

MUNICIPALITY OF ANCHORAGE
PLANNING AND ZONING COMMISSION RESOLUTION NO. 2016-001

A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING TITLE 21 (NEW CODE) TO ENABLE MARIJUANA ESTABLISHMENTS, AND AMENDING TITLE 21 (OLD CODE) TO ENABLE RETAIL MARIJUANA STORES IN THE CENTRAL BUSINESS DISTRICT.

(Case 2015-0119)

WHEREAS, an ordinance was brought forward to amend both old and new Title 21 to establish commercial marijuana uses and associated standards and regulations in Anchorage; and

WHEREAS, the municipality is authorized to enact ordinances and regulations governing the time, place, manner, and number of marijuana establishments; and

WHEREAS, public hearing notices were published, a public hearing was held on December 14, 2015, and the Commission deliberated on the matter on January 4, 2016.

NOW, THEREFORE, BE IT RESOLVED by the Anchorage Planning and Zoning Commission that:

- A. The Commission makes the following findings of fact:
1. The staff, Assembly members, and Commission members who have worked on this issue and ordinance are to be commended. Staff's analysis was appreciated.
 2. The ordinance addresses the major issues, but will likely be amended in the future.
 3. The Commission hopes that the Assembly will adopt the Commission's recommended amendments. The amendments were mostly based on public testimony, and the public raised some good issues.
 4. There was decent representation from the industry in the public testimony, but not as much neighborhood input as was expected. This is likely due to the extremely fast timeline of the ordinance. There will be another opportunity to testify, in front of the Assembly.
 5. The packet provided to the Commission lacked a good GIS analysis of the consequences of the various options for protected land uses and separation distances. While the Commission recognizes the staffing and resource capacity issues of the department, additional information would have been helpful.

6. In order to allow locations for this legitimate industry to establish itself, the Commission recommends that the Municipal regulations not add any protected land uses with buffer areas above and beyond those required by state regulation and identified as federal drug free zones.
 7. The Commission discussed whether or not to recommend allowing marijuana cultivation facilities in residential districts. They discussed issues relating to outdoor cultivation and security. The Commission was divided on the issue but the amendment to allow cultivation in residential districts failed to pass.
 8. The Commission recommends removing the requirement for marijuana retail sales establishments to develop a neighborhood responsibility plan, because no other business is required by code to develop such a plan, and additionally, the concept was not sufficiently developed.
- B. The Commission recommends approval to the Anchorage Assembly of an ordinance amending old and new Title 21 to establish commercial marijuana uses and associated standards and regulations in Anchorage, with the amendments shown in the attached S version.

PASSED AND APPROVED by the Anchorage Planning and Zoning Commission on the 4th day of January, 2015.

ADOPTED by the Anchorage Planning and Zoning Commission this 11th day of January, 2016.



Hal H. Hart, AICP
Secretary



Tyler P. Robinson
Chair

(Case 2015-0119)

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Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Planning Department
For reading: _____

**ANCHORAGE, ALASKA
AO No. 2016-3 (S)**

1 AN ORDINANCE ADDING A NEW ANCHORAGE MUNICIPAL CODE (NEW CODE)
2 SECTION 21.03.105, MARIJUANA—SPECIAL LAND USE PERMIT; ADDING A
3 NEW SECTION 21.05.055, MARIJUANA ESTABLISHMENTS; AMENDING
4 VARIOUS OTHER SECTIONS OF NEW CODE TO ACCOMMODATE MARIJUANA
5 ESTABLISHMENTS; ADDING A NEW ANCHORAGE MUNICIPAL CODE (OLD
6 CODE) SECTION 21.50.420, CONDITIONAL USE STANDARDS—MARIJUANA;
7 AMENDING THE CONDITIONAL USE PROCESS, DEFINITIONS, AND THE B-2A,
8 B-2B, AND B-2C DISTRICTS TO ALLOW RETAIL MARIJUANA
9 ESTABLISHMENTS IN THE CENTRAL BUSINESS DISTRICT; AND AMENDING
10 ANCHORAGE MUNICIPAL CODE OF REGULATIONS CHAPTER 21.05.

11
12 (Planning and Zoning Commission Case 2015-0119)

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14 **WHEREAS**, the voters of the state of Alaska approved an initiative on November 4,
15 2014, to tax and regulate the production, sale, and use of marijuana; and
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17 **WHEREAS**, the Municipality of Anchorage, a unified home rule municipality and local
18 government, is authorized in the ballot initiative to enact ordinances and regulations
19 governing the time, place, manner, and number of marijuana establishment
20 operations; now, therefore,
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22 **THE ANCHORAGE ASSEMBLY ORDAINS:**

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24 **Section 1.** Anchorage Municipal Code (new code) section 21.02.020, table 21.02-
25 1, is hereby amended to read as follows (*the remainder of the section is not affected*
26 *and therefore not set out*):

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28 **21.02.020 Table of Decision and Review Authority**

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TABLE 21.02-1: SUMMARY OF MAJOR TITLE 21 DECISION-MAKING AND REVIEW RESPONSIBILITIES								
<p><i>NOTE: This table summarizes the major review and decision-making responsibilities for the procedures contained in Chapter 21.03. Exceptions to general rules apply; see Chapter 21.03 for details on each procedure.</i></p> <p>A = APPEAL = Authority to Hear and Decide Appeals D = DECISION = Responsible for Review and Final Decision H = HEARING = Public Hearing Required R = REVIEW = Responsible for Review and/or Recommendation Only</p>								
	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
Land Use Permits	21.03.100				A ³	A ³		D
Marijuana—Special Land Use Permit	21.03.105	D-H						R
Master Plan, Institutional	21.03.110 A.	D-H	R-H					R

TABLE 21.02-1: SUMMARY OF MAJOR TITLE 21 DECISION-MAKING AND REVIEW RESPONSIBILITIES

NOTE: This table summarizes the major review and decision-making responsibilities for the procedures contained in Chapter 21.03. Exceptions to general rules apply; see Chapter 21.03 for details on each procedure.

A = APPEAL = Authority to Hear and Decide Appeals
 D = DECISION = Responsible for Review and Final Decision
 H = HEARING = Public Hearing Required
 R = REVIEW = Responsible for Review and/or Recommendation Only

Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
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KEY TO ABBREVIATIONS: ASBLY = Anchorage Assembly PZC = Planning and Zoning Commission PB = Platting Board	ZBEA = Zoning Board of Examiners and Appeals BOA = Board of Adjustment UDC = Urban Design Commission MS = Municipal Staff
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(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13)

Section 2. Anchorage Municipal Code (new code) section 21.02.090 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.02.090 Assembly

A. Decision-Making Authority

The assembly has the following decision-making authority under this title:

1. Special land use permit for alcohol—for beverage dispensary and package store liquor licenses (21.03.040);
2. Comprehensive plan amendments (21.03.070);
3. Special land use permit for marijuana (21.03.105);
4. Institutional master plans (21.03.110);
- 5[4]. Neighborhood or district plans (21.03.130);

*** *** ***

(AO 2012-124(S), 2-26-13)

Section 3. Anchorage Municipal Code (new code) section 21.03.020 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.03.020 Common Procedures

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C. Community Meetings

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2. Applicability

a. Types of Applications

The applicant shall hold a community meeting for any of the following types of applications.

- i. Rezoning (zoning map amendments);
- ii. Subdivisions, except for abbreviated plats;
- iii. Conditional uses;
- iv. Marijuana—Special Land Use Permit;
- v. Institutional master plans;
- vi. Major site plan review; and
- vii. Public facility site selection.

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4. Notice of Community Meeting

The applicant shall provide written (mailed) notice of the community meeting in accordance with subsection H.3. below, at least 21 days prior to the community meeting. If the applicant does not use the community council meeting as the community meeting, the applicant shall provide community council notice in accordance with subsection H.6. below.

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H. Notice

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2. Summary of Notice Requirements

The following table 21.03-1 summarizes the notice requirements of the procedures set forth in this chapter. Unless otherwise specified in this title, procedures not listed in this table have no public notice requirements.

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS					
Type of Application or Procedure	Section	Notice Required			
		Written (Mailed)	Published	Posted	Community Council
*** **					
Conditional Uses	21.03.080	✓	✓	✓	✓
<u>Marijuana—Special Land Use Permit</u>	<u>21.03.105</u>	✓	✓	✓	✓
Master Plan, Area	21.09.030E.	✓	✓	✓	✓

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS					
Type of Application or Procedure	Section	Notice Required			Community Council
		Written (Mailed)	Published	Posted	
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(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13)

Section 4. Anchorage Municipal Code (new code) is amended by adding new section 21.03.105 to read as follows:

21.03.105 Marijuana—Special Land Use Permit

- A. Purpose
This section governs the review and approval process for land use approvals associated with marijuana establishments, where this approval process is indicated in table 21.05-1.
- B. Applicability
Land uses requiring a special land use permit for marijuana are identified in table 21.05-1, *Table of Allowed Uses*, table 21.05-3, *Table of Allowed Accessory Uses*, table 21.09-1, *Table of Allowed Uses (Girdwood)*, table 21.09-2, *Table of Accessory Uses (Girdwood)*, table 21.10-4, *Table of Allowed Uses (Chugiak-Eagle River)*, and table 21.10-5, *Table of Accessory Uses (Chugiak-Eagle River)*.
- C. Application and Review Procedure
 - 1. Initiation
An application shall be initiated by the owner(s) of the subject property, or shall include a letter of authorization (with original signature) from the owner(s) of the subject property stating their non-objection to the application.
 - 2. Community Meeting
A community meeting is required in accordance with subsection 21.03.020C.
 - 3. Application Submittal
Applications for a municipal marijuana license and a special land use permit for marijuana shall be submitted to the clerk’s office on a form provided by the clerk’s office, after application to the state marijuana control board has been accepted. Applications shall contain the information required in title 10, and the following:
 - a. For all marijuana establishments:
 - i. A site plan to scale and dimensioned, depicting the building footprint, parking areas, vehicle

- 1 circulation and driveways, pedestrian facilities,
2 lighting, landscaping, loading facilities,
3 freestanding sign location(s), required open
4 space, snow storage area or alternative strategy,
5 trash receptacle location and screening detail, and
6 fences.
- 7 ii. A security plan indicating how the applicant will
8 comply with the requirements of municipal and
9 state law and regulation.
- 10 iii. A waste disposal plan.
- 11 b. For marijuana cultivation facilities:
- 12 i. A plan that specifies the methods to be used to
13 prevent the growth of harmful mold.
- 14 ii. The projected amount of water that will be used.
- 15 iii. The projected amount of wastewater that will be
16 discharged.
- 17 iv. A letter from the applicable electric utility stating
18 that the power capacity at the proposed location is
19 sufficient for the intended use.
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- 21 v. An odor control plan indicating how the applicant
22 will comply with the requirements of municipal and
23 state law and regulation.
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- 25 c. For marijuana manufacturing facilities:
- 26 i. A description of the type of products to be
27 processed and the equipment to be used,
28 including a list of any solvents, gases, chemicals,
29 or other compounds that will be used, kept, or
30 created at the manufacturing facility, the location
31 of such materials, and how such materials will be
32 stored.
- 33 ii. Certification of a licensed industrial hygienist, as
34 required in subsection 21.05.055B.2.
- 35 iii. The projected amount of water that will be used.
- 36 iv. The projected amount of wastewater that will be
37 discharged.
- 38 d. For marijuana retail sales establishment:
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i. A neighborhood responsibility plan, as required in subsection 21.05.055B.4.

4. Public Notice

Notice shall be provided in accordance with section 21.03.020H.

5. Departmental Review

The department shall review each proposed marijuana establishment application in light of the approval criteria of subsection C.7. below and distribute the application to other reviewers as deemed necessary. Based on the results of those reviews, the department shall provide a report to the assembly. The report shall contain a list of all marijuana licenses located within 1,000 feet of the proposed subject property.

6. Assembly Action

a. The special land use permit for marijuana shall be considered by the assembly by resolution.

b. After holding a public hearing, the assembly shall approve or deny the application. In considering action, the assembly shall apply the criteria set forth in subsection C.7. below. The conditions of approval shall include, at a minimum, operation of the business in compliance with all the plans and information made part of the application.

c. The assembly shall not take into consideration the sum paid by any person to acquire the license for which a permit is requested.

7. Approval Criteria

The assembly may approve a special land use permit for marijuana if, in the judgment of the assembly, the amendment meets the following approval criteria:

a. The proposed use is consistent with the comprehensive plan, all applicable provisions of this title, and applicable state regulations.

b. The proposed use is consistent with the purpose and intent of the zoning district in which it is located, including any district-specific standards set forth in chapter 21.04.

c. The proposed use is consistent with applicable use-specific standards set forth in chapter 21.05.

d. The proposed use is compatible with uses allowed on adjacent properties, in terms of its scale, site design, and operating characteristics (e.g., hours of operation, traffic

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generation, lighting, noise, odor, dust, and other external impacts).

- e. The proposed use is appropriately located with respect to existing and/or planned water supply, power supply, fire and police protection, wastewater disposal, storm water disposal, and similar facilities and services.
- f. Any significant adverse impacts anticipated to result from the use can and will be mitigated or offset to the maximum extent feasible.
- g. The owner/operator of the establishment has no previous denials or revocations of a marijuana license or special land use permit, or previous documented violations of municipal or state law/regulation relating to marijuana establishments. Alternately, the owner/operator has provided sufficient evidence of rehabilitation to the assembly.

8. Effect of Denial

An application for approval under this section that has been denied shall not be accepted for rehearing for a period of one year following such denial if the director finds the proposed application is substantially the same as that denied, and if no substantially new evidence or change in circumstances has occurred. This paragraph shall not apply to an application filed under assembly direction at a hearing at which a like application was considered.

9. Modifications

- a. Modifications to the licensed establishment for the following changes shall be provided to the director, who shall provide a semi-yearly report to the assembly:
 - i. The first change to the gross square footage of the licensed area of 10 percent or less.
 - ii. A change in hours of operation.
- b. Modifications to the licensed establishment for the following changes shall be considered by the assembly on the consent agenda, although the assembly may require a public hearing at its discretion:
 - i. Changes to the gross square footage of the licensed area of more than 10 percent.
 - ii. Any second or subsequent changes to the gross square footage of any amount.

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- iii. For manufacturing facilities, changes to the method(s) of processing, extracting, or manufacturing marijuana and/or marijuana products.
- iv. Any other change not listed in 9.a. above.

10. Expiration

The special land use permit for marijuana shall expire:

- a. At the time of expiration of either the state or municipal license;
- b. If the use holding the permit has been discontinued, vacant, or inactive for a continuous period of at least six months; or
- c. If the operation of the business becomes substantially different from the business and operation reviewed by the assembly when the land use approval was granted under this section, unless the licensee applies for and receives approval for a modification of the existing approval to reflect the change. For the purpose of this section, "substantially different" means any material change in the operation of the business which could result in significant impact on the use and enjoyment of adjacent properties by property owners or occupants.

Section 5. Anchorage Municipal Code (new code) section 21.04.060 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.04.060 Other Districts

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G. TA: Turnagain Arm District

2. District-Specific Standards

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b. Conditional Uses

Any use or structure that does not meet the requirements for a permitted use above, may be allowed through the issuance of a conditional use approval subject to the requirements of Section 21.03.080, Conditional Uses, and the following additional approval criteria:

- i. Conforms to the goals and policies of the

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Turnagain Arm Comprehensive Plan;

- ii. Protects the unique scenic and environmental features of the area; and
- iii. Minimizes impacts to adjacent properties, particularly those adjacent properties in a different land use category.

c. Commercial Marijuana Establishments

- i. Any commercial marijuana establishment allowed in a commercial district in table 21.05-1 may be allowed on a parcel designated "commercial" or "mixed use" in the Turnagain Arm Comprehensive Plan, through the special land use permit for marijuana process in section 21.03.105 and in accordance with all applicable use-specific standards in section 21.05.055.
- ii. Any commercial marijuana establishment allowed in an industrial district in table 21.05-1 may be allowed on a parcel designated "industrial" in the Turnagain Arm Comprehensive Plan, through the special land use permit for marijuana process in section 21.03.105 and in accordance with all applicable use-specific standards in section 21.05.055.

d. Number of Structures Allowed

Only one principal structure is allowed per lot, unless a conditional use approval is obtained for additional principal structures.

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(AO 2012-124(S), 2-26-13)

Section 6. Anchorage Municipal Code (new code) section 21.05.010 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.05.010 Table of Allowed Uses

Table 21.05-1 below lists the uses allowed within all base zoning districts in the Anchorage Bowl. (See chapters 21.09 and 21.10 for regulations specific to Girdwood and Chugiak-Eagle River, respectively.) Each of the listed uses is defined in sections 21.05.030 through 21.05.060.

A. Explanation of Table Abbreviations

The abbreviations in the table indicate the type of review process

1 required for a use within a zoning district. District-specific standards in
2 chapter 21.04, use-specific standards in chapter 21.05, or design and
3 development standards in chapter 21.07 may require a higher level of
4 review than indicated in the table under specific circumstances. For
5 example, many commercial uses are allowed by right ("P" for permitted
6 use) in various zoning districts as indicated in the table, but are required
7 to be approved by major site plan review if the gross floor area of the
8 use is over the size threshold for a large commercial establishment.
9 That threshold and requirement for a higher level of review are found in
10 subsection 21.07.120A.

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12 1. Permitted Uses

13 "P" in a cell indicates that the use is allowed by right in the
14 respective zoning district. Permitted uses are subject to all
15 applicable regulations of this title, including the use-specific
16 standards set forth in this chapter and the development and
17 design standards set forth in chapter 21.07.

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19 2. Administrative Site Plan Review

20 "S" in a cell indicates that the use requires administrative site
21 plan review in the respective zoning district in accordance with
22 the procedures of subsection 21.03.180C., *Administrative Site
23 Plan Review*. The site plan review process is intended to
24 determine compliance with the development standards of this
25 title, not to review the appropriateness of the use itself.

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27 3. Major Site Plan Review

28 "M" in a cell indicates that the use requires major site plan
29 review in the respective zoning district, in accordance with the
30 procedures of subsection 21.03.180D., *Major Site Plan Review*.
31 The site plan review process is intended to determine
32 compliance with the development standards of this title, not to
33 review the appropriateness of the use itself.

34
35 4. Conditional Uses

36 "C" in a cell indicates that, in the respective zoning district, the
37 use is allowed only if reviewed and approved as a conditional
38 use in accordance with the procedures of section 21.03.080,
39 *Conditional Uses*. Throughout this title, the term "conditionally
40 allowed" means that approval through the conditional use
41 process is required.

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43 5. Special Land Use Permit for Marijuana

44 "T" in a cell indicates that the use requires a special land use
45 permit for marijuana in accordance with the procedures of
46 section 21.03.105.

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48 6. Multiple Abbreviations

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50 (Code revisor—renumber remaining sections.)

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(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2013-139, § 1, 1-28-14; AO 2014-58, § 2(Att. A), 5-20-14)

Section 7. Anchorage Municipal Code (new code) table 21.05-1 is hereby amended as shown in Exhibit A.

Section 8. Anchorage Municipal Code (new code) section 21.05.020 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.05.020 Generally Applicable Use Standards

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B. Premises Containing Uses Where Children are Not Allowed
Premises containing uses where children are not allowed are defined in AMC section 10.40.050. Any premises containing uses where children are not allowed, regardless of whether it is listed in table 21.05-1, chapter 21.09, or chapter 21.10 as being permitted as a matter of right or subject to site plan or conditional review, shall comply with the requirements of this subsection 21.05.020B. The applicant shall be required to obtain approval through the process referenced in table 21.05-1, chapter 21.09, or chapter 21.10 and also to comply with the standards of this subsection 21.05.020B.

1. Purpose
Certain types of enterprises are places where children unaccompanied by an adult guardian or parent are prohibited. These enterprises have been determined, by court-accepted independent studies, to produce secondary impacts on surrounding land uses. The impacts include a decline in property values; an increase in the level of criminal activity, including prostitution, rape, and assaults, in the vicinity of these types of enterprises; and the degradation of the community standard of morality by inducing a loss of sensitivity to the adverse effect of pornography upon children, upon established family relations, and upon respect for marital relationships. The purpose of this section is to segregate such enterprises from places frequented by minors in order to reduce the influence of these enterprises on minors.

2. Minimum Distance from Certain Uses
Except as provided in subsection B.3. below, permitted principal uses, accessory uses, or conditional uses that are prohibited by law from having minors or unaccompanied minors on the premises for reasons other than **existence of marijuana or sale of liquor**, shall be located so that all portions of the lot on which the use is located shall be 1,000 feet or more from the property line of:

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(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13)

Section 8. Anchorage Municipal Code (new code) is hereby amended by adding new section 21.05.055 to read as follows:

21.05.055 Marijuana Establishments

This section defines specific commercial and industrial use types relating to marijuana growing, processing, production, testing, and sales, listed in table 21.05-1. This section also contains use-specific standards that apply to specific use types. The use-specific standards apply regardless of the approval process for the particular use type. All uses involving the commercial cultivation, production, testing, and sales of marijuana are governed by this section; no other use in any other section shall involve marijuana. Personal cultivation and use of marijuana is not regulated by this section.

A. Use-Specific Standards Applicable to All Marijuana Establishments

1. Licenses Required

- a. All marijuana establishments are required to obtain a license from the state of Alaska Marijuana Control Board, and a license from the municipality of Anchorage, before beginning operations.
- b. If at any time either the state license or the municipal license is suspended or revoked, the establishment shall immediately cease operations, until such time as both required licenses and the land use approval are valid.
- c. Licenses from the municipality of Anchorage shall be issued in accordance with chapter 10.80.

2. Separation from Protected Land Uses

- a. All marijuana establishments shall be located at least 1,000 feet away from the following uses:
 - i. Boarding school.
 - ii. College or university.
 - iii. Elementary or middle school.
 - iv. High school.
 - v. Playground.
 - vi. A housing facility owned by a public housing

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authority.

b. All marijuana establishments shall be located at least 500 feet away from the following uses:

ja. Community centers.

iiib. Neighborhood recreation centers.

iiie. Religious assemblies.

~~**d.** Boarding schools.~~

~~**e.** College or university.~~

~~**f.** Elementary or middle schools.~~

~~**g.** High schools.~~

~~**h.** Homeless and transient shelters.~~

~~**i.** Dedicated parks.~~

ivj. Correctional institutions.

v. Athletic fields.

~~**k.** Habilitative care facilities.~~

viif. Correctional community residential centers.

c. All marijuana establishments shall be located at least 100 feet away from video arcades with at least 10 arcade machines.

d. This distance shall be measured by the shortest pedestrian route from the entrance to the proposed marijuana establishment to the closest lot line of a school, community center, neighborhood recreation center, to the edge of a playground or athletic field (including abutting parking lots), and any dedicated park, and to the main public entrance of any other use listed above.

3. Prohibited with Alcohol License
A marijuana establishment shall not be allowed in the same establishment as a use that holds a state alcohol license.

4. Prohibited with Residential

1 A marijuana establishment shall not be allowed on a lot that
2 contains a residential use other than a caretaker's residence.

3
4 5. Inspection of Premises

5 All premises of all marijuana establishments shall be open at all
6 times during business hours for the inspection and examination
7 by the municipality.

8
9 6. Ventilation

10 The premises shall be ventilated so that the odor of marijuana
11 cannot be detected by a person with a normal sense of smell at
12 any lot line of the subject property.

13
14 7. Public Display of Land Use Approval Conditions

15 Each establishment shall display in a location near the main
16 entrance, and visible to the public in those establishments where
17 the public are permitted, the conditions imposed through the
18 land use approval, using the Conditions Certificate provided by
19 the department.

20
21 8. Permanent Structure

22 A marijuana establishment shall be in a permanent structure with
23 a valid certificate of zoning compliance. No marijuana
24 establishment shall be authorized in a vehicle or trailer, a mobile
25 food unit, a stand alone intermodal shipping container (connex
26 unit), or a temporary structure.

27
28 B. Principal Uses

29
30 1. Marijuana Cultivation Facility

31 a. Definition

32 A facility that cultivates and harvests marijuana for
33 transfer or sale to a marijuana manufacturing facility, a
34 marijuana testing facility, or a marijuana retail sales
35 establishment.

36
37 b. Use-Specific Standards

38 i. Marijuana plants shall not be visible from a public
39 right-of-way.

40 ii. All cultivation facilities shall be organized in orderly
41 rows compliant with all building and fire codes.
42 Aisles between planting rows shall be included in
43 the square footage under cultivation.

44 iii. Direct retail sales to the general public is
45 prohibited.

46
47 **iv. Marijuana cultivation facilities are permitted in**
48 **the B-3 district when collocated with and**

attached to a marijuana retail sales establishment.

2. Marijuana Manufacturing Facility

a. Definition

A facility that receives harvested marijuana from a cultivation facility and extracts, processes, and/or manufactures marijuana products for transfer or sale to another marijuana manufacturing facility, a marijuana testing facility, or a marijuana retail sales establishment.

b. Use-Specific Standards

i. A certified industrial hygienist shall attest that:

(A). Any processes using solvents or flammables are safe, are in compliance with all applicable laws, and otherwise do not create a danger to any person or entity in or near the business.

(B). Any noxious gases or fumes created by such processes shall be mitigated with an appropriate ventilation system.

ii. Direct retail sales to the general public is prohibited.

iii. Marijuana manufacturing facilities that only manufacture edibles, but do not have extraction facilities or other types of manufacturing, are permitted in the B-3 district.

3. Marijuana Testing Facility

a. Definition

A facility that analyzes and certifies the safety and potency of marijuana and marijuana products.

b. Use-Specific Standards

Direct retail sales to the general public is prohibited.

4. Marijuana Retail Sales Establishment

a. Definition

An establishment that receives marijuana and/or marijuana products from a marijuana cultivation facility or a marijuana manufacturing facility, for sale to the public.

b. Use-Specific Standards

~~i. Applications for land use approval for a retail sales establishment shall include a~~

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~~neighborhood responsibility plan to demonstrate how the establishment will fulfill its responsibilities to be a good neighbor, including neighborhood outreach, methods for future communication, and dispute resolution.~~

- ii. Establishments shall be closed to the public between the hours of midnight and 8:00 a.m. each day.
- iii. Signs shall comply with state regulation and chapter 21.11. No temporary signs are permitted.
- iiiv. Establishments shall not have accessory drive-throughs.
- iv. No outdoor storage or display of products is permitted.
- v. Marijuana retail sales establishments are permitted in the I-2 district when collocated with and attached to a marijuana cultivation facility or a marijuana manufacturing facility.

Section 9. Anchorage Municipal Code table 21.05-3 is hereby amended as shown in Exhibit B.

Section 10. Anchorage Municipal Code section 21.05.070 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.05.070 Accessory Uses and Structures

*** *** ***

13. Marijuana, Personal Cultivation

- a. Definition
Cultivating marijuana in compliance with AS 17.38.020 and AS 17.38.030 and this section.
- b. Use-Specific Standard
Personal cultivation of marijuana shall not occur on any premise licensed as a commercial marijuana establishment pursuant to section 21.03.105 and 21.05.055.

14. Outdoor Keeping of Animals

(Code revisor—renumber remaining sections.)

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(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13)

Section 11. Anchorage Municipal Code section 21.07.090, at table 21.07-4 and table 21.07-6, is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.07.090 Off-street parking and loading.

*** *** ***

TABLE 21.07-4: OFF-STREET PARKING SPACES REQUIRED (“du” = dwelling unit; “sf” = square feet; “gfa” = gross floor area)			
Use Category	Use Type	Minimum Spaces Required	See Loading Subsection 21.07.090G.
*** *** ***			
Visitor Accommodations	Recreational and vacation camp	See subsection 21.07.090E.3.	
MARIJUANA USES			
<u>Marijuana Uses</u>	<u>Marijuana cultivation facility</u>	1 per 1,000 sf gfa	X
	<u>Marijuana manufacturing facility</u>	1 per 400 sf gfa	X
	<u>Marijuana testing facility</u>	1 per 350 sf gfa	
	<u>Marijuana retail sales establishment</u>	1 per 350 sf gfa	X
INDUSTRIAL USES¹¹			
Industrial Service ¹¹	Data processing facility	1 per 1,000 sf gfa	X
*** *** ***			

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*** *** ***

TABLE 21.07-6: OFF-STREET LOADING BERTHS			
Use	Aggregate Gross Floor Area (square feet) or Number of Dwelling Units	Berths Required	Type
*** *** ***			
Visitor accommodations, animal sales and service, office, personal services, repair and rental uses	25,000–40,000	1	B
	40,001–100,000	2	B
	Each additional 100,000 or fraction thereof	1 additional	B
Marijuana Uses			
<u>Marijuana cultivation facility</u>	<u>Same as for general industrial uses</u>		
<u>Marijuana manufacturing facility</u>			
<u>Marijuana retail facility</u>	<u>Same as for general commercial establishments</u>		

TABLE 21.07-6: OFF-STREET LOADING BERTHS			
Use	Aggregate Gross Floor Area (square feet) or Number of Dwelling Units	Berths Required	Type
Industrial Uses			
Light contractor and special trades, dry cleaning establishment	Same as for general commercial establishments		
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(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO No. 2014-58, § 3(Att. B), 5-20-14)

Section 12. Anchorage Municipal Code (new code) section 21.09.050 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.09.050 Use Regulations

A. Table of Allowed Uses

Table 21.09-2 below lists the uses allowed within the base zoning districts in Girdwood. If a use is not defined in this chapter, the definition in chapter 21.05 shall apply. When the uses in a district are determined through a master planning process per subsections 21.09.030E. and F., this table shall not apply.

1. Explanation of Table Abbreviations

a. *Permitted Uses*

"P" in a cell indicates the use is allowed by right in the respective zoning district. Permitted uses are subject to all other applicable regulations of title 21.

b. *Administrative Site Plan Review*

"S" in a cell indicates the use requires administrative site plan review in the respective zoning district in accordance with the procedures of subsection 21.03.180B., *Administrative Site Plan Review*.

c. *Major Site Plan Review*

"M" in a cell indicates the use requires major site plan review in the respective zoning district[. UNTIL THE PROVISIONS FOR MAJOR SITE PLAN REVIEW ARE ADOPTED, AN "M" IN A CELL INDICATES THAT THE USE IS ALLOWED ONLY IF REVIEWED AND APPROVED AS A CONDITIONAL USE] in accordance with the procedures of subsection 21.03.180C., *Major Site Plan Review*.

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- d. *Conditional Uses*
"C" in a cell indicates, in the respective zoning district, the use is allowed only if reviewed and approved as a conditional use in accordance with the procedures of section 21.03.080, *Conditional Uses*. Throughout title 21, the term "conditionally allowed" means approval through the conditional use process is required.
- e. *Special Land Use Permit for Marijuana*
"T" in a cell indicates that the use requires a special land use permit for marijuana in accordance with the procedures of section 21.03.105.
- f. *O (with # inside)*
A circle with a number inside references uses with a different review and approval procedure, depending on the gross floor area of the building, or of the largest building in a multi-building development. The explanation of the sizes and associated review and approval procedures is located at the end of the table.

(Code revisor—re-letter remaining sections.)

*** *** ***

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13)

Section 13. Anchorage Municipal Code (new code) table 21.09-2 is hereby amended as shown in Exhibit C.

Section 14. Anchorage Municipal Code (new code) table 21.09-3 is hereby amended as shown in Exhibit D.

Section 15. Anchorage Municipal Code (new code) section 21.10.050 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.10.050 Use Regulations

A. Table of Allowed Uses

Table 21.10-4 below lists the uses allowed within the base zoning districts in Chugiak-Eagle River. Each of the listed uses is defined in chapter 21.05. When the uses in a district are determined through a CE-PCD district this table shall not apply.

1. Explanation of Table Abbreviations

a. *Permitted Uses*

"P" in a cell indicates the use is allowed by right in the respective zoning district. Permitted uses are subject to all other applicable regulations of title 21.

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b. *Administrative Site Plan Review*
"S" in a cell indicates the use requires administrative site plan review in the respective zoning district in accordance with the procedures of subsection 21.03.180C., *Administrative Site Plan Review*.

c. *Major Site Plan Review*
"M" in a cell indicates the use requires major site plan review in the respective zoning district in accordance with the procedures of subsection 21.03.180D., *Major Site Plan Review*.

d. *Conditional Uses*
"C" in a cell indicates, in the respective zoning district, the use is allowed only if reviewed and approved as a conditional use in accordance with the procedures of section 21.03.080, *Conditional Uses*. Throughout title 21, the term "conditionally allowed" means approval through the conditional use process is required.

e. *Special Land Use Permit for Marijuana*
"T" in a cell indicates that the use requires a special land use permit for marijuana in accordance with the procedures of section 21.03.105.

f. *Multiple Abbreviations*

(Code revisor—re-letter remaining sections.)

*** *** ***

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2013-139, § 2, 1-28-14; AO 2014-40(S), §§ 2(Att. A), 3, 4, 5-20-14; AO 2014-58, § 4(Att. C), 5-20-14)

Section 16. Anchorage Municipal Code (new code) table 21.10-4 is hereby amended as shown in Exhibit E.

Section 17. Anchorage Municipal Code (new code) table 21.10-5 is hereby amended as shown in Exhibit F.

Section 18. Anchorage Municipal Code (new code) section 21.14.040 is hereby amended to read as follows *(the remainder of the section is not affected and therefore not set out)*:

21.14.040 Definitions

When used in this title, the following words and terms shall have the meaning set forth in this section, unless other provisions of this title specifically indicate otherwise.

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Manufactured home community

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A parcel, or contiguous parcels, of land which is used for occupancy by more than two mobile homes or manufactured homes.

Marijuana

Has the same meaning as set forth in Alaska statutes section 17.38.900.

Marijuana Product

Has the same meaning as set forth in Alaska statutes section 17.38.900.

Maximum extent feasible

That no feasible and prudent alternative exists, and all possible efforts to comply with the regulation or minimize potential harm or adverse impacts have been undertaken. "Feasible and prudent" means consistent with sound engineering practice and not causing environmental, social, or economic problems that outweigh the public benefit to be derived from compliance with the standard which is modified by the term "feasible and prudent."

*** *** ***

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13)

Section 19. Anchorage Municipal Code (old code) section 21.15.030 is hereby amended as follows (*the remainder of the subsection is not affected and therefore not set out*):

21.15.030 Approval of site plans and conditional uses.

*** *** ***

G. Modification of final approval.

1. Except as provided in G.4. below, t[T]he authority that approved a conditional use or site plan may, upon application by the petitioner, modify the conditional use or site plan:
 - a. When changed conditions cause the conditional use or site plan no longer to conform to the standards for its approval.
 - b. To implement a different development or operational plan conforming to the standards for its approval.
2. Upon the filing of an application for a modification of a conditional use and after a review of the application to determine that it is complete and meets the requirements of this title, the department staff shall place the requested modification on the consent agenda of either the planning and zoning commission or the assembly, as the case may be, for approval, denial, further inquiry, public hearing and, thereafter, action by the respective body.
 - a. The planning and zoning commission or the Assembly,

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upon an express finding that the proposed modifications will have a significant effect on the surrounding neighborhood or on owners or occupiers of adjacent property that is the subject of the modification application, may determine that a public hearing is necessary. In such event the hearing shall be scheduled as soon as practicable after the matter first comes before the body for conclusion.

- 3. The modification application shall be considered as an application for final approval under subsection F of this section and therefore subject to the provisions of that section;
- 4. For modifications of approved marijuana retail sales establishments, the Planning Director shall be notified of modifications to hours of operations and of the first change to the licensed area of no more than 10 percent of the total area. All other modifications from the previous approval shall be processed in accordance with G.2. above.

H. Appeals.

- 1. Except as provided in subsection 2 of this subsection, an appeal from a planning and zoning commission decision regarding an application for conditional use or site plan approval under this section shall be brought in accordance with sections 21.30.010 through 21.30.100
- 2. Any person adversely affected by a decision of the director or his designee on an application for final approval of a site plan may appeal to the planning and zoning commission within 15 days of the decision. The appeal shall be scheduled before the commission within 45 days. The commission shall exercise its independent judgment in deciding an appeal under this subsection.
- 3. Appeals of conditional use permits granted by the assembly shall be appealable to the superior court under the Alaska Rules of Court and/or laws of the State of Alaska.

*** *** ***

J. Abandonment of conditional use.

- 1. Except for conditional use permits granted by the assembly under section 21.50.160, pertaining to uses involving the sale of alcoholic beverages, or under section 21.50.420, pertaining to marijuana retail sales establishments, an otherwise lawful conditional use permit shall expire if:
 - a. For any reason the conditional use is abandoned in its

1 entirety for a period of one year or longer; or

- 2
- 3 b. The property owner notifies the planning and zoning
4 commission of the abandonment of the conditional use
5 permit. A conditional use shall not be abandoned under
6 this subsection if the result of the abandonment is the
7 creation of a nonconforming land use.

8

9 2. A conditional use granted by the assembly under section
10 21.50.160, pertaining to uses involving the sale of alcoholic
11 beverages, shall expire:

- 12
- 13 a. 120 days after the transfer of the license to sell alcoholic
14 beverages from the premises has been approved by the
15 alcoholic beverage control board, unless there is an
16 application filed with the alcoholic beverage control board
17 prior to the expiration of the 120-day period.

- 18
- 19 b. If the operation of the business becomes substantially
20 different from the business and operation reviewed by the
21 assembly when the conditional use was granted under
22 section 21.50.160, pertaining to uses involving the sale of
23 alcoholic beverages, the conditional use shall expire
24 unless the licensee applies for and received assembly
25 approval for a modification of the existing conditional use
26 to reflect the change.

- 27
- 28 c. For purposes of subsection b. above, "substantially
29 different" means any material change in the operation of
30 the business which could result in significant impact on
31 the use and enjoyment of adjacent properties by property
32 owners or occupants. A material change includes, without
33 limitation, an increase in the late-night or early morning
34 hours of operation; a change involving the type of
35 entertainment presented which results in an increase in
36 noise level at the property line; and increase in the
37 parking requirements; a change from a business which
38 meets the requirements of the State of Alaska, Alcoholic
39 Beverage Control Board statutes and regulations for a
40 restaurant designation permit to a business which would
41 not meet such requirements.

42

43 3. A conditional use granted by the assembly under section
44 21.50.420, pertaining to marijuana retail sales establishments,
45 shall expire:

- 46
- 47 a. At the time of expiration of either the state or municipal
48 license;

- 49
- 50 b. If the use holding the permit has been discontinued,

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vacant, or inactive for a continuous period of at least six months; or

c. If the operation of the business becomes substantially different from the business and operation reviewed by the assembly when the conditional use permit was granted under this section, unless the licensee applies for and receives approval for a modification of the existing conditional use permit to reflect the change. For the purpose of this section, "substantially different" means any material change in the operation of the business which could result in significant impact on the use and enjoyment of adjacent properties by property owners or occupants.

(GAAB 21.05.060, 21.05.080; AO No. 77-355; AO No. 78-231; AO No. 79-34; AO No. 79-214; AO No. 82-22(S); AO No. 82-49; AO No. 84-70; AO No. 85-21; AO No. 85-72; AO No. 85-91, 10-1-85; AO No. 86-19; AO No. 86-155; AO No. 87-121, 11-27-87; AO No. 88-5(S); AO No. 94-62, § 1, 4-12-94; AO No. 95-129, § 5, 3-12-96; AO No. 2004-6, § 1, 10-1-03; AO No. 2004-108(S), § 1, 10-26-04; AO No. 2005-19, § 1, 3-1-05; AO No. 2006-90(S), § 1, 6-20-06; AO No. 2008-15(S-2), § 3, 8-19-08)

Section 20. Anchorage Municipal Code (old code) section 21.35.020 is hereby amended as follows (*the remainder of the subsection is not affected and therefore not set out*):

21.35.020 Definitions and rules of construction.

*** *** ***

Maintenance easement means an easement appurtenant to a lot or parcel permitting entry upon another lot or parcel for the purpose of maintaining, repairing or reconstructing a structure on the former lot or parcel.

Marijuana has the same meaning as set forth in Alaska statutes section 17.38.900.

Marijuana Product has the same meaning as set forth in Alaska statutes section 17.38.900.

Marijuana retail sales establishment means an establishment that offers marijuana and/or marijuana products for sale to the public, but does not grow, cultivate, manufacture, produce, or test marijuana or marijuana products.

Major residential street means a street that carries from 500 to 2,000 average daily trips as determined in accordance with section 21.85.050.

*** *** ***

(GAAB 21.05.020; AO No. 77-355; AO No. 78-16; AO No. 78-28; AO No. 78-171; AO No. 78-231; AO No. 79-214; AO No. 80-42; AO No. 81-67(S); AO No.

1 81-97; AO No. 81-180; AO No. 82-54; AO No. 82-167; AO No. 83-91(S); AO
 2 No. 84-14; AO No. 84-52; AO No. 85-58; AO No. 85-159; AO No. 85-91, 10-1-
 3 85; AO No. 85-216; AO No. 86-19; AO No. 86-78; AO No. 86-90; AO No. 86-
 4 171; AO No. 88-172; AO No. 88-171(S-1), 12-31-88; AO No. 89-35, 4-7-89;
 5 AO No. 88-147(S-2); AO No. 90-50(S); AO No. 91-35; AO No. 90-152(S); AO
 6 No. 91-90(S); AO No. 91-184; AO No. 92-7(S-2); AO No. 92-26; AO No. 92-
 7 93; AO No. 92-128(S); AO No. 92-129(S); AO No. 93-58; AO No. 93-148, § 1,
 8 11-16-93; AO No. 94-62, § 2, 4-12-94; AO No. 95-68(S-1), §§ 2, 3, 8-8-95; AO
 9 No. 95-173, § 1, 11-14-95; AO No. 96-41, § 1, 3-5-96; AO No. 96-131(S), § 1,
 10 10-22-96; AO No. 98-106, § 1, 7-21-98; AO No. 98-160, § 3, 12-8-98; AO No.
 11 99-62, § 2, 5-11-99; AO No. 2000-119(S), § 8, 2-20-01; AO No. 2001-79(S), §
 12 1, 5-8-01; AO No. 2001-80, § 1, 5-8-01; AO No. 2001-101(S), § 2, 4-9-02; AO
 13 No. 2002-109, § 2, 9-10-02; AO No. 2002-117, § 4, 1-28-03; AO No. 2003-
 14 62(S-1), § 3, 10-1-03; AO No. 2003-97, § 1, 9-30-03; AO No. 2003-132, § 1,
 15 10-7-03; AO No. 2003-124(S), § 1, 1-20-04; AO No. 2004-108(S), § 2, 10-26-
 16 04; AO No. 2005-9, § 1, 3-1-05; AO No. 2005-150(S-1), § 1, 2-28-06; AO No.
 17 2005-185(S), § 1, 2-28-06; AO No. 2005-124(S-1A), § 4, 4-18-06; AO No.
 18 2006-121, § 1, 9-26-06; AO No. 2006-64(S-1), § 1, 12-12-06; AO No. 2007-62,
 19 § 1, 5-15-07; AO No. 2008-80, § 1, 9-16-08; AO No. 2009-22, § 1, 4-14-09; AO
 20 No. 2010-3, § 1, 3-23-10; AO No. 2010-50(S), § 1, 8-31-10; AO No. 2011-
 21 93(S), § 1, 9-27-11; AO No. 2014-58, § 5, 5-20-14)

22
 23 **Section 21.** Anchorage Municipal Code (old code) section 21.40.150 is hereby
 24 amended as follows (*the remainder of the subsection is not affected and therefore not*
 25 *set out*):

26
 27 **21.40.150 B-2A central business district core.**

28 *** **

29
 30 D. Conditional uses. Subject to the requirements of the conditional use
 31 standards and procedures of this title, the following uses may be
 32 permitted:

33 *** **

34 16. Tower, high voltage transmission, exceeding maximum average
 35 tower height of 70 feet. Towers exceeding the maximum
 36 average of 70 feet in height may be replaced with a like tower, or
 37 a shorter tower, without the requirement for a conditional use.
 38 When a road project or other public works project causes a utility
 39 to modify its existing facilities to accommodate the design of the
 40 public works project, a maximum of four structures of an existing
 41 transmission line may be replaced with structures exceeding the
 42 maximum average of 70 feet in height without the requirement
 43 for a conditional use.

44
 45 17. Marijuana retail sales establishment, in accordance with section
 46 21.50.420.

47 *** **

48
 49 (GAAB 21.05.050.W; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No.
 50 81-67(S); AO No. 81-72; AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-

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91, 10-1-85; AO No. 86-90; AO No. 87-62; AO No. 87-148; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 90-124; AO No. 91-1; AO No. 91-39; AO No. 91-144; AO No. 92-57; AO No. 95-68(S-1), § 6, 8-8-95; AO No. 98-160, § 4, 12-8-98; AO No. 98-188, §§ 1—3, 1-12-99; AO No. 99-62, § 19, 5-11-99; AO No. 99-131, § 7, 10-26-99; AO No. 2001-80, § 3, 5-8-01; AO No. 2005-185(S), § 18, 2-28-06; AO No. 2005-124(S-1A), § 21, 4-18-06; AO No. 2006-49, § 1, 5-16-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 5, 10-23-07; AO No. 2008-35(S), § 1, 3-18-08; AO No. 2010-3, § 4, 3-23-10; AO No. 2010-50(S), § 17, 8-31-10; AO No. 2014-58, § 8, 5-20-14)

Section 22. Anchorage Municipal Code (old code) section 21.40.160 is hereby amended as follows (*the remainder of the subsection is not affected and therefore not set out*):

21.40.160 B-2B central business district, intermediate.

*** *** ***

D. Conditional uses. Subject to the requirements of the conditional use standards and procedures of this title, the following uses may be permitted:

*** *** ***

16. Tower, high voltage transmission, exceeding maximum average tower height of 70 feet. Towers exceeding the maximum average of 70 feet in height may be replaced with a like tower, or a shorter tower, without the requirement for a conditional use. When a road project or other public works project causes a utility to modify its existing facilities to accommodate the design of the public works project, a maximum of four structures of an existing transmission line may be replaced with structures exceeding the maximum average of 70 feet in height without the requirement for a conditional use.

17. Marijuana retail sales establishment, in accordance with section 21.50.420.

*** *** ***

(GAAB 21.05.050.Y; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No. 81-67(S); AO No. 81-72; AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-91, 10-1-85; AO No. 86-90; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2); AO No. 90-124; AO No. 91-1; AO No. 91-39; AO No. 91-144; AO No. 92-57; AO No. 95-68(S-1), § 7, 8-8-95; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 5, 12-8-98; AO No. 98-188, §§ 4—6, 1-12-99; AO No. 99-62, § 20, 5-11-99; AO No. 99-131, § 8, 10-26-99; AO No. 99-149, § 2, 12-14-99; AO No. 2001-80, § 4, 5-8-01; AO No. 2005-185(S), § 19, 2-28-06; AO No. 2005-124(S-1A), § 22, 4-18-06; AO No. 2006-49, § 2, 5-16-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 6, 10-23-07; AO No. 2008-35(S), § 2, 3-18-08; AO No. 2009-22, § 8, 4-14-09; AO No. 2010-3, § 5, 3-23-10; AO No. 2010-50(S), § 18, 8-31-10; AO No. 2014-58, § 9, 5-20-14)

Section 23. Anchorage Municipal Code (old code) section 21.40.160 is hereby

1 amended as follows (*the remainder of the subsection is not affected and therefore not*
 2 *set out*):

3
 4 **21.40.170 B-2C central business district, periphery.**

5
 6 *** **

7 D. Conditional uses. Subject to the requirements of the conditional use
 8 standards and procedures of this title, the following uses may be
 9 permitted:

10
 11 *** **

12 20. Tower, high voltage transmission, exceeding maximum average
 13 tower height of 70 feet. Towers exceeding the maximum
 14 average of 70 feet in height may be replaced with a like tower, or
 15 a shorter tower, without the requirement for a conditional use.
 16 When a road project or other public works project causes a utility
 17 to modify its existing facilities to accommodate the design of the
 18 public works project, a maximum of four structures of an existing
 19 transmission line may be replaced with structures exceeding the
 20 maximum average of 70 feet in height without the requirement
 21 for a conditional use.

22
 23 **21. Marijuana retail sales establishment, in accordance with section**
 24 **21.50.420.**

25
 26 *** **

27 (GAAB 21.05.050.X; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No.
 28 81-67(S); AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-91, 10-1-85; AO
 29 No. 86-90; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO No. 88-147(S-2);
 30 AO No. 90-124; AO No. 91-1; AO No. 91-39; AO No. 91-144; AO No. 92-57;
 31 AO No. 95-68(S-1), § 8, 8-8-95; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-
 32 160, § 6, 12-8-98; AO No. 98-173, § 4, 11-3-98; AO No. 98-188, §§ 7—9, 1-
 33 12-99; AO No. 99-62, § 21, 5-11-99; AO No. 99-131, § 9, 10-26-99; AO No.
 34 99-149, § 3, 12-14-99; AO No. 2001-80, § 5, 5-8-01; AO No. 2005-185(S), §
 35 20, 2-28-06; AO No. 2005-124(S-1A), § 23, 4-18-06; AO No. 2006-49, § 3, 5-
 36 16-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 7,
 37 10-23-07; AO No. 2008-35(S), § 3, 3-18-08; AO No. 2009-22, § 9, 4-14-09; AO
 38 No. 2010-3, § 6, 3-23-10; AO No. 2010-50(S), § 19, 8-31-10; AO No. 2014-58,
 39 § 10, 5-20-14)

40
 41 **Section 24.** Anchorage Municipal Code (old code) is hereby amended to add a new
 42 section 21.50.420 as follows:

43
 44 **21.50.420 Conditional use standards—Marijuana retail sales**
 45 **establishments.**

46
 47 A. Licenses required.
 48 1. All marijuana establishments are required to obtain a license
 49 from the state of Alaska Marijuana Control Board, and a license
 50 from the municipality of Anchorage, before beginning operations.

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2. If at any time either the state license or the municipal license is suspended or revoked, the establishment shall immediately cease operations, until such time as both required licenses and the land use approval are valid.
3. Licenses from the municipality of Anchorage shall be issued in accordance with chapter 10.80.

B. Conditional use permit required.

1. All marijuana retail sales establishments are permitted only by conditional use. Such conditional use shall only require the approval of the assembly in accordance with section 21.15.030. The provisions of section 21.15.005 which pertain to notice and public hearing shall apply.
2. Notwithstanding the submittal requirements in section 21.15.030, applications for conditional use permit for a marijuana retail sales establishment shall contain the following:
 - a. A site plan to scale and dimensioned, depicting the building footprint, parking areas, vehicle circulation and driveways, pedestrian facilities, lighting, landscaping, loading facilities, freestanding sign location(s), required open space, snow storage area or alternative strategy, trash receptacle location and screening detail, and fences.
 - b. A security plan indicating how the applicant will comply with the requirements of municipal and state law and regulation.
 - c. A waste disposal plan.
 - d. A neighborhood responsibility plan, as required in subsection C.9. below.
 - e. A copy of the application accepted by the state Marijuana Control Board.
3. The planning department shall prepare and submit an analysis of the application with respect to the use-specific standards below, the conditional use standards of section 21.50.020, and requirements of title 10, and list of all marijuana retail sales establishments located within 1,000 feet of the subject location. The department shall also submit a proposed resolution for assembly consideration.
4. In determining whether to grant, deny, or impose conditions on a

1 conditional use permit for a marijuana retail sales establishment,
2 the assembly shall not take into consideration the sum paid by
3 any person to acquire the license or prepare the establishment.
4 The assembly shall only approve the conditional use if the
5 assembly finds the standards of section 21.50.020 have been
6 met. The assembly may impose such special terms and
7 conditions or modify existing conditions governing operation of
8 the establishment as are in the public interest and are consistent
9 with the purposes of this title.

10
11 5. An application for conditional use under this section that has
12 been denied by the assembly shall not be accepted for rehearing
13 for a period of one year following such denial, if the municipal
14 clerk finds the proposed conditional use application is
15 substantially the same as that denied by the assembly, and if no
16 substantially new evidence or change in circumstances has
17 occurred. This subsection shall not apply to an application filed
18 under assembly direction at a hearing at which a like application
19 was considered.

20
21 6. Conditions of conditional use permits issued under this section
22 are enforceable under the provisions of this title. The assembly
23 may revoke a conditional use permit for failure to comply with
24 conditions of the permit, provided a public hearing with notice to
25 the owner affected is first held.

26
27 C. Use-specific standards for marijuana retail sales establishments.

28
29 All marijuana retail sales establishments shall meet the following
30 standards:

- 31
32 1. Separation from protected land uses.
- 33 a. All marijuana establishments shall be located at least
34 1,000 feet away from the following uses:
- 35
36 i. Boarding school.
- 37
38 ii. College or university.
- 39
40 iii. Elementary or middle school.
- 41
42 iv. High school.
- 43
44 v. Playground.
- 45
46 vi. A housing facility owned by a public housing
47 authority.
- 48
49 b. All marijuana establishments shall be located at least 500

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feet away from the following uses:

- ~~ja.~~ Community centers.
- ~~iiib.~~ Neighborhood recreation centers.
- ~~iiie.~~ Religious assemblies.
- ~~d.~~ ~~Boarding schools.~~
- ~~e.~~ ~~College or university.~~
- ~~f.~~ ~~Elementary or middle schools.~~
- ~~g.~~ ~~High schools.~~
- ~~h.~~ ~~Homeless and transient shelters.~~
- ~~i.~~ ~~Dedicated parks.~~
- ~~ivj.~~ Correctional institutions.

v. Athletic fields.

~~k.~~ ~~Habilitative care facilities.~~

vii. Correctional community residential centers.

~~c.~~ All marijuana establishments shall be located at least 100 feet away from video arcades with at least 10 arcade machines.

~~d.~~ This distance shall be measured by the shortest pedestrian route from the entrance to the proposed marijuana establishment to the closest lot line of a school, community center, neighborhood recreation center, to the edge of a playground or athletic field (including abutting parking lots), and any dedicated park, and to the main public entrance of any other use listed above.

2. Prohibited with alcohol license.
A marijuana establishment shall not be allowed in the same establishment as a use that holds a state alcohol license.
3. Prohibited with residential use.
A marijuana establishment shall not be allowed on a lot that contains a residential use other than a caretaker's residence.

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4. Inspection of premises.
All premises of all marijuana establishments shall be open at all times during business hours for the inspection and examination by the municipality.
5. Ventilation.
The premises shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at any lot line of the subject property.
6. Public display of land use approval conditions.
Each establishment shall display in a location near the main entrance, and visible to the public in those establishments where the public are permitted, the conditions imposed through the land use approval, using the Conditions Certificate provided by the department.
7. Permanent structure.
A marijuana establishment shall be in a permanent structure with a valid certificate of zoning compliance. No marijuana establishment shall be authorized in a vehicle or trailer, a mobile food unit, a stand alone intermodal shipping container (connex unit), or a temporary structure.
- ~~8. Neighborhood responsibility plan.
Applications for land use approval for a retail sales establishment shall include a neighborhood responsibility plan to demonstrate how the establishment will fulfill its responsibilities to be a good neighbor, including neighborhood outreach, methods for future communication, and dispute resolution.~~
89. Hours of operation.
Establishments shall be closed to the public between the hours of midnight and 8:00 a.m. each day.
940. Signs.
Signs shall comply with state regulation and chapter 21.47. No temporary signs are permitted.
104. Drive-through prohibited.
Establishments shall not have drive-throughs.
112. Outdoor storage and display prohibited.
No outdoor storage or display of products is permitted.

47 **Section 25.** Anchorage Municipal Code of Regulations chapter 21.05 is hereby
48 amended as follows (*the remainder of the subsection is not affected and therefore not*
49 *set out*):
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21.05 ASSEMBLY RULES OF PROCEDURE FOR CONDITIONAL USE PERMIT OR SPECIAL LAND USE PERMIT HEARINGS.

21.05.010 Applicability.

- A. The provisions of this chapter shall apply to hearings before the assembly for the revocation of conditional use permits or special land use permits for alcohol under title 21 for the retail sale of alcoholic beverages, and for conditional use permits or special land use permits for marijuana under title 21 for marijuana establishments.
- B. The provisions of this chapter shall be in addition to those procedures established by Anchorage Municipal Code chapter 3.60.

(AR No. 98-251(S), § 1, 8-25-98)

*** *** ***

21.05.040 Hearing procedures.

*** *** ***

- E. Ruling or decision. After closing statements are completed, the chair may entertain a motion to act upon the conditional use permit or special land use permit which motion must be seconded to be considered by the assembly.
 - 1. Before action on a conditional use permit or special land use permit may be taken, the applicant seeking the action must establish by a preponderance of the evidence that the requested action is warranted and in accordance with law.
 - 2. After the motion has been seconded, the maker of the motion shall state whether he/she supports the motion and shall articulate for the record the factual evidence constituting a preponderance of the evidence in support of a conclusion that the violations occurred and that revocation is warranted.
 - 3. After all assembly members wishing to explain their reasoning on the record have done so, the chair shall call for a vote on the motion.
 - 4. The decision of the assembly shall be announced on the record.

(AR No. 98-251(S), § 1, 8-25-98)

*** *** ***

Section 26. This ordinance shall be effective immediately upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2016.

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ATTEST:

Chair of the Assembly

Municipal Clerk

