

## YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS

Resolution No. 11- 71

### **Resolution to Adopt Yellowstone County Medical Marijuana Providers Regulations**

WHEREAS, the 2011 Montana Legislature passed the Montana Marijuana Act, Senate Bill (SB) 423, with most sections effective July 1, 2011, which extensively changes the regulation of medical marijuana, including the option granted to local governments to prohibit storefront medical marijuana facilities to operate beyond July 1, 2011 and to protect the public health, safety, or welfare;

WHEREAS, the Yellowstone County Board of County Commissioners has deemed it appropriate to use its legislative discretion pursuant to Section 13 of Senate Bill 423 to immediately prohibit medical marijuana providers and marijuana-infused providers from operating as storefront businesses beyond July 1, 2011;

WHEREAS, the Montana Legislature has enacted Section 45-9-109, MCA that affords schools and their children special protective status from the illegal distribution of dangerous drugs;

WHEREAS, there are prohibitions against selling alcoholic beverages and conducting gambling operations within defined distances of certain properties that are afforded special protections in Montana; (Section 27-612 (a) and (c) of the Unified Zoning Regulations of the City of Billings and Yellowstone County Jurisdictional Area; Section 16-3-306, Montana Code Annotated, Section 23-5-171, Montana Code Annotated.

WHEREAS, the Yellowstone County Board of County Commissioners has deemed it appropriate to use its legislative discretion pursuant to Section 13 of Senate Bill 423 to immediately prohibit medical marijuana providers and marijuana-infused providers from operating within 1,000 feet of a school, daycare center, child care center, school-leased property, public recreation center or public park, church, synagogue or other place of worship or youth center beyond July 1, 2011;

WHEREAS, the Yellowstone County Board of County Commissioners has determined that enactment of the prohibition against marijuana provider and marijuana-infused provider storefronts in the County and the prohibition against these operations to operate within 1,000 feet of schools, daycare centers, child care centers, school leased property, public recreation centers or public parks, churches, synagogues or other places of worship or youth centers to be necessary to protect and preserve the public peace, health, safety and welfare, the Yellowstone County Board of County Commissioners has determined this resolution is necessary to implement these prohibitions pursuant to the authority found in SB 423, Section (13) Parts (1) and (2);

WHEREAS, on Tuesday August 2, 2011, the Yellowstone County Board of County Commissioners passed a resolution of intent to adopt Yellowstone County Medical Marijuana Providers Regulations and set a public hearing on the Regulations for Tuesday August 16, 2011. On Tuesday August 2, 2011, the Yellowstone County Clerk and Recorder posted the Regulations

and made copies of it available to the public. On Thursday August 4, 2011 and Thursday August 11, 2011, the Clerk and Recorder published notice of the public hearings in the *Billings Outpost*. On Tuesday August 16, 2011, the Board held a public hearing on the Regulations. The Board heard comments on the Regulations. The Board determined that it would be in the best interest of the public to adopt the Regulations.

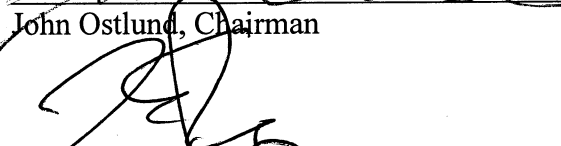
NOW THEREFORE, BE IT RESOLVED,

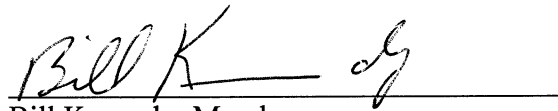
The Yellowstone County Board of County Commissioners adopts Yellowstone County Medical Marijuana Providers Regulations to regulate medical marijuana providers within Yellowstone County. Attached is a copy of the Regulations. The Regulations shall be effective immediately and shall continue until otherwise amended or repealed.

Passed and Adopted on the 16 day of August 2011.

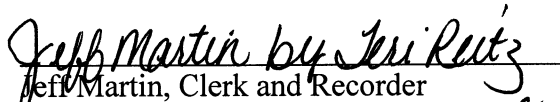
BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA

  
\_\_\_\_\_  
John Ostlund, Chairman

  
\_\_\_\_\_  
James E. Reno, Member

  
\_\_\_\_\_  
Bill Kennedy, Member

ATTEST:

  
\_\_\_\_\_  
Jeff Martin, Clerk and Recorder  
Deputy Clerk &  
Recorder

## **Yellowstone County Medical Marijuana Providers Regulations**

### Authority and Purpose

Pursuant to Senate Bill 423, Section 13 (2011), the Montana Legislature has given a board of county commissioners the authority to regulate medical marijuana providers within a county. Pursuant to the authority granted to it by the Legislature, the Yellowstone County Board of County Commissioners has enacted the Yellowstone County Medical Marijuana Providers Regulations to protect the public health, safety and welfare of the people in the County through the regulation of medical marijuana providers.

### Prohibitions

- (1) As authorized in Section 13(2), of the Montana Marijuana Act, passed by the 2011 Montana Legislature, no individual, entity, establishment, group or company previously operating a medical marijuana business within Yellowstone County and outside the incorporated cities and towns located within the County shall operate a storefront to provide marijuana or marijuana-infused products to registered cardholders. Such individuals, entities, establishments, groups or businesses shall cease operating any storefront facility that provides marijuana or marijuana-infused products to registered cardholders after the adoption of this resolution.
- (2) For purposes of these regulations, the storefront prohibition shall include the following:
  - (a) There shall be no signs or calling attention to the medical marijuana provider's business either on the business premises or visible from a public road, sidewalk or right-of way.
  - (b) There shall be no display, evidence or activity apparent from the exterior of any sign, building or structure visible from a public road, sidewalk or right-of-way.
  - (c) Nothing in these regulations shall otherwise prohibit the advertising of the marijuana provider's business as otherwise provided for by law.
- (3) A medical marijuana provider shall not operate within a 1,000 feet of schools, daycare centers, child care centers, school leased property, public recreation centers or public parks, churches, synagogues or other places of worship or youth centers within Yellowstone County.

### Penalty

A court may enjoin a person from conduct found to be in violation of the regulations. A court may not impose any criminal sanctions for a violation of the regulations. Nothing in these regulations prohibit criminal prosecution otherwise governed by Title 45, Chapter 9, Montana Code Annotated or any other provision of State or Federal law.

### Enforcement

The Yellowstone County Code Enforcement Officer shall be primarily responsible for the enforcement of the regulations—however, the County Sheriff shall have jurisdiction in addition to the County Code Officer. Regulation complaints shall be forwarded to the Code Enforcement Officer. The Code Enforcement Officer shall investigate the complaints. If the Code Enforcement Officer

finds probable cause to believe that a violation has occurred, he may at his discretion either issue a warning to the person that advises the person to correct the situation or request the Yellowstone County Attorney's Office file a civil complaint to force the person to comply with the regulations. The Code Enforcement Officer shall provide the Yellowstone County Attorney's Office with the assistance it needs to successfully prosecute any civil complaint.

### Jurisdiction

The regulations apply to all of Yellowstone County outside the jurisdictional limits of all incorporated cities and towns within Yellowstone County.

### Definitions

"Day care center" or "child care center" means a person, association, or place, incorporated or unincorporated, that provides day care for 13 or more children on a regular or irregular basis or for children suffering from illness. The term includes a family day-care home, a day-care center, a group day-care home, or other facility providing care in a child's home for the purpose of meeting registration requirements for the receipt of payments provided in Section 52-2-713, MCA. The term does not include any those operations listed in Section 52-2-703 (4)(a) and (b).

"Marijuana" has the meaning provided in 50-32-101.

"Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking. The term includes but is not limited to edible products, ointments, and tinctures.

"Marijuana-infused products provider" means a Montana resident who meets the requirements of [§§ 1 – 23 of S.B. 423 (2011)] and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for a registered cardholder. The term does not include the cardholder's treating or referral physician.

"Provider" means a Montana resident 18 years of age or older who is authorized by the department to assist a registered cardholder as allowed under [§§ 1 – 23 of S.B. 423 (2011)]. The term does not include the cardholder's treating physician or referral physician.

"Public Park" or "Park" means publicly owned open spaces designed for recreational activities that are characterized by unique scenery or other natural features of an aesthetic, historical, geological, archaeological or scientific nature or are designated as a "Park" by any governmental agency or are designated as such on a public record.

"Registered premises" means the location at which a provider or marijuana-infused products provider has indicated the person will cultivate or manufacture marijuana for a registered cardholder.

"Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

"Storefront" shall mean any commercial establishment, structure, vehicle, or building that is accessible or visible from a public road, sidewalk or right-of-way.

“School” means an institution for the teaching of children that is established and maintained under the laws of the state of Montana at public expense or is privately funded and licensed, certified or accredited by the State of Montana.

“Youth center” means any facility that’s primary purpose is to provide for a place of gathering of minors for recreation or social activities.

### History of Adoption

#### *Chronology*

Resolution of Intent – August 2, 2011

1<sup>st</sup> Publication and Posting of Notices for Public Hearing – August 4, 2011

2<sup>nd</sup> Publication of Notices of Public Hearing – August 11, 2011

Public Hearing and Resolution – August 16, 2011

#### *Resolution Documents*

Regulations

Resolution of Intent

Minute Meetings for Resolution of Intent

Notice of Public Hearings

Affidavit of Publication and Posting of Hearings

Minute Meetings for Hearing, Vote and Resolution

Resolution

### Prior Medical Marijuana Regulations

The Yellowstone County Board of County Commissioners has not adopted a prior Yellowstone County Medical Marijuana Providers Regulations

### Applicable Montana Code Annotated

Senate Bill 423, Section 13 (2011)

(1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider or marijuana-infused products provider that operates within the local government’s jurisdictional area. The regulations may include but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating as storefront businesses.

Passed and Adopted on the 16 day of August 2011. Effective Immediately.

BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA

[Signature]  
John Ostlund, Chairman

[Signature]  
James E. Reno, Member

[Signature]  
Bill Kennedy, Member

ATTEST:

[Signature]  
Jeff Martin, Clerk and Recorder  
*Deputy Clerk & Recorder*

State of Montana                    }  
  ss.  
County of Yellowstone            }

On August 16, 2011, John Ostlund, Bill Kennedy and James E. Reno, members of the Yellowstone County Board of County Commissioners, and Jeff Martin\*, the Yellowstone County Clerk and Recorder, acknowledged to me that they executed the attached Yellowstone County Medical Marijuana Providers Regulations on behalf of Yellowstone County in their official capacities as Board Members and the Clerk and Recorder. \*by Jeri Reitz, Deputy Clerk & Recorder

[Signature]  
Printed Name: Vicki L. Archer  
Notary Public for the State of Montana  
Residing at Montana  
My commission expires: 10/01/14

