



# BOARD of COMMISSIONERS

COUNTY OF CARBON • STATE OF MONTANA

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## RESOLUTION 2022-07

### **RESOLUTION TO ENACT INTERIM ZONING REGULATIONS ON THE SALE AND PRODUCTION OF MARIJUANA and MARIJUANA BUSINESSES BY REVISING SECTION VII-A GROUP 2 USES OF THE CARBON COUNTY DEVELOPMENT REGULATIONS**

#### **VII-A. Group 2 Uses**

#### **4. Marijuana Businesses (Interim Zoning Regulation per 76-2-206, MCA. Expires March 3, 2023 unless renewed or made permanent)**

##### a. Purpose

The purpose of this section is to establish regulations for the operation of marijuana related businesses in Carbon County. The Goals of this section are to protect the public health, safety, and welfare by:

- i. Limiting the location of marijuana in proximity to residences, schools, child care facilities, churches, synagogue, other religious buildings, playgrounds, and behavioral health facilities;
- ii. Limiting marijuana business density; and
- iii. Placing limitations on marijuana business on-premise and off-premise signage that is visible from public roads.

##### b. Definitions

i. **MARIJUANA BUSINESS:** Any business that requires licensing by the State of Montana Cannabis Control Division including but not limited to cultivator, manufacturer, dispensary, testing lab, or combined-use.

ii. **RESIDENCE:** A structure located on real property which is designed to be used as the private dwelling place or sleeping place of one or more people.

iii. ON-PREMISE MARIJUANA BUSINESS SIGN: Any sign structure which carries advertisements incidental to a lawful use of the marijuana business premises on which it is located, including signs indicating the business transacted at, services rendered, goods sold or produced on the premises, name of the business and/or name of the person, firm or corporation occupying the premises.

iv. OFF-PREMISE MARIJUANA BUSINESS SIGN: Any sign structure advertising a marijuana business, its merchandise or services which is not located on the same real property as the marijuana business.

v. SETBACK: the distance between any marijuana business to any enumerated building or property set forth below. In the case of buildings, the setback shall be determined between the closest point of any marijuana business building to the closest point of any enumerated building. In the case of publicly owned parks, the setback shall be determined as between the closest point of any marijuana business building property line to the closest property line for such public park property. In all cases, distance shall be measured from the closest points of the property lines or buildings, as applicable, regardless of building frontage or address.

vi. RELIGIOUS BUILDING: building which is used primarily for religious worship and related religious activities, including but not limited to churches, convents, monasteries, shrines, and temples.

vii. CHILD CARE FACILITY: An out-of-home place in which day care is provided to 13 or more children on a regular or irregular basis and which is licensed by the Montana Department of Public Health and Human Services.

viii. BEHAVIORAL HEALTH FACILITY: A facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety in accordance with the requirements of the Montana Department of Public Health and Human Services.

ix. LIBRARY: An institution for the custody, circulation and administration of a collection of books, manuscripts, etc., but not for the sale of such.

x. COMMUNITY OR CULTURAL FACILITY: A facility typically engaged in nonprofit or quasi-public use for a public purpose, such as a community center, cultural center, museums senior center and the like.

xi. BUSINESS CONTAINING OBSCENE PERFORMANCES: a business who knowingly permits any person to engage in a performance covered by the 1988 Exotic Dancing Ordinance recorded under Miscellaneous Document number 6239.

xii. PUBLICALLY OWNED PARKS THAT INCLUDE CHILDRENS PLAYGROUND EQUIPMENT OR PLAYFIELD: property owned by a Federal, State, or local governmental entity or subdivisions thereof that contains either equipment designed for recreation and play, or a field meant to be used for the conduct of a sporting event.

c. Requirements

i. Setbacks: Marijuana business buildings shall be setback not less than 1,000 feet from the property line of a property containing school, child care facility, church, synagogue, or other religious building, public parks that contain children’s playgrounds or playfields, behavioral health facilities, libraries, community or cultural facility, businesses containing obscene performances, and from any other marijuana business.

ii. Residential Setbacks: Any proposed marijuana business shall be setback from all residential dwellings a minimum of 1,000’. The 1,000’ setback requirements shall be waived if the dwelling owner submits a notarized statement declaring their acceptance of a lesser setback. The notarized statement shall be submitted with the marijuana business’s application materials.

iii. Signage:

1. On-premise marijuana business signs: the maximum number of on-premise signs is two (2).
2. Off-premise marijuana business signs: are prohibited
3. Height: The maximum total height of any sign regulated pursuant to this part shall not exceed fifteen (15) feet above the mean centerline elevation of the roadway;
4. Size: No sign regulated pursuant to this part shall exceed the maximum of eighty (80) square feet in sign area;
5. Setbacks: Any sign regulated pursuant to this part shall be separated by at least 1,500 feet from any other existing sign;
6. Lighting: Lighting shall only be allowed so as to illuminate the message on the face of any sign regulated pursuant to this part. No lighting will face upwards nor be reflected onto the adjacent roadway or adjoining properties. No sign regulated pursuant to this part shall have flashing or blinking lights, moving parts, or simulate motion with reflective parts. The maximum allowable reflected light shall be one (1) foot-candle or ten (10) lumens per sign face.
7. Animation: No sign regulated hereunder shall contain flashing or colored lights or electronically-changeable face on the sign.
8. Content: the content of the sign regulated hereunder shall be limited to the business name, business logo (that complies with ARM 42.39.123(5)), operating days and hours, and a phone number.

9. Flags: No sign shall be adorned with banners, streamers, flags, or other movable or reflective items.

iv. Foundation: Marijuana businesses that are open to the public shall be physically anchored to a permanent concrete foundation. The tongue, axles, transporting lights and towing apparatus of any building placed on a permanent concrete foundation shall be removed after placement and before occupancy.

v. Sanitary Facilities: Marijuana businesses that are open to the public shall have a permanent on-site wastewater system permitted by the Carbon County Sanitarian or be tied into an existing sewer system.

vi. Nonconforming Use(s)

1. This Resolution and associated Interim Zoning is made expressly retroactive and shall apply to all applications for Group 2 Development Permits which have been received by the County and not granted as of the effective date of this Resolution. Any lawful use of the land or structures existing at the date of passage of this ordinance and located on a property in which a permit would be required as a new use under these Regulations, is declared to be a nonconforming use, and not in violation of the ordinance. Nothing in these Regulations are intended to stop an existing nonconforming use from continuing in its current state except for the sign provision.
2. No nonconforming use may be extended to occupy any land outside the structure nor any additional structures may be constructed for such nonconforming use at the date of adoption of this ordinance without issuance of a permit under these Regulations. The nonconforming use of land shall not be extended to any additional land not used at the date of adoption of this ordinance without issuance of a permit under these Regulations.
3. If any nonconforming use becomes abandoned for a period of six (6) months, it shall not continue.
4. Nonconforming signs will have 30 days after the effective date to come into compliance.

PASSED AND ADOPTED as INTERIM ZONING REGULATIONS by the Board of County Commissioners of Carbon County Montana THIS 3rd day of March, 2022.

Carbon County Commissioners



Scott C. Miller  
Commissioner Dist. #1

Scott Blain  
Commissioner Dist. #2



Bill E. Bullock  
Commissioner Dist. #3

ATTEST:



Christine L. Stovall, Clerk and Recorder