**ORDINANCE NO. 351**

**AN INTERIM ZONING ORDINANCE OF THE CITY COUNCIL OF THE**

**CITY OF THOMPSON FALLS, MONTANA, IMPOSING A MORATORIUM ON**

**THE OPENING, OPERATION OR LICENSING OF ANY**

**ESTABLISHMENTS THAT GROW, SELL OR DISTRIBUTE MEDICAL AND ADULT-USE MARIJUANA, AND DIRECTING THE STUDY OF NEW PROPOSED**

**ORDINANCES TO REGULATE SUCH ESTABLISHMENTS.**

**WHEREAS,** The 67th Montana Legislature passed House Bill 701 (HB 701) which amends the Montana Marijuana Regulation and Taxation Act (the Act), codified at 16-12-101, *et. seq.*, MCA. Among the stated purposes of the Act in 16-12-101, MCA, and the legislative intent of HB 701, is the authorization and provision of a regulatory framework for Montana's legal adult use cannabis industry and transfer of the Department of Public Health and Human Services' (DPHHS) medical marijuana program (MMP) to the department, which occurred effective July 1, 2021, and

**WHEREAS,** the Act permits the medical and adult use, cultivation, manufacture, delivery, transfer, and transportation of marijuana or paraphernalia, as those terms are defined in the Act; and

**WHEREAS,** establishments that grow, sell or distribute medical and adult-use marijuana or

paraphernalia are currently permitted within certain zoning districts established by the

City of Thompson Falls; and

**WHEREAS**, to protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of licensed premises, including but not limited to indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

**WHEREAS,** establishments that grow, sell or distribute medical and adult-use marijuana or

paraphernalia could have a blighting or detrimental effect on neighborhoods or on nearby

schools or recreational facilities, and can through such blighting in effect create a public

nuisance; and

**WHEREAS**, the Planning Board of the City of Thompson Falls is currently considering zoning proposals for the entire city; and

**WHEREAS**, the area(s) of town north of Highway 200 and on Maiden Lane are primarily residential; and

**WHEREAS,** section §76-2-306, MCA, permits a city to adopt an interim zoning

ordinance for the immediate preservation of the public peace, property, health, or safety,

which the interim zoning ordinance may take effect immediately; and

**WHEREAS,** State law allows the City to adopt an interim zoning ordinance to

protect public safety, health, and welfare without following the procedures otherwise

required preliminary to the adoption of zoning ordinances, and such interim zoning

ordinances may prohibit uses that may be in conflict with a contemplated zoning

proposal, which the legislative body is considering or intends to study within a reasonable

amount of time; and

**WHEREAS,** the City Council of the City of Thompson Falls has determined that the

licensing, opening, or operation or any establishments that grow, sell or distribute

marijuana or paraphernalia within the City limits of Thompson Falls, could be

immediately detrimental to, harmful to, 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 such issue and an opportunity to adopt appropriate

ordinances, zoning or otherwise, to appropriately deal with any such establishments; and

**WHEREAS,** after first having provided lawful public notice, as required by

Section §76-2-306 (2), MCA the City Council conducted a public hearing on

March 14, 2022, with respect to this proposed Ordinance, and invited public

comment;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of

Thompson Falls, Montana, as follows:

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

Section 2: The terms including, “adult-use”, “marijuana”, “paraphernalia”, “qualifying patient”, and” have the meaning attributed to those terms by the Act.

Section 3: The City of Thompson Falls hereby directs the Thompson Falls Planning Board to investigate and study the effect of the opening of establishments that grow, sell or distribute medical marijuana or paraphernalia and to make recommendations concerning new zoning ordinances that could be adopted to better regulate and/or deal with such establishments, to limit, prohibit, or abate any negative effect implicating the health, safety and/or welfare of the citizenry of the City of Thompson Falls, Montana, or blight, upon the City (and its entire zoning jurisdiction and its inhabitants), or the schools, recreational facilities, or neighborhoods located therein.

Section 4: The City of Thompson Falls directs the Thompson Falls City Planning Board to present the findings of its investigation and its recommendations to the Thompson Falls City Council, so that the Council may consider the issue within approximately six (6) months of the date of the enactment of this Ordinance.

Section 5: Until such new ordinances, zoning or otherwise, are adopted and in order to

deal with the issues described above, any establishments attempting to grow, sell or

distribute medical or adult-use marijuana or paraphernalia are hereby prohibited from being opened, operated, or licensed within the area of town north of Highway 200 and on Maiden Lane.

Section 6: Any individual, entity, or establishment that violates the terms of the

restrictions set forth above shall be deemed to be creating a public nuisance, and shall be

subject to prosecution in the same manner as one who violates City ordinances, and shall

further be subject to such civil action to restrain or abate, as the City deems appropriate.

Such ability of the City to prosecute and/or enjoin or abate is an addition to any other

remedies available to the City, at law or in equity.

Section 7: This Ordinance is made expressly retroactive and shall apply to all

applications of building permits, zoning variances, conditional use permits, zoning

changes, and all other applications for building and land use permits, developmental

activity, land use activity, land use changes, business licensing, and any other

applications for approval of any type or nature, which have been received by the City of

Thompson Falls 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 the Ordinance set forth herein is held invalid by a court of competent jurisdiction,

such judgment shall affect only that part held 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 Thompson Falls, Montana, and signing of the Mayor thereof. No second

reading shall be required.

**PASSED AND ADOPTED** BY THE CITY COUNCIL OF THE CITY OF THOMPSON

FALLS, MONTANA, THIS \_\_\_\_DAY OF \_\_\_\_\_\_\_\_, 2022.

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Mark Sheets, Mayor

Attest:

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Chelsea Peterson, City Clerk/Treasurer