

# ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE PLACING A MORATORIUM ON THE ENFORCEMENT OF SECTION 4-1-11 OF THE HELENA CITY CODE INsofar AS IT PROHIBITS THE ISSUING OF A BUSINESS LICENSE TO A BUSINESS, OCCUPATION, VOCATION, PROFESSION OR ENTERTAINMENT WHICH IS PERMITTED BY STATE LAW BUT PROHIBITED UNDER ANY LAW OF THE UNITED STATES UNTIL JUNE 30, 2019

**WHEREAS**, pursuant to the provisions of the Helena City Code, a business cannot legally operate within the City without a business license;

**WHEREAS**, medical marijuana dispensaries and grow operations are permitted under the laws of the State of Montana;

**WHEREAS**, section 4-1-11 of the Helena City Code prohibits the issuance of a city business license to medical marijuana dispensaries and grow operations because these activities are prohibited under federal law;

**WHEREAS**, the City Commission passed, following a public hearing, on September 24, 2018, Resolution No. 20490 annexing and incorporating within the boundaries of the City of Helena, effective December 1, 2018, the wholly surrounded area east of Granite Street, South of Highway 12 West, and generally west of the existing city limits;

**WHEREAS**, a medical marijuana dispensary currently operates within the area affected by Resolution No. 20490;

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**WHEREAS**, this medical marijuana dispensary would be required to discontinue operation once the annexation takes effect because the city may not issue it a city business license pursuant to section 4-1-11 of the Helena City Code; and

**WHEREAS**, the City Commission desires to consider amending section 4-1-11 of the Helena City Code to allow the operation of medical marijuana dispensaries and grow operations within the city limits;

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA:**

**Section 1.** The enforcement of section 4-1-11 of the Helena City Code is hereby suspended insofar as it prohibits the issuing of a city business license to a business, occupation, vocation, profession or entertainment that is permitted by state law but is prohibited under any law of the United States.

**Section 2.** This moratorium will remain in effect until June 30, 2019, or until such time as the City Commission takes final action with respect to section 4-1-11 of the Helena City Code, whichever occurs first.

**Section 3.** Any business that is permitted to operate within the city limits as a result of this moratorium, which would

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not have been allowed to operate by virtue of section 4-1-11 of the Helena City Code as currently written, must immediately discontinue operation upon expiration of this moratorium unless permitted otherwise by the passage of a new ordinance permitting the continued operation.

**Section 4.** Any city business license issued in consideration of this moratorium will be automatically revoked upon expiration of this moratorium unless the City Commission repeals or amends section 4-1-11 of the Helena City Code prior to the expiration of this moratorium.

**Section 5.** The revocation of a business license pursuant to the provisions of this ordinance is entitled to the appeal provisions as outlined in section 4-1-16-9 of the Helena City Code except that any appeal provision must recognize the mandatory nature of the revocation pursuant to Section 4 of this ordinance.

**Section 6.** A business licensed pursuant to this moratorium is not similarly situated to any business otherwise licensed pursuant to the operation of the Helena City Code as currently written.

**Section 7.** No business that is allowed to continue

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operations or is newly formed and begins operation as a result of this moratorium is entitled to any expectation of ongoing business operations should this moratorium be permitted to expire or should the City Commission not modify section 4-1-11 upon its expiration.

**FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA, THIS 3<sup>rd</sup> DAY OF DECEMEBER, 2018.**

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**ATTEST:**

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**MAYOR**

\_\_\_\_\_  
**CLERK OF THE COMMISSION**

**FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA, THIS 17<sup>TH</sup> DAY OF DECEMBER, 2018.**

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**ATTEST:**

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**MAYOR**

\_\_\_\_\_  
**CLERK OF THE COMMISSION**