

ORDINANCE NO. 05-5337

AN EMERGENCY ORDINANCE OF THE CITY OF BILLINGS CHANGING WARD DISTRICT BOUNDARIES FOR WARDS 3 AND 5 TO MORE EQUITABLY APPORTION THE POPULATION; SETTING THE WARD BOUNDARIES; PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE AND LASTING NO MORE THAN 90 DAYS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Whereas, a lawsuit was filed against the City on August 4, 2005, alleging that the existing wards of the City are malapportioned on the basis of population. The Plaintiffs are prepared to request an injunction to prohibit the use of the existing wards for election purposes.

Whereas, the City concludes that the deviation between ward populations should be apportioned more evenly.

Whereas, time is of the essence because absentee voting for the primary election begins on August 24, 2005.

Whereas, the population apportionment deficiency can be cured by moving Precinct 41 from Ward 3 to Ward 5.

Whereas, it is in the best interests of the citizens of the City of Billings that changes immediately be made to the ward boundaries so that the primary and general elections now scheduled for September 13, 2005, and November 8, 2005, can take place as scheduled and so that the populations of the wards are more evenly distributed in accordance with governing law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AS FOLLOWS:

Section 1. Ward boundaries.

(a) Pursuant to MCA 7-5-4401 and the Charter, the boundaries of the five (5) city Wards are established. Two (2) of the five (5) city wards, specifically Wards 3 and 5, are changed so that Precinct 41 is moved from Ward 3 to Ward 5. Wards 1, 2 and 4 remain unchanged. The wards are described by a map based on designated county election precincts.

(b) The new city ward boundaries are illustrated on the city map marked Exhibit "A" on file in the clerk's office and by this reference made a part hereof.

(c) As the city boundaries change the ward boundaries will be changed by an ordinance amending this section and the city ward boundaries as established herein. Such change shall be

certified to the election administrator as required by MCA 13-3-103(1) not more than ten (10) days after the change. The city ward boundaries will be changed to conform to MCA 7-5-4401 and other provisions of law as required by law. Such boundary changes shall be kept on file in the clerk's office.

Section 2. WAIVER OF SECOND READING. As allowed by Section 7-5-104, MCA, and Section 2-235, BMCC, the City Council specifically waives the second reading of this emergency ordinance.

Section 3. VOTE REQUIRED. As required by Section 7-5-104, MCA, and Section 2-235, BMCC, this emergency ordinance is passed with at least a two-thirds vote of the whole City Council for passage.

Section 3. EFFECTIVE DATE. This ordinance is effective immediately upon passage and approval and shall remain effective for no more than ninety (90) days.

Section 4. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 5. 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 provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on this 18th day of August, 2005.

CITY OF BILLINGS

By _____
Charles F. Tooley Mayor

ATTEST:

By _____
Marita Herold, CMC/AAE City Clerk

Proposed Ward Boundary Revision
August 12, 2005

Attachment to Ordinance #

