

BRIDGER TOWN COUNCIL WORK SESSION AGENDA
PUBLIC HEARING TIME IS 7:00 PM AT BRIDGER TOWN HALL, 108 S D STREET

Tuesday, February 15, 2022

PLEDGE OF ALLEGIANCE:

WORK SESSION:

- Zoning in regards to marijuana businesses

ADJOURN:

Conduct at Public Meetings

The public is invited to speak on any item under discussion by the Council, after recognition by the presiding officer.

The speaker should stand, and for the record, give his/her name and address, and, if applicable, the person, firm or organization he/she represents. Comments should be limited to three (3) minutes unless approval by the presiding officer, and citizens requesting to speak shall limit him or herself to matters of fact regarding the issue of concern.

Prepared statements are welcomed and should be given to the Clerk of the Council. Prepared statements that are also read, however, shall be deemed unduly repetitious. All prepared statements shall become part of the hearing record.

While the City Council is in session, those in attendance must preserve order and decorum. A member shall not delay or interrupt the proceedings or the peace of the Council, nor disturb any member while speaking or refuse to obey the orders of the Council or its presiding officer.

Any person making personal, impertinent or slanderous remarks or who shall become boisterous or disruptive during the Council meeting shall be forthwith barred from further presentation to the Council by the presiding officer, unless permission to continue be granted by the presiding officer or a majority vote of the Council.

The Bridger Town Council reserves the right to amend these rules of procedure as deemed necessary.

ORDINANCE NO. 2022-01

AN ORDINANCE AMENDING BRIDGER CODE 17.28.010.01 (INDUSTRIAL DISTRICT (INTERIM)—MEDICAL MARIJUANA) AND SUBSEQUENT SECTIONS AND ADDING BRIDGER CODE 17.24.020 AND SUBSEQUENT SECTIONS TO REGULATE MEDICAL AND ADULT USE MARIJUANA BUSINESSES WITHIN THE TOWN OF BRIDGER AND ADOPT THE REVISIONS AND ADDITIONS AS AN AMENDMENT TO THE ZONING REGULATIONS.

WHEREAS, Section 76-2-301, MCA, empowers the Town of Bridger to regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

WHEREAS, Section 76-2-302(1), MCA, authorizes the Town of Bridger to divide the municipality into districts of the number, shape, and area as are considered best suited to carry out the purposes of zoning districts. Within the districts, the Town may regulate and restrict the erection, construction, reconstruction, repair, or use of buildings, structures, or land.

WHEREAS, Section 76-2-305(1), MCA, allows a zoning regulation, restriction or boundary to be amended, supplemented, changed, modified, or repealed as long as the provisions of 76-2-303 relative to public hearings and official notice apply equally to all changes or amendments.

WHEREAS, the citizens of the State of Montana voted to approve Constitutional Initiative 118 and Initiative No. 190 (I-190) in November 2020, which became effective January 1, 2021 and legalized recreational marijuana use and limited possession for adults over the age of 21 and provided a framework for commercial licensing, taxation, decriminalization and expungement of criminal convictions related to marijuana among other provisions; and

WHEREAS, the Montana Legislature passed, and Governor Gianforte signed into law, House Bill 701 (“HB 701”) which revised, amended and supplemented the text of I-190 and established the Montana Regulation and Taxation Act (16-12-101, MCA et seq. (the “Act”)); and **WHEREAS**, a codified purpose of the Act pursuant to Section 37 amending Section 16-12-101(2)(j), MCA is to provide local governments authority to allow for the operation of marijuana businesses in their community and establish standards for the cultivation, manufacture, and sale of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions; and

WHEREAS, Section 59 of the Act pursuant to Section 16-12-301, MCA, provides that to protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government’s jurisdictional area; and

WHEREAS, the Bridger Town Council desires to allow the operation of Medical and Adult Use marijuana businesses in both the Industrial District and the Commercial District and [Council may add or change District designations] _____; and

WHEREAS the Bridger Town Council desires to regulate the operation of all Marijuana Businesses

NOW THEREFORE BE IT RESOLVED by the Bridger Town Council, Bridger Code 17.28.010.01 Industrial district (interim)—Medical marijuana, is hereby amended as follows:

The title of the section is renumbered as 17.28.020, and shall be no longer an interim Code section.

Section 17.28.020 is amended, and the subsequent numbered sections are added, to provide as follows:

17.28.020 Industrial district – Marijuana businesses.

Any person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall only be allowed to maintain, own, or operate any Marijuana business in a district zoned under this section, unless specifically allowed in the provisions of another zoning district.

17.28.030 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section.

A. “Adult-use dispensary” means a premises licensed by the state from which marijuana or marijuana products may be sold and obtained by registered cardholders, persons 21 years of age or older, or both.

B. “Cultivator” means a person licensed by the state to plant, cultivate, grow, harvest, and dry marijuana; or a person licensed by the state to 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 though a licensed dispensary.

C. “Dispensary” means both an adult-use dispensary and/or a medical marijuana dispensary.

D. “Licensee” means a person holding a state license issued pursuant to state law and a town marijuana license.

E. “Manufacturer” means a person licensed by the state 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.

F. “Marijuana” means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination. This term does not include hemp and its derivatives as specified in §16-12-102(20)(b) or (c), MCA.

G. “Marijuana business” means a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other marijuana business or function that is licensed by the state and town.

H. “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.

I. “Medical marijuana” means marijuana or marijuana products that are for sale solely to a cardholder who is registered with the state.

J. “Medical marijuana dispensary” means the location from which a registered cardholder may obtain marijuana or marijuana products.

K. “Registered cardholder” or “cardholder” means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card issued by the state.

L. "Testing laboratory" means the qualified person licensed by the state that provides testing of representative samples of marijuana and marijuana products; and 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.

17.28.040 Marijuana Businesses.

A. Any activity involving a marijuana business as defined in this code must meet all requirements of state law including, but not limited to, the standards of title 16, chapter 12, title 50, chapter 46 Montana Code Annotated (MCA 16-12-101 et seq.), and limits on possession, clean air, etc., and any applicable administrative rules established by the state. Should such rules or laws change, any medical marijuana business facility must immediately begin any required process to come into compliance with the new rules. This includes submittal for review of applications to the Town as they may relate to zoning, business licensing, or other municipal requirements programs. Compliance with Town zoning regulations does not shield any person, corporation, or other legal entity from the requirements of, or enforcement by, other governing entities, or from civil liabilities.

B. Unless specifically exempted, any person or existing or proposed entity intending to conduct activities which meet the definitions of "agriculture," "manufacturing," "office" or "retail" as established in this chapter which is for the purpose of cultivation, manufacturing, processing, transporting, testing, distribution, sale and/or any other marijuana business must, in addition to this section, comply with all other provisions of this Code, and must not be located within 500 [COUNCIL MY ADD A GREATER DISTANCE IF IT CHOOSES] _____ linear feet of the exterior property line of and on the same street as:

1. All schools or facilities, where students are regularly present, owned or operated by the Bridger School District whether located inside or outside the Town limits; or

2. A building used exclusively as a church, synagogue, or other place of worship as defined for the purposes of this section by the state.

3. Public parks that contain a children's playground or playfield, day care centers, youth centers, public libraries and neighborhood residential zones.

4. For purposes of this section, specified distances will be measured pursuant to state law and rules promulgated by the state.

C. Air discharge control. Any marijuana cultivation, growing, manufacturing or processing operation must provide a forced air vent discharge point that is:

1. Located no closer than 30 feet from an adjacent property line or a residence; and

2. Provides a mechanical filtration system to control discharges of particulates and odors. The ventilation filtration system must be designed by a mechanical engineer licensed to practice in the state such that odors and particulates may not be detected by unaided human observation at the property boundary, and noise produced by the system must be controlled and minimized.

D. Any person applying for a zoning approval for a marijuana business must provide evidence of state licensure at the time of application and must maintain such state licensure approval at all times. Failure to maintain any and all state licensing requirements may immediately suspend zoning approval to operate a marijuana business in the Town.

E. These regulations are for review of applications to the Town and do not restrict private property owners from establishing more stringent standards for their own properties.

NOW THEREFORE BE IT FURTHER RESOLVED by the Bridger Town Council, Bridger Code Section 17.24.020 Marijuana Dispensary permitted is added to Chapter 17.24 COMMERCIAL DISTRICT, as follows:

17.24.020 Marijuana Dispensary permitted.

A. In the Commercial District it shall be lawful to operate a Marijuana Dispensary as defined in 17.28.030 C, but no other type of Marijuana Business, [COUNCIL MAY SPECIFY ALLOWED LOCATIONS for example: "on the west side of Main Street" or "between Carbon Ave. and Park Ave."]

subject to the regulations, restrictions and provisions of Title 17, chapter 28 and all other relevant provisions of this code.

This ordinance shall be in full force and effect 30 days from and after passage and approval.

FIRST passed and approved by the Council of the Town of Bridger, Montana this _____ day of _____ 2022.

Attested to by:

Clifford Shultz, Mayor

Kirstin Sweet, Town Clerk / Treasurer

PASSED AND APPROVED on second reading this this _____ day of _____ 2022.

Attested to by:

Clifford Shultz, Mayor

Kirstin Sweet, Town Clerk / Treasurer