

ORDINANCE NO. 313

AN EMERGENCY ORDINANCE TO IMPOSE A TEMPORARY MORATORIUM ON THE REGISTERING, LICENSING, OPENING, AND OPERATING, OF ANY ESTABLISHMENTS THAT ACQUIRE, POSSESS, CULTIVATE, MANUFACTURE, DELIVER, TRANSFER, TRANSPORT, PROVIDE OR DISTRIBUTE MARIJUANA OR MARIJUANA-INFUSED PRODUCTS FOR MEDICAL USE, AND DIRECTING THE STUDY OF NEW MONTANA MEDICAL MARIJUANA ACT AND ORDINANCES TO REGULATE ANY SUCH ESTABLISHMENTS

WHEREAS, on May 19, 2017, the Montana Medical Marijuana Act was amended, which is codified at Title 50, Chapter 46, Parts 1, 2 and 3, Montana Code Annotated. The amendments include language defining dispensaries, marijuana-infused product, providers, expanding provider authority and granting local government the authority to regulate. The State of Montana has passed this legislation and made it effective without the infrastructure in place for licensing; and,

WHEREAS, the Montana Medical Marijuana Act permits the acquisition, possession, cultivation, manufacture, delivery, transfer, and transportation of marijuana, marijuana-infused products or paraphernalia by a qualified patient, caregiver, provider, dispensary or storefront as those terms are defined in the Act; and,

WHEREAS, establishments that acquire, possess, cultivate, manufacture, deliver, transfer, transport, dispense, distribute, or sell medical marijuana, marijuana-infused products or paraphernalia are not currently registered or licensed in the City of Choteau or the State of Montana; and,

WHEREAS, establishments that acquire, possess, cultivate, manufacture, deliver, transfer, transport, dispense, distribute, or sell medical marijuana, marijuana-infused products or paraphernalia could have a blighting or detrimental effect on neighborhoods or on nearby schools or recreational facilities, and can through such blighting effect, create a public nuisance; and,

WHEREAS, marijuana and marijuana-infused products are controlled substances under United States Federal law; and

WHEREAS, section 50-46-328 MCA permits a City to regulate marijuana providers, marijuana-infused providers, dispensaries and storefronts; and,

WHEREAS, parts of the amended Montana Medical Marijuana Act become effective June 30, 2017; and,

WHEREAS, the City Council of the City of Choteau has determined that the operation of any establishments that acquire, possess, cultivate, manufacture, deliver, transfer, transport, dispense, distribute, or sell marijuana or marijuana-infused products or paraphernalia within the corporate limits of the City of Choteau, could be immediately detrimental to, harmful to, illegal and a

threat to the peace, property, health, safety, and welfare of the City and its inhabitants, until such time as the City has had an opportunity to further study the issues and an opportunity to adopt appropriate ordinances to adequately deal with any such establishments; and,

WHEREAS, section 7-5-104 MCA permits the City to pass an emergency ordinance; and,

WHEREAS, after first having provided lawful public notice as required, the City Council conducted a public hearing on June 29, 2017, with respect to this proposed Ordinance, and invited public comment.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Choteau, Montana, that:

Section 1: All the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: The terms "marijuana", "marijuana-infused product", "medical use", "paraphernalia", "qualifying patient", "caregiver", "provider", "dispensary", and "storefront" have the meaning attributed to those terms by the Montana Medical Marijuana Act.

Section 3: The City will investigate and study the effect of the opening of establishments that acquire, possess, cultivate, manufacture, deliver, transfer, transport, dispense, distribute, or sell marijuana and marijuana-infused products for medical use or paraphernalia and to make recommendations for ordinances that could be adopted to better regulate, manage, administer, and/or otherwise deal with the effects of such establishments, to limit, prohibit, or abate any negative effect implicating the health, safety, and welfare of the citizenry of the City of Choteau, Montana, or blight, upon the City of Choteau, Montana, or the schools, recreational facilities, churches or neighborhoods located therein.

Section 4: The City will consider the issue based on its investigation within ninety (90) days of the date of the enactment of this Emergency Ordinance.

Section 5: Until such new ordinances are adopted and in order to manage the issues described above, any establishments attempting to acquire, possess, cultivate, manufacture, deliver, transfer, transport, dispense, distribute, or sell marijuana or marijuana-infused products for medical use or paraphernalia are hereby prohibited from being registered, opened, operated, or licensed within the City of Choteau. The moratorium and prohibition shall be effective and in force for a period of ninety (90) days commencing on the date of the enactment of this Ordinance unless extended as provided for by law. The prohibition shall not apply to a qualifying valid medical marijuana card holder who possesses not more than the amount allowed by statute for individual use.

Section 6: The violation of any part of this Ordinance is a misdemeanor and any individual, entity, or establishment convicted of violating this ordinance shall be guilty of a misdemeanor and shall be fined not to exceed \$1,000 or be imprisoned for a term not to exceed 6 months. Violators may also be subject to prosecution under the provisions of Title 45, Chapter 10 of the Montana Code Annotated and shall further be subject to such civil action to enjoin or abate the

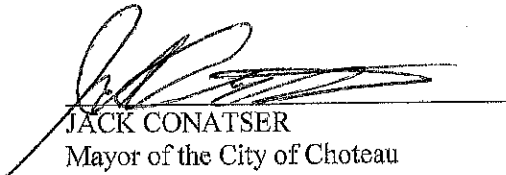
public nuisance, as the City deems appropriate. Such ability of the City to prosecute and/or enjoin or abate is in addition to any other remedies available to the City at law or equity.

Section 7: This Ordinance is expressly made retroactive and shall apply to all marijuana or marijuana-infused products or paraphernalia related applications for building permits, zoning variances, conditional use permits, zoning changes, and all other similar applications for building and land use permits, business registrations, business licenses, safety inspections certificates, development activity, land use activity, land use changes, and any other similar applications for approval of any type or nature, which have been received by the City of Choteau and not yet granted as of the effective date of this Ordinance.


Section 8: In the event any word, phrase, clause, sentence, paragraph, section, or other part of this Ordinance set forth herein is held to be invalid by a court of competent jurisdiction, such judgment shall affect only that part held to be invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 9: This Ordinance shall take effect immediately upon its adoption by the City Council of the City of Choteau, Montana, and signing by the Mayor thereof.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Choteau on this 21st day of June, 2017.


JACK CONATSER
Mayor of the City of Choteau

ATTESTATION:


JOMI L. ROGERS
Finance Officer
City of Choteau

(SEAL)

Member Merija moved and Member Crawford
seconded the Motion and the following voted in favor thereof: Merija, Crawford,
Lannen, and Owen
and the following voted against the same: None
Absent: _____

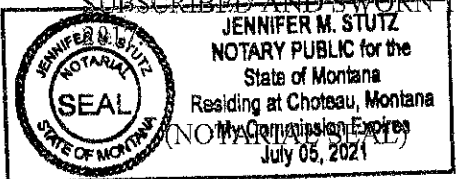
STATE OF MONTANA)
 : ss
County of Teton)

JODI L. ROGERS, Finance Officer of the City of Choteau, Montana, hereby certifies that the foregoing Ordinance No. 313 was read, passed and approved on the 29th day of June, 2017, by the City Council of the City of Choteau, Montana.

That I further certify that in such capacity of Finance Officer it is my responsibility to execute the requirements of notice in accordance with State laws and the City Code of the City of Choteau, Montana; that in such capacity I did on the 26th day of June, 2017, post true copies of said attached Ordinance at the City Hall in Choteau, Montana, Teton County Courthouse in Choteau, Montana, and the United States Post Office in Choteau, Montana; that said attachment was posted for four (4) days.

Jodi L. Rogers
JODI L. ROGERS
Finance Officer
City of Choteau

(SEAL)

SUBSCRIBED AND SWORN TO before me this 23rd day of July, 2017.

Jenny
Notary Public for the State of Montana

JACK CONATSER
JACK CONATSER, Mayor

ATTEST:
Jodi L. Rogers
Jodi L. Rogers, Finance Officer