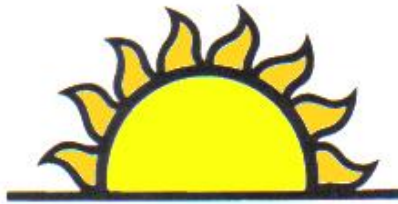


# City of Sidney



**Mayor**  
RICK NORBY  
**Aldermen:**  
**First Ward**  
BRYAN GARTNER  
KEN KOFFLER  
**Second Ward**  
KYSA RASMUSSEN  
DAN SMITH  
**Third Ward**  
TAMI CHRISTENSEN  
JANET SERGENT

**City Clerk/Treasurer**  
JESSICA REDFIELD  
**Director of Public Works**  
JEFF HINTZ  
**City Attorney-Pippin Law Firm**  
Thomas Kalil  
Kaitlin Decrescente  
**Deputy City Clerk/Treasurer**  
BREEANN MESSER  
**Water Commissioner**  
JASON ELLETSON

**Montana's Sunrise City**  
115 Second Street Southeast  
Sidney, MT 59270  
406-433-2809

Planning Staff Report: November 11, 2021

Zoning Text Amendment - Marijuana Dispensaries.

Applicant:	Application Submitted: October 11, 2021
City of Sidney 115 – 2 <sup>nd</sup> Street East Sidney MT 59270	Zoning Commission Date: December 7, 2021 City Council First Reading: December 20, 2021

## LEGAL DESCRIPTION:

The proposed regulations will be applicable to and affect all lands located within the Corporate Limits of the City of Sidney.

## GENERAL INFORMATION

The specific text of the Zoning Regulations to be amended:

- 11.14.40 Manufacturing and Industrial District  
Allowed Uses Table – Conditional *Marijuana Dispensary*
- 11.17.020(H)(2) Sexually Oriented Business - Separation from Other Uses  
A building containing a Sexually Oriented Business shall be setback a minimum of 1,000 feet from the boundary of a lot or a parcel that contains a church, public or private school, Public Park or a ~~Medical~~ Marijuana Dispensary.
- 11.17.020(H)(5) Sexually Oriented Business – Measurement  
For the purpose of determining compliance with Subsection **Error! Reference source not found..Error! Reference source not found..Error! Reference source not found.**, Separation from Other Uses, above, measurement shall be made in a straight line measured from the lot line of the Sexually Oriented Business to the lot line containing a church, school, public park, ~~Medical~~ Marijuana Dispensary or another Sexually Oriented Business.
- 11.17.020(I)(1)  
Definition  
A Marijuana Dispensary is any building, premises, facility, or part thereof where marijuana is made available to consumers in accordance with Montana Law **and all applicable Federal Rules and Regulations.**

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- 11.17.020(I)(6)  
Compliance with State ~~and Federal~~ Codes  
The operation of a Marijuana Dispensary shall comply with all applicable provisions of the Marijuana Act of the Montana Code ~~and all applicable Federal Laws and Regulations~~.
- 11.23.40 (56) Definition: Pharmacy  
A retail establishment where prescription drugs and medicine are sold. A pharmacy can be a standalone facility or combined with an establishment that sells other retail items. A pharmacy does not include a ~~Medical~~ Marijuana Dispensary.

## **FINDINGS OF FACT**

The City of Sidney is an incorporated City within the State of Montana with powers established by the City Charter. The power and processes for the City to establish zoning regulations are found in §76-2-301 et. seq. M.C.A.

In the State of Montana, all jurisdictions proposing to zone or rezone property or to adopt or revise their zoning regulations must issue findings of fact on a twelve-point test that constitutes the rational nexus/legal basis for the adoption of or amendments to a zoning district or zoning regulations.

### **I. Is the zoning in accordance with the growth policy;**

- The proposed zoning text amendment is designed to clarify the regulations, address changes to State Law, and ease administrative provisions as discussed in the 2015 Growth Policy.
- The Growth Policy encourages the grouping together of like and compatible land uses and imposing performance standards to ensure future compatibility.
- The text amendments are primarily to ease the administration of the regulations, to clarify the legislative intent of the governing body with respect to certain uses. The existing section has been deemed less than clear and therefore inconsistent with the intent of the City Council and the Growth Policy.

**Finding:** The existing zoning as well as the proposed amendments are in accordance with the Growth Policy and other adopted rules and regulations of the City of Sidney.

### **II. Is the zoning designed to lessen congestion in the streets;**

- The proposed text amendment deals exclusively with one new use and performance standards for said use within the city. The chosen location is that portion of the city with the most robust infrastructure network.
- The proposed text amendment and the existing zoning encourages compact walkable development in most every district as well as expand opportunities within existing lots.
- The existing zoning encourages compact urban development and multi-modal approaches to travel.

- The existing zoning in conjunction with the development standards adopted with the Subdivision Regulations will provide for flow through development, logical extension of the gridded infrastructure network, and encourage pedestrian-friendly growth.

Finding: The existing zoning along with the proposed text amendments are designed to lessen congestion in the streets by ensuring orderly growth and development of the property that is consistent with the zoning and other regulations adopted by the City of Sidney.

III. Is the zoning designed to secure safety from fire, panic, and other dangers;

- The proposed amendments are intended to clarify standards related to the specific uses within the city. These performance standards ensure consistency and compatibility within and external to our existing zoning districts.
- The existing zoning provides for consistency in development along with provision of police and fire protection.
- The existing zoning regulations incorporates enforcement of development standards, setbacks and compliance with the Building Code program adopted by the City of Sidney.
- The existing zoning has restrictions on lot coverage, grading and development on steep slopes and other areas that are potentially hazardous.

Finding: The existing zoning and the proposed text amendments are intended to provide safety to residents and visitors to the city from fire, panic and other dangers.

IV. Is the zoning designed to promote health and the general welfare;

- The recreational marijuana issue was approved in Richland County by a handful of votes and to implement the new use, the Zoning Regulations must be amended to address the newly allowed use.
- The rules within the existing zoning imposing setbacks, height limits and building restrictions will remain unchanged.
- The existing zoning groups together like and consistent uses within existing neighborhoods and this amendment is consistent with the intent of the Zoning.
- The proposed text amendments implement the legislative intent of the City Council, provide consistency in the administration of the regulations and make the regulations easier to understand.

Finding: The extension of multi modal transportation systems along with the grouping together of like and consistent uses promotes the health and general welfare of all citizens of the City of Sidney. Further, the existing zoning is substantially consistent with the land use in the neighborhood.

V. Is the zoning designed to provide adequate light and air;

- The proposed amendment does not impact this specific criterion.
- The existing zoning imposes building setbacks, height limits, limits on the number of buildings on a single parcel, and reasonable area limits on new development.

Finding: The proposed amendments do not have an impact on this specific criterion. The existing zoning however ensures the provision of adequate light and air to residents of the City through various development limitations.

VI. Is the zoning designed to prevent the overcrowding of land;

- The proposed amendment does not impact this specific criterion.
- The zoning regulations impose minimum lot size, use regulations and other limitations on development.

Finding: The proposed text amendments do not impact this review criterion. The standards of the existing zoning will prevent the overcrowding of land.

VII. Is the zoning designed to avoid undue concentration of population;

- The proposed amendment will not have a direct impact on the concentration of population.
- The existing zoning is part of the holistic approach to land use regulation for the entirety of the City of Sidney and is not focused on any single special interest.
- The existing zoning takes advantage of areas that were created and intended as suitable for a healthy mixture of uses.
- The existing zoning imposes minimum lot sizes, reasonable use restrictions on the subject property, fencing limitations and setback standards.

Finding: The proposed text amendments will not directly impact the concentration of population. The existing standards of the zoning are intended to and will prevent the undue concentration of population by encouraging the most appropriate use and development of property within the City of Sidney.

VIII. Is the zoning designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;

- The proposed amendment does not impact this specific criterion.
- The prevailing zoning and other regulations established by the City Council establish minimum standards for the provision of infrastructure such as roads, sidewalks, water sewer, wire utilities and storm water management.
- The prevailing zoning encourages compact urban scale development and groups together similar uses that will not detract from the quality of life expected in Sidney while providing the economies of scale to extend water, sewer, streets, parks, quality schools and other public requirements.

Finding: The standards of the existing zoning and other adopted standards of the city will ensure the adequate provision of transportation, water, sewerage, school, parks and other public requirements.

IX. Does the zoning give reasonable consideration to the character of the district and its peculiar suitability for particular uses;

- The proposed text amendments accommodate the passage of the recreational marijuana initiative in Richland County and make provisions for buffers from certain types of uses.
- The recreational marijuana
- The proposed changes do not impact any of the adopted district standards that were established to ensure that the regulations provide for land uses that are compatible with existing uses and neighborhood characteristics.
- The existing zoning groups together like and consistent uses and is consistent with the existing zoning in the neighborhoods.

Finding: The existing zoning gives due consideration to the character of the existing neighborhoods, within the City as well as suitability for the particular uses. Additionally, the clarifications related to the construction of sidewalks are intended to provide consistency across all of the various zoning districts within the City of Sidney.

X. Does the zoning give reasonable consideration to the peculiar suitability of the property for its particular uses;

- The proposed amendments are intended to implement the passage of the recreational marijuana initiative in Richland County.
- The existing zoning amendment is designed to further implement the decisions made by the City Council with respect to appropriate locations for the sale and distribution of Medical Marijuana.
- The proposed amendments can be revisited and the performance criteria and use locations modified to reflect the actual impacts experienced by the city.

Finding: The recommended zoning gives reasonable consideration to the peculiar suitability of the property for its particular uses.

XI. Will the zoning conserve the value of buildings;

- The decision to include or exclude specific uses has the potential to serious positive and negative impacts on the value of buildings within the city. The city has chosen to take a conservative approach to the introduction of a new and potentially volatile use within the city. Where vast portions of Richland County do not have land use restrictions a conservative approach is wise by not creating

the potential for several non-conforming uses should the use prove to be incompatible in another specific zoning district.

- The existing zoning groups together like and consistent uses and is consistent with the existing zoning in the various neighborhoods of the City of Sidney.
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Finding: The recommended zoning along with the other protections afforded in the balance of the Sidney Zoning Regulations will conserve or in many cases enhance the value of buildings.

XII. Will the zoning encourage the most appropriate use of land throughout the municipality?

- The proposed amendments represent a conservative approach to the introduction of a use that has previously been excluded within the city limits. This approach provides the test case that the use can be a good neighbor while providing land owners an expanded use regimen.
- The existing zoning provides for grouping like and compatible uses.
- The city recognizes that the impacts of certain land uses stretch well beyond property boundaries and that the benefits of the new use may be offset by adverse impacts to other properties. We believe that these regulations accomplish this delicate balancing act.

Finding: The proposed text amendments will implement new land use opportunities within the city while providing reasonable performance standards to ensure that this review criterion is addressed.

### **RECOMMENDATIONS AND CONDITIONS OF APPROVAL**

The Staff Recommendation is that the Zoning Commission recommend that the City Council find that the proposed Zoning Text Amendments reflects the 2015 Growth Policy; that the rational nexus for the adoption of zoning has been met or exceeded by the proposed amendments; and that the citizens of Sidney have participated in the amendment of the Zoning Regulations.

Reviewed and submitted by:

Forrest Sanderson, AICP, CFM  
City of Sidney, Contract Planner