



## Terms of Use

*Last Revised – March 25, 2008*

*PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY. BY BECOMING A REGISTERED USER ON THIS WEB SITE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND AND AGREE TO THESE TERMS AND CONDITIONS.*

### **Intellectual Property and Trademarks**

As a user of this website, you acknowledge that the ThisIsBozeman.com website (or "site") was completely conceived and created by Earthtalk Studios and acknowledge Earthtalk Studios' right to the copyrighted website concept and the website's custom-developed, copyrighted web site software, database applications and site management/content management password-protected interfaces.

Earthtalk Studios' and ThisIsBozeman.com logos and other Earthtalk Studios' ThisIsBozeman product or service names or slogans contained in this website are either trademarks, service marks or registered trademarks of Earthtalk Studios and may not be copied, imitated or used, in whole or in part, without the prior written permission of Earthtalk Studios. In addition, all page headers, custom graphics, button icons, and scripts are service marks, trademarks, and/or trade imagery are the property of Earthtalk Studios, and may not be copied, imitated, or used, in whole or in part, without the prior written permission of Earthtalk Studios. All other trademarks, registered trademarks, product names and company names or logos mentioned herein are used for identification purposes only, and are the property of their respective owners.

All non-Earthtalk original video & multimedia content uploaded to the ThisIsBozeman.com website and not produced by Earthtalk Studios and are not copyrighted by Earthtalk Studios.

The content on the ThisIsBozeman.com Website, except all user content submission (defined herein), including without limitation, the text, software, scripts, graphics, photos, sounds, music, videos, interactive features and the like ("Content") and the trademarks, service marks and logos contained therein, are owned by or licensed to Earthtalk Studios, subject to copyright and other intellectual property rights under the law. Content on the website is provided to you AS IS for your information and personal use only and may not be downloaded, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of the respective owners. ThisIsBozeman.com reserves all rights not expressly granted in and to the ThisIsBozeman.com website and the ThisIsBozeman.com content.

### **Acceptance of Terms**

Earthtalk Studios, its ThisIsBozeman.com business unit and any related businesses or affiliates provide this website and any services available on the site to you, the site user, subject to the following Terms of Use. These Terms of Use constitute a binding legal agreement between you and Earthtalk Studios regarding your access and use of the ThisIsBozeman.com site and any Service within the site.

By accepting these terms you also acknowledge that you have read and completely understand and agree to (without exception), these Terms of Use and any modifications that may be made to the Terms of Use, from time to time. By accepting these terms you also acknowledge that you have read and completely understand and agree to (without exception), ThisIsBozeman.com's the complete Terms of Use and the privacy policy associated with this website.

You accept any modifications that may be made to the Terms of Use and the related Privacy Policy, which may be made from time to time. You agree to be legally bound by such modifications or revisions. We recommend that you periodically review the most up-to-date version of these documents on our website.



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If you do not agree to any of these Terms of Use and the related Privacy Policy, you are not allowed or authorized post content (video or otherwise) on the ThisIsBozeman.com website.

### **User Content Submissions**

User content submissions are defined as any content (use registration information, video files, graphics, animations, text, images, audio files, photos, user comments, etc.) added to the site by a Site User. The registered site user submitting content agrees to comply with the ThisIsBozeman.com Terms of Use and all applicable local, national, and international laws and regulations.

### **Authorized Site Users & User Submissions**

These Terms of Use apply to all site users of the ThisIsBozeman.com Website. Site users are defined as individuals who are merely viewing content on the website or individuals who are registered site users, uploading and/or contributing content (video files, graphics, animations, text, images, audio files, photos, user comments, etc.) to the ThisIsBozeman.com website.

You agree that to become a registered user on the site you are EITHER:

- 1) More than 18 years of age, or an emancipated minor, or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms of Use, and to abide by and comply with these Terms of Use.

OR

- 2) Are more than 13 years of age and have the complete and explicit permission of a legal parental or guardian to participate in viewing content on this site and/or permission to submit user content and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms of Use, and to abide by and comply with these Terms of Use.

### **Commercial/Promotional Use Restrictions**

As a revenue generating site, commercial use of ThisIsBozeman.com to paid advertisers, sponsors or other organizations authorized by Earthtalk Studios. Site content (unless authorized by Earthtalk Studios) shall not include any references, mentions or online links (hyperlinks) to a for-profit commercial business. Unauthorized content uploaded to the site for the purpose of directly or indirectly promoting a business, product or service is prohibited to the above mentioned parties. Violations of this policy will result in the immediate cancellation of the user account and the removal of all unauthorized user content posted for purpose of promoting a for profit business on the site.



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### **Description of Services**

Earthtalk Studios provides site users with access to a rich variety of resources, including tools, premium content, communication forums and product information (collectively, referred to as Services). You understand and agree that the Services may include advertisements and that these advertisements are necessary for Earthtalk Studios to continue maintaining and developing the site and creating professional video content necessary and integral to the site's user experience and content requirements. The Services, including any updates, enhancements, or new features, are subject to these Terms of Use.

Earthtalk Studios reserves the right at any time to modify or discontinue, temporarily or permanently, the Services (or any part thereof) with or without notice. You agree that Earthtalk Studios shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Services. Earthtalk Studios is also not liable for any information posted on the site that may be lost due to technical difficulties either with the website or the server upon which the website resides. The user understands that it is their sole responsibility to maintain a copy of all video content that they uploaded.

### **User Accounts**

In order to access some features of the ThisIsBozeman.com website account, you will have to create a ThisIsBozeman.com user account. As a part of this user account creation (a.k.a. user registration), you will receive a user name and password designation, provided and/or created by you. You may never use another's account without that user's documented permission. When creating your account, you must provide accurate and complete information. You are responsible for maintaining the confidentiality your user name and password, and are fully responsible for all activities that occur under your account's user name and password. You agree to notify Earthtalk Studios immediately of any breach of security or unauthorized use of your account. You also understand that you will automatically logged out of your account when you leave the website. You also understand the if you do not exit the website, you must log out of your account (on the site) in order to maintain the safety and integrity of your online ThisIsBozeman.com account information and activity.

Although Earthtalk Studios will not be liable for your losses caused by any unauthorized use of your account, you may be liable for the losses of Earthtalk Studios or others due to such unauthorized use. Earthtalk Studios cannot and will not be liable for any loss or damage arising from your failure to comply with these user account security requirements, user name and passwords or other related account designation, in general.

### **Site Navigation & Risk**

The ThisIsBozeman.com Website may contain ThisIsBozeman.com links to third party websites that are not owned or controlled by Earthtalk Studios. Earthtalk Studios has no control over, and assumes no responsibility for the content, privacy policies, or practices of any third party websites which you may link to off of ThisIsBozeman.com. In addition, ThisIsBozeman.com will not and cannot censor or edit the content of any third-party site, but retains the right to terminate links to third party sites or advertising which Earthtalk Studios finds (at its complete discretion) inappropriate, offensive or defamatory. By viewing content on the ThisIsBozeman.com website, users expressly and completely relieve Earthtalk Studios (and its ThisIsBozeman.com business unit) from any and all liability arising from your visiting a third-party website. Accordingly, we encourage you to be cautious when you leave the ThisIsBozeman.com website and to read the Terms of Use and Privacy Policy of each other websites that you choose to visit.



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### **General Use of the Website -- Permissions and Restrictions**

ThisIsBozeman.com hereby grants individual users permission to access, use and upload content to the website as set forth in these Terms of Use, provided that you agree to:

- a) not to distribute (in any other web-based or offline medium) any part of the Website, including but not limited to Earthtalk Studios' professional content submissions and user content submissions, without Earthtalk Studios' prior written authorization, *and*
- b) agree not to alter or modify any part of the ThisIsBozeman.com website, agree not to access user content submissions or ThisIsBozeman.com content through any technology or means other than the video playback pages and user-generated content added to the ThisIsBozeman.com website.

### **Proprietary Rights; User Limited License**

Subject to these Terms, Earthtalk Studios grants registered site users a limited license to make personal, informational, non-commercial use of this Site.

Any other use of the ThisIsBozeman.com website or the materials contained herein without the prior written permission of Earthtalk Studios is strictly prohibited, including:

- a) any resale of site content,
- b) the retransmission, re-broadcasting or other distribution, display or publication of any information contained in this Site or the Services,
- c) making derivative uses of this Site and its contents, including the Services
- d) use of any data mining, robots or similar data-gathering or data-extraction methods;
- e) downloading (other than the page caching) of any portion of this Site or any information contained on this Site, except as expressly permitted on this Site; or
- f) any use of the ThisIsBozeman.com website or Services other than for their intended purpose.

Products, processes or technology described in this Site may also be subject to other intellectual property protection as well, and all rights therein are reserved by Earthtalk Studios. Except as noted above, you are not conveyed any right or license by implication, estoppel or otherwise in or under any patent, trademark or other proprietary right of Earthtalk Studios' or any third party. All information provided by Earthtalk Studios on this site (except user uploaded content) is the sole and exclusive property of Earthtalk Studios.



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### **Data Harvesting and Site Indexing**

You agree not to use or launch any automated system, including without limitation, "robots," "spiders," or "offline readers," that accesses the ThisIsBozeman.com website in a manner that sends more request messages to the Earthtalk Studio/ThisIsBozeman.com servers in a given period of time than a human can reasonably produce in the same period by using a conventional on-line web browser.

Earthtalk Studios grants the operators of legitimate, public search engine company's permission to use spiders to copy materials from the ThisIsBozeman.com website for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials.

As a ThisIsBozeman.com site user, you agree not to collect or harvest any personally identifiable information, including account names, from the ThisIsBozeman.com website, nor to use the communication systems provided by the ThisIsBozeman.com website (e.g. comments, email) for any commercial or personal solicitation purposes. You agree not to gather, download, use or share any user information, video content or other site content on the ThisIsBozeman.com website system for any commercial or personal purpose or use.

### **Use of Site Content**

In addition to the restrictions above, the following restrictions and conditions apply specifically to use of the content on the ThisIsBozeman.com website. As a user of the site, you may access user content submissions solely:

- for your information and personal use;
- as intended through the normal functionality of the ThisIsBozeman.com Service; and
- for Streaming.

"Streaming" is defined as a contemporaneous digital transmission of an audiovisual work via the Internet from any online site, including the ThisIsBozeman.com Service to a user's device in such a manner that the data is intended for real-time viewing and not intended to be copied, stored, permanently downloaded, or redistributed by the user. Accessing ThisIsBozeman.com video content for any purpose or in any manner other than Streaming is expressly prohibited. Earthtalk professionally-produced and copyrighted videos and user submitted videos and other site content are made available "as is" and are not to be modified.

User comments are made available to you for your information and personal use solely as intended through the normal functionality of the ThisIsBozeman.com Service. User comments are made available "as is", and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, downloaded, or otherwise exploited in any manner not intended by the normal functionality of the ThisIsBozeman.com Service or otherwise as prohibited under these Terms of Use.

You may access ThisIsBozeman.com content, user content submissions and other site content only as permitted under this Terms of Use.



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### **Use of Site Content (Continued)**

You agree not to circumvent, disable or otherwise interfere with security-related features of the ThisIsBozeman.com website or features that prevent or restrict use or copying of any ThisIsBozeman.com site content or enforce limitations on use of the ThisIsBozeman.com or any of the content therein. Any identified attempts by users (successful or identified) to interfere with the site code or security-related features will be prosecuted.

You understand that when using the ThisIsBozeman.com Website, you will be exposed to user content submissions from a variety of sources, and that ThisIsBozeman.com is not responsible for the accuracy, usefulness, safety, or intellectual property rights of or relating to such user submissions. You further understand and acknowledge that you may be exposed to user submissions that may be inaccurate, offensive, indecent, or objectionable, and you agree to waive, and hereby do waive, any legal or equitable rights or remedies you have or may have against Earthtalk Studios with respect thereto, and agree to indemnify and hold Earthtalk Studios, its owners/operators, affiliates, and/or licensors, harmless to the fullest extent allowed by law regarding all matters related to your use of the site. You also agree to use the ThisIsBozeman.com “content flagging” system appropriately to flag content you find inaccurate, offensive, indecent or objectionable. By flagging the content, you do not have the power or authority to determine what content is published on the site, but rather give Earthtalk Studios the opportunity to review and further consider (completely at its discretion), the appropriateness of that content for the ThisIsBozeman.com website.

### **User Submissions and Code of Conduct**

As a ThisIsBozeman.com account holder you may submit content to the site. Site content may include:

- Account Registration Information
- Authorized Videos
- Video Descriptions\*
- User Comments

*\* Authorized Hyperlinks Only: Video descriptions are “text only.” Hyperlinks within video descriptions are limited to paid advertisers, sponsors and/or organizations or nonprofit organizations authorized by Earthtalk Studios. Hyperlinks to personal websites (e.g., facebook, myspace, etc.) from the ThisIsBozeman.com website are not allowed. You can, however, post a link to ThisIsBozeman on your personal page or recommend it to a referral site (e.g., digg, stumbleUpon or de.lico.us)*

You understand that whether or not such user submissions are published, ThisIsBozeman.com does not guarantee any confidentiality with respect to any user submissions.



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You shall be solely responsible for your own user submissions and the consequences of posting or publishing them on the ThisIsBozeman.com website. In connection with user submissions, you affirm, represent, and/or warrant that you

- 1) Own or have the necessary licenses, rights, consents, and permissions to use, and authorize ThisIsBozeman.com to use, all patent, trademark, trade secret, copyright or other proprietary rights in and to any and all User Submissions to enable inclusion, *and*
- 2) Use of the user submissions in the manner contemplated by the ThisIsBozeman.com website and these Terms of Use.

For clarity, you retain all ownership rights of your user submissions as long as the content you submit complies with copyright laws. However, by submitting user submissions to ThisIsBozeman.com, you hereby grant Earthtalk Studios, a worldwide, non-exclusive, royalty-free, sublicenseable and transferable license to use, reproduce, distribute, prepare derivative works of, display, and perform the user submissions in connection with the ThisIsBozeman.com website. You also hereby grant each user of the ThisIsBozeman.com website a non-exclusive license to access your user submissions through the ThisIsBozeman.com website, and to use, reproduce, distribute, display and perform such user submissions as permitted through the functionality of the ThisIsBozeman.com website and under these Terms of Use. The above licenses granted by you terminate within a commercially reasonable time after you remove or delete your user content from the ThisIsBozeman.com Service. You understand and agree, however, that ThisIsBozeman.com may retain, but not display, distribute, or perform, server copies of user submissions that have been removed or deleted. The above licenses granted by you are perpetual and irrevocable.

In connection with user submissions, you further agree that you will not submit material that is copyrighted, protected by trade secret or otherwise subject to third party proprietary rights, including privacy and publicity rights, unless you are the owner of such rights or have permission from their rightful owner to post the material and to grant Earthtalk Studios all of the license rights granted herein.

As a ThisIsBozeman.com site user, you agree that your conduct on the site will comport with the ThisIsBozeman.com's Terms of Use which may be updated from time to time.

ThisIsBozeman.com does not endorse any user submission or any opinion, recommendation, or advice expressed therein, and ThisIsBozeman.com expressly disclaims any and all liability in connection with user content submissions. ThisIsBozeman.com does not permit copyright infringing activities and infringement of intellectual property rights on its ThisIsBozeman.com website, and Earthtalk Studios will remove all content and user submissions if properly notified that such content or user content submission infringes on another's intellectual property rights. ThisIsBozeman.com reserves the right to remove content and user submissions without prior notice.



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### **Claims of Copyright Infringement**

Earthtalk Studios respects the intellectual property of others, and require that registered users to do the same. Earthtalk Studios may, in appropriate circumstances and in its sole discretion, limit access to this site and/or terminate the accounts of any users who infringe the intellectual property rights of others.

Copyright Claims: If you are a copyright owner or an agent thereof and believe that any ThisIsBozeman.com user content submission or other content infringes upon your copyrights, you may submit a notification pursuant to the Digital Millennium Copyright Act. If you believe that your work has been copied in a way that constitutes copyright infringement, or that your intellectual property rights have been otherwise violated, please provide the following information to Earthtalk Studios:

- 1) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- 2) a description of the copyrighted work or other intellectual property that you claim has been infringed;
- 3) a description of where the material that you claim is infringing is located on the ThisIsBozeman.com site;
- 4) your name, physical address, telephone number and email address;
- 5) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and
- 6) a statement by you, made under penalty of perjury, that the above information is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf. Failure to include all of this information may result in a delay of the processing of your notification.
- 7) a statement that you consent to the jurisdiction of the federal court in Gallatin County/

Copyright Counter Notice: If you believe that the ThisIsBozeman.com user content submission that was removed due a copyright infringement claim, is not infringing, or that you have the authorization from the copyright owner, the copyright owner's agent, or pursuant to the law, to post and use the content as a user submission, you may send a copyright counter-notice containing the following information to Earthtalk Studios (address below):

- 1) an electronic or physical signature referencing the copyright or other intellectual property interest;
- 2) a description of the copyrighted work or other intellectual property that you claim has been infringed;
- 3) a description of where the alleged copyrighted material content resided on ThisIsBozeman.com prior to its being removed;
- 4) your name, physical address, telephone number and email address;
- 5) A statement that you have a good faith belief that the content was removed as a result of mistake or a misidentification of the content; and
- 6) a statement by you, made under penalty of perjury, that the above information is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf. Failure to include all of this information may result in a delay of the processing of your notification.
- 7) a statement that you consent to the jurisdiction of the federal court in Gallatin County, and a statement that you will accept service of process from the person who provided notification of the alleged infringement.



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### **Claims of Copyright Infringement (Continued)**

If a counter-notice is received by Earthtalk Studios, Earthtalk Studios may send a copy of the counter-notice to the original complaining party informing that party that Earthtalk Studios may replace the removed content it in 10-14 business days. Unless the copyright owner files an action seeking a court order against the content provider, member or user, the removed content may be replaced, or access to it restored, in 10 to 14 business days or more after receipt of the counter-notice, at Earthtalk Studios' sole discretion. It is the responsibility of the complaining party to notify Earthtalk of any court action being pursued, so that Earthtalk Studios can refrain from showing content on the ThisIsBozeman site until a court decision is reached.

Earthtalk Studios can be reached as follows:

By mail:

Attention: Copyright Agent  
c/o Earthtalk Studios  
2504 West Main, Suite L.  
Bozeman, MT 59718

By phone: (406) 587-1456 (Ext. 100)

By fax: (406) 587-1459

By email: [ThisIsBozeman@earthtalk.com](mailto:ThisIsBozeman@earthtalk.com)

### **Account Termination Policy**

ThisIsBozeman.com will terminate a registered user's access to ThisIsBozeman.com if, under any circumstances, they are determined to be a repeat infringer of any aspect of the Terms of Use or the Privacy Policy.

Earthtalk Studios reserves the right to decide whether content or a user submission is appropriate and complies with these Terms of Use for violations *other than* copyright infringement and violations of intellectual property law, such as, but not limited to, pornography, obscene or defamatory material, or content of excessive length. Earthtalk Studios may remove such user content submissions and/or terminate a user's access for uploading such material in violation of these Terms of Use at any time, without prior notice and at its sole discretion.



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### **Future Rights Reserved**

While Earthtalk Studios currently does not charge fees to create an account at this time, Earthtalk Studios reserves the right at any time to charge fees for access to new Earthtalk Studios content or services or to portions (or all) of the existing website or service. Earthtalk Studios retains the option to display targeted advertisements based on personal information that is exhibited in your profile. New site features and functionality may be added which could have business and promotional value for a business or organization. These new site features could have fees associated with them, appropriate to the value provided.

### **Feedback**

If you provide feedback to Earthtalk Studios regarding the website, a Service or Software, you authorized Earthtalk Studios' to use that Feedback without restriction and without payment to you. Accordingly, you waive any "moral rights" in the feedback and you hereby grant Earthtalk Studios a perpetual and irrevocable license to use the Feedback for any purpose.

### **Indemnity**

You agree to defend, indemnify and hold harmless Earthtalk Studios (and thereby ThisIsBozeman.com), its officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from:

- (1) your use of and access to the ThisIsBozeman.com website;
- (2) your violation of any term of these Terms of Service;
- (3) your violation of any third party right, including without limitation any copyright, property, or privacy right; or
- (4) any claim that one of your user content submissions caused damage to a third party. This defense and indemnification obligation will survive these Terms of Use and your use of the ThisIsBozeman.com website.

### **Privacy Policy**

Earthtalk Studios believes strongly in providing you notice of how we collect and use data, including personally identifiable information, from the ThisIsBozeman.com website. Therefore, we have adopted a Privacy Policy, linked from the bottom of each page of the ThisIsBozeman.com website, to which you should refer to fully understand how we collect and use information. You understand that through your use of the ThisIsBozeman.com website the ThisIsBozeman.com Services, you consent to the collection and use of this information, including the transfer of this information to or from the United States for storage, processing and use by Earthtalk Studios in association with ThisIsBozeman.com.



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### **Warranty Disclaimer**

THIS SITE, THE SERVICES, AND THE MATERIALS IN THIS SITE OR IN THE SERVICES ARE PROVIDED ON AN “AS IS” BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. EARTHTALK STUDIOS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. EARTHTALK STUDIOS DOES NOT REPRESENT OR WARRANT THAT THE SERVICES OR MATERIALS ARE ACCURATE, COMPLETE, RELIABLE, TIMELY, SECURE, CURRENT, OR ERROR-FREE, OR THAT THE QUALITY OF ANY SERVICES OR MATERIALS OBTAINED BY YOU WILL MEET YOUR EXPECTATIONS. EARTHTALK STUDIOS DOES NOT REPRESENT OR WARRANT THAT THIS SITE OR ITS SERVER(S) ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

Earthtalk Studios reserves the right to change any and all content contained on the ThisIsBozeman.com website at any time, without notice. Reference to any products, Services, processes, or other information, by trade name, trademark, manufacturer, supplier, or otherwise does not constitute or imply endorsement, sponsorship or recommendation thereof by Earthtalk Studios.

The ThisIsBozeman.com website is controlled and offered by Earthtalk Studios from its facilities in the United States of America. ThisIsBozeman.com makes no representations that the ThisIsBozeman.com Website is appropriate or available for use in other locations. Those who access or use the ThisIsBozeman.com website from other jurisdictions do so at their own volition and are responsible for compliance with local law.