



This DRAFT ordinance regarding regulation of medical marijuana is provided prior to the FINAL ordinance to allow interested citizens time to review the general concepts and provisions that will be included in the final ordinance. City of Bozeman staff continues to work to refine the provisions included in this draft. The final ordinance that will be presented to the City Commission for their review will be released on Thursday July 7, 2010. **As such, the provisions contained herein are subject to change prior to the release of the formal ordinance.**

The hearing on the first reading of the final ordinance will be held at 6:00 P.M. on Monday, July 12, 2010 at the City Commission Room at Bozeman City Hall, 121 North Rouse Ave., Bozeman. Pursuant to Montana law, a second reading of the ordinance must occur at least 12 days after the first reading. City staff has scheduled this second reading for July 26, 2010. This date, however, is subject to change.

The ordinance below contains the following:

- A series of recitals/findings that form the basis for the adoption of the ordinance;
- Sections 1, 2, 3, and 4 contain provisions related to business licensing requirements.
- Section 5 contains new provisions that criminalize smoking, displaying, or consuming medical marijuana on the ways of the city open to the public if done in an open or visible manner.
- Sections 6, 7, and 8 contain provisions related to zoning of medical marijuana uses.
- The remaining sections contain administrative provisions.

The public is encouraged to review the DRAFT document, watch for the FINAL ordinance to be released on July 7th, and attend the City Commission meeting at 6:00 p.m. on July 12th.

**June 23, 2010 DRAFT: Subject to Change Prior to Release To
City Commission on/about July 7th/8th, 2010**



ORDINANCE NO. 1786

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA, CREATING CHAPTER 5.06 AND AMENDING SECTIONS 5.02.100, 5.04.040, 5.05.010 OF THE BOZEMAN MUNICIPAL CODE RELATING TO LICENSING REQUIREMENTS FOR MEDICAL MARIJUANA TRANSACTIONS; CREATING CHAPTER 8.52 PROHIBITING THE DISPLAY, CONSUMPTION, OR SMOKING OF MEDICAL MARIJUANA IN PUBLIC; AND AMENDING SECTIONS 18.40.110, 18.40.220, AND 18.80.080 OF TITLE 18, UNIFIED DEVELOPMENT ORDINANCE, TO REGULATE COMMERCIAL ACTIVITIES RELATED TO MEDICAL MARIJUANA TO DEFINED DISTRICTS AND IN CONFORMANCE WITH ESTABLISHED STANDARDS.

WHEREAS, Section 7-1-101, MCA, states, “As provided by Article XI, section 6, of the Montana constitution, a local government unit with self-government powers may exercise any power not prohibited by the constitution, law, or charter;” and

WHEREAS, Section 7-1-104, MCA, states, “The powers of a self-government unit, unless otherwise specifically provided, are vested in the local government legislative body and may be exercised only by ordinance or resolution;” and

WHEREAS, Section 7-1-105, MCA, states, “All state statutes shall be applicable to self-government local units until superseded by ordinance or resolution in the manner provided in chapter 5, part 1 and subject to the limitations provided in this part;” and

WHEREAS, Section 7-1-106, MCA, states, “The powers and authority of a local government unit with self-government powers shall be liberally construed. 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;” and

WHEREAS, Section 7-1-113, MCA, states, “(1) A local government with self-government powers is prohibited the exercise of any power in a manner inconsistent with state law or

administrative regulation in any area affirmatively subjected by law to state regulation or control. (2) The exercise of a power is inconsistent with state law or regulation if it establishes standards or requirements which are lower or less stringent than those imposed by state law or regulation. (3) An area is affirmatively subjected to state control if a state agency or officer is directed to establish administrative rules governing the matter or if enforcement of standards or requirements established by statute is vested in a state officer or agency;" and

WHEREAS, Title 7, Chpt. 5, Part 1, MCA, provides standards and procedures for adoption of local ordinances; and

WHEREAS, Title 76, Chpt. 2, Part 3, MCA, authorizes municipalities to enact zoning to regulate the use and development of land and the activities of individuals and businesses within its boundaries subject to certain standards of procedure; and

WHEREAS, the voters of the State of Montana adopted Initiative 148 (the Medical Marijuana Act, Title 50, Chpt. 46, MCA (the "Act")) in November 2004 decriminalizing the use of marijuana if conducted for medicinal purposes subject to specific legal processes and restrictions; and

WHEREAS, marijuana continues to be classified as a Schedule I narcotic under the federal Controlled Substances Act and is listed as an illegal drug under Montana law such that the growing, distribution, and possession of marijuana, except as provided for in the Act, constitutes criminal activity; and

WHEREAS, it is widely understood the use of marijuana pursuant to the Act increased significantly in Montana and elsewhere after the United States Attorney General's office, on October 19, 2009, issued a memorandum requesting each state's United States Attorney to focus their law enforcement efforts regarding controlled substances on significant traffickers of illegal drugs rather than on those whose use of marijuana appears to be "in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana;" and

WHEREAS, in March 2008, the State of Montana's Department of Health and Human Services had 736 registered qualifying patients and 233 caregivers and in March 2010 the number of registered qualifying patients increased to 12,081 and the number of caregivers increased to 2,797 - clearly demonstrating a remarkable increase in the prevalence of medical marijuana in Montana's communities; and

WHEREAS, as of May 31, 2010, Gallatin County, Montana, had 2,344 registered "qualifying patients" and 497 "caregivers," as those terms are defined by the Act and clearly a significant but unknown portion of these patients and caregivers live, work, travel, or conduct business within the city of Bozeman as the city is the economic hub of Gallatin County; and

WHEREAS, because of this increase, especially during the most recent six to nine months, the city of Bozeman has seen a corresponding increase in development of a commercial industry surrounding medical marijuana; and

WHEREAS, to address concerns related to this increase in medical marijuana businesses on March 11, 2010 the City of Bozeman City Commission adopted Ordinance 1782 as a six-month interim zoning ordinance pursuant to authority granted in Section 76-2-306, MCA; and

WHEREAS, upon adoption of Ordinance 1782, the City of Bozeman City Commission directed staff to research and prepare for consideration a permanent ordinance relating to the appropriate regulation and control of medical marijuana within the Bozeman city limits; and

WHEREAS, immediately after adoption of Ordinance 1782, the city staff scheduled and held two forums as an opportunity for the citizens of Bozeman to participate in development of long-term solutions to the increase in the use of medical marijuana within the city of Bozeman; and

WHEREAS, the city staff also solicited comments from members of the Bozeman primary education community, local public health officials, and from various law enforcement agencies regarding observations and concerns regarding medical marijuana; and

WHEREAS, testimony from law enforcement officials indicates the illegal use of marijuana is becoming more prevalent in Bozeman than it was prior to the October 19, 2009 directive from the United States Attorney General particularly among young people such as high school and college age students; and

WHEREAS, the comment received at the public forums demonstrates many within the community, including numerous caregivers, support a requirement that any medical marijuana retail establishment be separated by no less than 1000 linear feet from a school grounds/facility and the City Commission finds this separation requirements is necessary to control the availability and use of marijuana proximate to the community's schools; and

WHEREAS, the City Commission finds a legitimate governmental interest exists in prohibiting the display, consumption, or smoking of marijuana in an open or visible manner because the inadvertent direct and indirect exposure to marijuana has the potential to significantly affect the health, legal, and financial interests of the citizens of Bozeman; and

WHEREAS, the City Commission finds a legitimate governmental interest in prohibiting the display, consumption, or smoking of marijuana in an open or visible manner because the display, consumption, or smoking of marijuana in an open or visible manner is detrimental to the public health, safety, and general welfare as these acts are visually indistinguishable for the general public from the open public smoking of illegal marijuana and these acts have the potential to lead to an increase in the use of illegal marijuana; and

WHEREAS, the Commission finds prohibiting the display, consumption, or smoking of marijuana in an open or visible manner is vital to maintaining a community that is free from the negative effects of the illegal use of drugs yet the Commission also recognizes medical marijuana is lawful under state law and nothing in such a prohibition unduly burdens a person's exercise of the privilege of using medical marijuana; and

WHEREAS, the City Commission finds a prohibition on the open public display, smoking, or consumption of medical marijuana is narrowly tailored to these concerns as a prohibition of the open

public display, smoking, or consumption of marijuana in no way reduces a qualifying patient's ability to display, smoke, or consume medical marijuana in a private residence or on private property that is beyond the ways of the city open to the public and outside of public view and in no way reduces a qualifying patient's ability to use medical marijuana in an alternative form; and

WHEREAS, the City Commission finds a prohibition on the display, consumption, or smoking of marijuana in an open or visible manner is in keeping with the spirit of the Act in that the Act currently lists numerous locations where the smoking of medical use of marijuana is specifically prohibited and a prohibition on the open public display, smoking, or consumption of medical marijuana is consistent with the Act's existing prohibitions; and

WHEREAS, the Commission intends the phrase “open or visible manner” to include but not be limited to visual or sensory observations either during the act or within a reasonable time thereafter; and

WHEREAS, since the first medical marijuana related business was licensed in the City of Bozeman in September, 2009 the city has experienced an unexpected increase in business license applications relating to commercial activity for medical marijuana and the city currently has 16 businesses actively licensed to conduct business related to medical marijuana with several additional applications currently in review; and

WHEREAS, the City Commission understands the need to create specific provisions related to the licensing of medical marijuana businesses to ensure those businesses and their employees are in full conformance with the Act and this Ordinance; and

WHEREAS, it is the intent of the Commission the requirement that a business engaged in medical marijuana be located greater than 1000 feet from any school facility contained in Ordinance 1782 be continued in full force and effect with the adoption of this Ordinance without any lapse in time; and

WHEREAS, it is also the intent of the Commission that any business licensee who obtained approval for the sale or cultivation of medical marijuana from the City of Bozeman Department of Planning and Community Development prior to adoption of this Ordinance and who does not conform to the terms of this Ordinance with regards to the 1000-foot separation requirement is, subject to the law, to be considered a lawful nonconforming use and the limitation imposed by Section 1 of Ordinance 1782 regarding expanding the number of qualifying patients is no longer applicable; and

WHEREAS, the proposed amendments to the Bozeman Municipal Code included in this ordinance have been properly submitted, and reviewed, and all necessary public notice was given for all public hearings; and

WHEREAS, the Bozeman Zoning Commission held a public hearing on June 15, 2010 to receive and review all written and oral testimony on the proposal to amend the Unified Development Ordinance (Title 18, Bozeman Municipal Code); and

WHEREAS, as shown in Zoning Commission Resolution Z-10027, the Bozeman Zoning Commission recommended to the Bozeman City Commission that the proposed text amendments to the Unified Development Ordinance (Title 18, Bozeman Municipal Code) be adopted as modified by the Zoning Commission; and

WHEREAS, after proper notice, the City Commission held a public hearing on July 6, 2010, to receive and review all written and oral testimony on the request for amendments to Titles 5, 8 and 18 of the Bozeman Municipal Code; and

WHEREAS, the City Commission reviewed and considered the relevant Unified Development Ordinance text amendment criteria established by Title 76, Chpt. 2, Part 3, MCA, and found the proposed Unified Development Ordinance text amendment to be in compliance with the purposes of zoning as locally adopted in Section 18.02.040, BMC; and

WHEREAS, at its public hearing, the City Commission found that the proposed Unified Development Ordinance text amendments would be in compliance with Bozeman's adopted growth policy and applicable statutes and would be in the public interest.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Bozeman, Montana, that:

Section 1

The following definitions shall be added to Chapter 5.02 of the Bozeman Municipal Code:

5.02.100. Marijuana/Usable Marijuana.

"Marijuana" and "Usable Marijuana" have the meanings as defined in 50-46-102, MCA.

5.02.110 Medical Marijuana.

"Medical Marijuana" means the uses of marijuana described in 50-46-102, MCA. Other phrases herein such as the "use of medical marijuana" or "the medical use of marijuana" shall have the same meaning.

All other definitions in Chapter 5.02 shall remain in effect and shall be sequentially renumbered in alphabetical order.

Section 2

That 5.04.040 of the Bozeman Municipal Code shall be amended to read as follows:

5.04.040 Exemptions

- A. No license shall be required of any person or entity for any mere delivery in the city of any property purchased or acquired in good faith from such person or entity as ~~his~~ the person or

entity's regular place of business outside the city where no intent by such person is shown to exist to evade the provisions this ordinance.

- B. No license shall be required of any nonprofit organization as defined by this Ordinance.
- C. No license shall be required of any person under 18 years of age.
- D. No license shall be required for any property manager managing or renting less than three rental units.
- E. The exemptions listed in subsections A, B, C, and D of this section do not apply to a transaction, use, or business involving Medical Marijuana pursuant to this Title or Title 18.

Section 3

That 5.05.010 shall be amended to add, under **SPECIFIC BUSINESSES**, the following business license fee:

Medical Marijuana: Registration and License Fee (\$25.00); Special Services and Regulatory Inspection Fee (\$75.00); and Total Fee (\$100).

Section 4

The following chapter shall be added to Title 5 of the Bozeman Municipal Code:

Chapter 5.06

MEDICAL MARIJUANA

Sections:

5.06.010 Applicability – Failure to Maintain State Authorization

5.06.020 License - Application – Fee – Change - Confidentiality.

5.06.030 Inspection.

5.06.040 Security Requirements.

5.06.010 Applicability – Failure to Maintain State Authorization.

- A. For purposes of this chapter, the definitions, words, phrases, and expressions as set forth in this chapter are to be construed the same as those set forth in the Montana Medical Marijuana Act (Title 50, Chpt. 46, MCA).
- B. Any individual or entity licensed under this chapter to conduct any transaction involving Medical Marijuana, in addition to the requirements of this chapter, is subject to all other requirements of this title, the Bozeman Municipal Code, and the Montana Medical Marijuana Act and any limits on

possession, clean air, etc. and any applicable administrative rules established by the State. Should such rules or laws change, any person or entity licensed under this chapter shall immediately come into compliance with any newly adopted state rules.

- C. Notwithstanding the above, nothing in the Bozeman Municipal Code shall be construed to authorize any person or entity to perform any act or conduct any enterprise not in conformance with state or federal law.
- D. Compliance with this Title does not shield any person, corporation, or other legal entity from the requirements of, or enforcement by, other governing entities, or from civil liabilities.
- E. Each individual or entity issued a license under this chapter shall at all times maintain authorization from the State of Montana under Title 50, Chpt. 46, MCA to acquire, possess, cultivate, manufacture, deliver, transfer, or transport Medical Marijuana. Failure to maintain authorization under the Medical Marijuana Act shall be cause for immediate suspension of a license issued under this chapter and may be cause for revocation or cause for criminal prosecution as provided by law.

5.06.020 License - Application - Fee – Change - Confidentiality.

- A. Any individual or entity desiring to conduct any transaction, use, or business regarding Medical Marijuana within the city of Bozeman for more than three (3) qualifying patients regardless of whether the Medical Marijuana is sold, bartered, exchanged, or gifted must first submit and obtain approval for an application for a business license from the Director of Finance and pay the fee for such license as established by this Title.
- B. An application under this chapter, in addition to the requirements of 5.04.060.B, shall include the following:
 - i. The name of all owners/principals of the business as applicable and the name of all contractors or employees, if any;
 - ii. Documentation demonstrating the applicant and all owners/principals, agents, and/or contractors or employees, as applicable, that may be involved in transactions regarding Medical Marijuana within the city of Bozeman are registered with the State of Montana under Title 50, Chpt. 46, MCA, and are duly authorized by state law to acquire, possess, cultivate, manufacture, deliver, transfer, or transport Medical Marijuana; and
 - iii. A sworn statement signed by the applicant verifying the number of qualifying patients which name the applicant and any other owner/principal, agent, contractor, or employee of the applicant as the qualifying patient's caregiver. The number of qualifying patients to be included in the sworn statement shall include all patients who may be registered with a caregiver acting as an agent, contractor, employee or owner/principle of the applicant.
 - iv. A statement addressing how the applicant will comply with the security requirement provisions of 5.06.040.

- C. An individual or entity licensed under this chapter to conduct a transaction, use, or business related to Medical Marijuana must inform the Director of Finance within ten (10) days of the occurrence of the following: (i) any change to the licensed individual or entity's number of registered qualifying patients (including those of a principal/owner, agent, contractor, or employee); and/or (ii) a change in the principals of the business or a change of agents, contractors or employees. If either of these conditions occur a new statement under 5.06.020.B.iii is required. Failure to inform the Director of Finance of the changes listed herein within ten (10) days of the change shall be cause for revocation of the license pursuant to 5.04.170 and 5.04.180.
- D. An application for business license under this chapter is a public document except that the names of all agents, employees and/or contractors and the number of qualifying patients provided to the city in fulfillment of the requirements of this chapter are to be kept on a separate form and are to be considered confidential by the City unless disclosure is required by law. Nothing herein shall prevent a duly authorized agent of the city of Bozeman from sharing the information described in this section with other authorized city employees or other state or local law enforcement as necessary to perform official duties.
- E. A license issued under this chapter is not transferable and the provisions of 5.04.080 shall not apply.

5.06.030 Inspection.

In addition to the authorization to inspect under 5.04.150, as a condition of receiving a business license under this chapter, a city employee, including city of Bozeman law enforcement, may without notice during normal business hours inspect any premise under license pursuant to this chapter to determine whether the licensee is in compliance with the Montana Medical Marijuana Act or any other state or local regulation, and may inspect the number of plants or amount of marijuana or usable marijuana on the premises or in control of the licensee to determine whether these amounts corresponds to the amounts established by Title 50, Chpt. 46, MCA, which the licensee is authorized to lawfully possess.

5.06.040 Security Requirements.

Prior to issuance of a license under this Chapter, a Medical Marijuana commercial business where any amount of Marijuana or usable marijuana is stored or the premises beyond normal business hours or where Marijuana is grown in any amount shall be secured at all times by a physical barrier with suitable locks and also by an electronic barrier or alarm that is designed to detect entry by unauthorized persons at any time. In addition, any Marijuana or Usable Marijuana stored on the premises shall be kept in a security safe incorporated into the building's structure or securely attached thereto.

Section 5

That a new chapter of the Bozeman Municipal Code, Chapter 8.52, shall be created to read as follows:

Chapter 8.52

PUBLIC USE AND DISPLAY OF MEDICAL MARIJUANA.

Sections

8.52.010 Purpose and Intent.

8.52.020 Definitions.

8.52.030 Public Display, Smoking, or Consumption of Medical Marijuana – Prohibited

8.52.040 State law superseded and applicable.

8.52.050 Violation and Penalty.

8.52.060 No Private Right of Action.

8.52.010 Purpose and Intent.

- A. The purpose of this chapter is to identify acts regarding the medical use of marijuana within the city of Bozeman that are not authorized to be conducted in a manner open or visible to the general public. In addition, the purpose of this chapter is to identify that acts related to smoking, consuming, or displaying Medical Marijuana in certain public areas are to be punished as criminal acts and as such shall be subject to criminal penalties. The purpose of establishing these acts where the use is further limited by the City as criminal is to protect the public's health, safety, and general welfare.
- B. It is the intent of this chapter that the visible or open display, smoking, or consumption of Medical Marijuana is to be confined to private property where that property or portions thereof are not adapted and fitted for public travel or are not in common use by the public.

8.52.020 Definitions.

- A. “Marijuana” has the meaning provided in 50-32-101, MCA (2009).
- B. “Medical Marijuana” means the uses of marijuana described in 50-46-102(5), MCA. Other phrases herein such as the "use of medical marijuana" or "the medical use of marijuana" shall have the same meaning and includes the term “usable marijuana.”
- C. “Ways of the City Open to the Public” means any highway, road, driveway, alley, lane, parking area, sidewalk, park, trail, or other public or private place within the city of Bozeman that is adapted and fitted for the use of the public and that is in common use by the public.

8.52.030 Public Display, Smoking, or Consumption of Medical Marijuana–Prohibited

No person authorized by Title 50, Chpt. 46, MCA, to acquire, possess, cultivate, manufacture, deliver, transfer, or transport Medical Marijuana, may, on the Ways of the City Open to the Public, display, smoke, or consume Medical Marijuana in an open or visible manner.

8.52.040 State law superseded and applicable.

The provisions of this chapter shall supersede Title 50, Chpt. 46, MCA, only in so far as this chapter expands the limitations on the use of Medical Marijuana. All other provisions of state law related to Medical Marijuana or Marijuana shall be applicable.

8.52.050 Violation and Penalty.

A violation of 8.52.030 is a misdemeanor and upon conviction a person shall be fined five hundred dollars (\$500) or imprisoned in the Gallatin County Detention Center for a period not to exceed six (6) months or both such fine and imprisonment. A person so convicted shall also be required to pay all costs and expenses of prosecution and the courts as authorized by law.

8.52.060 No Private Right of Action.

Nothing in this chapter shall be construed to create a private right of action regarding the acquisition, possession, cultivation, manufacture, delivery, transfer, or transport of either Marijuana or Medical Marijuana.

Section 6

That Subsection E of 18.40.110 (Home Based Businesses) of the Bozeman Municipal Code shall be amended to read as follows:

18.40.110.E. Uses That Are Prohibited. The following uses, by the nature of their character or the investment of operation, have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home based businesses and thereby impair the use and value of a residentially zoned area for residential purposes. Therefore, the following uses shall not be permitted as home based businesses: adult businesses; auto repair, minor or major; carpentry work; dance instruction; dental offices; medical offices; Medical Marijuana not meeting the exclusion in 18.40.220.C; mobile oil and lube services; painting of vehicles, trailers or boats; private schools with organized classes; radio or television repair; and upholstery.

Section 7

That Chpt. 18.40 of the Bozeman Municipal Code shall be amended to add the following:

18.40.220 MEDICAL MARIJUANA

Any activity involving Medical Marijuana must meet all requirements of state law including, but not limited to, the standards of Title 50, Chapter 46, MCA, 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 facility shall immediately begin any required process to come into compliance with the new rules. This includes submittal for review of applications to the City of Bozeman as they may relate to zoning, business licensing, or other municipal programs. Compliance with City of Bozeman 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.

- A. Unless specifically exempted, any existing or proposed entity intending to conduct activities which meet the definitions of Agriculture, Manufacturing, Office or Retail as established in Chapter 18.80 which is for the purpose of growing, processing, distribution, and/or any other activity related to Medical Marijuana shall in addition to this section, comply with all other provisions of the Bozeman Municipal Code, and shall not be located within 1,000 linear feet of the exterior property line of:
1. All schools or facilities owned or operated by Bozeman School District 7 whether located inside or outside the city limits; or
 2. All private schools, not including home schools, whether located inside or outside the city limits, which provide instruction in the class range from kindergarten to 12th grade and which are subject to Section 20-5-109, MCA.
 3. For purposes of this section, specified distances will be measured in a straight line, without regard to intervening structures from the property line of a school as stated in subsections 1 and 2, above, regardless of whether those schools are located within the jurisdictional limits of the city of Bozeman, to the property line of the business providing Medical Marijuana.
- B. Medical Marijuana businesses may not be located in the R-4, Residential High-Density district and the R-O, Residential Office district when it overlays a residentially oriented growth policy designation; or within the core area of the B-3 district as defined in 18.18.010.C, BMC.
- C. The requirements of subsections A and B do not apply to:
1. An individual registered patient who possesses marijuana in accordance with the limits and requirements of Title 50, Chapter 46, MCA solely for that patient's own use; or
 2. To a caregiver providing care to not more than two qualifying patients who reside within the same dwelling as the caregiver. The caregiver and qualifying patients shall maintain appropriate state agency qualification at all times that Medical Marijuana is present.
- D. Establishing a Medical Marijuana facility may result in a change in the designation of building code occupancy type. A change in use or occupancy type may require physical modifications to the structure which must be approved by the Building Division prior to any construction as required by Section 18.64.100, BMC.

- E. Any forced air vent discharge point serving a commercial Medical Marijuana growing or processing operation shall be located no closer than 50¹ feet from an adjacent property line or a residence.²
- F. Any person making application for a zoning approval for a Medical Marijuana business shall provide evidence of DPHHS approval as a caregiver at the time of application and shall maintain such DPHHS approval at all times. Failure to maintain approval immediately suspends zoning approval to operate a Medical Marijuana business in the City of Bozeman.
- G. These regulations are for review of applications to the City and do not restrict property owners from establishing more stringent standards for their properties.

Section 8

That 18.80.080 of the Bozeman Municipal Code shall be amended to read as follows:

18.80.080 AGRICULTURAL ACTIVITY. The cultivation or tilling of soil or use of other growing medium for the purpose of producing vegetative materials for sale or for use in a commercial operation and/or the raising or tending of animals for commercial sale or use. Agriculture does not include gardening for personal use, keeping of house pets or animals as authorized under Title 6, BMC, or landscaping for aesthetic purposes.

Section 9

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 provision or application and, to this end, the provisions of this ordinance are declared to be severable.

Section 10

Savings Provision.

This ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred, or proceedings that began before the effective date of this ordinance.

Section 11

Codification Instruction.

¹ The zoning commission voted to recommend this distance be reduced to 30 feet.

² The Zoning Commission also discussed the option of allowing mechanical filtration of ventilation but did not specifically pass a motion to recommend this amendment.

The provisions of Sections 1 - 8 shall be codified as appropriate in Titles 5, 8, and 18 of the Bozeman Municipal Code.

Section 12

The effective date of this ordinance is 30 days after passage on final reading

PROVISIONALLY PASSED by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the 6th day of July, 2010.

DRAFT

JEFFREY K. KRAUSS
Mayor

ATTEST:

STACY ULMEN, CMC
City Clerk

APPROVED AS TO FORM:

GREG SULLIVAN
City Attorney