

YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS

Resolution No. 23- 25

Resolution on Interim Zoning Regulations on the Sale of Recreational Marijuana Exemption

WHEREAS, Section 76-2-206 of the Montana Code Annotated gives a board of county commissioners the authority to enact interim zoning regulations for an emergency that involves public health, safety, morals or general welfare. The interim regulations are meant to allow the board to have time to study the situation to formulate a permanent plan to deal with the situation. To enact interim zoning regulations, a board needs to pass a resolution of intent, set a public hearing, give notice of the public hearing, make copies of the interim regulations available to the public, hold a public hearing, allow public comment at the hearing, consider public comment and other information at the hearing, pass a resolution and initiate a study of the situation to determine how the board should deal with the situation. The interim regulations can last for up to one year and can be extended for an additional year.

WHEREAS, Montana held a referendum on the recreational sale of marijuana. *Montana I-90, Marijuana Legalization Initiative (2020)*. Montana approved the recreational sale of marijuana. The referendum allowed time between the approval of the referendum and the sale of recreational marijuana. Yellowstone County was concerned about the sale of recreational marijuana. The County enacted interim zoning regulations to limit the sale of recreational marijuana to non-residential areas. *Yellowstone County Board of County Commissioners Resolution No. 21-93*. A marijuana provider filed a complaint seeking an injunction on the implementation of the regulations by the County. *Green Bee et al v. Billings and Yellowstone County Planning Division, Montana Thirteenth Judicial District Court, DV 21-1589*. A court issued a temporary injunction. The County filed a motion to vacate the injunction. Because of the injunction, the Yellowstone County Attorney's Office began to issue zoning compliance letters. The Planning Department usually provides zoning compliance letters. The County Attorney's Office provided the letters to providers who did not comply with the regulations. The County Attorney's Office provided letters to (NUMBER) providers who did not comply with the regulations. Attached is a list of the providers who received the letters. The temporary injunction expired. The case has been dismissed. The court never issued an order to permanently enjoin the County from the enforcement of the regulations. The County never entered into an agreement with the provider that it would not enforce the regulations. The County Attorney's Office issuance of zoning compliance letters created a difficult situation in which the County now has recreational marijuana providers that violate the regulations. The County reenacted the regulations pending adoption of permanent regulations. *Yellowstone County Board of County Commissioners Resolution No. 22-99*. The County is developing permanent regulations. The County anticipates that the permanent regulations will be similar to the interim regulations. The County anticipates the permanent regulations will allow the providers who do not comply with the interim regulations who received letters from the County Attorney's Office to continue the sale of recreational marijuana for a set time before they have to comply with the regulations.

NOW THEREFORE, BE IT RESOLVED,

The Yellowstone County Board of County Commissioners orders the providers who received letters from the Yellowstone County Attorney's Office and those listed in the attachment, that they were in compliance with the interim zoning regulations of the sale of recreational marijuana when they were not in compliance may continue to sell recreational marijuana while the interim regulations are in effect. The Board anticipates it will adopt permanent regulations similar to the interim regulations and the permanent regulations will contain a provision that will allow the providers who received letters from the County Attorney's Office that they were in compliance with the interim zoning regulations of the sale of recreational marijuana when they were not in compliance may continue to sell recreational marijuana for a set time (24 months after the adoption of permanent regulations) before they will be required to be in compliance with the regulations. The Board orders the City of Billings / Yellowstone County Planning Department to provide the providers with a copy of this resolution to provide them with notice of the situation. The Board orders the County Attorney's Office to cease issuing zoning compliance letters for the sale of recreational marijuana and the Planning Department to enforce the regulations except as noted in this resolution.

Passed and Adopted on the 7th day of March 2023.

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA


John Ostlund, Chair


Mark Morse, Member


Donald W. Jones, Member

ATTEST: 
Jeff Martin, Clerk and Recorder

Attachment:
List of Nonconforming Recreational Marijuana Providers