sign locations or where the bench is not associated with an active, fixed route.

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

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

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

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

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

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

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

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

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

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

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

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

Marijuana Transportation: means the packaging, transportation and delivery of processed marijuana, or marijuana products to or from marijuana dispensaries,

testing laboratories, or cultivation facilities. This definition does not include any transportation from a dispensary to its consumers or cardholders.

Y: *Y Terms* Add the following after "Yard sign" terms and before "Youth foster home"
Youth Center: means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, or social service teenage club facilities. Examples, of youth centers are Boys and Girls Clubs, Audubon Centers, zoos, children's museums and similar facilities.

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

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

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

PASSED, ~~ADOPTED AND APPROVED~~ on second reading November 8, 2021.

PASSED, ADOPTED AND APPROVED on third reading November 22, 2021.

CITY OF BILLINGS:

BY:_____
William A. Cole, Mayor

ATTEST:

BY: Denise Bohlman, City Clerk

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

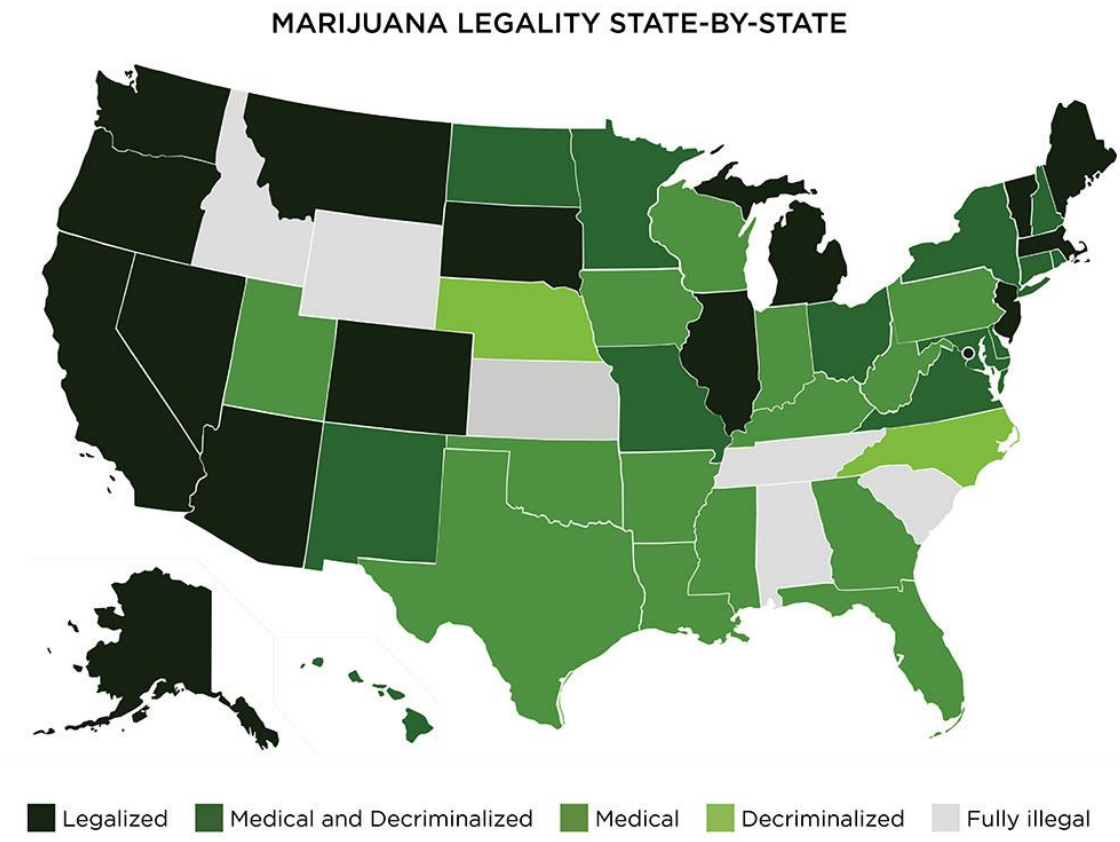
The heart of Denver's legal-cannabis production is in dozens of unmarked warehouses, ringed with barbed wire and security cameras, and located amid factories, railyards, construction rental lots, and other industrial buildings. Sometimes these pot-producing facilities sit quite near, and in some cases 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.

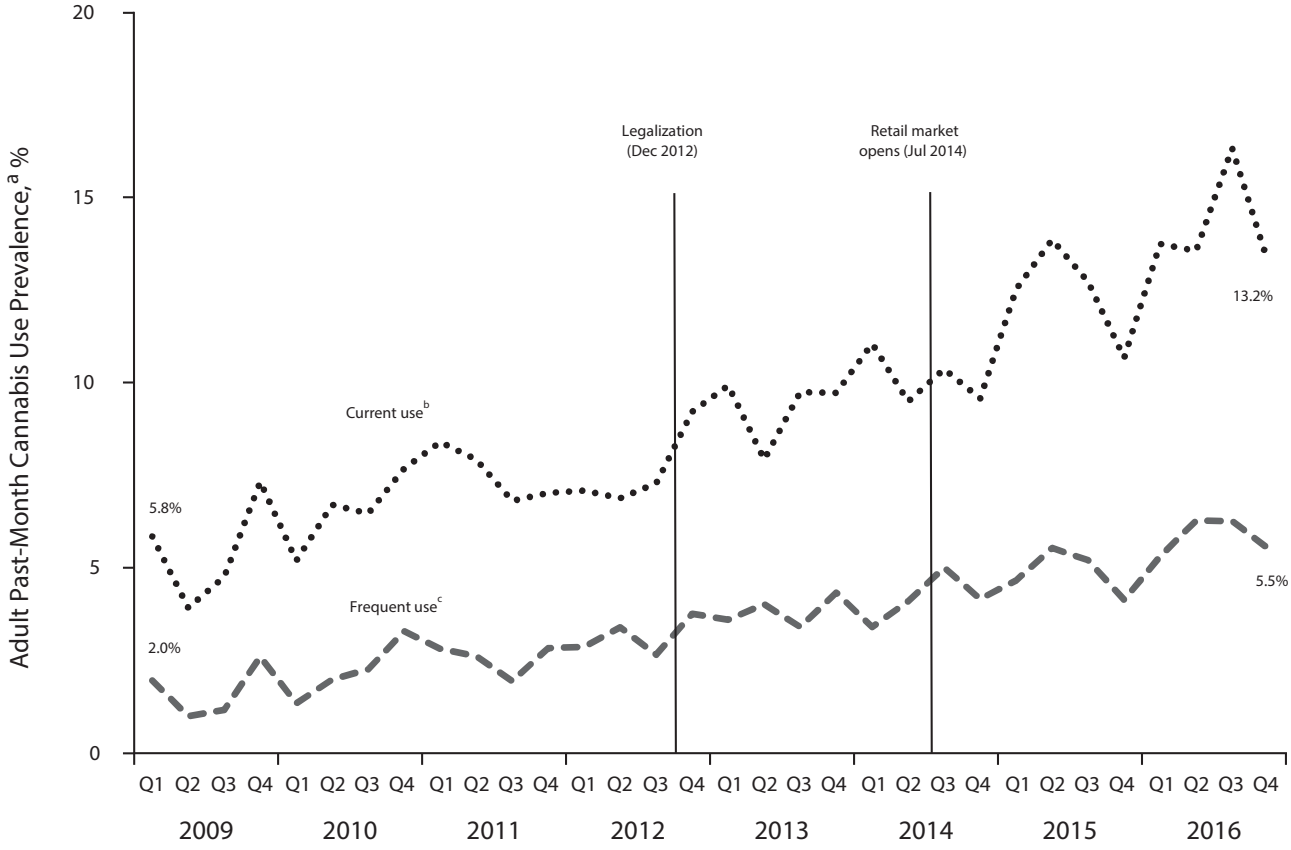
Regardless of the retail access measure used, our adjusted models suggested that current cannabis use and frequent use were significantly increasing between 2009 and 2016 but did not significantly change directly after possession was legalized in 2012 (Table 2). The relationship between retail access 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)

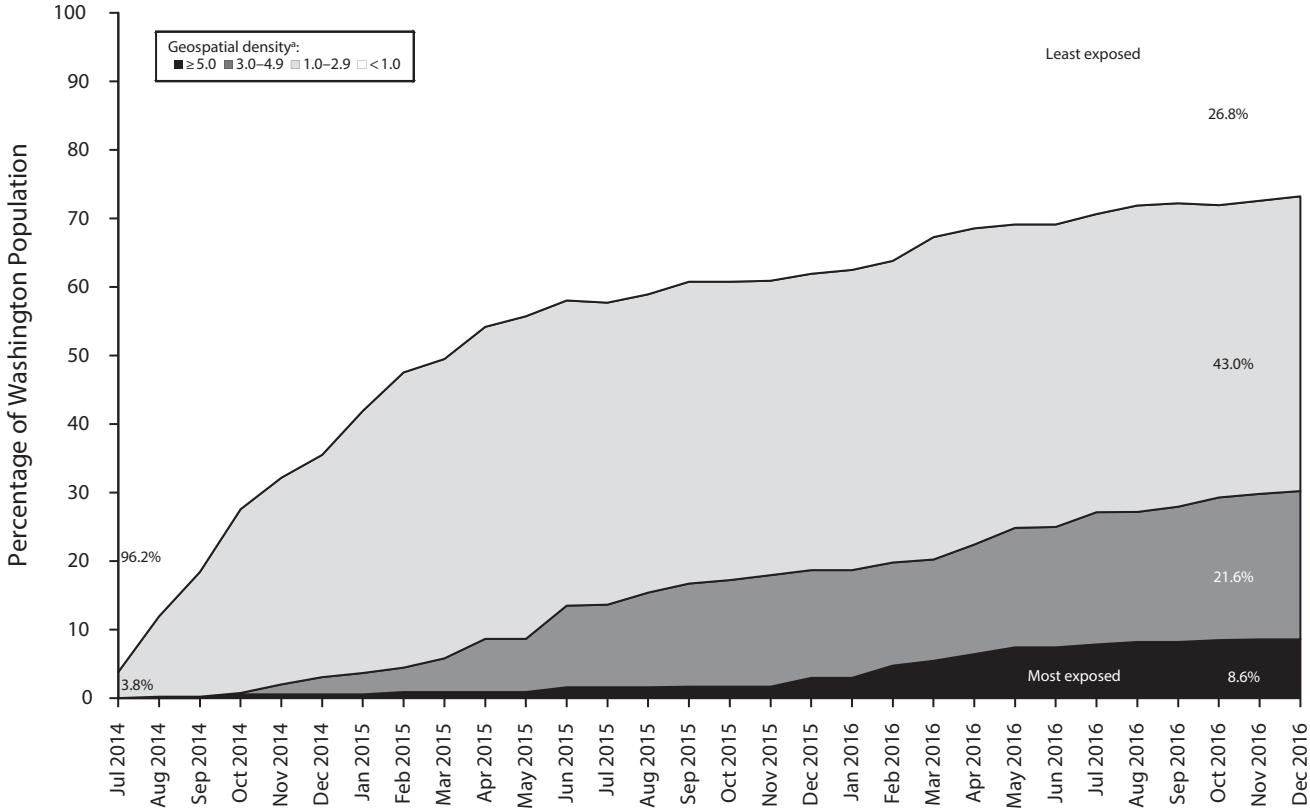
Note. CI = confidence interval. Prevalence estimates were weighted to be representative of the state population.

[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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Contents

Part I Basic Science

1 The Properties and Use of *Cannabis sativa* Herb and Extracts 3
Richard L. Hilderbrand

2 Cannabinoid and Marijuana Neurobiology 25
Bertha K. Madras

3 The Pharmacodynamics, Pharmacokinetics, and Potential Drug Interactions of Cannabinoids 49
Grace S. Chin, Robert L. Page II, and Jacquelyn Bainbridge

Part II Clinical Evidence

4 Cannabis and Neuropsychiatric Effects 65
David C. Rettew, Doris C. Gundersen, Erica Kirsten Rapp, Paula Riggs, Christine L. Miller, Monica C. Jackson, Kevin Sabet, Ben Cort, and LaTisha L. Bader

5 Cannabis and the Impact on the Pediatric and Adolescent Population 133
George Sam Wang, Donald E. Greydanus, and Maria Demma Cabral

6 Acute Emergency Department Presentations Related to Cannabis 157
Karen Randall, Brad Roberts, and John Cienki

7 Evidence of Cannabinoids in Pain 171
Peter R. Wilson and Sanjog Pangarkar

8 Cannabis in Pulmonary Medicine 185
Christopher M. Merrick and Jesse J. LeBlanc III

9 Clinical Cardiovascular Effects of Cannabis Use 209
Cynthia Philip, Rebecca Seifried, Marcio Sommer Bittencourt, and Edward Hulten

10 Cannabinoids in Neurologic Conditions 231
Tyler E. Gaston, Jerzy P. Szaflarski, Allen C. Bowling, Ying Liu, Tristan Seawalt, Maureen A. Leehey, E. Lee Nelson, Sharad Rajpal, Alan T. Villavicencio, Andrew Bauer, and Sigita Burneikiene

11 Ocular Conditions and the Endocannabinoid System 313
Finny T. John and Jean R. Hausheer

12 Cannabis in Oncology and Symptom Management 325
Matthew Chung and Salahadin Abdi

13 Cannabis in Palliative Medicine 345
Fabienne Saint-Preux, Arpit Arora, Derek Moriyama, Esther Kim, and Arum Kim

14 Charting the Pathways Taken by Older Adults Who Use Cannabis: Where Are the Baby Boomers Going Now? 373
Brian P. Kaskie and Amanjot Mona Sidhu

15 Cannabis in Dermatology 383
Catherine Murer Antley, Reagan Anderson, and Judith Margulies

16 Fetal and Neonatal Marijuana Exposure 401
Leeann M. Blaskowsky

17 Cannabinoids in Gastrointestinal Disorders 415
Michelle Kem Su Hor, Monica Dzwonkowski, Tesia Kolodziejczyk, Lorne Muir, Nazar Dubchak, Sabina Hochroth, Bhaktasharan Patel, Aaron Wu, Sean Knight, Garrett Smith, Uday Patel, Quentin Remley, and Cicily Hummer

18 Looking at Marijuana Through the Lens of Public Health 453
Elizabeth Brooks and Stig Erik Sørheim

19 Cannabis-Impaired Driving: Evidence and the Role of Toxicology Testing 493
Edward C. Wood and Robert L. Dupont

20 The Legal Aspects of Marijuana as Medicine 515
David G. Evans

Epilogue: The Medical Cannabis Landscape 535

References 545

Index 547

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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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| 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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READING TIME
7 MINUTE READ

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.

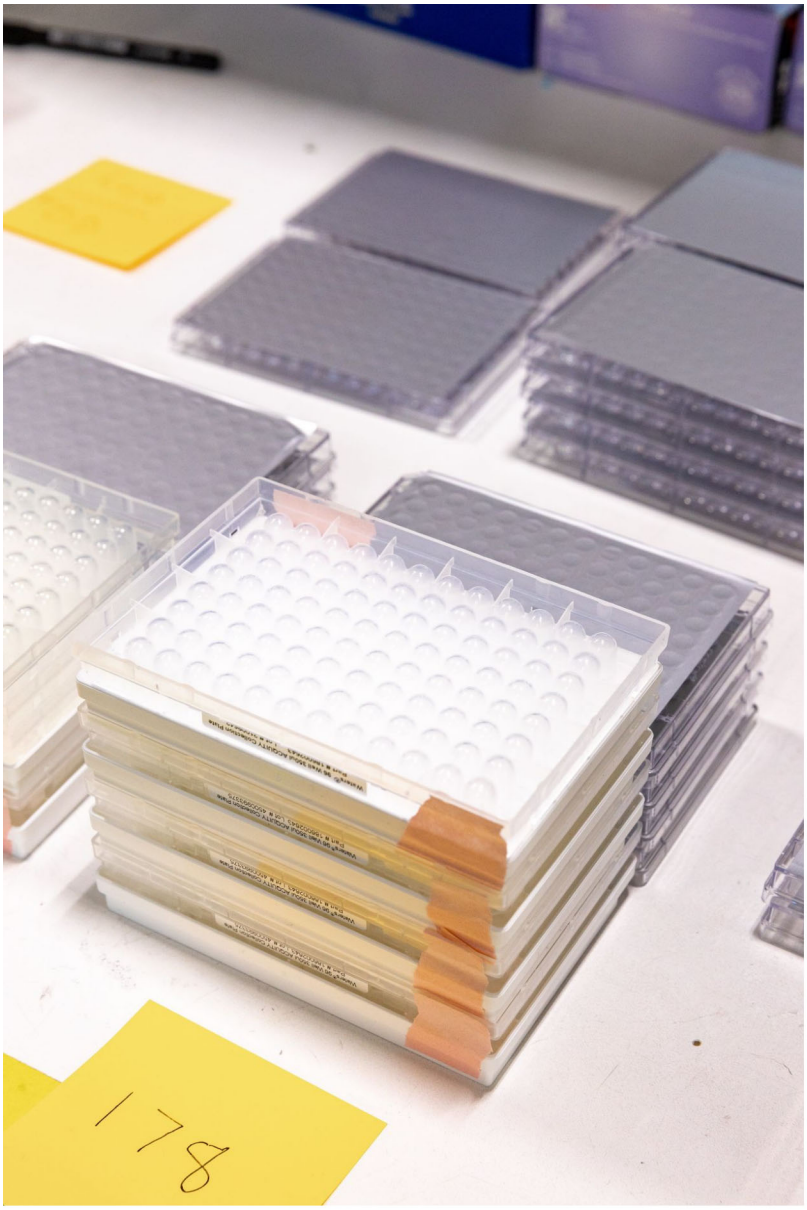
"The marijuana plant has tremendous potential, so the more access we have to the constituents of marijuana, the more we can continue to move the science forward," says Dr. David Shurtleff, the deputy director of the National Center for Complementary and Integrative Health at the National Institutes of 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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THE
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Original Scholarship

County-Level Recreational Marijuana Policies and Local Policy Changes in Colorado and Washington State (2012-2019)

DENISE D. PAYÁN, PAUL BROWN, and ANNA V. SONG

University of California, Merced

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 • Economic gain • Reduced crime • Health benefits
Opponents	Arguments used either in favor of prohibiting any or all marijuana facilities or against allowing these facilities	• Local public opinion • Economic loss • Negative physical/mental health outcomes (particularly for children and youth) • Public health impact (e.g., environmental hazards) • Increased crime and public safety concerns • 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

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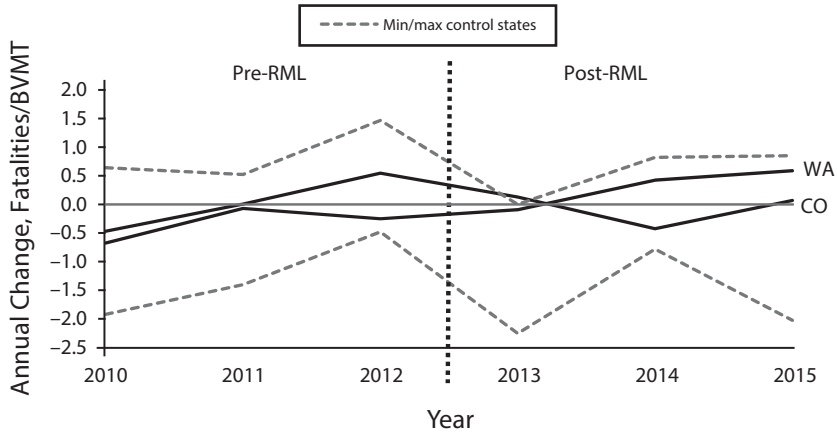
parallel trends for the pre–recreational marijuana legalization (2009–2012) changes in motor vehicle crash fatality rates for Washington and Colorado and for the control states. We then modeled the interaction effect between recreational marijuana legalization (yes/no) and period (pre–/post–recreational 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 α 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, α is the constant, β is the specific group effect, γ is the time trend, and δ 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. ε_{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-

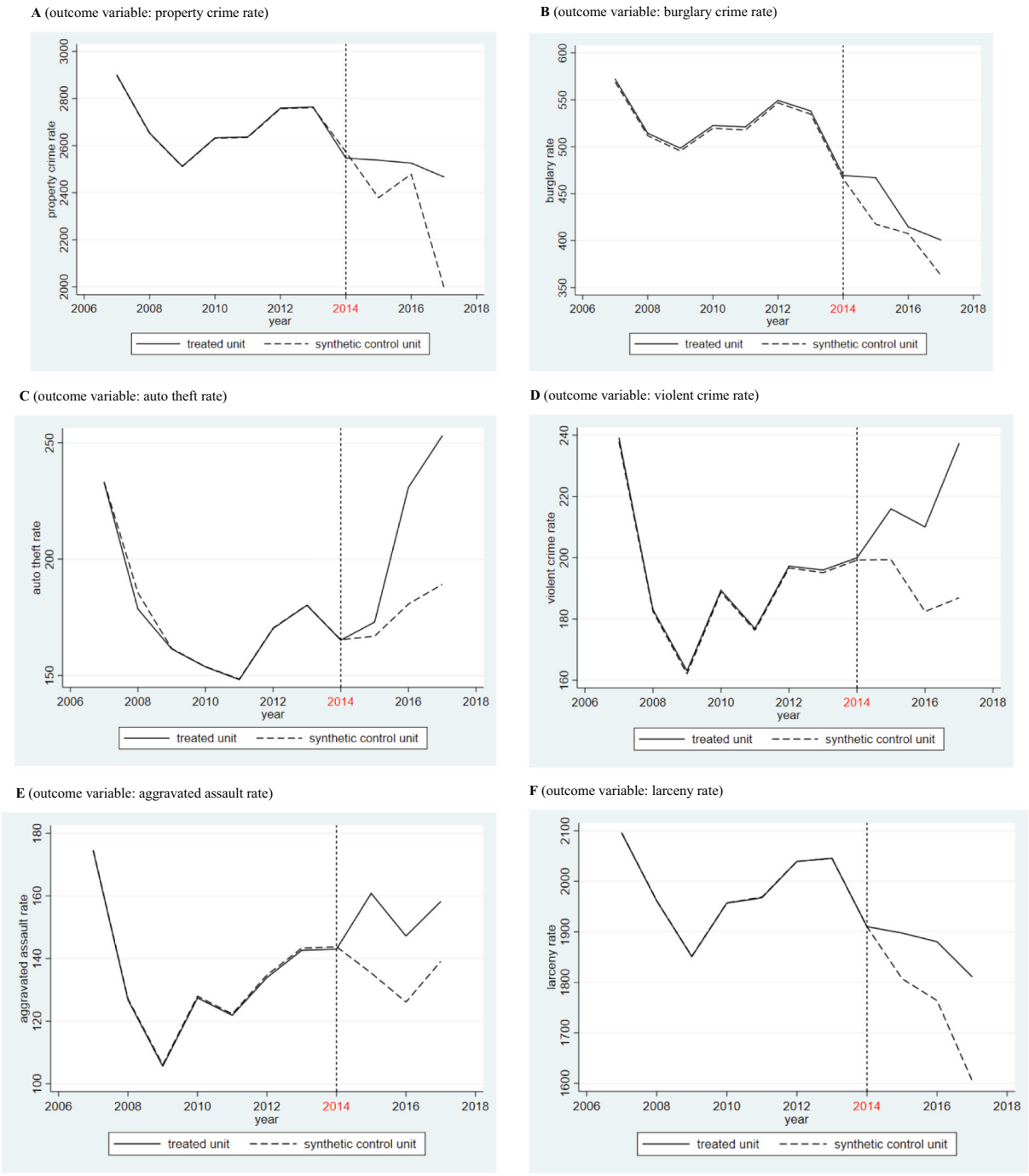

Fig. 1. The Effects of Recreational Marijuana Legalization on Crime in OR (Synthetic Control Method).

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.
† $p \leq .1$.
* $p \leq .05$.
*** $p \leq .001$.

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.
† $p \leq .1$.
* $p \leq .05$.
** $p \leq .01$.

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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.

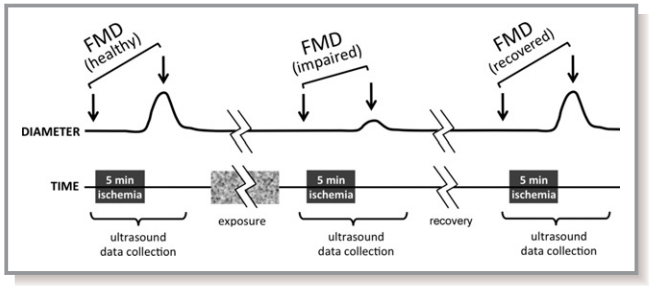

Figure 1. Experimental design for FMD measurement and smoke exposures. FMD was measured by micro-ultrasound measurements of femoral artery diameter before and after transient (5 minutes) surgical occlusion of the common iliac artery. Anesthetized rats were exposed to SHS for varying durations and FMD 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 8.8×10^{-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

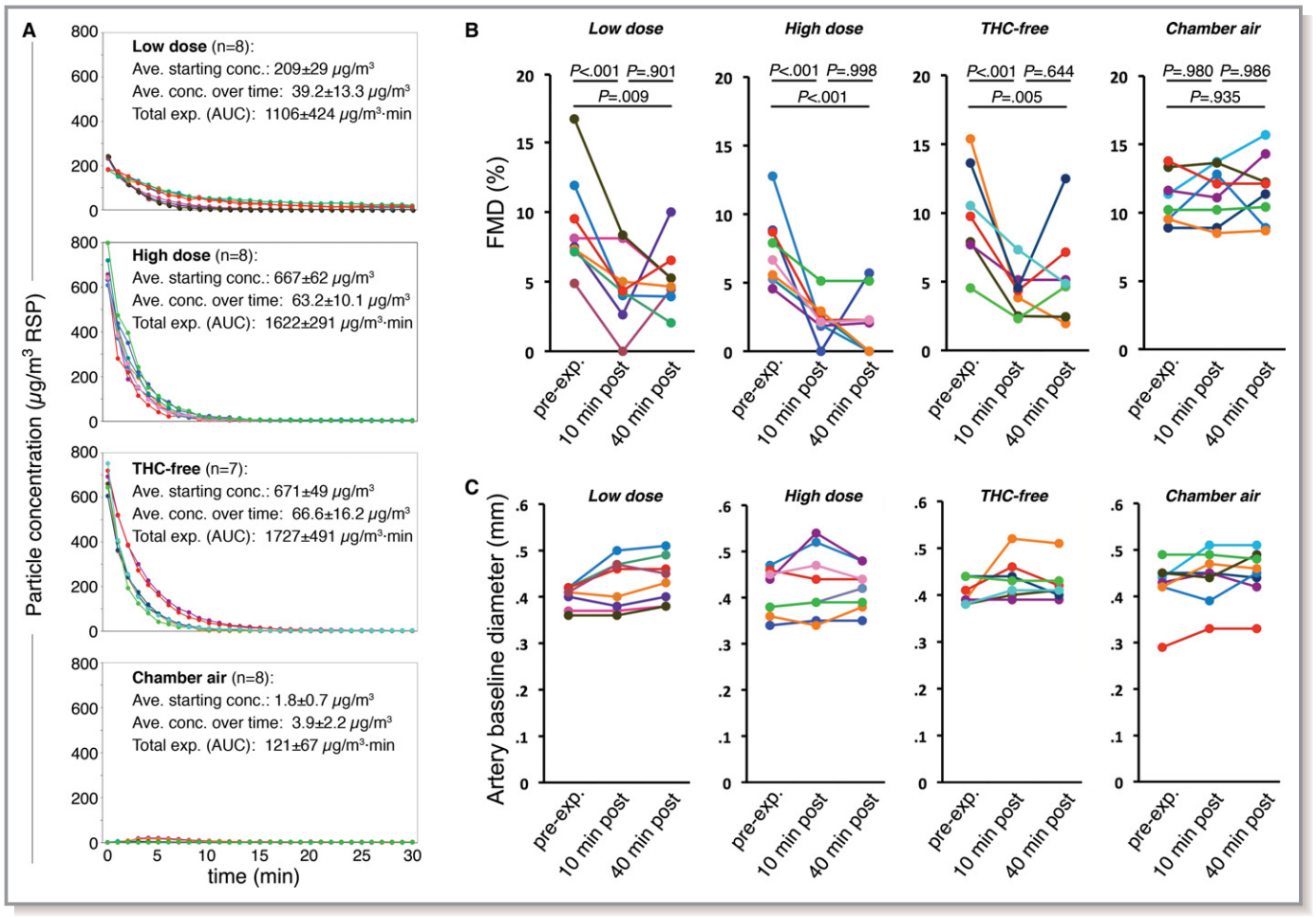

Figure 2. Impairment of FMD by exposure to marijuana SHS at declining levels over a 30-minute period. A, RSP levels over 30 minutes for each rat. Mean starting concentration, mean concentration over time, and total exposure derived from the area under the curve (AUC) are listed for each group ±SD. 670 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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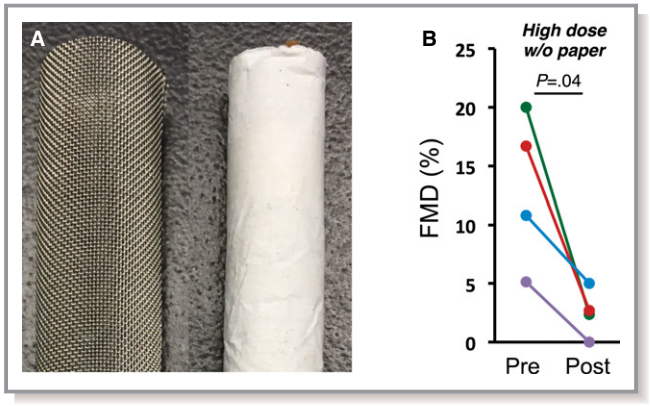

Figure 3. Rolling paper is not required for FMD impairment. A, Stainless steel mesh used for paperless cigarettes with a normal cigarette for comparison. B, FMD impairment in rats exposed to paperless THC-free marijuana SHS. FMD indicates flow-mediated vasodilation; SHS, secondhand smoke; THC, tetrahydrocannabinol.

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

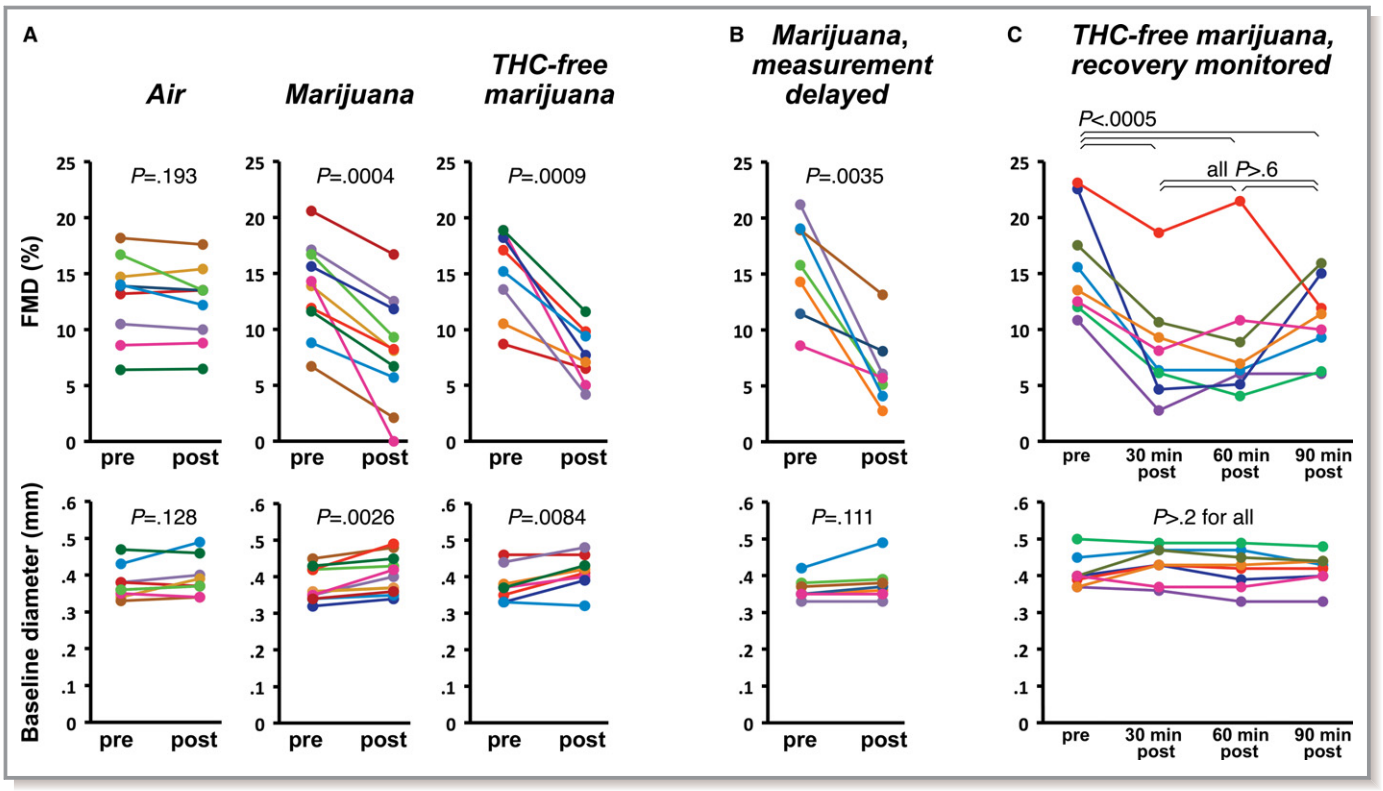

Figure 4. Impairment of FMD by 1 minute of exposure to marijuana SHS. See Table for group mean FMD and diameter values. A, FMD and baseline artery diameter in rats exposed to chamber air (0.73±0.055 μg/m^3; n=8), high-dose marijuana SHS (584±16 μg/m^3; n=10), or high-dose THC-free marijuana SHS (608±13 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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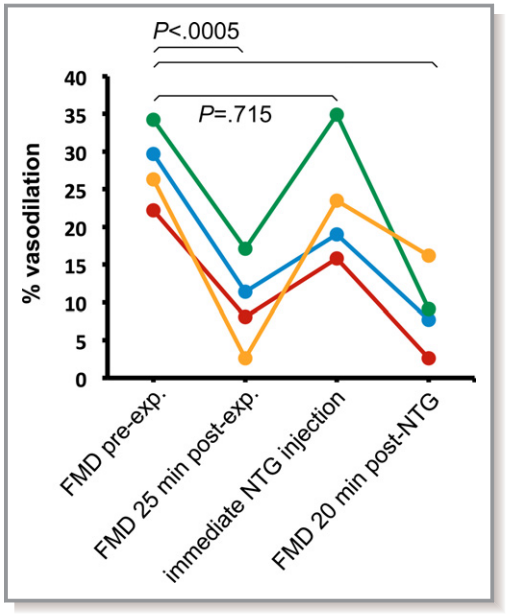

Figure 5. Endothelium-independent vasodilation is not impaired by SHS. Percent vasodilation is reported for 4 time points consisting of pre-exposure FMD, postexposure FMD (impaired), nitroglycerin-induced endothelium-independent dilation (NTG, not impaired), and subsequent FMD (still impaired). FMD indicates flow-mediated vasodilation; SHS, secondhand smoke.

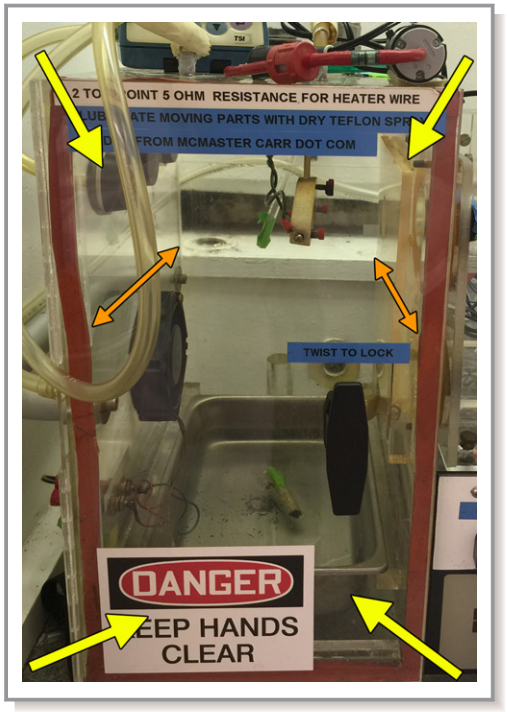

Figure 7. Smoke exposure chamber showing lack of visible smoke. Yellow arrows designate the corners of the exposure chamber. Double-headed orange arrows show depth of chamber, ≈30 cm.

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.

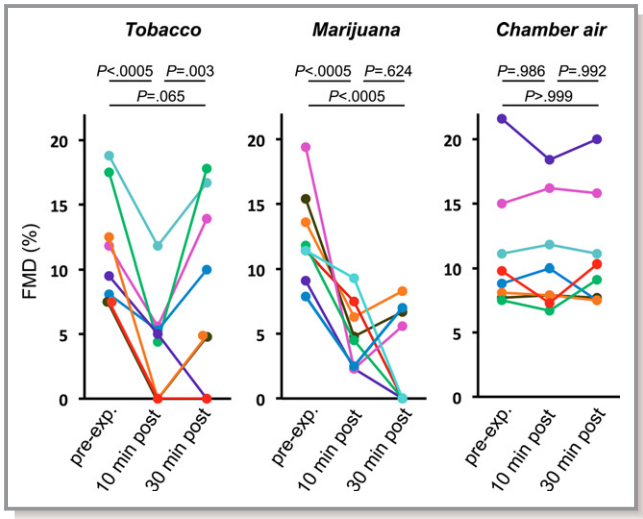

Figure 6. Impairment of FMD from 1 minute of marijuana SHS persists longer than impairment from tobacco SHS. Impairment of FMD recovered by 30 minutes after 1 minute of exposure to tobacco SHS (591±28 μg/m^3), but not after 1 minute of exposure to marijuana SHS (572±32 μg/m^3; n=8/group). FMD indicates 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

Table of Contents

Marijuana Research Report
Letter From the Director
What is marijuana?
What is the scope of marijuana use in the United States?
What are marijuana's effects?
How does marijuana produce its effects?
Does marijuana use affect driving?
Is marijuana addictive?
What are marijuana's long-term effects on the brain?
Is marijuana a gateway drug?
How does marijuana use affect school, work, and social life?
Is there a link between marijuana use and psychiatric disorders?
What are marijuana's effects on lung health?
What are marijuana’s effects on other aspects of physical health?
Is marijuana safe and effective as medicine?
What are the effects of secondhand exposure to marijuana smoke?
Can marijuana use during and after pregnancy harm the baby?
Available Treatments for Marijuana Use Disorders
Where can I get further information about marijuana?
References

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.

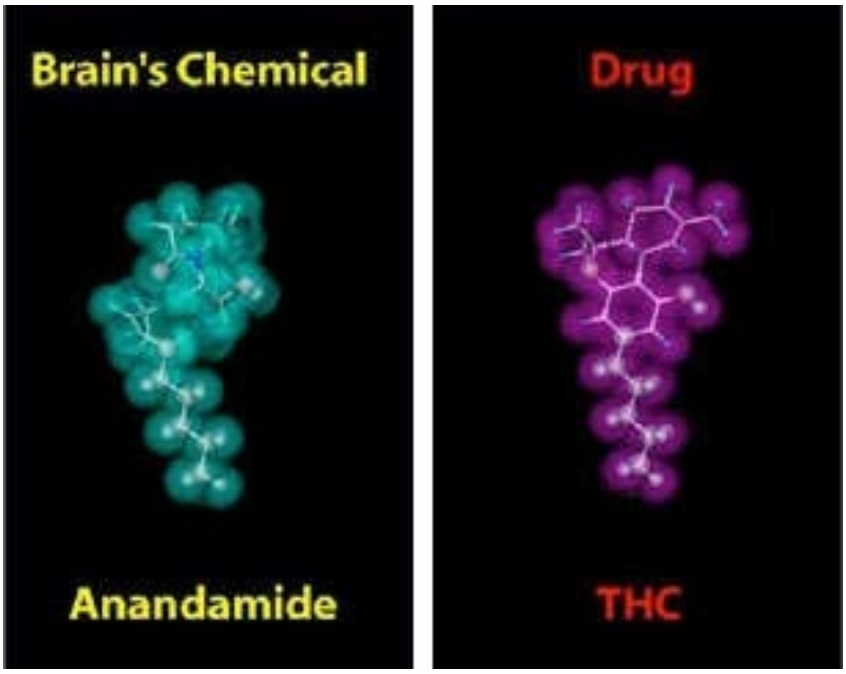
If marijuana is consumed in foods or beverages, these effects are somewhat delayed—usually appearing after 30 minutes to 1 hour—because the drug must first pass through the digestive system. Eating or drinking marijuana delivers significantly less THC into the bloodstream than smoking an equivalent amount 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.

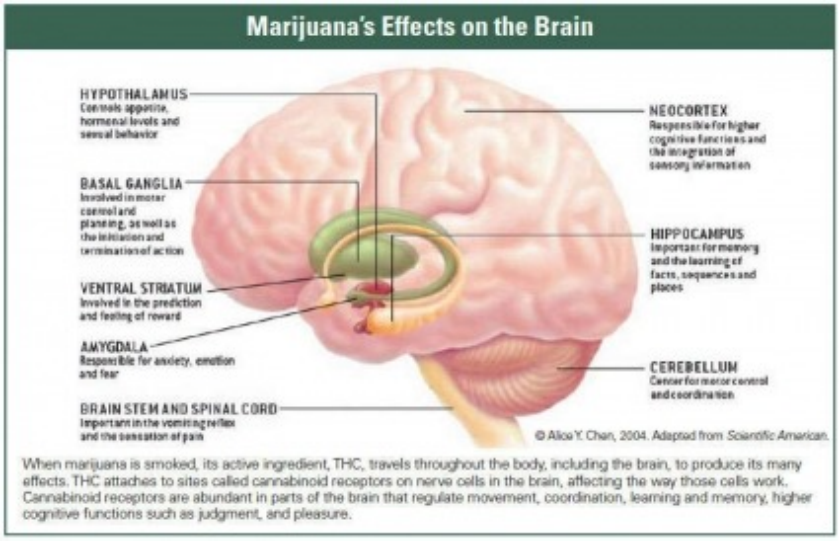


Diagram showing different parts of the brain and describing marijuana's effects on the brain

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]

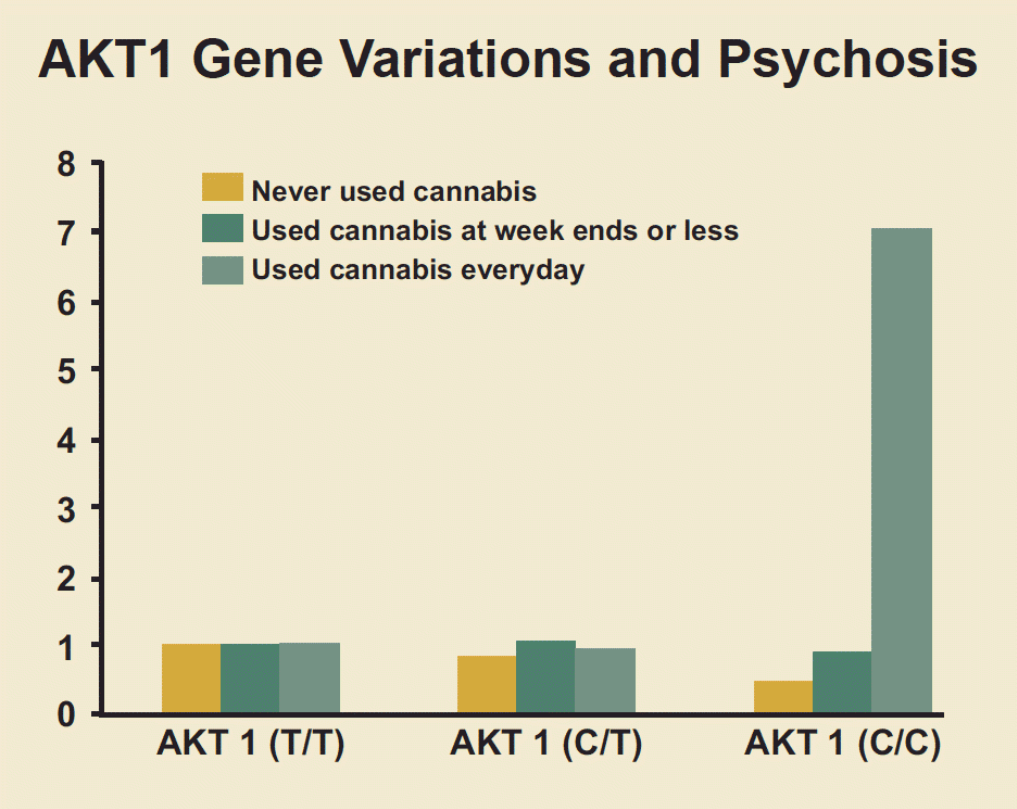
Is there a link between marijuana use and psychiatric disorders?

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]

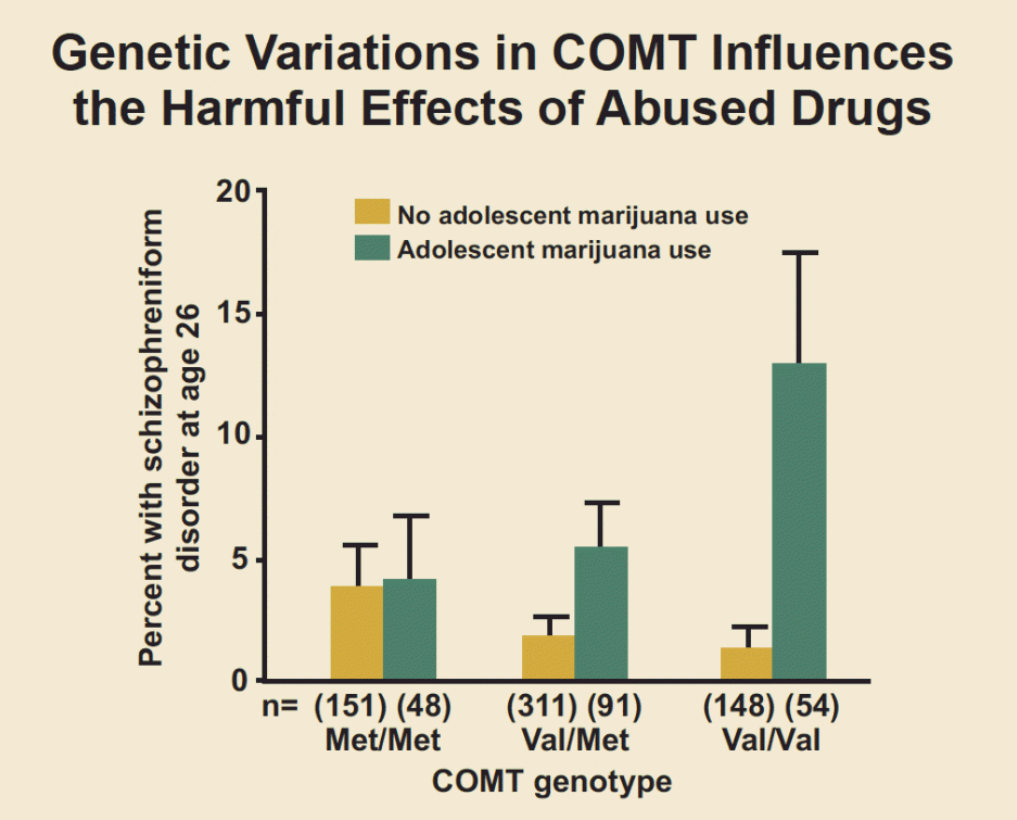
Recent research (see "AKT1 Gene Variations and Psychosis") has found that people who use marijuana and carry a specific variant of the *AKT1* gene, which codes for an enzyme that affects dopamine signaling in the *striatum*, are at increased risk of developing psychosis. The striatum is an area of the 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**

**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?

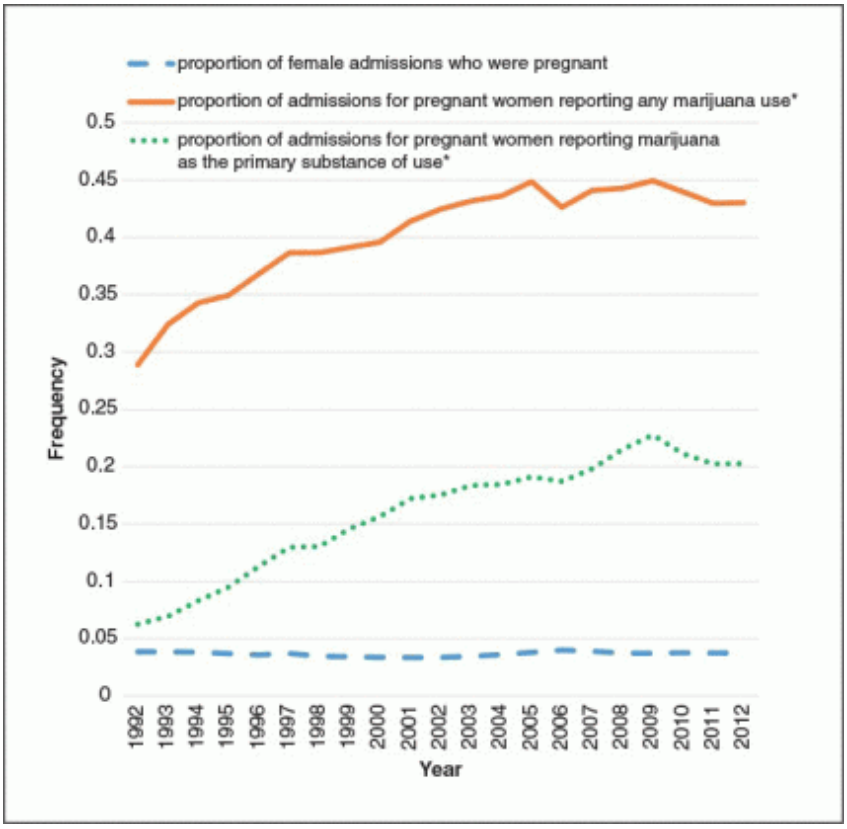
More research is needed on how marijuana use during pregnancy could impact the health and development of infants, given changing policies about access to marijuana, as well as significant increases over the last decade in the number of pregnant women seeking substance use disorder treatment for marijuana 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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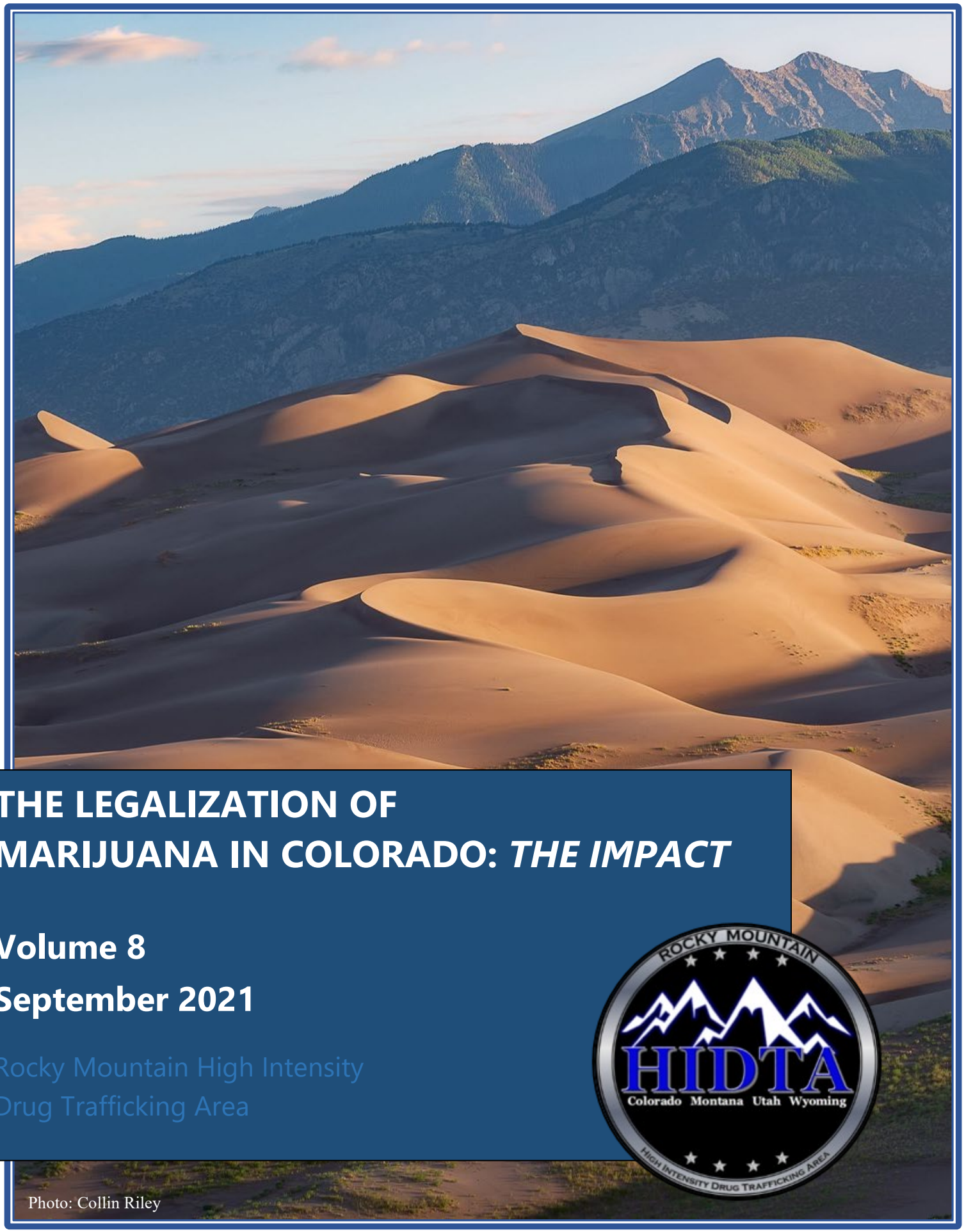

THE LEGALIZATION OF MARIJUANA IN COLORADO: *THE IMPACT*

Volume 8

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Rocky Mountain High Intensity Drug Trafficking Area

Photo: Collin Riley

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PREPARED BY THE ROCKY MOUNTAIN HIDTA
INVESTIGATIVE SUPPORT CENTER
SEPTEMBER 2021

Table of Contents

Table of Contents

Rocky Mountain High Intensity Drug Trafficking Area 1
Table of Contents i
Executive Summary 2
Introduction 4
Purpose 4
Background 4
Section I: Traffic Fatalities & Impaired Driving 6
Some Findings 6
Definitions by Rocky Mountain HIDTA 6
Traffic Fatalities 7
Impaired Driving 12
Impaired Driving Information 15
Section II: Marijuana Use 17
Some Findings 17
Data Consideration 17
National Survey on Drug Use and Health (NSDUH) Data 18
Marijuana in Schools 21
Probationer Marijuana Use 22
Marijuana Use Information 23
Section III: Public Health 25
Some Findings 25
Definitions by Rocky Mountain HIDTA 25
Emergency Department Data 26
Poison Control/Marijuana Exposure Data 27
Treatment Data 29
Suicide Data 30
Colorado Opioid Overdose Deaths 32
Public Health Information 33
Section IV: Black-Market 35
Some Findings 35
Definitions by Rocky Mountain HIDTA 35

Task Force Investigations 36
Colorado Organized Crime Control Act Filings 38
Highway Interdiction Data 39
Black Market Information 40
Section V: Societal Impact 40
Some Findings 41
Tax Revenue 41
Crime ..... **Error! Bookmark not defined.**
Local Response 43
Medical Marijuana Statistics 45
Alcohol Consumption 46
Societal Impact Information 47

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.

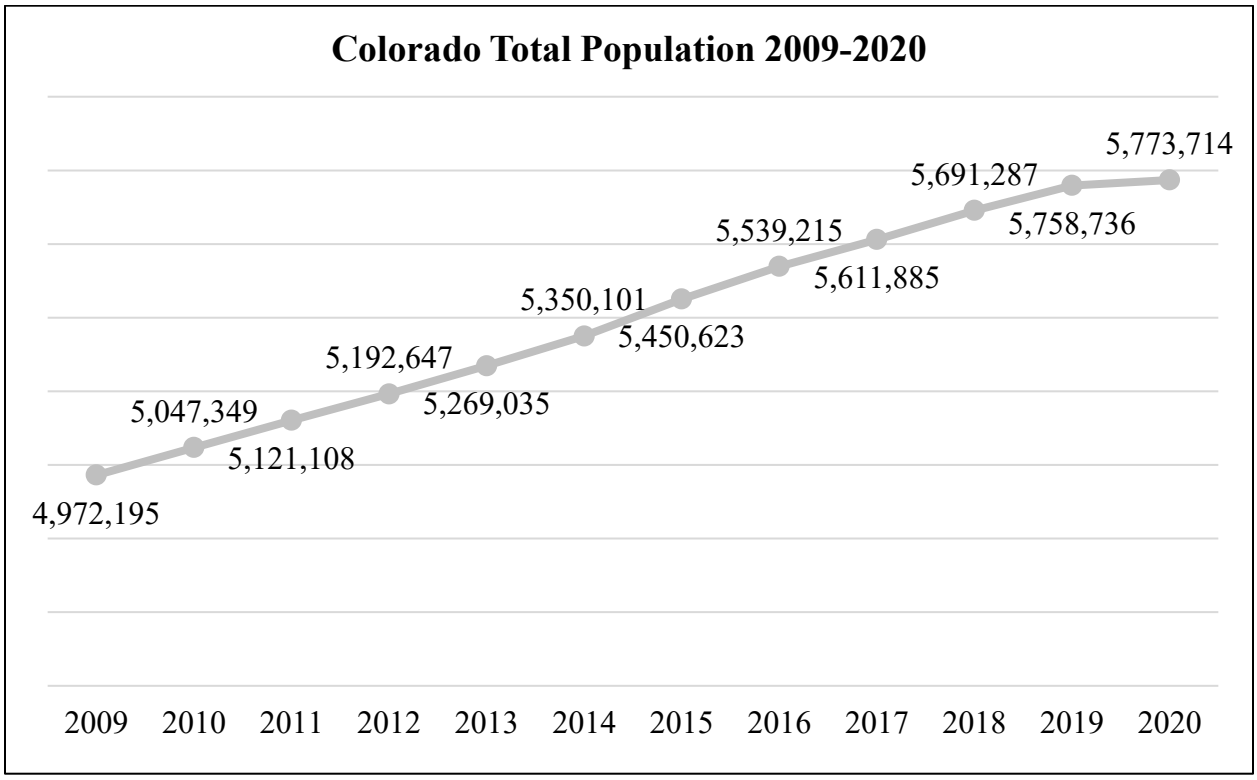
Multi-year comparisons are generally better indicators of trends. One-year fluctuations do not necessarily reflect a new trend.

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.

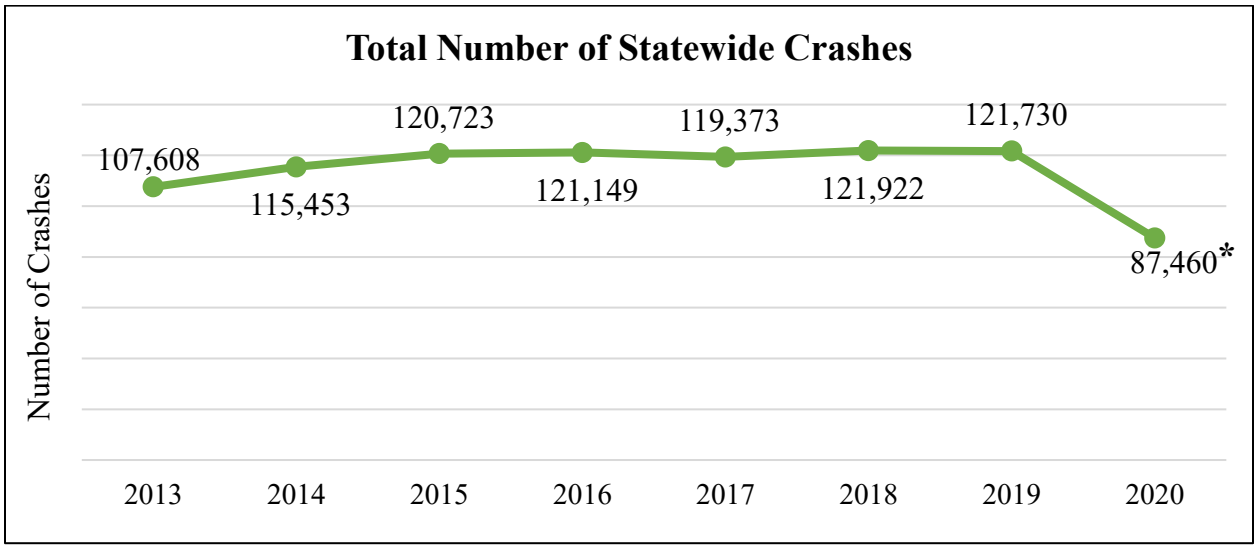
Marijuana Only: When toxicology results show marijuana and no other drugs or alcohol.

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.

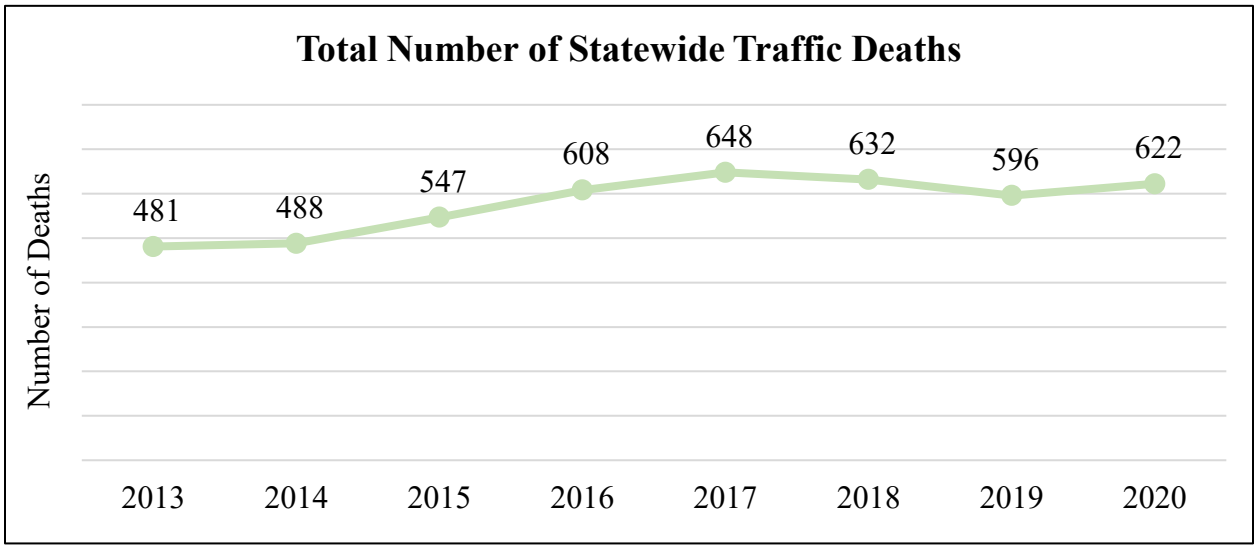
Operators: Anyone in control of their own movements such as a driver, pedestrian, or bicyclist.

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%

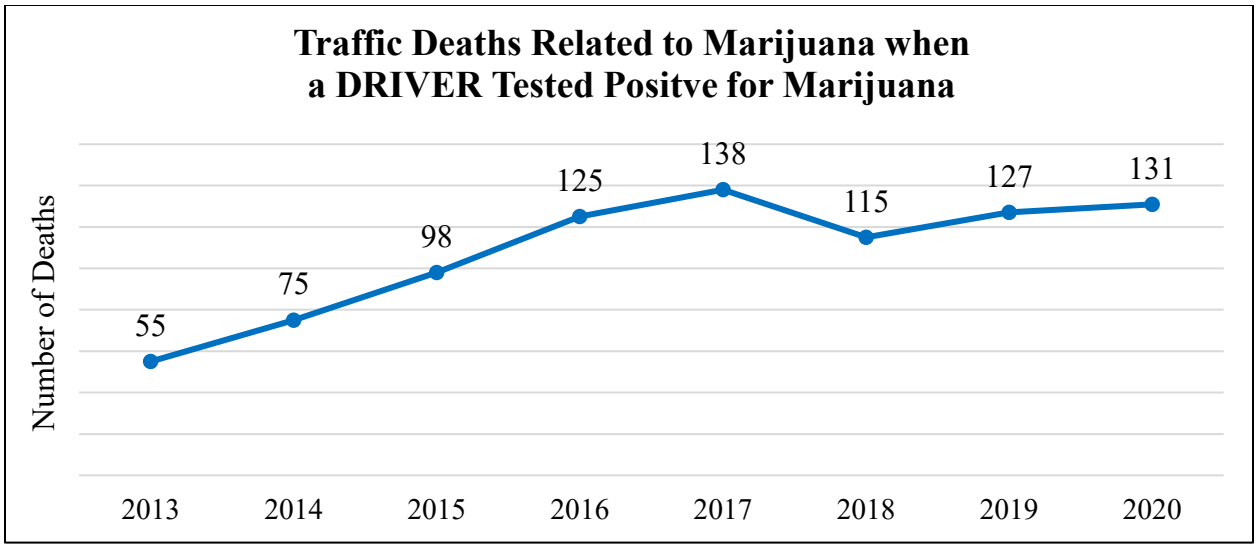
NOTE: Due to changes in reporting, data from before 2013 was not included.

- In 2020, 131 marijuana-related traffic deaths:
  - 104 were drivers
  - 21 were passengers
  - 4 were pedestrians
  - 2 was a bicyclist

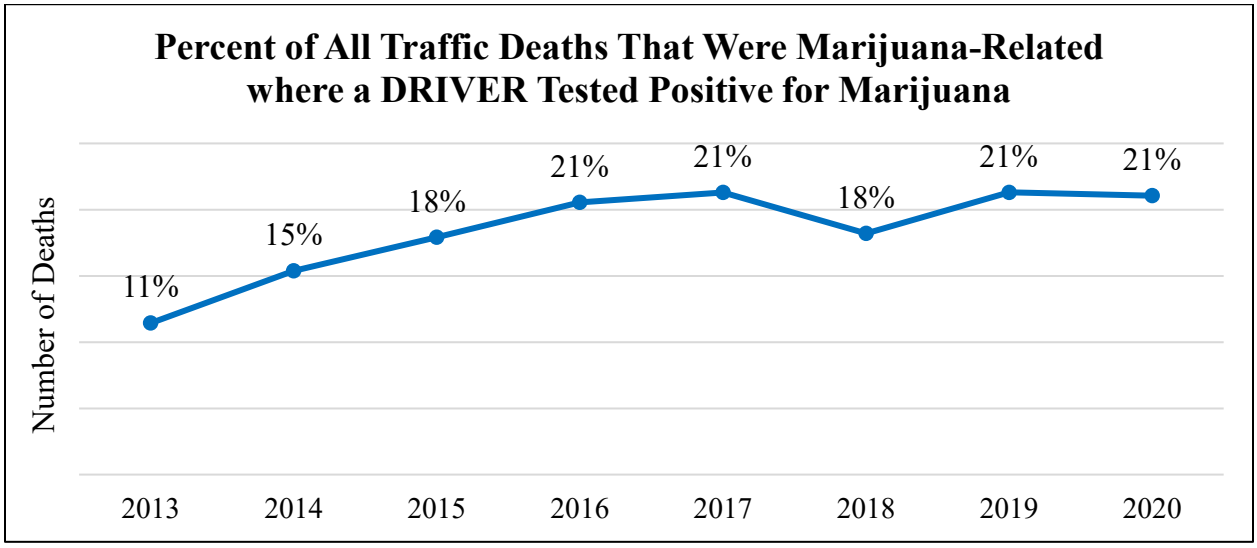
SOURCE: CDOT 2013-2020

NOTE: In 2020, 49% of drivers' blood was tested after being involved in a fatal crash.

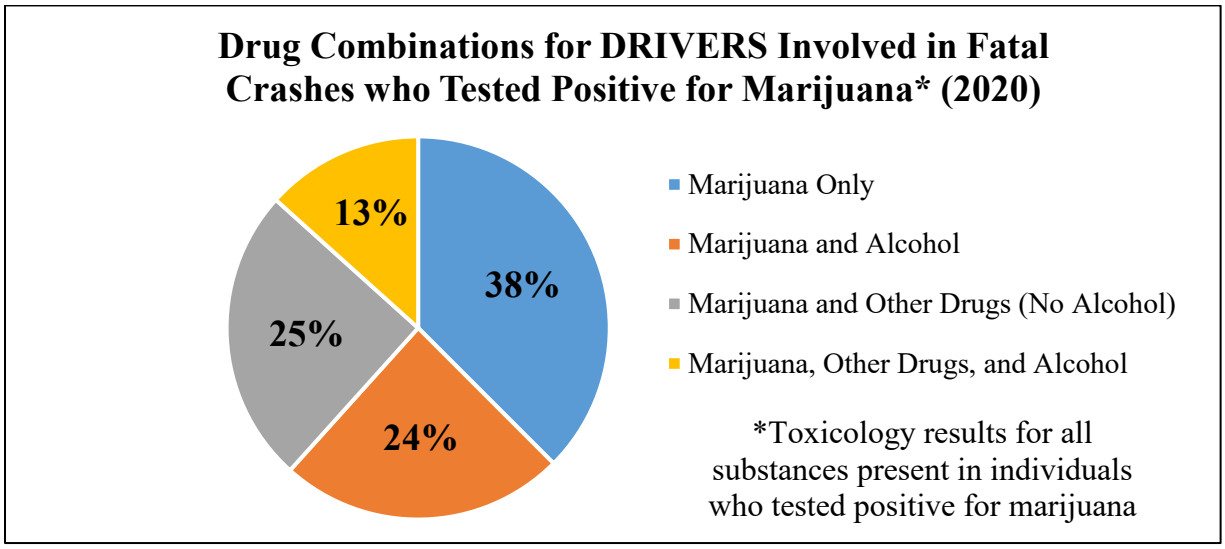
- In 2020, of the 120 drivers in fatal wrecks who tested positive for marijuana use, 117 were found to have Delta 9 tetrahydrocannabinol or THC, the psychoactive ingredient in marijuana, in their blood. This would indicate use within hours according to state data. Of those, 69% were over 5 nanograms 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



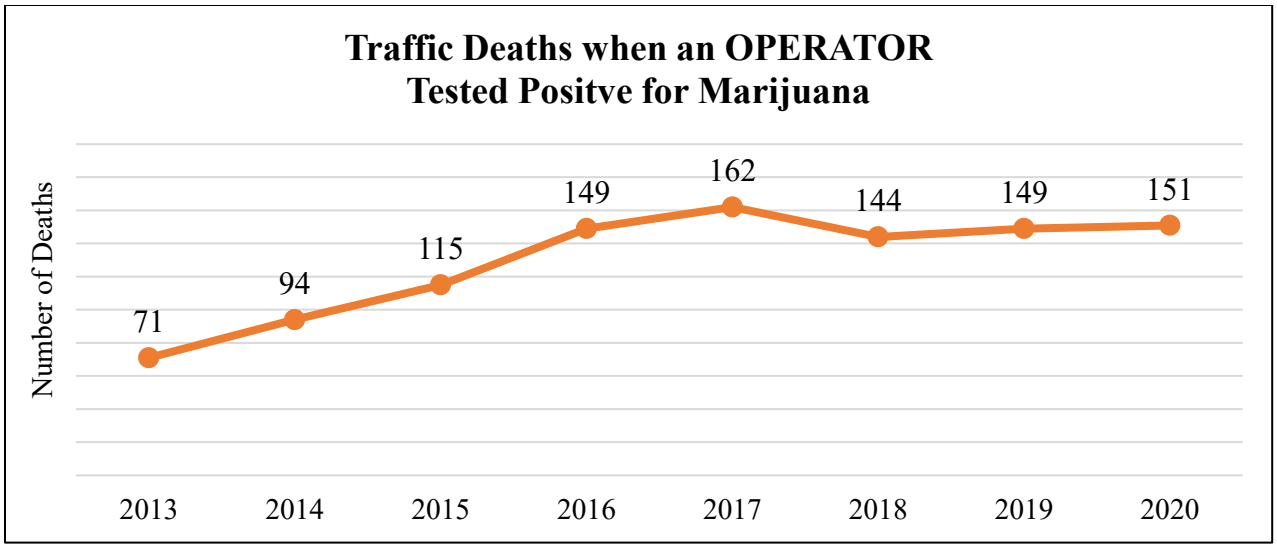
SOURCE: CDOT 2013-2020

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%

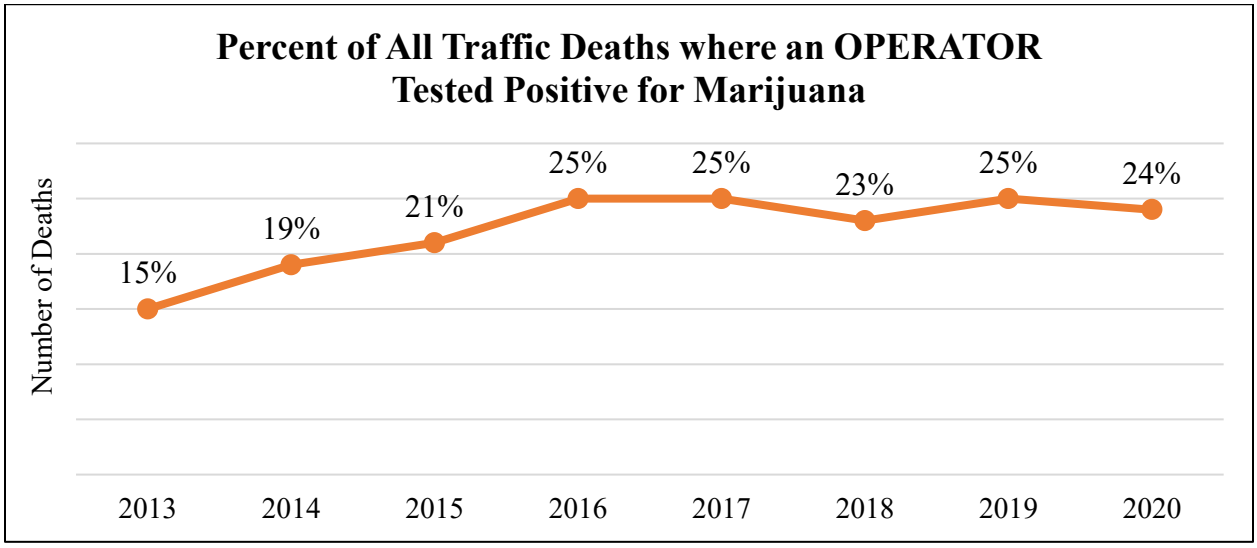
- Of the 151 marijuana-related traffic deaths:
  - 104 were drivers
  - 22 were pedestrians
  - 21 were passengers
  - 4 were bicyclists

SOURCE: CDOT 2013-2020

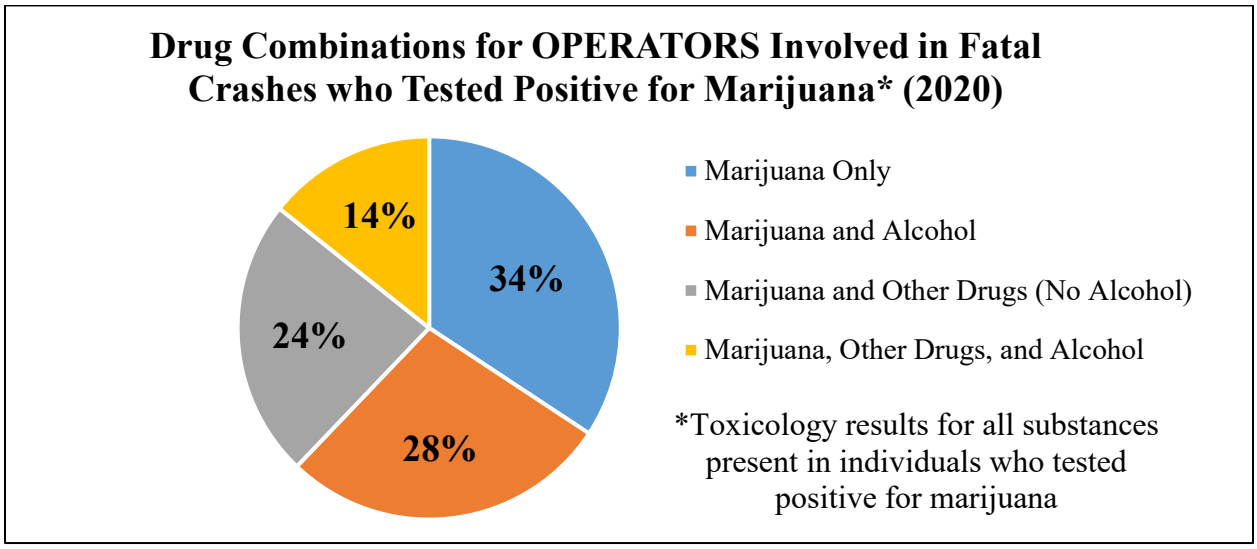
NOTE: In 2020, 51% of operators' blood was tested after being involved in a fatal crash.



SOURCE: CDOT 2013-2020



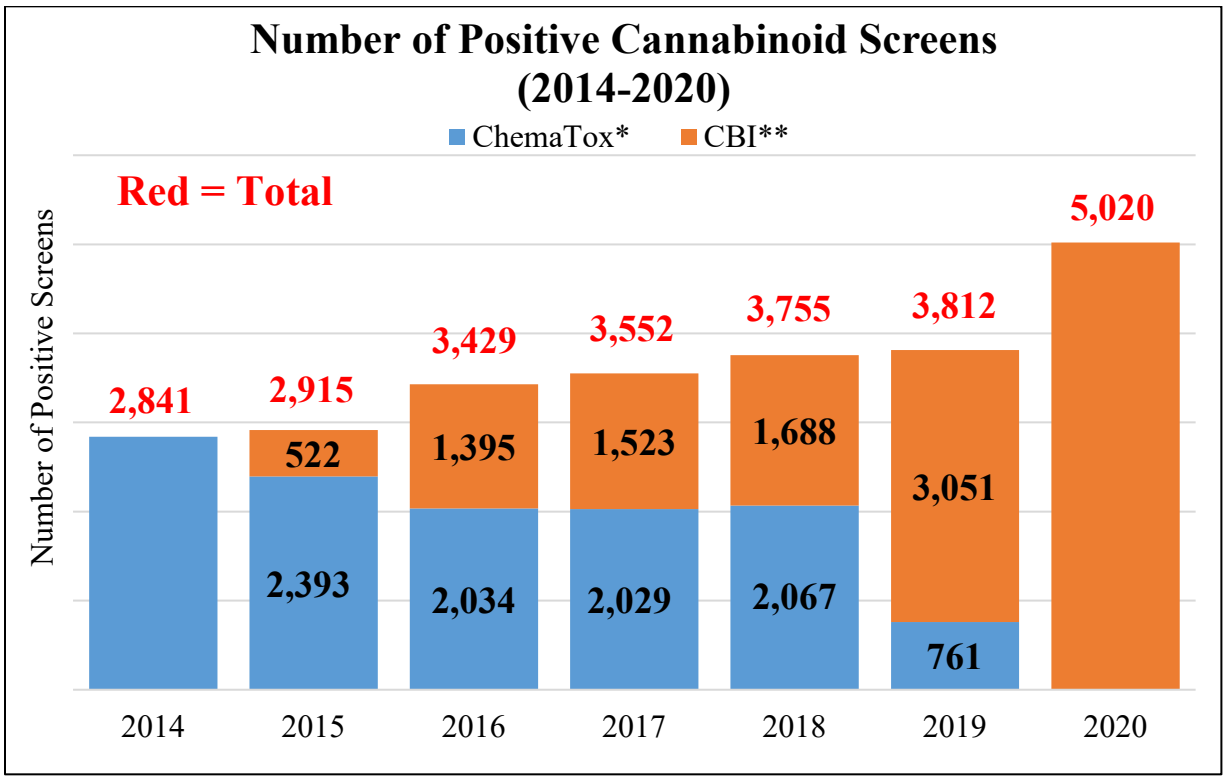
SOURCE: CDOT 2013-2020



SOURCE: CDOT 2013-2020

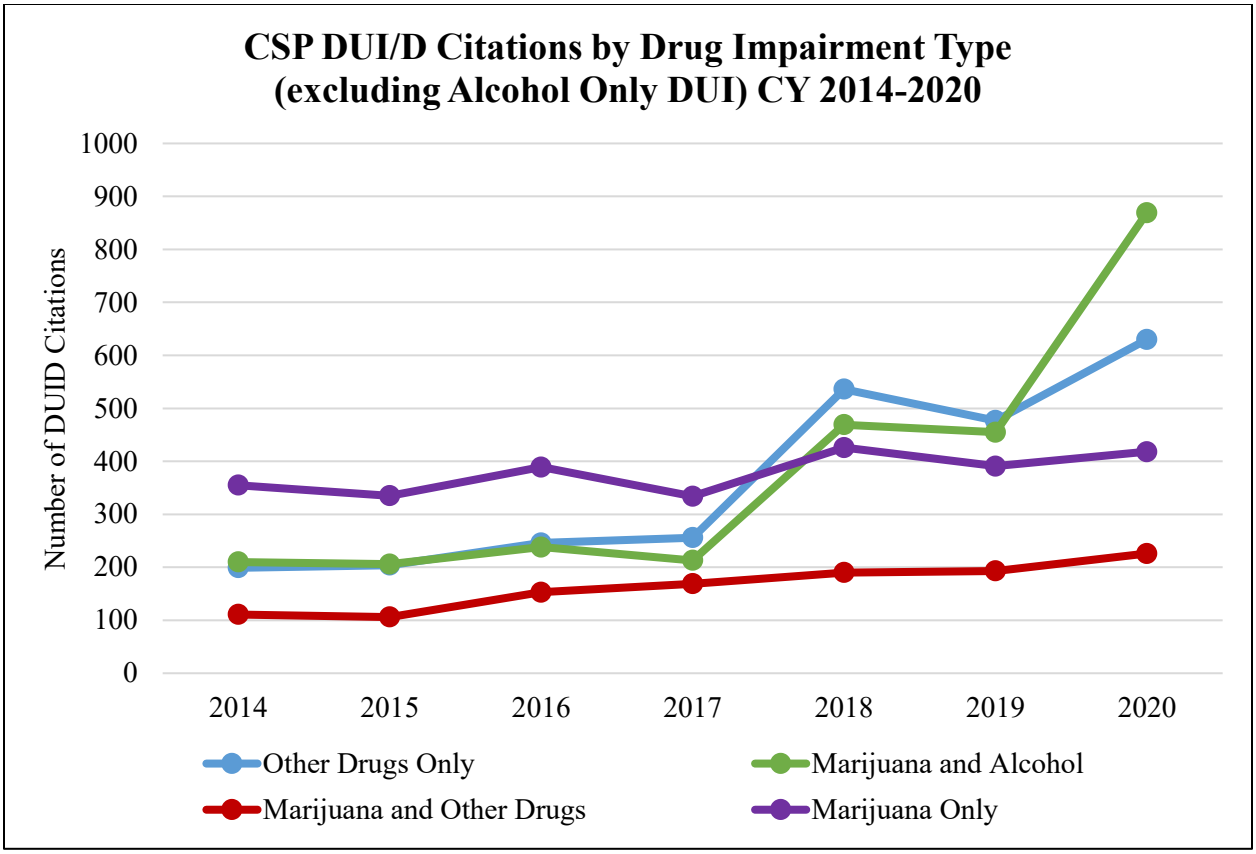
Impaired Driving

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.

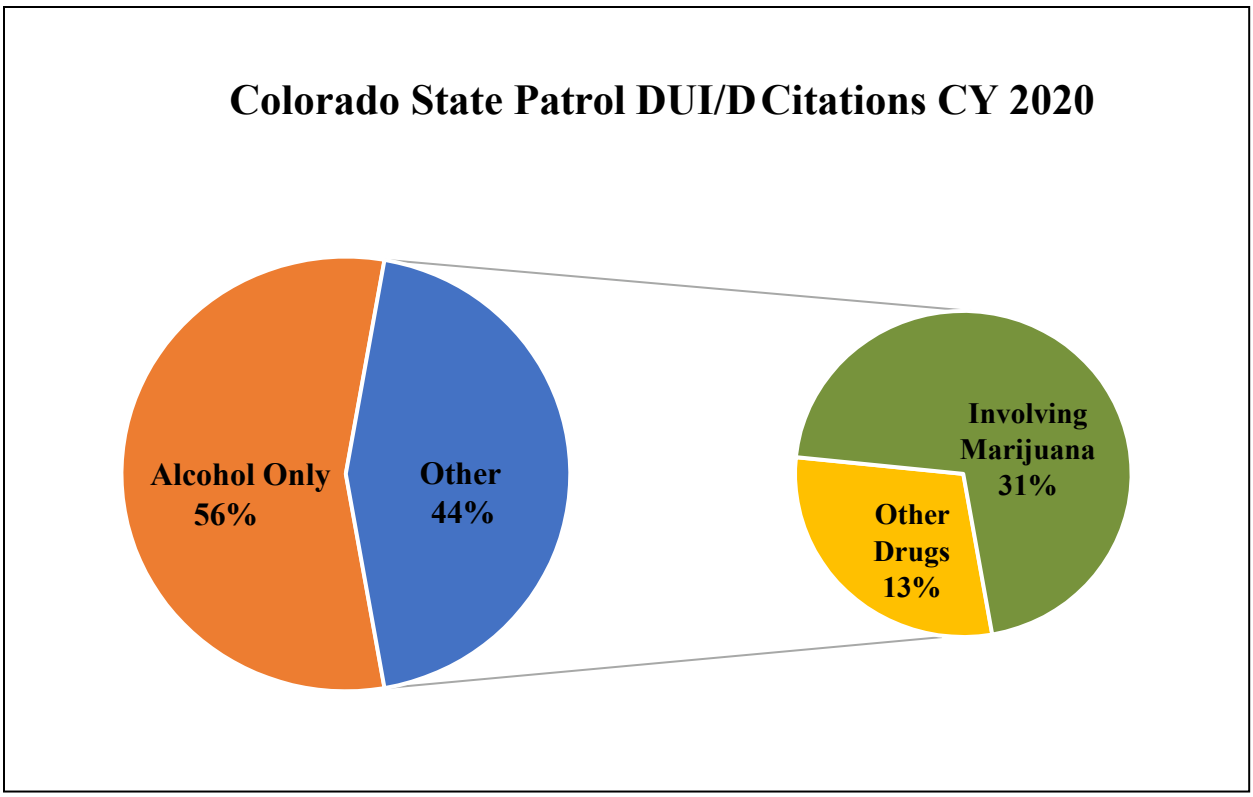


SOURCE: CSP RDW; only displaying data available as of 07/23/2021

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.

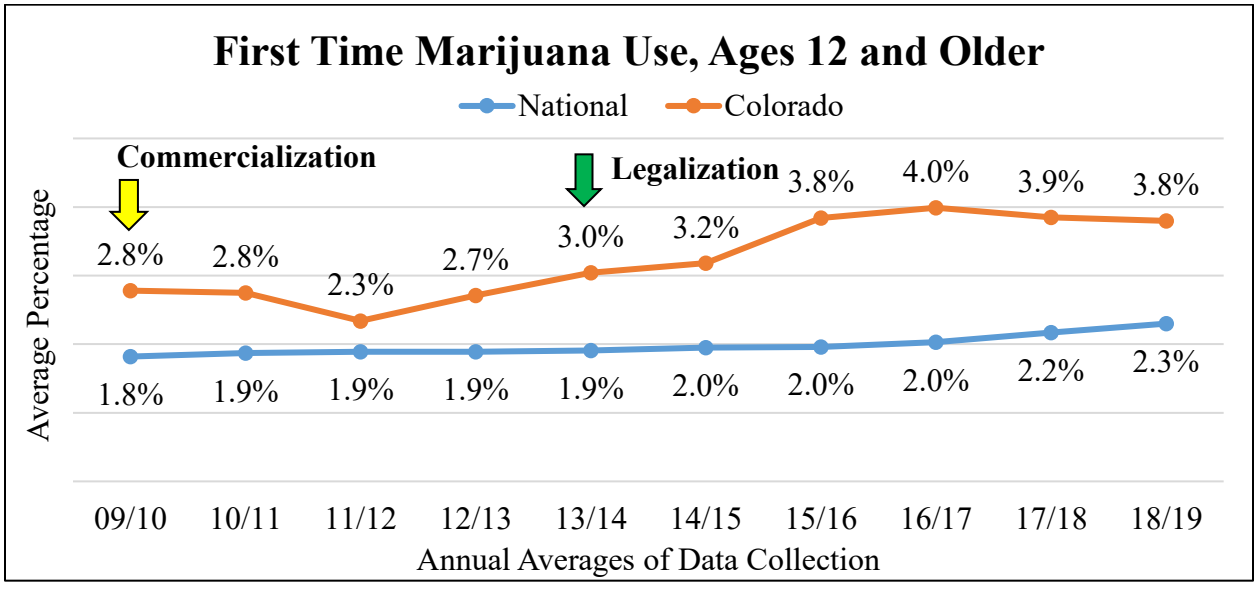
National Survey on Drug Use and Health (NSDUH) Data

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%

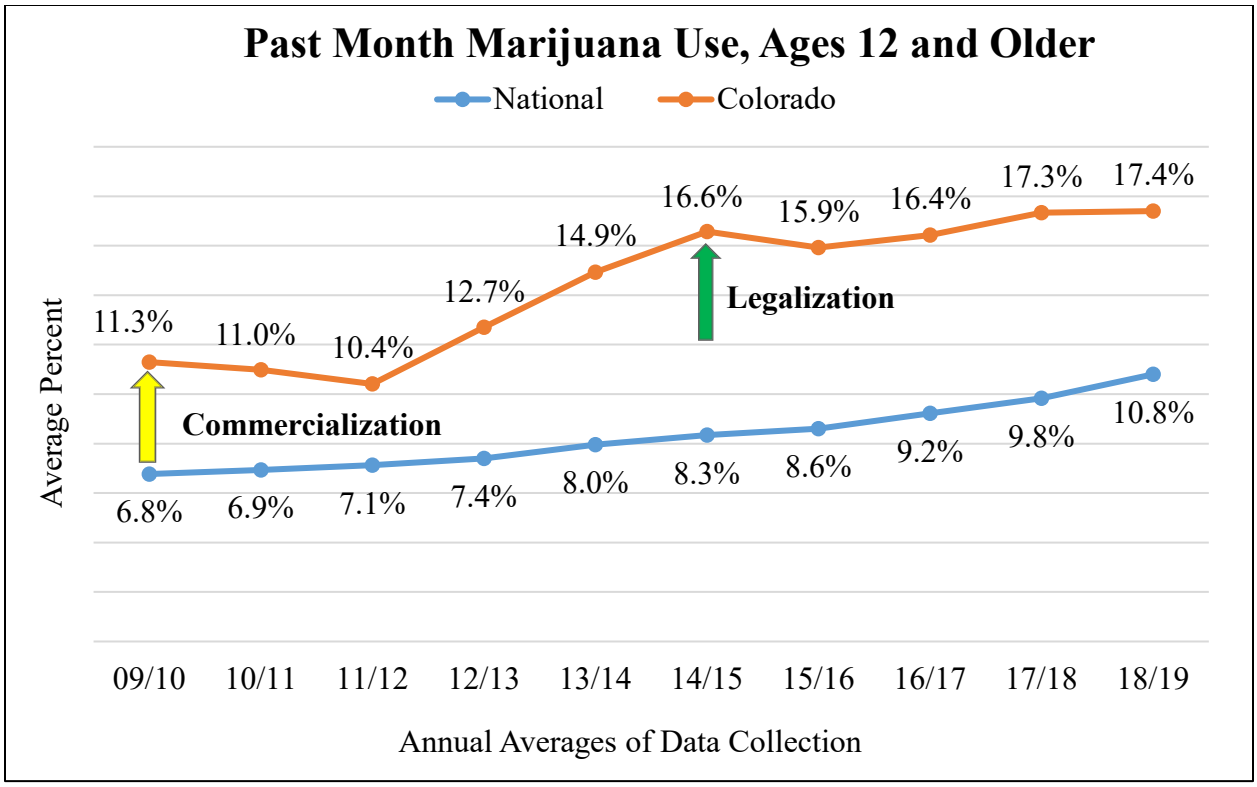
SOURCE: Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019

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%

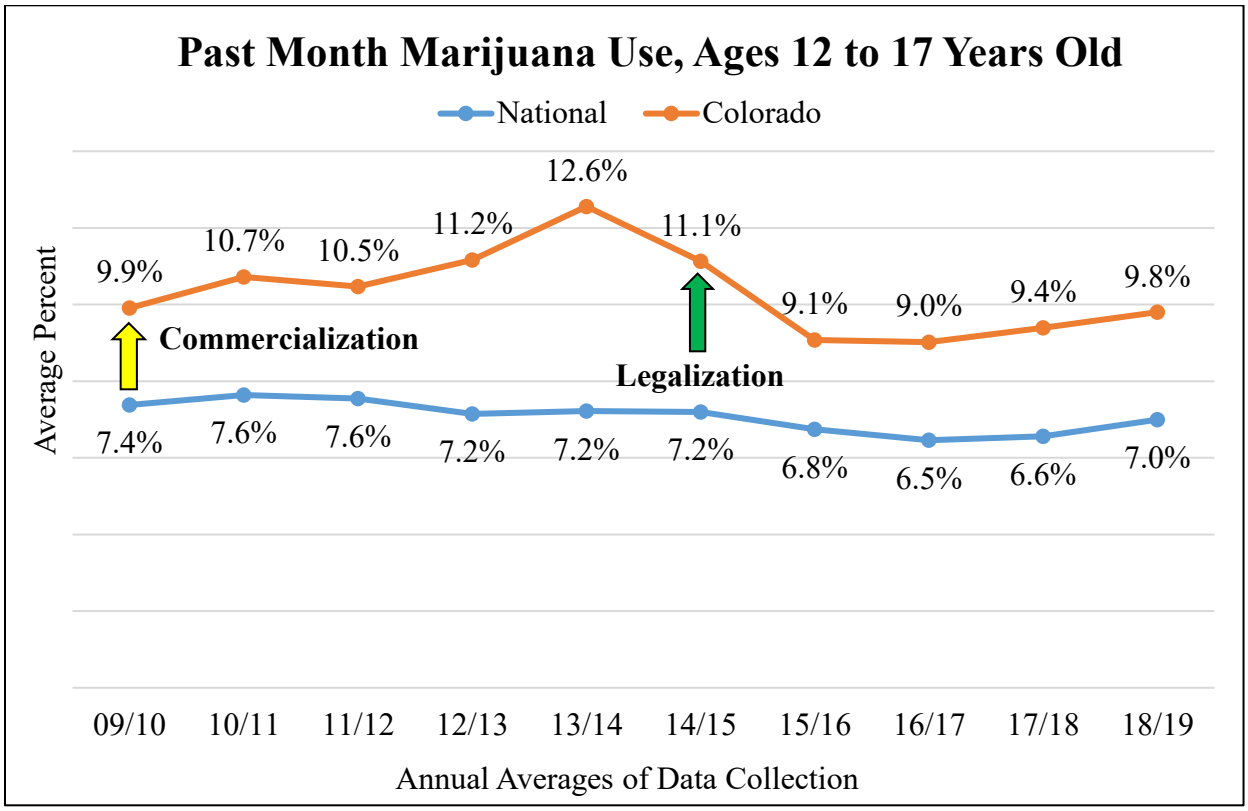
SOURCE: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019



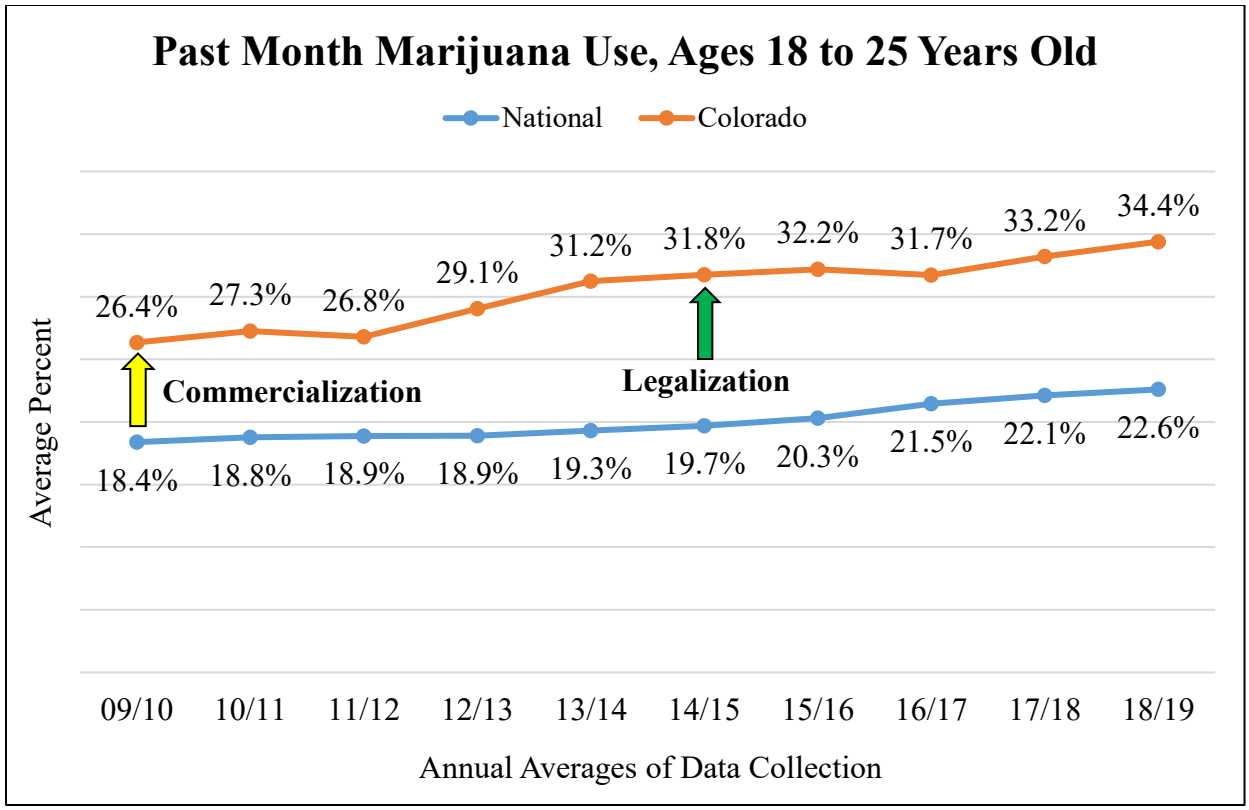
SOURCE: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019



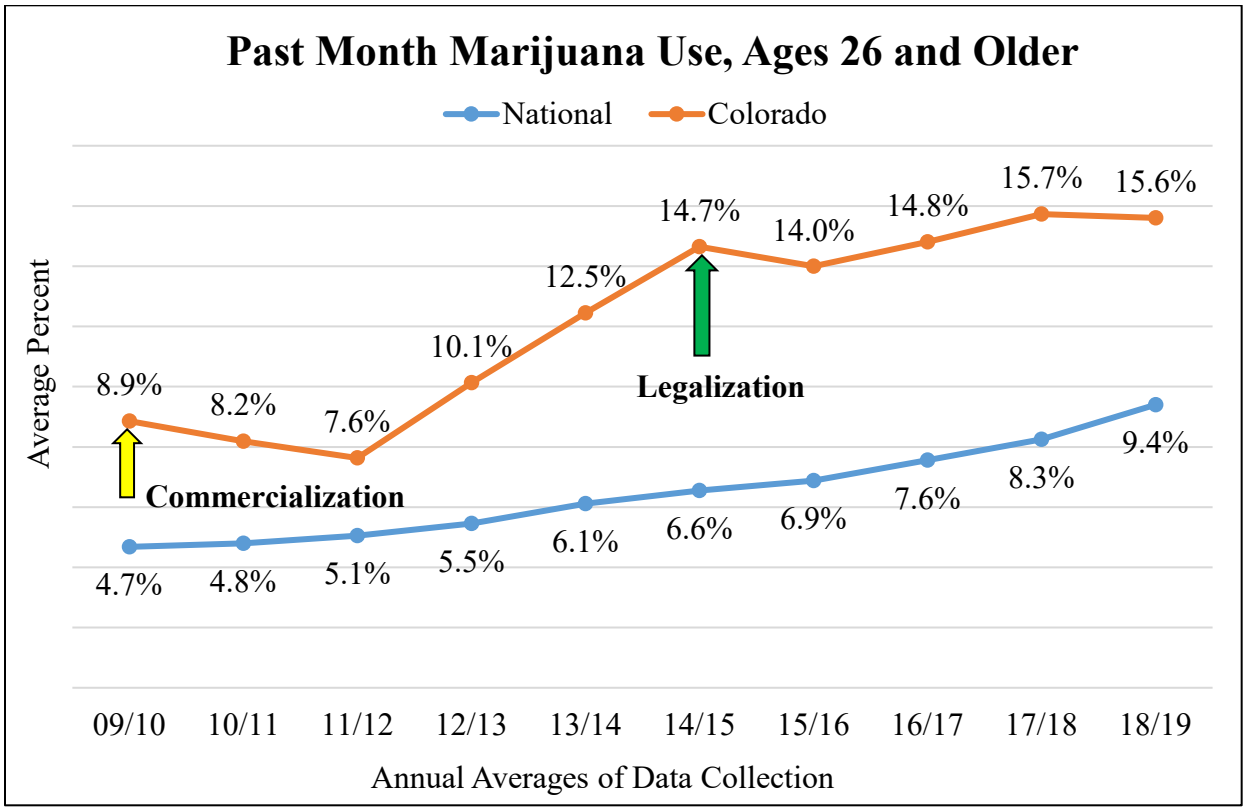
Source: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019



Source: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019

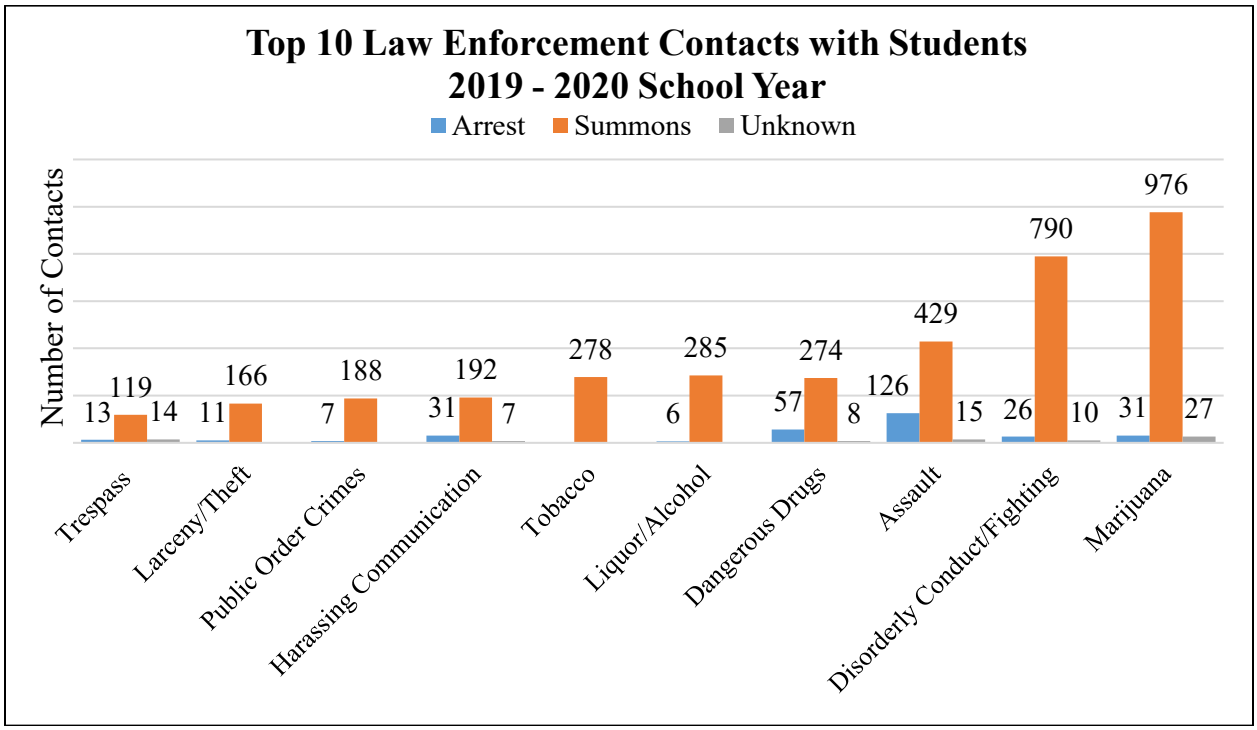


Source: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019



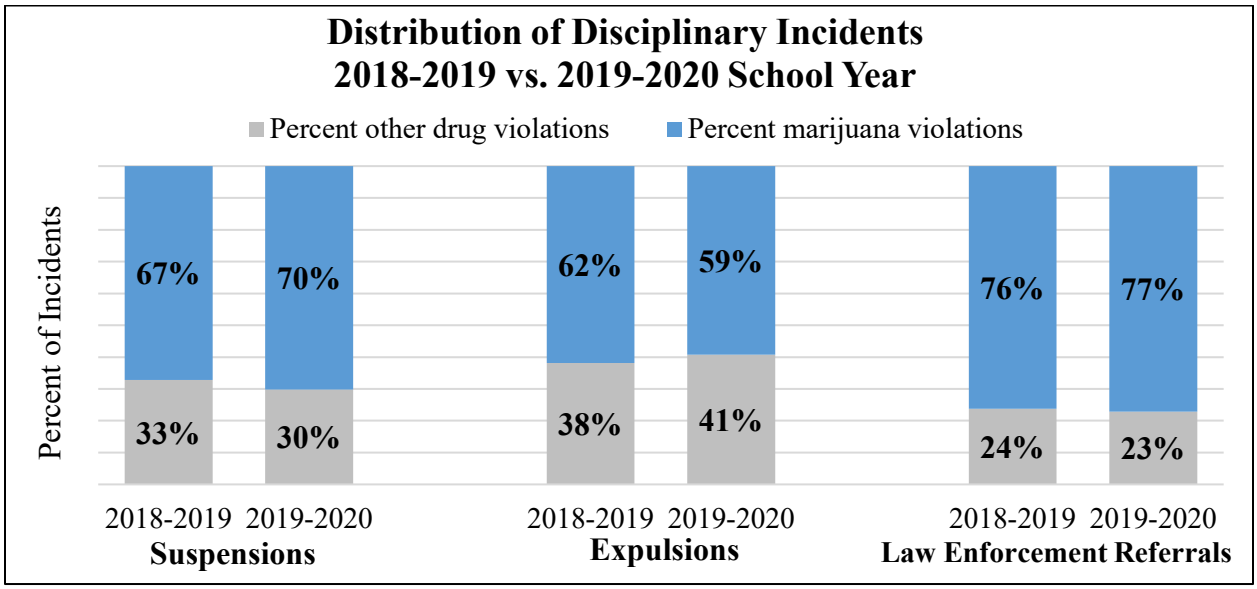
Source: SAMHSA, Center for Behavioral Health Statistics and Quality, NSDUH, 2018 and 2019

Marijuana in Schools



SOURCE: Colorado Division of Criminal Justice

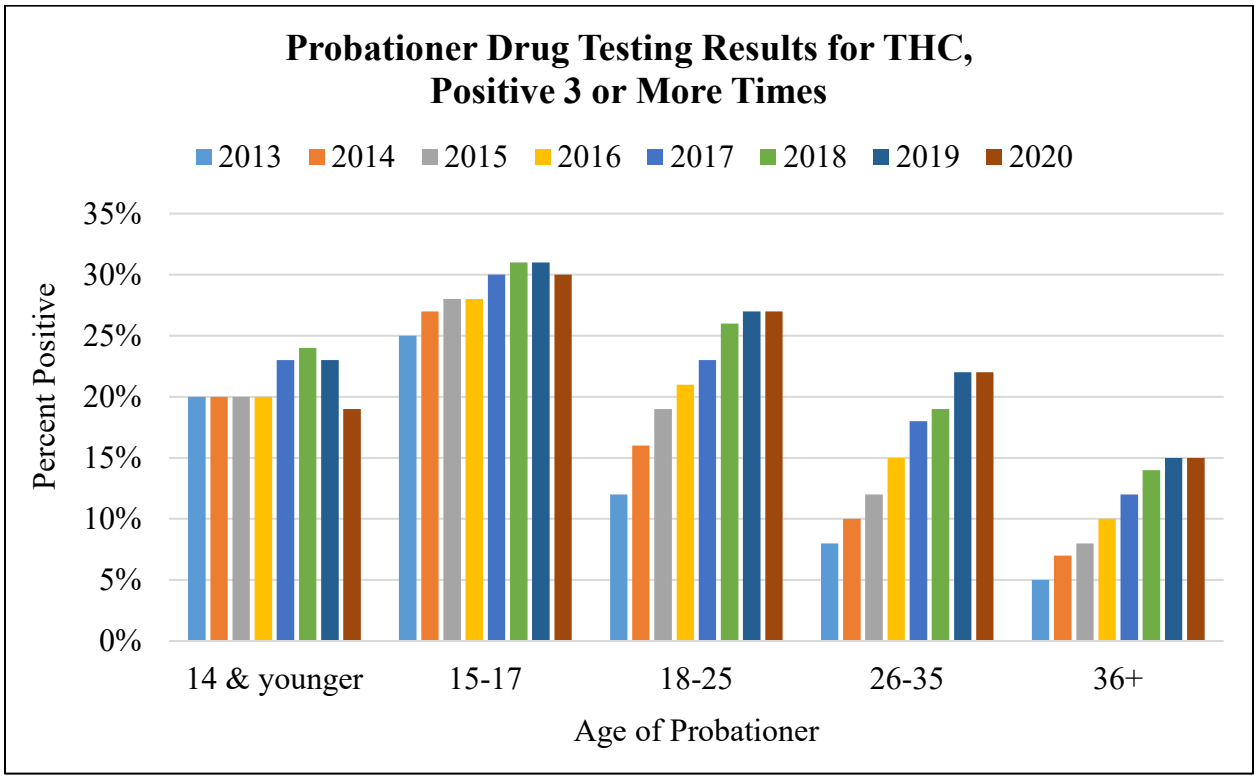
NOTE: The number of contacts from the 2019 to 2020 school year may not represent a complete school year due to the beginning of lockdowns associated with COVID-19 in March 2020.



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 12th 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

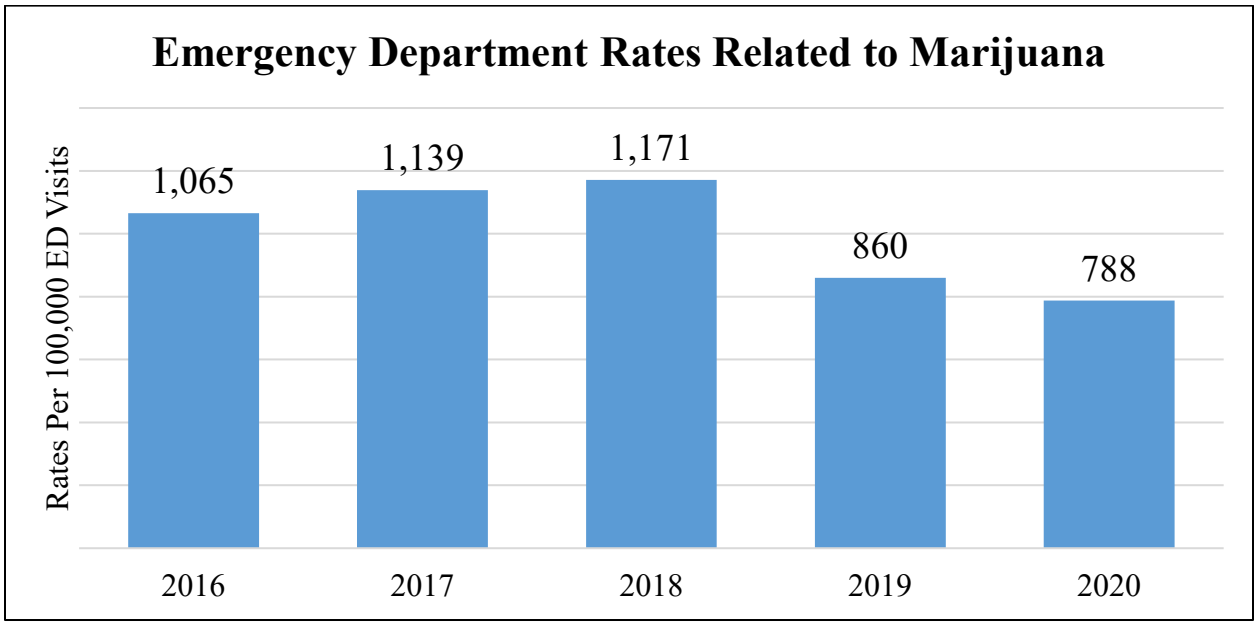
Marijuana-Related: Also referred to as "marijuana mentions." Data could be obtained from lab tests, patient self-admission or some other form of validation obtained by the provider. Being marijuana-related does not necessarily prove marijuana was the cause of the emergency department admission or hospitalization.

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.

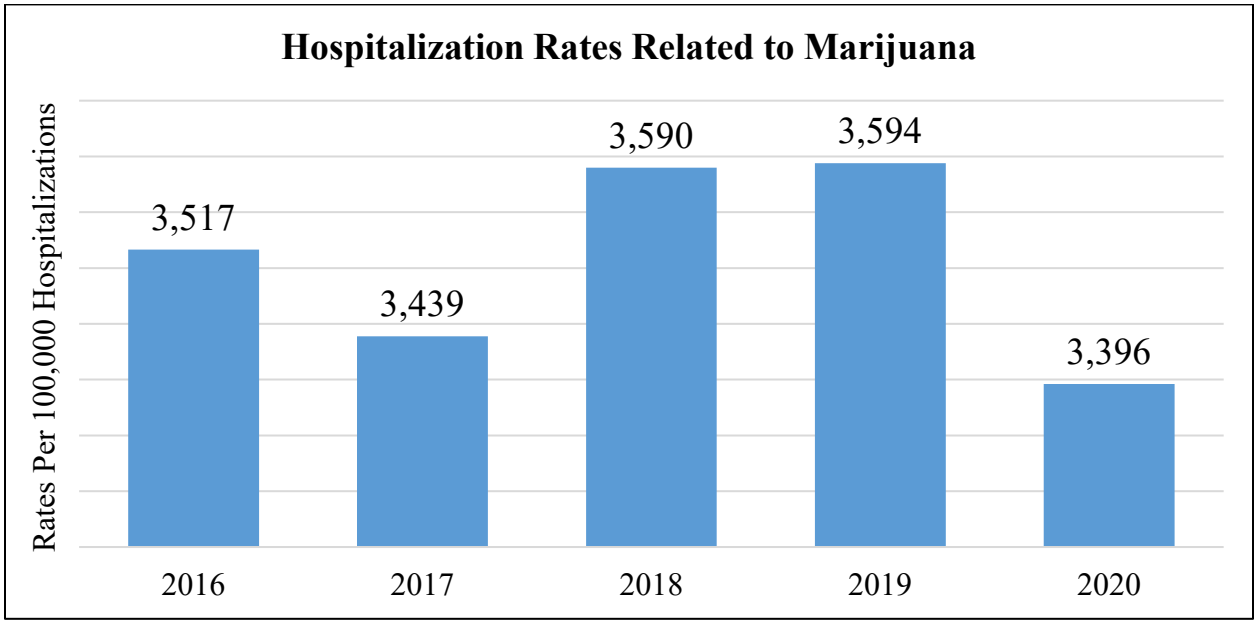
For more information regarding public health research gaps and data quality issues, please visit https://marijuanahealthinfo.colorado.gov/research-gaps.

Emergency Department Data



SOURCE: Emergency Department Discharge Dataset, as analyzed by the Colorado Department of Public Health and Environment; 2016-2020

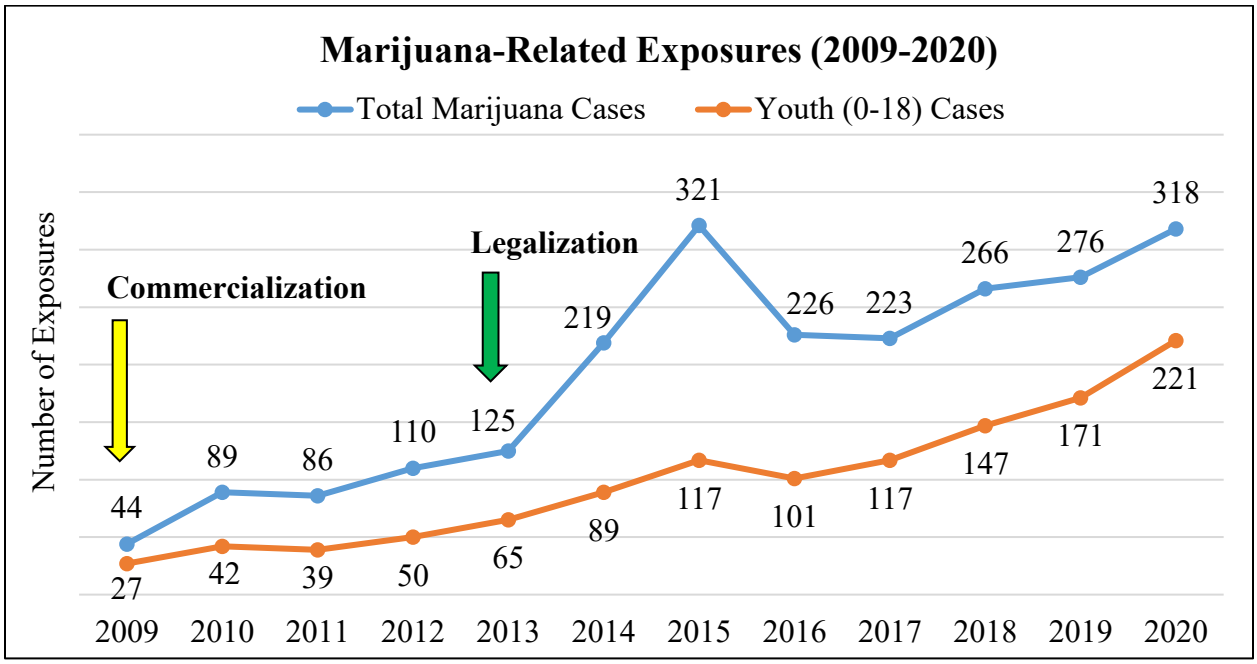
NOTE: Due to changes in the way the hospitalizations and emergency department visits data were coded, data before 2015 was not included for trend analysis.



SOURCE: Emergency Department Discharge Dataset, as analyzed by the Colorado Department of Public Health and Environment; 2016-2020

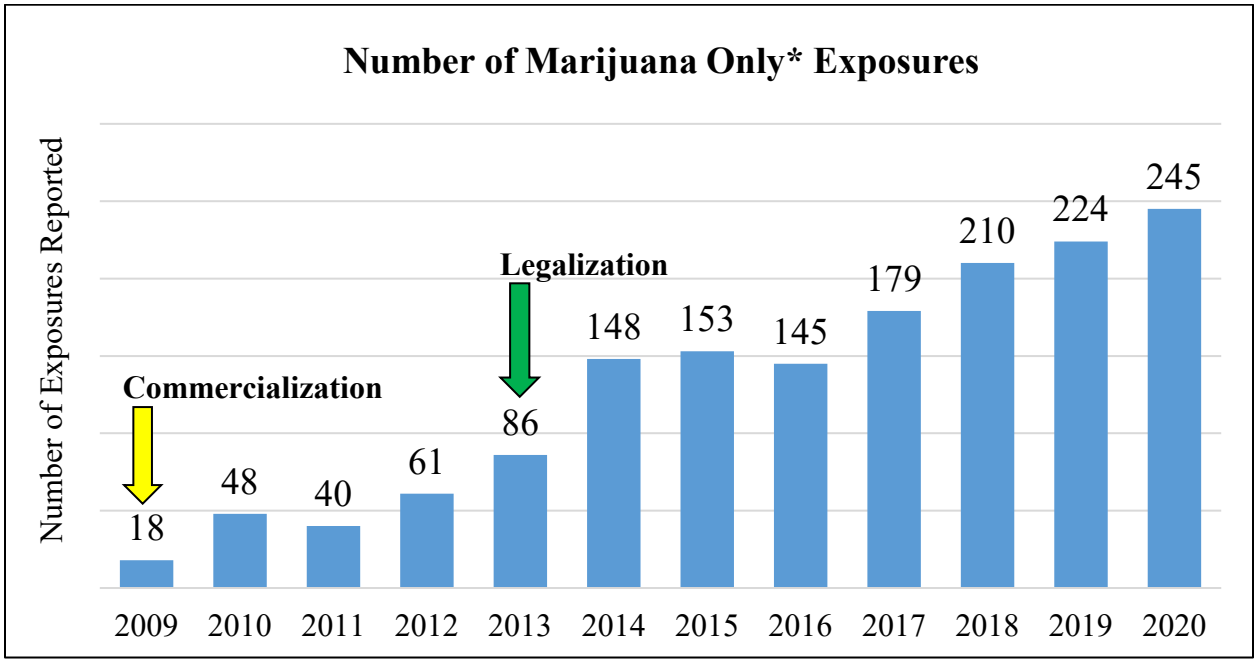
NOTE: Due to changes in the way the hospitalizations and emergency department visits data were coded, data before 2015 was not included for trend analysis.

Poison Control/Marijuana Exposure Data



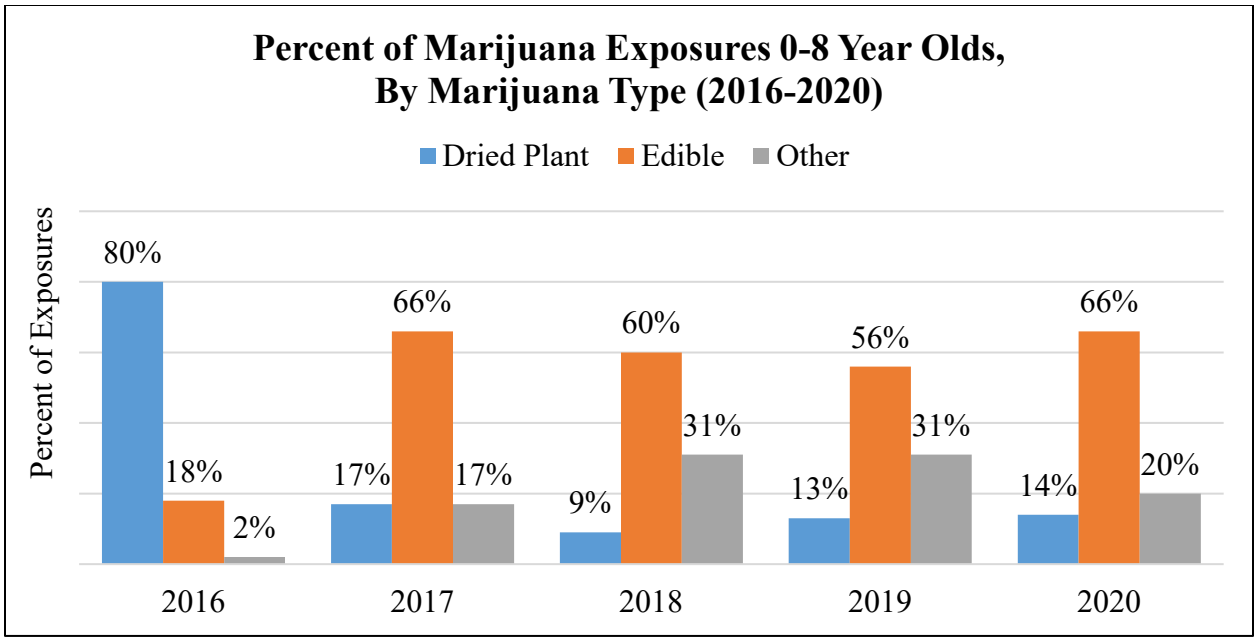
SOURCE: Rocky Mountain Poison and Drug Center

NOTE: Total marijuana-related exposure cases include unknown ages.



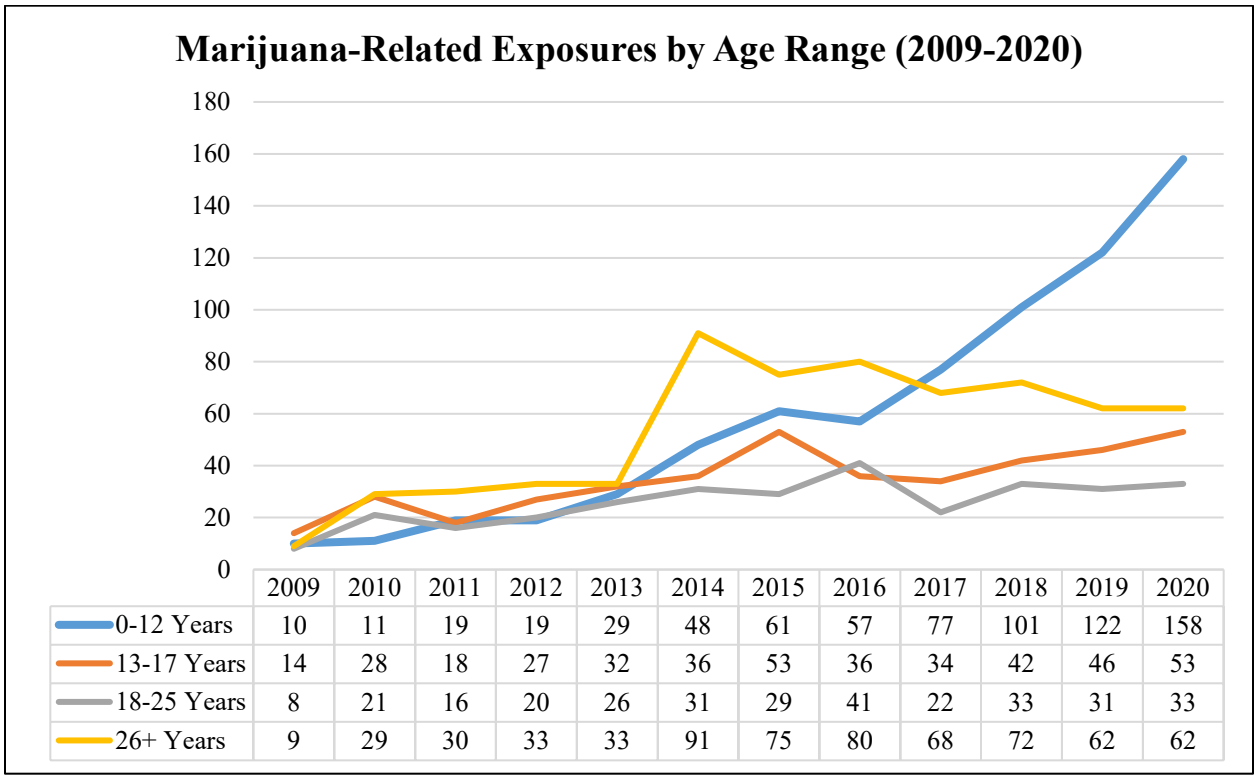
SOURCE: Rocky Mountain Poison and Drug Center

***NOTE:** Marijuana was the only substance referenced in the call to the poison and drug center.



SOURCE: Rocky Mountain Poison and Drug Center

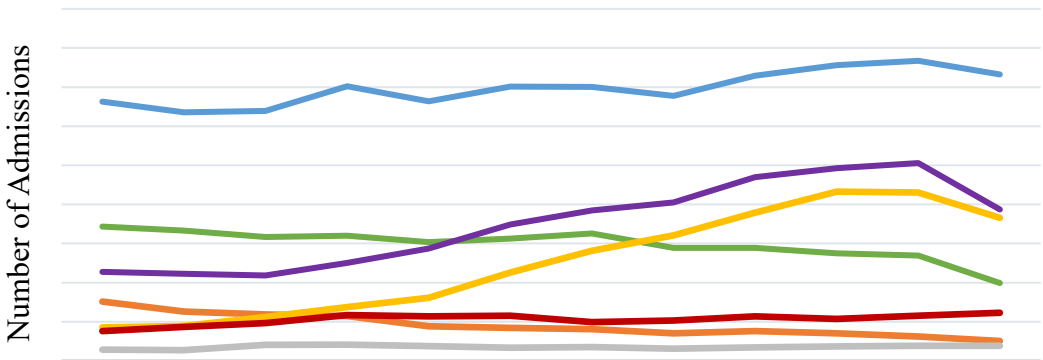
NOTE: The code for marijuana edibles did not go into effect until 2016. Therefore, any cases of edible marijuana exposure which occurred prior to 2016 were coded under "dry plant." Other marijuana includes oral pills/capsules, concentrated extracts (to include oils and tinctures), topical preparations, 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

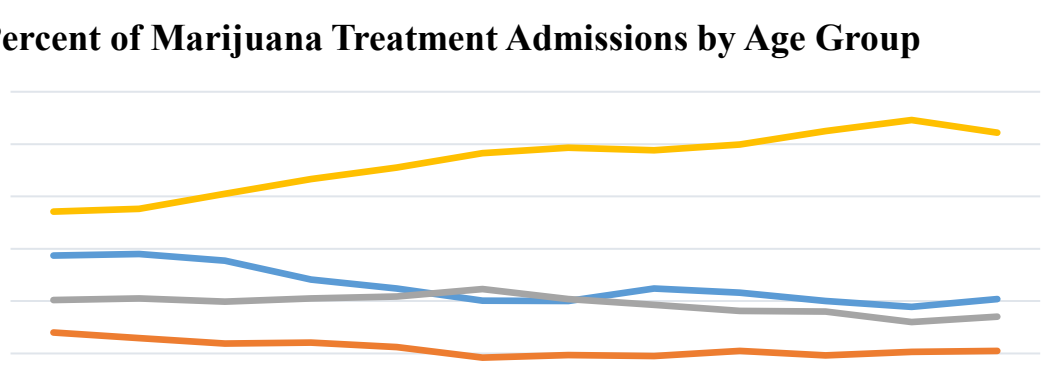
Treatment Data



	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

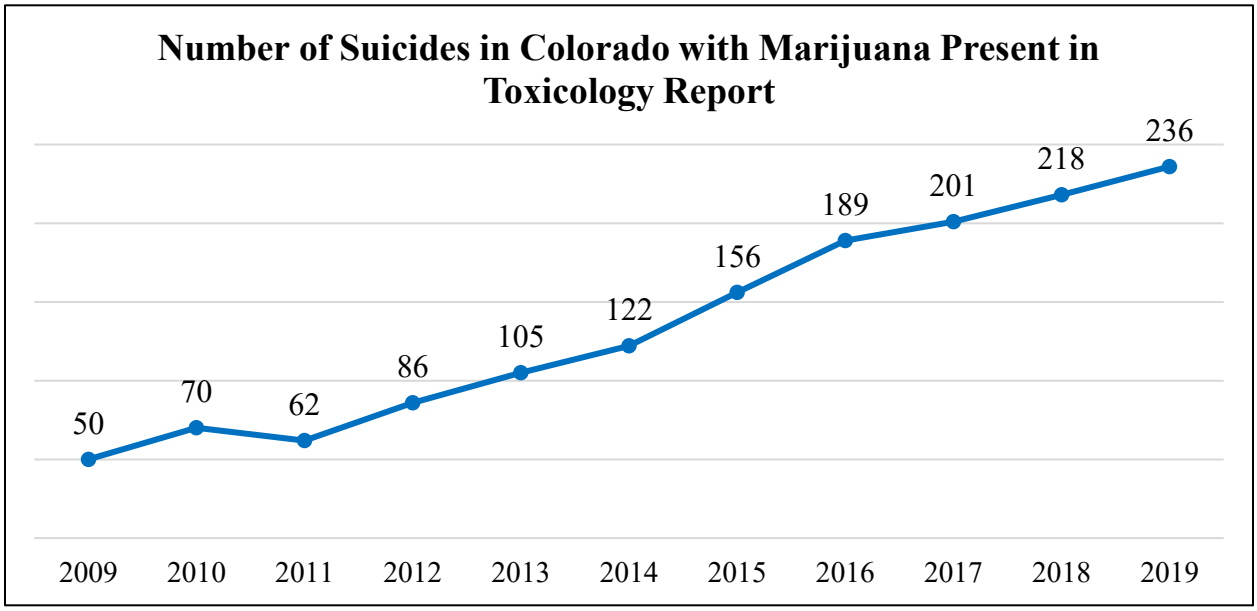
***NOTE:** Treatment admissions for cocaine and heroin in 2020 do not include the 12-17 age group as there were less than 30 admissions and were therefore omitted.



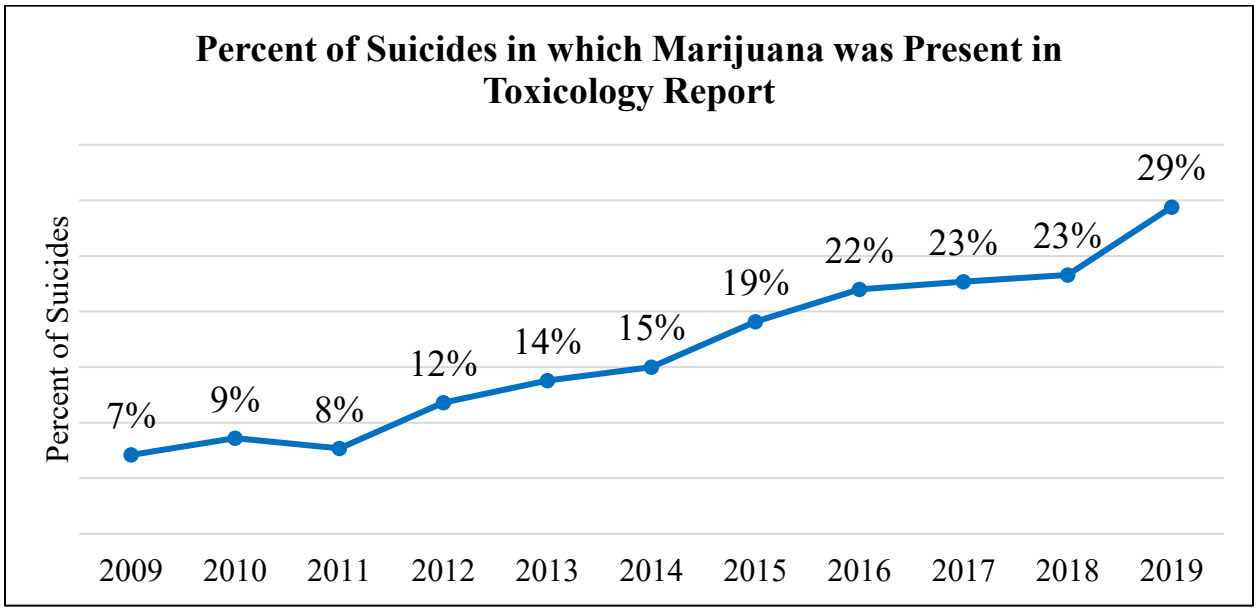
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
12-17	28.7	29.0	27.7	24.1	22.4	20.1	20.0	22.4	21.6	20.0	18.9	20.4
18-20	14.0	12.9	11.9	12.1	11.2	9.2	9.7	9.5	10.5	9.6	10.3	10.5
21-25	20.2	20.5	19.9	20.5	20.9	22.3	20.4	19.3	18.1	18.0	16.0	17
26+	37.1	37.6	40.5	43.3	45.5	48.3	49.3	48.8	49.9	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



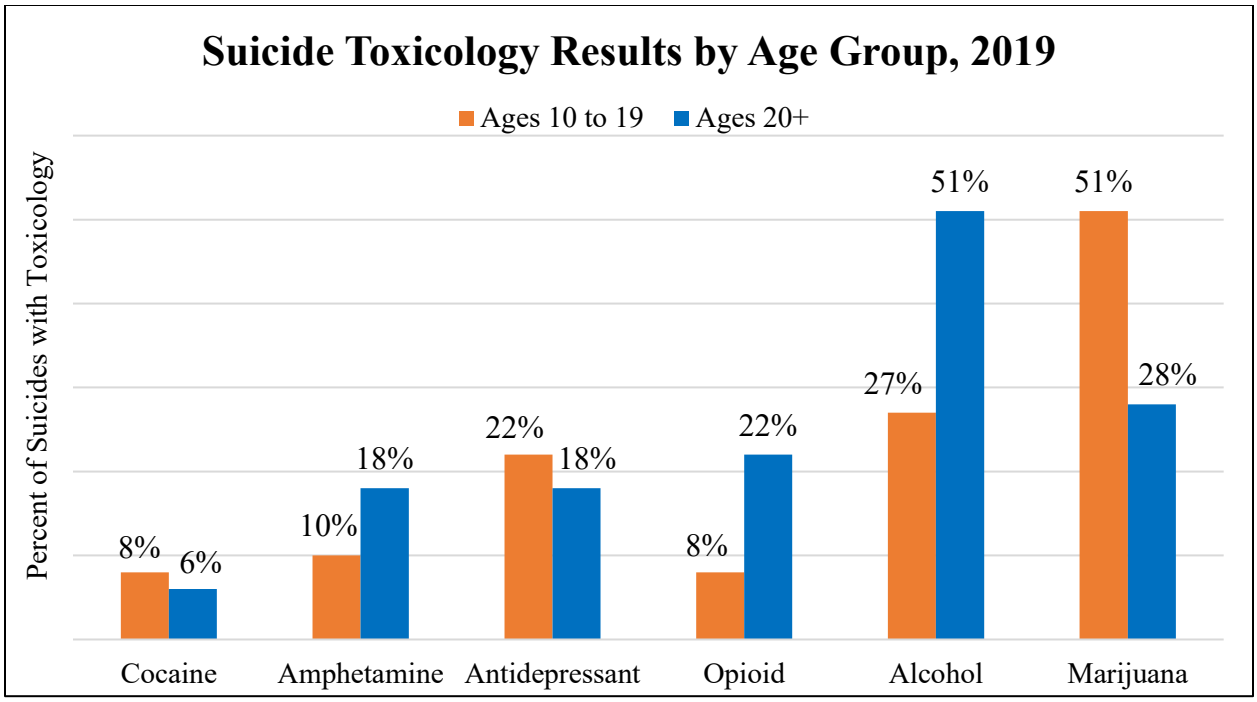
SOURCE: CDPHE, Colorado Violent Death Reporting System



SOURCE: CDPHE, Colorado Violent Death Reporting System

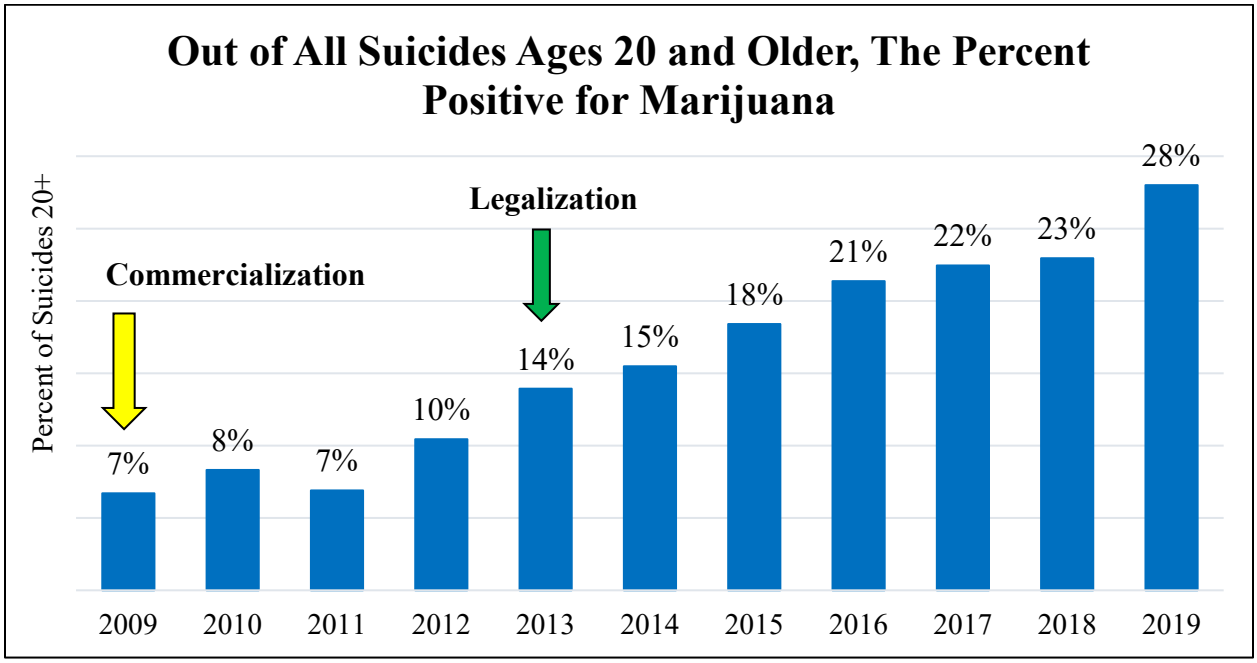
NOTE: Toxicology is not available for every suicide. Only those suicides with toxicology available are represented above. Due to an 18-month lap in detailed suicide circumstances and toxicology information from coroner and law enforcement records, 2019 is the most recent year available.

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

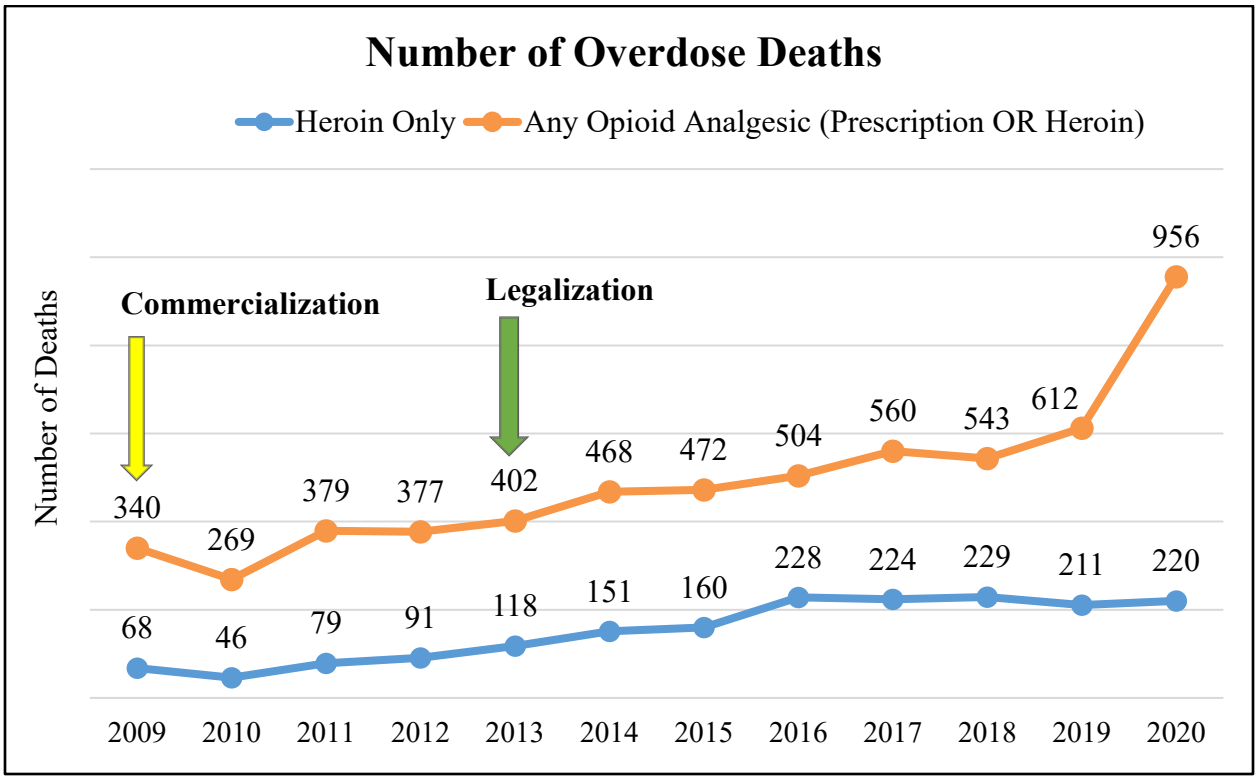
NOTE: Toxicology results were available for 62% of suicides from 2019. As a result, there may be underrepresentation in the numbers and percentages presented.



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

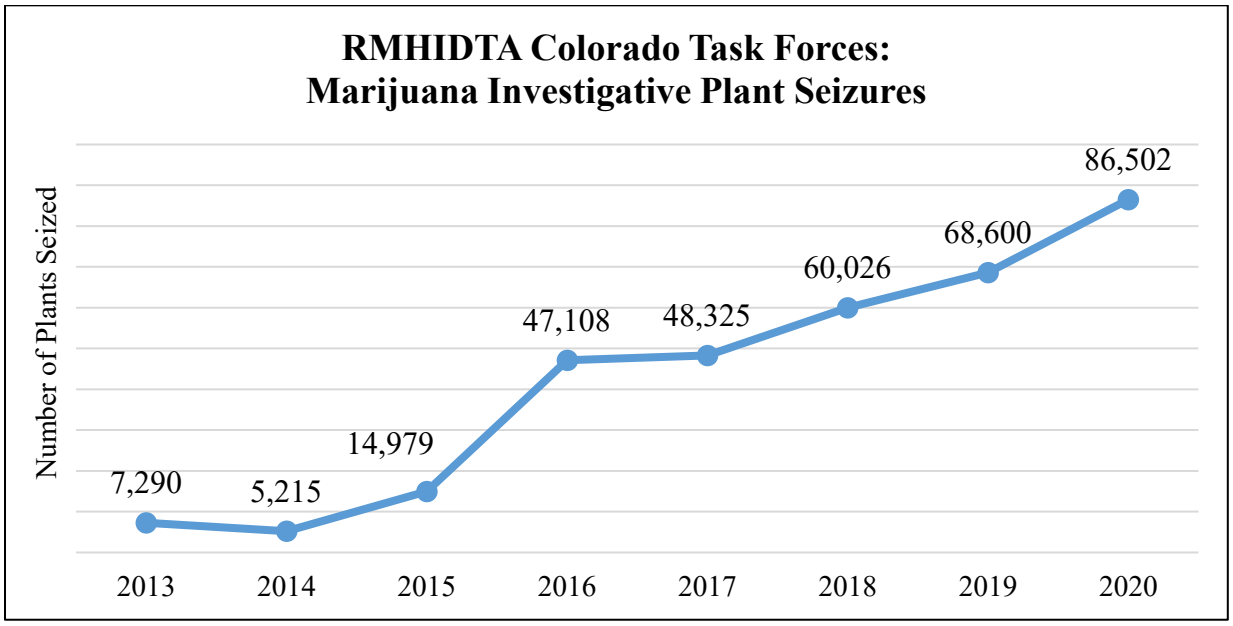
Colorado Marijuana Investigations: RMHIDTA Colorado drug task forces investigating individuals or organizations involved in illegally selling Colorado marijuana, both within and outside of the state. These investigations only include those reported by the ten RMHIDTA drug task forces.

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.

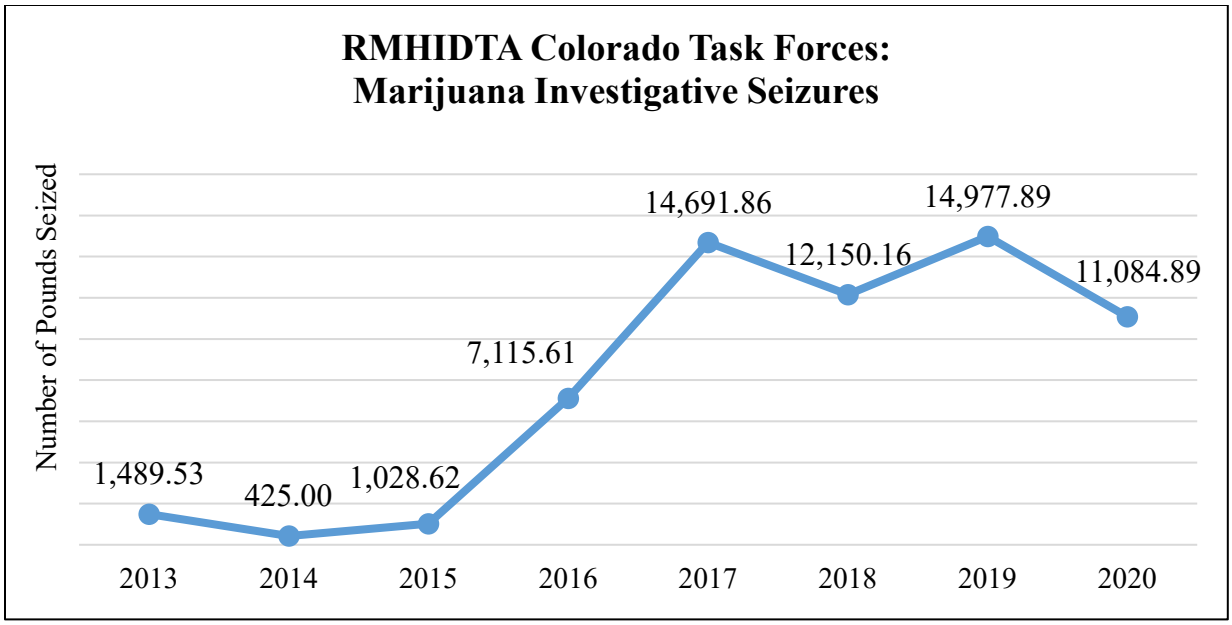
Task Force Investigations

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

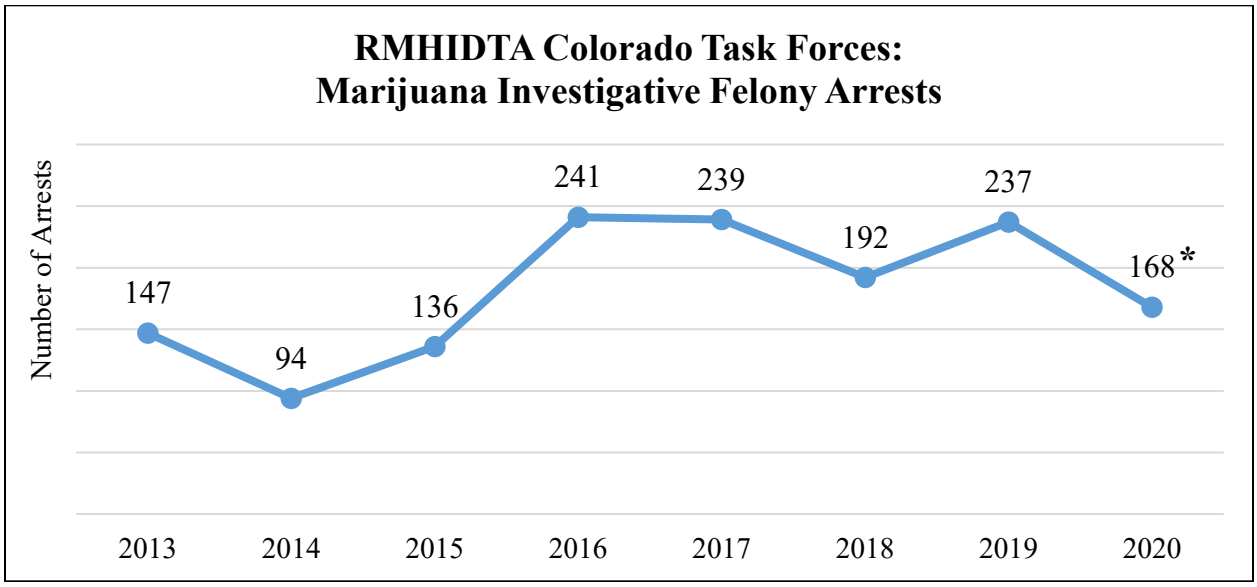
Task force data only includes completed investigations reported by the RMHIDTA Colorado Investigative Drug Task Forces. It is unknown how many of these types of investigations were completed by non-RMHIDTA Colorado drug units or task forces.



SOURCE: Rocky Mountain HIDTA Performance Management Process (PMP) Data



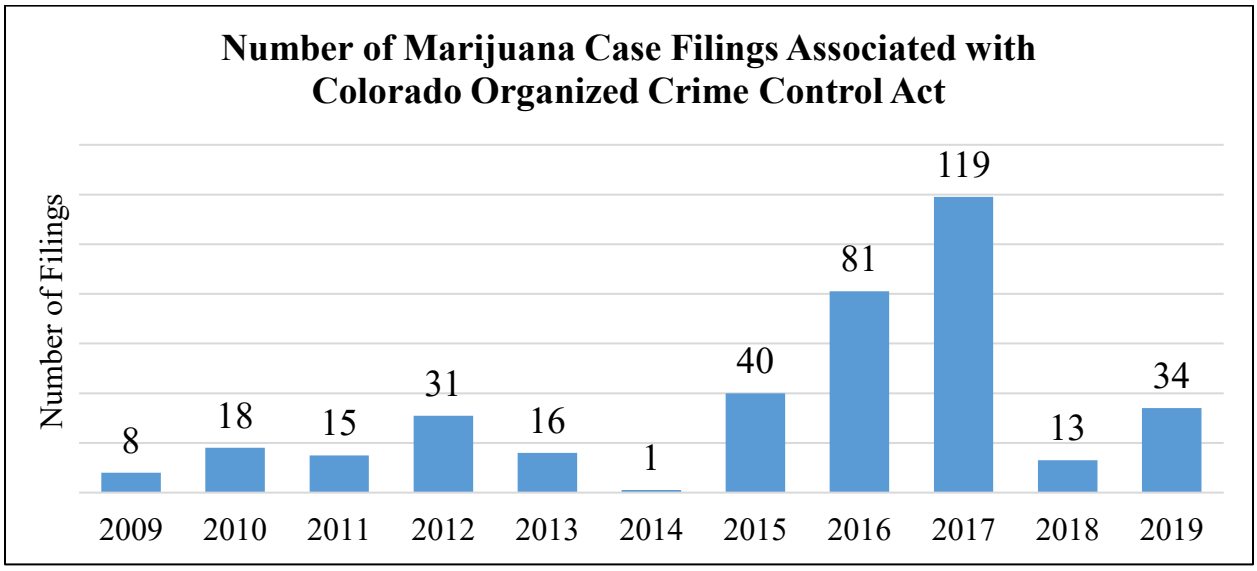
SOURCE: Rocky Mountain HIDTA Performance Management Process (PMP) Data



SOURCE: Rocky Mountain HIDTA Performance Management Process (PMP) Data

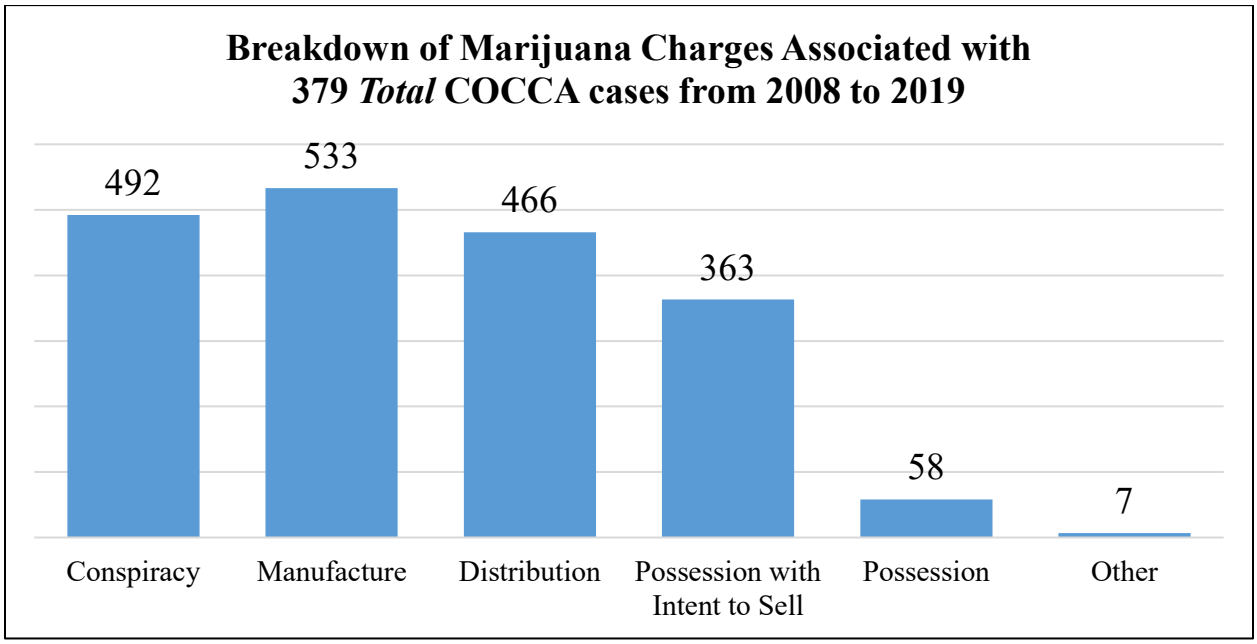
*** NOTE:** In 2020, arrest numbers were impacted by the COVID-19 pandemic's impact of the local, state, and federal judicial systems.

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.

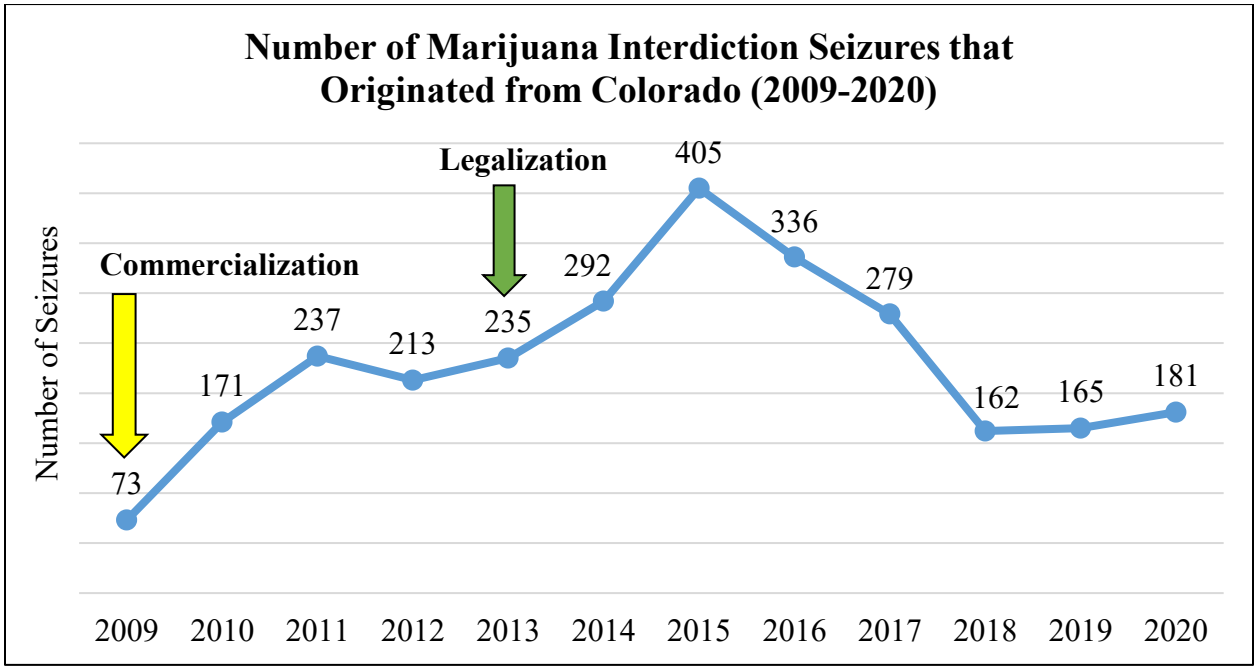


SOURCE: Colorado Department of Public Safety, Division of Criminal Justice, Office of Research and Statistics

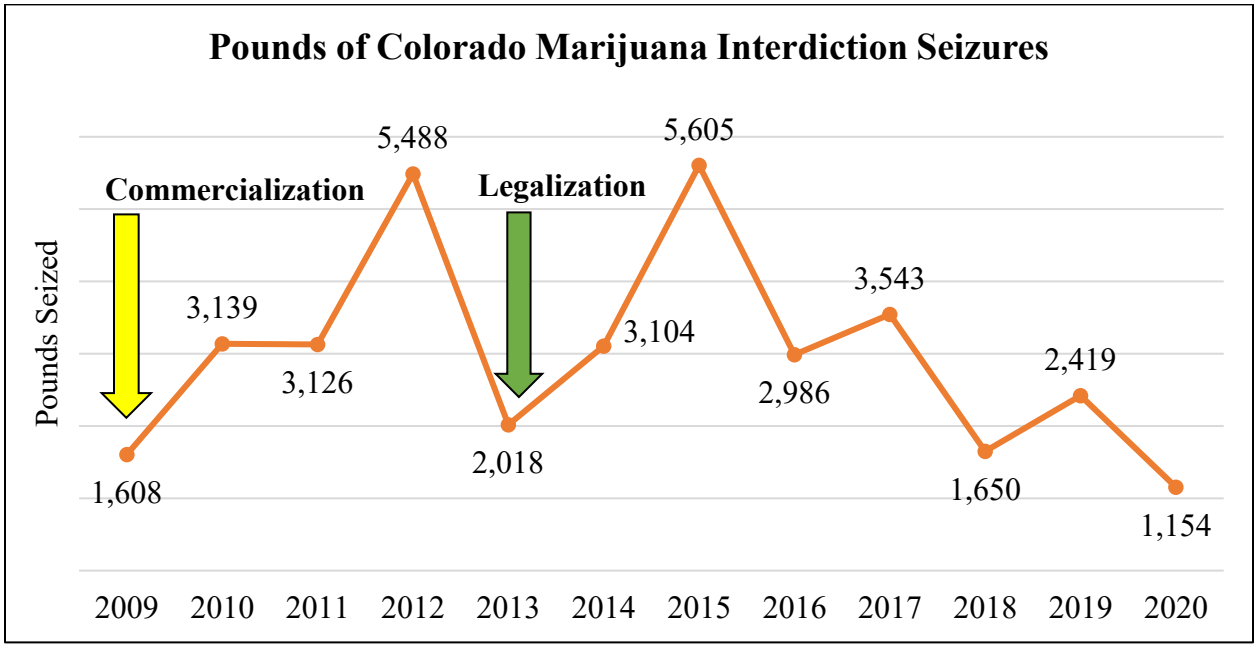
NOTE: The breakdown is more than the 379 total COCCA cases as there can be multiple charges associated with each case.

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

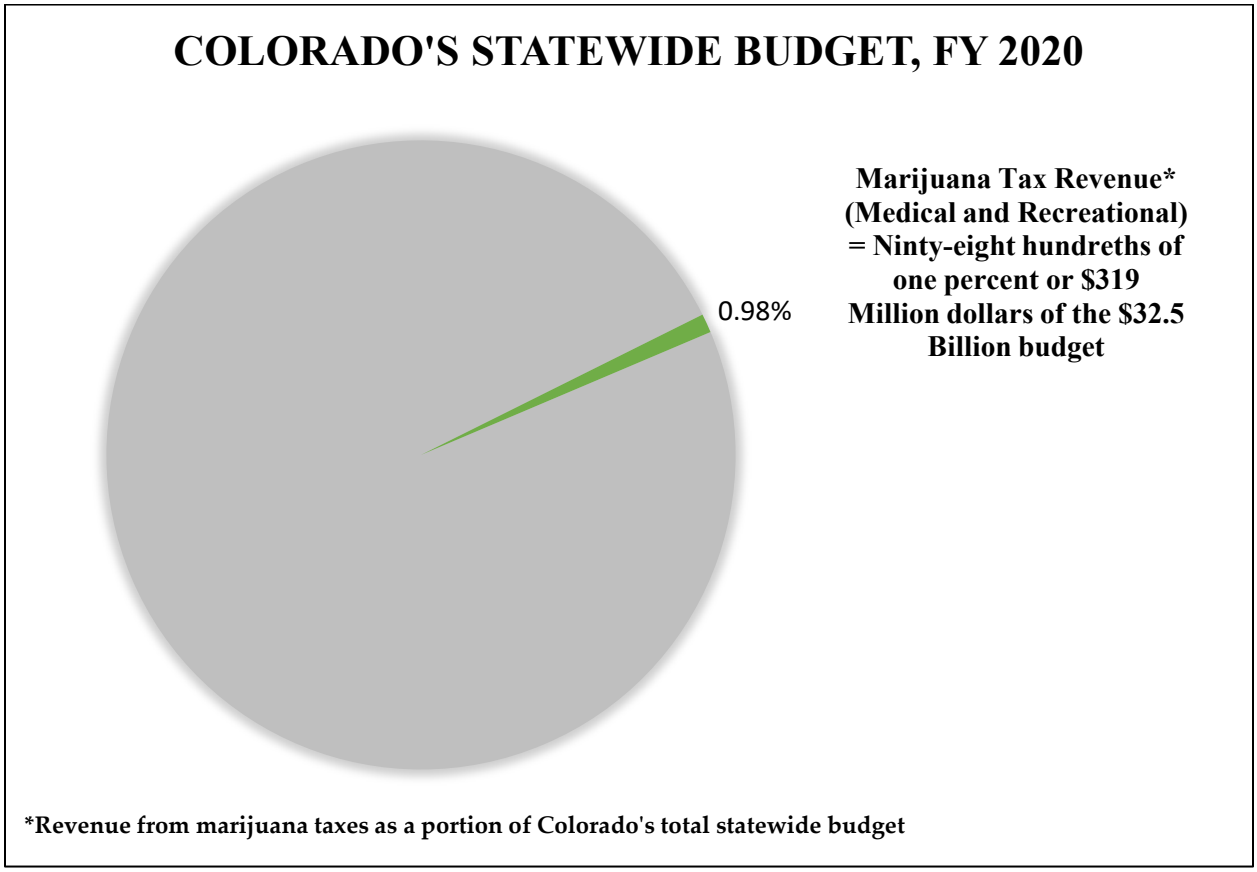
Section V: Societal Impact

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.

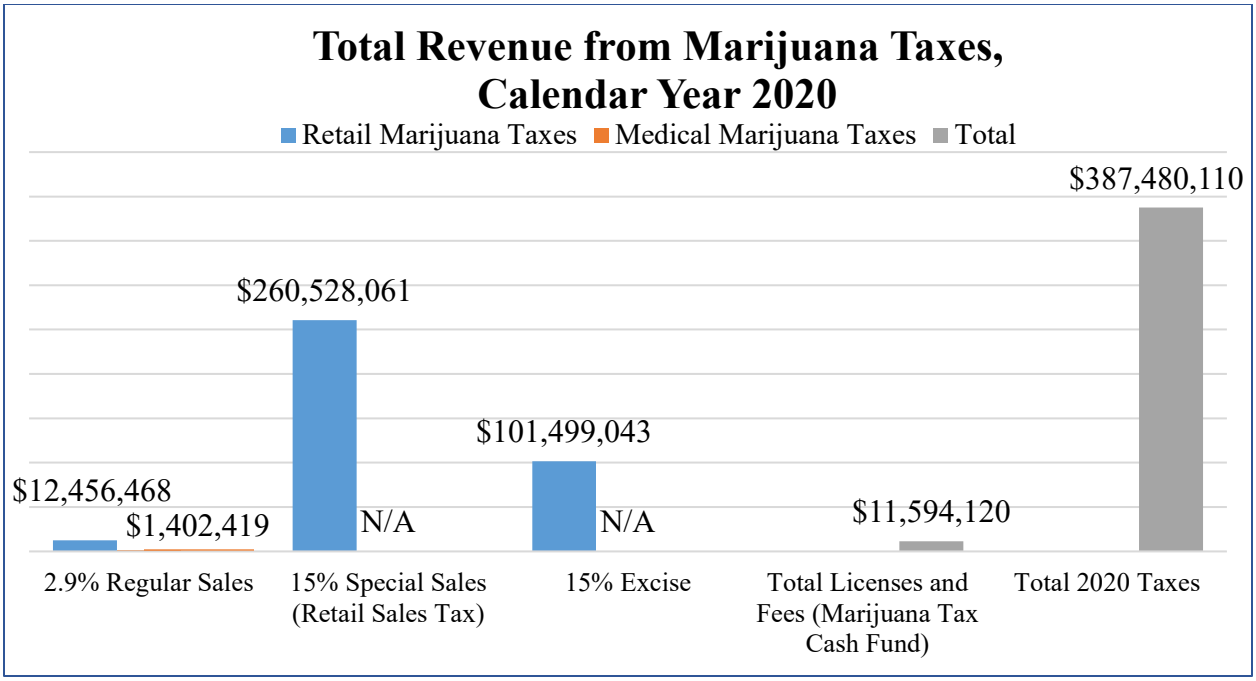
For more detailed marijuana-related crime information, please visit https://cdpsdocs.state.co.us/ors/docs/reports/2021-SB13-283_Rpt.pdf.

Tax Revenue



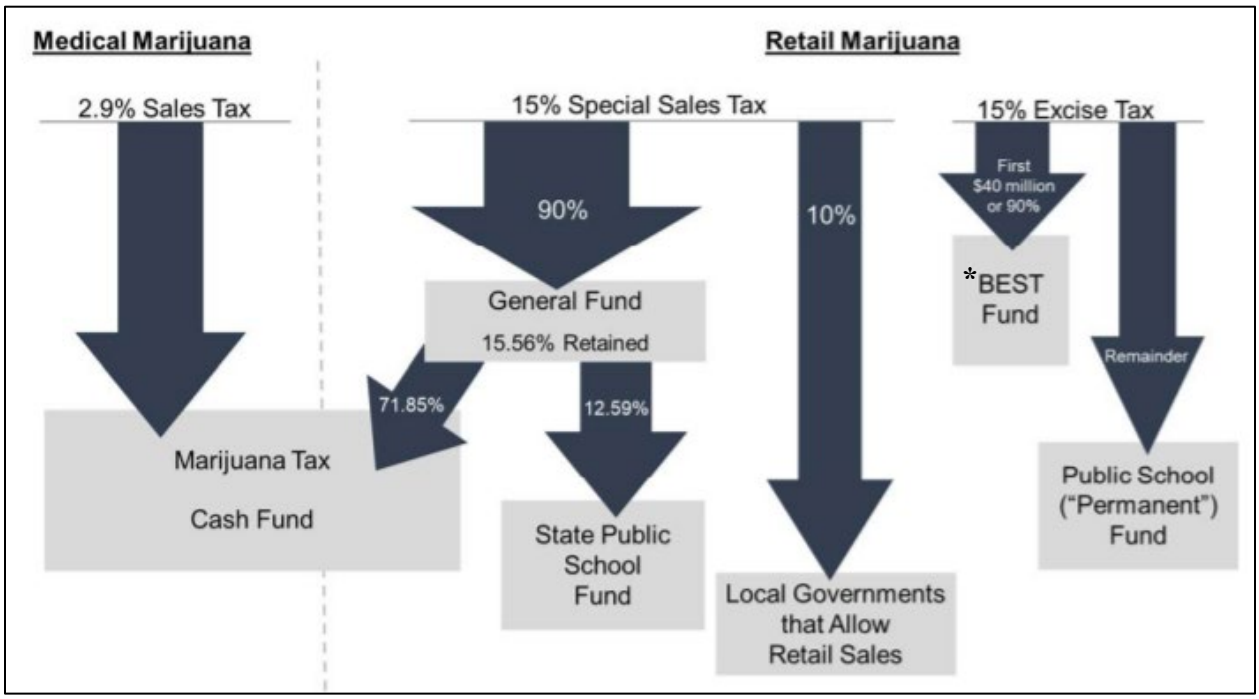
SOURCE: Governor's Office of State Planning and Budgeting

***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

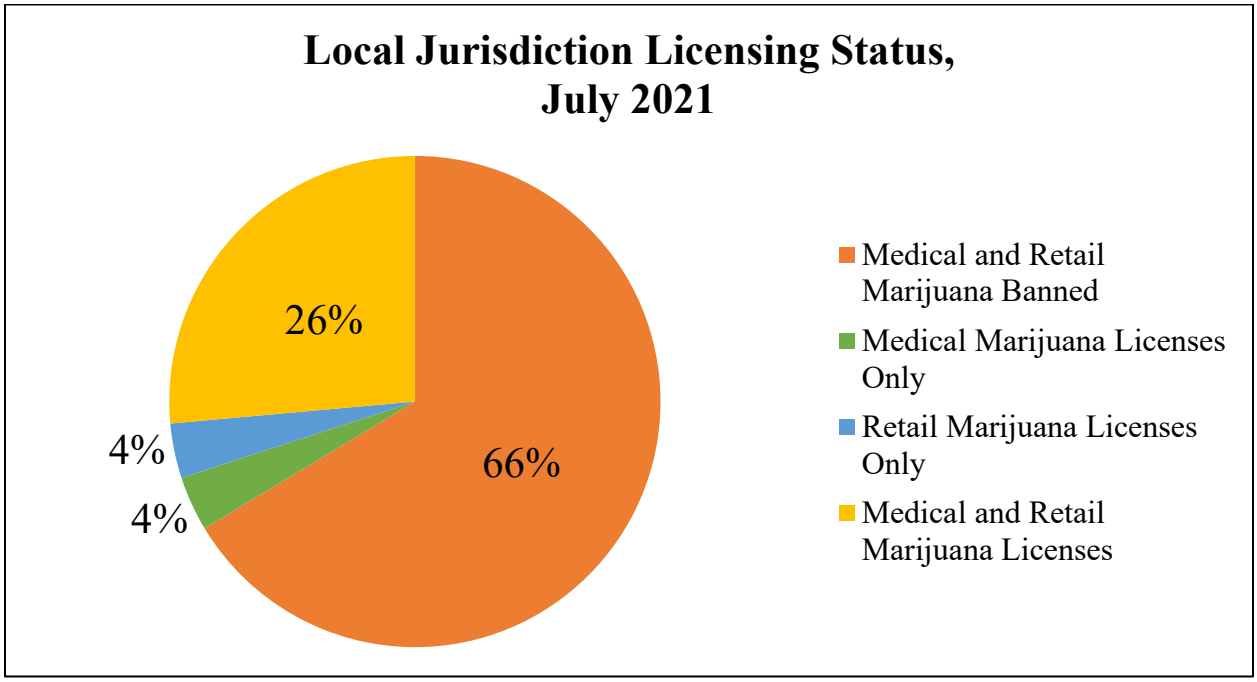
SOURCE: Colorado Bureau of Investigations Crime Statistics

NOTE: In 2020, arrest numbers were impacted by the COVID-19 pandemic's impact of the local, state, and federal judicial systems.

Local Response

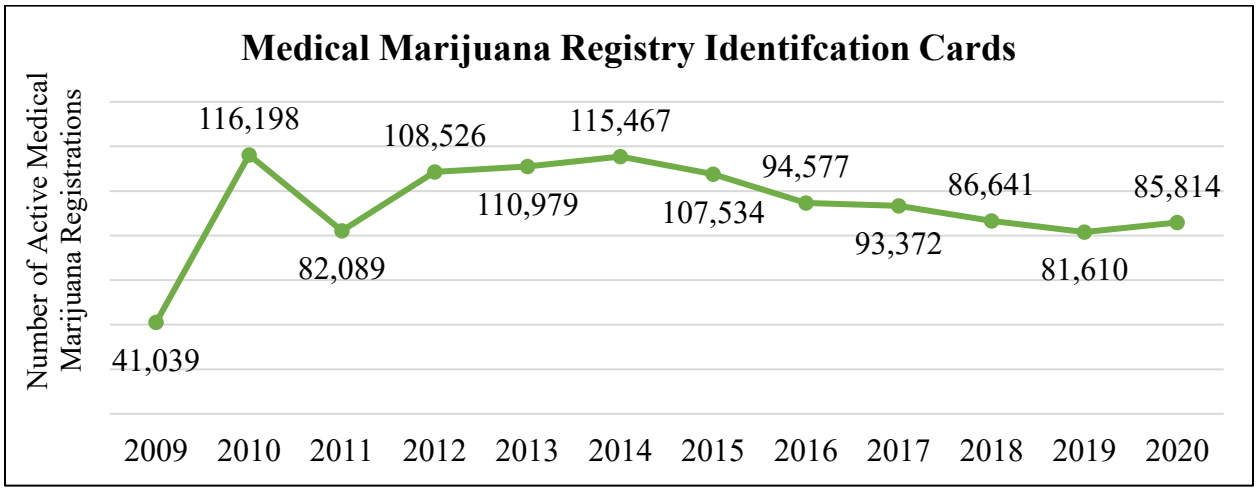
Status of Local Jurisdictions Reporting Marijuana Licensing as of July 12, 2021	
	Number of Jurisdictions
Medical and Retail Marijuana Banned	221
Medical Marijuana Licenses Only	12
Retail Marijuana Licenses Only	12
Medical and Retail Marijuana Licenses	88
Total	333

SOURCE: Colorado Marijuana Enforcement Division



SOURCE: Colorado Marijuana Enforcement Division

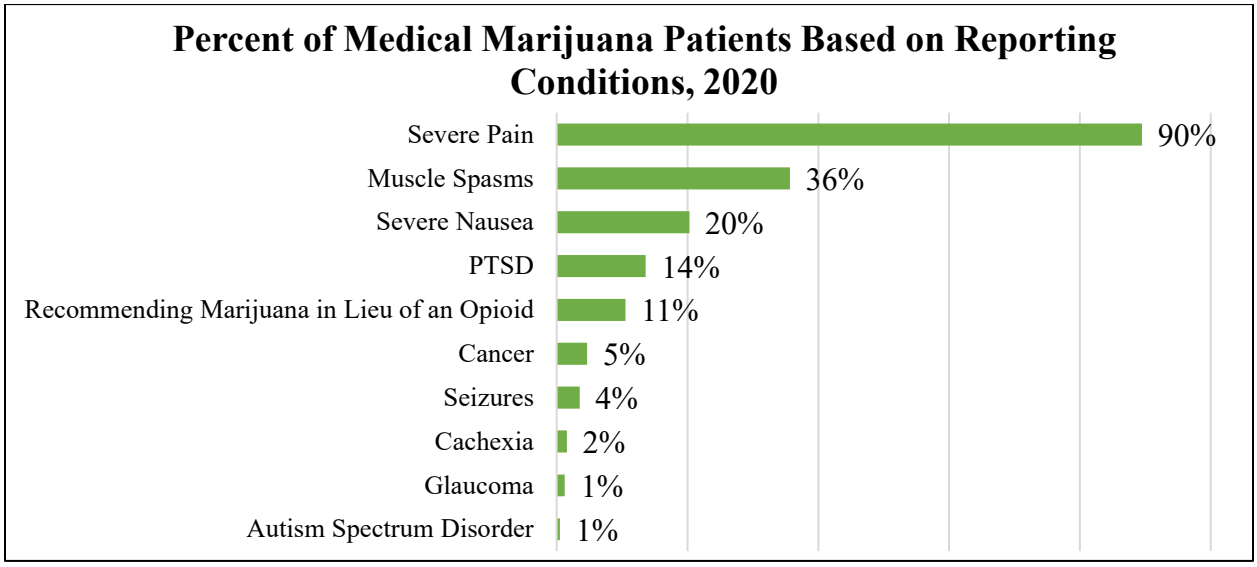
Medical Marijuana Statistics



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%

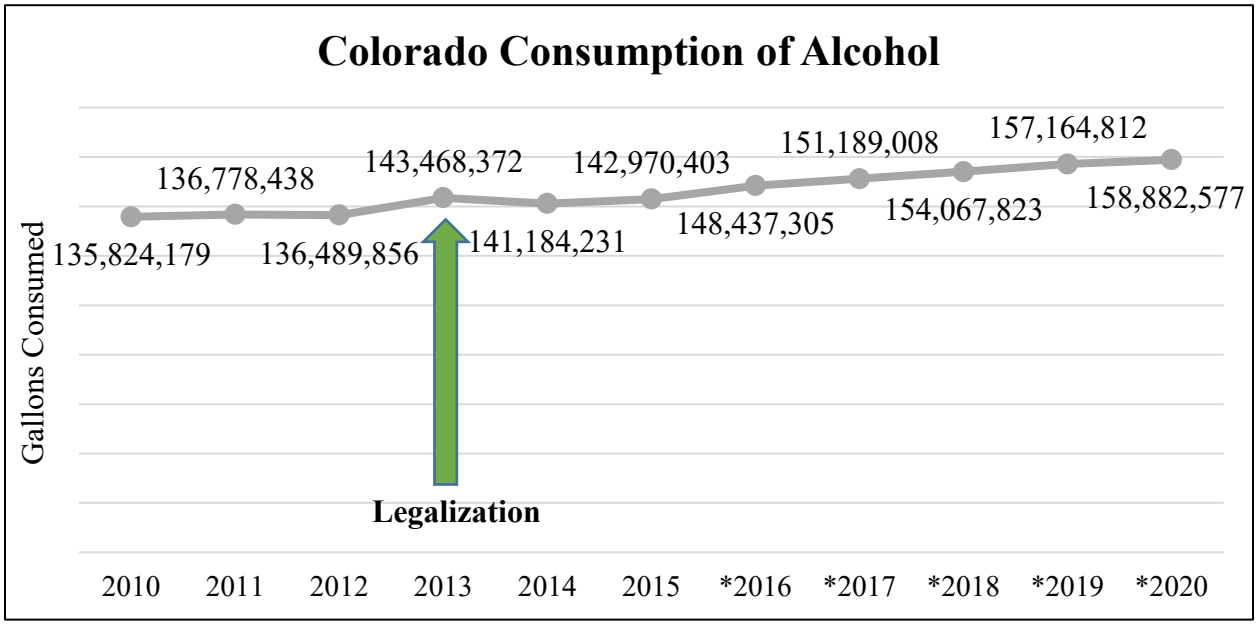


SOURCE: Colorado Department of Public Health and Environment (CDPHE)

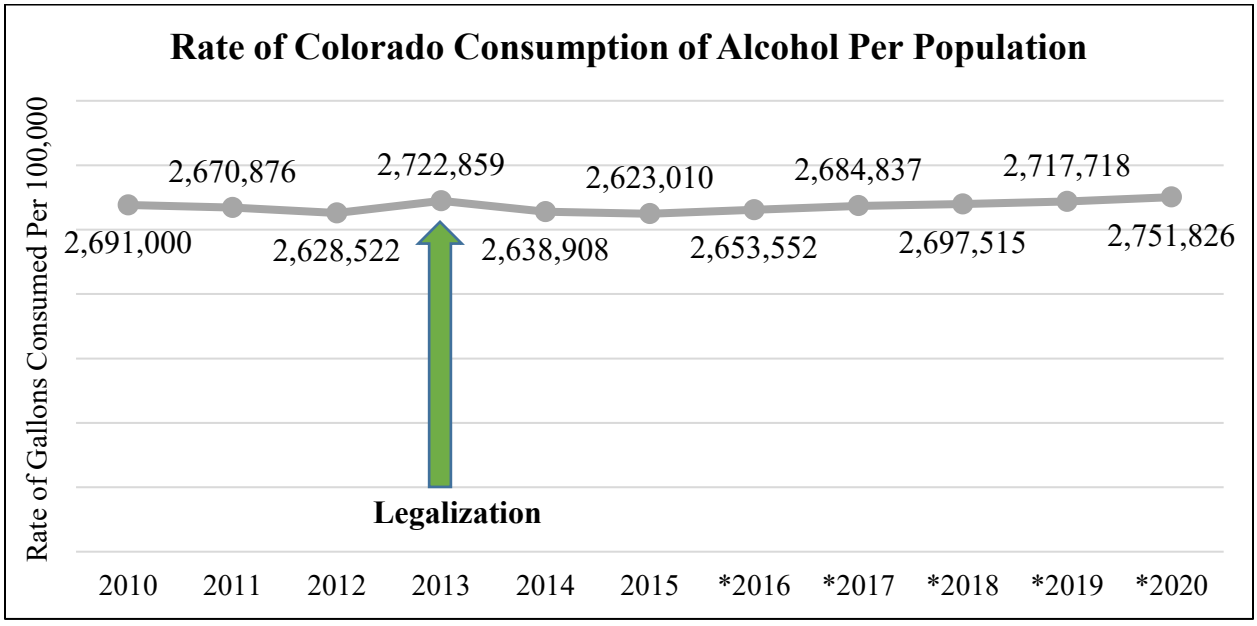
NOTE: Percentages do not add to 100% as some patients report more than one debilitating or disabling medical condition.

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

AMERICAN PLANNING ASSOCIATION

ISSUE NUMBER 8

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.)

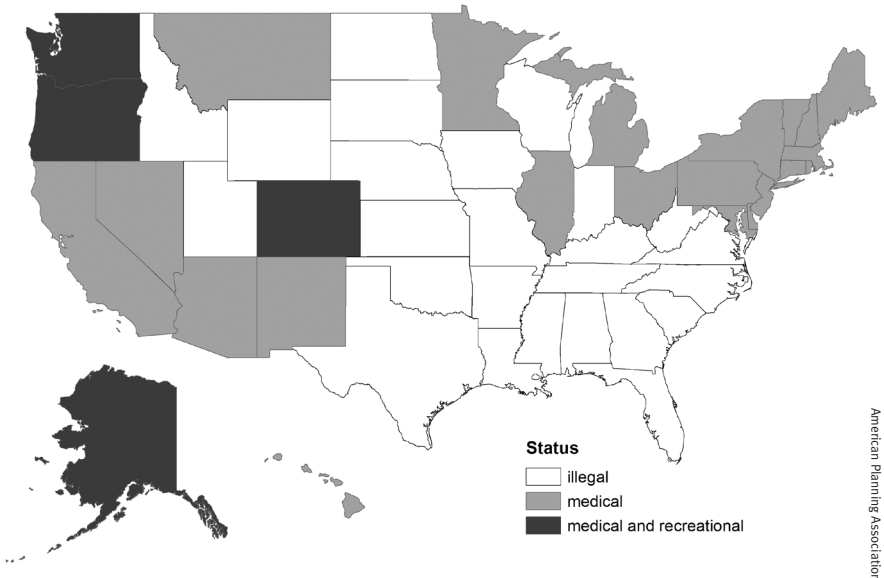
While the legalization of medical marijuana created some land-use issues, for the most part they are simpler and less urgent compared with issues related to the legalization of recreational uses. California failed to even enact a regulatory scheme until late 2015, 19 years after legalizing medical marijuana. 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).



American Planning Association

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

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

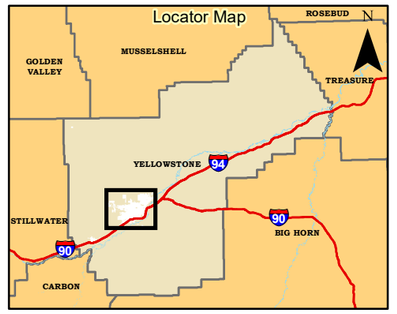
Marijuana Regulation Initiative

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

Document Path: \\pwu-w12k07\GIS_Files\Mapping_Projects\Projects\Planning\2021\RFI_0679_ZoneCodes_MarijuanaRegulation\RFI_0679_MarijuanaDispensaries_AvailLoc_City.mxd Date: 10/4/2021

City Council Regular

Date:	11/22/2021
Title:	Third Reading-Ordinance establishing marijuana business license regulations
Presented by:	Karen Tracy
Department:	Legal
Presentation:	No

RECOMMENDATION

Staff recommends Council approve on Third Reading the attached Ordinance amending Billings, Montana City Code (BMCC) to repeal Article 7-1700-Medical Marijuana and add Article 7-2000 - Marijuana Regulations.

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

On October 25, 2021, Council approved on first reading the attached Ordinance amending BMCC, repealing Article 7-1700 - Medical Marijuana and adding Article 7-2000 - Marijuana Regulations which establishes regulations for marijuana businesses as well as requires a City license to operate such businesses. The Ordinance provides a comprehensive approach to regulate all types of marijuana businesses within the City, including dispensaries, manufacturers, cultivators, transporters, and testing facilities. The attached ordinance as approved on First Reading comports with prior direction from council to staff at six prior work sessions on the subject of marijuana regulations conducted on July 6, 2021, July 19, 2021, September 7, 2021, September 20, 2021, October 4, 2021 and October 18, 2021.

At the public hearing on First Reading, Council Members discussed possible amendments to the potency provisions of the ordinance but did not amend those provisions, which currently track Chapter 16 of the Montana Code Annotated.

The proposed ordinance attached to this staff memorandum includes non-substantive amendments adding defined terms in Section 7-2005. The added terms and definitions track the definitions included in Chapter 16 of the Montana Code Annotated.

During the open comment period of the council work session held on November 1, 2021, 2 members of the public spoke regarding their opinion that marijuana testing laboratories should not be subject of the current moratorium on licensing new marijuana businesses. The moratorium on testing laboratories does not impact consumer safety. It might, however, effect the availability of products for resale at area dispensaries. Even if council were inclined to do so, given the required ordinance amendments and publication requirements, the additional timeframe would only advance laboratories by an estimated 3 weeks.

On November 2, 2021, the unofficial results of the Billings municipal election reflected a decision by the voters to ban dispensaries selling adult-use marijuana, commonly referred to as recreational marijuana, within city limits. A sample ballot from the November 2, 2021 Yellowstone County municipal election is attached. Pursuant to Section 16-12-301(7), this vote prohibiting recreational adult-use marijuana dispensaries takes effect on the 90th day after the local election, which is January 31, 2022. The recreational adult-use dispensary provisions in the proposed ordinance should remain as those provisions would be necessary should the election results change, should the election results not be certified, and for the period of time between January 1, 2022 and January 31, 2022. Likewise, future annexations may include land with existing recreational adult-use dispensaries and these provisions would make it clear that, without a local license, retail sales could not continue even if other marijuana business activity (medical sales, cultivation, manufacturing) was ultimately licensed by the City.

Based upon the anticipated certification of the municipal election results, the recommendations of Substance Abuse Connect regarding potency and packaging are substantially moot, as those limitations would not apply to medical marijuana products. Leaving Section 7-2005 of the proposed ordinance intact provides consistency with state law.

Section 7-2009 of the proposed ordinance contemplates that all licenses issued under the ordinance are subject to the rights of the voters to prohibit categories of marijuana businesses by majority vote.

Based upon the results of the election, the City of Billings may not allow recreational adult-use dispensaries to operate within city limits after January 31, 2022 under state law, assuming certification of election results. See Section 16-12-301(7). Staff interprets this provision to require enforcement by the City of the prohibition against recreational adult-use dispensaries after January 31, 2022.

Former medical marijuana licensees who anticipated selling recreational retail marijuana within the city limits of

Billings may not do so after January 31, 2022, regardless of whether they are in good standing or not, and be in compliance with state law.

Assuming the passage on this ordinance upon Third Reading, no marijuana business may operate without a city license effective December 22, 2021, and be in compliance with city code.

Section 16-12-201(b) provides:
Beginning January 1, 2022, a former medical marijuana licensee may sell marijuana and marijuana products to registered cardholders at the medical tax rate set forth in 15-64-102 and to consumers at the adult-use marijuana tax rate set forth in 15-64-102 under the licensee's existing license in a jurisdiction that allows for the operation of marijuana businesses pursuant to 16-12-301 until the former medical marijuana licensee's next license renewal date, by which time the former medical licensee must have applied for and obtained the appropriate licensure under this chapter to continue operations, unless an extension of time is granted by the department.

Assuming certification of the election results, the operation of dispensaries selling marijuana and marijuana products, commonly referred to as recreational marijuana, is not permitted under 16-12-301 effective January 31, 2022 by state law.

The above interpretation is supported by the information from the Montana Department of Revenue Cannabis Control Division. Cannabis Control Division Frequently asked questions

On November 8, 2021, at Second Reading, the council adopted the proposed non-substantive amendments recommended by staff, which added three definitions to the ordinance. The council made a substantive amendment increasing the cap on the number of medical marijuana dispensaries from 4 to 8 in light of the results of the municipal election. The attached ordinance includes all cumulative amendments.

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 dispensary cap and lottery system to allocate available licenses within the initial 18-month period for the sale of recreational marijuana. However, those business owners expressed concern regarding any cap on THC potency given the current industry and market standards. Potential retail dispensary owners expressed concern with the adequacy of the zoning areas contemplated and recommended by the zoning commission.

Following the October 18, 2021, work session, council members received questions and concerns from business owners regarding the proposed ordinance to be presented at First Reading. Staff provided responses to council regarding those questions and concerns.

On October 19, 2021, Substance Abuse Connect hosted a meeting for local public officials which was attended by Councilmember Ewalt, Councilmember Purinton, and Mayor Cole and at which Ben Cort spoke. The meeting was also attended by City Administrator Chris Kukulski, City Attorney Gina Dahl, and Assistant City Attorney Karen Tracy.

At the October 25, 2021 public hearing, participants in the substance abuse recovery community spoke regarding concerns with the proposed ordinance and, at the request of certain council members, agreed to provide additional input to council and staff regarding their concerns.

At the October 25, 2021 public hearing, marijuana business owners and others interested in marijuana businesses offered public comment on a variety of issues addressed in the ordinance.
Information and proposals were received from Substance Abuse Connect and taken into consideration.

During the open comment period of the council work session held on November 1, 2021, two members of the public spoke regarding their opinion that marijuana testing laboratories should not be subject of the current moratorium on licensing new marijuana businesses. The moratorium on testing laboratories does not impact consumer safety. It might, however, effect the availability of products for resale at area dispensaries.

ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve

FISCAL EFFECTS

On November 2, 2021, Yellowstone County voters approved a county-wide excise tax of 3% on medical and recreational marijuana. Staff estimates that the City of Billings will receive 92 cents for each $100 of marijuana and marijuana products sold county-wide and, within a few years, generate annual revenue of approximately $200,000.

On November 2, 2021, City of Billings voters voted to prohibit dispensaries selling recreational, adult-use marijuana within City limits. Although there should not be ongoing costs associated with the licensing of recreational, adult-use marijuana, 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. Should council elect to deviate from the potency levels set by the state, the cost of enforcement for those ordinances should be passed through to the licensed marijuana businesses to the extent possible.

Attachments

Municipal Ballot
Ordinance

NOVEMBER 2, 2021 COUNTY SPECIAL & MUNICIPAL GENERAL ELECTION SAMPLE BALLOT

MUNICIPAL CONTESTS

BILLINGS CITY COUNCIL WARD 1

VOTE FOR 1

ED GULICK
STEPHANIE KRUEGER

BILLINGS CITY COUNCIL WARD 2

VOTE FOR 1

FRANK EWALT
JENNIFER OWEN

BILLINGS CITY COUNCIL WARD 3

VOTE FOR 1

DENISE JOY
CHARLIE LOVERIDGE

BILLINGS CITY COUNCIL WARD 4

VOTE FOR 1

MARY HERNANDEZ
DANIEL TIDSWELL
TIM WARBURTON

BILLINGS CITY COUNCIL WARD 5

VOTE FOR 1

TOM RUPSIS
DENNIS L. ULVESTAD
FRED WILBURN

BROADVIEW COMMISSIONER

VOTE FOR 3

ROGER D SWARTZ

LAUREL MAYOR

VOTE FOR 1

BRUCE MCGEE
THOMAS C NELSON
SCOT STOKES
DAVE WAGGONER

LAUREL CITY COURT JUDGE

VOTE FOR 1

JEAN M. KERR
JULIANE E. LORE

BALLOT ISSUES

YELLOWSTONE COUNTY NON-MEDICAL MARIJUANA EXCISE TAX PROPOSITION

Shall Yellowstone County impose a 3% local-option marijuana excise tax on the retail value of all non-medical marijuana and non-medical marijuana products sold within Yellowstone County.

FOR a 3% (three percent) Marijuana Local-Option Excise Tax for all non-medical marijuana and non-medical marijuana products

AGAINST a 3% (three percent) Marijuana
Local-Option Excise Tax for all non-medical marijuana and non-medical marijuana products

YELLOWSTONE COUNTY MEDICAL MARIJUANA EXCISE TAX PROPOSITION

Shall Yellowstone County impose a 3% local-option marijuana excise tax on the retail value of all medical marijuana and medical marijuana products sold within Yellowstone County.

FOR a 3% (three percent) Marijuana Local-Option Excise Tax for all medical marijuana and medical marijuana products

AGAINST a 3% (three percent) Marijuana Local-Option Excise Tax for all medical marijuana and medical marijuana products

SAMPLE BALLOT

BALLOT ISSUES CONTINUED

CITY OF BILLINGS MILL LEVY PROPOSITION

Summary: Violent crime rates and calls for emergency services have increased over the past 10 years. This ballot measure asks voters to approve or disapprove an additional permanent annual levy up to 34 mills to increase investments to police, fire, prosecution services, code enforcement, municipal court, mental health and substance abuse services, and related public safety expenses. The amount raised by the new levy, when fully implemented, would be approximately $7.1 million and would change as the taxable property value of the city changes.

Proposal: On June 28, 2021, the Billings City Council adopted Ordinance 21-5760 referring this ballot to the voters. If approved, this ballot
measure would add the following language to the City Charter as Section 1.05.2: Section 1.05.2 Mill Levy to Fund Police, Fire, Prosecution Services, Code Enforcement, Municipal Court, Mental Health and Substance Abuse Services, and Related Public Safety Expenses. For the purpose of funding the operation, maintenance and capital needs of the police department, fire department, prosecution services, code enforcement, municipal court, mental health and substance abuse services, and related public safety expenses, the City Council shall levy up to 34 mills starting in fiscal year 2023, which will raise approximately $7,115,000. The foregoing mill levy is permanent and shall continue indefinitely in future fiscal years. This levy is not cumulative, which means the number of mills will not increase over time. This levy is in addition to any other mill levies authorized by Charter or law. Residential Property Impact: If approved, the annual property tax increase in fiscal year 2023 on a home valued at $100,000 is approximately $45.90 per year. The annual property tax increase in fiscal year 2023 on a home valued at $200,000 is approximately $91.80 per year.

Shall the City be authorized to amend the City Charter to add Section 1.05.2 to levy up to 34 mills raising approximately $7.1 million to support police, fire, prosecution services, code enforcement, municipal court, mental health and substance abuse services, and related public safety expenses?

FOR adding Section 1.05.2 to levy up to 34 mills raising approximately $7.1 million to support police, fire, prosecution services, code enforcement, municipal court, mental health and substance abuse services, and related public safety expenses as set forth above which provides for a permanent, non-cumulative mill levy commencing in fiscal year 2023 as provided in Ordinance 21-5760.

AGAINST adding Section 1.05.2 to levy up to 34 mills raising approximately $7.1 million to support police, fire, prosecution services, code enforcement, municipal court, mental health and substance abuse services, and related public safety expenses as set forth above which provides for a permanent, non-cumulative mill levy commencing in fiscal year 2023 as provided in Ordinance 21-5760.

BALLOT ISSUES CONTINUED

CITY OF BILLINGS MARIJUANA DISPENSARY ORDINANCE PROPOSITION

Summary: Initiative Measure 190 (I-190) was approved by the electors of the City of Billings in the general election held November 3, 2020, legalizing possession and use of marijuana for adults over the age of 21 as well as certain marijuana businesses. The Montana Legislature passed House Bill 701 in 2021 and modified provisions of I-190 providing an option for electors to consider prohibition of the seven categories of marijuana businesses. This ballot measure asks voters to approve or disapprove adult-use marijuana dispensaries, which is one of the various types of marijuana businesses which were authorized by House Bill 701. The use and possession of marijuana for adults over the age of 21 and the remaining categories of marijuana businesses will not be impacted by this vote, including medical marijuana dispensaries, and will be permitted in the City of Billings upon the effective date of House Bill 701.

Proposal: The Billings City Council has proposed an ordinance to prohibit adult-use marijuana dispensaries and passed Resolution 21-10981 to submit this ballot to the voters. Adult-use dispensary means a licensed premises from which a person licensed by the Montana Department of Revenue may sell marijuana or marijuana products to both registered cardholders and adults that are 21 years of age or older. This proposed ordinance would not prohibit the operation of medical marijuana dispensaries within the City of Billings.

Shall dispensaries of adult use marijuana, commonly referred to as recreational-use marijuana, be permitted within the limits of the City of Billings?

FOR permitting dispensaries of adult-use marijuana, commonly referred to as recreational-use marijuana, within the limits of the City of Billings.

AGAINST permitting dispensaries of adult-use marijuana, commonly referred to as recreational-use marijuana, within the limits of the City of Billings.

SAMPLE BALLOT

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 concentrate: means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(ad) Marijuana derivative: means any mixture or preparation of the dried leaves, flowers, resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana products.

(ae) 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.

(af) 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.

(ag) 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.

(ah) Mature marijuana plant: means a harvestable marijuana plant.

(ai) Medical marijuana: means marijuana or marijuana products that are for sale solely to a registered cardholder.

(aj) Medical marijuana dispensary: means a medical marijuana store operated for the limited purpose of selling medical marijuana and marijuana products to registered cardholders.

(ak) Outdoor cultivation: means live plants growing in an area exposed to natural sunlight and environmental conditions including variable temperature, precipitation, and wind.

(al) 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.

(am) Person: means an individual, partnership, association, company, corporation, limited liability company, or organization.

(an) 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.

(ao) 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.

(ap) 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.

(aq) Registry identification card: means a document issued by the Department of Revenue, State of Montana that identifies an individual as a registered card holder.

(ar) Retail marijuana dispensary has the same meaning as an adult use dispensary.

(as) Seedling: means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(at) 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.

(au) 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.

(av) 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 eight (8) 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 four (4) retail marijuana dispensary licenses shall be authorized 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 four (4) 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 4 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.

(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 transporter 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 Montana Department of Revenue.

(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 other than registered cardholders.

(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 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 if not already entered in the seed-to-sale tracking system; and

(5) The name of any agent who takes delivery of medical marijuana or medical marijuana products on behalf of a registered cardholder, the identification of medical marijuana and medical marijuana products received, the date such items were received and the name and registered cardholder number, to the extent not already entered in the seed-to-sale tracking system.

(b) To the extent that any licensee has such information in its possession, 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 Montana Department of Revenue's website. The universal symbol:

a. shall be at least .33 inches wide and .33 inches high;

b. may be downloaded from the Montana Department of Revenue'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 Montana Department of Revenue 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

City Council Regular

Date:	11/22/2021
Title:	Payment of Claims for week of October 18, 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 $1,601,803.84 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 is 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 10182021

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/18/2021	846889	Action Electric	Facilities	$ 1,405.00	final invoice for quote 11042
10/18/2021	846889	Action Electric	Facilities	$ 2,795.00	oil pit lighting
10/18/2021	846890	Agissar Corp	P.W. Admin	$ 4,535.00	Maintenance Agreement
10/18/2021	846908	Business Tax Section	Airport	$ 111.86	Access Control and CCTV Systems - Eligible Share
10/18/2021	846908	Business Tax Section	Airport	$ 9.46	Access Control and CCTV Systems - Ineligible Share
10/18/2021	846908	Business Tax Section	Airport	$ 709.48	AIP-69 Commercial Aircraft Concrete Ramps - CA - Federal Share
10/18/2021	846908	Business Tax Section	Arterial Streets	$ 594.93	Wicks Lane Improvements
10/18/2021	846908	Business Tax Section	Gas Tax	$ 1,918.39	Wicks Lane Improvements
10/18/2021	846908	Business Tax Section	Gas Tax	$ 430.38	WO20-02 MISSING SIDEWALK/MISCELLANEOUS
10/18/2021	846908	Business Tax Section	Sidewalk Const	$ 1,542.16	Wicks Lane Improvements
10/18/2021	846908	Business Tax Section	Sidewalk Const	$ 248.54	WO20-02 MISSING SIDEWALK/MISCELLANEOUS
10/18/2021	846908	Business Tax Section	Wastewater	$ 72.09	GRT portion, Electrical shop remodel at WWTP
10/18/2021	846908	Business Tax Section	Water	$ 75.00	Temporary Water for PUD 2021-02, Phase 2- 9th Avenue N
10/18/2021	846921	Co Water Dist -Heights	Park Dist 1	$ 23.05	water charges for ARrowhead- 13137
10/18/2021	846921	Co Water Dist -Heights	Park Dist 1	$ 1,545.97	water charges for Arrowhead- 13138
10/18/2021	846921	Co Water Dist -Heights	Park Dist 1	$ 305.83	water charges for Cleavenger- 01019
10/18/2021	846921	Co Water Dist -Heights	Park Dist 1	$ 1,825.55	water charges for Hawthorne- 08163
10/18/2021	846921	Co Water Dist -Heights	Park Dist 1	$ 1,628.01	water charges for UPrimrose - 06100
10/18/2021	846921	Co Water Dist -Heights	Parks Maint	$ 1,524.12	water charges for Frances's - 16219
10/18/2021	846921	Co Water Dist -Heights	Parks Maint	$ 917.25	water charges for Luthern- 10112
10/18/2021	846921	Co Water Dist -Heights	Parks Maint	$ 859.88	water charges for Rolllings Hills- 09174
10/18/2021	846921	Co Water Dist -Heights	Parks Maint	$ 2,703.49	water charges for Twin Oaks- 17196
10/18/2021	846921	Co Water Dist -Heights	Parks Maint	$ 1,937.82	water charges for Uinta - 17140
10/18/2021	846921	Co Water Dist -Heights	Parks Maint	$ 2,052.21	water charges for Walden Grove- 30388
10/18/2021	846917	Columbine Control	Wastewater	$ 4,999.99	Field Service
10/18/2021	846922	Cucancic Const	Wastewater	$ 7,136.91	Electrical shop remodel at Wastewater Plant
10/18/2021	846927	Dana Safety Supply	Public Safety	$ 1,243.75	746845
10/18/2021	846927	Dana Safety Supply	Public Safety	$ 230.00	747173
10/18/2021	846927	Dana Safety Supply	Public Safety	$ 3,905.00	747225
10/18/2021	846927	Dana Safety Supply	Public Safety	$ 442.00	747238
10/18/2021	846927	Dana Safety Supply	Public Safety	$ 550.00	748780
10/18/2021	846929	Dell Computer	General	$ 1,408.82	Precision 3450 SSF i5, 8GB RAM, 256GB SSD, 2-24" regular monitor
10/18/2021	846929	Dell Computer	Building	$ 2,907.09	Qty. 9 27" monitors P2720D -Building Inspectors
10/18/2021	846934	Dixie Petro-Chem	Water	$ 7,665.00	BULK CHLORINE

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/18/2021	846937	DOWL	Arterial Streets	$ 980.00	24th St W/Central Ave Signal Improvements
10/18/2021	846937	DOWL	Planning	$ 865.00	Billings ByPass Corridor Study 4051.21884.010-7
10/18/2021	846937	DOWL	Planning	$ 4,537.50	Billings ByPass Corridor Study Inv 4051.21884.01-9
10/18/2021	846937	DOWL	Planning	$ 6,022.10	BILLINGS CTSP UPDATE-LMO4102021
10/18/2021	846945	Fischer Comml Floor	Public Safety	$ 4,775.00	FIRE 4: 2880 SQ FT LVT UNDERLAYMENT, RUBBER BASE
10/18/2021	846947	Forterra Concrete	Street/Traffic	$ 3,696.70	risers for sugar ave
10/18/2021	846955	Hach Company	Water	$ 1,981.43	Chemicals
10/18/2021	846955	Hach Company	Water	$ 1,209.71	Filter building staples
10/18/2021	846957	Hanson Chemical	Street/Traffic	$ 2,762.28	orange tough degreaser 55 gal
10/18/2021	846957	Hanson Chemical	Wastewater	$ 27.56	Towels
10/18/2021	846957	Hanson Chemical	Water	$ 82.67	Towels
10/18/2021	846958	Hawkins Inc.	Water	$ 23,680.40	AQUA HAWK 457 COAGULANT
10/18/2021	846960	High Point Network	IT Resources	$ 7,580.00	maintenance on the Dell Servers -extend an additional 2 years on all servers
10/18/2021	846960	High Point Network	Library	$ 245.00	188517 HPN Firewall as a service
10/18/2021	846960	High Point Network	Library	$ 245.00	190297 Firewall
10/18/2021	846962	Hydrotech	Water	$ 7,425.00	Temporary Water for PUD 2021-02, Phase 2- 9th Avenue N
10/18/2021	846968	Informatics Holding	PD Program	$ 4,482.98	Inventory software and equipment.
10/18/2021	846969	Ingram Library Service	Library	$ 175.14	54845481
10/18/2021	846969	Ingram Library Service	Library	$ 38.37	54845481
10/18/2021	846969	Ingram Library Service	Library	$ 16.19	54845482
10/18/2021	846969	Ingram Library Service	Library	$ 14.71	54845482
10/18/2021	846969	Ingram Library Service	Library	$ 139.97	54845482
10/18/2021	846969	Ingram Library Service	Library	$ 138.00	54845483
10/18/2021	846969	Ingram Library Service	Library	$ 10.61	54996835
10/18/2021	846969	Ingram Library Service	Library	$ 51.30	54996836
10/18/2021	846969	Ingram Library Service	Library	$ 31.41	54996836
10/18/2021	846969	Ingram Library Service	Library	$ 33.03	54996836
10/18/2021	846969	Ingram Library Service	Library	$ 4.79	54996837
10/18/2021	846969	Ingram Library Service	Library	$ 92.14	54996837
10/18/2021	846969	Ingram Library Service	Library	$ 23.58	54996838
10/18/2021	846969	Ingram Library Service	Library	$ 27.49	54996839
10/18/2021	846969	Ingram Library Service	Library	$ 18.00	54996840
10/18/2021	846969	Ingram Library Service	Library	$ 10.19	54996841
10/18/2021	846969	Ingram Library Service	Library	$ 31.83	54996841

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/18/2021	846969	Ingram Library Service	Library	$ 10.61	54996842
10/18/2021	846969	Ingram Library Service	Library	$ 11.77	54996843
10/18/2021	846969	Ingram Library Service	Library	$ 8.99	54996844
10/18/2021	846969	Ingram Library Service	Library	$ 10.02	54996845
10/18/2021	846969	Ingram Library Service	Library	$ 16.51	54996846
10/18/2021	846969	Ingram Library Service	Library	$ 10.61	54996847
10/18/2021	846969	Ingram Library Service	Library	$ 10.17	54996848
10/18/2021	846969	Ingram Library Service	Library	$ 38.90	54996849
10/18/2021	846969	Ingram Library Service	Library	$ 37.49	54996850
10/18/2021	846969	Ingram Library Service	Library	$ 13.74	54996850
10/18/2021	846969	Ingram Library Service	Library	$ 868.85	54996850
10/18/2021	846969	Ingram Library Service	Library	$ 137.49	54996850
10/18/2021	846969	Ingram Library Service	Library	$ 285.19	54996850
10/18/2021	846969	Ingram Library Service	Library	$ 189.67	54996850
10/18/2021	846969	Ingram Library Service	Library	$ 16.52	55116728
10/18/2021	846969	Ingram Library Service	Library	$ 14.72	55116729
10/18/2021	846969	Ingram Library Service	Library	$ 10.61	55116730
10/18/2021	846969	Ingram Library Service	Library	$ 36.58	55116731
10/18/2021	846969	Ingram Library Service	Library	$ 10.61	55116732
10/18/2021	846969	Ingram Library Service	Library	$ 17.70	55116733
10/18/2021	846969	Ingram Library Service	Library	$ 240.22	55116734
10/18/2021	846969	Ingram Library Service	Library	$ 479.81	55116734
10/18/2021	846969	Ingram Library Service	Library	$ 25.57	55116734
10/18/2021	846969	Ingram Library Service	Library	$ 14.75	55116735
10/18/2021	846969	Ingram Library Service	Library	$ 15.93	55116736
10/18/2021	846969	Ingram Library Service	Library	$ 15.34	55116736
10/18/2021	846969	Ingram Library Service	Library	$ 21.79	55116737
10/18/2021	846969	Ingram Library Service	Library	$ 29.99	55128249
10/18/2021	846969	Ingram Library Service	Library	$ 9.57	55128249
10/18/2021	846969	Ingram Library Service	Library	$ 27.55	55128250
10/18/2021	846969	Ingram Library Service	Library	$ 36.75	55128250
10/18/2021	846969	Ingram Library Service	Library	$ 150.78	55128251
10/18/2021	846969	Ingram Library Service	Library	$ 169.08	55128251
10/18/2021	846969	Ingram Library Service	Library	$ 22.95	55128251

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/18/2021	846969	Ingram Library Service	Library	$ 92.62	55128251
10/18/2021	846969	Ingram Library Service	Library	$ 46.46	55128252
10/18/2021	846969	Ingram Library Service	Library	$ 187.15	55128252
10/18/2021	846969	Ingram Library Service	Library	$ 24.74	55128252
10/18/2021	846969	Ingram Library Service	Library	$ 69.17	55128252
10/18/2021	846969	Ingram Library Service	Library	$ 43.75	55128252
10/18/2021	846969	Ingram Library Service	Library	$ 26.67	55128252
10/18/2021	846969	Ingram Library Service	Library	$ 38.94	55128253
10/18/2021	846969	Ingram Library Service	Library	$ 45.00	55128254
10/18/2021	846970	Insight Public Sector	Building	$ 4,661.54	4-Surface i5, 8GB RAM, 128GB SSD, dock, adapters, rugged case
10/18/2021	846970	Insight Public Sector	Building	$ 32.25	Qty.4 adapters
10/18/2021	846970	Insight Public Sector	Building	$ 32.25	Qty.4, adapters
10/18/2021	846970	Insight Public Sector	General	$ 185.80	2-i5 Processors, 8GB RAM 256GBSSD surface pros with keyboard covers
10/18/2021	846970	Insight Public Sector	P.W. Admin	$ 49.47	Lenovo mounting bracket- Conference at PUD
10/18/2021	846970	Insight Public Sector	P.W. Admin	$ 913.32	Lenovo ThinkCentre i5, 16GB RAM, 256GB SSD Conference at PUD
10/18/2021	846970	Insight Public Sector	Public Safety	$ 2,541.26	2-Surface Pro 7+ i5, 8GB RAM, 256GB SSD,
10/18/2021	846970	Insight Public Sector	Public Safety	$ 3,252.86	FZ-55 Panasonic Toughbook i7, 16GB RAM, 512GB SSD
10/18/2021	846972	Invoice Cloud	Building	$ 71.48	For Service Period of 09/01/2021 through 9/30/2021
10/18/2021	846972	Invoice Cloud	City Ins Fund	$ 34.80	For Service Period of 09/01/2021 through 9/30/2021
10/18/2021	846972	Invoice Cloud	Parking	$ 45.58	For Service Period of 09/01/2021 through 9/30/2021
10/18/2021	846972	Invoice Cloud	Solid Waste	$ 8,625.90	For Service Period of 09/01/2021 through 9/30/2021
10/18/2021	846972	Invoice Cloud	Wastewater	$ 10,891.38	For Service Period of 09/01/2021 through 9/30/2021
10/18/2021	846972	Invoice Cloud	Water	$ 12,813.38	For Service Period of 09/01/2021 through 9/30/2021
10/18/2021	846981	Knife River	Airport	$ 70,238.49	AIP-69 Commercial Aircraft Concrete Ramps - CA- Federal Share
10/18/2021	846981	Knife River	Street/Traffic	$ 662.58	asphalt
10/18/2021	846982	Kois Brothers	Fleet	$ 138.20	124016 PO NUM 312783
10/18/2021	846982	Kois Brothers	Solid Waste	$ 124.24	124016
10/18/2021	846982	Kois Brothers	Solid Waste	$ 1,408.14	124070
10/18/2021	846982	Kois Brothers	Solid Waste	$ 1,015.50	124104
10/18/2021	846982	Kois Brothers	Solid Waste	$ 522.85	124115
10/18/2021	846982	Kois Brothers	Wastewater	$ 803.08	123958
10/18/2021	846982	Kois Brothers	Wastewater	$ 824.03	123962
10/18/2021	846985	L P Anderson Tire	Public Safety	$ 65.00	1952335
10/18/2021	846985	L P Anderson Tire	Public Safety	$ 65.00	1952514

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/18/2021	846985	L P Anderson Tire	Public Safety	$ 65.00	1952652
10/18/2021	846985	L P Anderson Tire	Public Safety	$ 65.00	1952810
10/18/2021	846985	L P Anderson Tire	Public Safety	$ 690.92	1953550
10/18/2021	846985	L P Anderson Tire	Public Safety	$ 129.00	1953554
10/18/2021	846985	L P Anderson Tire	Public Safety	$ 461.10	1953697
10/18/2021	846985	L P Anderson Tire	Public Safety	$ 1,056.18	1953737
10/18/2021	846985	L P Anderson Tire	Public Safety	$ 3,074.00	19535566
10/18/2021	846985	L P Anderson Tire	Street/Traffic	$ 62.50	1053948
10/18/2021	846985	L P Anderson Tire	Street/Traffic	$ 125.00	1953891
10/18/2021	846985	L P Anderson Tire	Street/Traffic	$ 100.00	1953893
10/18/2021	846985	L P Anderson Tire	Street/Traffic	$ 100.00	1953950
10/18/2021	846988	Library Solution	Library	$ 3,000.00	1976 Room reserve set up
10/18/2021	846995	Mccain Traffic Supply	Arterial Streets	$ 2,813.00	WO 21-16 Rimrock to Virginia Traffic Signal
10/18/2021	846995	Mccain Traffic Supply	Arterial Streets	$ 4,040.00	WO 21-16 Rimrock to Virginia Traffic Signal
10/18/2021	847003	Morrison Maierle	Airport	$ 533.65	Amendment #5 Terminal Expansion-Terminal Security-CA-Federal Share
10/18/2021	847003	Morrison Maierle	Airport	$ 45.15	Amendment #5 Terminal Expansion-Terminal Security-CA-Local Share
10/18/2021	847003	Morrison Maierle	Airport	$ 22,440.03	Amendment 26 - AIP-69 Commercial Concrete Ramps - CA - Federal Share
10/18/2021	847003	Morrison Maierle	Wastewater	$ 3,053.64	WO 20-01 Water/Sewer Replacement Project
10/18/2021	847003	Morrison Maierle	Water	$ 29,550.42	WO 21-01 Water/Sewer Replacement Project Pioneer Park
10/18/2021	847004	Mountain Alarm	Wastewater	$ 2,879.96	Waste Water Treatment Service
10/18/2021	847005	MT DEQ	Water	$ 63,384.00	Community Connection Fee
10/18/2021	847001	MT Municipal Interlocal	Payroll Clearing	$ 442,563.27	Workers Compensation 7-1-2021 to 9-30-2021
10/18/2021	847006	MT Waterworks	Water	$ 5,084.40	3/4" METER LOOPS AKA YOKE
10/18/2021	847013	Northwest Pump	Water	$ 6,316.54	Pump seal
10/18/2021	847014	NorthWestern Energy	Building	$ 17.57	1569631-3
10/18/2021	847014	NorthWestern Energy	Facilities	$ 6.00	3866815-8
10/18/2021	847014	NorthWestern Energy	General	$ 37.45	0712387-0
10/18/2021	847014	NorthWestern Energy	General	$ 52.43	0712536-2
10/18/2021	847014	NorthWestern Energy	General	$ 26.86	0720818-4
10/18/2021	847014	NorthWestern Energy	General	$ 544.02	0720821-8
10/18/2021	847014	NorthWestern Energy	Library	$ 7,401.08	3039007-4 Library electricity September 2021
10/18/2021	847014	NorthWestern Energy	Park Dist 1	$ 711.93	0722287-0
10/18/2021	847014	NorthWestern Energy	Park Dist 1	$ 793.99	0723045-1
10/18/2021	847014	NorthWestern Energy	Park Dist 1	$ 36.14	0813489-2

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/18/2021	847014	NorthWestern Energy	Park Dist 1	$ 307.88	1191404-1
10/18/2021	847014	NorthWestern Energy	Park Dist 1	$ 9.56	1836666-6
10/18/2021	847014	NorthWestern Energy	Park Dist 1	$ 26.93	1849408-8
10/18/2021	847014	NorthWestern Energy	Park Dist 1	$ 46.45	1904944-4
10/18/2021	847014	NorthWestern Energy	Parks Maint	$ 0.25	1029192-0
10/18/2021	847014	NorthWestern Energy	Parks Maint	$ 1.31	1265177-4
10/18/2021	847014	NorthWestern Energy	Parks Maint	$ 1.20	1948667-9
10/18/2021	847014	NorthWestern Energy	Parks Maint	$ 5.49	2055817-7
10/18/2021	847014	NorthWestern Energy	Public Safety	$ 444.34	0720817-6
10/18/2021	847014	NorthWestern Energy	Public Safety	$ 551.94	0871546-8
10/18/2021	847014	NorthWestern Energy	Street/Traffic	$ 0.34	1740357-7
10/18/2021	847014	NorthWestern Energy	Street/Traffic	$ 0.72	1748896-6
10/18/2021	847014	NorthWestern Energy	Transit	$ 2,305.76	0100473-8. Monad Rd. September 2021
10/18/2021	847014	NorthWestern Energy	Transit	$ 243.44	0719225-5
10/18/2021	847014	NorthWestern Energy	Wastewater	$ 60,970.04	0100591-7
10/18/2021	847014	NorthWestern Energy	Water	$ 13,251.36	0722264-9
10/18/2021	847014	NorthWestern Energy	Water	$ 10,377.50	0723040-2
10/18/2021	847014	NorthWestern Energy	Water	$ 6.00	0723059-2
10/18/2021	847014	NorthWestern Energy	Water	$ 135.30	1142253-2
10/18/2021	847014	NorthWestern Energy	Water	$ 357.85	805 Constitution Ave Sept usage
10/18/2021	847020	Public Utilities	Airport	$ 18,823.70	136516
10/18/2021	847020	Public Utilities	Facilities	$ 539.75	158260
10/18/2021	847020	Public Utilities	Wastewater	$ 9.60	180645
10/18/2021	847021	PW-Administration	Wastewater	$ 570.00	PWU Engineering Permits - Sewer
10/18/2021	847021	PW-Administration	Water	$ 3,200.00	PWU Engineering Permits - Watermain Repair
10/18/2021	847021	PW-Administration	Water	$ 775.00	PWU Engineering Permits - WSRP
10/18/2021	847026	Rexel USA	Wastewater	$ 1,780.86	Buttons
10/18/2021	847026	Rexel USA	Wastewater	$ 543.73	Cords and shop supplies
10/18/2021	847026	Rexel USA	Wastewater	$ 219.98	Fuse
10/18/2021	847026	Rexel USA	Wastewater	$ 585.22	Fuses
10/18/2021	847026	Rexel USA	Wastewater	$ 981.94	wire and fuses
10/18/2021	847026	Rexel USA	Water	$ (90.63)	LIGHT FOR CHAPPLE RETURN
10/18/2021	847029	Riverside Contracting	Arterial Streets	$ 58,898.35	Wicks Lane Improvements
10/18/2021	847029	Riverside Contracting	Gas Tax	$ 189,921.00	Wicks Lane Improvements

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/18/2021	847029	Riverside Contracting	Gas Tax	$ 42,607.47	WO20-02 MISSING SIDEWALK/MISCELLANEOUS
10/18/2021	847029	Riverside Contracting	Sidewalk Const	$ 152,673.37	Wicks Lane Improvements
10/18/2021	847029	Riverside Contracting	Sidewalk Const	$ 24,605.40	WO20-02 MISSING SIDEWALK/MISCELLANEOUS
10/18/2021	847031	Sanderson Stewart	Arterial Streets	$ 5,000.50	WO 0912 Inner Belt Loop
10/18/2021	847031	Sanderson Stewart	Water	$ 48,299.00	WO 20-30 Hallowell Lane Improvement
10/18/2021	847033	Selbys	Building	$ 792.00	Qty.8 Bluebeam renewals -Building Inspectors
10/18/2021	847033	Selbys	Engineering	$ 594.00	Qty.6 Bluebeam renewals -Engineering
10/18/2021	847033	Selbys	General	$ 198.00	Qty.2 Bluebeam renewal -Code Enf. Adams, Salzman
10/18/2021	847033	Selbys	IT Resources	$ 99.00	Qty. 3 Blluebeam renewal -IT. Jeff, Michelle, Damon
10/18/2021	847033	Selbys	IT Resources	$ 198.00	Qty. 3 Blluebeam renewal -IT. Jeff, Michelle, Damon
10/18/2021	847033	Selbys	Phone System	$ 594.00	Spare Licenses
10/18/2021	847033	Selbys	Planning	$ 1,089.00	Qty. 11 Bluebeam renewals
10/18/2021	847033	Selbys	Public Safety	$ 297.00	Qty. 3 Bluebeam renewals -Fire. Tatum, Fender, Spini
10/18/2021	847033	Selbys	Wastewater	$ 297.00	Qty. 3 Environmental Affairs -Spare, Moore, Pague
10/18/2021	847038	St V's Occupational	Airport	$ 285.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	City Ins Fund	$ 1,305.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	City Ins Fund	$ 720.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	General	$ 2,130.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	Park Dist 1	$ 45.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	Parking	$ 50.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	Public Safety	$ 40.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	Public Safety	$ 50.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	Solid Waste	$ 190.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	Solid Waste	$ 190.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	Street/Traffic	$ 550.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	Transit	$ 190.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	Transit	$ 95.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	Wastewater	$ 470.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847038	St V's Occupational	Water	$ 60.00	Drug testing, On-Site Nursing, COVID 19, DOT physicals,
10/18/2021	847043	TNT Springs	Fleet	$ 725.71	205145 PO NUM 313318
10/18/2021	847043	TNT Springs	Fleet	$ 2,367.45	205190 PO NUM 313318
10/18/2021	847043	TNT Springs	Solid Waste	$ 236.85	205247
10/18/2021	847045	Town & Country Supply	Fleet	$ 19,947.20	420311 PO NUM 313319
10/18/2021	847045	Town & Country Supply	Fleet	$ 20,679.71	421976 PO NUM 313323

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/18/2021	847045	Town & Country Supply	Public Safety	$ 866.46	422018 FIRE 1 - DIESEL
10/18/2021	847045	Town & Country Supply	Public Safety	$ 718.28	422018 FIRE 1 - UNLEADED
10/18/2021	847045	Town & Country Supply	Public Safety	$ 722.05	422019 FIRE 5 - DIESEL
10/18/2021	847045	Town & Country Supply	Public Safety	$ 359.14	422019 FIRE 5 - UNLEADED
10/18/2021	847045	Town & Country Supply	Public Safety	$ 750.93	42206 FIRE 6: DIESEL FUEL #2 DYED
10/18/2021	847045	Town & Country Supply	Water	$ 404.35	NONSTOCKING ITEMS-P.U.D.
10/18/2021	847051	Verizon Wireless	Airport	$ 51.70	Airport
10/18/2021	847051	Verizon Wireless	Engineering	$ 136.60	PW-Engineering
10/18/2021	847051	Verizon Wireless	General	$ 99.02	City Administrator
10/18/2021	847051	Verizon Wireless	Parking	$ 27.32	Parking 406-690-5822
10/18/2021	847051	Verizon Wireless	PD Program	$ 406.10	CCSIU Cell/PTT
10/18/2021	847051	Verizon Wireless	PD Program	$ 54.64	CCSIU MDT
10/18/2021	847051	Verizon Wireless	PD Program	$ 80.02	CCSIU RAVEN
10/18/2021	847051	Verizon Wireless	Public Safety	$ 440.17	MDT Toughbooks
10/18/2021	847051	Verizon Wireless	Public Safety	$ 41.61	Police
10/18/2021	847051	Verizon Wireless	Public Safety	$ 80.02	Police iPads
10/18/2021	847051	Verizon Wireless	Public Safety	$ 40.01	Police MiFi 406-633-0820 406-598-6294
10/18/2021	847051	Verizon Wireless	Solid Waste	$ 27.32	PW Dozer Trimble Dozer
10/18/2021	847051	Verizon Wireless	Solid Waste	$ 109.28	PW-Solid Waste
10/18/2021	847051	Verizon Wireless	Solid Waste	$ 259.21	PW-SW-ON CALL Solid Waste On Call
10/18/2021	847051	Verizon Wireless	Solid Waste	$ 479.90	Solid Waste Tablets -Routware
10/18/2021	847051	Verizon Wireless	Street/Traffic	$ 163.92	PW-Streets City Works
10/18/2021	847051	Verizon Wireless	Street/Traffic	$ 81.96	PW-Streets iPads
10/18/2021	847051	Verizon Wireless	Transit	$ 309.02	MET AVL
10/18/2021	847051	Verizon Wireless	Wastewater	$ -	PW Environmental iPads
10/18/2021	847051	Verizon Wireless	Wastewater	$ -	PW-DIS-COLL Cityworks 60/40
10/18/2021	847051	Verizon Wireless	Wastewater	$ 32.78	PW-Distribution Collection Tablets 60/40
10/18/2021	847051	Verizon Wireless	Water	$ 27.32	PW Belknap Meter Shop
10/18/2021	847051	Verizon Wireless	Water	$ 90.06	PW Environmental iPads
10/18/2021	847051	Verizon Wireless	Water	$ 27.32	PWBLKNP Water Treatment
10/18/2021	847051	Verizon Wireless	Water	$ 54.64	PWBLNP Comm-Meter CityWorks/Neptune
10/18/2021	847051	Verizon Wireless	Water	$ 49.18	PW-Distribution Collection Tablets 60/40
10/18/2021	847057	Wilbur Ellis Co	Park Dist 1	$ 1,280.00	amend fertilizer - 14608091
10/18/2021	847057	Wilbur Ellis Co	Park Dist 1	$ 2,560.00	amend winterizer-14606739

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/18/2021	847058	Yellowstone Electric Co	Airport	$ 11,073.87	Access Control and CCTV Systems - Eligible Share
10/18/2021	847058	Yellowstone Electric Co	Airport	$ 936.83	Access Control and CCTV Systems - Ineligible Share
10/18/2021	847060	ZetX, Inc	Public Safety	$ 2,860.00	Subscription for 11/1/21-10/31/22. MT21.0560100.

City Council Regular

Date:	11/22/2021
Title:	Payment of Claims for week of October 25, 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 $3,127,474.68 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 is 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 10252021

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847061	360 Office	Wastewater	$ 692.46	Mail sorter
10/25/2021	847061	360 Office	Water	$ 2,077.40	Mail sorter
10/25/2021	847062	A & I Distributors	Fleet	$ 614.57	3687973
10/25/2021	847062	A & I Distributors	Fleet	$ 478.89	3681625 PO NUM 312779
10/25/2021	847062	A & I Distributors	Fleet	$ 2,058.24	3683090 PO NUM 312779
10/25/2021	847062	A & I Distributors	Fleet	$ 1,588.13	3684547 PO NUM 312779
10/25/2021	847062	A & I Distributors	Fleet	$ 348.17	3684696 PO NUM 312779
10/25/2021	847062	A & I Distributors	Fleet	$ 1,854.60	3690332 PO NUM 312779
10/25/2021	847062	A & I Distributors	Fleet	$ 139.22	3693442 PO NUM 312779
10/25/2021	847062	A & I Distributors	Fleet	$ 135.90	3693442 PO NUM 312779
10/25/2021	847062	A & I Distributors	Fleet	$ 3,572.80	3698780 PO NUM 312779
10/25/2021	847062	A & I Distributors	Public Safety	$ 93.50	FIRE 2: 55 GALLONS DEF DELIVERED
10/25/2021	847062	A & I Distributors	Solid Waste	$ 561.00	330 GAL DEF TOTE.
10/25/2021	847062	A & I Distributors	Solid Waste	$ 561.00	330 gal DEF tote. Collections.
10/25/2021	847062	A & I Distributors	Solid Waste	$ 561.00	330 GAL DEF TOTE. Landfill.
10/25/2021	847062	A & I Distributors	Solid Waste	$ 125.64	6/1 gal windshield wash. Collections.
10/25/2021	847062	A & I Distributors	Solid Waste	$ 257.06	NS Grease Gun Pistol. 10/14 z Citgo Lithoplex CM2. Landfill.
10/25/2021	847062	A & I Distributors	Street/Traffic	$ 36.72	lever pump w/nondrip attachment
10/25/2021	847062	A & I Distributors	Street/Traffic	$ (88.72)	return of pump
10/25/2021	847062	A & I Distributors	Transit	$ 2,244.00	3681467 PO NUM 312779. 1320 Qts. DEF
10/25/2021	847062	A & I Distributors	Transit	$ 1,436.67	3681862 PO NUM 312779. 660 QTS 15W-40
10/25/2021	847062	A & I Distributors	Transit	$ 621.57	3681862. Hydraulic Fluid
10/25/2021	847062	A & I Distributors	Transit	$ 4,459.86	3685428 PO NUM 312779. 660 Qts. 5W40 and 660 Qts. MC 5W-20
10/25/2021	847062	A & I Distributors	Transit	$ (621.57)	3687827. Hydraulic Fluid Return
10/25/2021	847062	A & I Distributors	Water	$ 100.25	WATER PARTS AND SUPPLIES PO NUM 313139
10/25/2021	847062	A & I Distributors	Water	$ 957.78	WATER PARTS AND SUPPLIES PO NUM 313159
10/25/2021	847069	Askin Construction	Storm Sewer	$ 15,156.49	Storm Drain Rehabilitation
10/25/2021	847070	AT & T Corp	Airport	$ 659.26	Airport -
10/25/2021	847070	AT & T Corp	Building	$ 43.06	BUILDING
10/25/2021	847070	AT & T Corp	Building	$ 556.03	PW-Building Cell Phones
10/25/2021	847070	AT & T Corp	Building	$ 361.26	PW-Building Tablets
10/25/2021	847070	AT & T Corp	CDBG	$ 145.50	Comm Dev
10/25/2021	847070	AT & T Corp	Court Grants	$ 211.31	Muni Court DC
10/25/2021	847070	AT & T Corp	Engineering	$ 93.51	Engineering Tablets

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847070	AT & T Corp	Engineering	$ 100.37	PW-Engineering Cell Phones and MiFi
10/25/2021	847070	AT & T Corp	Engineering	$ 118.23	PW-Engineering Cell Phones and MiFi
10/25/2021	847070	AT & T Corp	Facilities	$ 31.59	Facilities BOC Plus 70% of 406-672-3027
10/25/2021	847070	AT & T Corp	Facilities	$ 128.69	Facilities BOC Plus 70% of 406-672-3027
10/25/2021	847070	AT & T Corp	Facilities	$ 13.54	Facilities City Hall Plus 30% of 406-672-3027
10/25/2021	847070	AT & T Corp	Facilities	$ 90.28	Facilities City Hall Plus 30% of 406-672-3027
10/25/2021	847070	AT & T Corp	Facilities	$ 34.84	Facilities iPad
10/25/2021	847070	AT & T Corp	Facilities	$ 90.28	Facilities
10/25/2021	847070	AT & T Corp	General	$ 95.59	City Attorney -Legal
10/25/2021	847070	AT & T Corp	General	$ 314.06	Code Enforcement
10/25/2021	847070	AT & T Corp	General	$ 135.69	Legal Dept -Domestic Violence -Added two lines
10/25/2021	847070	AT & T Corp	General	$ 45.41	Municipal Court
10/25/2021	847070	AT & T Corp	General	$ 121.31	Parks Seasonal and Rec Seasonal
10/25/2021	847070	AT & T Corp	General	$ 321.02	PRPL - Recreation Division
10/25/2021	847070	AT & T Corp	General	$ 139.36	REC Tablets
10/25/2021	847070	AT & T Corp	IT Resources	$ 50.18	IT Department -On call Phone -added hotspot
10/25/2021	847070	AT & T Corp	Library	$ 242.04	Library
10/25/2021	847070	AT & T Corp	Library	$ 107.15	Library Out Reach
10/25/2021	847070	AT & T Corp	P.W. Admin	$ 27.32	PWBLKNP OFFICE -60/40
10/25/2021	847070	AT & T Corp	P.W. Admin	$ 40.97	PWBLKNP OFFICE -60/40
10/25/2021	847070	AT & T Corp	Park Dist 1	$ 636.88	Parks Dept.
10/25/2021	847070	AT & T Corp	Park Dist 1	$ 86.65	Parks Seasonal and Rec Seasonal
10/25/2021	847070	AT & T Corp	Park Dist 1	$ 124.20	PRPL Parks Tablets
10/25/2021	847070	AT & T Corp	Park Dist 1	$ 452.92	PRPL Parks Tablets
10/25/2021	847070	AT & T Corp	Parking	$ 77.63	Parking Division Meter Maintenance
10/25/2021	847070	AT & T Corp	Parking	$ 286.62	Parking Phones
10/25/2021	847070	AT & T Corp	PD Program	$ 80.28	CCSIU Toughbook
10/25/2021	847070	AT & T Corp	PD Program	$ 45.41	Domestic Violence
10/25/2021	847070	AT & T Corp	Phone System	$ 49.68	IT iPads
10/25/2021	847070	AT & T Corp	Phone System	$ 17.33	TeleComm Manager
10/25/2021	847070	AT & T Corp	Phone System	$ 294.31	TeleComm Manager
10/25/2021	847070	AT & T Corp	Planning	$ 62.47	PLANNING
10/25/2021	847070	AT & T Corp	Public Safety	$ 272.50	Animal Control Cell Phones
10/25/2021	847070	AT & T Corp	Public Safety	$ 240.84	Animal Control -MDT

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847070	AT & T Corp	Public Safety	$ 288.17	Comm. Center 9-1-1
10/25/2021	847070	AT & T Corp	Public Safety	$ 40.14	Detective Chartier -Toughbook
10/25/2021	847070	AT & T Corp	Public Safety	$ 1,215.30	Fire Department Cell Phones
10/25/2021	847070	AT & T Corp	Public Safety	$ 487.76	Fire iPads -Inspections and Training
10/25/2021	847070	AT & T Corp	Public Safety	$ 85.55	ICAC
10/25/2021	847070	AT & T Corp	Public Safety	$ 1,238.74	MDT Fire
10/25/2021	847070	AT & T Corp	Public Safety	$ 3,071.56	Police Department Cell Phone
10/25/2021	847070	AT & T Corp	Public Safety	$ 3,692.88	Police MDT Toughbooks and Loaner MDT's
10/25/2021	847070	AT & T Corp	Public Safety	$ 401.40	Police MDT Toughbooks and Loaner MDT's
10/25/2021	847070	AT & T Corp	Public Safety	$ 272.23	Police -Resource Officers
10/25/2021	847070	AT & T Corp	Public Safety	$ 200.70	Yellowstone County Cellular Charges
10/25/2021	847070	AT & T Corp	Solid Waste	$ 45.14	SOLID WASTE SUPERINTENDANT
10/25/2021	847070	AT & T Corp	Street/Traffic	$ 372.55	School Flashers
10/25/2021	847070	AT & T Corp	Street/Traffic	$ 34.84	Street Traffic iPads
10/25/2021	847070	AT & T Corp	Street/Traffic	$ 273.24	Street Traffic iPads
10/25/2021	847070	AT & T Corp	Transit	$ 100.36	MET Supervisor Cell Phones
10/25/2021	847070	AT & T Corp	Transit	$ 10.04	MET Supervisor Cell Phones
10/25/2021	847070	AT & T Corp	Transit	$ 50.18	MET Supervisor Cell Phones
10/25/2021	847070	AT & T Corp	Transit	$ 40.14	MET Supervisor Cell Phones
10/25/2021	847070	AT & T Corp	Transit	$ 100.36	MET Supervisor Cell Phones
10/25/2021	847070	AT & T Corp	Transit	$ 1,003.50	MET Transit Max Transit
10/25/2021	847070	AT & T Corp	Transit	$ 426.44	MET Transit Tablets
10/25/2021	847070	AT & T Corp	Transit	$ 642.24	MET Transit Tablets
10/25/2021	847070	AT & T Corp	Wastewater	$ 180.56	PW Environmental
10/25/2021	847070	AT & T Corp	Wastewater	$ 283.65	PWBELKNAP-DIST COLL CELL PHONES 60/40
10/25/2021	847070	AT & T Corp	Wastewater	$ 474.30	PWBLKNP Electricians -Phones
10/25/2021	847070	AT & T Corp	Wastewater	$ 27.66	PWBLKNP STORES -75/25
10/25/2021	847070	AT & T Corp	Wastewater	$ 859.95	PWBLNP-WWTRMNT1 Wastewater Treatment Plant
10/25/2021	847070	AT & T Corp	Wastewater	$ 363.13	PW-Distribution Collection Tablets 60/40
10/25/2021	847070	AT & T Corp	Water	$ 425.47	PWBELKNAP-DIST COLL CELL PHONES 60/40
10/25/2021	847070	AT & T Corp	Water	$ 1,044.06	PWBELKNAP-WT Water Treatment
10/25/2021	847070	AT & T Corp	Water	$ 609.89	PWBLKNP COMM-METER CityWorks/Neptune
10/25/2021	847070	AT & T Corp	Water	$ 124.20	PWBLKNP MTRSHOP CELL PHONE AND IPADS
10/25/2021	847070	AT & T Corp	Water	$ 213.37	PWBLKNP MTRSHOP CELL PHONE AND IPADS

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847070	AT & T Corp	Water	$ 24.84	PWBLKNP MTRSHOP CELL PHONE AND IPADS
10/25/2021	847070	AT & T Corp	Water	$ 82.61	PWBLKNP STORES -75/25
10/25/2021	847070	AT & T Corp	Water	$ 544.70	PW-Distribution Collection Tablets 60/40
10/25/2021	847073	Beartooth Enviro	Solid Waste	$ 1,858.64	Aerosol paint cans. Transportation.
10/25/2021	847073	Beartooth Enviro	Solid Waste	$ 4,970.08	Delivered 55 gal steel open top shipping containers.
10/25/2021	847073	Beartooth Enviro	Solid Waste	$ 4,799.00	Paint and related bulk waste.
10/25/2021	847079	Border States	Street/Traffic	$ 329.50	922918442 PO NUM 313272
10/25/2021	847079	Border States	Wastewater	$ 605.53	Card for Digester
10/25/2021	847079	Border States	Wastewater	$ 890.00	Centrifuge and PLC work
10/25/2021	847079	Border States	Wastewater	$ 274.00	Cord connector
10/25/2021	847079	Border States	Wastewater	$ 193.41	FR Shirts
10/25/2021	847079	Border States	Wastewater	$ 168.30	Insulating putty
10/25/2021	847079	Border States	Wastewater	$ 24.12	Relay
10/25/2021	847079	Border States	Wastewater	$ 289.50	Splicing tape
10/25/2021	847079	Border States	Wastewater	$ 437.40	Splicing Tape
10/25/2021	847079	Border States	Wastewater	$ 407.11	Splicing tape
10/25/2021	847079	Border States	Wastewater	$ 1,423.80	Splicing tape for ABB work
10/25/2021	847079	Border States	Wastewater	$ 17.01	Tools
10/25/2021	847079	Border States	Wastewater	$ 150.75	Tools and supplies
10/25/2021	847079	Border States	Water	$ 574.50	4000K LED (BALLAST OR NO BALLAST) LIGHTS.
10/25/2021	847079	Border States	Water	$ 287.25	4000K LED (BALLAST OR NO BALLAST) LIGHTS.
10/25/2021	847079	Border States	Water	$ 277.24	Control panel
10/25/2021	847079	Border States	Water	$ 236.61	Fittings
10/25/2021	847079	Border States	Water	$ 193.41	FR Shirts
10/25/2021	847079	Border States	Water	$ 724.99	Fuses and bushings
10/25/2021	847079	Border States	Water	$ 448.15	Hardware
10/25/2021	847079	Border States	Water	$ 5,763.81	High service processor
10/25/2021	847079	Border States	Water	$ 75.04	Insulation for L structure
10/25/2021	847079	Border States	Water	$ 41.98	Plug for pump #5
10/25/2021	847079	Border States	Water	$ 64.47	Sample pump L structure
10/25/2021	847079	Border States	Water	$ 29.01	Thin client equipment
10/25/2021	847079	Border States	Water	$ 17.01	Tools
10/25/2021	847079	Border States	Water	$ 150.75	Tools and supplies
10/25/2021	847079	Border States	Water	$ 586.40	Wire/Cable

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847079	Border States	Water	$ 228.72	Wiring
10/25/2021	847081	Business Tax Section	Arterial Streets	$ 3,681.72	S 32nd Street W
10/25/2021	847081	Business Tax Section	Gas Tax	$ 1,371.50	WO 20-28 Songbird Drive Construction
10/25/2021	847081	Business Tax Section	Park Dist 1	$ 2,528.80	Poly vista improvement-Weave Construction (1% tax)
10/25/2021	847081	Business Tax Section	Sidewalk Const	$ 1,410.60	S 32nd Street W
10/25/2021	847081	Business Tax Section	Sidewalk Const	$ 3.18	WO 20-28 Songbird Drive Construction
10/25/2021	847081	Business Tax Section	Solid Waste	$ 19.61	Billings Landfill Door Access Control System
10/25/2021	847081	Business Tax Section	Storm Sewer	$ 153.10	Storm Drain Rehabilitation
10/25/2021	847081	Business Tax Section	Tax Incrmnt N27	$ 39.21	WO 20-42 North 29th & 30th Streets Two-Way Conversion
10/25/2021	847081	Business Tax Section	Tax Incrmnt S	$ 5,184.27	Hallowell Lane Improvements
10/25/2021	847081	Business Tax Section	Wastewater	$ 505.76	S 32nd Street W
10/25/2021	847081	Business Tax Section	Wastewater	$ 525.86	WO 20-11 Lake Hills Lift Station Rehabilitation
10/25/2021	847081	Business Tax Section	Water	$ 3,110.01	Hallowell Lane Improvements
10/25/2021	847081	Business Tax Section	Water	$ 702.16	S 32nd Street W
10/25/2021	847081	Business Tax Section	Water	$ 672.51	WO 18-22 Leavens Reservoir Waterline and Improvements
10/25/2021	847084	Carpet One	Water	$ 5,133.00	Replacement carpet tiles and reserve stock
10/25/2021	847090	Combustion Tech	Transit	$ 166.20	Invoice #2021-0642. Freight for Fuel Additive
10/25/2021	847090	Combustion Tech	Transit	$ 3,244.00	Invoice #2021-0642. Fuel Additive
10/25/2021	847095	CTC Solutions	Wastewater	$ 45,876.50	WRF 15kV Switchgear Rehab Project
10/25/2021	847103	Ethnoscience	Arterial Streets	$ 4,789.73	Inner belt loop
10/25/2021	847110	Galles Filter Service	Fleet	$ 401.40	P1-07698.01 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Fleet	$ 6.34	P1-08084.01 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Fleet	$ 291.84	P1-08492.01 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Fleet	$ 96.70	P1-08624.01 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Fleet	$ 181.50	P1-08693.01 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Fleet	$ 102.11	P1-08806.01 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Fleet	$ 43.16	P1-08893.01 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Fleet	$ 38.94	P1-09016.01 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Fleet	$ 2.68	P1-09017.01 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Fleet	$ 82.41	P1-09247.01 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Fleet	$ 387.68	P1-09323.01 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Fleet	$ 147.39	T-98414 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Fleet	$ 9.00	T-98747 PO NUM 312782
10/25/2021	847110	Galles Filter Service	Public Safety	$ 78.52	P1-09142.01

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847110	Galles Filter Service	Public Safety	$ 28.28	T-98735
10/25/2021	847110	Galles Filter Service	Solid Waste	$ 312.64	Outer Air Element
10/25/2021	847110	Galles Filter Service	Solid Waste	$ 254.54	Outer Air Elements
10/25/2021	847110	Galles Filter Service	Solid Waste	$ 421.10	Outer Air Elements
10/25/2021	847110	Galles Filter Service	Solid Waste	$ 47.28	P1-09283.01
10/25/2021	847110	Galles Filter Service	Wastewater	$ 11.30	NONSTOCKING ITEMS-P.U.D.
10/25/2021	847110	Galles Filter Service	Wastewater	$ 21.76	NONSTOCKING ITEMS-P.U.D.
10/25/2021	847110	Galles Filter Service	Wastewater	$ 9.28	P1-09106.01
10/25/2021	847110	Galles Filter Service	Wastewater	$ 10.76	T-98731
10/25/2021	847110	Galles Filter Service	Wastewater	$ (10.76)	T-98739
10/25/2021	847110	Galles Filter Service	Water	$ 77.94	NONSTOCKING ITEMS-P.U.D.
10/25/2021	847110	Galles Filter Service	Water	$ 41.13	NONSTOCKING ITEMS-P.U.D.
10/25/2021	847110	Galles Filter Service	Water	$ 32.28	NONSTOCKING ITEMS-P.U.D.
10/25/2021	847114	Hawkins	Water	$ 23,606.20	AQUA HAWK 457 COAGULANT
10/25/2021	847114	Hawkins	Water	$ 23,489.60	AQUA HAWK COAGULANT 457
10/25/2021	847115	HDR	Engineering	$ 2,586.37	WO 20-33 Public Works GIS Services
10/25/2021	847115	HDR	Gas Tax	$ 4,478.14	W.O. 09-12 Inner Belt Loop BUILD Grant NEPA Compliance
10/25/2021	847115	HDR	Gas Tax	$ 3,310.06	W.O. 09-12 Inner Belt Loop BUILD Grant NEPA Compliance
10/25/2021	847115	HDR	Light Maint	$ 517.27	WO 20-33 Public Works GIS Services
10/25/2021	847115	HDR	P.W. Admin	$ 4,655.46	WO 20-33 Public Works GIS Services
10/25/2021	847115	HDR	Solid Waste	$ 2,069.09	WO 20-33 Public Works GIS Services
10/25/2021	847115	HDR	Storm Sewer	$ 6,207.29	WO 20-33 Public Works GIS Services
10/25/2021	847115	HDR	Street/Traffic	$ 5,690.01	WO 20-33 Public Works GIS Services
10/25/2021	847115	HDR	Wastewater	$ 2,561.35	WO 20-11 Lloyd Mangrum & Lake Hills Lift Station Rehab
10/25/2021	847115	HDR	Wastewater	$ 7,241.83	WO 20-33 Public Works GIS Services
10/25/2021	847115	HDR	Water	$ 22,760.03	WO 20-33 Public Works GIS Services
10/25/2021	847117	High Point Network	IT Resources	$ (218.75)	Credit Memo Block of Hours
10/25/2021	847117	High Point Network	IT Resources	$ 5,700.00	Tier 2 Block of hours
10/25/2021	847117	High Point Network	Phone System	$ (328.02)	Credit Memo Block of Hours
10/25/2021	847120	Iaff	Payroll Clearing	$ 4,975.04	Payroll Summary
10/25/2021	847124	Ingram Library Service	Library	$ 29.99	55128249
10/25/2021	847124	Ingram Library Service	Library	$ 9.57	55128249
10/25/2021	847124	Ingram Library Service	Library	$ 27.55	55128250
10/25/2021	847124	Ingram Library Service	Library	$ 36.75	55128250

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847124	Ingram Library Service	Library	$ 22.95	55128251
10/25/2021	847124	Ingram Library Service	Library	$ 150.78	55128251
10/25/2021	847124	Ingram Library Service	Library	$ 92.62	55128251
10/25/2021	847124	Ingram Library Service	Library	$ 169.08	55128251
10/25/2021	847124	Ingram Library Service	Library	$ 24.74	55128252
10/25/2021	847124	Ingram Library Service	Library	$ 43.75	55128252
10/25/2021	847124	Ingram Library Service	Library	$ 69.17	55128252
10/25/2021	847124	Ingram Library Service	Library	$ 26.67	55128252
10/25/2021	847124	Ingram Library Service	Library	$ 187.15	55128252
10/25/2021	847124	Ingram Library Service	Library	$ 46.46	55128252
10/25/2021	847124	Ingram Library Service	Library	$ 38.94	55128253
10/25/2021	847124	Ingram Library Service	Library	$ 45.00	55128254
10/25/2021	847124	Ingram Library Service	Library	$ 31.83	55231659
10/25/2021	847124	Ingram Library Service	Library	$ 10.61	55231660
10/25/2021	847124	Ingram Library Service	Library	$ 83.02	55231661
10/25/2021	847124	Ingram Library Service	Library	$ 10.02	55231662
10/25/2021	847124	Ingram Library Service	Library	$ 11.99	55231662
10/25/2021	847124	Ingram Library Service	Library	$ 70.29	55231663
10/25/2021	847124	Ingram Library Service	Library	$ 19.16	55231663
10/25/2021	847124	Ingram Library Service	Library	$ 10.61	55231663
10/25/2021	847124	Ingram Library Service	Library	$ 17.10	55231664
10/25/2021	847124	Ingram Library Service	Library	$ 8.99	55231664
10/25/2021	847124	Ingram Library Service	Library	$ 17.10	55231665
10/25/2021	847124	Ingram Library Service	Library	$ 237.58	55231665
10/25/2021	847124	Ingram Library Service	Library	$ 97.05	55231666
10/25/2021	847124	Ingram Library Service	Library	$ 42.42	55231667
10/25/2021	847124	Ingram Library Service	Library	$ 16.51	55231667
10/25/2021	847124	Ingram Library Service	Library	$ 42.63	55231667
10/25/2021	847124	Ingram Library Service	Library	$ 10.20	55231668
10/25/2021	847124	Ingram Library Service	Library	$ 12.97	55231668
10/25/2021	847124	Ingram Library Service	Library	$ 31.26	55231668
10/25/2021	847124	Ingram Library Service	Library	$ 150.45	55231669
10/25/2021	847124	Ingram Library Service	Library	$ 22.00	55231669
10/25/2021	847124	Ingram Library Service	Library	$ 167.80	55231669

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847124	Ingram Library Service	Library	$ 269.14	55231669
10/25/2021	847124	Ingram Library Service	Library	$ 536.78	55231669
10/25/2021	847124	Ingram Library Service	Library	$ 666.04	55231669
10/25/2021	847124	Ingram Library Service	Library	$ 37.29	55231670
10/25/2021	847124	Ingram Library Service	Library	$ 15.92	55231671
10/25/2021	847124	Ingram Library Service	Library	$ 10.61	55231672
10/25/2021	847124	Ingram Library Service	Library	$ 13.19	55231672
10/25/2021	847124	Ingram Library Service	Library	$ 32.98	55231673
10/25/2021	847124	Ingram Library Service	Library	$ 13.56	55231673
10/25/2021	847124	Ingram Library Service	Library	$ 13.20	55249907
10/25/2021	847124	Ingram Library Service	Library	$ 10.61	55276986
10/25/2021	847124	Ingram Library Service	Library	$ 16.49	55276987
10/25/2021	847124	Ingram Library Service	Library	$ 18.60	55276988
10/25/2021	847124	Ingram Library Service	Library	$ 32.44	55276989
10/25/2021	847124	Ingram Library Service	Library	$ 17.67	55276989
10/25/2021	847124	Ingram Library Service	Library	$ 7.08	55276990
10/25/2021	847124	Ingram Library Service	Library	$ 17.10	55276991
10/25/2021	847124	Ingram Library Service	Library	$ 16.52	55276991
10/25/2021	847124	Ingram Library Service	Library	$ 48.93	55276992
10/25/2021	847124	Ingram Library Service	Library	$ 182.08	55276993
10/25/2021	847124	Ingram Library Service	Library	$ 35.40	55276994
10/25/2021	847124	Ingram Library Service	Library	$ 7.79	55276995
10/25/2021	847130	Junior Library Guild	Library	$ 8,537.10	583553 Children's annual order
10/25/2021	847131	Kadrmas Lee & Jackson	Arterial Streets	$ 3,789.50	WO 20-15 Wicks Lane Improvements Project
10/25/2021	847131	Kadrmas Lee & Jackson	Arterial Streets	$ 13,558.00	WO 20-15 Wicks Lane Improvements Project
10/25/2021	847137	KLE Construction	Tax Incrmnt S	$ 513,243.13	Hallowell Lane Improvements
10/25/2021	847137	KLE Construction	Water	$ 307,890.99	Hallowell Lane Improvements
10/25/2021	847235	Knife River	Arterial Streets	$ 364,491.13	S 32nd Street W
10/25/2021	847235	Knife River	Gas Tax	$ 135,778.29	WO 20-28 Songbird Drive Construction
10/25/2021	847235	Knife River	Sidewalk Const	$ 139,649.27	S 32nd Street W
10/25/2021	847235	Knife River	Sidewalk Const	$ 315.03	WO 20-28 Songbird Drive Construction
10/25/2021	847235	Knife River	Street/Traffic	$ 1,674.54	asphalt
10/25/2021	847235	Knife River	Street/Traffic	$ 6,044.76	asphalt
10/25/2021	847235	Knife River	Street/Traffic	$ 16,042.65	asphalt

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847235	Knife River	Street/Traffic	$ 1,595.43	asphalt
10/25/2021	847235	Knife River	Street/Traffic	$ 264.06	asphalt
10/25/2021	847235	Knife River	Street/Traffic	$ 344.28	asphalt
10/25/2021	847235	Knife River	Street/Traffic	$ 313.20	asphalt
10/25/2021	847235	Knife River	Street/Traffic	$ 1,318.98	1 1/2" crushed base
10/25/2021	847235	Knife River	Wastewater	$ 141.93	Bedding Rock
10/25/2021	847235	Knife River	Wastewater	$ 50,069.96	S 32nd Street W
10/25/2021	847235	Knife River	Water	$ 212.90	Bedding Rock
10/25/2021	847235	Knife River	Water	$ 69,513.35	S 32nd Street W
10/25/2021	847238	L N Curtis & Sons	Public Safety	$ 12,699.00	HURST E-DRAULIC TOOL SPREADER
10/25/2021	847238	L N Curtis & Sons	Public Safety	$ 12,042.00	HURST E-DRAULIC TOOL CUTTER
10/25/2021	847238	L N Curtis & Sons	Public Safety	$ 9,342.00	HURST E-DRAULIC TOOL RAM
10/25/2021	847238	L N Curtis & Sons	Public Safety	$ 660.90	SHIPPING - E-DRAULIC HURST TOOL
10/25/2021	847253	MFPE	Payroll Clearing	$ 2,762.50	Payroll Summary
10/25/2021	847249	Montana CSED	Payroll Clearing	$ 3,481.93	Payroll Summary
10/25/2021	847254	Montana Lines	Tax Incrmnt N27	$ 3,882.36	WO 20-42 North 29th & 30th Streets Two-Way Conversion
10/25/2021	847258	Morrison Maierle	Solid Waste	$ 32,372.43	Solid Waste Maintenance & Parking Building
10/25/2021	847258	Morrison Maierle	Wastewater	$ 7,957.00	WO 20-01 Water/Sewer Replacement Project
10/25/2021	847258	Morrison Maierle	Water	$ 69,250.81	WO 21-01 Water/Sewer Replacement Project Pioneer Park
10/25/2021	847259	MPPA	Payroll Clearing	$ 3,835.51	Payroll Summary
10/25/2021	847250	MT Dakota Utilities	Airport	$ 214.81	129 573 1000 1. Mud Wash. October 2021
10/25/2021	847250	MT Dakota Utilities	Airport	$ 27.33	160 723 3573 6. USDA. October 2021
10/25/2021	847250	MT Dakota Utilities	Airport	$ 27.33	185 580 1000 7. TSA. October 2021
10/25/2021	847250	MT Dakota Utilities	Airport	$ 31.40	229 573 1000 0. Detail Bay 1 Hertz. October 2021
10/25/2021	847250	MT Dakota Utilities	Airport	$ 32.90	283116 0655 3. Alpine/Big Sky Ground. October 2020
10/25/2021	847250	MT Dakota Utilities	Airport	$ 240.56	285 580 1000 6
10/25/2021	847250	MT Dakota Utilities	Airport	$ 53.58	295 580 1000 4. Aero Interiors. October 2021
10/25/2021	847250	MT Dakota Utilities	Airport	$ 26.58	329 573 1000 9. Detail Bay 3 Enterprise. October 2021
10/25/2021	847250	MT Dakota Utilities	Airport	$ 31.40	429 573 1000 8. Detail Bay 4. October 2021
10/25/2021	847250	MT Dakota Utilities	Airport	$ 24.97	529 573 1000 7. Detail Bay 5 Thrifty/Dollar. October 2021
10/25/2021	847250	MT Dakota Utilities	Airport	$ 5,078.12	595 580 1000 1
10/25/2021	847250	MT Dakota Utilities	Airport	$ 29.80	629 573 1000 6. Detail Bay 2 National/Alamo. October 2021
10/25/2021	847250	MT Dakota Utilities	Airport	$ 271.94	706 580 1000 7
10/25/2021	847250	MT Dakota Utilities	Airport	$ 21.06	846 093 3091 9. East Rooftops Old Terminal. October 2021

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847250	MT Dakota Utilities	Airport	$ 406.64	889 373 1000 6. Car Wash. October 2021
10/25/2021	847250	MT Dakota Utilities	Engineering	$ 161.06	595 373 1000 1
10/25/2021	847250	MT Dakota Utilities	Facilities	$ 1,219.61	929 780 1000 4
10/25/2021	847250	MT Dakota Utilities	General	$ 69.45	437 780 1000 9
10/25/2021	847250	MT Dakota Utilities	Library	$ 1,772.19	219 924 4851 0
10/25/2021	847250	MT Dakota Utilities	P.W. Admin	$ 40.27	595 373 1000 1
10/25/2021	847250	MT Dakota Utilities	Park Dist 1	$ 41.68	501 473 1000 2
10/25/2021	847250	MT Dakota Utilities	Parking	$ 32.27	303 725 2591 2
10/25/2021	847250	MT Dakota Utilities	Parking	$ 23.49	717 353 1000 6
10/25/2021	847250	MT Dakota Utilities	Parking	$ 36.28	799 152 1209 0
10/25/2021	847250	MT Dakota Utilities	Public Safety	$ 985.54	169 233 1000 3
10/25/2021	847250	MT Dakota Utilities	Public Safety	$ 67.62	514 117 0478 9
10/25/2021	847250	MT Dakota Utilities	Public Safety	$ 144.76	533 653 1000 1
10/25/2021	847250	MT Dakota Utilities	Public Safety	$ 67.55	602 589 7178 1
10/25/2021	847250	MT Dakota Utilities	Public Safety	$ 93.42	668 670 1000 2
10/25/2021	847250	MT Dakota Utilities	Public Safety	$ 172.61	885 880 1000 4
10/25/2021	847250	MT Dakota Utilities	Transit	$ 1,017.42	962 880 1000 0
10/25/2021	847250	MT Dakota Utilities	Wastewater	$ 1,889.38	293 780 1000 2
10/25/2021	847250	MT Dakota Utilities	Wastewater	$ 3,778.77	293 780 1000 2
10/25/2021	847250	MT Dakota Utilities	Wastewater	$ 1,889.38	293 780 1000 2
10/25/2021	847250	MT Dakota Utilities	Wastewater	$ 66.69	596 733 1000 5
10/25/2021	847250	MT Dakota Utilities	Wastewater	$ 65.96	713 064 3190 0
10/25/2021	847250	MT Dakota Utilities	Wastewater	$ 69.82	735 453 1000 2
10/25/2021	847250	MT Dakota Utilities	Wastewater	$ 67.60	843 879 2205 1
10/25/2021	847250	MT Dakota Utilities	Water	$ 69.14	076 225 9180 3
10/25/2021	847250	MT Dakota Utilities	Water	$ 12.91	373 580 1000 9
10/25/2021	847250	MT Dakota Utilities	Water	$ 12.92	373 580 1000 9
10/25/2021	847250	MT Dakota Utilities	Water	$ 24.23	541 380 1000 1
10/25/2021	847250	MT Dakota Utilities	Water	$ 65.96	921 580 1000 6
10/25/2021	847256	MT State Firemen	Payroll Clearing	$ 4,452.36	Payroll Summary
10/25/2021	847257	MT Violent Crime Investigation	Public Safety	$ 4,000.00	To pay MVCIA Conference fees.
10/25/2021	847265	NorMont Equipment	Street/Traffic	$ 3,147.50	gutter/broom wires
10/25/2021	847265	NorMont Equipment	Street/Traffic	$ 4,104.25	telspar for signs
10/25/2021	847265	NorMont Equipment	Street/Traffic	$ 1,642.00	telspar for signs

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847267	Northwest Pipe Fittings	Wastewater	$ 89.12	Flange
10/25/2021	847267	Northwest Pipe Fittings	Wastewater	$ (107.11)	Primer and Flange
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 68.20	1 1/2 TD T 10 TOP GASKET - FOR CASE N0-9083-001
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 991.44	1 1/2" TD T-10 MEASURING CHAMBER COMPLETE
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 18.88	1-1/2 PVC SCH 80 SXS 90 - ELBOW (806015)
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 5,087.84	1-1/2" FLG ECODER WALL METER CUFT (202NS08299)
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 1,659.20	3/4" CURB VALVE - COMPRESSION-MINNEAPOLIS
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 22,041.18	3/4" E-CODER WALL CU/FT METER
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 15.98	5/8 X 3/4 LINER GASKET
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 21.00	5/8" CHAMBER O-RINGS
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 14,994.00	5/8" E-CODER WALL CU.FT.
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 56.80	8" TYTON PUSH-ON GASKET
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 50.00	BLACK NIPPLE 1-1/4" X 3"
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 87.48	BLACK NIPPLE 1-1/4" X 8"
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 39.12	Elbow s#18162
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 933.17	L Structure plumbing
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 433.74	L structure sample pump parts
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 95.00	METER SEAL PINS 9106-001
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 714.25	Meter testing coder
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 23,800.00	R-900 ENHANCED WALL RR - MIU 13341-200 (RF'S) (2030905)
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 23,800.00	R-900 ENHANCED WALL RR - MIU 13341-200 (RF'S) (2030905)
10/25/2021	847267	Northwest Pipe Fittings	Water	$ (44.49)	RETURN PARTS
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 180.03	S#18162 Adapters and liners
10/25/2021	847267	Northwest Pipe Fittings	Water	$ 120.00	Throttle valve
10/25/2021	847268	NorthWestern Energy	Airport	$ 2,714.96	0100483-7. Runway Lights. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 598.56	0100484-5. ARFF Facility. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 30.92	1138926-9. Aero Interiors. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 70.50	1647695-7. De Icer. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 984.82	1669567-8. TSA. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 1,875.51	1993430-6. Car Wash. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 289.98	2001846-1. Mud Wash. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 321.40	2001848-7. Detail Bay 1 Hertz. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 331.62	2001855-2. Detail Bay 2 National/Alamo. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 41.15	2001862-8. Detail Bay 3 Enterprise. October 2021

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847268	NorthWestern Energy	Airport	$ 225.12	2001865-1. Detail Bay 4 Avis/Budget. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 43.33	2001867-7. Detail Bay 5 Thrifty/Dollar. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 69.05	3085107-5. Employee Parking. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 321.22	3446396-8. USDA. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 1,043.62	3477231-9. Parking Zone. October 2021
10/25/2021	847268	NorthWestern Energy	Airport	$ 25.62	3733186-5. Airport Storage. October 2021
10/25/2021	847268	NorthWestern Energy	Facilities	$ 1,707.22	0975808-7
10/25/2021	847268	NorthWestern Energy	Facilities	$ 857.01	1160802-3
10/25/2021	847268	NorthWestern Energy	Facilities	$ 1,420.88	1160804-9
10/25/2021	847268	NorthWestern Energy	Facilities	$ 2,739.28	1269391-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,078.96	SILMD 10 Acct# 0712546-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 2,011.73	SILMD 100 Acct# 0712559-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,710.80	SILMD 107 Acct# 0712560-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 4,290.60	SILMD 109 Acct# 0712561-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 197.67	SILMD 113 Acct# 0712562-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 923.31	SILMD 114 Acct# 0712563-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 217.25	SILMD 115 Acct# 0712564-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 570.26	SILMD 116 Acct# 0712565-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 3,101.34	SILMD 117 Acct# 0712566-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 198.46	SILMD 118 Acct# 0712567-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 120.69	SILMD 119 Acct# 0712568-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 2,444.01	SILMD 121 Acct# 0712570-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 183.17	SILMD 122 Acct# 0712571-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 325.86	SILMD 123 Acct# 0712572-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 950.45	SILMD 124 Acct# 0712573-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 380.16	SILMD 125 Acct# 0712574-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 190.09	SILMD 126 Acct# 0712575-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 686.86	SILMD 127 Acct# 0712576-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 480.80	SILMD 128 Acct# 0712577-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 325.86	SILMD 129 Acct# 0712578-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 4,558.84	SILMD 13 Acct# 0721276-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 116.31	SILMD 130 Acct# 0712579-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 841.83	SILMD 131 Acct# 0712580-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 215.99	SILMD 133 Acct# 0712581-8

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 498.45	SILMD 134 Acct# 0712582-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 503.70	SILMD 135 Acct# 0712583-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 461.64	SILMD 136 Acct# 0712584-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 360.78	SILMD 137 Acct# 0712585-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 733.21	SILMD 138 Acct# 0712586-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 244.41	SILMD 139 Acct# 0712587-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 2,211.31	SILMD 14 Acct# 0721277-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 570.26	SILMD 143 Acct# 0712588-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 27.12	SILMD 144 Acct# 0712589-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 457.91	SILMD 145 Acct# 0712590-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 353.01	SILMD 146 Acct# 0712591-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 428.03	SILMD 147 Acct# 0712592-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,507.89	SILMD 149 Acct# 0712593-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 732.66	SILMD 150 Acct# 0712594-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 624.56	SILMD 151 Acct# 0712595-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 4,214.83	SILMD 152 Acct# 0712596-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 526.58	SILMD 153 Acct# 0712597-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,190.59	SILMD 154 Acct# 0712598-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 488.80	SILMD 155 Acct# 0712599-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 892.92	SILMD 157 Acct# 0712600-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 787.50	SILMD 158 Acct# 0712601-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 942.95	SILMD 159 Acct# 0712602-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 706.05	SILMD 160 Acct# 0712603-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,030.31	SILMD 161 Acct# 0712604-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 46.03	SILMD 162 Acct# 0712605-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 728.60	SILMD 163 Acct# 0712606-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 366.33	SILMD 164 Acct# 0712607-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 868.98	SILMD 165 Acct# 0712608-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 228.97	SILMD 167 Acct# 0712609-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,125.31	SILMD 17 Acct# 0712553-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 549.50	SILMD 171 Acct# 0712610-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 498.46	SILMD 172 Acct# 0712611-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,144.78	SILMD 173 Acct# 0712612-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 961.61	SILMD 174 Acct# 0712613-9

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 320.52	SILMD 175 Acct# 0712614-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 32.88	SILMD 176 Acct# 0712615-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 251.85	SILMD 178 Acct# 0712616-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 503.70	SILMD 179 Acct# 0712617-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 96.48	SILMD 18 Acct# 0712554-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 343.44	SILMD 180 Acct# 0712618-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,656.50	SILMD 181 Acct# 0712619-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 572.40	SILMD 182 Acct# 0712620-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,144.79	SILMD 183 Acct# 0712621-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 366.33	SILMD 184 Acct# 0712622-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 137.38	SILMD 185 Acct# 0712623-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 666.62	SILMD 186 Acct# 0712624-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 228.97	SILMD 187 Acct# 0712625-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 274.74	SILMD 188 Acct# 0712626-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 228.97	SILMD 189 Acct# 0712627-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,190.59	SILMD 190 Acct# 0712628-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 408.63	SILMD 191 Acct# 0712629-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 297.63	SILMD 192 Acct# 0712630-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 732.66	SILMD 193 Acct# 0712631-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 292.37	SILMD 194 Acct# 0712632-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 233.89	SILMD 195 Acct# 0712633-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 74.75	SILMD 196 Acct# 0712634-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 74.75	SILMD 197 Acct# 0712635-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 114.48	SILMD 198 Acct# 0712636-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 92.65	SILMD 200 Acct# 0712637-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 480.80	SILMD 201 Acct# 0712638-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 620.89	SILMD 202 Acct# 0712639-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 19.94	SILMD 203 Acct# 0712640-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 406.30	SILMD 204 Acct# 0712641-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 26.31	SILMD 205 Acct# 0712642-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 320.52	SILMD 206 Acct# 0712643-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 366.33	SILMD 207 Acct# 0712644-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 239.94	SILMD 208 Acct# 0712645-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 526.58	SILMD 209 Acct# 0712646-9

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 89.71	SILMD 210 Acct# 0712647-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 49.84	SILMD 211 Acct# 0712648-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 49.84	SILMD 212 Acct# 0712649-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 29.91	SILMD 213 Acct# 0712650-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 368.97	SILMD 214 Acct# 0712651-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 137.38	SILMD 216 Acct# 0712652-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 379.71	SILMD 217 Acct# 0712653-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 271.41	SILMD 220 Acct# 0712654-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 6.57	SILMD 221 Acct# 0712655-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 79.01	SILMD 222 Acct# 0712656-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 119.62	SILMD 223 Acct# 0712657-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,391.88	SILMD 224 Acct# 0712658-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 395.07	SILMD 225 Acct# 0712659-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 246.79	SILMD 226 Acct# 0712660-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 637.73	SILMD 227 Acct# 0712661-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 787.50	SILMD 228 Acct# 0712662-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 407.34	SILMD 229 Acct# 0712663-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 950.46	SILMD 230 Acct# 0712664-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 570.26	SILMD 231 Acct# 0712665-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 2,471.16	SILMD 232 Acct# 0712666-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 881.08	SILMD 233 Acct# 0712667-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 493.60	SILMD 234 Acct# 0712668-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 552.10	SILMD 235 Acct# 0712669-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 175.43	SILMD 236 Acct# 0712670-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 389.23	SILMD 237 Acct# 0712671-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 13.14	SILMD 238 Acct# 0712672-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 91.59	SILMD 239 Acct# 0712673-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 421.02	SILMD 240 Acct# 0712674-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 570.21	SILMD 241 Acct# 0712675-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 81.47	SILMD 242 Acct# 0712676-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 108.63	SILMD 244 Acct# 0712677-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 72.17	SILMD 245 Acct# 0712678-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 325.86	SILMD 246 Acct# 0712679-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 957.23	SILMD 247 Acct# 0712680-8

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 2,688.41	SILMD 249 Acct# 0718734-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 210.50	SILMD 250 Acct# 0719001-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 3,805.79	SILMD 251 Acct# 0718801-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 543.11	SILMD 252 Acct# 0719162-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,783.54	SILMD 253 Acct# 0719644-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 158.01	SILMD 254 Acct# 0719763-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 163.02	SILMD 255 Acct# 0720813-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 939.20	SILMD 257 Acct# 0720360-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 2,560.63	SILMD 258 Acct# 0720606-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,453.22	SILMD 259 Acct# 0720810-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 488.80	SILMD 261 Acct# 0720705-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 3,037.09	SILMD 262 Acct# 0720937-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 996.97	SILMD 263 Acct# 0720716-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 172.37	SILMD 264 Acct# 0721427-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 356.67	SILMD 265 Acct# 0721556-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 52.19	SILMD 266 Acct# 0721684-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 459.86	SILMD 270 Acct# 0906944-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 936.75	SILMD 271 Acct# 0995095-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 2,782.69	SILMD 272 Acct# 0905005-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 201.90	SILMD 273 Acct# 0926386-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 501.06	SILMD 276 Acct# 0961926-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 838.31	SILMD 277 Acct# 1058710-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 222.20	SILMD 278 Acct# 1087619-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 58.22	SILMD 279 Acct# 1124127-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 734.03	SILMD 280 Acct# 1045653-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 470.24	SILMD 283 Acct# 1172743-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 320.19	SILMD 285 Acct# 1206985-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 240.24	SILMD 286 Acct# 1296582-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,825.32	SILMD 288 Acct# 1303978-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 234.67	SILMD 289 Acct# 1685375-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 134.07	SILMD 290 Acct# 1433921-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 597.42	SILMD 292 Acct# 1481532-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 228.97	SILMD 293 Acct# 1481534-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 457.91	SILMD 294 Acct# 1481535-1

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 108.63	SILMD 295 Acct# 1481536-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,213.47	SILMD 296 Acct# 1481537-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 206.07	SILMD 297 Acct# 1481539-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 183.17	SILMD 298 Acct# 1481540-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 401.94	SILMD 300 Acct# 1662840-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 5,391.86	SILMD 301 Acct# 1687005-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 262.69	SILMD 302 Acct# 1607534-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 925.88	SILMD 305 Acct# 1695873-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 181.35	SILMD 306 Acct# 1740353-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 2,984.31	SILMD 307 Acct# 2049005-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 266.92	SILMD 308 Acct# 2072459-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 375.58	SILMD 309 Acct# 2001311-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 218.12	SILMD 310 Acct# 2060519-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 282.10	SILMD 311 Acct# 3014475-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 243.20	SILMD 312 Acct# 3146127-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 395.86	SILMD 315 Acct# 3305804-1
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,192.68	SILMD 316 Acct# 3291842-7
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 84.70	SILMD 317 Acct# 3253826-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 800.53	SILMD 318 Acct# 3372018-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 57.52	SILMD 320 Acct# 0712569-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 457.68	SILMD 321 Acct# 3338917-2
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 81.74	SILMD 322 Acct# 3402033-9
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 689.74	SILMD 323 Acct# 3597170-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 307.05	SILMD 324 Acct# 1246537-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 255.01	SILMD 325 Acct# 3587598-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 102.67	SILMD 326 Acct# 3840455-4
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 183.17	SILMD 327 Acct# 3810801-5
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 598.28	SILMD 328 Acct# 3894879-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 375.76	SILMD 8 Acct# 0712544-6
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 349.33	SILMD 9 Acct# 0712545-3
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 508.02	SILMD 95 Acct# 0712556-0
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 9,517.58	SILMD 97 Acct# 0712557-8
10/25/2021	847269	NorthWestern Energy	Light Maint	$ 1,080.86	SILMD 99 Acct# 0712558-6
10/25/2021	847268	NorthWestern Energy	Park Dist 1	$ 366.34	0925496-2

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847268	NorthWestern Energy	Solid Waste	$ 1,619.07	3252194-0
10/25/2021	847269	NorthWestern Energy	Street/Traffic	$ 12,329.57	Signal Bills - Sept
10/25/2021	847268	NorthWestern Energy	Wastewater	$ 1,731.11	0100606-3
10/25/2021	847268	NorthWestern Energy	Wastewater	$ 113.42	389 62nd St Lift Entrance
10/25/2021	847268	NorthWestern Energy	Wastewater	$ 316.47	822 Shiloh Crossing Blvd Lift
10/25/2021	847268	NorthWestern Energy	Water	$ 1,159.27	0100485-2
10/25/2021	847268	NorthWestern Energy	Water	$ 7,405.65	0100540-4
10/25/2021	847268	NorthWestern Energy	Water	$ 131,563.82	0100606-3
10/25/2021	847268	NorthWestern Energy	Water	$ 5,193.30	0100606-3
10/25/2021	847268	NorthWestern Energy	Water	$ 1,185.04	1116452-2
10/25/2021	847268	NorthWestern Energy	Water	$ 655.44	5809 Canyon Woods Dr
10/25/2021	847279	RACOM Corporation	Public Safety	$ 2,895.75	MOTOROLA ADAPTER FOR PORTABLE RADIOS
10/25/2021	847284	Rimrock Foundation	Court Grants	$ 1,710.00	21SeptRimrockAncillaryGroups
10/25/2021	847284	Rimrock Foundation	Court Grants	$ 6,051.66	21SeptRimrockOtherCharges
10/25/2021	847284	Rimrock Foundation	Court Grants	$ 198.92	21SeptRimrockPsychEval
10/25/2021	847284	Rimrock Foundation	Court Grants	$ 1,480.00	21SeptRimrockPsychotherapy
10/25/2021	847284	Rimrock Foundation	Court Grants	$ 300.00	21SeptRimrockScreenings
10/25/2021	847287	Rocky Mt Health Network	City Ins Fund	$ 20,360.00	Biometric Screening September 2021 (509 employees)
10/25/2021	847291	SHI International Corp	General	$ 406.09	Qty. 2 Adobe Acrobat Pro 2020
10/25/2021	847291	SHI International Corp	IT Resources	$ 406.09	Qty. 2 Adobe Acrobat Pro 2020
10/25/2021	847291	SHI International Corp	IT Resources	$ 8,659.20	Qty.200 MS windows server software licenses
10/25/2021	847291	SHI International Corp	Public Safety	$ 406.09	Adobe Acrobat Pro 2020 -Detective Lapham
10/25/2021	847292	Sk Geotechnical Corp	General	$ 3,872.30	WO 21-40 Slope Stabilization Above Park Place
10/25/2021	847304	Terracon Consultants	Gas Tax	$ 13,200.00	Contract No. 1 & 3 Materials Testing
10/25/2021	847304	Terracon Consultants	Gas Tax	$ 556.25	WO-2104, Monad & South 38th W Materials Testing
10/25/2021	847304	Terracon Consultants	Park Dist 1	$ 641.25	Contract No. 1 & 3 Materials Testing
10/25/2021	847304	Terracon Consultants	Sidewalk Const	$ 11,912.50	WO 2015 Wicks Lane
10/25/2021	847304	Terracon Consultants	Sidewalk Const	$ 630.00	WO-2028, Songbird Materials Testing
10/25/2021	847304	Terracon Consultants	Sidewalk Const	$ 1,517.50	WO-2112, Rimrock & Harrow Materials Testing
10/25/2021	847304	Terracon Consultants	Solid Waste	$ 190.00	WO-2023, Pole Barn Container Storage Materials Testing
10/25/2021	847304	Terracon Consultants	Storm Sewer	$ 1,377.50	WO-2118, Cody Drive & Culvert Lane Materials Testing
10/25/2021	847304	Terracon Consultants	Water	$ 95.00	WO-2115, Lead Services Project Lewis Ave. Materials Testing
10/25/2021	847308	Toole Design Group	Planning	$ 27,410.49	SAFE ROUTES TO SCHOOL UPDATE
10/25/2021	847309	Toshiba International	Library	$ 3,800.00	Battery back up for the Library server room

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/25/2021	847309	Toshiba International	Library	$ 100.00	Freight charge
10/25/2021	847310	Toter Incorporated	Solid Waste	$ 36,963.14	90 gal black carts. Collections.
10/25/2021	847311	Town & Country Supply	Airport	$ 25,149.66	Invoice #421736. QTA Car Rental Fuel
10/25/2021	847311	Town & Country Supply	Fleet	$ 28,597.08	421993 PO NUM 313355
10/25/2021	847311	Town & Country Supply	Public Safety	$ 859.73	422286 FIRE 5: BLENDED DIESEL, 138 GAL EACH
10/25/2021	847311	Town & Country Supply	Public Safety	$ 778.74	422287 FIRE 3: BLENDED DIESEL, 125 GALLONS EACH
10/25/2021	847311	Town & Country Supply	Public Safety	$ 1,245.98	422288 FIRE 1: DIESEL
10/25/2021	847311	Town & Country Supply	Public Safety	$ 901.88	422288 FIRE 1: UNLEADED
10/25/2021	847311	Town & Country Supply	Public Safety	$ 4,840.63	422289 FIRE 2: BLENDED DIESEL 777 GALLONS EACH
10/25/2021	847311	Town & Country Supply	Transit	$ 17,781.60	421731 PO NUM 313361. 6000 Gallons Diesel
10/25/2021	847314	TraffiCalm Systems	Street/Traffic	$ 9,902.28	flashing beacon, push button, controller, battery
10/25/2021	847320	USDA APHIS	Airport	$ 4,508.09	Invoice #3004001068. Wildlife Hazard Management
10/25/2021	847322	Warren Transport	Park Dist 1	$ 250,351.20	Poly Vista Park improvement (tax is taken out)
10/25/2021	847323	Western Municipal Const	Wastewater	$ 52,060.79	WO 20-11 Lake Hills Station Rehabilitation
10/25/2021	847323	Western Municipal Const	Water	$ 66,577.49	WO 18-22 Leavens Reservoir Waterline and Improvements, CO 3
10/25/2021	847325	Western States Auto	Wastewater	$ 9,905.30	3-20 Inch Magnetic Flow Meters for WRF

City Council Regular
Date: 11/22/2021
Title: Special Review 992 - 4130 Kari Lane
Presented by: Karen Husman
Department: Planning & Community Services
Presentation: Yes

RECOMMENDATION

The Zoning Commission is recommending conditional approval based on the findings of the nine review criteria (BMCC 27-1623.D).

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

This is a special review request to allow an automobile collision repair center greater than 5,000 square feet in a Corridor Mixed Use 2 (CMU2) zoned district, for a proposed 18,554 square foot building, on Lot 13, Block 1 Montana Sapphire Subdivision, a 2.187-acre parcel of land. Tax ID: C13966. This application also requires a variation from the off-street parking regulations. The parking code requires a minimum of 75 parking spaces for the project size 18,544 square foot building (1 per 250 square feet). The applicant is proposing 82 parking spaces, 12 spaces for daily use and 70 spaces for vehicles under repair.

APPLICATION DATA

OWNER: Montana Sapphire, LLC
AGENT: Matthew K. Rassmussen, P.E. and Nick Fore, Cross Development
LEGAL DESCRIPTION: Lot 13, Block 1 Montana Sapphire Subdivision
ADDRESS: 4130 Kari Lane
CURRENT ZONING: CMU2
EXISTING LAND USE: Vacant
PROPOSED USE: Auto collision repair center
SIZE OF PARCEL: 2.187 acre

CONCURRENT APPLICATIONS

None

APPLICABLE ZONING HISTORY

See attachments

SURROUNDING ZONING & LAND USE

NORTH: Zoning: CMU2
Land Use: vacant
SOUTH: Zoning: NX3
Land Use: Assisted Living Facility
EAST: Zoning: NX3
Land Use: Vacant
WEST: Zoning: CMU2
Land Use: Vacant

The proposed collision repair would fit into this area of mixed commercial development. Development in the area includes an auto dealership at 840 Shiloh Road, Kari Condominiums a commercial condo development at 840 Shiloh Road, Bar/lounge/tavern at 4241 Kari Lane, a bank at 4130 King Ave West, and an assisted living facility to the south at 4215 Montana Sapphire Drive.

STAKEHOLDERS

Applicants for special review approval are now required to conduct a pre-application neighborhood meeting similar to zone change applicants. The pre application meeting was held in virtual meeting format on Thursday, September 16, 2021. No one attended the virtual meeting. No comments were received by the Planning staff after the public hearing notices were mailed, the property was posted, and the legal ad published as required.

The Zoning Commission held its public hearing on Tuesday, November 2, 2021. Staff gave a brief presentation and the applicant's agent concurred with staff's recommendation. Nick Fore, with Cross Development (agent) provided information regarding the business and site plan. He focused on parking, noting that the parking required in Billings was significantly higher than requirements elsewhere in the country. He said with the current site plan, the parking proposed included 20 spaces to be located in front (west side) for customer parking and 10 spaces in the rear (east) for employee parking, the remaining parking is for vehicle storage for customers awaiting work or awaiting pickup. Ultimately, the agent stated he would like to see the required parking spaces reduced even further to allow for 15 customer parking spaces. He also clarified the sight obscuring fence (chain link with slats) will start at the southeast side and wrap all the way around the building. The Zoning Commission did discuss whether to condition a higher standard fence, powder coated or vinyl type fence, especially adjacent to the residential complex, but did not include it in its approved motion. The Board inquired if all work was completed inside and if the building had a heating and cooling system to allow for indoor work on a year-round basis. Nick responded that all vehicle repair work on will be inside the building and the doors will be closed to contain noise and any odor from impacting the adjacent properties. The Commissioners further discussed the type of fencing and the requirements for lighting. Commission Member Dan Brooks said that it appears the applicant has met the requirements for the buffering and this will be enforced with the development of the property.

A motion was made by Commission Member Trina White to forward a recommendation of conditional approval to the City Council based on the determinations by staff, the motion was seconded by Commission Member David Goss, and approved by a 4-0 vote.

ALTERNATIVES

The City Zoning Commission shall make a recommendation to the City Council to:

1. Deny the application for a special review use; or
2. Grant the application for a special review use; or
3. Conditionally grant the application for a special review use; or
4. Delay action on the application for a period not to exceed thirty (30) days.

The Zoning Commission recommendation will be based on the findings of the nine review criteria for special review uses. The Zoning Commission recommendation shall be based on findings of fact for each criterion and shall be transmitted to the applicant or applicant's agent as well as the City Council. The findings of the criteria are in the Summary section below.

FISCAL EFFECTS

Approval or disapproval of the proposed special review use should not have an impact of the Planning Division budget.

SUMMARY

The new zoning code has a variety of considerations and findings before a special review use can be considered acceptable at a particular location. The requirements are set forth in Section 27-1623.D as follows:

1. The special review use is consistent with the City's growth policy and applicable neighborhood plans, if any;
2. The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
3. The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this Zoning Code, including zone district dimensions, landscaping requirements, and parking.
4. The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
5. The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
6. Conditions necessary to protect the public health, safety, and general welfare can be established, including but not limited to conditions on:

(a) Regulation of the use;
(b) Special setbacks, buffers, or screening;
(c) Surfacing of parking areas;
(d) Street, alley, or service road dedications, improvements, or bonds;
(e) Regulation of points of vehicular ingress and egress;
(f) Regulation of signs;
(g) Regulation on the performance of the site, including noise, vibration, and odors;

(h) Regulation of the hours of activities;
(i) Timeframe for development
(j) Duration of use; and
(k) Other relevant conditions that will ensure the orderly development of the site.

7. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets; and
9. The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the city council.

Each decision criteria must be given due consideration and a finding is proposed for each one. Planning staff is including a set of recommended conditions of approval based on the submitted site plan, applicant letter, and findings of the criteria. A significant change from the previous zoning code is that a special review use must not be considered an "allowed" use in the zone district. The proof of compatibility now rests with the applicant instead of the Zoning Commission and City Council.

PROPOSED FINDINGS:

1. The special review use is consistent with the City's growth policy and applicable neighborhood plans, if any.

Applicant: The proposed Caliber Collision use is consistent with the adopted underlying zoning of Corridor Mixed Use-2 (CMU2) and will provide a use type that is compatible with and complementary to surrounding properties. The use is supported given the commercial character of the area and provides a needed service to the community. The intensity/density proposed is consistent with the adopted standards and policies of the City of Billings.

Staff: There are nine Growth Guidelines in the 2016 City of Billings Growth Policy including Essential Investments, Placemaking, Community Fabric, Strong Neighborhoods, Home Base, Mobility & Access and Prosperity. In addition, the West Billings Neighborhood Plan includes goals and policies related to development in this area of Billings including Planned Growth, Appropriate Land Use, Achieving a Distinctive Community Character and Enhancing Public Safety, Open Space, Waterways and Scenic Resources. The 2016 Growth Policy Guidelines support the proposed use in some respects. The West Billings Neighborhood Plan indicates this area as a commercial node.

Community Fabric:
· Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity. Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods.
· Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity.
· Cost-effective landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors.

Planning staff is proposing conditions and enhancement for the street frontage landscaping and requirements to accommodate people who are using alternate modes of travel such as the MET Transit, bicycle or on foot.

Strong Neighborhoods:
· Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction.
· Implementation of the Infill Policy is important to encourage development of underutilized properties.

Development of this parcel promotes infill development. During the pre-application meeting staff recommended the applicant place the building to the front of the property and allow vehicle storage to the rear of the property to allow for aesthetically pleasing area to the front.

Prosperity:
· Successful businesses that provide local jobs benefit the community.
· Retaining and supporting existing businesses helps sustain a healthy economy.

Caliber Collision is the nations largest collision repair company, according to the firm. Founded in 1997 the company continues strong to this day, providing job opportunities and supporting local economy.

Planned Growth, Appropriate Land Use, Achieving a Distinctive Community Character: (West Billings Plan)

· Promote efficient utilization of land within the West Billings planning area by promoting well-designed, more pedestrian friendly, urban development patterns with a mix of uses and an efficient, creative use of land.
· With the intent of preventing strip commercial development, the West Billings planning area should contain commercial nodes of varying sizes located at the intersections of arterial streets.
· Large commercial stand-alone development lacking amenities such as landscaping and varied roof-lines, generally known as "big box," as exists along King Avenue near 24th Street West, is not appropriate to the desired character of West Billings west of or along Shiloh Road.
· Commercial nodes should contain business development sites of various sizes to accommodate a variety of businesses.
· Create identifiable, pedestrian-oriented commercial developments with focal points, opportunities for mixed-use areas that aesthetically combine residential and commercial buildings, residential subdivisions, and park areas that link neighborhoods through a linear open space network, subdivision entryways and special arterial treatments.
· Provide a consistent and abundant network of landscaping along streets and in parking areas by the creation of street tree planting, landscaped streetscapes, and aesthetic site improvement qualities throughout West Billings, and assure there is adequate room for utility placement in the right of way.

The proposed development plan and site development will help achieve some stated goals of the West Billings Plan. The intent is to provide pedestrian access to the site, provide landscaping along the street frontage, a building design that complements the existing area and a safe lighting plan to minimize crimes of opportunity.

2. The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
Applicant: The project site is currently vacant and located within a planned commercial subdivision that is already developed with various complementary commercial uses. Caliber Collision plans to develop the 2.2± acre site with a 18,554± collision repair center. Collision repair services will occur entirely within the enclosed building, ensuring that any noise, odors, etc. are fully contained and mitigated.
Staff: Staff believes the site is safely designed and has recommended conditions to improve the safety features of the site.

3. The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this Zoning Code, including zone district dimensions, landscaping requirements, and parking.
Applicant: As the community continues to grow, demand for services, including the need for collision repair services, has increased. Caliber Collision will serve to fill this void. Prior to entering a new market, Caliber Collision conducts in-depth market research and analysis to evaluate market demand/need, availability of existing services, etc. The Billings site will serve the needs of area residents and will not negatively impact existing service providers in the area based on market demands.
Staff: Staff agrees with the applicant and has recommended conditions that will improve the Kari Lane landscaping, provide a buffer to the development to the south and meet the zoning district requirements.

4. The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
Applicant: Approximately, 23% of the site will be landscaping at the perimeter of the project. This will add aesthetic appeal within the area and create a pleasant street scape along Kari Lane. Outdoor storage areas will be fully screened with privacy fencing and further buffered with perimeter landscape improvements. Parking provided onsite exceeds code requirements and ensures that adequate parking for customers and employees will be provided at all times.
Staff: Diminishment of property value is not likely in this case especially if the applicant adheres to the conditions of approval and maintains the required buffer and screening to the adjacent properties. Repairs will be conducted within structures on site minimizing any noise, light or fumes that would cause substantial noise and disruption to the neighbors. Property values should not substantially diminish from the property use.

5. The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
Applicant: The proposed facility and use will not impede the normal improvement of the surrounding properties. The project site is currently vacant and located within a planned commercial subdivision that is already developed with various complementary commercial uses.
Staff: The development of this parcel should not impede the continued development of this subdivision.

6. Conditions necessary to protect the public health, safety, and general welfare can be established.
Staff recommends the following conditions of approval based on the above findings and the applicant's stated intent. These conditions will be related to the listed categories above, but may include other issues specific to the use for an auto repair business.

PROPOSED CONDITIONS

1. The special review approval is limited to Lot 13, Block 1 Montana Sapphire Subdivision, a 2.187-acre parcel of land. Tax ID: C13966, generally located at 4130 Kari Lane.
2. The special review is for the construction and operation of an automobile collision repair center. No other use is intended or implied.
3. A minimum 6-foot high sight-obscuring fence and landscape buffer shall be placed on the south and east property lines to buffer the adjacent uses.
4. All outdoor lighting shall have a maximum height of 15' and full cutoff shields so no part of the fixture or lens projects below the cut-off shield. This is to attenuate light on the property and shield the neighboring property to the south and east.
5. With the exception of the above conditions, the site shall be developed in substantial conformance with the site plan submitted.
6. The proposed development shall comply with all other limitations of the Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.
7. The applicant will submit a building permit application within 12 months of the City Council approval and complete construction within 3 years of City Council approval.
8. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

7. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
Applicant: The proposed facility will go through a full engineering and permitting review from City of Billings Public Works for site layout and utility conformance to City of Billings Regulations. Construction of the proposed development will meet all City of Billings, Montana DOT, and Montana DEQ rules and regulations to assure technically sound design and construction is implemented to protect the City and neighborhood. The site and building design ensure that proper buffering/screening exists and that all potential noise and odor impacts are fully contained within the building. Caliber Collision will be a positive addition to the community, providing a needed service, new employment opportunities, and positive fiscal impact to the community as a whole.
Staff: Staff concurs with the applicant's statements and positive findings on utilities, access roads, drainage and necessary facilities. There are no site specific conditions that would hamper the applicant's ability to fulfill the local and state regulations for access, utilities, drainage or other necessary facilities.

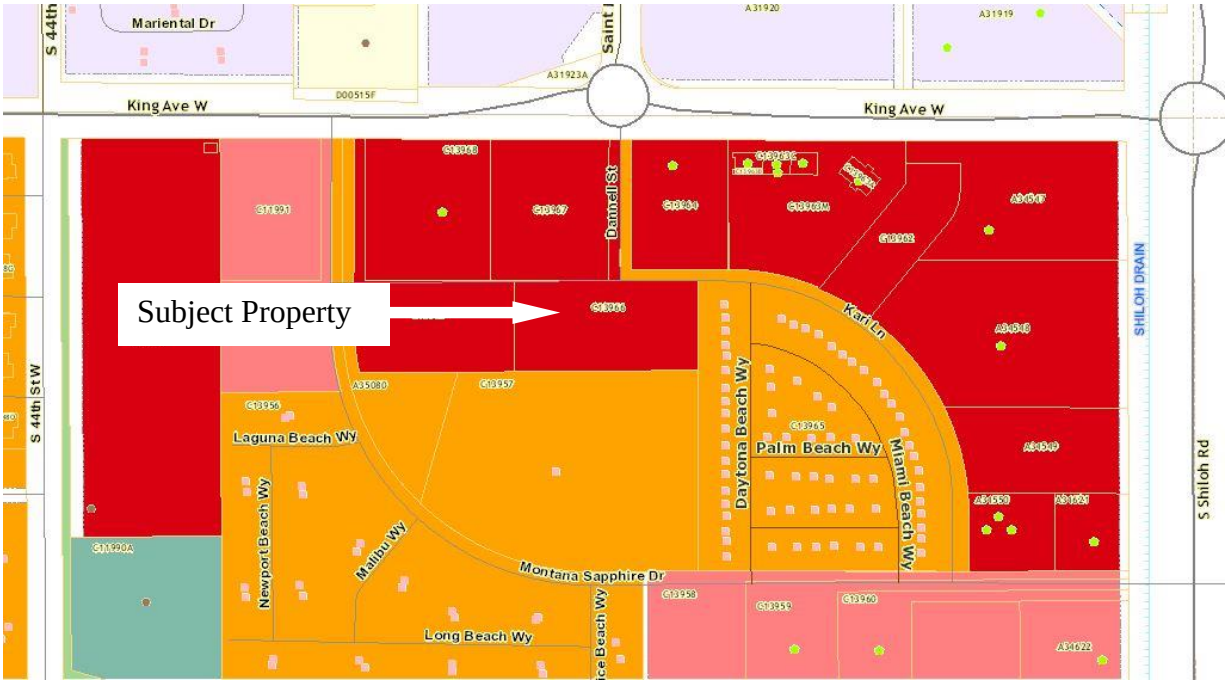
8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets.
Applicant: The plans and reports attached demonstrate how Caliber Collision meets or exceeds all City requirements and conforms with adopted design and zoning requirements. This Special Review ensures that the City can review and evaluate all aspects of the project and ensure that all potential impacts are properly mitigated.
Staff: The access drive will be sufficient ingress and egress to and from Kari Lane connecting to Dannell Street. Dannell Street provides access to and from King Avenue West by way of a roundabout, lessening traffic impacts.

9. The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the city council.
Applicant: No request to modify the regulations have been made beyond the proposed off-street parking spaces designated for storage of vehicles be allowed as part of the total off-street parking requirements.
Staff: Planning staff reviewed the number of off-street parking spaces required for this use and recommended support of the slight variation in spaces provided on the site plan by the applicant to allow spaces for storage of vehicles to be counted toward the overall requirements. The site plan with this variation included was recommended for approval by the Zoning Commission to the City Council, allowing the proposed off-street parking spaces designated for storage of vehicles be allowed as part of the overall parking requirements in an effort to not over-park the site for this kind of use. The site appears to meet all the requirements for building height, setbacks, separations, lot coverage and yard treatments. Staff has recommended specific conditions related to landscaping, lighting and buffering to address issues not apparent on the site plan.

Attachments

Zoning Map & Site photos
Application & Applicant letter
Pre App Information
Chart of Zoning History
Site Plan

Zoning Map & Site Photos



Site Photos

Subject Property Looking South

West

East

North

Authentisign ID: C40AED15-B71D-4FFA-806E-ADE275039B0D

ZONING SPECIAL REVIEW REQ 'ST

The undersigned as owner(s) of the following described property hereby request a Special Reviw from the terms of the Zoning Regulations.

Check one: ☑ **City of Billings Special Review** ☐ **Yellowstone County Special Review**

Address: 4200 King Avenue West

Legal Description: LOT 13, BLOCK 6, OF MONTANA SAPPHIRE SUBDIVISION, IN THE CITY OF BILLINGS, IN YELLOWSTONE COUNTY, MONTANA, ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE OFFICE OF THE CLERK AND RECORDER OF SAID COUNTY, UNDER DOCUMENT NO. 3173821.

STATEMENT: Answer the following questions on a separate document and upload to the online project attachments.

1. **In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?**

2. **Why is there a need for the intended use of the property at this location?**

3. **How will the public interest be served if this application is approved?**

4. **Statement. What is intended to be done with the property, including new construction or change in the use of the property and why the special review is being sought.**

Required Project Uploads

--Site Plan
--Signed Application and Statement (Special Review Questions)
--Radius Map & Certified List of Property Owners
--Typed Mailing Labels Certified Surrounding Property Owners

Online Applications: https://services.billingsmt.gov/citizenaccess/

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 Special Review. Also, I attest that all the information presented herein is factual and correct.

Recorded Owner(s): Montana Sapphire LLC
Owner's Address: P.O. Box 2407 Bigfork, MT 59911

Owner's Phone Number: 406-549-7003 (E-mail)

Applicant/Agent: Matthew K. Rasmussen, P.E

Applicant/Agent's Address: 730 Sandhill Rd, Suite 250 Reno, NV 89521

Applicant/Agent's Phone Number: 775-473-9872 (E-mail) matt@tdg-inc.com

Signature of Recorded Owner(s): Authentisign Bert Arnlund 10/4/2021 2:51:21 PM MDT Date

AUTHORITIES: SEC. 27-1503. SPECIAL REVIEW BY CITY ZONING COMMISSION.(a) General. Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed. It is the intent of this chapter to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this chapter and the objectives of the comprehensive plan.

AUTHORITIES: SEC. 27-1509. SPECIAL REVIEW BY COUNTY ZONING COMMISSION. (a) General. Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed. It is the intent of this chapter to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this chapter and the objectives of the comprehensive plan.

**Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?

The proposed Caliber Collision use is consistent with the adopted underlying zoning of Corridor Mixed Use -2 (CMU2) and will provide a use type that is compatible with and complementary to surrounding properties. The use is supported given the commercial character of the area and provides a needed service to the community. The intensity/density proposed is consistent with the adopted standards and policies of Yellowstone County.

Why is there a need for the intended use of the property at this location?

As the community continues to grow, demand for services, including the need for collision repair services, has increased. Caliber Collision will serve to fill this void. Prior to entering a new market, Caliber Collision conducts in-depth market research and analysis to evaluate market demand/need, availability of existing services, etc. The Billings site will serve the needs of area residents and will not negatively impact existing service providers in the area based on market demands.

How will the public interest be served if this application is approved?

The addition of Caliber Collision to the Billings site will benefit the public by providing a new and needed option for collision repair services. Additionally, the facility is complementary to the commercial character of the area and is designed to ensure that all potential project impacts are properly mitigated. Also, the new commercial use will generate new employment opportunities and additional tax revenue for Yellowstone County, resulting in a positive fiscal impact to the community.

Prepare a written statement addressing what is intended to be done with the property, including new construction or change in the use of the property, and why the special review is being sought.

The project site is currently vacant and located within a planned commercial subdivision that is already developed with various complementary commercial uses. Caliber Collision plans to develop the 2.2± acre site with a 18,554± collision repair center. Collision repair services will occur entirely within the enclosed building, ensuring that any noise, odors, etc. are fully contained and mitigated.

Approximately, 23% of the site will be landscaping at the perimeter of the project. This will add aesthetic appeal within the area and create a pleasant streetscape along Kari Lane. Outdoor storage areas will be fully screened with privacy fencing and further buffered with perimeter landscape improvements. Parking provided onsite exceeds Yellowstone County code requirements and ensures that adequate parking for customers and employees will be provided at all times.

The plans and reports attached demonstrate how Caliber Collison meets or exceeds all County requirements and conforms with adopted County design and zoning requirements. This Special Review ensures that Yellowstone County can review and evaluate all aspects of the project and ensure that all potential impacts are properly mitigated. The use proposed is appropriate for the area given the existing CMU2 zoning and surrounding commercial character of the area. The site and building design ensure that proper buffering/screening exists and that all potential noise and odor impacts are fully contained within the building. Caliber Collision will be a positive addition to the community, providing a needed service, new employment opportunities, and positive fiscal impact to the community as a whole.

TECTONICS DESIGN GROUP

Billings, Montana - City Special Review Neighborhood Meeting

RECEIVED
CITY OF BILLINGS
9 SEP 2021
PLANNING & COMMUNITY SERVICES DEPARTMENT

City of Billings
PO Box 1178
Billings, MT 59103-1178

Dear City of Billings,

Per City of Billings Planning Department, we are required to hold a Special Review Neighborhood meeting to gather input etc. from surrounding property owners on a proposed Caliber Collision located at 4200 King Avenue West, Billings, MT 59106.

The meeting will be held virtually on GoToMeeting on September 16, 2021 at 5pm at the following webpage/link - https://global.gotomeeting.com/join/529910581 **You can also dial in using your phone;**
+1 (872) 240-3212
Access Code: 529-910-581

The existing zoning for the property is CMU2 – Corridor Mixed-Use 2 and the following is the legal description for the property; LOT 13, BLOCK 1, OF MONTANA SAPPHIRE SUBDIVISION, IN THE CITY OF BILLINGS, IN YELLOWSTONE COUNTY, MONTANA, ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE OFFICE OF THE CLERK AND RECORDER OF SAID COUNTY, UNDER DOCUMENT NO. 3173821.

The proposed project is a Caliber Collision, which is a vehicle repair and paint shop. Below is a brief overview of the company;

Caliber Collision didn't get to be the nation's largest collision repair company by accident. It's taken an unyielding commitment to be the collision repair center of choice in every community we serve – a vision that began when our company was founded in 1997 and continues strong to this day.

We're not just part of the collision repair industry - we lead it.

As of February 5, 2019, the two leading companies in the collision repair industry, Caliber Collision Centers and Abra Auto Body and Glass, have officially joined forces. This powerful combination creates a company that unites two proven, talented teams operating more than 1,100 collision centers in 37 states and the District of Columbia – the broadest geographic coverage in the nation. Making us even better equipped to serve our customers, clients, teammates, and the communities we serve. And why hundreds of thousands of people entrust

their vehicles to us every year. So when you hand over your keys to us, you're taking the first step toward restoring the rhythm of your life guaranteed.

OUR SERVICES COME FULLY EQUIPPED.

Restoring the rhythm of your life means getting you back on the road as quickly as possible. And no matter where you're coming from, Caliber has you covered.
Please see enclosed preliminary site plan and building elevations for the proposed layout in Billings.

Sincerely,

Tectonics Design Group, Inc.

Matt Rasmussen

Matt Rasmussen, P.E.

Neighborhood Meeting

The Neighborhood Meeting was held virtually on Thursday, September 16, 2021 at 6pm MDT. There were no attendees, therefore no comments were made.

Billings Caliber Collison Neighborhood Meeting
Thu, Sep 16, 2021 6:00 PM - 7:00 PM (MDT)

Please join my meeting from your computer, tablet or smartphone.

https://global.gotomeeting.com/join/529910581

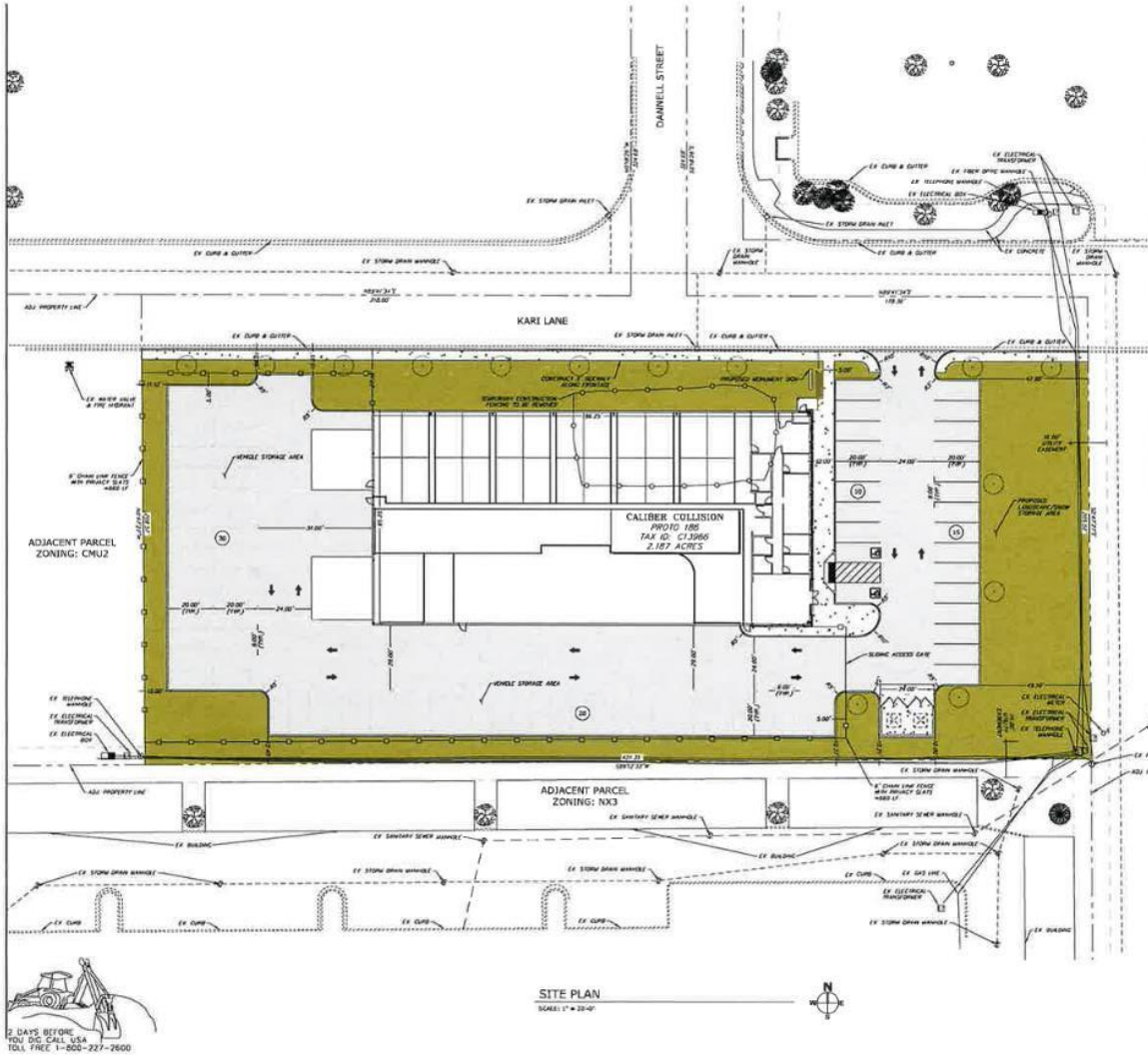
You can also dial in using your phone.
(For supported devices, tap a one-touch number below to join instantly.)

United States: +1 (872) 240-3212
- One-touch: tel:+18722403212,,529910581#

Access Code: 529-910-581

New to GoToMeeting? Get the app now and be ready when your first meeting starts:
https://global.gotomeeting.com/install/529910581

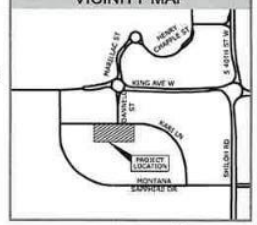
SUBJECT PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
SURROUNDING PROPERTY	**Special Review**	**DATE**	**FOR**	**APPROVED (Y/N)**	**ADDITIONAL DATA**
4121 Kari Ln (aka 4100 King Ave W)	823	7/24/06	Beer & Wine	Y	With Gaming, Hollywood Casino
4020 Montana Sapphire Dr (aka 920 Shiloh Rd)	927	7/27/15	All beverage	Y	No Gaming, The Divide Restaurant & Bar
4010 Montana Sapphire Dr	930	8/24/15	Beer & Wine	Y	With Gaming, Dotty's Casino
4241 Kari Ln	832	1/8/07	All Beverage	Y	Restaurant, Montecito Pizza
3189 King Ave W	989	1/5/21?	All Beverage	?	With Gaming & Restaurant, Warden's Casino w/ Pie Guys Pizza
741 24th St West	943	6/27/16	Auto Service Station	Y	Construction in a Neighborhood Commercial zone



SITE SUMMARY

TAX ID:	C13966
PARCEL ZONING:	CMU2 - CORRIDOR MIXED-USE 2
BUILDING PROTOTYPE:	= 186 (18,554 S.F.)
PROPOSED CALIBER PARCEL SIZE:	= 2.187 ACRES = 95,251 S.F.
PARKING REQUIRED:	1/250 S.F. GFA (75)
PARKING PROVIDED: (INSIDE GATE)	= 58
(OUTSIDE GATE)	= 25
TOTAL	= 83
HANDICAP STALLS	= 2
REGULAR STALLS	= 81
IMPERVIOUS/ PERVIOUS	
BUILDING	= 18,554 SF
IMPERVIOUS	= 24,822 SF
LANDSCAPING	= 22,075 SF
RATIO (IMP. TOTAL)	= 0.573

VICINITY MAP



SCALE: N.T.S

2 DAYS BEFORE YOU DIG CALL USA TOLL FREE 1-800-227-2600

TECTONICS DESIG. GROUP

PRELIMINAR

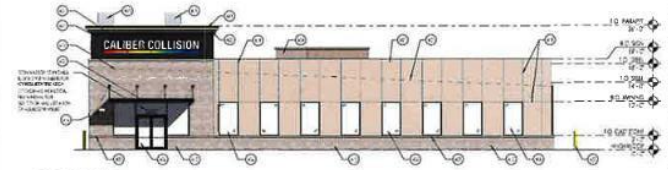
CALIBER COLLISION
42001
AVENUE WEST, BILLINGS, MT 59106

CROSS DEVELOPMENT
4336 HARSH RIDGE DR, MIDLOTHIAN, TEXAS 75010
214.414.8767

DATE: 06/23/21
SUBMIT PRELIM SITE P

SITE PL

SHEET
C2.



01 EAST ELEVATION
SCALE: 1/8" = 1'-0"

FACADE DIRECTION	NORTH DIRECTION	SOUTH DIRECTION	EAST DIRECTION	WEST DIRECTION
NET WALL AREA (SF)	2,785.49	2,976.69	1,181	2,008.91
PERCENTAGE (%)	76.70%	74.91%	4.86%	97.95%
OPENINGS (SF)	637	1,004	1,923	42
PERCENTAGE (%)	9.20%	12.75%	20.97%	2%
CAST STONE (SF)	247	221	221	0
PERCENTAGE (%)	3.20%	2.94%	2.41%	0%
GRILLE (SF)	213	1,153	1,923	0
PERCENTAGE (%)	3.76%	4.25%	20.97%	0%
GLAZING (SF)	581	1,498	2,938	1,238
PERCENTAGE (%)	7.22%	5.53%	14.85%	2.25%
LOUVERS (SF)	0	413	0	0
PERCENTAGE (%)	0%	1.52%	0%	0%
TOTAL (SF)	3,749.91	3,715.65	3,919.58	2,049.91
TOTAL PERCENTAGE	100%	100%	100%	100%

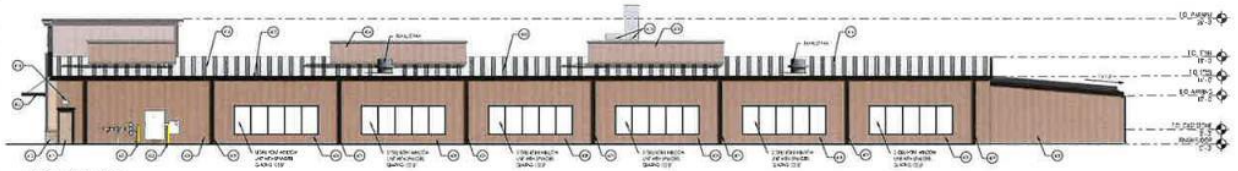
CALCULATION FOR THE SPANDREL GLASS ON THE NORTH ELEVATION

AREA OF WEST OF 1-1 GROUND TO FROM THE GROUND FLOOR ELEVATION = 1,174 SF
SIZE OF 1 TYP SF = 645.2 SF

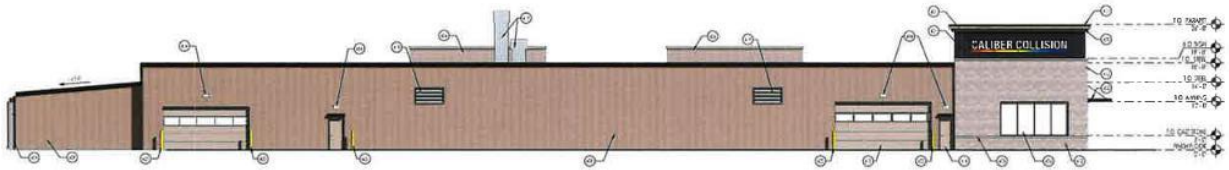
1 DOUBLE DOOR WINDOW UNIT WITH SPANDREL GLAZING AREA = 1,529 SF
TOTAL GLASS OF DOUBLE DOOR WINDOW WITH SPANDREL GLAZING AREA = (1,174.5 + 645.2) = 1,819.7 SF GLASS AREA - 1,819.7 SF (1,174.5 SQ.FT. GLASS + 645.2 SQ.FT. GLASS) = 1,819.7 SQ.FT. GLASS AREA

KEYNOTES

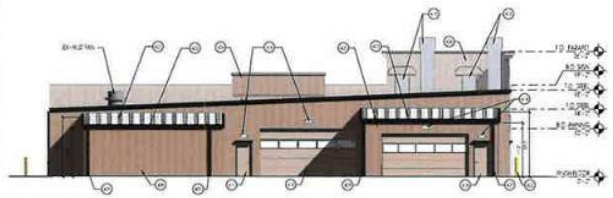
- 42 SIGNAGE (BY OTHERS) PROVIDED & PERMIT BEARING SEPARATE PERMIT
- 42 PERMA-CLAD LAP SIDING, 4" EXPOSURE
- 43 SYNTHETIC STUCCO MATERIALS (E.I.F.S.) REFER TO SPECS
- 44 8" HOLLOW METAL DOOR FRAMES
- 45 H.M. LOUVER (MINIMUM 32 GAGE) PAINTED TO MATCH ADJACENT BUILDING COLOR AND INSTALLED PER SPECS
- 46 DARK BRONZE STOREFRONT WINDOWS, TYP.
- 47 ACRYLIC WINDOWS
- 48 PRE-FINISHED METAL BUILDING SIDING (TYP.)
- 49 PRE-FINISHED 24 GA. SQUARE METAL DOWNSPOUT, RUN HIDDEN WHERE POSSIBLE WITHIN BUILDING, TYPICAL OF 4 LOCATIONS
- 50 KNOCK-OUT PANEL FOR FUTURE OVERHEAD DOOR, TYP.
- 51 ROLL-UP H.M. DOOR (TYP.) AND FRAME, PAINTED TO MATCH ADJACENT BUILDING COLOR AND CLEAR ANODIZED DOOR
- 52 NATURAL STONE - VENEER
- 53 EXPOSED AGGREGATE CONCRETE PANELS WITH SMOOTH FLAT BAND AROUND PERIMETER, TYPICAL
- 54 H.M. MOUNTED LIGHT FIXTURE, TYP. U.O.N.
- 55 PRE-FINISHED H.M. COPING, MIN. 24 GA. HOOKED AT HIGH SIDE, BUILDING TO PARAPET AND SPANDREL GLASS
- 56 STANDING SEAM METAL ROOFING (MTL-1)
- 57 DOWNSPOUT
- 58 COPING, TYP.
- 59 H.M. DOOR FRAME, CLEAR ANODIZED FINISH, TYP. U.O.N.
- 60 DOWNSPOUT
- 61 EIFS ACCENT BANDING PAINT TO MATCH ADJACENT BUILDING COLOR, TYP.
- 62 BOLLARDS
- 63 PAINTED H.M. LOUVER TO MATCH ADJACENT BUILDING COLOR, TYP.
- 64 BACK PARAPET WALL - COLOR TO MATCH ADJACENT WALL



02 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



03 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



04 WEST ELEVATION
SCALE: 1/8" = 1'-0"

EXTERIOR FINISH LEGEND

TYPE NO.	DESCRIPTION / LOCATION	COLOR	COMBINATION / FINISH SYSTEM	MANUFACTURER	CONTACT
A-1	STOREFRONT SYSTEM	DARK ANODIZED FINISH	2" X 4 1/2" ALUMINUM TUBULE	TAMLYN OR APPROVED EQUAL	N/A
C-1	CAST STONE (SEE SCHEDULE)		SMOOTH	TBD	N/A SAMPLE TO BE PROVIDED BY GC
EP-1	EXTERIOR PAINTING: CONCRETE (WHERE APPLICABLE AND NOTED)	BENJAMIN MOORE PAINT	SAND FINISH	TBD BY GC	BENJAMIN MOORE PAINT
EP-2	EXTERIOR PAINTING: CONCRETE (WHERE APPLICABLE OR NOTED)	PC EQUAL TO BENJAMIN MOORE HC-166 "CHARCOAL SLATE"	SAND FINISH SATIN 20	DEVOE OR BENJAMIN MOORE	ZINA HILLS 1-833-774-7744 ZINC RICH PRIMER, PT 214-784-9191
M-1	EXTERIOR MASONRY	SPLIT FACE BLEND (WHITE, LIGHT GREY, MEDIUM GREY, CHARCOAL) (STONE APPROVED BY OWNER PRIOR TO INSTALLATION)	NATURAL STONE (SEE SECTION 4.1.B.1.C.1.F.1)	QC TO PROVIDE LOCAL ALTERNATE OR APPROVAL	TBD 214-369-2174 PRIOR TO INSTALLATION
PT-1	EXTERIOR DOOR FRAME	DEVOE MP475	SATIN 20	BENJAMIN MOORE	ZINA HILLS 1-833-774-7744 PRIOR TO INSTALLATION
MTL-1	MTL ROOFING	SOLAR WHITE	PREPAINTED MTL SYSTEM	MBCI - SPAN	MBCI - SPAN 877-365-9749
MTL-2	FASCIA / GUTTER TRIM	PEWTER GRAY	PREPAINTED MTL SYSTEM	MBCI - SPAN	MBCI - SPAN 877-365-9749
MTL-3	FLASHING	MEDIUM BRONZE	STANDARD BRONZE COLOR	MBCI - SPAN	MBCI - SPAN 877-365-9749
CW-1	CURTAIN WALL	DARK BRONZE	ANODIZED FINISH	ARCHITECTURAL FABRICATORS	ARCH FABRICATORS 1-800-462-8627

GENERAL NOTE

- ALL AREAS ARE APPROXIMATE FOR SITE, QUANTITY AND APPROXIMATE LOCATION ONLY.
- BUILDING MATERIAL, DOOR, FRAME, FINISH, SAMPLES, WORKMANSHIP, AND EXPOSED AREAS ARE SUBJECT TO APPROVAL BY OWNER. ALL EXTERIOR BUILDING COLORS ARE SUBJECT TO OWNER APPROVAL. IF ROOF AND WALL COLORS ARE NOT COMPATIBLE, THE ROOF COLOR IS TO BE CHANGED BY THE CONTRACTOR AT NO EXTRA COST TO THE OWNER. ROOF COLOR SHALL BE APPROVED BY THE OWNER PRIOR TO ORDERING MATERIALS.
- SIGNAGE SHALL BE PERMITTED SEPARATELY.
- REFER TO SITE PLAN FOR LIGHTING AND SCREENING.
- PAINT EXPOSED STEEL BEAMS IN STORAGE AREA.
- MECHANICAL SCREENING TO MATCH THE MAIN BUILDING MATERIAL.
- PLASTER REVEALS OF WALL TO ARTICULATE AND TIE HORIZONTALLY AWAY FROM ORIGINAL FACE OF WALL.
- THE LIGHT COLORED EXTERIOR FEATURES SHALL NOT BE USED ON THE OPPOSITE ELEVATION TO AVOID REFLECTIVE HEAT BUILDUP. ALL DIRECTLY PROJECT SUNLIGHT HORIZONTALLY.

OXFORD ARCHITECTURE

CALIBER COLLISION

BILLINGS, MONTANA

Exterior Elevations

A2.

City Council Regular

Date:	11/22/2021
Title:	Public Hearing on First Reading to Repeal and Replace Article 7-900, Renewal Cable System Franchise to Spectrum Pacific West ("Charter")
Presented by:	Stacy Tenney
Department:	Legal
Presentation:	Yes

RECOMMENDATION

Staff recommends repeal of Article 7-900, BMCC, and declaring the same null and void, and further providing that Billings, Montana City Code be amended by adding a new Article 7-900, BMCC, establishing the renewal of a nonexclusive cable system franchise with Spectrum Pacific West, LLC, locally known as Charter Communications. Inc. ("Charter").

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

A cable system franchise is the right to construct and operate a cable television system over public rights-of-way for one-way video programming to multiple subscribers within a community. A franchising authority is a state or local governmental body responsible for awarding cable system franchises. A cable system operator may not offer cable television service without a franchise and may be required to pay up to a maximum of 5% of the annual gross revenues derived from the operation of its cable system within a local service area to a franchising authority; this is called a "franchise fee".

In 2008, the City granted a nonexclusive cable system franchise to Bresnan Communications, presently set forth in Article 7-900, BMCC. In 2013, the City authorized Charter Communications Operating, LLC, to assume control of Bresnan and extended its cable system franchise through July 2017. Since 2017, the City has annually extended this franchise in anticipation of negotiating a renewal franchise ordinance; presently, this franchise expires December 31, 2021.

Charter Communications Operating LLC now operates as Spectrum Pacific West, LLC, locally known as Charter Communications, Inc. ("Charter"). Charter is a leading broadband connectivity company and cable operator headquartered in Stamford, Connecticut. It is the second-largest cable system operator in the United States by subscribers and also provides broadband, voice, video, and mobile services under the brand name Spectrum to more than 31 million customers across 41 states. Between 2016-2020, as one of the leading mass communication companies, Charter invested nearly $40 billion infrastructure and technology to the US economy.

Closer to home, Charter employs 610 people and serves 55 communities in Montana; its largest employment centers are housed in Billings, Missoula, and Bozeman. Charter serves approximately 248,000 Montana customers and extended its broadband access network to reach an additional 8,000 homes and small businesses in 2020 alone.

In October 2020, new entrant cable system operator, TDS Metrocom, LLC, ("TDS"), made application to the City for the grant of a nonexclusive cable system franchise which was granted in April 2021 and is set forth in Article 7-1800, BMCC. Based on federal law, a cable franchising authority may not grant exclusive cable franchises nor unreasonably refuse to grant additional competitive cable franchises. Also, competitive cable system franchises should be governed by "substantially equitable" terms and conditions to promote fairness. Accordingly, the terms of the proposed renewal cable system franchise with Charter materially comport with those of the newly-adopted TDS franchise, including 1) definitions of franchise terminology; 2) franchise terms; 3) standards of service; 4) maximum payment of franchise fee, 5) equal collection of Public, Educational, and Governmental (PEG) support fee amounts; 6) provision of two (2) PEG High Definition Channels; 7) providing and maintaining fiber links to and from City Hall, the Stillwater Building, and the Community Seven Playback Center located at Lincoln Center; 8) and providing publicly available rates and services on a non-discriminatory basis.

Finally, Staff submits that Charter meets the renewal threshold criteria, including: 1) Charter has complied with applicable law and the material terms of its existing cable system franchise; 2) Charter's past service under its existing cable system franchise has been reasonable in light of community needs and interests; 3) Charter has the financial, technical, and legal qualifications to continue to hold a cable system franchise; 4) Charter satisfies minimum cable system requirements to meet the community's future cable-related needs and interests; 5) Charter is willing to provide adequate PEG use capacity, facilities, and financial support; 6) renewal will not result in discrimination in the provision of services or grant an unfair competitive advantage; and 7) renewal will not eliminate

or reduce competition in the delivery of cable services. Thus, the City should grant Charter the proposed renewal franchise.

STAKEHOLDERS
City and Charter Communications, Inc. ("Charter")

ALTERNATIVES
City Council may:

- Approve; or,
- Not Approve
- Should City Council Not Approve the adoption of the new proposed Article 7-900, BMCC, City Council shall issue a written decision explaining its denial; a refusal may not be unreasonably withheld.

FISCAL EFFECTS
Charter has submitted and paid a $5,000.00 (five thousand dollars) renewal application fee. The City will continue to receive an annual 5% (maximum allowed under federal law) of the gross revenues derived from Charter's Billings cable system operations; this is called a "franchise fee". During the past two fiscal years, Charter paid franchise fees in the following amounts:
FY 2020, $1,300,175;
FY 2021, $1,475, 204.

SUMMARY
Article 7-900, BMCC, sets forth the grant of a cable system franchise to Bresnan Communications, LLC, now doing business as Charter. This franchise has been in existence since 2008 and will expire at the end of 2021. This year, City Administration has engaged in negotiations with Charter and proposes to repeal and replace Article 7-900, BMCC, to provide substantially equitable franchise terms and conditions with competitor TDS Metrocom, LLC. City Staff submits that Charter meets the following renewal threshold criteria:
1) Charter has complied with applicable law and the material terms of its existing cable system franchise;
2) Charter's past service under its existing cable system franchise has been reasonable in light of community needs and interests;
3) Charter has the financial, technical, and legal qualifications to continue to hold a cable system franchise;
4) Charter satisfies minimum cable system requirements to meet the community's future cable-related needs and interests;
5) Charter is willing to provide adequate PEG use capacity, facilities, and financial support
6) renewal will not result in discrimination in the provision of services or grant an unfair competitive advantage; and
7) renewal will not eliminate or reduce competition in the delivery of cable services.

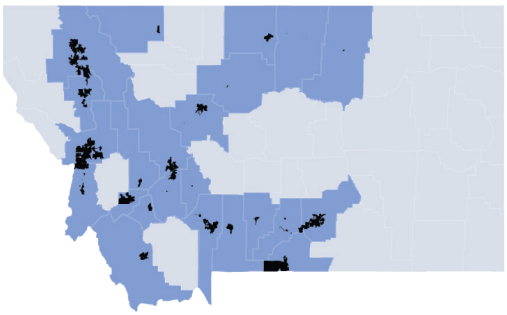
Should the City Council agree, then the City should repeal the expiring Bresnan/Charter franchise set forth in Article 7-900, BMCC, and adopt proposed new Article 7-900, BMCC, granting Spectrum Pacific West, LLC, doing business locally as Charter Communications, Inc. (Charter) a renewal cable system franchise.
Please note: A renewal may not be unreasonably refused, and should the City deny the renewal, the City shall issue a written decision explaining its denial.

Attachments

Charter 2021 State Facts
Charter National Facts 2021
Charter Franchise 2021
TDS Metrocom, LLC Franchise
Charter HD Confirmation
Expiring

Our Impact in **Montana**

Charter COMMUNICATIONS | Spectrum



- **248,000** customers served
- **610** employees
- **$17 million** total tax contribution*
- **$58 million** capital investment*

SERVING MONTANA

Charter's insourced, U.S.-based workforce includes **610 people in Montana.**

Our largest employment centers are housed in **Billings, Missoula, and Bozeman.**

We serve **55 communities** across the state.

EXPANDING BROADBAND ACCESS

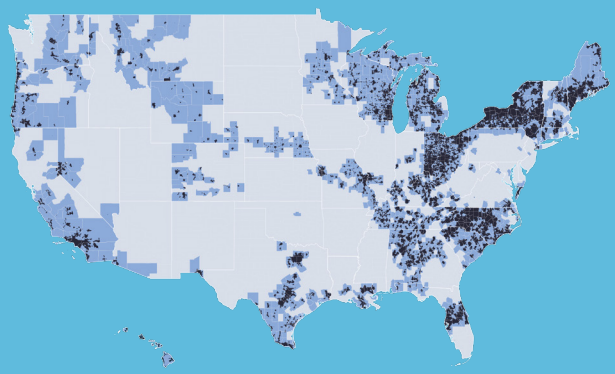
From 2018-2020, Charter extended its network to reach an additional 2.5 million homes and small businesses, about a third in rural areas.**

In 2020 alone, Charter **extended its network to reach an additional 8,000 homes and small businesses in Montana.**

EMPOWERING OPPORTUNITY FROM COAST TO COAST

Charter Communications is a leading connectivity company and cable operator providing superior broadband, voice, video, and mobile services under the brand name Spectrum to more than **31 million customers across 41 states.**

We're driving innovation and growing economies from coast to coast and in communities big and small. From 2016-2020 alone, **Charter invested nearly $40 billion in infrastructure and technology – contributing significantly to the US economy.**



policy.charter.com

All data as of December 31, 2020 unless otherwise noted

** January 1, 2020 – December 31, 2020 | ** According to the U.S. Census definition of "rural area"*

Our **National** Impact

Charter COMMUNICATIONS | Spectrum

MEETING CUSTOMER NEEDS WITH SUPERIOR PRODUCTS AND SERVICES

Spectrum Internet: Spectrum delivers minimum speeds of at least 200 Mbps in nearly 75% of our footprint and 100 Mbps across the remainder and offers speeds as high as 1 gigabit across virtually our entire national footprint. Spectrum Internet offers fast, reliable service with no modem fees, no contracts, and no data caps.

Spectrum News Networks: Charter provides 24/7 news, sports, and weather coverage, along with In Focus public affairs programming on over 30 news channels in 12 states and nationally on the Spectrum News App.

Spectrum Mobile: Delivering fast, reliable mobile service to our customers from coast to coast. And now with 5G, Spectrum Mobile offers the next generation of wireless technology for an even better mobile experience for today and tomorrow.

Spectrum Voice: One of the largest voice providers in the nation, offering unlimited local and long-distance calling. Spectrum Voice offers unlimited local and long distance calling to the U.S., Canada, Mexico, Puerto Rico, Guam, U.S. Virgin Islands, Northern Mariana Islands, and American Samoa.

Spectrum Video: Spectrum offers free HD, with over 200 channels available, on our all digital network – including Spectrum Guide Narration for customers with visual disabilities and diverse, multicultural programming, such as that featured on Spectrum's Mi Plan Latino.

INVESTING IN OUR WORKFORCE

Charter's insourced, U.S.-based workforce includes more than 96,000 highly-skilled employees, nearly half of whom identify as a person of color and approximately 10% as veterans or military reservists. We offer:

- An **$18 per hour minimum wage** as of March 15, 2021, with a commitment to raising it to **$20 per hour in 2022**.
- **Comprehensive company-paid benefits**, including medical, life and disability, education and training, and a generous retirement plan.
- A highly-regarded, **Department of Labor-certified Broadband Field Technician Apprenticeship program**.

ADVANCING ACCESS AND IMPROVING ADOPTION

Charter is committed to being part of the comprehensive solution needed to address broadband service, affordability, and adoption gaps:

Increasing Access to Broadband Service

Over the past three years, we've extended our network to reach an **additional 2.5 million homes and small businesses, about a third in rural areas.****

We recently announced a **$5 billion dollar investment that will provide reliable, high-speed broadband access to an additional 1 million+ currently-unserved, mostly rural homes and small businesses** at speeds of up to a gigabit per second.

Addressing the Affordability Gap

To make broadband **more accessible for low-income learners and seniors**, we offer Spectrum Internet Assist, a high-speed (30/4 Mbps), low-cost broadband service for qualified customers.

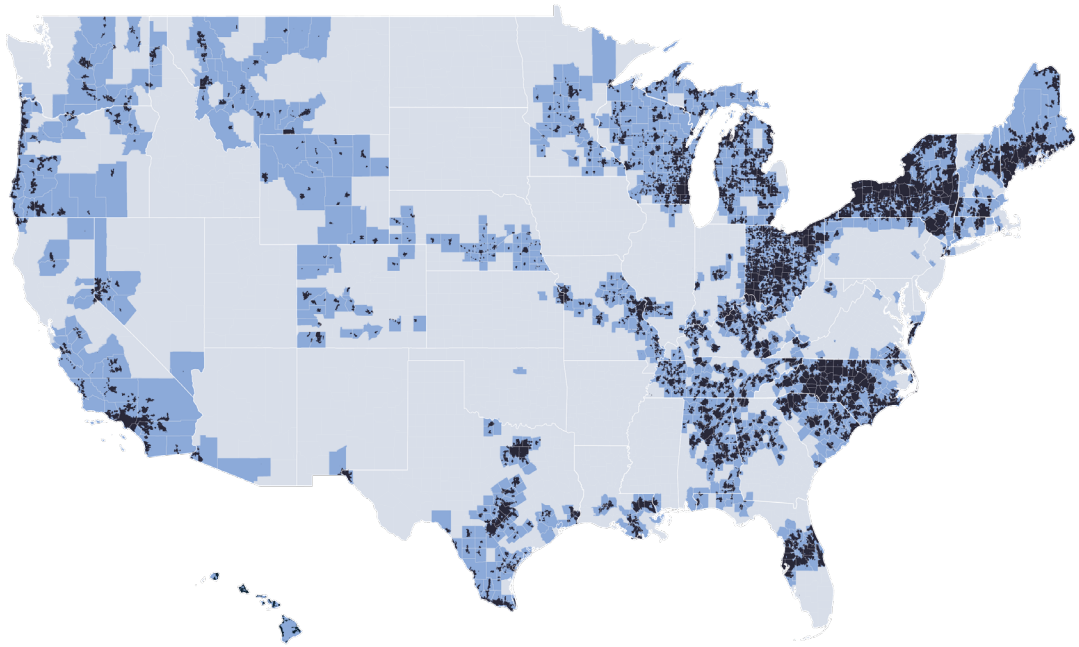
Improving Broadband Adoption

To increase adoption and access to technology, we offer philanthropic support to community organizations that **provide computers, digital education classes, and technology labs for thousands across the country.**

All data as of December 31, 2020 unless otherwise noted
*** According to the U.S. Census definition of "rural area"*

Our **National** Impact

Charter COMMUNICATIONS | Spectrum



EMPOWERING OPPORTUNITY FROM COAST TO COAST

Charter Communications is a leading broadband connectivity company and cable operator serving **more than 31 million customers in 41 states** under the brand name Spectrum. Over an advanced communications network, we offer a full range of state-of-the-art broadband internet, video, voice, and mobile services.

We're driving innovation and growing economies from coast to coast and in communities big and small. From 2016-2020 alone, **Charter invested nearly $40 billion in infrastructure and technology** – contributing significantly to the US economy.

Every day, we work to deliver on our core business objective: providing superior products with great customer service.

MORE THAN
31 M
CUSTOMER RELATIONSHIPS

96,000
EMPLOYEES

$20
PER HOUR MINIMUM WAGE IN 2022

48%
OF EMPLOYEES IDENTIFY AS A PERSON OF COLOR

NEARLY
$40B
INVESTED IN INFRASTRUCTURE & TECHNOLOGY

NEARLY
750,000
MILES OF NETWORK INFRASTRUCTURE

All data as of December 31, 2020 unless otherwise noted

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** According to the U.S. Census definition of "rural area"*

ORDINANCE NO. 21-____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING FOR THE REPEAL OF ARTICLE 7-900 AND DECLARING THE SAME TO BE NULL AND VOID AND OF NO EFFECT; FURTHER PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING A NEW ARTICLE 7-900, ESTABLISHING A NONEXCLUSIVE CABLE SYSTEM FRANCHISE AGREEMENT INCLUDING ALL TERMS AND CONDITIONS WITH SPECTRUM PACIFIC WEST, LLC, LOCALLY KNOWN AS CHARTER COMMUNICATIONS, INC.

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

Section 1. Section 1. That Article 7-900 of the Billings, Montana City Code is hereby repealed and declared null and void and of no effect.

Section 2. That the Billings, Montana, City Code be amended by adding a new Article 7-900, to read as follows:

ARTICLE 7-900. CABLE SYSTEM FRANCHISE

Sec. 7-901. Definition of terms.

For the purpose of this Article, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. Any word or phrase not defined in this Section shall have the same meaning as in 47 U.S.C Section 521 et seq. ("Cable Act") and associated Federal Communications Commission ("FCC") rules and regulations. Otherwise, words shall have their ordinary meaning.

A. "Basic Cable Service" means the most highly penetrated, separately-priced Service Tier that is available without the purchase of any other Service Tier and which includes the retransmission of local broadcast signals.

B. "Cable Act" means Title VI of the Communications Act of 1934, as amended.

C. "Cable Ordinance" means the Model Cable System Franchise set forth in Article 7-1600, Billings, Montana City Code.

D. "Cable Service" shall mean (1) the one-way transmission to Subscribers of (a) video programming, or (b) other programming service, and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

E. "Cable System" shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which

is provided to multiple Subscribers within the Service Area, but such term does not include:

(1) a facility that serves only to retransmit the television signals of one or more television broadcast stations;

(2) a facility that serves Subscribers without using any public right-of-way;

(3) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§ 201 et seq., except that such facility shall be considered a cable system (other than for purposes of 47 U.S.C. § 541 (c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) an open video system that complies with 47 U.S.C. § 653;

(5) any facilities of any electric utility used solely for operating its electric utility systems.

The term "Cable System" includes wires, cables, conductors, ducts, poles, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary to the operation of the Cable System.

F. "Drop" means the cable that connects the ground block on the Subscriber's residence to the nearest feeder cable of the Cable System.

G. "FCC" means the Federal Communications Commission, or successor governmental entity thereto.

H. "Franchise" means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to 47 U.S.C. § 546) issued by the Grantor, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a Cable System.

I. "GAAP" means Generally Accepted Accounting Principles.

J. "Grantor" means the City of Billings, Montana or any lawful successor or assign.

K. "Grantee" means Spectrum Pacific West, LLC, or the lawful successor, transferee, or assignee thereof.

L. "Gross Revenues" means all amounts derived by the Grantee and/or affiliate from the operation of the Grantee's Cable System to provide Cable Services within the Service Area.

(1) "Gross Revenues" include, by way of illustration and not limitation:

(i) Fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial Subscribers, including revenues derived from the provision of Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, audio channels and video-on-demand Cable Services);

(ii) Installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair, or similar charges associated with Subscriber Cable Service;

(iii) Fees paid to the Grantee for channels designated for commercial/leased access use, which shall be allocated on a pro rata basis using total Cable Service Subscribers with the Service Area;

(iv) Converter, remote control, and other Cable Service equipment rentals, leases, or sales (but not revenues from equipment used exclusively for the provision of services that are not Cable Service);

(v) Advertising Revenues as defined herein;

(vi) Fees including, but not limited to: a) late fees, convenience fees and administrative fees which shall be allocated in accordance with GAAP; and 2) Franchise fees;

(vii) Commission from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Services Subscribers within the Service Area;

(viii) "Advertising Revenue" shall mean amounts derived from sales of advertising on any Cable Service made available the Grantee's Cable System Subscribers within the Service Area and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising.

(2) "Gross Revenues" shall not include:

(i) actual Cable Services bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the Service Area; and

(ii) any taxes and/or fees of general applicability imposed upon Grantee or Subscribers by any municipality, state or other governmental unit and required to be collected by Grantee and

remitted to the taxing entity, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;

(iii) launch fees and marketing co-op fees to the extent consistent with GAAP; and,

(v) unaffiliated third-party advertising sales agency fees which are reflected as a deduction from revenues to the extent consistent with GAAP.

(3) To the extent revenues are received by Grantee, or any affiliate of Grantee, for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published undiscounted rates for the components. This calculation shall be applied to every bundled service package containing Cable Service from which the Grantee derives revenues in the Service Area and shall be modified whenever a rate change occurs on any part of the bundled services. The Grantor reserves the right to review and to challenge the Grantee's calculations.

M. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

N. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses held by the Grantor in the Service Area and which by their nature entitle the Grantor and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining a Cable System.

O. "Service Area" means the present boundaries of the Grantor and shall include any additions thereto by annexation or other legal means.

P. "Service Tier" means a specific set of Cable Services which are made available as a group for purchase by Subscribers at a separate rate for the group.

Q. "Standard Installation" is defined as any service installation that can be completed using a Drop of one hundred twenty-five (125) feet or less.

R. "Subscriber" means any Person who lawfully receives Cable Service of the Cable System and does not further retransmit it.

S. "Video Programming" means any programming provided by, or generally considered comparable to programming provided by a television broadcast station.

Sec. 7-902. Grant of franchise.

(a) *Grant.* The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct, maintain, extend and operate a Cable System to provide Cable Services in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way a Cable System for the purpose of providing Cable Service.

(b) *Other Ordinances.* This Franchise is subject to the laws and regulations of the Grantor as now existing or as may hereafter be adopted. Provided that, neither party may unilaterally alter the express material rights and obligations set forth in this Franchise. In the event of a conflict between the express material rights of Grantee set forth in this Franchise and any ordinance adopted after the date hereof and this Franchise, the Franchise shall control, provided however that the Grantee agrees that it is subject to the lawful exercise of the police power of the Grantor. Provided further, the right to use the Public Ways is subject to the continuing regulation by the Grantor, the grant of this Franchise is not in lieu of any permits or zoning approvals that may be required, or fees associated with the same; and the grant of the Franchise does not give Grantee the right to maintain its facilities at any particular location in the Public Ways, and instead the Grantee shall have the duty to relocate or remove the same from time to time, as provided in this Franchise or under laws or regulations now existing or hereafter adopted.

(c) *Public Hearing.* Before issuing any other Franchise or other authorization to provide multichannel video programming services, the Grantor shall conduct a public hearing to determine whether an applicant's proposal for such Franchise or other authorization meets the future cable-related needs and interests of the community and any impact on the existing provision of Cable Service, except where such a hearing would be inconsistent with applicable laws and regulations. Grantee shall be notified of that hearing and shall be given an opportunity to appear at the hearing and address issues relevant to the issuance of the Franchise or other authorization, except that nothing in this paragraph requires the Grantor to take any action that would result in a violation of applicable laws and regulations, or that prevent it from acting prior the expiration of any deadline.

(d) *Competitive Equity.* In the event that the Grantor issues, or has issued, a Franchise or other authorization to any other entity to provide multichannel video programming services in the City comparable to the Cable Service provided by Franchisee, the Grantor agrees to engage in good faith discussions with Grantee regarding any modifications to this Franchise

proposed by Grantee to ensure that the terms and conditions imposed on Grantee by this Agreement will be neither less favorable nor more burdensome than those governing any other such entity or otherwise give such other entity an unfair competitive advantage over Grantee.

(e) *Term.* The Franchise granted hereunder shall be for an initial term of ten (10) years commencing on the effective date of the Franchise as set forth in Section 2, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

(f) *Renewal.* This Franchise will be automatically extended for an additional term of five (5) years, unless either party notifies the other in writing of its desire to not exercise this automatic extension at least three (3) years before the expiration of this Franchise. If such a notice is given, the parties will then proceed under the federal Cable Act renewal procedures.

Sec. 7-903. Standards of Service.

(a) *General.* This Section sets forth minimum standards for service. All acts a Grantee is required to perform are at its expense, and at no expense to the Grantor except as otherwise stated herein.

(b) *Conditions of occupancy.* The Cable System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

(c) *Restoration of public ways.* If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, Grantee shall replace and restore such Public Way to a condition better than, or equal to, the condition of the Public Way existing immediately prior to such disturbance.

(d) *Relocation for the Grantor.* Upon its receipt of reasonable advance written notice, to be not less than ten (10) business days, the Grantee at its expense shall protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way, any property of the Grantee when required by the Grantor or any government entity by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of public structures or improvements. The Grantee shall in all cases have the right of abandonment of its property, provided that, if property is abandoned, Grantee upon request must provide Grantor title to the property, free and clear of encumbrances.

(e) *Relocation for a third party.* The Grantee shall, on the request of any Person holding a lawful permit issued by the Grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee, provided: (A) the expense of such is paid by said Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation, and as promptly as possible for a permanent relocation, considering the work to be performed in connection with that relocation.

(f) *Relocation for a Person Authorized to Place Facilities in Rights of Way.* Grantee shall promptly protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee as required to enable another person authorized to place facilities in the rights of way (other than a person described in Sections 7-1803(d)-(e) to construct, modify, repair or maintain such facilities, with the cost therefore to be borne in accordance with applicable law. If applicable law requires such other person to pay for the cost of relocation, Grantee may require such payment in advance.

(g) *Trimming of Trees and Shrubbery.* The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the Cable System, subject to the supervision of the Grantor. Nothing in this section relieves Grantee of any liability it may have to persons for damage caused to public or private property.

(h) *Safety Requirements.* Construction, operation, repair, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable federal, state, and local regulations and the National Electric Safety Code and the National Electrical Code. The Cable System shall not endanger or unreasonably interfere with the safety of Persons or property in the Service Area.

(i) *Underground Construction.* In those areas of the Service Area where all of the distribution facilities of the incumbent local exchange carrier and distribution lines of public utilities providing electric services are underground, the Grantee likewise shall construct, operate, and maintain its Cable System underground.

(j) *Required Extensions of the Cable System.* Grantee shall make Cable Service available to all areas of the Service Area where the average density is equal to or greater than ten (10) residential units per 1320 cable-bearing

strand fee (one quarter cable mile). Grantee may petition the Grantor for a waiver of this requirement, such waiver to be granted for good cause shown.

(1) Whenever the Grantee receives a request for Cable Service from a Subscriber in a contiguous unserved area where there are at least ten (10) residential units that would be passed by an extension of 1,320 cable-bearing strand feet (one quarter cable mile) from the closest technologically feasible tie-in point of the Grantee's trunk or distribution cable which is to be extended, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for the Cable System extension, other than the published Standard/non-Standard Installation fees for drops charged to all Subscribers.

(2) In areas not meeting these density requirements, Grantee shall provide, upon request of any potential Subscriber(s) desiring Cable Service from Grantee, an estimate of the costs required to extend the Cable System to such Subscriber(s). Grantee shall then extend the Cable System upon request and upon payment of the amount equal to the reasonable value of actual time and materials incurred by the Grantee for such extension. If the residential unit is located within one hundred twenty-five (125) feet of the Grantee's trunk or distribution cable, the installation cost for the Subscriber will be the Grantee's published rate for Standard Installations.

(k) *Emergency Use.* If the Grantee provides an Emergency Alert System ("EAS"), then the Grantor shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System.

(l) *Non-Discrimination*. All Grantee's rates and charges shall be publicly available and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall provide a minimum of thirty (30) days' written notice to Grantor and each Subscriber before increasing any rates and charges. Grantee shall make its services available on a non-discriminatory basis, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military, or economic status, or physical or mental disability or geographic location within the Service Area. Nothing herein shall be construed to prohibit:

(1) The temporary reduction or waiving of rates or charges in conjunction with promotional campaigns; or,

(2) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens.

Sec. 7-904. Regulation by the Grantor

(a) *Franchise Fee.* The Grantee shall pay to the Grantor an annual franchise fee of five percent (5%) of annual Gross Revenues (as defined in this Franchise) computed in accordance with Generally Accepted Accounting Principles.

(1) Each annual payment shall be due forty-five (45) days following the end of the previous calendar year and shall be accompanied by a report prepared by a representative of Grantee showing the amount of the franchise fee due for each month covered by the annual payment. Upon written request, and subject to Section 7-905(a), the Grantee shall provide such information as the Grantor may require to determine whether fees are being paid as required, attested to as accurate by an officer of the Grantee.

(2) Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due.

(3) No acceptance of any payment by the Grantor shall be construed as a release or an accord and satisfaction of any claim the Grantor may have for further or additional sums payable as a franchise fee or for the performance of any other obligation of Grantee.

(b) *Rates and Charges.* The Grantor may regulate rates and charges except to the extent preempted from doing so by federal or state law.

(c) *Transfer of Franchise.* The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee as of the Effective Date, without the prior consent of the Grantor, such consent not to be unreasonably withheld. A change of control of Grantee or entities controlling Grantee shall be treated as a transfer. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness, provided that no such instrument permits any person to succeed to the ownership or control of the system without the approval of the Grantor. Without limiting the other provisions of this Franchise, Grantor and Grantee shall comply with any federal regulations governing transfer of cable systems. In deciding whether to grant or deny a request for transfer, the Grantor may consider

any factors it may consider under applicable law, including the financial, technical and legal qualifications of the transferee.

Sec. 7-905. Books and Records

(a) The Grantee agrees that the Grantor, upon thirty (30) days written notice to the Grantee, may review and copy such of its books and records at a mutually agreed upon time and place, as is reasonably necessary to ensure compliance with the terms of this Franchise, or applicable law, or to carry out any of the Grantor's obligations under the same. Such notice shall reference the Section of the Franchise or applicable law giving rise to the request, so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Grantor agrees that it will not disclose information provided to it which is marked as confidential or proprietary, except as required to do so by Montana public records statutes or by court order. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act and shall redact any such information.

(1) Upon request and to the extent reasonably feasible, Grantee shall provide the Grantor with maps of its system as built, in hard copy or, if the Grantor requests it, in an electronic format.

(2) Grantor may require Grantee to produce reports reasonably necessary to ensure compliance with the terms of this Franchise, or applicable law, or to carry out any of the Grantor's obligations under the same.

Sec. 7-906. Insurance and Indemnification

(a) *Insurance Requirements.* The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Commercial General Liability Insurance in the amount of one million five hundred thousand dollars ($1,500,000) combined single limit for bodily injury and property damage. The Grantor shall be designated as an additional insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Grantor. The Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.

(b) *Indemnification.* Grantee shall indemnify, save harmless and defend the Grantor, its mayor and council, appointed boards and commissions, officers and employees, (collectively "Grantor and its agents") individually and collectively from all fines, liens, suits, claims, demands, actions, costs of litigation, attorneys' fees, judgments or liability of any kind ("Losses")

(including but not limited to libel, slander, invasion of privacy, unauthorized use of any trademark, trade name or service mark, copyright infringement, injury, death or damage to person or property) arising out of or in any way connected with the installation, construction, operation, maintenance or condition of the Cable System. The Grantor shall give Grantee timely written notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the indemnity of this section, where Grantee is not a party thereto.

Sec. 7-907. Enforcement and Termination of Franchise

(a) *Violation.* In the event that the Grantor believes that the Grantee has not complied with the terms of the Franchise, or applicable law, the Grantor may commence a proceeding in any court or agency of competent jurisdiction, and take such other actions as are permitted under this section, or other applicable law.

(b) *Liquidated Damages*. Grantee and Grantor agree to the following liquidated damages for the following violations. Grantee and Grantor agree that the liquidated damages amounts are in 2021 dollars and, upon notice from Grantor, may be increased once every three (3) years by the increase in the U.S. city average of the consumer price index. Damages accrue in accordance with subsection (c); provided that, nothing herein prevents Grantee from raising a defense to the imposition of liquidated damages from the date of the violation based upon laches, waiver, statute of limitations, or any other similar defense.

(1) For transferring this Franchise without required approval: One thousand dollars ($1,000.00) per day for each violation for each day the violation continues.

(2) For failure to comply with requirements for PEG use of the system for which damages to Grantor are not readily ascertainable: Two hundred fifty dollars ($250.00) per day for each violation for each day the violation continues.

(3) For violation of customer service standards: One hundred dollars ($100.00) per violation, except that violations of customer service standards, such as telephone answering standards, where the operator's compliance is not measured in terms of its response to individual customers, one thousand five hundred dollars ($1,500.00) a month for any period during which the Franchise fails to meet applicable performance standards, provided that, for purposes of this applying the telephone answering time standard, Grantee shall be deemed to have satisfied said standard whenever a Subscriber call is connected to an automated answering system within thirty (30) seconds after the call first rings and the Subscriber is transferred to a

customer service representative within thirty (30) seconds after the Subscriber makes an automated or voice request to be so transferred; and

(4) For all other material violations of this Franchise for which actual damages may not be ascertainable: Two hundred fifty dollars ($250.00) per day for each violation for each day the violation continues.

(c) *Procedures for Imposition of Liquidated Damages*. Grantor may impose liquidated damages in accordance with procedures in this section. Grantor shall provide Grantee written notice describing with reasonable specificity the alleged noncompliance and provide Grantee with an opportunity to be heard at a public hearing, to show either that a violation has not occurred or that damages should not be imposed. The written notice shall be provided at least sixty (60) days prior to any hearing on the alleged noncompliance. Liquidated damages shall accrue from the date of the alleged violation.

(d) *Nature of Liquidated Damages.* These sums are agreed upon as reasonable liquidated damages, developed in accordance with state law, and are not penalties.

(e) *Revocation of Franchise.* The Grantor shall have the right to terminate, revoke or shorten the term of this Franchise for the reasons specified in the Cable Ordinance as of the effective date of this Franchise, pursuant to the procedures specified in the Cable Ordinance. Provided that, any amendments to the Cable Ordinance shall provide the same level of due process as is provided under the procedures provided for under the Cable Ordinance as the same existed on the effective date of this Franchise.

(f) *Force Majeure.* Grantee shall not be deemed in default with provisions of this Franchise where performance was rendered impossible by war or riots, civil disturbances, floods, natural catastrophes, or other events beyond Grantee's control, provided that Grantee takes immediate and diligent steps to comply as soon as possible under the circumstances with this Franchise without unduly endangering the health, safety and integrity of Grantee's employees or property, or the health, safety and integrity of the public, public rights-of-way, public property, or private property.

Sec. 7-908. Public, Educational and Governmental Use

(a) *Definitions:*

(1) “Access, Public, Educational or Government, or PEG” refers to the availability of the System for Public, Education or Government (“PEG”) use by various agencies, institutions, organizations, groups, and individuals, including the Grantor and its Designated Access Providers, to acquire, create, and distribute video and non-video communications not under Grantee’s editorial control.

(2) “High definition” or “HD” refers to television signals with a resolution of 1080i or 720p.

(b) *Provision of Channel Capacity for PEG Use.* The Grantee shall provide two (2) digital channels for PEG use. The PEG channels shall not be used for any purpose inconsistent with applicable law.

(c) *Management of Channel.* The Grantor shall designate who is responsible for managing the PEG channels provided under this Franchise.

(d) *Availability.* The PEG channels provided under this Franchise shall be viewable by any Subscriber without the need for obtaining any equipment other than the equipment required to receive high definition broadcast channels and shall be provided as part of Basic Cable Service.

(e) *Electronic Program Guide.* To the extent technically feasible, Grantee will identify the PEG channels on the same interactive, on-screen electronic program guide (“EPG”) on which the Grantee lists other channels. If the entity that is responsible for managing a PEG channel wants the EPG to display specific program-related information (e.g., title, date, and time of program, closed captioning availability, etc.), it shall be the sole responsibility of such entity both to timely provide the information that it wishes to have displayed to the entity that is responsible for programming the EPG and to bear any expenses associated with arranging for such display.

(f) *Format.* PEG links and channels must be designed so that there is no noticeable deterioration in signal quality or programming as received from the PEG programmer and should be of a quality equivalent to other local broadcast affiliate station channels carried on the Basic Cable Service. Grantee shall cablecast in High Definition format any PEG programming provided in High Definition format. If, at any time during the term of this Franchise, Grantee carries fifty (50%) percent of all commercial channels on the Basic Cable Service in an advanced format other than HD, Grantee shall also carry the PEG channels in such format if so provided to Grantee and upon a schedule to be mutually agreed with the Grantor which may include carriage in more than one format for a transition period. Grantor will be responsible for the cost of upgrading its PEG facilities as needed to deliver the advanced format to Grantee; Grantee will be responsible for

the cost of upgrading its facilities as needed to deliver the advanced format to Subscribers.

(g) *Grantee's Responsibilities.*

A. Grantee will continue to provide and maintain a dedicated two-way activated fiber link between the Community Seven Television Playback Center at the Lincoln Center (the "Playback Center") and the Grantee's headend for cablecasting to Subscribers so that the transmission of any PEG channel emanating from the Playback Center can be monitored by Grantor. Grantee also will continue to provide and maintain equipment to encode signals for transport from the Playback Center to the Grantee's headend. Grantee shall be responsible for ensuring that no material degradation occurs to signals emanating from said Playback Center during their transmission from Grantee's headend to Subscribers.

The Grantee will continue to provide and maintain dedicated activated fiber links between the Playback Center and the following locations so that each location may transmit signals without degradation to the Playback Center:

1. City Hall (Council Chambers/Municipal Court), located at 220 North 27th Street

2. Stillwater Building, located at 316 North 26th Street,

If Grantee makes changes to its Cable System that necessitate modifications to PEG facilities and equipment, including but not limited to links, Grantee shall provide any additional facilities or equipment necessary to implement such modifications within thirty (30) days of the date that the Cable System changes are made so that PEG facilities and equipment may be used and operated as intended.

(h) *Existing Coaxial link to existing City Library.* The dedicated coaxial link to the existing City Library location shall remain in place; however, Grantee is not responsible for any maintenance, replacement or repair of this coaxial link or associated equipment.

(i) *Other Capital Support for PEG.*

(1) Grantee shall pay twenty-five cents ($0.25) per Subscriber per month for capital support for PEG. Grantor may increase this fee to up to eighty-five cents ($0.85) per subscriber per month and Grantee shall pay the increased fee beginning sixty (60) days after adoption of a resolution by the Grantor after at a public meeting,

provided that such fee, as increased, is not greater than the PEG capital support fee required to be paid by any other Cable System serving the City. This charge for PEG capital support may be categorized, itemized and passed through to subscribers as a PEG fee on Subscriber's bills, at Grantee's option, as permitted by applicable law. Grantee shall remit the PEG capital support fee, separately itemized by month, to Grantor annually at the same time as Grantee remits the franchise fee payment due under Section 7-904(a)(1).

(2) Grantee shall not be responsible for paying the PEG capital support fee with respect to gratis or bad debt accounts. Upon Grantee's written request and due as agreed upon by both parties, the Grantor shall provide the Grantee with documentation showing expenditures for PEG capital use of the previous fiscal year's PEG capital support fee and showing the budgeted use of the current year's PEG funding. In the event the Grantor cannot demonstrate that PEG capital funding was used or budgeted for PEG capital needs, Grantee's PEG funding obligations going forward shall be reduced by an equivalent amount.

(j) *Channel Location.* Grantee shall not change the channel position for the PEG channels without the Grantor's consent unless the change is required by federal law. The Grantor's consent will not be unreasonably withheld or delayed. Grantee shall pay reasonable, documented capital expenses associated with any change in the PEG channel positions, up to three thousand dollars ($3,000.00) per change. Grantee shall give Subscribers advance notice, consistent with the federal customer service standards, of any change in the channel position of a PEG channel.

(k) *No Charge for Use.* The facilities, equipment and channel capacity provided for PEG use shall be available at no charge from Grantee to users, to the Grantor or to any entity responsible for managing a PEG channel.

(l) *Support not a franchise fee.* PEG capital support fee is not intended to represent part of the Franchise Fee and is intended to fall within one (1) or more of the exceptions in 47 U.S.C. § 542. So long as the PEG capital support fee is used by Grantor as permitted by applicable federal law, and this Franchise, Grantee agrees that it will not offset or reduce its payment of past, present or future Franchise Fees required as a result of its obligation to remit the PEG capital support fee, unless otherwise mandated by applicable law.

Sec. 7-909. Miscellaneous Provisions

(a) *Actions of Parties.* In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

(b) *Entire Agreement.* This Franchise constitutes the entire agreement between the Grantee and the Grantor. Amendments to this Franchise shall be mutually agreed to in writing by the parties.

(c) *Governing Law.* This Agreement shall be governed by the laws of the State of Montana except as preempted by federal law. Venue for any litigation shall be in Yellowstone County, Montana.

(d) *Notice.* Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Grantor or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, or c) within five (5) business days after having been posted in the regular mail.

The notices or responses to the Grantor shall be addressed as follows:

City of Billings
City Administrator
P.O. Box 1178
Billings, MT 59103

The notices or responses to the Grantee shall be addressed as follows:

Grantee Communications
Attn: Director of Government Affairs
951 W. Custer Ave.
Helena, MT 59601

Copy to:

Grantee Communications
Attn: Vice President, Government Affairs
601 Massachusetts Ave., NW
Suite 400W
Washington, DC 20001

The Grantor and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection.

(e) *Descriptive Headings*. The captions to Sections and subsections contained herein are *intended* solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

(f) *Severability*. If any non-material Section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

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. 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

ACCEPTED this ____ day of _____, 2021, subject to applicable federal and state law.

Spectrum Pacific West, LLC, By Its Manager,
Charter Communications, Inc.

Signature:_____

Name/Title:_____

ORDINANCE 21-5756

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING A NEW ARTICLE 7-1800, SECTIONS 7-1801 THROUGH 7-1809, ESTABLISHING A NONEXCLUSIVE CABLE SYSTEM FRANCHISE AGREEMENT INCLUDING ALL TERMS AND CONDITIONS WITH TDS METROCOM, LLC

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

Section 1. That the Billings, Montana, City Code be amended by adding a new Article 7-1800, to read as follows:

ARTICLE 7-1800. CABLE SYSTEM FRANCHISE

Sec. 7-1801. Definition of terms.

For the purpose of this Article, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. Any word or phrase not defined in this Section shall have the same meaning as in 47 U.S.C § 521 et seq. ("Cable Act") and associated Federal Communications Commission ("FCC") rules and regulations. Otherwise, words shall have their ordinary meaning.

A. "Basic Cable Service" means the most highly penetrated, separately-priced Service Tier that is available without the purchase of any other Service Tier and which includes the retransmission of local broadcast signals.

B. "Cable Act" means Title VI of the Communications Act of 1934, as amended.

C. "Cable Ordinance" means the Model Cable System Franchise set forth in Article 7-1600, Billings, Montana City Code.

D. "Cable Service" shall mean (1) the one-way transmission to Subscribers of (a) video programming, or (b) other programming service, and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

E. "Cable System" shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the Service Area, but such term does not include:

(1) a facility that serves only to retransmit the television signals of one or more television broadcast stations;

(2) a facility that serves Subscribers without using any public right-of-way;

(3) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§ 201 et seq., except that such facility shall be considered a cable system (other than for purposes of 47 U.S.C. § 541 (c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) an open video system that complies with 47 U.S.C. § 653;

(5) any facilities of any electric utility used solely for operating its electric utility systems.

The term "Cable System" includes wires, cables, conductors, ducts, poles, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary to the operation of the Cable System.

F. "Drop" means the cable that connects the ground block on the Subscriber's residence to the nearest feeder cable of the Cable System.

G. "FCC" means the Federal Communications Commission, or successor governmental entity thereto.

H. "Franchise" means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to 47 U.S.C. § 546) issued by the Grantor, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a Cable System.

I. "GAAP" means Generally Accepted Accounting Principles.

J. "Grantor" means the City of Billings, Montana or any lawful successor or assign.

K. "Grantee" means TDS Metrocom, LLC, or the lawful successor, transferee, or assignee thereof.

L. "Gross Revenues" means all amounts derived by the Grantee and/or affiliate from the operation of the Grantee's Cable System to provide Cable Services within the Service Area.

(1) "Gross Revenues" include, by way of illustration and not limitation:

(i) Fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial Subscribers, including revenues derived from the provision of Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, audio channels and video-on-demand Cable Services);

(ii) Installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair, or similar charges associated with Subscriber Cable Service;

(iii) Fees paid to the Grantee for channels designated for commercial/leased access use, which shall be allocated on a pro rata basis using total Cable Service Subscribers with the Service Area;

(iv) Converter, remote control, and other Cable Service equipment rentals, leases, or sales (but not revenues from equipment used exclusively for the provision of services that are not Cable Service);

(v) Advertising Revenues as defined herein;

(vi) Fees including, but not limited to: a) late fees, convenience fees and administrative fees which shall be allocated in accordance with GAAP; and 2) Franchise fees;

(vii) Commission from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Services Subscribers within the Service Area;

(viii) "Advertising Revenue" shall mean amounts derived from sales of advertising on any Cable Service made available the Grantee's Cable System Subscribers within the Service Area and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising.

(2) "Gross Revenues" shall not include:

(i) actual Cable Services bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the Service Area; and

(ii) any taxes and/or fees of general applicability imposed upon Grantee or Subscribers by any municipality, state or other governmental unit and required to be collected by Grantee and remitted to the taxing entity, provided that Franchise Fees, Public, Educational and Governmental (PEG) Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;

(iii) launch fees and marketing co-op fees to the extent consistent with GAAP; and,

(iv) unaffiliated third party advertising sales agency fees which are reflected as a deduction from revenues to the extent consistent with GAAP.

(3) To the extent revenues are received by Grantee, or any affiliate of Grantee, for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published undiscounted rates for the components. This calculation shall be applied to every bundled service package containing Cable Service from which the Grantee derives revenues in the Service Area and shall be modified whenever a rate change occurs on any part of the bundled services. The Grantor reserves the right to review and to challenge the Grantee's calculations.

M. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

N. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses held by the Grantor in the Service Area and which by their nature entitle the Grantor and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining a Cable System.

O. "Service Area" means the present boundaries of the Grantor, and shall include any additions thereto by annexation or other legal means.

P. "Service Tier" means a specific set of Cable Services which are made available as a group for purchase by Subscribers at a separate rate for the group.

Q. "Standard Installation" is defined as any service installation that can be completed using a Drop of one hundred twenty five (125) feet or less.

R. "Subscriber" means any Person who lawfully receives Cable Service of the Cable System and does not further retransmit it.

S. "Video Programming" means any programming provided by, or generally considered comparable to programming provided by a television broadcast station.

Sec. 7-1802. Grant of franchise.

(a) *Grant.* The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct, maintain, extend and operate a Cable System to provide Cable Services in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way a Cable System for the purpose of providing Cable Service. The Cable System shall be a Fiber-to-the-Premise (FTTP) network capable of delivering high-quality digital video signals meeting or exceeding FCC technical quality standards.

(b) *Other Ordinances.* This Franchise is subject to the laws and regulations of the Grantor as now existing or as may hereafter be adopted. Provided that, neither party may unilaterally alter the express material rights and obligations set forth in this Franchise. In the event of a conflict between the express material rights of Grantee set forth in this Franchise and any ordinance adopted after the date hereof and this Franchise, the Franchise shall control, provided however that the Grantee agrees that it is subject to the lawful exercise of the police power of the Grantor. Provided further, the right to use the Public Ways is subject to the continuing regulation by the Grantor, the grant of this Franchise is not in lieu of any permits or zoning approvals that may be required, or fees associated with the same; and the grant of the Franchise does not give Grantee the right to maintain its facilities at any particular location in the Public Ways, and instead the Grantee shall have the duty to relocate or remove the same from time to time, as provided in this Franchise or under laws or regulations now existing or hereafter adopted.

(c) *Public Hearing.* Before issuing any other Franchise or other authorization to provide multichannel video programming services, the Grantor shall conduct a public hearing to determine whether an applicant's proposal for such Franchise or other authorization meets the future cable-related needs and interests of the community and any impact on the existing provision of Cable Service, except where such a hearing would be inconsistent with applicable laws and regulations. Grantee shall be notified of that hearing, and shall be given an opportunity to appear at the hearing and address issues relevant to the issuance of the Franchise or other authorization, except that nothing in this paragraph requires the Grantor to take any action

that would result in a violation of applicable laws and regulations, or that prevent it from acting prior the expiration of any deadline.

(d) *Competitive Equity.* In the event that the Grantor issues, or has issued, a Franchise or other authorization to any other entity to provide multichannel video programming services in the City comparable to the Cable Service provided by Franchisee, the Grantor agrees to engage in good faith discussions with Grantee regarding any modifications to this Franchise proposed by Grantee to ensure that the terms and conditions imposed on Grantee by this Agreement will be neither less favorable nor more burdensome than those governing any other such entity or otherwise give such other entity an unfair competitive advantage over Grantee.

(e) *Term.* The Franchise granted hereunder shall be for an initial term of ten (10) years commencing on the effective date of the Franchise as set forth in Section 2, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

(f) *Renewal.* This Franchise will be automatically extended for an additional term of five (5) years, unless either party notifies the other in writing of its desire to not exercise this automatic extension at least three (3) years before the expiration of this Franchise. If such a notice is given, the parties will then proceed under the federal Cable Act renewal procedures.

Sec. 7-1803. Standards of Service.

(a) *General.* This Section sets forth minimum standards for service. All acts a Grantee is required to perform are at its expense, and at no expense to the Grantor except as otherwise stated herein.

(b) *Conditions of occupancy.* The Cable System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

(c) *Restoration of public ways.* If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, Grantee shall replace and restore such Public Way to a condition better than, or equal to, the condition of the Public Way existing immediately prior to such disturbance.

(d) *Relocation for the Grantor.* Upon its receipt of reasonable advance written notice, to be not less than ten (10) business days, the Grantee at its expense shall protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way, any property of the Grantee when required by the Grantor or any government entity by reason of traffic

conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of public structures or improvements. The Grantee shall in all cases have the right of abandonment of its property, provided that, if property is abandoned, Grantee upon request must provide Grantor title to the property, free and clear of encumbrances.

(e) *Relocation for a third party.* The Grantee shall, on the request of any Person holding a lawful permit issued by the Grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee, provided: (A) the expense of such is paid by said Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation, and as promptly as possible for a permanent relocation, considering the work to be performed in connection with that relocation.

(f) *Relocation for a Person Authorized to Place Facilities in Rights of Way.* Grantee shall promptly protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee as required to enable another person authorized to place facilities in the rights of way (other than a person described in Sections 7-1803(d)-(e) to construct, modify, repair or maintain such facilities, with the cost therefore to be borne in accordance with applicable law. If applicable law requires such other person to pay for the cost of relocation, Grantee may require such payment in advance.

(g) *Trimming of Trees and Shrubbery.* The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the Cable System, subject to the supervision of the Grantor. Nothing in this section relieves Grantee of any liability it may have to persons for damage caused to public or private property.

(h) *Safety Requirements.* Construction, operation, repair, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable federal, state, and local regulations and the National Electric Safety Code and the National Electrical Code. The Cable System shall not endanger or unreasonably interfere with the safety of Persons or property in the Service Area.

(i) *Underground Construction.* In those areas of the Service Area where all of the distribution facilities of the incumbent local exchange carrier and distribution lines of public utilities providing electric services are underground, the Grantee likewise shall construct, operate, and maintain its Cable System underground.

(j) *Initial Build-Out of Cable System; Required Extensions of the Cable System.* Grantor acknowledges that because Grantee is entering a market where potential Subscribers already have access to two or more terrestrial or satellite providers of multichannel video programming service, requiring Grantee to initially buildout all of the Service Area as a condition of receiving a cable franchise may be economically prohibitive and construed as a barrier to entry for competitive cable service in the Service Area. Accordingly, the parties agree to implement the following procedure for the initial construction and subsequent extension of the Grantee's Cable System within the Service Area.

(1) Within sixty (60) days following the effective date of this Franchise, the Grantor and Grantee shall establish a mutually agreeable construction start date that takes account such time as is reasonably necessary for Grantee to issue Requests for Proposals relating to the construction of the Cable System. No later than four (4) years from the agreed upon construction start date, Grantee's Cable System shall be capable of providing Cable Service to all of the Dwelling Units in the Initial Coverage Area, provided however that Grantee may request, and the Grantor shall not unreasonably withhold its approval of, extensions of this deadline based on construction delays caused or contributed to by unforeseen events outside Grantee's control.

(2) Within thirty (30) days following completion of the Initial Coverage Area construction required under paragraph (1), Grantee shall send written notification to Grantor of completion of Initial Coverage Area construction and Grantor may require grantee to expand its Cable System's coverage in accordance with the terms of this paragraph. No more than once a year, after receipt of a written request from Grantor, Grantee shall provide a report showing the current Penetration Level in Grantee's Service Area. If the Penetration Level is thirty-five percent (35%) or greater, the City may require Grantee to expand its Cable System to cover an additional seven percent (7%) of the Unserved Area by delivering written notice to Grantee. Upon receipt of such notice, Grantee shall have twenty-four (24) months to meet such expansion requirement. Grantee shall determine which portion of the Unserved Area it will serve to meet its obligation under this paragraph.

(3) Once Grantee has extended its Cable System to cover ninety-five percent (95%) of the Service Area in accordance with paragraph (2), the

Grantee shall make available Cable Service distributed over the Cable System when Dwelling Units can be served by extension of the cable system past Dwelling Units equivalent to a density of seven (7) Dwelling Units per one-quarter (1/4) mile of cable contiguous to the Cable System. Grantee may petition the Grantor for a waiver of this requirement, such waiver to be granted for good cause shown.

(4) Extensions of the Cable System pursuant to paragraphs (2) and (3) shall be at the Grantee's cost.

(5) In areas not meeting the requirements of seven (7) or more Dwelling Units per one-quarter (1/4) mile of cable contiguous to the Cable System, Grantee shall provide, upon request of any potential Subscribers desiring Cable Service from Grantee, an estimate of the costs required to extend the Cable System to such Subscribers. Grantee shall then extend the Cable System upon request and upon payment of any amount equal to the reasonable value of actual time and materials to be incurred by Grantee for such extension. If the Dwelling Unit is located within one hundred twenty-five (125) feet of Grantee's feeder cable, the installation cost for the Subscriber will be the Grantee's published rate for Standard Installations.

(6) Definitions. For purposes of this Section 7-1803(j), the following terms shall have the meanings ascribed to them below:

(A) "Coverage Area" means any portion of the Service Area where Dwelling Units are passed by Grantee's Cable System activated plant.
(B) "Dwelling Units" means all residential single family or multi-family homes or units in the Service Area.
(C) "Initial Coverage Area" means an area comprised of seventy percent (70%) of the Dwelling Units in the Service Area.
(D) "Penetration Level" means the percentage obtained by dividing (x) the number of Grantee's Subscribers, by (y) the total number of Dwelling Units in Franchisee's Service Territory (e.g., x/y = Penetration Level percentage).
(E) "Unserved Area" means any portion of the Service Area where the Dwelling Units are not in Grantee's Coverage Area.

(k) *Emergency Use.* If the Grantee provides an Emergency Alert System ("EAS"), then the Grantor shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System.

(l) *Non-Discrimination.* All Grantee's rates and charges shall be publicly-available and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall provide a minimum of thirty (30) days' written notice to Grantor and each Subscriber before increasing any rates and charges. Grantee shall make its services available on a non-discriminatory basis, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military, or economic status, or physical or mental disability or geographic location within the Service Area. Nothing herein shall be construed to prohibit:

(1) The temporary reduction or waiving of rates or charges in conjunction with promotional campaigns; or,

(2) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens.

Sec. 7-1804. Regulation by the Grantor

(a) *Franchise Fee.* The Grantee shall pay to the Grantor an annual franchise fee of five percent (5%) of annual Gross Revenues (as defined in this Franchise) computed in accordance with Generally Accepted Accounting Principles.

(1) Each annual payment shall be due forty-five (45) days following the end of the previous calendar year and shall be accompanied by a report prepared by a representative of Grantee showing the amount of the franchise fee due for each month covered by the annual payment. Upon written request, and subject to Section 7-1805(a), the Grantee shall provide such information as the Grantor may require to determine whether fees are being paid as required, attested to as accurate by an officer of the Grantee.

(2) Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due.

(3) No acceptance of any payment by the Grantor shall be construed as a release or an accord and satisfaction of any claim the Grantor may have for further or additional sums payable as a franchise fee or for the performance of any other obligation of Grantee.

(b) *Rates and Charges.* The Grantor may regulate rates and charges except to the extent preempted from doing so by federal or state law.

(c) *Transfer of Franchise.* The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other

than to an entity controlling, controlled by, or under common control with the Grantee as of the Effective Date, without the prior consent of the Grantor, such consent not to be unreasonably withheld. A change of control of Grantee or entities controlling Grantee shall be treated as a transfer. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness, provided that no such instrument permits any person to succeed to the ownership or control of the system without the approval of the Grantor. Without limiting the other provisions of this Franchise, Grantor and Grantee shall comply with any federal regulations governing transfer of cable systems. In deciding whether to grant or deny a request for transfer, the Grantor may consider any factors it may consider under applicable law, including the financial, technical and legal qualifications of the transferee.

Sec. 7-1805. Books and Records

(a) The Grantee agrees that the Grantor, upon thirty (30) days written notice to the Grantee, may review and copy such of its books and records at a mutually agreed upon time and place, as is reasonably necessary to ensure compliance with the terms of this Franchise, or applicable law, or to carry out any of the Grantor's obligations under the same. Such notice shall reference the Section of the Franchise or applicable law giving rise to the request, so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Grantor agrees that it will not disclose information provided to it which is marked as confidential or proprietary, except as required to do so by Montana public records statutes or by court order. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act and shall redact any such information.

(1) Upon request, Grantee shall provide the Grantor with maps of its system as built, in hard copy or, if the Grantor requests it, in an electronic format compatible with the Grantor's mapping systems.

(2) Grantor may require Grantee to produce reports reasonably necessary to ensure compliance with the terms of this Franchise, or applicable law, or to carry out any of the Grantor's obligations under the same.

Sec. 7-1806. Insurance and Indemnification

(a) *Insurance Requirements.* The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Commercial General Liability Insurance in the amount of one million five hundred thousand dollars ($1,500,000) combined single limit for bodily

injury and property damage. The Grantor shall be designated as an additional insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Grantor. The Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.

(b) *Indemnification.* Grantee shall indemnify, save harmless and defend the Grantor, its mayor and council, appointed boards and commissions, officers and employees, (collectively "Grantor and its agents") individually and collectively from all fines, liens, suits, claims, demands, actions, costs of litigation, attorneys' fees, judgments or liability of any kind ("Losses") (including but not limited to libel, slander, invasion of privacy, unauthorized use of any trademark, trade name or service mark, copyright infringement, injury, death or damage to person or property) arising out of or in any way connected with the installation, construction, operation, maintenance or condition of the Cable System. The Grantor shall give Grantee timely written notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the indemnity of this section, where Grantee is not a party thereto.

Sec. 7-1807. Enforcement and Termination of Franchise

(a) *Violation.* In the event that the Grantor believes that the Grantee has not complied with the terms of the Franchise, or applicable law, the Grantor may commence a proceeding in any court or agency of competent jurisdiction, and take such other actions as are permitted under this section, or other applicable law.

(b) *Liquidated Damages*. Grantee and Grantor agree to the following liquidated damages for the following violations. Grantee and Grantor agree that the liquidated damages amounts are in 2021 dollars and, upon notice from Grantor, may be increased once every three (3) years by the increase in the U.S. city average of the consumer price index. Damages accrue in accordance with subsection (c); provided that, nothing herein prevents Grantee from raising a defense to the imposition of liquidated damages from the date of the violation based upon laches, waiver, statute of limitations, or any other similar defense.

(1) For transferring this Franchise without required approval: One thousand dollars ($1,000.00) per day for each violation for each day the violation continues.

(2) For failure to comply with requirements for PEG use of the system for which damages to Grantor are not readily ascertainable: Two hundred fifty dollars ($250.00) per day for each violation for each day the violation continues.

(3) For violation of customer service standards: One hundred dollars ($100.00) per violation, except that violations of customer service standards, such as telephone answering standards, where the operator's compliance is not measured in terms of its response to individual customers, one thousand five hundred dollars ($1,500.00) a month for any period during which the Franchise fails to meet applicable performance standards, provided that, for purposes of this applying the telephone answering time standard, Grantee shall be deemed to have satisfied said standard whenever a Subscriber call is connected to an automated answering system within thirty (30) seconds after the call first rings and the Subscriber is transferred to a customer service representative within thirty (30) seconds after the Subscriber makes an automated or voice request to be so transferred; and

(4) For all other material violations of this Franchise for which actual damages may not be ascertainable: Two hundred fifty dollars ($250.00) per day for each violation for each day the violation continues.

(c) *Procedures for Imposition of Liquidated Damages.* Grantor may impose liquidated damages in accordance with procedures in this section, provided that Grantee will not be liable for liquidated damages for violations of the customer service standards until ninety (90) days after it began serving its first Subscriber in the Service Area. Grantor shall provide Grantee written notice describing with reasonable specificity the alleged noncompliance, and provide Grantee with an opportunity to be heard at a public hearing, to show either that a violation has not occurred or that damages should not be imposed. The written notice shall be provided at least sixty (60) days prior to any hearing on the alleged noncompliance. Liquidated damages shall accrue from the date of the alleged violation.

(d) *Nature of Liquidated Damages.* These sums are agreed upon as reasonable liquidated damages, developed in accordance with state law, and are not penalties.

(e) *Revocation of Franchise.* The Grantor shall have the right to terminate, revoke or shorten the term of this Franchise for the reasons specified in the Cable Ordinance as of the effective date of this Franchise, pursuant to the procedures specified in the Cable Ordinance. Provided that, any amendments to the Cable Ordinance shall provide the same level of due process as is provided under the procedures provided for under the Cable Ordinance as the same existed on the effective date of this Franchise.

(f) *Force Majeure.* Grantee shall not be deemed in default with provisions of this Franchise where performance was rendered impossible by war or riots,

civil disturbances, floods, natural catastrophes, or other events beyond Grantee's control, provided that Grantee takes immediate and diligent steps to comply as soon as possible under the circumstances with this Franchise without unduly endangering the health, safety and integrity of Grantee's employees or property, or the health, safety and integrity of the public, public rights-of-way, public property, or private property.

Sec. 7-1808. Public, Educational and Governmental Use

(a) *Definitions:*

(1) "Access, Public, Educational or Government, or PEG" refers to the availability of the System for Public, Education or Government ("PEG") use by various agencies, institutions, organizations, groups, and individuals, including the Grantor and its designated Access providers, to acquire, create, and distribute video and non-video communications not under Grantee's editorial control.

(2) "High definition" refers to television signals with a resolution of 1080i or 720p.

(b) *Provision of Channel Capacity for PEG Use.* At such time as Grantee first provides Cable Service to its first Subscriber in the Service Area, the Basic Cable Service provided by Grantee shall include two channels designated for PEG use. The PEG channels shall not be used for any purpose inconsistent with applicable law.

(c) *Management of Channel.* The Grantor shall designate who is responsible for managing the PEG channels provided under this Franchise.

(d) *Availability.* The PEG channels provided under this Franchise shall be viewable by any Subscriber without the need for obtaining any equipment other than the equipment required to receive High Definition broadcast channels; and shall be provided as part of Basic Cable Service.

(e) *Electronic Program Guide.* To the extent technically feasible, Grantee will identify the PEG channels on the same interactive, on-screen electronic program guide ("EPG") on which the Grantee lists other channels. If the entity that is responsible for managing a PEG channel wants the EPG to display specific program-related information (e.g., title, date, and time of program, closed captioning availability, etc.), it shall be the sole responsibility of such entity both to timely provide the information that it wishes to have displayed to the entity that is responsible for programming the EPG and to bear any expenses associated with arranging for such display.

(f) *Format.* PEG links and channels must be designed so that there is no noticeable deterioration in signal quality or programming as received from the PEG programmer and should be of a quality equivalent to other local broadcast affiliate station channels carried on the Basic Cable Service. Grantee shall cablecast in High Definition format any PEG programming provided in high definition format. If, at any time during the term of this Franchise, Grantee carries fifty (50%) percent of all commercial channels on the Basic Cable Service in an advanced format other than High Definition, Grantee shall also carry the PEG channels in such format if so provided to Grantee and upon a schedule to be mutually agreed with the Grantor which may include carriage in more than one format for a transition period. Grantor will be responsible for the cost of upgrading its PEG facilities as needed to deliver the advanced format to Grantee; Grantee will be responsible for the cost of upgrading its facilities as needed to deliver the advanced format to Subscribers.

(g) *Grantee's Responsibilities.* Grantee will provide and maintain a dedicated two-way activated fiber link between the Community Seven Television Playback Center at the Lincoln Center (the "Playback Center") and the Grantee's headend for cablecasting to Subscribers so that the transmission of any PEG channel emanating from the Playback Center can be monitored by Grantor. Grantee also will provide and maintain equipment to encode signals for transport from the Playback Center to the TDS headend. Grantee shall be responsible for ensuring that no material degradation occurs to signals emanating from said Playback Center during their transmission from Grantee's headend to Subscribers. The Grantee will provide and maintain dedicated activated fiber links between the Playback Center and the following locations so that each location may transmit signals without degradation to the Playback Center:

(1) City Hall (Council Chambers/Municipal Court), located at 220 North 27th Street

(2) Either (but not both) the Stillwater Building at 316 North 26th Street, or the Miller Building at 301 North 29th Street, with the decision as to which one of these buildings Grantee is obligated to provide connections shall be made by Grantor and communicated to Grantee in writing at least thirty (30) days prior to the date on which Grantee commences downtown construction of the Cable System.

If Grantee makes changes to its Cable System that necessitate modifications to PEG facilities and equipment, including but not limited to the links, Grantee shall provide any additional facilities or equipment necessary to implement such modifications within thirty (30) days of the date that the System changes are made, so that PEG facilities and equipment may be used and operated as intended.

(h) *Other Capital Support for PEG.*

(1) Grantee shall pay twenty-five cents ($0.25) per Subscriber per month for capital support for PEG. Grantor may increase this fee to up to eighty-five cents ($0.85) per subscriber per month and Grantee shall pay the increased fee beginning sixty (60) days after adoption of a resolution by the Grantor after at a public meeting, provided that such fee, as increased, is not greater than the PEG capital support fee required to be paid by any other Cable System serving the City. This charge for PEG capital support may be categorized, itemized and passed through to subscribers as a PEG fee on Subscriber's bills, at Grantee's option, as permitted by applicable law. Grantee shall remit the PEG capital support fee, separately itemized by month, to Grantor annually at the same time as Grantee remits the franchise fee payment due under Section 7-1804(a)(1).

(2) Grantee shall not be responsible for paying the PEG capital support fee with respect to gratis or bad debt accounts. Upon Grantee's written request and due as agreed upon by both parties, the Grantor shall provide the Grantee with documentation showing expenditures for PEG capital use of the previous fiscal years' PEG capital support fee and showing the budgeted use of the current year's PEG funding. In the event the Grantor cannot demonstrate that PEG capital funding was used or budgeted for PEG capital needs, Grantee's PEG funding obligations going forward shall be reduced by an equivalent amount.

(i) *Channel Location.* Grantee agrees to use reasonable efforts to place the PEG channels on channel locations that are grouped with the local national network affiliated broadcast stations (e.g. ABC, CBS and NBC) in the Basic Cable Service. Grantee shall not change the channel position for the PEG channels without the Grantor's consent unless the change is required by federal law. The Grantor's consent will not be unreasonably withheld or delayed. Grantee shall pay reasonable, documented capital expenses associated with any change in the PEG channel positions, up to three thousand dollars ($3,000.00) per change. Grantee shall give Subscribers advance notice, consistent with the federal customer service standards, of any change in the channel position of a PEG channel.

(j) *No Charge for Use.* The facilities, equipment and channel capacity provided for PEG use shall be available at no charge from Grantee to users, to the Grantor or to any entity responsible for managing a PEG channel.

(k) *Support not a franchise fee.* PEG capital support fee is not intended to represent part of the Franchise Fee and is intended to fall within one (1) or more of the exceptions in 47 U.S.C. § 542. So long as the PEG capital support fee is used by Grantor as permitted by applicable federal law, and

this Franchise, Grantee agrees that it will not offset or reduce its payment of past, present or future Franchise Fees required as a result of its obligation to remit the PEG capital support fee, unless otherwise mandated by applicable law.

Sec. 7-1809. Miscellaneous Provisions

(a) *Actions of Parties.* In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

(b) *Entire Agreement.* This Franchise constitutes the entire agreement between the Grantee and the Grantor. Amendments to this Franchise shall be mutually agreed to in writing by the parties.

(c) *Governing Law.* This Agreement shall be governed by the laws of the State of Montana unless expressly preempted by federal law. Venue for any litigation shall be in Yellowstone County, Montana.

(d) *Notice.* Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Grantor or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, or c) within five (5) business days after having been posted in the regular mail.

The notices or responses to the Grantor shall be addressed as follows:

City of Billings
City Administrator
P.O. Box 1178
Billings, MT 59103

The notices or responses to the Grantee shall be addressed as follows:

TDS Metrocom, LLC
525 Junction Road
Madison, WI 53717
ATTN: Legal Department

The Grantor and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection.

(e) *Descriptive Headings*. The captions to Sections and subsections contained herein are *intended* solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

(f) *Severability*. If any non-material Section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

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. 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 12th day of April, 2021.

PASSED, ADOPTED and APPROVED on second reading this 26th day of April, 2021.

CITY OF BILLINGS: SEAL YELLOWSTONE COUNTY, MONTANA

CITY OF BILLINGS:

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

Attest:

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

ACCEPTED this 30th day of April, 2021, subject to applicable federal and state law.

TDS, Metrocom, LLC
By: Joel P. Dohmeier
Name: Joel P. Dohmeier
Title: Dir., Govt + Regulatory Affairs

Charter
COMMUNICATIONS

Mary Roehr
Director, Government Affairs
Mountain States

October 25, 2021

Ms. Stacy R. Tenney
Deputy City Attorney
City of Billings
PO Box 1179
Billings, MT 59103

Dear Ms. Tenney,

This letter is to confirm that Spectrum Pacific West, LLC, locally known as Charter Communications, intends to carry the Billings PEG channel in HD on Channel 507 on the cable system in Billings for the term of the Franchise. The PEG programming will be in HD to the extent that the programming is provided to us in that format. The PEG channel in SD on Channel 7 will no longer be carried.

Sincerely,

Mary Roehr

Mary Roehr

951 WEST CUSTER AVE., HELENA, MT, 59601 M 406-671-7956 mary.roehr@charter.com

ARTICLE 7-900. CABLE SYSTEM FRANCHISE[1]

Sec. 7-901. Definition of terms.

For the purpose of this article, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

Basic cable service means any service tier which includes the retransmission of local television broadcast signals and any public, educational, and governmental access programming.

Cable Act means Title VI of the Communications Act of 1934, as amended.

Cable programming service means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

(1) Video programming carried on the basic service tier;

(2) Video programming offered on a pay-per-channel or pay-per-program basis; or

(3) A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:

a. Consists of commonly-identified video programming; and

b. Is not bundled with any regulated tier of service.

Cable programming service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(l)(2) (1993) and 47 C.F.R. 76.901(b) (1993).

Cable services shall mean:

(1) The one-way transmission to subscribers of:

a. Video programming, or

b. Other programming service, and

(2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

Cable system shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the service area, but such term does not include:

[1]Editor's note(s)—Ord. No. 08-5472, §§ 1, 2, adopted June 9, 2008, repealed and reenacted article 7-900 to read as herein set out. Formerly, article 7-900 pertained to similar subject matter, and derived from Ord. No. 88-4772, § I—IX, adopted October 17, 1988.

(1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(2) A facility that serves subscribers without using any public right-of-way;

(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§ 201 et seq., except that such facility shall be considered a cable system (other than for purposes of 47 U.S.C. § 541 (c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) An open video system that complies with 47 U.S.C. § 653.

(5) Any facilities of any electric utility used solely for operating its electric utility systems.

The term includes wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary to the operation of the cable system.

Converter means an electronic device which converts signals to a frequency viewable on a television receiver of a subscriber and by an appropriate selector permits a subscriber to view all signals included in the service.

Drop means the cable that connects the ground block on the subscriber's residence to the nearest feeder cable of the system.

FCC means the Federal Communications Commission, or successor governmental entity thereto.

Franchise means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to 47 U.S.C. § 546) issued by a grantor, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system.

Grantor means the City of Billings, Montana or any lawful successor or assign.

Grantee means Bresnan Communications, LLC, or the lawful successor, transferee, or assignee thereof.

Gross revenue means revenue derived by grantee, or any affiliate of grantee from the operation of the cable system to provide cable services, provided, however, that such phrase shall not include unrecovered bad debt, to the extent reported as revenue on grantee's books.

Person means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

Public way shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses held by the grantor in the service area and which by their nature entitle the grantor and the grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining a cable system.

Service area means the present boundaries of the grantor, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in subsection 3.9.

Standard installation is defined as any service installation that can be completed using a drop of one hundred twenty-five (125) feet or less.

Subscriber means any person who lawfully receives cable service of the cable system.

Video programming means any programming provided by, or generally considered comparable to programming provided by a television broadcast station.

(Ord. No. 08-5472, § 2, 6-9-08)

Sec. 7-902. Grant of franchise.

(a) *Grant.* The grantor hereby grants to the grantee a nonexclusive franchise which authorizes the grantee to construct and operate a cable system to provide cable services in, along, among, upon, across, above, over, under, or in any manner connected with public ways within the service area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any public way a cable system for the purpose of providing cable service. This grant is not in lieu of any other grant that the city or state may require in connection with the use or occupancy of the public ways to provide any other service.

(b) *Other ordinances.* This franchise is subject to the laws and regulations of the city as now existing or as may hereafter be adopted. Provided that, neither party may unilaterally alter the express material rights and obligations set forth in this franchise. In the event of a conflict between the express material rights of grantee set forth in this franchise and any ordinance adopted after the date hereof and this franchise, the franchise shall control, provided however that the grantee agrees that it is subject to the lawful exercise of the police power of the grantor. Provided further, the right to use the public ways is subject to the continuing regulation by the city, the grant of this franchise is not in lieu of any permits or zoning approvals that may be required, or fees associated with the same; and the grant of the franchise does not give grantee the right to maintain its facilities at any particular location in the public ways, and instead the grantee shall have the duty to relocate or remove the same from time to time, as provided in this franchise or under laws or regulations now existing or hereafter adopted.

(c) *Public hearing.* Before issuing any other cable franchise or franchise to provide multi-channel video programming services, the city shall conduct a public hearing to determine whether an applicant's proposal meets the future cable-related needs and interests of the community and any impact on the existing provision of cable service, except where such a hearing would be inconsistent with applicable laws and regulations. Grantee shall be notified of that hearing, and shall be given an opportunity to appear at the hearing and address issues relevant to the issuance of the franchise, except that nothing in this paragraph requires the city to take any action that would result in a violation of applicable laws and regulations, or that prevent it from acting prior the expiration of any deadline.

(d) *Term.* The franchise granted hereunder shall be for an initial term of five (5) years commencing on the effective date of the franchise as set forth in subsection 7-909(g), unless otherwise lawfully terminated in accordance with the terms of this franchise.

(Ord. No. 08-5472, § 2, 6-9-08)

Sec. 7-903. Standards of service.

(a) *General.* This section sets forth minimum standards for service, and does not affect the city's rights as reserved under section 7-902. All acts a grantee is required to perform are at its expense, and at no expense to the city.

(b) *Conditions of occupancy.* The cable system installed by the grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such public ways.

(c) *Restoration of public ways.* If during the course of the grantee's construction, operation, or maintenance of the cable system there occurs a disturbance of any public way by the grantee, grantee shall replace and restore such public way to a condition better than, or equal to, the condition of the public way existing immediately prior to such disturbance.

(d) *Relocation for the grantor.* Upon its receipt of reasonable advance written notice, to be not less than five (5) business days, the grantee at its expense shall protect, support, raise, lower, temporarily disconnect, relocate in or remove from the public way, any property of the grantee when required by the grantor or any government entity by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of public structures or improvements. The grantee shall in all cases have the right of abandonment of its property,, provided that, if property is abandoned, grantee upon request must provide grantor title to the property, free and clear of encumbrances.

(e) *Relocation for a third party.* The grantee shall, on the request of any person holding a lawful permit issued by the grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the public way as necessary any property of the grantee, provided:

(1) The expense of such is paid by said person benefiting from the relocation, including, if required by the grantee, making such payment in advance; and

(2) The grantee is given reasonable advance written notice to prepare for such changes.

For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation, and as promptly as possible for a permanent relocation, considering the work to be performed in connection with that relocation.

(f) *Relocation for a person authorized to place facilities in rights of way.* Grantee shall promptly protect, support, raise, lower, temporarily disconnect, relocate in or remove from the public way as necessary any property of the grantee as required to enable another person authorized to place facilities in the rights of way (other than a person described in subsections 7-903(d) and (e) to construct, modify, repair or maintain such facilities, with the cost therefore to be borne in accordance with applicable law.

(g) *Trimming of trees and shrubbery.* The grantee shall have the authority to trim trees or other natural growth in order to access and maintain the cable system, subject to the supervision of the city. Nothing in this section relieves grantee of any liability it may have to persons for damage caused to public or private property.

(h) *Safety requirements.* Construction, operation, and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable federal, state, and local regulations and the National Electric Safety Code and the National Electrical Code. The cable system shall not endanger or unreasonably interfere with the safety of persons or property in the service area.

(i) *Underground construction.* In those areas of the service area where all of the distribution facilities of the incumbent local exchange carrier or distribution lines of public utilities providing electric services are underground, the grantee likewise shall construct, operate, and maintain its cable system underground.

(j) *Required extensions of the cable system.* Whenever the grantee receives a request for cable service from a subscriber in a contiguous unserved area where there are at least ten (10) residential units that would be passed by an extension of 1320 cable-bearing strand feet (one-quarter cable mile) from the portion of the grantee's trunk or distribution cable which is to be extended, it shall extend its cable system to such subscribers at no cost to said subscribers for the cable system extension, other than the published standard/non-standard installation fees for drops charged to all subscribers.

(k) *Subscriber charges for extensions of the cable system.* No subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of subsection (j), the grantee shall only be required to extend the cable system to subscriber(s) in that area if the subscriber(s) are willing to share the capital costs of extending the cable system. Specifically, the grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet from the grantee's trunk or distribution cable, and whose

denominator equals ten (10). Subscribers who request service hereunder shall bear the remaining cost to extend the cable system on a pro rata basis. The grantee may require that payment of the capital contribution in aid of construction borne by such potential subscribers be paid in advance. Subscribers shall also be responsible for any standard and non-standard installation fees for drops.

(l) *Cable service to public buildings.* The grantee, shall maintain and continue to provide free services to all public buildings to which it was providing free service as of January 1, 2008, and upon request, shall provide without charge, a standard installation and one outlet of basic cable to those administrative buildings owned and occupied by the grantor, fire station(s), police station(s), and K-12 public school(s) existing as of January 1, 2008. For such additional buildings as may be added after January 1, 2008, Grantee shall provide a free outlet of basic service upon request, provided that, if the person requesting service is more than three hundred fifty (350) feet from the cable system, the company shall provide free service and an extension upon request, if the person requesting service agrees to pay the additional incremental cost of drop installation beyond the cost for the first three hundred fifty (350) feet. The cable service provided shall not be used for commercial purposes, and such outlets shall not be located in areas open to, and used continuously by the general public (students are not treated as part of the general public for purposes of this paragraph). The grantor shall take reasonable precautions to prevent any use of the grantee's cable system in buildings owned or controlled by grantor in any manner that results in the inappropriate use thereof or any loss or damage to the cable system. Each building may extend the service from the free outlet to other locations, and grantee shall provide power levels to the building to permit service to be so extended. If additional amplifiers are required in the building, the grantee may charge its actual cost of the amplifier.

(m) *Emergency use.* If the grantee provides an emergency alert system ("EAS"), then the grantor shall permit only appropriately trained and authorized persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the grantee's cable system in any manner that results in inappropriate use thereof, or any loss or damage to the cable system.

(Ord. No. 08-5472, § 2, 6-9-08)

Sec. 7-904. Regulation by the grantor

(a) *Franchise fee.*

(1) The grantee shall pay to the grantor an annual franchise fee of five (5) percent of annual gross revenue (as defined in section 7-901). Each payment shall be accompanied by a report prepared by a representative of the grantee showing the basis for the computation, containing such information as the city may require to determine whether fees are being paid as required, and attested to as accurate by an officer of the grantee.

(2) Limitation on franchise fee actions. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the grantee is due.

(3) Grantor shall have the right to review and copy the books and records of the grantee, and any person receiving revenues subject to the franchise fee hereunder, and grantee shall be responsible for obtaining and providing such books and records to the city for its review at city hall, or such other location as the parties may agree.

(4) No acceptance of any payment by the city shall be construed as a release or an accord and satisfaction of any claim the city may have for further or additional sums payable as a franchise fee or for the performance of any other obligation of franchisee.

(b) *Rates and charges.* The grantor may regulate rates and charges except to the extent preempted from doing so by federal or state law.

(c) *Transfer of franchise.* The grantee's right, title, or interest in the franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the grantee as of the effective date, without the prior consent of the grantor, such consent not to be unreasonably withheld. A change of control of grantee or entities controlling grantee shall be treated as a transfer. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the grantee in the franchise or cable system in order to secure indebtedness, provided that no such instrument permits any person to succeed to the ownership or control of the system without the approval of the city. Without limiting the other provisions of this franchise, grantor and grantee shall comply with any federal regulations governing transfer of cable systems. In deciding whether to grant or deny a request for transfer, the city may consider any factors it may consider under applicable law, including without limitation the financial, technical and legal qualifications of the transferee, whether the grantee is in compliance with its obligations, and the effect of the transfer on the city or subscribers. City may deny a transfer application for failure of grantee or transferee to respond to reasonable requests for information regarding the transfer. A request for approval of a transfer will not be unreasonably withheld.

(Ord. No. 08-5472, § 2, 6-9-08)

Sec. 7-905. Books and records.

(a) The grantee agrees that the grantor, upon thirty (30) days written notice to the grantee, may review and copy such of its books and records at the grantee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of this franchise, or applicable law, or to carry out any of the city's obligations under the same. Such notice shall reference the section of the franchise or applicable law giving rise to the request, so that the grantee may organize the necessary books and records for easy access by the grantor. The grantee shall not be required to maintain any books and records for franchise compliance purposes longer than three (3) years, other than revenue information, which must be maintained for at least five (5) years. Grantor agrees that it will not disclose information provided to it which is marked as confidential or proprietary, except as required to do so by state public records statutes or by court order. The grantee shall not be required to provide subscriber information in violation of Section 631 of the Cable Act, and shall redact any such information.

(b) Upon request, grantee shall provide the city with maps of its system as built, in hard copy or, if the city requests it, in an electronic format compatible with the city's mapping systems.

(c) Grantor may require grantee to produce reports reasonably necessary to ensure compliance with the terms of this franchise, or applicable law, or to carry out any of the city's obligations under the same.

(Ord. No. 08-5472, § 2, 6-9-08)

Sec. 7-906. Insurance and indemnification.

(a) *Insurance requirements.* The grantee shall maintain in full force and effect, at its own cost and expense, during the term of the franchise, commercial general liability insurance in the amount of one million five hundred thousand dollars ($1,500,000.00) combined single limit for bodily injury and property damage. The grantor shall be designated as an additional insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the grantor. The grantee shall provide a certificate of insurance showing evidence of the coverage required by this subsection.

(b) *Indemnification.* Grantee shall indemnify, save harmless and defend the city, its mayor and council, appointed boards and commissions, officers and employees, (collectively "city and its agents") individually and collectively from all fines, liens, suits, claims, demands, actions, costs of litigation, attorneys' fees,

judgments or liability of any kind ("losses") (including but not limited to libel, slander, invasion of privacy, unauthorized use of any trademark, trade name or service mark, copyright infringement, injury, death or damage to person or property) arising out of or in any way connected with the installation, construction, operation, maintenance or condition of the cable system. The city shall give grantee timely written notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the indemnity of this section, where grantee is not a party thereto.

(Ord. No. 08-5472, § 2, 6-9-08)

Sec. 7-907. Enforcement and termination of franchise.

(a) *Violation.* In the event that the grantor believes that the grantee has not complied with the terms of the franchise, or applicable law, the city may commence a proceeding in any court or agency of competent jurisdiction, and take such other actions as are permitted under this section, or other applicable law.

(b) *Liquidated damages.* Franchisee and city agree to the following liquidated damages for the following violations. The parties agree that the liquidated damage amounts are in 2008 dollars and, upon notice from city, may be increased once every three (3) years by the increase in the U.S. city average of the consumer price index. Damages accrue from the date of the violation; provided that, nothing herein prevents franchisee from raising a defense to the imposition of liquidated damages from the date of violation based upon laches, waiver, statute of limitations, or any other similar defense.

(1) *For transferring this franchise without required approval:* One thousand dollars ($1,000.00) per day for each violation for each day the violation continues.

(2) *For failure to comply with requirements for PEG use of the system for which damages to the city are not readily ascertainable:* Two hundred fifty dollars ($250.00) per day for each violation for each day the violation continues.

(3) *For violation of customer service standards:* One hundred dollars ($100.00) per violation, except that for violations of customer service standards, such as telephone answering standards, where the operator's compliance is not measured in terms of its response to individual customers, one thousand five hundred dollars ($1,500.00) a month for any period during which franchisee fails to meet applicable performance standards; and

(4) *For all other material violations of this franchise for which actual damages may not be ascertainable:* Two hundred fifty dollars ($250.00) per day for each violation for each day the violation continues.

(c) *Imposition of liquidated damages.* The city may impose liquidated damages in accordance with the procedures in this section. The city shall provide franchisee written notice describing with reasonable specificity the alleged noncompliance, and provide franchisee with an opportunity to be heard at a public meeting, to show either that a violation has not occurred or that damages should not be imposed. The written notice shall be provided at least sixty (60) days prior to any hearing on the alleged noncompliance.

(d) *Nature of liquidated damages.* These sums are agreed upon as reasonable liquidated damages, developed in accordance with state law, and are not penalties.

(e) *Revocation of franchise.* The city shall have the right to terminate, revoke or shorten the term of this franchise for the reasons specified in the cable ordinance as of the effective date of this franchise, pursuant to the procedures specified in the cable ordinance. Provided that, any amendments to the cable ordinance shall provide the same level of due process as is provided under the procedures provided for under the cable ordinance as the same existed on the effective date of this franchise.

(f) *Force majeure.* Franchisee shall not be deemed in default with provisions of this franchise where performance was rendered impossible by war or riots, civil disturbances, floods, natural catastrophes, or

other events beyond franchisee's control, provided that franchisee takes immediate and diligent steps to comply as soon as possible under the circumstances with this franchise without unduly endangering the health, safety and integrity of franchisee's employees or property, or the health, safety and integrity of the public, public rights-of-way, public property, or private property.

(Ord. No. 08-5472, § 2, 6-9-08)

Sec. 7-908. Public, educational and governmental use.

(a) *Definition.*

Access, public, educational or government or *PEG* refers to the availability of the system for public, education or government ("PEG") use by various agencies, institutions, organizations, groups, and individuals, including the city and its designated access providers, to acquire, create, and distribute video and non-video communications not under grantee's editorial control.

(b) *Preservation of existing benefits.* Grantee shall continue to provide and maintain pathways and equipment associated with carrying the PEG channels that it was providing prior to and upon the effective date of this franchise until and unless the city notifies grantee that such support is no longer necessary.

(c) *Provision of channel capacity for PEG use.* In the event that the grantee cable system would transition to an "all digital" cable network, upon request grantee shall provide up to one additional digital channel for public, educational or government use on the basic service tier, when the usage triggers described in subsection (n) are satisfied.

(d) *Management of channels.* The city shall designate who is responsible for managing the PEG channels provided under this franchise.

(e) *Availability.*

(1) PEG channels, other than on-demand channels provided under subsection (k) shall be viewable by any subscriber without the need for obtaining any equipment other than the equipment required to receive broadcast channels; and shall be provided as part of basic service tier, or if there is no basic service tier, as part of the service provided to any subscriber.

(2) Other PEG channel capacity shall be useable by any subscriber who is able to use any comparable commercial service, without any additional charges (for example, a subscriber who is able to order commercial programming on demand shall also be able to obtain the PEG programming on demand).

(f) *Menus.* To the extent technically feasible, PEG programming choices shall be displayed on menus in a manner equivalent to the manner commercial programming choices are displayed. It is the responsibility of the entity that is responsible for managing a PEG channel to timely provide information that it wishes to have displayed on the menu.

(g) *Format.* PEG channel capacity (other than on-demand capacity) shall be provided in analog format until such time as grantee digitizes all other channels on the basic service tier. PEG links and channels must be designed so that there is no noticeable deterioration in signal quality or programming as received from the PEG programmer. Once grantee digitizes all other signals on the basic service tier, it shall provide all PEG channels in a digital format, including cablecasting in high definition format any PEG programming provided in high definition format. Channels used should be of a quality equivalent to other channels that were carried on the basic service tier.

(h) *Grantee's responsibilities.*

(1) In addition to providing and maintaining the links that were in place as of the effective date of this franchise, grantee shall provide and maintain links to any location listed in its prior franchise. The

grantee shall also provide and maintain links to the new program origination locations in accordance with the following. The links shall be designed to serve as a program origination point, and as a playback center for programming on any PEG channel.

a. To one additional location at its cost, so long as the location is within 2640 cable bearing strand feet of the then-existing cable distribution network and any required land-owner permission is obtained;

b. To additional locations where the grantee's then-existing cable distribution network is already in place (Dehler Field being such a location);

c. At the incremental cost of extending the nearest available fiber to the location, where subsections a. and b. do not apply.

The obligations under this section include the responsibility to provide equipment necessary to place the signal on the system, and to route signals to the appropriate PEG channel, all without any noticeable PEG signal deterioration. Grantee is not responsible for any production equipment.

(2) If grantee makes changes to its system that necessitate modifications to PEG facilities and equipment, including but not limited to the links, grantee shall provide any additional facilities or equipment necessary to implement such modifications within thirty (30) days of the date that the system changes are made, so that PEG facilities and equipment may be used and operated as intended.

(i) *Other capital support for PEG.*

(1) Grantee may be required to pay up to eighty-five cents ($0.85) per subscriber per month for such support, beginning sixty (60) days after adoption of a resolution adopted by the city after at a public meeting. A separate resolution from this article must be adopted to invoke this fee. This charge would be passed through to subscribers as a PEG fee, at grantee's option.

(2) Grantee shall provide a lump sum amount of fifty thousand dollars ($50,000.00), with one-half (½) due within thirty (30) days of the effective date of this agreement, and one-half (½) due on the anniversary of the effective date.

(j) *Channel location.* Grantee agrees to use reasonable efforts to locate PEG channels so that they are grouped with the majority of channels a subscriber receives as part of the lowest level of service offered on the system. Grantee shall pay reasonable expenses associated with a change in the PEG channel positions, up to three thousand dollars ($3,000.00) per change. Grantee shall also provide up to two (2) 15-second slots per day, on the channel previously occupied by a PEG channel, mixed over morning, afternoon, evening and late night time slots, for thirty (30) days after a change in channel positions, subject to restrictions on ad inserts in grantee's contract with the applicable programmer. Grantee shall not change the channel position for the government channel designated by the city, without the city's consent unless the change is required by federal law. City consent will not be unreasonably withheld or delayed.

(k) *Video on demand.* As of the adoption of this article, grantee has only recently begun to offer local video on demand content. Grantee is willing to make the city a test bed for local video on demand programming, and grantor agrees to use its best efforts to implement PEG video on demand in the city. Grantor agrees to work cooperatively with grantee in this effort, and to explore and develop operational and technical procedures for submitting, storing, adding, removing and tagging such programming, in a manner that is financially and technically feasible for both parties.

(l) *No charge for use.* The facilities, equipment and channel capacity provided for PEG use shall be available at no charge from grantee to users, to the city or to any entity responsible for managing a PEG channel. In the event separate resolution is enacted per subsection (i)(1), the city recognizes that grantee intends to pass those costs on to users, at its discretion.

(m) *Support not a franchise fee.* The parties agree that any cost to the company associated with providing any support for PEG use required under this franchise shall not constitute a franchise fee within the meaning of 47 U.S.C. § 542, and shall be deemed to fall within one or more of the exceptions listed in 47 U.S.C. § 542(g)(2).

(n) *Usage triggers.* Satisfying any one of the following triggers shall entitle the city to the additional channel provided for in this section.

(1) If all PEG channels are being programmed at least eighty (80) hours per week over a consecutive 16-week period.

(2) If all channels designated for a particular use (e.g., educational use) are being programmed at least eighty (80) hours per week over a consecutive 16-week period, an additional channel shall be provided for that particular use upon request by the city.

(3) If the city desires a governmental channel and there is no designated governmental channel, the city can show that there is a regular conflict over a consecutive 16-week period between programming it would carry and programming being carried on PEG channels.

The term "repeat program" means the running time of any program to the extent that it is shown more than four (4) times during the test period. Repeat programs are counted only to a maximum of twenty-five (25) percent of total hours for purposes of the tests in paragraphs (1) and (2).

(Ord. No. 08-5472, § 2, 6-9-08)

Sec. 7-909. Miscellaneous provisions.

(a) *Actions of parties.* In any action by the grantor or the grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

(b) *Entire agreement.* This franchise constitutes the entire agreement between the grantee and the grantor. Amendments to this franchise shall be mutually agreed to in writing by the parties.

(c) *Governing law.* This agreement shall be governed by the laws of the state unless expressly preempted by federal law. Venue for any litigation shall be in Yellowstone County, Montana.

(d) *Notice.* Unless expressly otherwise agreed between the parties, every notice or response required by this franchise to be served upon the grantor or the grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope:

(1) Upon receipt when hand delivered with receipt/acknowledgment;

(2) Upon receipt when sent certified, registered mail; or

(3) Within five (5) business days after having been posted in the regular mail.

The notices or responses to the grantor shall be addressed as follows:

City of Billings
City Administrator
P.O. Box 1178
Billings, MT 59103

The notices or responses to the Grantee shall be addressed as follows:

Sean O'Donnell
Regional Vice President and General Manager, Montana Operations
Bresnan Communications
1860 Monad Road
Billings, Montana 59102
(406) 238-7710

with a copy to:

Robert Bresnan
Senior Vice President
Bresnan Communications, LLC
One Manhattanville Road
Purchase, NY 10577

The grantor and the grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection.

(e) *Descriptive headings.* The captions to sections and subsections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

(f) *Severability.* If any non-material section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the franchise.

(Ord. No. 08-5472, § 2, 6-9-08)

City Council Regular

Date:	11/22/2021
Title:	Public Hearing and First Reading Ordinance for regulation of Fire / Security Alarm Systems
Presented by:	Mike Spini
Department:	Fire
Presentation:	Yes

RECOMMENDATION

Staff, Fire and Police Departments recommend approval amending Billings, Montana City Code (BMCC) by adding a new section to Article 14-600 Regulation of Fire / Security Alarm Systems.

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

The Billings Fire and Police Departments respond to thousands of false fire and security alarm calls annually. False alarms harm the community by removing in-service fire and police units from responding to actual emergencies and condones complacency for reacting to alarms (building occupants and first responders). False alarms place the public at risk due to code response traveling to the location and produce unnecessary wear and tear and fuel usage for fire and police vehicles.

The proposed ordinance provides a mechanism to reduce the number of false alarms by charging a response fee to alarm system owners for excessive alarms (three or more) requiring fire or police department response. Similar ordinances are in place around the country and have proven to be effective in reducing false alarms. For the years 2018-2020 there have been an average of 942 alarm calls per year with approximately 40% of those calls coming from locations with 3 or more calls per year.

STAKEHOLDERS

Affected stakeholders include the fire and police departments, commercial fire and security alarm system owners, alarm system companies, and the public. A stakeholder committee was formed and provided input and direction on the proposed ordinance, including the allowable amount of false alarms, the fee amount, and the appeals process.

ALTERNATIVES

City Council may choose to approve; or, not approve staff recommendations.

FISCAL EFFECTS

There is no negative impact on the fire and police department's budgets. All fees collected will be deposited into the General Fund. The Finance Department will conduct billing and collection of payments based on information provided by the Fire and Police Departments. A separate resolution will set the fee amount and will be presented to City Council after the second reading and public hearing.

SUMMARY

For the reasons stated within this memo, City staff of the Fire and Police Departments recommend approval amending Billings, Montana City Code (BMCC) by adding a new section to Article 14-600 Regulation of Fire / Security Alarm Systems.

Attachments

False Alarm Ordinance

ORDINANCE 21-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE (BMCC) BE AMENDED BY ADDING SECTIONS 14-600 FOR THE REGULATION OF FIRE/SECURITY ALARM SYSTEMS.

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

Section 1. **That the Billings, Montana City Code (BMCC) be amended by adding a new section that shall read as follows:**

Article 14-600. Regulation of Fire/Security Alarm Systems

REGULATION OF FIRE/SECURITY ALARM SYSTEMS.

Sec. 14-601 Definitions. The following definitions are applicable to this section:

1. **FIRE/SECURITY ALARM SYSTEM. A system or portion of a combination system consisting of components and circuits arranged to monitor and annunciate the status of a fire/security alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals.**

2. **FALSE ALARM. An activated fire alarm or signal from any fire alarm system which is responded to by the fire department when no emergency situation or hazardous condition exists as determined by the responding fire officer or the fire marshal, and an activated alarm system used to detect and or verify the illegal or unauthorized entry, or other activity to which law enforcement is requested to respond, and is deemed false by responding officers.**

Sec. 14-602 False Alarms.

1. **No person or business owning a fire/security alarm system shall cause or permit the giving of a false alarm, whether intentional, accidental or otherwise.**

2. **No person shall intentionally cause the activation of a fire/security alarm system knowing that no emergency exists.**

3. **Fee for false alarm response. In the event the fire department, or police department, responds to a false alarm, a fee shall be imposed upon the owner or responsible person of the alarm system for the third and each subsequent false alarm at the same property in a calendar year. False alarms from fire alarm systems and security alarm systems shall be counted separately for the same location. The fee shall be set as prescribed by**

council resolution. Any fee payable to the City of Billings that remains unpaid 30 days after imposition of the fee is delinquent and may be assessed against the tax parcel served as a special charge for current service, or be subject to a collection agency.

Sec. 14-603 Exemptions. This section shall not apply to the following:

1. **An alarm system which gives a signal solely within the interior of the building in which it is located and not monitored by a supervising station.**
2. **Residential fire/security alarm systems in one- or two-family dwellings.**

Sec. 14-604 Appeals.

1. **The owner or responsible person of a fire alarm system may appeal an assessment of a false alarm fee to the fire chief. The appeal shall be filed in writing and include justification and supporting documentation within ten (10) days of receiving notice of the fee. The fire chief may approve or deny the appeal.**
2. **The owner or responsible person of a security alarm system may appeal an assessment of a false alarm fee to the assistant police chief. The appeal shall be filed in writing and include justification and supporting documentation within ten (10) days of receiving notice of the fee. The assistant police chief may approve or deny the appeal.**

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. 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

City Council Regular

Date:	11/22/2021
Title:	Public hearing and first reading - Ordinance prohibiting adult-use marijuana dispensaries
Presented by:	Gina Dahl
Department:	Legal
Presentation:	Yes

RECOMMENDATION

Staff recommends City Council conduct a public hearing and approve first reading of the Ordinance prohibiting dispensaries that sell adult-use (recreational) marijuana.

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

On November 2, 2021, an election was held on whether to allow or prohibit sales of adult-use (recreational) marijuana within the City of Billings. The majority of Billings' voters voted to prohibit adult-use dispensaries in the City. The results of the election were certified on November 9, 2021. The vote prohibiting recreational adult-use marijuana dispensaries takes effect on the 90th day after the local election is held, which is January 31, 2022.

Montana law provides that "[i]f a majority of the qualified electors in the municipality vote to prohibit a category of marijuana business from being located in the municipality, the municipality may not allow that type of business to operate in the municipality." MCA 16-12-301(6)(c)(ii). Therefore, Council is required to enact an ordinance prohibiting adult-use (recreational) dispensaries.

The attached ordinance will enact the will of the voters. This ordinance only prohibits adult-use (recreational) dispensaries and does not affect any other marijuana businesses, including medical marijuana dispensaries. These businesses will be regulated by a separate ordinance requiring a business licenses upon adoption after final reading on November 22, 2021.

STAKEHOLDERS

Due to the nature of this proposed ordinance, the stakeholders are those who voted on this issue in the November 2, 2021, municipal election.

ALTERNATIVES

City Council may:

- Approve the Ordinance; or,
- Modify the Ordinance; or,
- Not Approve the Ordinance. Council may not allow adult-use (recreational) marijuana dispensaries, and it must take some legislative action to prohibit this category of marijuana business from being located in the City.

FISCAL EFFECTS

There are no fiscal effects related to this ordinance.

SUMMARY

Given the results of the November 2, 2021, election, Council may not allow adult-use (recreational) marijuana dispensaries in the City of Billings. The attached ordinance prohibits such dispensaries and will accomplish the will of the voters.

Attachments

Ordinance
Sample Ballot - Nov 2, 2021
Official results - Nov. 2, 2021 election

ORDINANCE NO. 21-____

AN ORDINANCE OF THE CITY OF BILLINGS PROVIDING THAT THE BILLINGS MONTANA CITY CODE BE AMENDED TO ADD NEW ARTICLE 7-1700 DEFINING MARIJUANA BUSINESSES AND PERMANENTLY PROHIBITING DISPENSARIES THAT SELL ADULT-USE MARIJUANA IN THE CITY OF BILLINGS.

RECITALS

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 changing provisions of the I-190 and the Montana Medical Marijuana Act; and

WHEREAS, HB 701 provides an option for the electors of the City of Billings to consider prohibition of any or all of the seven categories of marijuana businesses defined in the I-190 and HB 701 within the limits of the City of Billings; and

WHEREAS, an adult-use dispensary is one of the seven categories defined in HB 701 that electors may consider whether to prohibit; and

WHEREAS, the City Council of the City of Billings submitted to the electors of the City of Billings the determination of whether to permanently prohibit the category of marijuana businesses that sell adult-use marijuana in accordance with the will of the electors as provided by HB 701; and

WHEREAS, the ordinance was referred to a vote of the people at an election held on November 2, 2021; and

WHEREAS, a majority of the electors voting on this question voted against permitting dispensaries of adult-use marijuana in the City of Billings; and

WHEREAS, the Billings Montana City Code must be amended in accordance with the will of the majority of electors.

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

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

***Section 2: New Article*.** That the Billings Montana City Code be amended to add new Article 7-1700, Sections 7-1701 through 7-1703, to read as follows:

ARTICLE 7-1700. MARIJUANA BUSINESSES

Sec. 7-1701 Definitions

As used in this Article, the following definitions apply:

(1) "Adult-use dispensary" means a licensed premises from which a person licensed by the department may sell marijuana or marijuana products to both registered cardholders and adults that are 21 years of age or older.

(2) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use or for use by persons who are at least 21 years of age, but not for resale.

(3) "Department" means the Montana Department of Revenue.

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

(b) 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.

(c) 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.

(5) "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.

(6) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a registered cardholder who is registered under Montana Code Annotated (MCA) Title 16, Chapter 12, Part 5.

(7) "Medical marijuana dispensary" means the location from which a registered cardholder who is a Montana resident with a debilitating medical

condition may obtain marijuana and marijuana products.

(8) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

Sec. 7-1702. Adult-use dispensaries prohibited.

(a) As authorized by MCA Section 16-12-301, and based upon the November 2, 2021, election results, adult-use dispensaries are prohibited from opening or operating within the city limits.

(b) This section does not prohibit medical marijuana dispensaries operating in compliance with state law and city code, including licensing requirements and zoning restrictions.

(c) This section prohibits the sale of marijuana and marijuana products by a former medical marijuana licensee under MCA Section 16-12-201, other than to registered cardholders, within the city limits.

Sec. 7-1703. Penalties.

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

***Section 3: Severability*.** In the event any word, phrase, clause, sentence, paragraph, section, or other part of the ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid and the remaining provisions thereof shall continue in full force and effective.

Section 4: Referral to Electors. This ordinance was referred to the electors of the City of Billings at an election held on November 2, 2021. The results of that election were certified on _____.

Section 5: Effective Date. This ordinance shall be effective thirty (30) days after Second Reading and final adoption as provided by law, but the amendment to the Billings Montana City Code shall be effective immediately upon approval by the electors as provided by law.

PASSED by the City Council on First Reading this _____ day of _____,

2021.

PASSED, ADOPTED and APPROVED on Second Reading this_____day of _____, 2021.

NOVEMBER 2, 2021 COUNTY SPECIAL & MUNICIPAL GENERAL ELECTION SAMPLE BALLOT

MUNICIPAL CONTESTS

BILLINGS CITY COUNCIL WARD 1

VOTE FOR 1

ED GULICK
STEPHANIE KRUEGER

BILLINGS CITY COUNCIL WARD 2

VOTE FOR 1

FRANK EWALT
JENNIFER OWEN

BILLINGS CITY COUNCIL WARD 3

VOTE FOR 1

DENISE JOY
CHARLIE LOVERIDGE

BILLINGS CITY COUNCIL WARD 4

VOTE FOR 1

MARY HERNANDEZ
DANIEL TIDSWELL
TIM WARBURTON

BILLINGS CITY COUNCIL WARD 5

VOTE FOR 1

TOM RUPSIS
DENNIS L. ULVESTAD
FRED WILBURN

BROADVIEW COMMISSIONER

VOTE FOR 3

ROGER D SWARTZ

LAUREL MAYOR

VOTE FOR 1

BRUCE MCGEE
THOMAS C NELSON
SCOT STOKES
DAVE WAGGONER

LAUREL CITY COURT JUDGE

VOTE FOR 1

JEAN M. KERR
JULIANE E. LORE

BALLOT ISSUES

YELLOWSTONE COUNTY NON-MEDICAL MARIJUANA EXCISE TAX PROPOSITION

Shall Yellowstone County impose a 3% local-option marijuana excise tax on the retail value of all non-medical marijuana and non-medical marijuana products sold within Yellowstone County.

FOR a 3% (three percent) Marijuana Local-Option Excise Tax for all non-medical marijuana and non-medical marijuana products

AGAINST a 3% (three percent) Marijuana
Local-Option Excise Tax for all non-medical marijuana and non-medical marijuana products

YELLOWSTONE COUNTY MEDICAL MARIJUANA EXCISE TAX PROPOSITION

Shall Yellowstone County impose a 3% local-option marijuana excise tax on the retail value of all medical marijuana and medical marijuana products sold within Yellowstone County.

FOR a 3% (three percent) Marijuana Local-Option Excise Tax for all medical marijuana and medical marijuana products

AGAINST a 3% (three percent) Marijuana Local-Option Excise Tax for all medical marijuana and medical marijuana products

SAMPLE BALLOT

BALLOT ISSUES CONTINUED

CITY OF BILLINGS MILL LEVY PROPOSITION

Summary: Violent crime rates and calls for emergency services have increased over the past 10 years. This ballot measure asks voters to approve or disapprove an additional permanent annual levy up to 34 mills to increase investments to police, fire, prosecution services, code enforcement, municipal court, mental health and substance abuse services, and related public safety expenses. The amount raised by the new levy, when fully implemented, would be approximately $7.1 million and would change as the taxable property value of the city changes.

Proposal: On June 28, 2021, the Billings City Council adopted Ordinance 21-5760 referring this ballot to the voters. If approved, this ballot
measure would add the following language to the City Charter as Section 1.05.2: Section 1.05.2 Mill Levy to Fund Police, Fire, Prosecution Services, Code Enforcement, Municipal Court, Mental Health and Substance Abuse Services, and Related Public Safety Expenses. For the purpose of funding the operation, maintenance and capital needs of the police department, fire department, prosecution services, code enforcement, municipal court, mental health and substance abuse services, and related public safety expenses, the City Council shall levy up to 34 mills starting in fiscal year 2023, which will raise approximately $7,115,000. The foregoing mill levy is permanent and shall continue indefinitely in future fiscal years. This levy is not cumulative, which means the number of mills will not increase over time. This levy is in addition to any other mill levies authorized by Charter or law. Residential Property Impact: If approved, the annual property tax increase in fiscal year 2023 on a home valued at $100,000 is approximately $45.90 per year. The annual property tax increase in fiscal year 2023 on a home valued at $200,000 is approximately $91.80 per year.

Shall the City be authorized to amend the City Charter to add Section 1.05.2 to levy up to 34 mills raising approximately $7.1 million to support police, fire, prosecution services, code enforcement, municipal court, mental health and substance abuse services, and related public safety expenses?

FOR adding Section 1.05.2 to levy up to 34 mills raising approximately $7.1 million to support police, fire, prosecution services, code enforcement, municipal court, mental health and substance abuse services, and related public safety expenses as set forth above which provides for a permanent, non-cumulative mill levy commencing in fiscal year 2023 as provided in Ordinance 21-5760.

AGAINST adding Section 1.05.2 to levy up to 34 mills raising approximately $7.1 million to support police, fire, prosecution services, code enforcement, municipal court, mental health and substance abuse services, and related public safety expenses as set forth above which provides for a permanent, non-cumulative mill levy commencing in fiscal year 2023 as provided in Ordinance 21-5760.

BALLOT ISSUES CONTINUED

CITY OF BILLINGS MARIJUANA DISPENSARY ORDINANCE PROPOSITION

Summary: Initiative Measure 190 (I-190) was approved by the electors of the City of Billings in the general election held November 3, 2020, legalizing possession and use of marijuana for adults over the age of 21 as well as certain marijuana businesses. The Montana Legislature passed House Bill 701 in 2021 and modified provisions of I-190 providing an option for electors to consider prohibition of the seven categories of marijuana businesses. This ballot measure asks voters to approve or disapprove adult-use marijuana dispensaries, which is one of the various types of marijuana businesses which were authorized by House Bill 701. The use and possession of marijuana for adults over the age of 21 and the remaining categories of marijuana businesses will not be impacted by this vote, including medical marijuana dispensaries, and will be permitted in the City of Billings upon the effective date of House Bill 701.

Proposal: The Billings City Council has proposed an ordinance to prohibit adult-use marijuana dispensaries and passed Resolution 21-10981 to submit this ballot to the voters. Adult-use dispensary means a licensed premises from which a person licensed by the Montana Department of Revenue may sell marijuana or marijuana products to both registered cardholders and adults that are 21 years of age or older. This proposed ordinance would not prohibit the operation of medical marijuana dispensaries within the City of Billings.

Shall dispensaries of adult use marijuana, commonly referred to as recreational-use marijuana, be permitted within the limits of the City of Billings?

FOR permitting dispensaries of adult-use marijuana, commonly referred to as recreational-use marijuana, within the limits of the City of Billings.

AGAINST permitting dispensaries of adult-use marijuana, commonly referred to as recreational-use marijuana, within the limits of the City of Billings.

SAMPLE BALLOT

STATISTICS

	TOTAL
Registered Voters - Total	101,017
Ballots Cast - Total	48,709
Voter Turnout - Total	48.22%

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Summary Results Report
General Election
November 2, 2021

CITY COUNCIL WARD 1
Vote For 1

	TOTAL	VOTE %
ED GULICK	2,267	55.81%
STEPHANIE KRUEGER	1,745	42.96%
Write-In Totals	50	1.23%

CITY COUNCIL WARD 2
Vote For 1

	TOTAL	VOTE %
JENNIFER OWEN	3,385	54.62%
FRANK EWALT	2,743	44.26%
Write-In Totals	69	1.11%

CITY COUNCIL WARD 3
Vote For 1

	TOTAL	VOTE %
DENISE JOY	3,285	52.44%
CHARLIE LOVERIDGE	2,921	46.63%
Write-In Totals	58	0.93%

CITY COUNCIL WARD 4
Vote For 1

	TOTAL	VOTE %
DANIEL TIDSWELL	3,837	40.40%
MARY HERNANDEZ	3,321	34.97%
TIM WARBURTON	2,272	23.92%
Write-In Totals	68	0.72%

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Summary Results Report
General Election
November 2, 2021

CITY COUNCIL WARD 5
Vote For 1

	TOTAL	VOTE %
TOM RUPSIS	2,201	35.39%
FRED WILBURN	2,035	32.72%
DENNIS L. ULVESTAD	1,879	30.21%
Write-In Totals	105	1.69%

MAYOR LAUREL
Vote For 1

	TOTAL	VOTE %
DAVE WAGGONER	736	43.24%
BRUCE MCGEE	446	26.20%
SCOT STOKES	281	16.51%
THOMAS C NELSON	224	13.16%
Write-In Totals	15	0.88%

CITY CRT JDG LAUREL
Vote For 1

	TOTAL	VOTE %
JEAN M. KERR	1,334	77.78%
JULIANE E. LORE	375	21.87%
Write-In Totals	6	0.35%

CITY COMMISSIONER BROADVIEW
Vote For 3

	TOTAL	VOTE %
ROGER D SWARTZ	38	84.44%
Write-In Totals	7	15.56%

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RECREATIONAL MARIJUANA TAX

Vote For 1

	TOTAL	VOTE %
FOR	39,216	81.99%
AGAINST	8,617	18.01%

MEDICAL MARIJUANA TAX

Vote For 1

	TOTAL	VOTE %
FOR	28,592	59.48%
AGAINST	19,478	40.52%

PUBLIC SAFETY LEVY BILLINGS

Vote For 1

	TOTAL	VOTE %
FOR	21,155	60.62%
AGAINST	13,741	39.38%

DISPENSARY ORDINANCE BILLINGS

Vote For 1

	TOTAL	VOTE %
AGAINST	19,196	54.82%
FOR	15,819	45.18%

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City Council Regular

Date:	11/22/2021
Title:	SBBURD TIF Assistance for KSKC Properties, LLC - 3218 South Frontage Road
Presented by:	Wyeth Friday
Department:	Planning & Community Services
Presentation:	Yes

RECOMMENDATION

The South Billings Urban Renewal Association (SBURA) Board has reviewed this application for tax increment assistance and recommends the City Council approve, upon project completion, a maximum of $362,525.46 of funds from the South Billings Boulevard Tax Increment Finance District (TIFD) to KSKC Properties LLC. KSKC Properties LLC is a corporation established by Tim Compton, the owner of Mobile-Stor, a Billings business that manufactures temporary office and storage units. Actual reimbursement will be based upon 100% of the actual costs incurred for qualified expenses for the improvements made to the property at 3218 South Frontage Rd, subject to the following conditions:

1. The Applicant shall sign a development agreement with the City of Billings and SBURA within 180 days of City Council's approval.

2. This TIFD reimbursement is the maximum that can be received pending satisfactory submission of all paid invoices showing the completion of expenditures related to this project.

3. If funds are not available, reimbursement can be carried over to the next fiscal year.

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

The SBURA board initially considered Mr. Compton's application at its October 5, 2021, board meeting and voted unanimously to recommend $713,386 of tax increment assistance. Subsequently, two issues required changes in the application. It was discovered that an inadvertent miscommunication between Mr. Compton and SBURA's consultant Jim Tevlin had resulted in an omission of $66,138 of eligible expenses ($66,138 for a separated pathway along the South Frontage Road on the frontage of the property) from Mr. Compton's application.

In addition, SBURA staff, City Public Works Department and City Planning and Community Services Department staff discussed the opportunity for the water line extension in the South Frontage Road to be a CIP project instead of trying to address it in multiple TIF applications for multiple properties. It was determined that a combination of TIF funds and Public Works funds could be used to complete the water line, finishing a looping of the line in this area of the City, and benefiting both the City and current and future property in the City along the South Frontage Road. Since the South Frontage Road will only have development on the south side, since the north side is the I-90 ROW, the City would normally pay for half of a water line in this situation anyway, so making the project a City managed CIP project was a better approach. Accordingly, Jim Tevlin amended the TIF application to include the omitted separated path expense and removed the water line extension item. The SBURA Board at its November 2, 2021 meeting reconsidered the application and recommended to the City Council the revised application for a total reimbursement $363,5252.46. The total project cost is estimated at $3,890,435.

Mr. Compton purchased this 17-acre property in 2015 from Knife River Corporation where it had been operated as a gravel mine. Mr. Compton's plan was to relocate his business, Mobil-Stor Inc., from its present location adjacent to Midland Lane to this new location. Additionally, Mr. Compton wanted to subdivide and develop a portion of his acreage as retail or light industrial property. Knife River had taken all the steps, as required by the Montana Department of Environmental Quality, to restore the property prior to the sale. At the time, the property was within the City of Billings but not included in the South Billings Boulevard Urban Renewal District (SBBURD). Incomplete City services (water, sewer, streets, etc.) in the area and soil compaction issues resulting from the property's prior use as a gravel mine significantly hampered Mr. Compton's efforts to develop the property.

In late 2019, Mr. Compton contacted SBURA to inquire about the possibility of annexing his property to the District. Access to tax increment funds would provide Mr. Compton the opportunity to overcome the challenges of City infrastructure access and the property conditions. Given that there were two properties between the southeastern perimeter of the District and Mr. Compton's property that were not within the City Limits at the time and not fully developed, the City and SBURA staff developed a strategy to include the properties in an expansion of the SBBURD. Following work session discussions with the City Council and a series of public hearings and Council actions, the Council in July 2021 voted to expand the boundaries of the District to include Mr. Compton's property. The District's revised boundary became effective in September

2021.

Mr. Compton seeks tax increment assistance in three primary areas as described below and outlined in Table 1:

1. Mr. Compton currently has two drive approaches that must be moved as per requirements of the Montana Department of Transportation (MDT has jurisdiction over the South Frontage Road in this area).
2. Mr. Compton's property was a former gravel mine. The previous owner complied with all the Montana Department of Environmental Quality-mandated restoration requirements. The soil, however, is not compacted enough to allow for property development. Consequently, Mr. Compton's development plans require soil stabilization procedures prior to the construction of parking lots, buildings, sidewalks etc.
3. As per City regulations, a "separated side path" (i.e., a 10ft-wide asphalt pathway) must be constructed adjacent to the South Frontage Road to meet City Arterial Street Standards. A pathway system on the Frontage Road in this area will provide public infrastructure for pedestrians and bikers similar to separated paths and sidewalks on other arterial streets in Billings. This infrastructure is even more critical in this area as the north side of the Frontage Road will not be developed as it is adjacent to the I-90 ROW.

Table 1

Qualified Improvements	Estimated Cost	City TIF Policy	Urban Renewal Plan	MT Code Annotated
Drive Approaches	$196,387	Section 1(b)	Section 12	5-4288(4)
Soil Compaction	$100,000	Section 1(b)	Section 4	7-15-4288(4)
Separated Pathway	$66,138	Section 1(b)	Section 14	7-15-4288(4)

This property lies immediately south of Interstate 90 and has remained undeveloped for many years. City infrastructure in the area also has not been completed to serve the area. There infrastructure issues and property conditions have impeded development and will likely deter future private investment without support from the SBBURD. The use of tax increment funds to promote investment in an otherwise blighted and unattractive property in Billings' transportation corridor will simultaneously reduce blight and provide additional taxable value to the City.

ALTERNATIVES

City Council may:

- Approve the recommendation from the SBURA board for the expenditure of these tax increment finance (TIF) funds that are consistent with elements of the South Billings Boulevard Urban Renewal Plan, or;
- Modify the recommendation from the SBURA board for the expenditure of these TIF before taking action, or;
- Disapprove the recommendations from the SBURA board for these expenditures of these TIF funds. If the Council chooses not to approve the TIF application, specific reasoning for the denial is helpful to provide further direction to the SBURA board and City Staff for future applications.

FISCAL EFFECTS

The recommendation is for a maximum of $362,525.46 to be reimbursed to Tim Compton, Developer, for the identified work (See SBURA recommendation attached to this memo). The estimated total project cost is $3,890,435, making the private to public investment ratio for this project about 11:1. The funds are payable per the conditions of approval outlined in the SBURA recommendation and pending satisfactory submission of all paid invoices showing actual cost incurred for the project. Currently, the project is estimated for completion in late 2022. These potential TIF project payments are already incorporated into the FY22 budget.

Attachments

Compton TIF Application
Tim Compton TIF Application Analysis and SBURA Recommendation
City TIF Policy
SBBURD Urban Renewal Plan

DocuSign Envelope ID: 43F0EB9C-E4EA-41B3-8C6F-F4A07DF69D10

SOUTH BILLINGS BOULEVARD TAX INCREMENT FINANCING ASSISTANCE APPLICATION

Project Name: 3218 S Frontage Road, Billings, MT 59101 Date Submitted: 8/13/21

APPLICANT INFORMATION

1. Name: Tim Compton (Developer), submitted by owner's agent Ethan Kanning (Broker/Principal at NAI Business Properties)
2. Address: PO Box 80601, Billings, MT 59108
3. Telephone Number: 406-259-9175

PROJECT INFORMATION

1. Building Address: 3218 S Frontage Road, Billings, MT 59101 (currently land only)
2. Legal Description: S15, T01 S, R26 E, C.O.S. 1596, PARCEL 1, & COS 1591 TR 1 (17)
3. Ownership: KSKC PROPERTIES LLC
4. Address: PO BOX 80601
   BILLINGS, MT 59108-0601
5. If property is not owned by the Applicant, list leasehold interests (Attach evidentiary materials.)

   Lessor's Name: _____

   Lessor's Address: _____
6. Existing/Proposed Businesses: Mobile-Stor
7. Business Description: New proposed site: 17 AC total, lots 5/6 (4.6 AC total) to be use for Office/Storage Headquarters, Company is a portable building manufacturer, Leases portable storage and office buildings for construction sites (A)
8. Employment: Existing FTE jobs 5
9. New Permanent FTE jobs created by project 2 Construction FTE jobs 20
10. Architectural Firm: per KE Construction

    Address: _____

(A) See pages 18+19

DocuSign Envelope ID: 43F0EB9C-E4EA-41B3-8C6F-F4A07DF69D10

Representative: Bryce Kirschenmann

8. Description of Project: (Attach narrative explanation.)See attached PDF description and Project Economics worksheet

9. Rehabilitation/construction plans: (Attach schematics, site and landscaping plans.) See site plans/quotes exhibit package

10. Project Schedule: (Attach time line or schedule through completion.) see attached schedule

CRITERIA FOR REVIEW

Materials contained in TIF Assistance applications are used to assess the merits of projects in relation to the goals and objectives of the South Billings Urban Renewal Master Plan and in relation to other District development and urban renewal projects. Projects will be evaluated based on the following criteria.

1. **Relevance to the South Billings Urban Renewal Master Plan** – This document is available on SBURA's website (www.southbillings.org).

2. **Economic Stimulus** – The amount of economic activity to be generated by the project.

3. **Tax Generation** – The increase in taxable value due to new construction/rehabilitation as estimated by the County Assessor's office.

4. **Employment Generation** – Total employment generated by the project assessed in terms of new permanent and part-time jobs, and construction jobs.

5. **Elimination of Blight** – The project's direct and indirect impact on the physical and fiscal condition within the District.

6. **Special or Unique Opportunities** – The extent to which the project represents a unique opportunity, meets a special need, or addresses community goals. The provision of public space or workforce housing are examples of special and unique opportunities.

7. **Impact Assessment** – The extent of both positive and negative environmental impacts, appropriateness of the project design, and impact on existing businesses or residents.

8. **Financial Assistance** – Other forms of financing available to the Applicant i.e. lender participation and state and federal grant monies,

9. **Project Feasibility** – Demonstration of market demand for the project

10. **Developer's Ability to Perform** – Applicant's capability to undertake the relative complexities of the project based on past performance on similar or comparable projects.

11. **Timely Completion** – The feasibility of completing the project according to the Applicant's project schedule.

PROJECT COSTS

Land and Site Improvements (Itemized)

1. Equity in Land and Buildings	$ 575,000 – Land
2.	$
3.	$
4.	$
Subtotal	$ 575,000

Construction/Rehabilitation Costs (or attach separate statement)

1.	$ See worksheet
2.	$
3.	$
4.	$
5.	$
6.	$
7.	$
8.	$
Subtotal	$

Fees

1. Architectural design/Supervision	$ See worksheet
2. Permits	$

3. Other fees _____ $ _____

Subtotal $ _____

Total Project Development Costs $ See worksheet

PROJECT FINANCING

Please complete Sources of Funds detail and summarize below.

Developer Equity

Cash Invested $ 1,800,000

Land & Buildings $ 575,000

Other (Specify) _____ $ _____

_____ $ _____

Subtotal $ 2,375,000

Lender Commitments (Attach evidence i.e. Letters of Credit or other documentation.)

Loan Amount	Interest	Term	Payment/Period
50% of project costs	4.25 %	20 yrs	$ Pending /Month
_____	_____ %	____ yrs	$ _____ /Month

Total Loan Amount $ _____

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DEVELOPER STATEMENT OF QUALIFICATIONS AND FINANCIAL RESPONSIBILITY

Applicant

1. Name: Tim Compton of KSKC Properties LLC, Sole Member

   Address: PO Box 80601, Blgs, MT 59108

2. If the applicant is not an individual doing business under his/her own name, the applicant has the status indicated below and is organized or operating under the laws of Montana.

3. The applicant is:

   _____ A corporation.

   _____ A nonprofit or charitable institution or corporation

   x A partnership known as KSKC Properties LLC

   _____ Other (explain): _____

   Date of organization: _____

4. Names, address, title of position (if any), and nature and extent of the interest of the officers and principal members, principal shareholders, investors, or partners of the applicant.

Name and Address	Nature and Extent of Interest
NA, Sole Member	

Financial Condition

1. Provide a current financial statement for each private entity involved in the project. Documentation of financial capacity may include net worth statements, balance sheets, or profit and loss statements.

2. Has the applicant or any individual or entity affiliated with the development of this project been adjudged bankrupt, either voluntary or involuntary, within the past ten years?
   No ✓ Yes _____ If yes, give date, place, and under what name:

   _____

3. Has the applicant or any individual or entity affiliated with the development of this project been indicted for or convicted of any felony within the past ten years:
   No ✓ Yes _____ If yes, give date, charge, place, court and action taken for each case.

   _____

   _____

CONSTRUCTION CONTRACTOR

1. Identify the construction contractor or builder who will undertake this project.

   Name: KE Construction

   Address: 9824 Anglers Way, Billings, MT

2. Has such contractor of builder ever failed to qualify as a responsible bidder, refused to enter into a contract after an award has been made, or failed to complete a construction or development contract within the last ten years?
   No ✓ Yes _____ If yes, explain.

   _____

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7

CERTIFICATION

I (we), Tim Compton of KSKC Properties LLC (please print), certify that the statements and estimates within this Application as well as any and all documentation submitted as attachments to this Application or under separate cover are true and correct to the best of my (our) knowledge and belief.

Signature DocuSigned by: Tim Compton DB703065C58F434... Signature _____

Title Manager, KSK Properties LLC Title _____

Address _____ Address _____

_____ _____

Date 8/13/2021 Date _____

Mobile-Stor Inc.				
Tax Increment Application Analysis-Summary				
		Allowability		
		MT Code	MT Code	
		7-15-4233	7-15-4288	Total
Land Purchase	$ 575,000.00	$ -	$ -	$ -
Site Preparation ($3/sq ft x 50% of 740,540 sq ft)	1,110,780.00			-
Utilities Access	75,000.00			-
Approaches/Roads	160,974.00		160,974.00	160,974.00
Water Main, Approaches/Rds - Geotechnical Report	12,322.71		12,322.71	12,322.71
Water Main, Approaches/Rds - Fees	23,090.75		23,090.75	23,090.75
Water, Sewer, Storm to Site	307,351.20			-
Water, Sewer, Storm to Site - Fees	6,849.00			-
Meshing /Piers (per PEC estimates)	100,000.00		100,000.00	100,000.00
Master Site Plan Review Fee	1,431.00	1,431.00		1,431.00
Multi-Use Trail	66,138.00		66,138.00	66,138.00
City Planning Application Fee	5,303.00	5,303.00		5,303.00
Building Permit	4,625.00	4,625.00		4,625.00
City Hookup Fee	20,210.00	20,210.00		20,210.00
Contractor Fees	23,811.00			-
Soft Costs (Sanderson Stewart Bill)	77,550.00			-
Building ($110/sqft x 12,000 sq ft)	1,320,000.00			-
	$ 3,890,435.66	$ 31,569.00	$ 362,525.46	$ 394,094.46
Total Project Cost	$ 3,890,435.66			
Maximum TIF Assistance (16.67%)	$ 648,536.00			
Recommended TIF Assistance	$ 362,525.46			
Payback Period:				
Expected Increase in Taxable Value (80% of Project Cost)	$ 3,112,349.00			
Commercial Tax Rate (1.89%)	$ 58,823.00			
Annual Tax Increment (69 mills)	$ 40,587.87			
Payback Period (years)	8.93			

Tim Compton - Developer					
Tax Increment Application Analysis-Allowable Expenses					
		Allowability			
		MT Code	MT Code		Application
		7-15-4233	7-15-4288	Total	Page
Approaches/Roads	$ 196,387.46	$ -	$ 196,387.46	$ 196,387.46	12
Meshing /Piers	100,000.00	-	100,000.00	100,000.00	
Multi-Use Trail	66,138.00	-	66,138.00	66,138.00	18
Master Site Plan Review Fee	1,431.00	1,431.00	-	1,431.00	13
City Planning Application Fee	5,303.00	5,303.00	-	5,303.00	14
Building Permit	4,625.00	4,625.00	-	4,625.00	16
City Hookup Fee	20,210.00	20,210.00	-	20,210.00	17
	$ 394,094.46	$ 31,569.00	$ 362,525.46	$ 394,094.46	
Total Project Cost	$ 3,890,435.66				
Maximum TIF Assistance (16.67% of Project Costs)	$ 648,536.00				
Recommended TIF Assistance	$ 362,525.46				
Payback Period:					
Expected Increase in Taxable Value (80% of Project Cost)	$ 3,112,349.00				
Commercial Tax Rate (1.89%)	$ 58,823.00				
Annual Tax Increment (69 mills)	$ 40,587.87				
Payback Period (years)	8.93				

10

Date: July 22, 2021
Project No.: 08099.03

SANDERSON STEWART

Engineer's Opinion of Probable Cost
for
South Frontage Road Water Main Extension
Providing Street, Storm Drain, Sanitary Sewer, and Water Improvements

Schedule I: Utilities

A&B

ITEM NO.	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE		TOTAL PRICE
101	1	LS	Mobilization and Insurance	$16,261.38 / LS	=	$16,261.38
102	1	LS	Traffic Control	$50,000.00 / LS	=	$50,000.00
103	1	LS	Builders Risk and OCP Insurance	$3,000.00 / LS	=	$3,000.00
104	1	LS	Payment and Performance Bonds	$6,400.00 / LS	=	$6,400.00
105	1	LS	Dewatering	$5,000.00 / LS	=	$5,000.00
106	1	EA	Tapping Tee and Valve on Existing 12-inch Water Main	$6,000.00 / EA	=	$6,000.00
107	1,416	LF	12-inch Water Main WAS "A" 861 LF + "B" 789 = 1650 LF	$60.00 / LF	=	$84,960.00
108	52	LF	12-inch Restraint Joint Water Main	$114.00 / LF	=	$5,928.00
109	115	LF	8-inch Restraint Joint Water Main	$105.00 / LF	=	$12,075.00
110	92	LF	8-inch Water Main	$45.00 / LF	=	$4,140.00
111	4	EA	12-inch Gate Valve	$3,200.00 / EA	=	$12,800.00
112	2	EA	8-inch Gate Valve	$2,000.00 / EA	=	$4,000.00
113	2	EA	12x12x8-inch Service Tee	$950.00 / EA	=	$1,900.00
114	1	EA	12-inch Plug & Thrust Block	$900.00 / EA	=	$900.00
115	2.00	EA	8-inch Plug & Thrust Block	$600.00 / EA	=	$1,200.00
116	2	EA	12-inch Vertical Bend	$1,260.00 / EA	=	$2,520.00
117	2	EA	8-inch Vertical Bend	$1,000.00 / EA	=	$2,000.00
118	3	EA	12-inch Horizontal Bend	$1,000.00 / EA	=	$3,000.00
119	3	EA	12x6-inch Hydrant Tee	$750.00 / EA	=	$2,250.00
120	1	EA	8x6-inch Blow Off Tee	$750.00 / EA	=	$750.00
121	3	EA	Fire Hydrant Assembly	$5,000.00 / EA	=	$15,000.00
122	1	EA	Blow Off Assembly	$2,500.00 / EA	=	$2,500.00
123	195	LF	Watermain Insulation	$25.00 / LF	=	$4,875.00
124	20	LF	Flowable Fill	$100.00 / LF	=	$2,000.00
125	50	LF	Flowable Fill (Transverse Trences per MDT)	$170.00 / LF	=	$8,500.00
126	2	EA	8-inch Service on Existing Sanitary Sewer Main	$2,200.00 / EA	=	$4,400.00
127	165	LF	8-inch Sanitary Sewer Pipe	$45.00 / LF	=	$7,425.00
128	2	EA	8-inch Sanitary Sewer Cap	$200.00 / EA	=	$400.00
129	1	EA	48-inch Sanitary Sewer Manhole	$3,400.00 / EA	=	$3,400.00
130	12.0	VF	Extra Depth 48-inch Sewer Manhole	$150.00 / VF	=	$1,800.00
131	1	EA	Connet to Existing Storm Drain Main	$1,700.00 / EA	=	$1,700.00
132	66	LF	12-inch Storm Drain Pipe	$45.00 / LF	=	$2,970.00
133	1	EA	12-inch Storm Drain Cap	$550.00 / EA	=	$550.00
134	1	EA	48-inch Storm Drain Manhole	$3,800.00 / EA	=	$3,800.00
135	6.2	VF	Extra Depth 48-inch Storm Manhole	$150.00 / VF	=	$930.00
136	3	EA	Utility Crossing (12-inch and Under)	$500.00 / EA	=	$1,500.00
137	1	EA	Pothole Existing Utilities	$175.00 / EA	=	$175.00
138	1	EA	Pothole Existing Pipeline (WBI and Phillips66)	$275.00 / EA	=	$275.00
				Total Price for Schedule I	=	$287,284.38

✓ Allowable TIF expenditure

11

Schedule I Additive Alternate: Utilities

C

ITEM NO.	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE		TOTAL PRICE
ADD-101	652	LF	12-inch Water Main	$60.00 / LF	=	$39,120.00
ADD-102	115	LF	8-inch Restraint Joint Water Main	$105.00 / LF	=	$12,075.00
ADD-103	3	EA	12-inch Gate Valve	$3,200.00 / EA	=	$9,600.00
ADD-104	2	EA	8-inch Gate Valve	$2,000.00 / EA	=	$4,000.00
ADD-105	4	EA	8-inch Vertical Bend	$1,000.00 / EA	=	$4,000.00
ADD-106	3	EA	12x6-inch Hydrant Tee	$750.00 / EA	=	$2,250.00
ADD-107	1	EA	8x6-inch Blow Off Tee	$750.00 / EA	=	$750.00
ADD-108	3	EA	Fire Hydrant Assembly	$5,000.00 / EA	=	$15,000.00
ADD-109	1	EA	Blow Off Assembly	$2,500.00 / EA	=	$2,500.00
ADD-110	1	EA	12x12x8-inch Service Tee	$950.00 / EA	=	$950.00
ADD-111	57	LF	Watermain Insulation	$25.00 / LF	=	$1,425.00
ADD-112	1	EA	8-inch Service on Existing Sanitary Sewer Main	$2,200.00 / EA	=	$2,200.00
ADD-113	96	LF	8-inch Sanitary Sewer Pipe	$45.00 / LF	=	$4,320.00
ADD-114	1	EA	8-inch Sanitary Sewer Cap	$200.00 / EA	=	$200.00
ADD-115	1	EA	48-inch Sanitary Sewer Manhole	$3,400.00 / EA	=	$3,400.00
ADD-116	11.5	VF	Extra Depth 48-inch Sewer Manhole	$150.00 / VF	=	$1,725.00
ADD-117	1	EA	Connet to Existing Storm Drain Main	$1,700.00 / EA	=	$1,700.00
ADD-118	65	LF	12-inch Storm Drain Pipe	$45.00 / LF	=	$2,925.00
ADD-119	1	EA	12-inch Storm Drain Cap	$550.00 / EA	=	$550.00
ADD-120	1	EA	48-inch Storm Drain Manhole	$3,800.00 / EA	=	$3,800.00
ADD-121	5.9	VF	Extra Depth 48-inch Storm Manhole	$150.00 / VF	=	$885.00
ADD-122	14	LF	Flowable Fill	$100.00 / LF	=	$1,400.00
ADD-123	50	LF	Flowable Fill (Transverse Trenches per MDT)	$170.00 / LF	=	$8,500.00
ADD-124	1	EA	Utility Crossing (12-inch and Under)	$500.00 / EA	=	$500.00
ADD-125	14	LF	Pothole Existing Utilities	$175.00 / EA	=	$2,450.00
ADD-126	1	EA	Pothole Existing Pipeline (WBI and Phillips66)	$275.00 / EA	=	$275.00
				Total Price for Schedule I Additive Alternate	=	$126,500.00

✓

Schedule II: Streets

Approaches "B"

ITEM NO.	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE		TOTAL PRICE
201	1	LS	Mobilization and Insurance	$4,864.38 / LS	=	$4,864.38
202	1	LS	Traffic Control	$5,000.00 / LS	=	$5,000.00
203	1	LS	Builders Risk and OPC Insurance	$1,200.00 / LS	=	$1,200.00
204	1	LS	Payment and Performance Bonds	$1,200.00 / LS	=	$1,200.00
205	1	LS	Storm Water Management and Erosion Control	$15,000.00 / LS	=	$15,000.00
206	325	CY	Stripping, Stockpile & Spreading Topsoil (6-inches)	$28.00 / CY	=	$9,100.00
207	725	CY	Unclassified Excavation	$35.00 / CY	=	$25,375.00
208	314	SY	Asphalt Surface Course (3-inch Section)	$26.00 / SY	=	$8,164.00
209	120	CY	1 1/2-inch Base Course Gravel (12-inch Thick)	$29.00 / CY	=	$3,480.00
210	314	SY	Tensar BX1100 Geogrid	$3.50 / SY	=	$1,099.00
211	128	SY	Remove and Replace Existing Asphalt in S. Frontage Road	$55.00 / SY	=	$7,040.00
212	1	LS	Remove Existing Approach	$2,000.00 / LS	=	$2,000.00
213	0.61	AC	Seeding	$1,500.00 / AC	=	$915.00
214	1	LS	Remove Existing Fence at Approach	$1,500.00 / LS	=	$1,500.00
				Total Price for Schedule II	=	$85,937.38

✓

✓ Allowable TIF expenditure

Schedule II: Additive Alternate - Streets

Approach "C"

ITEM NO.	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE		TOTAL PRICE
ADD-201	350	CY	Stripping, Stockpile & Spreading Topsoil (6-inches)	$28.00 / CY	=	$9,800.00
ADD-202	750	CY	Unclassified Excavation	$35.00 / CY	=	$26,250.00
ADD-203	315	SY	Asphalt Surface Course (3-inch Section)	$26.00 / SY	=	$8,190.00
ADD-204	121	CY	1 1/2-inch Base Course Gravel (12-inch Thick)	$29.00 / CY	=	$3,509.00
ADD-205	315	SY	Tensar BX1100 Geogrid	$3.50 / SY	=	$1,102.50
ADD-206	139	SY	Remove and Replace Existing Asphalt in S. Frontage Road	$55.00 / SY	=	$7,645.00
ADD-207	1	LS	Remove Existing Approach	$2,000.00 / LS	=	$2,000.00
ADD-208	0.27	AC	Seeding	$1,500.00 / AC	=	$405.00
ADD-209	1	LS	Remove Existing Fence at Approach	$1,500.00 / LS	=	$1,500.00
			Total Price for Schedule II Additive Alternate		=	$60,401.50

Total - Sum of Schedules I, II, I Additive Alternate, and II Additive Alternate	=	$560,123.26
unknowns during const. **Construction Contingency (10%)**	=	$56,012.33
Total Price of Improvements - Schedule I, II, and Additive Alternates	=	$616,135.59

Geotechnical Fees

Geotech Report	=	By Client
Geotechnical Services and Materials Testing Estimated 2.0%	=	$12,322.71
Total Administrative Costs	=	$12,322.71

Administrative Fees

Water and Sewer Extension Applications	=	$360.00
City 3.5% Private Contract Fee	=	$21,564.75
DEQ Review Fees	=	$1,166.00
Total Administrative Fees	=	$23,090.75

Notes:

Costs based on Sanderson Stewart design drawings ✓ Allowable TIF expenditure

Mobilization and Insurance based on percentage of total schedule cost	8.33	%
Construction contingency	10	%

All items are complete and in place.

Sanderson Stewart cannot warrant that any opinions of probable cost provided by Sanderson Stewart will not vary from actual costs incurred by the client. Sanderson Stewart has no control over the cost or availability of labor, equipment, materials, or over market conditions or the Contractor's method of pricing. Sanderson Stewart makes no warranty, express or implied, that the bids or the negotiated cost of the work will not vary from Sanderson Stewart's opinion of probable cost.

* *Estimate Does Not Include:*

Private Utilities (Power, Phone, Natural Gas, Television, Communications)

New Fence/Gates

Street, Storm Drain, Water Recap:

Page 8	$287,284.38
Page 9	126,500.00
	411,784.38
Contingency 10%	41,378.44
	$455,162.82

Approach Recap:

Page 11	$85,937.38
Page 12	60,401.50
	146,338.88
Contingency 10%	14,633.89
	160,972.77
Page 12	12,322.71
Page 12	23,090.75
	$196,386.23

FY2021 City Planning Application Fees

13/

PLANNING APPLICATION AND PERMIT REVIEW FEES		Proposed FY21 Fees
Annexations	Residential/Commercial	$1,307
Deannexation	Residential/Commercial	$1,307
Deposit for annexation application posting signs (to be refunded after sign is returned)		$125
Limits of Annexation Map Amendment Urban Planning Study		$817
Zone Change	Residential	$1,062
	Commercial	$1,470
Land Use Contrary to Zoning		$121
Administrative Appeal of Zoning Interpretation		$182
Special Review	Residential	$1,062
	Commercial	$1,470
Variance	Residential	$531
	Commercial	$653
Planned Unit Development	<5 acres	$1,223
	>5 acres	$1,960
Deposit for zoning application posting signs (refunded after sign returned)		$125
Medical Corridor Review (City Only)		$979
Temporary Use Permit	Initial review	$247
	Annual review	$163
	Bond	$1,650
Temporary Sign Permits		$16
Zoning Clarification (includes condo document review)	Written	$77
	On-site visit	$155
Zoning Compliance Review Residential	Residential	$77
Zoning Compliance Review Commercial	Commercial	$115
Planning Master Site Plan Review *Includes $357 Eng. Rev. Fee		$1,431
Signs* City (calculate two sides of sign in fee)		$3.00 /sq.ft. ($2.00 /sq.ft. with application, remaining at permit issuance)
Sign - Change of Face Only		$28
Fence Permit (For Replacement and New Construction)		$30
For all Zone Change applications resubmitted within 1 year of a withdrawal request made after the legal advertising		$817
For all Special Review applications resubmitted within 1 year of a withdrawal request made after the legal advertising		$817
For all Variance applications resubmitted within 1 year of a withdrawal request made after the legal advertising		$817
TAS/TIS Review		$680
TAS/TIS Update Review		$364
TAS/Traffic and Queing mitigation		$135

✓ Allowable TIF expenditure

FY2021 City Planning Application Fees

	SUBDIVISION APPLICATION REVIEW FEES		Total Fee - Planning and Engineering*
*	Pre-Application Meetings	(City Only)	$702
	Preliminary Major Plat	6 to 40 lots	$4,359
		41 to 200 lots	$7,090
		Over 200 lots	$7,090
	Preliminary Minor Plat		$2,763
*	Preliminary Subsequent Minor Plat		$2,763
	Subdivision Variances (Processed with Subdivision Applications)	Residential	$511
		Commercial	$628
	Phased Subdivision Opening		$1,732
	Final Major Plat (Fee at Check Print)	6 to 40 lots	$1,987
		41 to 200 lots	$3,299
		Over 200 lots	$3,299
	Final Minor Plat(Fee at Check Print)		$1,838
*	Final Subsequent Minor Plat		$1,838
	Expedited Plat (Fee at Check Print)		$1,835
	**Exempt Plat (Fee at Check Print)		$200
	Corrections or Vacations of Recorded Final subdivision plats or		$309
	Corrections or Adjustments to Plats, Conditions, and supporting		$309
	Minor Adjustments		$309
	Major Adjustments	Major subdivisions affecting:	
		6 to 40 lots	$1,540
		41 to 200 lots	$4,621
		Over 200 lots	$6,161
		Minor subdivisions	$616
	TAS/TIS Review		$680
	TAS/TIS Update Review		$364

*Engineering charges for certain subdivision reviews in the City.
**Fee Set by State Law
NOTE: Fees are rounded to the nearest whole number

✓ Allowable TIF expenditures

Residential & Commercial Building Permit Fees (July 1, 2011)
(P.R fee is 65% Plan review Fee Which is added to all Commercial & Multi-Family)
*Valuation based on the higher of total bid price or table in Building Safety Magazine.
Go to the City's Website to "Downloadable Forms" for Residential & Commercial valuation documents

VALUATION *	PERMIT FEE	65% P.R. FEE	TOTAL
1-1000	$30.00	$19.50	$49.50
1001-2000	$45.00	$29.25	$74.25
2001-3000	$54.25	$35.26	$89.51
3001-4000	$63.50	$41.28	$104.78
4001-5000	$72.75	$47.29	$120.04
5001-6000	$82.00	$53.30	$135.30
6001-7000	$91.25	$59.31	$150.56
7001-8000	$100.50	$65.33	$165.83
8001-9000	$109.75	$71.34	$181.09
9001-10000	$119.00	$77.35	$196.35
10001-11000	$128.25	$83.36	$211.61
11001-12000	$137.50	$89.38	$226.88
12001-13000	$146.75	$95.39	$242.14
13001-14000	$156.00	$101.40	$257.40
14001-15000	$165.25	$107.41	$272.66
15001-16000	$174.50	$113.43	$287.93
16001-17000	$183.75	$119.44	$303.19
17001-18000	$193.00	$125.45	$318.45
18001-19000	$202.25	$131.46	$333.71
19001-20000	$211.50	$137.48	$348.98
20001-21000	$220.75	$143.49	$364.24
21001-22000	$230.00	$149.50	$379.50
22001-23000	$239.25	$155.51	$394.76
23001-24000	$248.50	$161.53	$410.03
24001-25000	$257.75	$167.54	$425.29
25001-26000	$264.35	$171.83	$436.18
26001-27000	$270.95	$176.12	$447.07
27001-28000	$277.55	$180.41	$457.96
28001-29000	$284.15	$184.70	$468.85
29001-30000	$290.75	$188.99	$479.74
30001-31000	$297.35	$193.28	$490.63
31001-32000	$303.95	$197.57	$501.52
32001-33000	$310.55	$201.86	$512.41
33001-34000	$317.15	$206.15	$523.30
34001-35000	$323.75	$210.44	$534.19
35001-36000	$330.35	$214.73	$545.08
36001-37000	$336.95	$219.02	$555.97
37001-38000	$343.55	$223.31	$566.86
38001-39000	$350.15	$227.60	$577.75
39001-40000	$356.75	$231.89	$588.64
40001-41000	$363.35	$236.18	$599.53
41001-42000	$369.95	$240.47	$610.42
42001-43000	$376.55	$244.76	$621.31
43001-44000	$383.15	$249.05	$632.20
44001-45000	$389.75	$253.34	$643.09
45001-46000	$396.35	$257.63	$653.98
46001-47000	$402.95	$261.92	$664.87
47001-48000	$409.55	$266.21	$675.76
48001-49000	$416.15	$270.50	$686.65
49001-50000	$422.75	$274.79	$697.54
50001-51000	$427.35	$277.78	$705.13
51001-52000	$431.95	$280.77	$712.72
52001-53000	$436.55	$283.76	$720.31
53001-54000	$441.15	$286.75	$727.90
54001-55000	$445.75	$289.74	$735.49
55001-56000	$450.35	$292.73	$743.08
56001-57000	$454.95	$295.72	$750.67
57001-58000	$459.55	$298.71	$758.26
58001-59000	$464.15	$301.70	$765.85
59001-60000	$468.75	$304.69	$773.44
60001-61000	$473.35	$307.68	$781.03
61001-62000	$477.95	$310.67	$788.62
62001-63000	$482.55	$313.66	$796.21

VALUATION*	PERMIT FEE	65% P.R. FEE	TOTAL
63001-64000	$487.15	$316.65	$803.80
64001-65000	$491.75	$319.64	$811.39
65001-66000	$496.35	$322.63	$818.98
66001-67000	$500.95	$325.62	$826.57
67001-68000	$505.55	$328.61	$834.16
68001-69000	$510.15	$331.60	$841.75
69001-70000	$514.75	$334.59	$849.34
70001-71000	$519.35	$337.58	$856.93
71001-72000	$523.95	$340.57	$864.52
72001-73000	$528.55	$343.56	$872.11
73001-74000	$533.15	$346.55	$879.70
74001-75000	$537.75	$349.54	$887.29
75001-76000	$542.35	$352.53	$894.88
76001-77000	$546.95	$355.52	$902.47
77001-78000	$551.55	$358.51	$910.06
78001-79000	$556.15	$361.50	$917.65
79001-80000	$560.75	$364.49	$925.24
80001-81000	$565.35	$367.48	$932.83
81001-82000	$569.95	$370.47	$940.42
82001-83000	$574.55	$373.46	$948.01
83001-84000	$579.15	$376.45	$955.60
84001-85000	$583.75	$379.44	$963.19
85001-86000	$588.35	$382.43	$970.78
86001-87000	$592.95	$385.42	$978.37
87001-88000	$597.55	$388.41	$985.96
88001-89000	$602.15	$391.40	$993.55
89001-90000	$606.75	$394.39	$1,001.14
90001-91000	$611.35	$397.38	$1,008.73
91001-92000	$615.95	$400.37	$1,016.32
92001-93000	$620.55	$403.36	$1,023.91
93001-94000	$625.15	$406.35	$1,031.50
94001-95000	$629.75	$409.34	$1,039.09
95001-96000	$634.35	$412.33	$1,046.68
96001-97000	$638.95	$415.32	$1,054.27
97001-98000	$643.55	$418.31	$1,061.86
98001-99000	$648.15	$421.30	$1,069.45
99001-100000	$652.75	$424.29	$1,077.04
100001-101000	$656.30	$426.60	$1,082.90
101001-102000	$659.85	$428.90	$1,088.75
102001-103000	$663.40	$431.21	$1,094.61
103001-104000	$666.95	$433.52	$1,100.47
104001-105000	$670.50	$435.83	$1,106.33
105001-106000	$674.05	$438.13	$1,112.18
106001-107000	$677.60	$440.44	$1,118.04
107001-108000	$681.15	$442.75	$1,123.90
108001-109000	$684.70	$445.06	$1,129.76
109001-110000	$688.25	$447.36	$1,135.61
110001-111000	$691.80	$449.67	$1,141.47
111001-112000	$695.35	$451.98	$1,147.33
112001-113000	$698.90	$454.29	$1,153.19
113001-114000	$702.45	$456.59	$1,159.04
114001-115000	$706.00	$458.90	$1,164.90
115001-116000	$709.55	$461.21	$1,170.76
116001-117000	$713.10	$463.52	$1,176.62
117001-118000	$716.65	$465.82	$1,182.47
118001-119000	$720.20	$468.13	$1,188.33
119001-120000	$723.75	$470.44	$1,194.19
120001-121000	$727.30	$472.75	$1,200.05
121001-122000	$730.85	$475.05	$1,205.90
122001-123000	$734.40	$477.36	$1,211.76
123001-124000	$737.95	$479.67	$1,217.62
124001-125000	$741.50	$481.98	$1,223.48
125001-126000	$745.05	$484.28	$1,229.33

126001-127000	$748.60	$486.59	$1,235.19
127001-128000	$752.15	$488.90	$1,241.05
128001-129000	$755.70	$491.21	$1,246.91
129001-130000	$759.25	$493.51	$1,252.76
130001-131000	$762.80	$495.82	$1,258.62
131001-132000	$766.35	$498.13	$1,264.48
132001-133000	$769.90	$500.44	$1,270.34
133001-134000	$773.45	$502.74	$1,276.19
134001-135000	$777.00	$505.05	$1,282.05
135001-136000	$780.55	$507.36	$1,287.91
136001-137000	$784.10	$509.67	$1,293.77
137001-138000	$787.65	$511.97	$1,299.62
138001-139000	$791.20	$514.28	$1,305.48
139001-140000	$794.75	$516.59	$1,311.34
140001-141000	$798.30	$518.90	$1,317.20
141001-142000	$801.85	$521.20	$1,323.05
142001-143000	$805.40	$523.51	$1,328.91
143001-144000	$808.95	$525.82	$1,334.77
144001-145000	$812.50	$528.13	$1,340.63
145001-146000	$816.05	$530.43	$1,346.48
146001-147000	$819.60	$532.74	$1,352.34
147001-148000	$823.15	$535.05	$1,358.20
148001-149000	$826.70	$537.36	$1,364.06
149001-150000	$830.25	$539.66	$1,369.91
150001-151000	$833.80	$541.97	$1,375.77
151001-152000	$837.35	$544.28	$1,381.63
152001-153000	$840.90	$546.59	$1,387.49
153001-154000	$844.45	$548.89	$1,393.34
154001-155000	$848.00	$551.20	$1,399.20
155001-156000	$851.55	$553.51	$1,405.06
156001-157000	$855.10	$555.82	$1,410.92
157001-158000	$858.65	$558.12	$1,416.77
158001-159000	$862.20	$560.43	$1,422.63
159001-160000	$865.75	$562.74	$1,428.49
160001-161000	$869.30	$565.05	$1,434.35
161001-162000	$872.85	$567.35	$1,440.20
162001-163000	$876.40	$569.66	$1,446.06
163001-164000	$879.95	$571.97	$1,451.92
164001-165000	$883.50	$574.28	$1,457.78
165001-166000	$887.05	$576.58	$1,463.63
166001-167000	$890.60	$578.89	$1,469.49
167001-168000	$894.15	$581.20	$1,475.35
168001-169000	$897.70	$583.51	$1,481.21
169001-170000	$901.25	$585.81	$1,487.06
170001-171000	$904.80	$588.12	$1,492.92
171001-172000	$908.35	$590.43	$1,498.78
172001-173000	$911.90	$592.74	$1,504.64
173001-174000	$915.45	$595.04	$1,510.49
174001-175000	$919.00	$597.35	$1,516.35
175001-176000	$922.55	$599.66	$1,522.21
176001-177000	$926.10	$601.97	$1,528.07
177001-178000	$929.65	$604.27	$1,533.92
178001-179000	$933.20	$606.58	$1,539.78
179001-180000	$936.75	$608.89	$1,545.64
180001-181000	$940.30	$611.20	$1,551.50
181001-182000	$943.85	$613.50	$1,557.35
182001-183000	$947.40	$615.81	$1,563.21
183001-184000	$950.95	$618.12	$1,569.07
184001-185000	$954.50	$620.43	$1,574.93
185001-186000	$958.05	$622.73	$1,580.78
186001-187000	$961.60	$625.04	$1,586.64
187001-188000	$965.15	$627.35	$1,592.50
188001-189000	$968.70	$629.66	$1,598.36
189001-190000	$972.25	$631.96	$1,604.21
190001-191000	$975.80	$634.27	$1,610.07
191001-192000	$979.35	$636.58	$1,615.93

192001-193000	$982.90	$638.89	$1,621.79
193001-194000	$986.45	$641.19	$1,627.64
194001-195000	$990.00	$643.50	$1,633.50
195001-196000	$993.55	$645.81	$1,639.36
196001-197000	$997.10	$648.12	$1,645.22
197001-198000	$1,000.65	$650.42	$1,651.07
198001-199000	$1,004.20	$652.73	$1,656.93
199001-200000	$1,007.75	$655.04	$1,662.79
200001-201000	$1,011.30	$657.35	$1,668.65
201001-202000	$1,014.85	$659.65	$1,674.50
202001-203000	$1,018.40	$661.96	$1,680.36
203001-204000	$1,021.95	$664.27	$1,686.22
204001-205000	$1,025.50	$666.58	$1,692.08
205001-206000	$1,029.05	$668.88	$1,697.93
206001-207000	$1,032.60	$671.19	$1,703.79
207001-208000	$1,036.15	$673.50	$1,709.65
208001-209000	$1,039.70	$675.81	$1,715.51
209001-210000	$1,043.25	$678.11	$1,721.36
210001-211000	$1,046.80	$680.42	$1,727.22
211001-212000	$1,050.35	$682.73	$1,733.08
212001-213000	$1,053.90	$685.04	$1,738.94
213001-214000	$1,057.45	$687.34	$1,744.79
214001-215000	$1,061.00	$689.65	$1,750.65
215001-216000	$1,064.55	$691.96	$1,756.51
216001-217000	$1,068.10	$694.27	$1,762.37
217001-218000	$1,071.65	$696.57	$1,768.22
218001-219000	$1,075.20	$698.88	$1,774.08
219001-220000	$1,078.75	$701.19	$1,779.94
220001-221000	$1,082.30	$703.50	$1,785.80
221001-222000	$1,085.85	$705.80	$1,791.65
222001-223000	$1,089.40	$708.11	$1,797.51
223001-224000	$1,092.95	$710.42	$1,803.37
224001-225000	$1,096.50	$712.73	$1,809.23
225001-226000	$1,100.05	$715.03	$1,815.08
226001-227000	$1,103.60	$717.34	$1,820.94
227001-228000	$1,107.15	$719.65	$1,826.80
228001-229000	$1,110.70	$721.96	$1,832.66
229001-230000	$1,114.25	$724.26	$1,838.51
230001-231000	$1,117.80	$726.57	$1,844.37
231001-232000	$1,121.35	$728.88	$1,850.23
232001-233000	$1,124.90	$731.19	$1,856.09
233001-234000	$1,128.45	$733.49	$1,861.94
234001-235000	$1,132.00	$735.80	$1,867.80
235001-236000	$1,135.55	$738.11	$1,873.66
236001-237000	$1,139.10	$740.42	$1,879.52
237001-238000	$1,142.65	$742.72	$1,885.37
238001-239000	$1,146.20	$745.03	$1,891.23
239001-240000	$1,149.75	$747.34	$1,897.09
240001-241000	$1,153.30	$749.65	$1,902.95
241001-242000	$1,156.85	$751.95	$1,908.80
242001-243000	$1,160.40	$754.26	$1,914.66
242001-500000	$1,163.95	calculate	65%
For each addl.1000	$3.55	Plan Review	fee
or fraction of		manually	
500001-1000000	$2,072.75	calculate 65%	
For each addl.1000	$3.05	Plan Review	fee
or fraction of		manually	
1000001- and up	$3,597.75	calculate 65%	
For each addl.1000	$2.05	Plan Review	fee
or fraction of		manually	

$500,000 \div 1,000 = 500 \times 2.05 = \$1025.00$

$\$3,597.75 + 1025.00 = \$4,622.75$ ✓

✓ Allowable TIF expenditure

System Development Fees-Residential

Water		Sewer		
Meter Size	SDF Fee	Meter Size	SDF Fee	Total Water/Sewer
3/4"	2,850.00	3/4"	1,890.00	$4,740.00
1"	2,850.00	1"	5,800.00	$8,650.00
1.5"	2,850.00	1.5"	16,845.00	$19,695.00
2"	2,850.00	2"	29,080.00	$31,930.00
3"	2,850.00	3"	75,455.00	$78,305.00
4"	2,850.00	4"	176,645.00	$179,495.00

System Development Fees-Commercial

Water		Sewer		
Meter Size	SDF Fee	Meter Size	SDF Fee	Total Water/Sewer
3/4"	8,495.00	3/4"	1,890.00	$10,385.00
1"	14,410.00	1"	5,800.00	$20,210.00
1.5"	28,805.00	1.5"	16,845.00	$45,650.00
2"	46,095.00	2"	29,080.00	$75,175.00
3"	92,195.00	3"	75,455.00	$167,650.00
4"	144,055.00	4"	176,645.00	$320,700.00

System Development Fees-Irrigation

Meter Size	SDF Fee
3/4"	10,335.00
1"	17,525.00
1.5"	35,060.00
2"	56,100.00
3"	112,160.00
4"	175,250.00

✓ Allowable TIF expenditure

18

Date: August 9, 2021
Project No.: 08099.03

SANDERSON STEWART

Engineer's Opinion of Probable Cost
for
COS 1591 Multi-Use Trail
Providing Trail Improvements

Schedule I: Trail

ITEM NO.	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE		TOTAL PRICE
201	1	LS	Mobilization and Insurance	$3,119.70 / LS	=	$3,119.70
202	1	LS	Traffic Control	$1,500.00 / LS	=	$1,500.00
203	1	LS	Builders Risk and OPC Insurance	$1,200.00 / LS	=	$1,200.00
204	1	LS	Payment and Performance Bonds	$1,200.00 / LS	=	$1,200.00
205	1	LS	Storm Water Management and Erosion Control	$5,000.00 / LS	=	$5,000.00
206	130	CY	Stripping, Stockpile & Spreading Topsoil (6-inches)	$28.00 / CY	=	$3,640.00
207	260	CY	Unclassified Excavation	$35.00 / CY	=	$9,100.00
207	765	SY	Asphalt Surface Course (3-inch Section)	$26.00 / SY	=	$19,890.00
207	100	SF	Concrete Ramp	$10.50 / SF	=	$1,050.00
207	5	EA	Truncated Domes	$250.00 / EA	=	$1,250.00
207	260	CY	1 1/2-inch Base Course Gravel (12-inch Thick)	$29.00 / CY	=	$7,540.00
207	50	SY	Tensar BX1100 Geogrid	$3.50 / SY	=	$175.00
207	0.30	AC	Seeding	$1,500.00 / AC	=	$450.00
				Total Price for Schedule I	=	**$55,114.70**
				Design Contingency (10%)	=	$5,511.47
				Construction Contingency (10%)	=	$5,511.47
				Total Price of Improvements	=	**$66,137.64** ✓

Geotechnical Fees

	Geotech Report	=	By Client
	Geotechnical Services and Materials Testing Estimated 2.0%	=	$1,322.75
	Total Administrative Costs	=	**$1,322.75**

Notes:

Costs based on Sanderson Stewart design drawings

Mobilization and Insurance based on percentage of total schedule cost 8.33 %

Construction contingency 10 %

All items are complete and in place.

Sanderson Stewart cannot warrant that any opinions of probable cost provided by Sanderson Stewart will not vary from actual costs incurred by the client. Sanderson Stewart has no control over the cost or availability of labor, equipment, materials, or over market conditions or the Contractor's method of pricing. Sanderson Stewart makes no warranty, express or implied, that the bids or the negotiated cost of the work will not vary from Sanderson Stewart's opinion of probable cost.

** Estimate Does Not Include:*

Private Utilities (Power, Phone, Natural Gas, Television, Communications)

New Fence/Gates

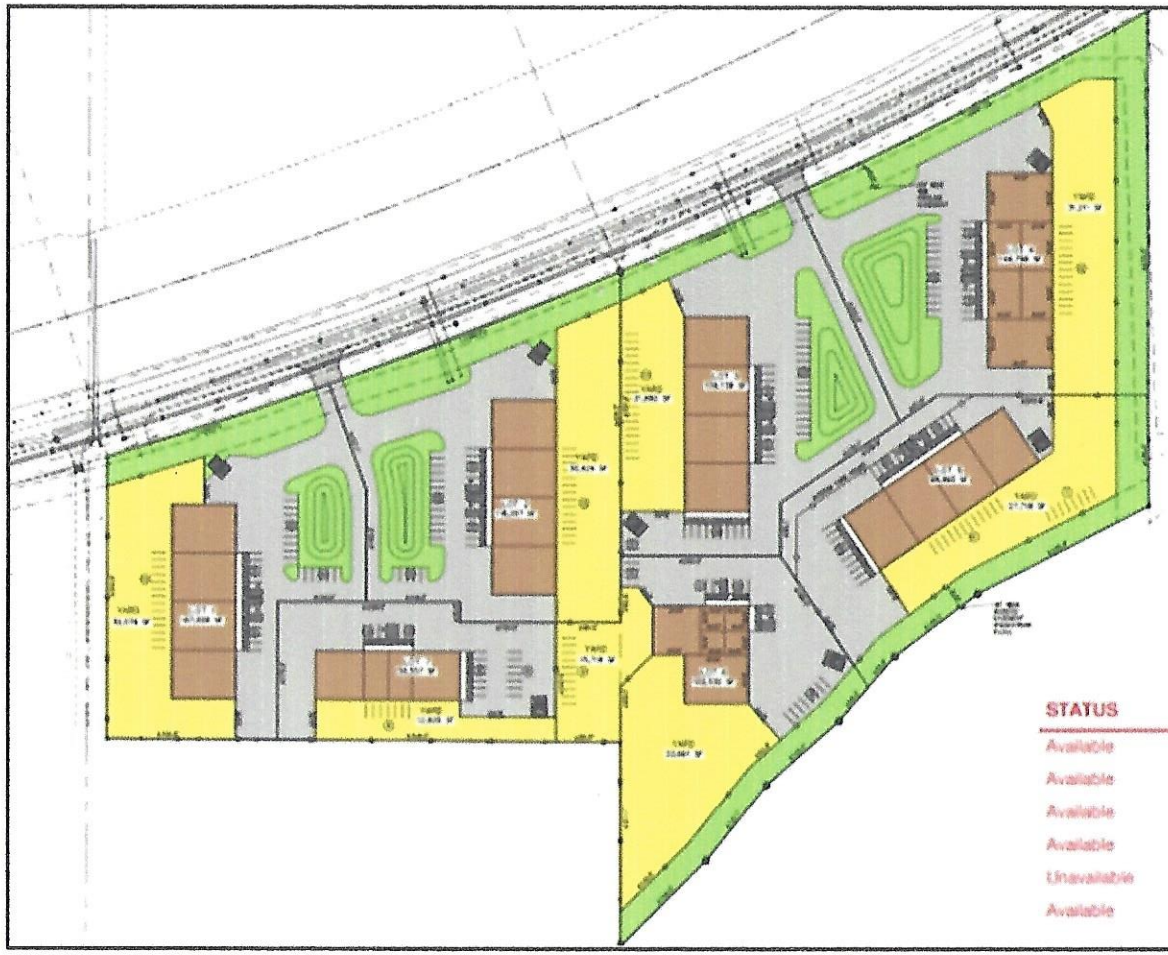
✓ Allowable TIF expenditure

Project Goals

- Annex site in SBURA TIF District
- Secure TIF funds for infrastructure costs
- Develop/sell lots to industrial users - Fall of 2021/Spring of 2022
- Enhance the I-90 corridor
- Create Class A lots for Billings or MT-based businesses to be successful

Site Notes

- 7 Lots
- Lots 5/6 Reserved for Owner Building Project
- CX Heavy Commercial zoning



Proposed Plat Map (lot notes below)

STATUS	LOT #	SUB-TYPE	SIZE
Available	#1	Industrial	2.48 Acres
Available	#2	Industrial	2.52 Acres
Available	#3	Industrial	2.52 Acres
Available	#4	Industrial	3.32 Acres
Unavailable	#5/6 - Sold	Industrial	4.63 Acres
Available	#7	Industrial	1.3 Acres

Tim Compton - Developer						
Tax Increment Application Analysis-Allowable Expenses						
			Allowability			
			MT Code	**MT Code**		**Application**
			7-15-4233	**7-15-4288**	**Total**	**Page**
Approaches/Roads	$ 196,387.46		$ -	$ 196,387.46	$ 196,387.46	12
Meshing /Piers	100,000.00		-	100,000.00	100,000.00	
Multi-Use Trail	66,138.00		-	66,138.00	66,138.00	18
Master Site Plan Review Fee	1,431.00		1,431.00	-	1,431.00	13
City Planning Application Fee	5,303.00		5,303.00	-	5,303.00	14
Building Permit	4,625.00		4,625.00	-	4,625.00	16
City Hookup Fee	20,210.00		20,210.00	-	20,210.00	17
	$ 394,094.46		$ 31,569.00	$ 362,525.46	$ 394,094.46	
Total Project Cost	$ 3,890,435.66					
Maximum TIF Assistance (16.67% of Project Costs)	$ 648,536.00					
Recommended TIF Assistance	$ 362,525.46					
SBURA TIF Assistance Recommendation (@9% of the total project cost)				**$ 362,525.46**		
Payback Period:						
Expected Increase in Taxable Value (80% of Project Cost)	$ 3,112,349.00					
Commercial Tax Rate (1.89%)	$ 58,823.00					
Annual Tax Increment (69 mills)	$ 40,587.87					
Payback Period (years)	8.93					

RESOLUTION NO. 18-10750

A RESOLUTION OF THE CITY OF BILLINGS FORMING A POLICY FOR THE ADMINISTRATION OF URBAN RENEWAL AREAS OR DISTRICTS (URD) IN THE CITY.

WHEREAS, MCA, Title 7, Chapter 15, Part 42, Section 51 declares: General powers of municipalities in connection with urban renewal. Every municipality shall have all the power necessary or convenient:

(1) To carry out and effectuate the purposes and provisions of this part and part 43;

(2) To undertake and carry out urban renewal projects within the municipality, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this part and part 43, and to disseminate blight clearance and urban renewal information;

(3) To organize, coordinate, and direct, within the municipality, the administration of the provisions of this part and part 43 as they apply to such municipality in order that the objective of remedying blighted areas and preventing the causes thereof within such municipality may be most effectively promoted and achieved and to establish such new office or offices of the municipality or to reorganize existing offices in order to carry out such purpose most effectively;

(4) To exercise all or any part or combination of powers granted in this part or part 43; and

WHEREAS, the City of Billings reviews and adopts Urban Renewal Plans for each of its Urban Renewal Districts, and those Plans specify goals for each Urban Renewal District; and

WHEREAS, the City of Billings may establish local policies that guide the establishment, operations, funding and governance of urban renewal districts; and

WHEREAS, development of TIF (Tax Increment Financing) Policies would be in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

That the City Council now makes and adopts the following TIF Policy:

CITY OF BILLINGS TAX INCREMENT FINANCE POLICY

1. PERMITTED USES OF TIF FUNDS. TIF funds may be used for costs outlined in MCA, Title 7, Chapter 15, Part 42, Section 88. Urban Renewal Plans adopted by the City may limit what TIF funds may be spent on in any Urban Renewal District. Eligible costs may include, but are not limited to:
   a. Land acquisition and assemblage, demolition and removal of structures, relocation of occupants, analysis to determine needs of an urban renewal area, administrative cost for redevelopment activities.
   b. Public infrastructure, including, but not limited to: streets, storm drains, parking, public buildings, water and sewer lines, sidewalks, utility connections.
   c. Private infrastructure with public benefit, including, but not limited to, building façades, windows, doors, fire suppression or alarm systems, storm drainage, environmental remediation, parking, and ADA access.

2. FINANCIAL ASSISTANCE THROUGH TIF. All financial assistance must be approved by the City Council prior to any activity receiving funding. Financial assistance should be requested prior to beginning construction. All activity (design and construction) must be completed prior to issuance of TIF funds from the City Finance Department. Financial thresholds and assistance tools are as follows:
   a. A minimum of $\geq$ $5 of private investment for every $1 of public investment is the preferred threshold to be met for each TIF application. The City Council reserves the right to approve any application that does not meet this minimum. The City Council also may make exceptions for projects of less than $100,000, and for publicly owned projects, properties or facilities.
   b. Grants may be made for uses listed in Part 1 above benefitting any government owned-land or buildings and for profit and non-profit businesses.
   c. Bonding may be available at the discretion of the City Council.
   d. All TIF grants will be formalized by a development agreement that must be signed by the grantee before the City will reimburse eligible expenses.

3. URD MANAGEMENT. Each URD in the City of Billings will be managed as follows:
   a. Each URD should maintain a non-profit advisory board to make recommendations to the City Council regarding TIF expenditures. Unless specifically authorized by a Memorandum of Understanding (MOU) referenced in 3(b) below, a majority of board members must own or lease property within the district, or must represent such owner or lessee, and may include representation from residential or commercial property owners or lessees. Advisory Boards must carry insurance for their members and provide proof of insurance to the City.
   b. A MOU must be executed between the advisory board and the City Council that defines the board's roles, responsibilities, authority, and processes, including for hiring and maintaining board support staff. The MOU must

contain language addressing conflict of interest situations for board members whose property may directly benefit from a TIF expenditure and for board support staff. The MOU also must include language that if there is the appearance of a conflict of interest the issue will be reviewed by City legal staff before moving forward.

c. Training for all URD advisory boards will be conducted biannually in coordination with City staff and URD support staff. The training must include, but is not limited to: review of URD and TIF laws, Administrative Rules, ethics, conflicts of interest, meeting management, and maintenance of minutes and records.

d. URD financial reporting will be consistent across all URDs and be set by coordination between the City Finance Director and the Planning and Community Services Director, and URD support staff.

e. TIF application review and City Council staff report preparation will be conducted by the Planning and Community Services Department Director, in coordination with the Assistant City Administrator, Finance Director, and URD support staff.

PASSED by the City Council and APPROVED this 9th day of July, 2018.

CITY OF BILLINGS

BY: William A Cole
William A. Cole, Mayor

CITY OF BILLINGS SEAL YELLOWSTONE COUNTY, MONTANA

ATTEST

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

Urban Renewal Plan for the South Billings Boulevard Urban Renewal District

Prepared by the Planning & Community Services Department
Adopted by the Billings City Council on December 8, 2008
Amended by the Billings City Council on July 22, 2019
Amended by the Billings City Council on July 26, 2021

Table of Contents

Section 1 – Introduction 6

Section 2 – Definitions 6

Section 3 – Background 8

Section 4 - Description of Blight 12

Section 5 - Summary of Blight 12

Section 6 - The Site and Its Relationship to the City 15

Section 7 - Description of the District Boundary 15

Section 8 - Planning Process 17

Section 9 - Housing (Conservation of existing affordable housing) 19

Section 10 - Transportation and Pedestrian Circulation 20

Section 11 - Public Services and Facilities 20

Section 12 - Infrastructure and Utilities 20

Section 13 - Urban Renewal Projects and Programs 21

Section 14 - Goals and Objectives Respective to the City Growth Policy 24

Section 15 - Neighborhood Planning 26

Section 16 – Conclusion 26

List of Maps:

Map 1 - Proposed Boundaries of the District 9

Map 2 - Existing Land Uses 10

Map 3 - Current Zoning 11

Map 4- Water Distribution System 13

Map 5 - Sanitary Sewer System 14

Map 6 - Tax Increment Finance District in Relationship to City 16

Appendix I 27

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- Floyd Martin, Vice Chair
- Alan Pomick, Treasurer
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Section 1 – Introduction

On May 12, 2008, the City of Billings adopted an ordinance creating the South Billings Boulevard Urban Renewal District (SBBURD) and established a Tax Increment Finance District. As part of this ordinance, an urban renewal plan and the boundaries of the tax increment finance district were adopted. Public participation for preparing the urban renewal plan involved public meetings and participation with the City of Billings, the Southwest Corridor Neighborhood Task Force, residents and property owners, Downtown Billings Partnership, and Big Sky Economic Development Authority.

In October of 2008, the City began a modification of the SBBURD to include three additional properties. Two of these properties were recently annexed and contiguous to the existing SBBURD; therefore, the properties are now eligible to be included within the SBBURD. The third property is contiguous and requested an expansion of the district boundary. The modification of the urban renewal plan will reflect the addition of those properties.

The December 2008 modification of the urban renewal plan:

- Served as a framework for the official urban renewal plan.
- Fulfilled Montana state law.
- Updated and define district boundaries.
- Classified blight
- Set forth the protocol for its authorization, execution, and management.
- Illustrated the development opportunities.
- Documented baseline taxable property values and potential areas for redevelopment

The July 2019 amendment of the urban renewal plan:

- Identified future projects and programs.
- Ensured the City has the option to bond future projects.
- Updated the 2008 Plan to reflect the 2019 amendment process.

The July 2021 amendment of the urban renewal plan expands the boundary of the SBBURD to add five new properties to the District (see Appendix I).

Section 2 - Definitions

The following terms have the following meanings unless a different meaning is clearly indicated by the context:

1. "Agency" or "urban renewal agency" means a public agency created by Section 7-15-4232 of the Montana Code Annotated.
2. "Blighted area" means an area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; substantially impairs the sound growth of the city or its environs; retards the provision of housing accommodations; or constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:

a. The substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence of buildings or improvements, whether residential or nonresidential;
b. Inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;
c. Inappropriate or mixed uses of land or buildings;
d. High density of population and overcrowding;
e. Defective or inadequate street layout;
f. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
g. Excessive landcoverage;
h. Unsanitary or unsafe conditions;
1. Deterioration of site;
J. Diversity of ownership;
k. Tax or special assessment delinquency exceeding the fair value of the land;
I. Defective or unusual conditions of title;
m. Improper subdivision or obsolete platting;
n. The existence of conditions that endanger life or property by fire or other causes; or
o. Any combination of the factors listed in the subsection (2).

3. "Bonds" means any bonds, notes, or debentures (including refunding obligations) authorized to be issued pursuant to Section 7-15-4300 MCA.
4. "Clerk" means the clerk or other official of the municipality who is the custodian of the official records of the municipality.
5. "Local governing body" means the council or other legislative body charged with governing the municipality.
6. "Mayor" means the chief executive of a city or town.
7. "Municipality" means any incorporated city or town in the state.
8. "Redevelopment" may include:
   a. acquisition of a blighted area or portion of the area;
   b. demolition and removal of buildings and improvements;
   c. installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions in accordance with the urban renewal plan; and
   d. making the land available for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with the urban renewal plan. If the property is condemned pursuant to Title 70, chapter 30, the private enterprise or public agencies may not develop the condemned area in a way that is not for a public use.
9. "Urban renewal area" means a blighted area that the local governing body designates as appropriate for an urban renewal project or projects.
10. "Urban renewal plan" means a plan for one or more urban renewal areas or for an urban renewal project. The plan:
    a. must conform to the growth policy if one has been adopted pursuant to Title 76, chapter 1; and;
    b. must be sufficiently complete to indicate, on a yearly basis or otherwise:
       i. any land acquisition, demolition, and removal of structures; redevelopment;

improvements; and rehabilitation that is proposed to be carried out in the urban renewal area;

ii. zoning and planning changes, if any, including changes to the growth policy if one has been adopted pursuant to Title 76, Chapter 1;

iii. land uses, maximum densities, building requirements; and

iv. the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

Section 3 – Background

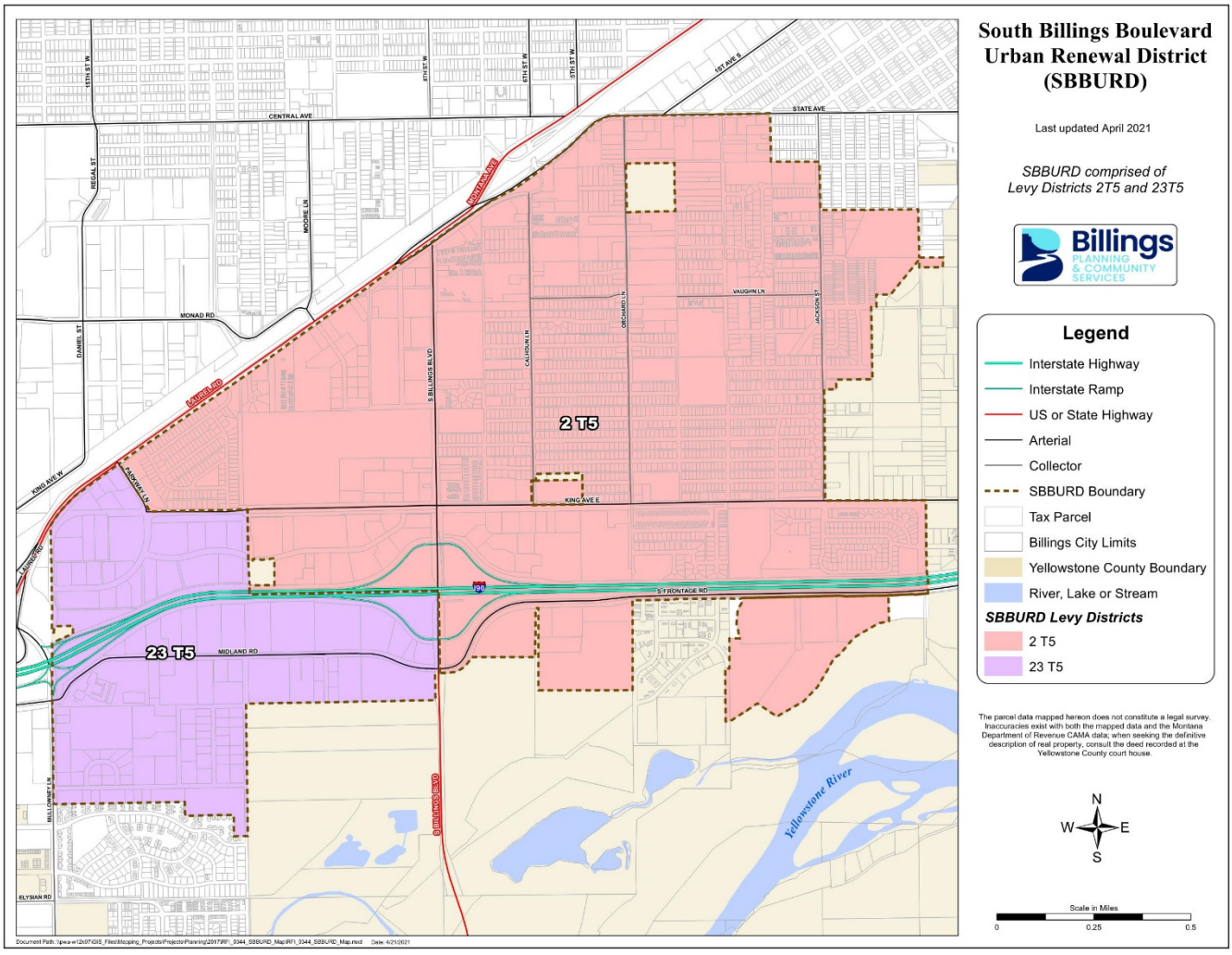
The South Billings Boulevard Urban Renewal District (the "District") lies within the City of Billings (the "City'), is situated between major transportation routes, and stretches from the east side of the King Avenue Overpass east to Washington Street and from State Avenue South to the city limit boundaries. Located within the district is Interstate Highway 90 and the major railway line through the city. Map 1 shows the boundary of the SBBURD.

The District lies within the Southwest Corridor Neighborhood Task Force. The task force was created in the early 1990's in response to the growing problem with the roadway interchanges and associated issues. For a while, the Task Force was a more diverse body that handled many issues for the Southwest Billings community. The Task Force has not been active for the past several years (2019-2021). Existing land uses and current zoning are shown on Maps 2 and 3.

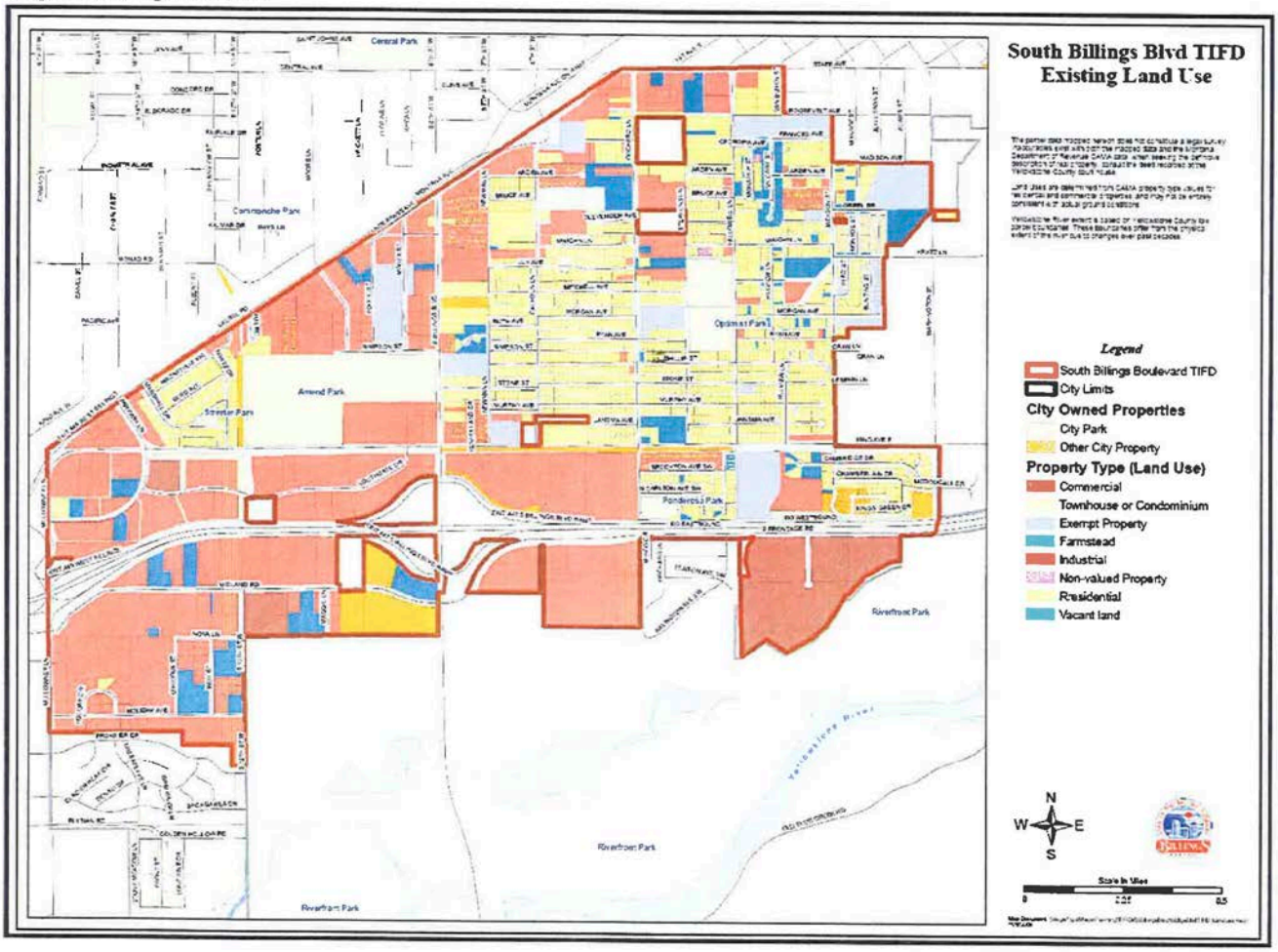
A closer look at this neighborhood shows an established area of mixed residential and commercial uses. This area also includes three elementary schools and one middle school. Some areas include unimproved streets with no sidewalk, curb, or gutter. In addition, many areas were not served by municipal water and sewer or there was old, inadequate water and sewer infrastructure. Many of the concerns raised by residents within the district center around routes for children to get to school, including bus routes that run on unimproved streets and children walking down the street instead of sidewalks to get to school. Many of these infrastructure deficits have been addressed as evidenced by the project list updates in Section 13 of this Plan.

Due to the location, the South Billings Boulevard Urban Renewal District has a tremendous amount of potential to become a major economic force. With the interstate corridor located in this district, the potential exists for this area to become a major destination place for retail, goods and services, manufacturing, and entertainment.

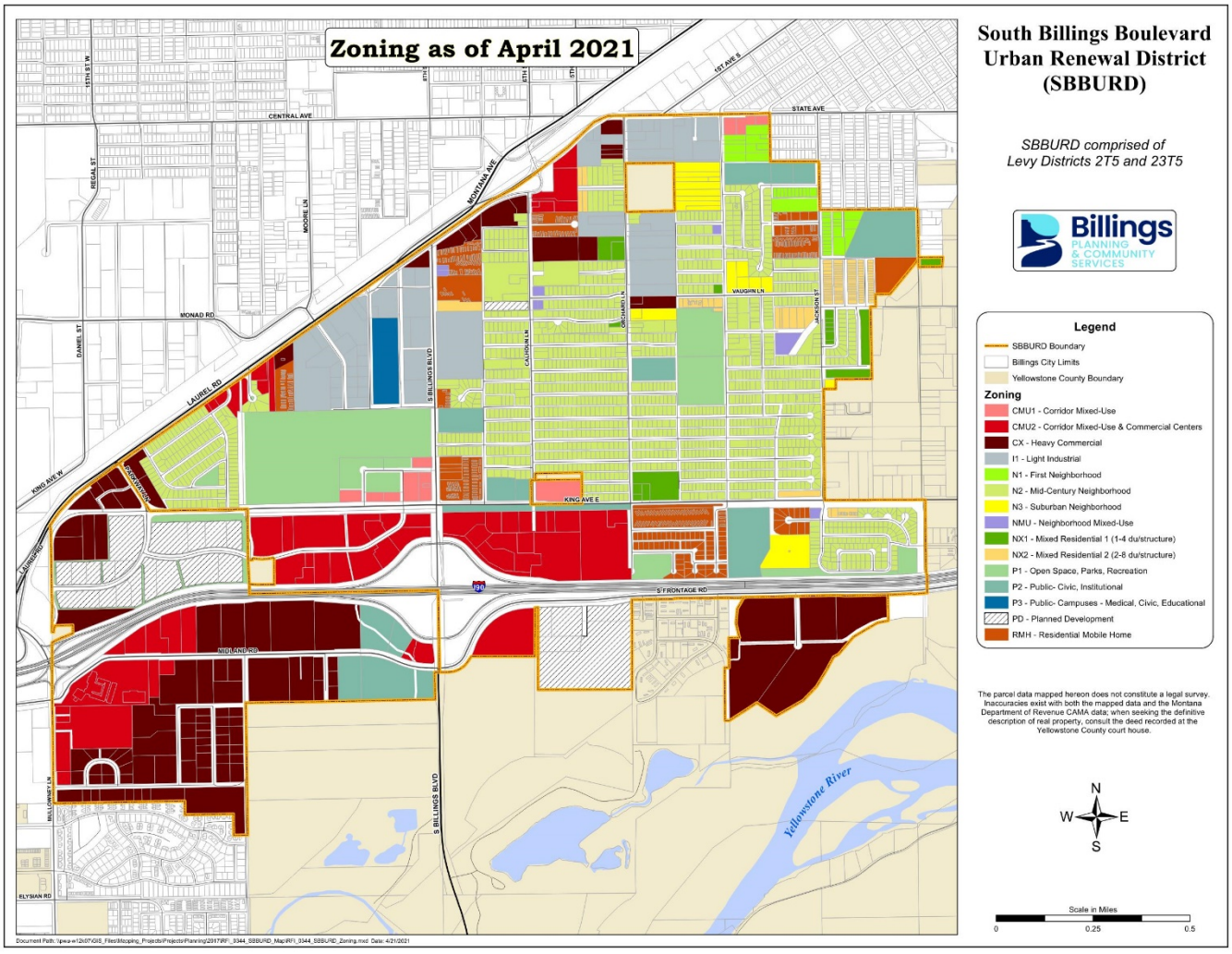
Map 1. South Billings Boulevard Urban Renewal District



Map 2 – Existing Land Uses



Map 3. South Billings Boulevard Urban Renewal District Existing Zoning



Section 4 - Description of Blight

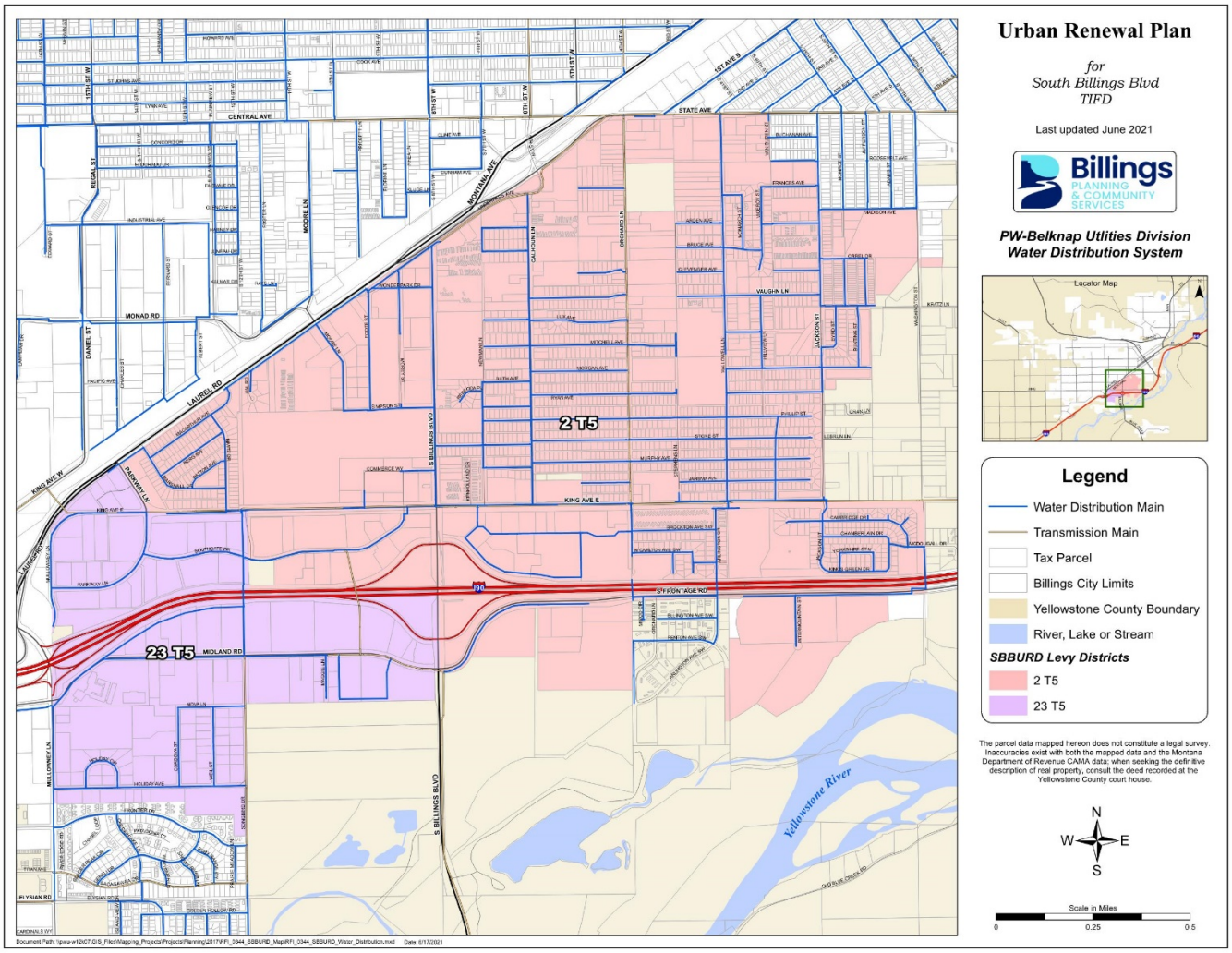
A requirement of Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, is to justify an urban renewal plan supported through a tax increment finance district through the determination of blight. Blight is defined as an area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; substantially impairs the sound growth of the city or its environs; retards the provision of housing accommodation; or constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:

- the substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence of buildings or improvements, whether residential or nonresidential;
- inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;
- inappropriate or mixed uses of land or buildings;
- high density of population and overcrowding;
- defective or inadequate street layout;
- faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- excessive land coverage;
- unsanitary or unsafe conditions;
- deterioration of site;
- diversity of ownership
- tax or special assessment delinquency exceeding the fair value of the land;
- defective or unusual conditions of title;
- improper subdivision or obsolete platting;
- the existence of conditions that endanger life or property by fire or other causes;
- any combination of the factors listed

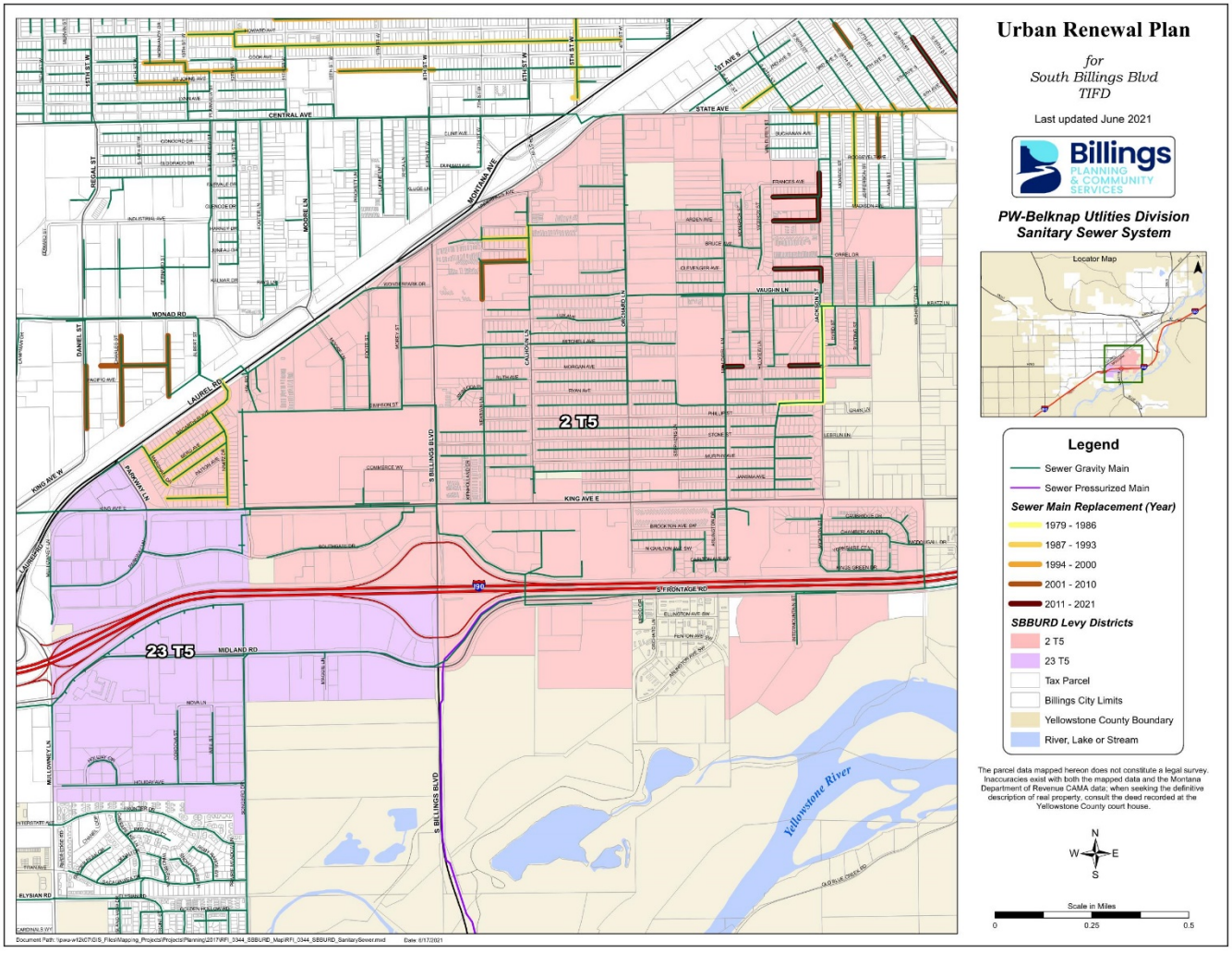
Section 5 - Summary of Blight

The area in the proposed district contains a great deal of blight. Within the district there is substantial structural deterioration, long-term land vacancy, and significant infrastructure needs. Several of the commercial buildings in the district are vacant or deteriorated and need demolition. Many of the sidewalks are cracked or nonexistent, alleys are deteriorated, and, in general, much of the area is below City standards. In contrast to the above, there are certain properties within the District in good repair but included in the District to allow for a contiguous block of land within the district; and because pockets of revitalization cannot be sustained if areas of neglect and blight surround them. Over time, without continued managed urban renewal, even these success stories will once again decline in taxable value. Portions of the District fall into the blighted, neglected, and under-utilized categories. Maps 4 and 5 show the past infrastructure conditions within the district.

Map 4. Water Distribution System.



Map 5. Sewer System



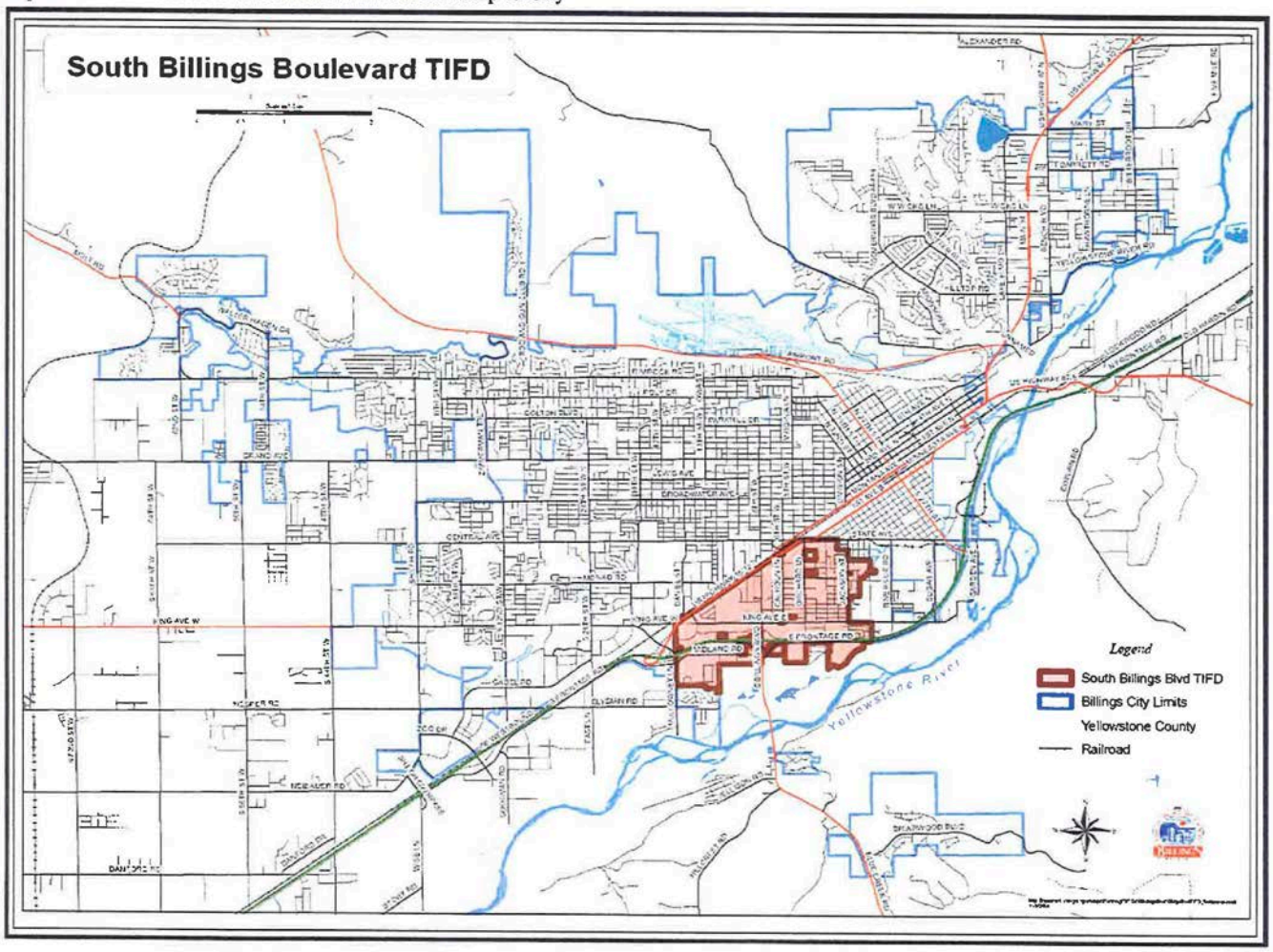
Section 6 - The Site and Its Relationship to the City

The South Billings Boulevard Tax Increment Finance District ("TIFD') and Urban Renewal District is located in the south-center region of the City of Billings. Bordered by the Interstate corridor, the main railroad line and principal transportation routes, it is an area where economic development opportunities are numerous. In addition, numerous service-related, commercial, industrial, parks and recreation and housing choices are located within the District. Map 6 shows the TIFD boundary in relationship to the rest of the city.

Section 7 - Description of the District Boundary *(To be updated after Council action to add new properties to the District)*

Starting at the intersection of State Avenue and Van Buren Street, extending south down the centerline of Van Buren Street to the intersection of Van Buren Street and Roosevelt Avenue, extending east down the centerline of Roosevelt Avenue to the intersection of Roosevelt Avenue and Jackson Street, extending south down the centerline of Jackson Street to the intersection of Jackson Street and Madison Avenue, extending east down the centerline of Madison Avenue to the intersection of Madison Avenue and Washington Street, extending south down the centerline of Washington Street to the intersection of the centerline of Washington Street and the extension of the northern boundary of Lot 7, Willis Subdivision, extending east along said boundary to the eastern boundary of said lot, extending south along said boundary to the southern boundary of said lot, extending westerly along said boundary and its extension to the centerline of Washington Street, extending north to the existing City of Billings city limit boundary, extending southerly and westerly along the existing city limit boundary to the intersection of Jackson Street and King Avenue East, extending east along the centerline of King Avenue East to the intersection of King Avenue East and Washington Street, extending south along the centerline of Washington Street and its projection across the Interstate 90 right-of-way, to its intersection with South Frontage Road, thence in a westerly direction following the south right-of-way boundary of the South Frontage Road to the intersection of an extension of the east boundary of Riverfront Business Park Subdivision, extending south along eastern boundary of said subdivision to the south boundary of said subdivision, extending southerly and westerly along said boundary to the west boundary of said subdivision, extending northerly and easterly along said boundary and its extension to the south right-of-way boundary of South Frontage Road, extending westerly to the northeast corner of Lot 1, Block 1, Willowbrook Subdivision, thence in a southerly and westerly direction following the existing city limit boundary to a point which intersects with the extension of the southern boundary of Tract 1, C/S 2834, then west along said southern boundary of Tract 1, C/S 2834 and southern boundary of Block 4 of Weil Subdivision to the intersection with the centerline of Mullowney Lane, extending north along the centerline of Mullowney Lane and its projection to the centerline of Laurel Road, extending northeast along the centerline of Laurel Road to its intersection with State Avenue, extending northeast and east along the centerline of State Avenue to the ending point at the intersection of State Avenue and Van Buren Street. Excluding all unincorporated land within the boundary.

Map 6 – Tax Increment Finance District in Relationship to City



15

Section 8 - Planning Process

Stakeholder and Community Participation

The initial concept of developing a Tax Increment Finance District and an Urban Renewal Plan in the South Billings Boulevard area was brought forward by the City of Billings, Big Sky Economic Development Authority, and the Downtown Billings Partnership. After discussions and meetings with the Southwest Corridor Task Force, it was determined that a steering committee would be established to move forward with the development of an Urban Renewal Plan for the creation of the South Billings Boulevard TIF District. After discussions with the participating members, it was apparent that direct communication with business owners, landowners and public participation was critical for the project to be a success. Two public meetings were scheduled to open dialogue on the proposed Urban Renewal Plan and TIF District process, and to set goals and objectives of the project. It also became clear that a grass-roots effort conducted and led by the property owners themselves was needed.

In October of 2008, the City began an urban renewal plan modification process to include three additional properties to the district pursuant to Montana Code section 7-15-4221. All property owners affected by the urban renewal plan modification were notified by mail of the public hearing on the Urban Renewal Plan held November 24, 2008.

In May 2019, the City, in coordination with the South Billings Urban Renewal Association, began the process to amend the South Billings Urban Renewal Plan. All property owners affected by the urban renewal plan amendment were notified by mail of a public meeting to discuss and receive public comment on the Plan amendment on May 30, 2019. All property owners affected by the urban renewal plan amendment were also notified of the public hearing on the Urban Renewal Plan held July 8, 2019.

In summer 2020, City staff in coordination with the South Billings Urban Renewal Association and its consultant, began discussion of expanding the District Boundary to include additional properties. The proposed expansion as brought to the City Council at a December 2020 Work Session for review and discussion. The Council at that meeting directed staff to move the process to expand the District forward in 2021. All property owners who property was proposed to be included in the District expansion were notified of the public hearing on the Urban Renewal Plan held July 12, 2021.

Urban Renewal Plan

The Urban Renewal Plan is the tool that governs what public improvements are needed and desired within the District. Through public meetings and meetings at the Southwest Corridor Task Force, neighborhood needs, and projects were identified.

With input from property owners and the identification of goals and objectives, the City of Billings moved forward with the completion of the Urban Renewal Plan. A draft was reviewed with the property owners and the Southwest Corridor Task Force prior to review by the City of Billings City Council.

The high level of transparency and frequency of meetings has ensured that a large local constituency

has been involved, and as many stakeholders as possible participate and approve of the plan.

Eminent Domain

In no case shall eminent domain be used as a tool in the redevelopment of the South Billings Boulevard Urban Renewal District except as a last resort in the case of needed public infrastructure improvements and/or rights-of way.

Residential Relocation Plan

If a residential structure requires relocation as a result of right-of-way acquisition and/or a public infrastructure construction project, that is partially or fully funded with federal assistance (Housing and Urban Development, Federal Highway, etc.), the City of Billings shall abide by the Uniform Relocation Assistance Act.

Planning, City Administration and Legal Review

During the many meetings with the local property owners and the Southwest Neighborhood Task Force, it was decided to begin the process of finalizing the urban renewal plan and take it to the City Council before the end of 2007. The Urban Renewal Plan was sent to the City Legal Department and City Administration for review and comments. Comments and recommendations from both City Legal and City Administration were taken into account and incorporated into this Plan.

The Plan was also sent to the Yellowstone County Board of Planning for its review and recommendations regarding the plan's conformity to the City's 2003 Growth Policy Plan. A recommendation of approval was passed by the Planning Board on October 23, 2007. The plan was then presented at a City Council Work Session on November 5, 2007. The public hearing and first reading of the Ordinance was held by the City Council on November 26, 2007 with the second reading and final adoption on December 10, 2007.

A modification to the SBBURD plan began in October of 2008. On November 10, 2008, the Billings City Council passed a Resolution Declaring Blight, Intent to Modify the District, and Setting a Public Hearing Date. The Yellowstone County Board of Planning reviewed the modified Urban Renewal Plan and made recommendations to the City Council regarding the Plan's conformity with the 2003 Growth Policy on November 12, 2008. The affected property owners were notified of the Plan's modification and public hearing notices were published on November 6, 2008 and November 13, 2008 for the first reading and public hearing on the modification of the Plan.

The City initiated an amendment to the Plan in May 2019 to ensure future projects contemplated by the City and via public comments and recommendations would be possible if funded by bonding or directly through tax increment funds generated by the SBBURD. The process to amend the Plan has followed the process described in Montana Code as follows: The Yellowstone County Board of Planning reviewed the modified Urban Renewal Plan and made recommendations to the City Council regarding the Plan's conformity with the 2016 Growth Policy on June 25, 2019. The

affected property owners were notified by mailed postcard of the Plan's modification, and public hearing notices were published on June 28, 2019 and July 5, 2019 for the first reading and public hearing on the Plan amendment.

The City initiated an expansion to the SBBURD boundary in December 2020 to include additional properties in the District. The process to expand the District has followed the process described in Montana Code as follows: The Yellowstone County Board of Planning reviewed the modified Urban Renewal Plan and made recommendations to the City Council regarding the Plan's conformity with the 2016 Growth Policy on April 13, 2021. The City Council acted upon a Resolution of Intent to expand the boundaries of the District on May 10, 2021 and set a public hearing date to act on an ordinance to expand the District in July 12, 2021. The affected property owners were notified by mailed letter of the District expansion, and public hearing notices were published for the first reading and public hearing set for July 12, 2021.

Financial Programming

The City of Billings, to ensure a sound and adequate financial program to fund projects, has concluded the following: For every $1 million dollars of increased market value, assuming Class 4 (commercial) property @ 3.01 % taxable rate and a mill levy of $0.55, it is anticipated that an increment value of approximately $14,500 will be generated yearly.

Modification of SBBURD Plan

The SBBURD may be modified at any time by the City Council as necessary to eliminate and prevent the development or spread of blighted areas and encourage urban rehabilitation. The process for plan modification shall follow the procedures set forth in 7-15-4212 through 7-15-4219 MCA, with respect to initial adoption of this Plan. For purposes of urban renewal district boundary changes only, the notice of public hearing, as described in 7-15-4215 MCA, may only be mailed to those owners whose properties are situated within the area of expansion or contraction of the Urban Renewal District boundaries. In cases where the boundaries are not modified, but the contents of the urban renewal plan are substantially modified, notification shall be mailed to all owners of property within the District area.

Section 9 - Housing (Conservation of Existing Affordable H ousing)

Housing is an important element to the District. Providing the District with housing opportunities is vital to the sustainability of the District. With housing opportunities, individuals and families can live and work within the District. This provides a dual benefit; first, the commute to work for individuals will be reduced and second, the businesses within the District will have a local work force to draw from.

Current housing in the area consists of single-family, duplex, and multi-family units and include rental units and owner-occupied. Also, manufactured home parks are located within the District. The main concentration of housing is in the central and eastern portion of the District. During the summer of 2007, the Planning Division developed a map of existing housing conditions within the City of

Billings. The information was generated through the Yellowstone County CAMA (Computer Assisted Mass Appraisal) detail system. Properties were queried that were labeled as either unsound, poor, fair, or incomplete. This resulted in approximately 2,390 properties within the city limits that met this query. Out of the 2,390 city properties, 562 or 24% were located in the SBBURD. Of the 562 residential structures, seven were rated as unsound, 184 as poor and 371 as fair.

Future housing for the District is encouraged to be developed for the goal of ownership. When rental housing occurs, such facilities shall be developed in connection with mixed-uses and managed by a company that will provide active policy measures to eliminate crime and blight. Approval of multi-family housing will require either a Zone Change or Special Review request that requires approval by the City Council.

Housing in the area shall also be designed to cater to a variety of income demographics as well. All current affordable housing needs in the District shall be accounted for through the development of owned and rental housing that remain within the District. Housing for mid- and higher-level income groups shall also be encouraged. To avoid creation of substandard housing or encourage future blight, mixed-use housing developments shall incorporate all income demographics within the same project in a safe and positive way.

Section 10 - Transportation and Pedestrian Circulation

The transportation and circulation situation in the TIF District should be a major focus during redevelopment of the area. Traffic patterns and access issues can affect the function and livability of a community or neighborhood.

During discussions and public meetings, it was apparent the current street conditions and lack of adequate transportation and pedestrian facilities was a high priority for property owners. The majority of traffic that comes into the District is either pass-through or destination traffic to the major transportation routes located within the District. In addition, the lack of sidewalk and pedestrian routes is a concern with the number of schools and parks located in the District. Safe and attractive pedestrian amenities, such as sidewalks, boulevards, crosswalks, improved signage and shelters or benches would greatly enhance pedestrian experiences.

Section 11 - Public Services and Facilities

Currently there are four public schools located within the District; three elementary schools and one middle school. A concern mentioned many times by residents was the lack of sidewalks for school children to get to school. It was observed that many students are walking directly in the street due to a lack of sidewalks. The creation of a Safe Routes to School Plan should be created to address this concern. In addition to schools, there are several developed parks located in the District. Amend Park provides a multi-use facility for soccer and rugby as well as picnic sites and shelters. Optimist Park has a variety of amenities that include basketball courts, jogging trails, playground, softball and baseball fields and picnic areas. Ponderosa Park provides horseshoe courts, playground, softball and baseball fields and soccer and rugby fields. The City of Billings also provides services to the District with MET Transit and the Southgate Cop Shop. Currently two MET routes serve the neighborhood; the Central and the Southside Loop. Both of these routes travel to and from the Stewart Park and Downtown Transfer Centers. The Southgate Cop Shop was reopened in May of 2007 and operates on

Monday, Wednesday and Friday from 4 - 7 p.m. The station is a neighborhood police contact center currently staffed by volunteers. Residents are encouraged to use the Cop Shop to report crimes, suspicious activities or obtain information and assistance.

Section 12 - Infrastructure and Utilities

The District has infrastructure and utilities deficiencies that need to be addressed prior to any large influx of redevelopment or new building construction. Water and sewer conditions need to be addressed due to out of date installations, inadequate lines, or increases in impacts to existing structures.

The storm water drainage situation is particularly troublesome as many areas either have inadequate storm water facilities or none at all.

By upgrading infrastructure and utilities, therein lies the opportunity for more attractive development opportunities.

Section 13 - Urban Renewal Projects and Programs

The Urban Renewal Projects were identified by property owners within the District during the public meetings at the time the Plan was first adopted in 2008 and also during the amendment process in 2019. Information for the 2008 Plan adoption process utilized the Southwest Corridor Task Force meetings and delivery through comments mailed to the Planning Division. For the 2019 amendment process, a public meeting was held at Orchard Elementary School on May 30, 2019 where projects ideas and comments were collected, as well as at the South Billings Urban Renewal Association meeting on June 4, 2019. It is the City's intent to use tax increment to finance public improvement projects. In addition to TIF financing, the City may also use Special Improvement District financing as well as grant funding through, but not limited to, the Community Development Block Grant Program. By combining funding opportunities, more projects will be able to be completed.

The project and program list below encompasses both items included in the 2008 Plan as well as the new project recommendations for the 2019 Plan amendment. The items are identified by the year:

2008 Project and Program Recommendations:

Project: Traffic calming measures on Calhoun and Orchard Streets. (Completed)

Project: Street improvements on Newman Drive between Simpson and Stone Streets, install curb and gutter. (Completed)

Project: Pave, curb, and gutter on Simpson from Calhoun to Newman.

Project: Widen, curb and gutter (where needed) and repave Calhoun the full length. (Completed)

Project: Widen, curb and gutter (where needed) and repave Orchard the full length. (Completed)

Project: Widen, curb and gutter (where needed) and repave Hallowell the full length. (Under Construction 2021)

Project: Widen, curb and gutter and install bike path or sidewalk the full length of King Avenue East from Parkway to Riverside Drive. (Completed to Jackson Street)

Project: Safety to school plan. (SRTS Maps Updated, Plan Update in 2021/2022)

Project: Crosswalks within the District (where needed).(In Progress)

Project: Sidewalks within the District (where needed). (In Progress)

Project: Street lights along King Avenue East. (In Progress)

Project: Street widening at Optimist Park. (Addressed with Hallowell Lane Project)

Project: 4100 Block of Vaughn Street - sidewalk. (Included in FY22 CIP – Jackson to Hallowell)

Project: 4100 Block of Vaughn - public sewer needed, drain fields failing. (Included in FY22 CIP – Jackson to Hallowell)

Project: Bike/pedestrian routes along King Avenue. (Mostly Completed, section east of Jackson Street)

Project: Sewer improvements on South Billings Boulevard from Mitchell north to Underpass Road. Sewer line currently runs east under adjoining residential development. (Completed)

Project: Repave Morgan Avenue between Hallowell Lane and Jackson Street include sidewalks, streetlights. (Included in FY22 CIP)

Project: Install public sewer along Morgan Avenue that includes storm water improvements. (Included in FY22 CIP)

Project: More bike trails throughout neighborhood. (In Progress)

Project: Park improvements for Little League and soccer leagues. (Amend Park and Optimist Park projects addressing this need)

Project: Community Resource Officer within the neighborhood to steer kids away from drugs and promote a safe neighborhood. (Coordination between SD#2 and City PD is ongoing)

Project: Pave Newman Lane behind Newman Elementary School. (Completed)

Project: Storm water improvement at the Northeast comer of Phillip and Hallowell. (Addressed with Hallowell Lane Project)

Project: Need school zone signage at Newman Elementary School. Completed)

Project: Installation and improvement of municipal water and sewer lines within the District. (Completed)

Project: Installation of sidewalks on Jackson Street (where needed). (In Progress)

Project: Stop light at South Billings Boulevard and Midland Road. (Completed)

Project: Neighborhood wide traffic study for traffic calming strategies. (In Progress through SRTS and Complete Streets efforts)

Project: Assess adequacy of fire hydrants throughout the neighborhood and add fire hydrants as needed. (Not Completed)

Project: Traffic light at State Avenue and Hallowell Lane. (Completed)

Project: Continuation of streetlights on Jackson to King Avenue. (Not Completed)

In addition to property owner identification of projects for the District, the City of Billings Public Works Department has several ongoing or future infrastructure projects scheduled. These projects include the following:

- **Orchard Lane** - Replacement of a water main in Orchard Lane from just south of King Avenue East to Underpass Avenue. (Completed)

- **Calhoun Lane** – Replacement of water main in Calhoun Lane from King Avenue East to Underpass Avenue. (Completed)

- **Jackson Street** - Jackson Street is split into two phases. The first phase will provide sidewalk and drive approaches on the west side of Jackson Street from King Avenue East to Ryan Avenue. The second phase will provide drive approaches, sidewalk, curb and gutter, and ADA ramps along both sides of Jackson Street from State Avenue to Kratz Lane. (Completed)

- **Newman Lane and Bruce Avenue** - Sanitary sewer rehabilitation work was completed in the TIF District in 2007 at Newman Lane and Bruce Avenue.

2021 SBBURD Gravel Street Inventory – Programming in Current or Future CIP

Branch Name	To	From
ARDEN AVE	JACKSON STREET	VICEROWY STREET
BRUCE Ave	HALLOWELL	STEPHENS
CLEVENGER AVENUE	600' W OF JACKSON ST	JACKSON ST
FRANCES AVENUE	ORCHARD LANE	END W. ORCHARD LANE
HILLVIEW LANE	MORGAN AVE	ALLEY N OF PHILLIP STREET
HILLVIEW LANE	VAUGHN LANE	MITCHELL AVENUE
HOLIDAY AVENUE	SONGBIRD DRIVE	WELL STREET
MCDOUGALL DRIVE	CUL-DE-SAC E OF WASHINGTON STREET	WASHINGTON STREET
MITCHELL AVENUE	HILLVIEW	HALLOWELL
MONROE STREET	MADISON AVENUE	371'S. MADISON AVE
MOREY STREET	UNDERPASS AVENUE	WONDERPARK DRIVE
MOREY STREET	END OF GRAVEL	SIMPSON STREET
MULLOWNEY LANE	320' N/O PARKWAY LN	130' S/O PARKWAY LANE
NEWMAN LANE	LUX AVENUE	RUTH LANE
NOVA LANE	SONGBIRD DRIVE	WELL STREET
RYAN AVENUE	JACKSON STREET	HALLOWELL LANE
SONGBIRD DRIVE	MIDLAND ROAD	FRONTIER DRIVE
STEPHENS LANE	ARDEN AVENUE	VAUGHN LANE
STEPHENS LANE	SIMPSON STREET	RYAN AVENUE
STEPHENS LANE	ALLEY N OF JANSMA AVENUE	ALLEY S OF JANSMA AVE
VAUGHN LANE	JACKSON	HALLOWELL

FY 2022 SBURD Project
FY 2021 City Project and SID
Proposed Future CIP Inclusion

2019 Project and Program Recommendations:

Parks & Recreational Amenities – Construct and enhance public facilities that will increase the quality or quantity of parks and recreational activities within the District. This may include, but is not limited to, a recreation center, swimming pool, ice arena, indoor and outdoor park development, and other amenities.

Public Safety – Construction of Police or Fire facilities within the District, to include necessary furnishings for such facilities.

Railroad Infrastructure – Coordinate with BNSF Railway and Montana Rail Link on safety and long-term viability of railroad crossings and corridors in the District and cooperate on projects with the railroads and City of Billings.

Walking Paths and Trails – Construct sidewalks, trails, and pathways throughout the District with landscaping to ensure the safety of children and all pedestrians, as well as provide access to neighborhoods and services.

Transportation Corridor Improvements – Construct and reconstruct transportation infrastructure in the District to include streets, sidewalks, lighting, traffic control, multi-purpose side paths, landscaping, water, sewer, stormwater, and transit access projects.

School and Community Services – Assist in funding projects and programs in the District to enhance school playgrounds and athletic fields, health and wellness programs, access to community meeting and activity spaces, and other efforts that improve access to school and community services.

Section 14 - Identified Projects and Programs in Relationship to the Goals and Objectives Respective to the 2016 City of Billings Growth Policy

One of the requirements of Montana's Urban Renewal Law (Title 7, Chapter 15, Parts 42 and 43, MCA) is that the urban renewal plan must conform to the community's growth policy. On April 13, 2021, the Yellowstone County Board of Planning acted affirmatively on a recommendation to the City Council as to the SBBURD expansion's consistency with the 2016 City of Billings Growth Policy. The 2016 City of Billings Growth Policy ("Growth Policy") refers to and promotes economic development and urban renewal in a variety of ways. The preceding list of urban renewal goals listed in Section 13 are relevant to the Growth Guidelines identified in the Growth Policy in the following areas:

Growth Guidelines

Essential Investments (relating public and private expenditures to public values)

- The safety of all users and the connectivity of the transportation system are important criteria to consider in roadway designs and transportation plans.
- Public transit and commercial air service are critical to ensure access to and around the City.
- Planning and construction of safe and affordable interconnected sidewalks and trails are important to the economy and livability of Billings.
- Developed parks that provide recreation, special amenities (community gardens, dog parks, viewing areas), and active living opportunities are desirable for an attractive and healthy community.
- Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors.
- Public health and safety and emergency service response are critical to the well-being of Billings' residents, businesses, and visitors.
- Infill development and development near existing City infrastructure may be the most cost effective.
- The history and heritage of Billings are cornerstones of our community.

- Neighborhoods that are safe and attractive and provide essential services are much desired.
- Infrastructure and service investments that stabilize or improve property values, secure future utility costs, consider maintenance costs, and improve our environmental quality far into the future (i.e. energy efficient) are desirable
- A supportive school system that inspires, motivates, and prepares students for meaningful employment is important for ensuring a high quality, competitive community.

Place Making (Enhance, maintain, preserve, and improve existing public places)

- A multi-use community recreation facility is desirable.
- Enhancement and maintenance of public spaces and buildings through City stewardship is integral to a vibrant community.
- Park master plans and transportation plans are important to facilitate the preservation and improved public access to the Yellowstone River and the Rims
- Public and private partnerships are valuable for creating enhanced entryways into Billings.
- Enhancing public buildings and spaces to be more efficient in their uses of energy, money, and space is important to having a vibrant and livable City.

Community Fabric (attractive, aesthetically pleasing, uniquely Billings)

- Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity.
- Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods.
- Outdoor public spaces provide casual and relaxing gathering areas for people.
- Planning and construction of interconnected sidewalks and trails are important to the livability of Billings.
- Cost-effective landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors.

Strong Neighborhoods (livable, safe, sociable, and resilient neighborhoods)

- Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools, and public gathering spaces foster health, good will and social interaction.
- Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale streetlights, street trees and walkable access to public spaces.
- Implementation of the Infill Policy is important to encourage development of underutilized properties.

Home Base (healthy, safe, and diverse housing options)

- A mix of housing types that meet the needs of a diverse population is important.

- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy, and safe.
- Homes that are safe and sound support a healthy community.

Mobility and Access (transportation choices in places where goods and services are accessible to all)

- Connecting people to places with transportation choices is vital to the well-being of Billings' residents, businesses, and visitors.
- Safe and accessible transportation systems benefit everyone's quality of life.
- Affordable public transit is much desired.
- Development oriented to transit routes will provide more transportation choices and is preferred.
- "Safe Routes to Schools" promotes physical health and reduces vehicle trips, earning parents more time and less costs for transportation.
- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings.
- On-street bike facilities promote predictability for all users
- Technology can reduce congestion and facilitate emergency vehicle travel at railroad crossings.

Prosperity (promoting equal opportunity and economic advancement)

- Predictable, reasonable City taxes and assessments are important to Billings' taxpayers.
- 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.

Section 15 - Neighborhood Planning

Another tool that is expected to be used in the future to address current conditions within the District and the identification of neighborhood needs will be accomplished through the creation of a Neighborhood Plan. A neighborhood plan may be drafted for this area of Billings in the next three or four years based on available funding. The purpose of the neighborhood plan is to assist residents, governing agencies, planners, and developers in making the right choices when determining future growth patterns and development within the neighborhood. The plan also encourages local government, developers, and businesses to discuss future land use decisions with neighborhood residents and business owners prior to the proposed land use change. The neighborhood plan is not a regulatory document; instead, it is adopted by the City Council and the Board of County Commissioners as an implementation strategy and is part of the City of Billings and Yellowstone County Growth Policy as an advisory document. The neighborhood plan would be implemented through the City's Capital Improvement Program Planning and by the Southwest Corridor Neighborhood Task Force.

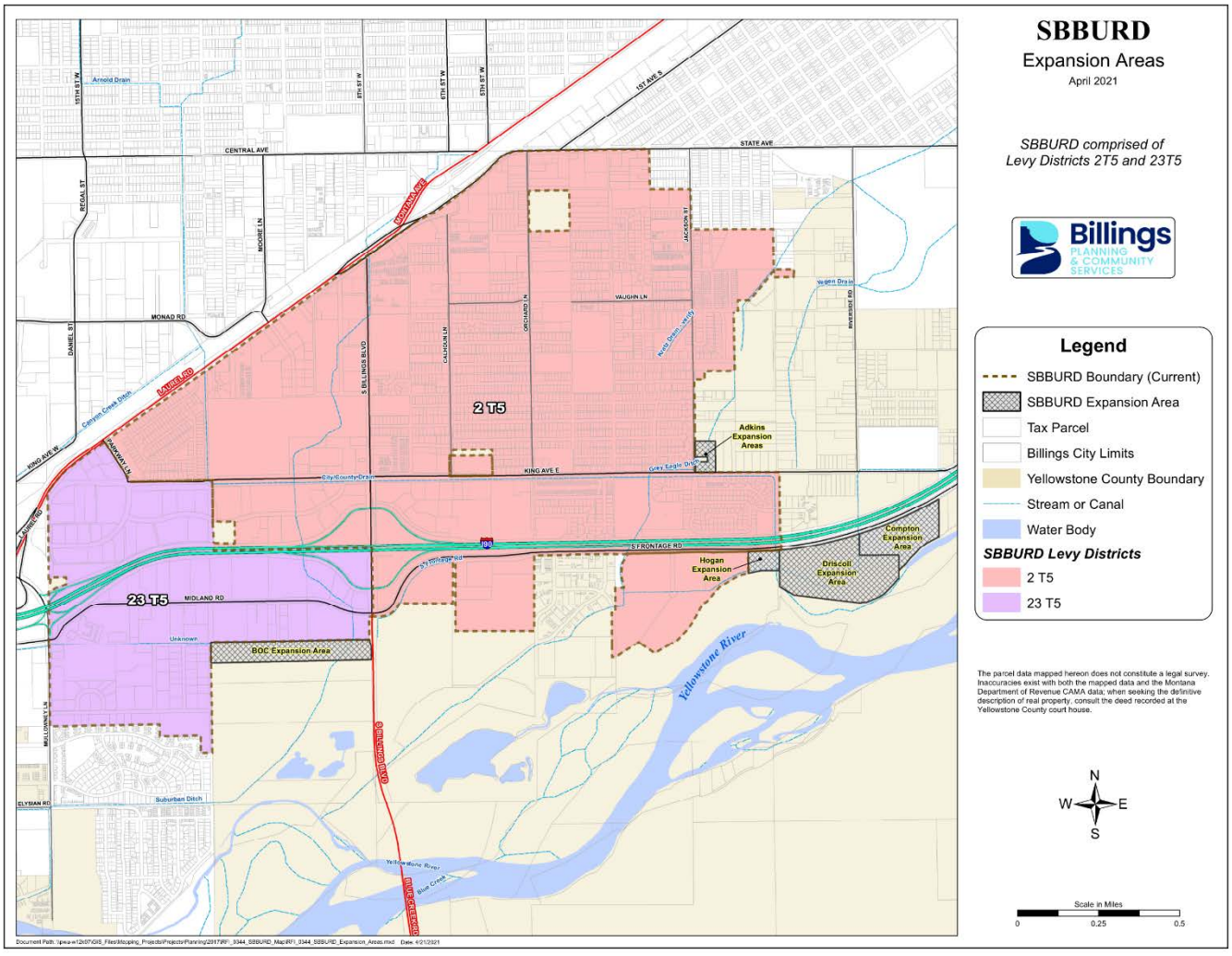
The plan would include general and specific recommendations that reflect the values of the community, encourage sound decision-making, and empower people to take action. The plan also

includes realistic implementation strategies that involve both private and public actions, as well as regulatory decisions.

Section 16- Conclusion

The South Billings Boulevard Urban Renewal District has a tremendous amount of potential to become a viable and reliable economic engine. The District has a great potential to become a destination place where Billings residents, business owners, and visitors will purposefully go to conduct business, have goods and services manufactured and enjoy recreation and leisure activities. At the end of the life of this TIFD program it is the hope of all involved that this area of Billings will be a wonderful place to live, work and play far into the future.

Appendix I – 2021 Expansion



ORDINANCE 19-5725

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE SOUTH BILLINGS BOULEVARD URBAN RENEWAL PLAN FOR THE SOUTH BILLINGS BOULEVARD URBAN RENEWAL DISTRICT (SBBURD), FORMED BY THE CITY IN NOVEMBER 2007 AND EXPANDED IN NOVEMBER 2008, BE AMENDED BY REVISING SECTIONS 1, 8, 13 AND 14, PROVIDING FOR ADDITIONAL PROJECTS TO BE FUNDED AND CONSTRUCTED IN THE FUTURE IN THE SBBURD, AS WELL AS UPDATING THE PLAN TO REFLECT THE AMENDMENT PROCESS.

WHEREAS, this Council on May 12, 2008, established the South Billings Boulevard Urban Renewal District and adopted the South Billings Boulevard Urban Renewal Plan under Ordinance 08-5462,

WHEREAS, this Council on December 8, 2008, modified the South Billings Boulevard Urban Renewal District and modified the South Billings Boulevard Urban Renewal Plan under Ordinance 08-5484,

WHEREAS, opportunities have been presented to the City that make it desirable for the City to amend the South Billings Boulevard Urban Renewal Plan to enable further development and redevelopment of properties, demolishing blighted structures, improving such properties with, landscaping, utilities, and other similar improvements, assembling such properties, and making the properties so improved available for private redevelopment.

WHEREAS, the City Council has made amendments to the South Billings Boulevard Urban Renewal Plan as outlined in this Ordinance and as attached as Exhibit A.

WHEREAS, the South Billings Boulevard Urban Renewal Plan has been reviewed and approved by the Yellowstone County Board of Planning, as evidenced by the Board's letter provided to the City Council and the meeting minutes of June 25, 2019.

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

Section 1. That Section 1 of the South Billings Boulevard Urban Renewal Plan be amended so that such section shall read as follows:

On May 12, 2008 the City of Billings adopted an ordinance creating the South Billings Boulevard Urban Renewal District (SBBURD) and established a Tax Increment Finance District. As part of this ordinance, an urban renewal plan and the boundaries of the tax increment finance district were adopted.

Public participation for preparing the urban renewal plan involved public meetings and participation with the City of Billings, the Southwest Corridor Neighborhood

Task Force, residents and property owners, Downtown Billings Partnership, and Big Sky Economic Development Authority.

In October of 2008, the City began a modification of the SBBURD to include three additional properties. Two of these properties were recently annexed and contiguous to the existing SBBURD; therefore, the properties are now eligible to be included within the SBBURD. The third property is contiguous and requested an expansion of the district boundary. The modification of the urban renewal plan will reflect the addition of those properties.

The December 2008 modification of the urban renewal plan ~~will~~:

- Served as a framework for the official urban renewal plan
- Fulfilled Montana state law
- Updated and define district boundaries
- Classifiedy blight
- Set forth the protocol for its authorization, execution, and management
- Illustrated the development opportunities
- Documented baseline taxable property values and potential areas for redevelopment

The July 2019 amendment of the urban renewal plan will:

- Identify future projects and programs
- Ensure the City has the option to bond future projects
- Update to the 2008 Plan to reflect the 2019 amendment process

Section 8. That Section 8 of the South Billings Boulevard Urban Renewal Plan be amended so that such section shall read as follows:

Stakeholder and Community Participation

The initial concept of developing a Tax Increment Finance District and an Urban Renewal Plan in the South Billings Boulevard area was brought forward by the City of Billings, Big Sky Economic Development Authority and the Downtown Billings Partnership. After discussions and meetings with the Southwest Corridor Task Force, it was determined that a steering committee would be established to move forward with the development of an Urban Renewal Plan for the creation of the South Billings Boulevard TIF District. After discussions with the participating members, it was apparent that direct communication with business owners, landowners and public participation was critical for the project to be a success. Two public meetings were scheduled to open dialogue on the proposed Urban Renewal Plan and TIF District

process, and to set goals and objectives of the project. It also became clear that a grass-roots effort conducted and led by the property owners themselves was needed.

In October of 2008, the city began an urban renewal plan modification process to include 3 additional properties to the district pursuant to Montana Code section 7-15-4221. All property owners affected by the urban renewal plan modification were notified by mail of the public hearing on the Urban Renewal Plan held November 24, 2008.

In May 2019 the City in coordination with the South Billings Urban Renewal Association began the process to amend the South Billings Urban Renewal Plan. All property owners affected by the urban renewal plan amendment were notified by mail of a public meeting to discuss and receive public comment on the Plan amendment on May 30, 2019. All property owners affected by the urban renewal plan amendment were also notified of the public hearing on the Urban Renewal Plan held July 8, 2019.

Planning, City Administration and Legal Review

During the many meetings with the local property owners and the Southwest Neighborhood Task Force, it was decided to begin the process of finalizing the urban renewal plan and take it to the city council before the end of 2007. The urban renewal plan was sent to the City Legal Department and City Administration for review and comments. Comments and recommendations from both City Legal and City Administration were taken into account and incorporated into this plan.

The plan was also sent to the Yellowstone County Board of Planning for its review and recommendations regarding the plan's confo1mity to the 2003 Growth Policy Plan. A recommendation of approval was passed by the Planning Board on October 23, 2007. The plan was then presented at a City Council Work Session on November 5, 2007. The public hearing and first reading of the Ordinance was held by the City Council on November 26, 2007 with the second reading and final adoption on December 10, 2007.

The modification to the SBBURD plan began in October of 2008. On November 10, 2008, the Billings City Council passed a Resolution Declaring Blight, Intent to Modify the District, and Setting a Public Hearing Date. The Yellowstone County Board of Planning reviewed the modified Urban Renewal Plan and made recommendations to the City Council with regard to the plan's conformity with the 2003 Growth Policy on November 12, 2008. The affected property owners were notified of the plan's modification and public hearing notices were published on November 6, 2008 and November 13, 2008 for the first reading and public hearing on the modification of the plan.

The City initiated an amendment to the SBBURD plan in May 2019 to ensure future projects contemplated by the City and also provided by public comments and recommendations would be possible if funded by bonding or directly through tax

increment funds generated by the SBBURD. The process to amend the plan has followed the process described in Montana Code as follows: The Yellowstone County Board of Planning reviewed the modified Urban Renewal Plan and made recommendations to the City Council with regard to the plan's conformity with the 2016 Growth Policy on June 25, 2019. The affected property owners were notified by mailed postcard of the plan's modification, and public hearing notices were published on June 28, 2019 and July 5, 2019 for the first reading and public hearing on the plan amendment.

Section 13. That Section 13 of the South Billings Boulevard Urban Renewal Plan be amended so that such section shall read as follows:

Section 13 - Urban Renewal Projects and Programs

The Urban Renewal Projects were identified by property owners within the district during the public meetings at the time the Plan was first adopted in 2008 and also during the amendment process in 2019.; Information for the 2008 Plan adoption process utilized the Southwest Corridor Task Force meetings and delivery through comments mailed to the Planning Division. For the 2019 amendment process, a public meeting was held at Orchard Elementary School on May 30, 2019 where projects ideas and comments were collected, as well as at the South Billings Urban Renewal Association meeting on June 4, 2019. It is the City's intent to use Tax Increment to finance public improvement projects. In addition to TIF financing, the City may also use Special Improvement District financing as well as grant funding through but not limited to, the Community Development Block Grant Program. By combining funding opportunities, more projects will be able to be completed.

The project and program list below encompasses both items included in the 2008 Plan as well as the new recommendations for the 2019 Plan amendment. The items are identified by the year:

2008 Project and Program Recommendations:

Project: Traffic calming measures on Calhoun and Orchard Streets.

Project: Street improvements on Newman Drive between Simpson and Stone Streets, install curb and gutter.

Project: Pave, curb and gutter on Simpson from Calhoun to Newman.

Project: Widen, curb and gutter (where needed) and repave

Calhoun the full length. Project: Widen, curb and gutter (where

needed) and repave Orchard the full length. Project: Widen, curb

and gutter (where needed) and repave Hallowell the full length.

Project: Widen, curb and gutter and install bike path or sidewalk the full length of King Avenue East from Parkway to Riverside Drive.

Project: Safety to school plan.

Project: Crosswalks within the district (where

needed). Project: Sidewalks within the district

(where needed).

Project: Street lights along King

Avenue East. Project: Street

widening at Optimist Park.

Project: 4100 Block of Vaughn Street - sidewalk.

Project: 4100 Block of Vaughn - public sewer needed,

drainfields failing. Project: Bike/pedestrian routes along

King Avenue.

Project: Sewer improvements on South Billings Boulevard from Mitchell north to Underpass Road. Sewer line currently runs east under adjoining residential development.

Project: Repave Morgan Avenue between Hallowell Lane and Jackson Street include sidewalks, street lights.

Project: Install public sewer along Morgan Avenue that includes storm

water improvements. Project: More bike trails throughout neighborhood.

Project: Park improvements for Little League and soccer leagues.

Project: Community Resource Officer within the neighborhood to steer kids away from drugs and promote a safe neighborhood.

Project: Pave Newman Lane behind Newman Elementary School.

Project: Storm water improvement at the Northeast comer of Phillip

and Hallowell. Project: Need school zone signage at Newman

Elementary School.

Project: Installation and improvement of municipal water and sewer lines

within the district. Project: Installation of sidewalks on Jackson Street

(where needed).

Project: Stop light at South Billings Boulevard and

Midland Road. Project: Neighborhood wide traffic study

for traffic calming strategies.

Project: Assess adequacy of fire hydrants throughout the neighborhood and add fire hydrants as needed.

Project: Traffic light at State Avenue and

Hallowell Lane. Project: Continuation of street

lights on Jackson to King Avenue.

In addition to property ~~1iy~~ owner identification of projects for the district, the City of Billings Public Works Department has several ongoing or future infrastructure projects scheduled. These projects include the following:

- Orchard Lane - Replacement of a water main in Orchard Lane from just south of King Avenue East to Underpass Avenue. This project is scheduled for the spring or fall of 2009.
- Calhoun Lane – Replacement of water main in Calhoun Lane from King Avenue East to Underpass Avenue. This project could be scheduled for 2010 or 2011.
- Jackson Street - Jackson Street is split into two phases. The first phase will provide sidewalk and drive approaches on the west side of Jackson Street from King Avenue East to Ryan Avenue. The second phase will provide drive approaches, sidewalk, curb and gutter, and ADA ramps along both sides

of Jackson Street from State Avenue to Kratz Lane. These phases are programmed in the FY 2009 Budget

- Newman Lane and Bruce Avenue - Sanitary sewer rehabilitation work was completed in the TIF district in 2007 at Newman Lane and Bruce Avenue.

2019 Project and Program Recommendations:

Parks & Recreational Amenities – Construct and enhance public facilities that will increase the quality or quantity of parks and recreational activities within the District. This may include, but is not limited to, a recreation center, swimming pool, ice arena, indoor and outdoor park development, and other amenities.

Public Safety – Construction of Police or Fire facilities within the District, to include necessary furnishings for such facilities.

Railroad Infrastructure – Coordinate with BNSF Railway and Montana Rail Link on safety and long-term viability of railroad crossings and corridors in the District and cooperate on projects with the railroads and City of Billings.

Walking Paths and Trails – Construct sidewalks, trails and pathways throughout the District with landscaping to ensure the safety of children and all pedestrians, as well as provide access to neighborhoods and services.

Transportation Corridor Improvements – Construct and reconstruct transportation infrastructure in the District to include streets, sidewalks, lighting, traffic control, multi-purpose side paths, landscaping, water, sewer, stormwater, and transit access projects.

School and Community Services – Assist in funding projects and programs in the District to enhance school playgrounds and athletic fields, health and wellness programs, access to community meeting and activity spaces, and other efforts that improve access to school and community services.

Section 14. That Section 14 of the South Billings Boulevard Urban Renewal Plan be amended so that such section shall read as follows:

Section 14 - Identified Projects and Programs in Relationship to the Goals and Objectives Respective to the 2016 City of Billings ~~County~~ Growth Policy ~~Plan~~

One of the requirements of Montana's Urban Renewal Law (Title 7, Chapter 15, Parts 42 and 43, MCA) is that the urban renewal plan must conform to the community's growth policy. The ~~Yellowstone County and~~ 2016 City of Billings ~~2003~~ Growth Policy ~~Plan~~ ("Growth Policy") refers to and promotes economic

development and urban renewal in a variety of ways. The preceding list of urban renewal goals listed in Section 13 are relevant to the ~~goals~~ Growth Guidelines identified in the Growth Policy in the following ~~elements~~areas:

Growth Guidelines

Essential Investments (relating public and private expenditures to public values)

- The safety of all users and the connectivity of the transportation system are important criteria to consider in roadway designs and transportation plans
- Public transit and commercial air service are critical to ensure access to and around the City
- Planning and construction of safe and affordable interconnected sidewalks and trails are important to the economy and livability of Billings.
- Developed parks that provide recreation, special amenities (community gardens, dog parks, viewing areas), and active living opportunities are desirable for an attractive and healthy community
- Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors
- Public health and safety and emergency service response are critical to the well-being of Billings' residents, businesses, and visitors
- Infill development and development near existing City infrastructure may be the most cost effective
- The history and heritage of Billings are cornerstones of our community
- Neighborhoods that are safe and attractive and provide essential services are much desired
- Infrastructure and service investments that stabilize or improve property values, secure future utility costs, consider maintenance costs, and improve our environmental quality far into the future (i.e. energy efficient) are desirable
- A supportive school system that inspires, motivates, and prepares students for meaningful employment is important for ensuring a high quality, competitive community

Place Making (Enhance, maintain, preserve, and improve existing public places)

- A multi-use community recreation facility is desirable
- Enhancement and maintenance of public spaces and buildings through City stewardship is integral to a vibrant community
- Park master plans and transportation plans are important to facilitate the preservation and improved public access to the Yellowstone River and the Rims
- Public and private partnerships are valuable for creating enhanced entryways into Billings

- Enhancing public buildings and spaces to be more efficient in their uses of energy, money, and space is important to having a vibrant and livable City

Community Fabric (attractive, aesthetically pleasing, uniquely Billings)

- Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity
- Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods
- Outdoor public spaces provide casual and relaxing gathering areas for people
- Planning and construction of interconnected sidewalks and trails are important to the livability of Billings
- Cost-effective landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors

Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods)

- Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction
- Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale street lights, street trees and walkable access to public spaces
- Implementation of the Infill Policy is important to encourage development of underutilized properties

Home Base (healthy, safe and diverse housing options)

- A mix of housing types that meet the needs of a diverse population is important
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe
- Homes that are safe and sound support a healthy community

Mobility and Access (transportation choices in places where goods and services are accessible to all)

- Connecting people to places with transportation choices is vital to the well-being of Billings' residents, businesses and visitors
- Safe and accessible transportation systems benefit everyone's quality of life
- Affordable public transit is much desired
- Development oriented to transit routes will provide more transportation choices and is preferred
- "Safe Routes to Schools" promotes physical health and reduces vehicle trips, earning parents more time and less costs for transportation

- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings
- On-street bike facilities promote predictability for all users
- Technology can reduce congestion and facilitate emergency vehicle travel at railroad crossings

Prosperity (promoting equal opportunity and economic advancement)

- Predictable, reasonable City taxes and assessments are important to Billings' taxpayers
- 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

PASSED by the City Council on first reading this 8th day of July, 2019.

PASSED, ADOPTED and APPROVED on second reading this 22nd day of July, 2019.

CITY OF BILLINGS:

By: William A. Cole
William A. Cole, Mayor

ATTEST:

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

City Council Regular

Date:	11/22/2021
Title:	City Administrator's Annual Performance Evaluation
Presented by:	Chris Kukulski, City Administrator
Department:	City Hall Administration
Presentation:	No

RECOMMENDATION

The Council will determine if my salary will be adjusted, based on my performance as City Administrator over the past year.

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

I started as your city administrator November 11, 2018. I am grateful for the opportunity to serve Billings. My first three years have provided plenty of challenges and opportunities to improve the strength and economic vibrancy of our city. The second year of the pandemic has created significant challenges to our city, none more apparent than the loss of over 400 Yellowstone County residents and a significant increase in violent crime. We are grateful for our citizens support of the 2021 Public Safety Levy as we implement our strategies to improve the safety of our community.

An executive session has been scheduled for November 22 at 4:00pm to discuss my performance over the past year.

The following sections are from my Employment Agreement.

Section 1 - Term

The term of this agreement shall be for an initial period from Employee's first date of employment, which will be no later than December 31, 2018, until December 31, 2020. This Agreement shall be renewed for a two-year term automatically on January 1, 2021, and every two years thereafter unless notice of termination is given by the Employer at least six (6) months before the next renewal date.

Section 3 -- Compensation

C. Consideration shall be given on an annual basis to an increase in compensation. The Employer agrees to consider increasing the compensation of the Employee dependent upon the results of the performance evaluation conducted under the provisions of Section 12 of this Agreement. Increased compensation can be in the form of a base salary increase and/or performance incentive and/or an increase in benefits.

Section 12 - Performance Evaluation

A. Employer shall annually review the performance of the Employee in November subject to a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by the Employer and Employee.

The annual evaluation process, at a minimum, shall include the opportunity for both parties to: (1) Conduct a formulary session where the governing body and the Employee meet first to discuss goals and objectives of both the past twelve(12) month performance period as well as the upcoming twelve (12) month performance period; (2) following that formulary discussion, prepare a written evaluation of goals and objectives for the past and upcoming year; (3) next meet and discuss the written evaluation of these goals and objectives; and (4) present a written summary of the evaluation results to the Employee. The final written evaluation should be completed and delivered to the Employee within 30 days of the initial formulary evaluation meeting.

I look forward to discussing my performance over the past year and opportunities to make 2022 a great year for the city.

ALTERNATIVES

As determined by the City Council.

FISCAL EFFECTS

Based on the City Administrator's performance over the past year, the Council will determine if the City Administrators salary will be adjusted.