

# *Municipality of Anchorage*

## **MEMORANDUM**

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**DATE:** December 14, 2015

**TO:** Planning and Zoning Commission

**THRU:** Hal H. Hart, AICP, Director  
Planning Department

**FROM:** Erika McConnell, Manager  
Current Planning Section

**SUBJECT:** 2015-0119: An ordinance amending title 21 to establish marijuana uses

The attached ordinance is an amendment to several sections of Anchorage Municipal Code (“new” and “old” code). The main purpose is to enable the establishment of commercial marijuana facilities within Anchorage.

Please note that existing text proposed to be deleted is CAPITALIZED and shown in [brackets], and new text proposed to be added is underlined, unless an entire new section is proposed as indicated in the section heading, in which case the text will not be underlined.

### **Background**

On November 4, 2014, the citizens of the state of Alaska approved an initiative to tax and regulate the production, sale, and use of marijuana. The Municipality of Anchorage may establish regulations governing the time, place, manner, and number of marijuana establishments.

The initiative set forth a timeline for commercial marijuana licensing, requiring the state to begin accepting license applications on February 24, 2016. During the 2015 session, the Alaska Legislature created a Marijuana Control Board which adopted regulations on November 20, 2015 for commercial marijuana establishments. The regulations package was then forwarded to the state Department of Law for review and will subsequently be send to the Lieutenant Governor for signature. The regulations become effective 30 days after the Lieutenant Governor signs them. The state expects to begin issuing license around May 24, 2016.

The Assembly established a committee on the taxation and regulation of marijuana, which has generally met monthly in 2015. Staff has attended and discussed issues and ideas with this committee, receiving general direction on several major policy issues. The Administration developed a staff working group after coming into office, and has also weighed in on the major policy issues.

The Clerk's Office is developing amendments to Title 10 to address licensing requirements for commercial marijuana establishments. Planning and Clerk's Office staff have worked closely together to determine which issues should be addressed in which code sections. Additionally, the Finance Department has developed a proposal for a marijuana sales tax, which the Assembly is expected to place on the April election ballot.

### **Agency and Public Comment**

All reviewing agencies had either no comment or no objection to the proposed ordinance.

The draft ordinance was routed to all community councils. Staff made a presentation to the Federation of Community Councils on November 18, to the Downtown Community Council on December 2, and to the Fairview Community Council Executive Board and the Turnagain Community Council on December 3. Staff is scheduled to present at the Huffman O'Malley Community Council on December 17. Staff presents to a community council when requested.

At the Fairview Community Council Executive Board meeting, feedback was provided that the neighborhood responsibility plan, required for retail stores (page 14) was unclear and should be better fleshed out. Staff agrees, but has not yet developed new language. Additionally there was concern that an applicant could hold a community meeting that was not at the community council, and not provide notice of the community meeting to the community council. In general, community councils have expressed concerns regarding having sufficient time to review and comment on proposed establishments.

As of the writing of this report, no written comments on the ordinance have been received from any community council or member of the public.

### **Discussion**

The draft ordinance establishes four commercial marijuana uses, modeled after the initiative and state regulations: cultivation facility, manufacturing facility, testing facility, and retail sales establishment. Definitions and use-specific standards for these

facilities are found starting on page 13 of the draft. These will be in a new section in chapter 5 of Title 21.

All commercial marijuana establishments will require a municipal license (approved by the Assembly and issued by the Clerk’s Office, regulated by Title 10) and a land use approval, called a “special land use permit for marijuana” (SLPM). The SLPM is also approved by the Assembly, similar to conditional uses (old code) and special land use permits for alcohol (new code) to allow the retail sale of alcoholic beverages. The ordinance establishes the Assembly’s authority to approve SLPMs in Sections 1 and 2 (pages 1-2). The SLPM process is outlined in Sections 3 and 4.

One element of the land use approval process is the requirement to hold a community meeting before submitting an application for a SLPM. This condition exists for other types of land use approvals, and the Assembly committee stressed the need for coordination and communication with community councils. The specific requirements for a community meeting are found at AMC 21.03.020C. Essentially, the applicant is required to notice residents and property owners within 500 feet of the location of the proposed establishment of an upcoming community meeting. The applicant is encouraged to use the local community council meeting as the venue for the community meeting and must justify the reason for not doing so.

After holding a community meeting, the applicant applies simultaneously at the Clerk’s Office for a municipal license and land use approval. The Planning Department and the Clerk’s Office are working together to develop a process which eliminates some of the duplicative effort that exists in the alcohol land use approval and license protest process, and to make the application process more convenient for applicants.

The zoning districts in which the various uses are proposed to be allowed can be found in Attachments A (for the Anchorage Bowl), C (for Girdwood), and E (for Chugiak-Eagle River). Cultivation and manufacturing facilities, which are industrial-type uses, are proposed to be limited to industrial districts. Testing facilities, similar to water or soil testing laboratories, are proposed to be allowed in industrial districts and the B-3 district. Retail stores are proposed to be allowed in various commercial districts. Staff did express some concerns about allowing retail stores in neighborhood commercial districts (B-1A and B-1B), considering the proposed hours of operation (see below) and the fact that these districts can be integrated into the middle of neighborhoods— an example is the Fire Island Bakery and other commercial uses, located in the South Addition neighborhood. This question was posed to the Assembly and the Administration, with both recommending allowing retail stores in the B-1A and B-1B districts.

Staff recommends removing the allowance for retail stores in the RO district. The RO district has never allowed stand-alone retail uses. AMC 21.04.030E.2.a. states that where table 21.05-1 indicates allowed “entertainment and recreation,” “personal services, repair, and rental,” or “food and beverage service” uses in the RO district, those uses must be within a building that contains an office, health service, and/or residential use, and is limited to 25 percent of the gross floor area. Alternately, retail marijuana stores could be added to this list.

As noted above, the use-specific standards for the four types of commercial marijuana establishments, as well as use-specific standards applicable to all commercial marijuana establishments, are found in Section 8, starting on page 11 of the draft. Of particular note are the required separation distances from certain protected land uses. The state regulations require a 500-foot separation from:

school grounds, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility. The distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the school, recreation or youth center, or the main public entrance of the building in which religious services are regularly conducted, or the correctional facility. (3 AAC 306.010(a))

Staff has carried forward this state regulation, listing all types of schools, religious assemblies, correctional institutions, and both community centers and neighborhood recreation centers (corresponds to “recreation or youth center”). The same measurement methods are also proposed in the ordinance (page 12, lines 14-18). Please note that on maps showing the 500-foot buffer from protected land uses, the buffer measurement starts at the property line rather than at the public entrance to a religious assembly or a correctional facility. Thus the mapped 500-foot buffer around those uses could be slightly larger than required, depending on the location of the public entrance. Additionally, the map measures a straight line distance out from the lot line of a protected land use, while the ordinance requires measurement by the shortest pedestrian route. Thus the maps are provided to give a general sense of where marijuana establishments might be located, but should not be used for investment decisions.

The Assembly committee indicated a desire to add other uses to the list of protected land uses. In addition to the state requirements, the following uses are added: dedicated parks, homeless and transient shelters, habilitative care facilities, and

correctional community residential centers (CCRCs). It should be noted that not all land managed by the Municipal Parks and Recreation Department is dedicated as park by the Assembly. There are efforts underway to dedicate all lands considered park. The staff recommends using “dedicated park” rather than just “park,” as it creates a clear, bright line as to which property is considered a protected land use.

A frequent question posed to staff is whether or not a marijuana land use approval would become invalid if a protected land use moved into the 500 buffer after the marijuana establishment was there. The state addresses this issue in their regulations as follows:

This section does not prohibit the renewal of an existing marijuana establishment license or the transfer of an existing marijuana establishment license to another person if the licensed premises were in use before the school, recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility began use of a site within 500 feet. If an existing marijuana establishment license for premises located within 500 feet of a school, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility is revoked, or expires, the board will not issue another marijuana establishment license for the same premises unless the school, the recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility no longer occupies the site within 500 feet. (3 AAC 306.010(a))

The municipality would treat the situation in a similar manner.

Other use-specific standards that warrant specific mention are the ventilation requirement (page 12) and the retail store hours of operation (page 14).

The proposed ventilation standard uses language taken from the Boulder, CO, marijuana establishment regulations. Discussions are ongoing between the Health and Human Services Department (DHHS), who regulate air quality, and the Development Services Department regarding the appropriate ventilation requirements when establishing a new use, as well as odor enforcement. Staff anticipates there may be changes to this language, but has no proposed amendment at this time.

The proposed hours of operation were taken from the first draft of the state regulations regarding retail stores. The final state regulations require marijuana retail stores to be closed only between 5:00 a.m. and 8:00 a.m. Several municipal agencies provided comment to the state recommending a return to the previously proposed hours of

operation. The Anchorage Police Department wrote in their comments, “Operating during more traditional business hours will further legitimize the commercial marijuana industry.” Alternately, limiting retail marijuana stores to hours of operation similar to alcohol package stores is justifiable based on the general concept to regulate marijuana like alcohol (although it should be noted that this concept is not in the initiative language and is not a requirement of law or regulation). Hours of operation for alcohol package store are regulated by AMC 10.50.010, which states, “All other retail premises licensed under AS 4.11.080 shall be closed for the sale of alcoholic beverages between the hours of 1:00 a.m. and 10:00 a.m. Monday through Friday, and between the hours of 2:00 a.m. and 10:00 a.m. on Saturday, and between the hours of 2:00 a.m. and noon on Sunday.”

Exhibits B, D, and E show the accessory use tables for the Anchorage Bowl, Girdwood, and Chugiak-Eagle River, respectively. It is not the intent, generally, to attempt to regulate the personal possession and growth of marijuana, a right established by the initiative and the Ravin decision. However, staff recommends that individuals’ personal grow operations not be comingled with commercial establishments. Thus, personal cultivation of marijuana is proposed as a by right permitted use in every district in which a residential use is allowed, with a single use-specific standard stating that personal cultivation is prohibited on a premise licensed as a commercial marijuana establishment (page 14).

Sections 11 and 12 of the draft ordinance set parking and loading requirements for commercial marijuana facilities, calibrated to similar uses.

Sections 20 through 25 propose amendments to the old Title 21, relating to the downtown, or Central Business District (CBD), zoning districts. Direction given to staff was to allow retail marijuana stores in the CBD—this question was brought to the Assembly committee and the Administration, as some communities in Colorado had determined to prohibit commercial marijuana facilities in their downtown areas. The “new” Title 21 does not include downtown zoning districts, as the development of replacement districts for the B-2A, B-2B, and B-2C districts, in conformance with the 2007 *Anchorage Downtown Comprehensive Plan*, was a separate project from the Title 21 Rewrite and has not been finished. Until such time as new downtown districts are amended into the “new” Title 21, development in the B-2A, B-2B, and B-2C districts will continue to be regulated under the “old” Title 21.

The sections propose to allow retail stores in the B-2A, B-2B, and B-2C district, through the conditional use process that is used for uses involving the sale of alcoholic beverages. The staff has attempted to mirror the standards and processes proposed in

the new code (in the earlier sections of the draft), so that retail stores in all parts of the municipality will have the same standards and process applied.

Section 26 amends the process laid out in the Anchorage Municipal Code of Regulations by which the Assembly can revoke a conditional use for the retail sale of alcoholic beverages. The proposed changes result in language that applies this process to both conditional uses and special land use permits for alcohol and marijuana.

### **Findings**

In accordance with AMC 21.03.210C., text amendments to Title 21 shall meet the following approval criteria:

1. *The proposed amendment will promote the public health, safety, and general welfare.*

Working with the Assembly Committee on the Taxation and Regulation of Marijuana and the Assembly, staff has proposed land use regulations that attempt to find the appropriate balance between protecting and promoting public health, safety, and welfare, and encouraging the establishment of a new industry, as directed by the voters of Alaska. It is general knowledge that there is a black market marijuana industry. Legalization of the industry is attempting to create a “white market” to replace the black market. At the same time, marijuana remains illegal under federal law. The municipal land use regulations are just one element of the regulatory scheme. As this new industry develops, there will surely be amendments to the marijuana regulations, based on lessons learned.

2. *The proposed amendment is consistent with the comprehensive plan and the stated purposes of this title.*

While the comprehensive plan does not anticipate or address the establishment of a commercial marijuana industry, the amendment seeks to direct new marijuana operations to appropriate zoning districts to minimize negative impacts on sensitive uses.

3. *The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.*

The adoption of the marijuana initiative, in November of 2014, is a changing condition that needs to be addressed in Title 21. Without amendments to Title 21 defining commercial marijuana uses and indicating where and how they are permitted, the will of the voters could not be implemented.

**Recommendation**

The Department recommends approval of these amendments to title 21, with the following amendments:

1. In Exhibit A, delete the “T” for marijuana retail sales establishment in the RO district.
2. In Exhibit E, delete the “T” for marijuana retail sales establishment in the CE-RO district.

Attachments: Draft Ordinance  
Exhibits A-F  
Agency and Public Comments  
November 4, 2014 Initiative

Note: The state regulations adopted by the Marijuana Control Board can be found here:  
<https://www.commerce.alaska.gov/web/Portals/9/pub/FinalRegsThrough12-1-15.pdf>

Submitted by: Chair of the Assembly at the  
Request of the Mayor  
Prepared by: Dept. of \_\_\_\_\_  
For reading: \_\_\_\_\_

**ANCHORAGE, ALASKA**  
**AO No. 20XX-\_\_\_\_\_**

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 SECTION 21.05.

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

13  
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,  
21

22 **THE ANCHORAGE ASSEMBLY ORDAINS:**

23  
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*):  
27

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**

*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
*** **								
Land Use Permits	21.03.100				A <sup>3</sup>	A <sup>3</sup>		D
Marijuana—Special Land Use Permit	<u>21.03.105</u>	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**

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Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
***	***	***					
<b>KEY TO ABBREVIATIONS:</b>				ZBEA = Zoning Board of Examiners and Appeals			
ASBLY = Anchorage Assembly				BOA = Board of Adjustment			
PZC = Planning and Zoning Commission				UDC = Urban Design Commission			
PB = Platting Board				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);
  - 6[5]. Public facility site selection for municipal facilities (21.03.140);
  - 7[6]. Rezoning (zoning map amendments), to include overlay districts (21.03.160);
  - 8[7]. Title 21 text amendments (21.03.210);
  - 9[8]. Appeals on public facility site selections for non-municipal facilities (21.03.140); and
  - 10[9]. Any other action not delegated to the planning and zoning commission, platting board, zoning board of examiners and appeals, board of adjustment, urban design commission, or

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municipal staff, as the assembly may deem desirable and necessary to implement the provisions of this title.

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(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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**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>	✓	✓	✓	✓

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS					
Type of Application or Procedure	Section	Notice Required			Community Council
		Written (Mailed)	Published	Posted	
Master Plan, Area	21.09.030E.	✓	✓	✓	✓
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(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13)

**Section 4.** Anchorage Municipal Code (new code) section 21.03.105 is hereby created 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:

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- i. 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.
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- ii. A security plan indicating how the applicant will comply with the requirements of municipal and state law and regulation.
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- iii. A waste disposal plan.
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- b. For marijuana cultivation facilities:
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- i. A plan that specifies the methods to be used to prevent the growth of harmful mold.
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- ii. The projected amount of water that will be used.
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- iii. The projected amount of wastewater that will be discharged.
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- iv. A letter from the applicable electric utility stating that the power capacity at the proposed location is sufficient for the intended use.
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- v. An odor control plan indicating how the applicant will comply with the requirements of municipal and state law and regulation.
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- c. For marijuana manufacturing facilities:
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- i. A description of the type of products to be processed and the equipment to be used, including a list of any solvents, gases, chemicals, or other compounds that will be used, kept, or created at the manufacturing facility, the location of such materials, and how such materials will be stored.
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- ii. Certification of a licensed industrial hygienist, as required in subsection 21.05.055B.2.
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- iii. The projected amount of water that will be used.
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- iv. The projected amount of wastewater that will be discharged.

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- d. For marijuana retail sales establishment:
  - 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

- 1 adjacent properties, in terms of its scale, site design, and  
2 operating characteristics (e.g., hours of operation, traffic  
3 generation, lighting, noise, odor, dust, and other external  
4 impacts).
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- 6 e. The proposed use is appropriately located with respect to  
7 existing and/or planned water supply, power supply, fire  
8 and police protection, wastewater disposal, storm water  
9 disposal, and similar facilities and services.
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- 11 f. Any significant adverse impacts anticipated to result from  
12 the use can and will be mitigated or offset to the  
13 maximum extent feasible.
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- 15 g. The owner/operator of the establishment has no previous  
16 denials or revocations of a marijuana license or special  
17 land use permit, or previous documented violations of  
18 municipal or state law/regulation relating to marijuana  
19 establishments. Alternately, the owner/operator has  
20 provided sufficient evidence of rehabilitation to the  
21 assembly.
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- 23 8. Effect of Denial  
24 An application for approval under this section that has been  
25 denied shall not be accepted for rehearing for a period of one  
26 year following such denial if the director finds the proposed  
27 application is substantially the same as that denied, and if no  
28 substantially new evidence or change in circumstances has  
29 occurred. This paragraph shall not apply to an application filed  
30 under assembly direction at a hearing at which a like application  
31 was considered.
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- 33 9. Modifications
- 34 a. Modifications to the licensed establishment for the  
35 following changes shall be provided to the director, who  
36 shall provide a semi-yearly report to the assembly:
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- 38 i. The first change to the gross square footage of the  
39 licensed area of 10 percent or less.
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- 41 ii. A change in hours of operation.
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- 43 b. Modifications to the licensed establishment for the  
44 following changes shall be considered by the assembly  
45 on the consent agenda, although the assembly may  
46 require a public hearing at its discretion:
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- 48 i. Changes to the gross square footage of the  
49 licensed area of more than 10 percent.
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- ii. Any second or subsequent changes to the gross square footage of any amount.
- 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.

**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 Turnagain Arm Comprehensive Plan;
- ii.   Protects the unique scenic and environmental

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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 required for a use within a zoning district. District-specific standards in chapter 21.04, use-specific standards in chapter 21.05, or design and development standards in chapter 21.07 may require a higher level of

1 review than indicated in the table under specific circumstances. For  
 2 example, many commercial uses are allowed by right ("P" for permitted  
 3 use) in various zoning districts as indicated in the table, but are required  
 4 to be approved by major site plan review if the gross floor area of the  
 5 use is over the size threshold for a large commercial establishment.  
 6 That threshold and requirement for a higher level of review are found in  
 7 subsection 21.07.120A.

8  
 9 1. Permitted Uses

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

15  
 16 2. Administrative Site Plan Review

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

23  
 24 3. Major Site Plan Review

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

31  
 32 4. Conditional Uses

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

39  
 40 5. Special Land Use Permit for Marijuana

41 "T" in a cell indicates that the use requires a special land use  
 42 permit for marijuana in accordance with the procedures of  
 43 section 21.03.105.

44  
 45 6. Multiple Abbreviations

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 47 (Code revisor—renumber remaining sections.)

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 50 (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 21.05.055 is hereby created 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**

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

- a.    Community centers.
- b.    Neighborhood recreation centers.
- c.    Religious assemblies.
- d.    Boarding schools.
- e.    College or university.
- f.    Elementary or middle schools.

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- g. High schools.
- h. Homeless and transient shelters.
- i. Dedicated parks.
- j. Correctional institutions.
- k. Habilitative care facilities.
- l. Correctional community residential centers.

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 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  
A marijuana establishment shall not be allowed on a lot that contains a residential use other than a caretaker's residence.
- 5. 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.
- 6. 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.
- 7. 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.
- 8. 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.

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B. Principal Uses

1. Marijuana Cultivation Facility

a. Definition

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

b. Use-Specific Standards

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

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

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

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.

3. Marijuana Testing Facility

a. Definition

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

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- 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 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.
  - iv. Establishments shall not have accessory drive-throughs.
  - v. No outdoor storage or display of products is permitted.

**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**

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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.)

\*\*\* \*\*

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

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

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.	
<b>MARIJUANA USES</b>			
Marijuana Uses	Marijuana cultivation facility	1 per 1,000 sf gfa	X
	Marijuana manufacturing facility	1 per 400 sf gfa	X
	Marijuana testing facility	1 per 350 sf gfa	
	Marijuana retail sales establishment	1 per 350 sf gfa	X
<b>INDUSTRIAL USES<sup>11</sup></b>			
Industrial Service <sup>11</sup>	Data processing facility	1 per 1,000 sf gfa	X
*** **			

(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) table 21.07-6 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

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,	25,000--40,000	1	B
	40,001--100,000	2	B

TABLE 21.07-6: OFF-STREET LOADING BERTHS			
Use	Aggregate Gross Floor Area (square feet) or Number of Dwelling Units	Berths Required	Type
repair and rental uses	Each additional 100,000 or fraction thereof	1 additional	B
<b>Marijuana Uses</b>			
Marijuana cultivation facility	Same as for general industrial uses		
Marijuana manufacturing facility			
Marijuana retail facility	Same as for general commercial establishments		
<b>Industrial Uses</b>			
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 13.** 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

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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*.

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

**Section 15.** Anchorage Municipal Code (new code) table 21.09-3 is hereby amended as shown in Exhibit D.

**Section 16.** 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.

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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 21.03.180C., *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.)

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

**Section 18.** Anchorage Municipal Code (new code) table 21.10-4 is hereby amended as shown in Exhibit F.

**Section 19.** 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*):

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**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

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."

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

**Section 20.** 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.**

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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

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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, 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.

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J. Abandonment of conditional use.

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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 entirety for a period of one year or longer; or
    - b. The property owner notifies the planning and zoning commission of the abandonment of the conditional use permit. A conditional use shall not be abandoned under this subsection if the result of the abandonment is the creation of a nonconforming land use.
  2. A conditional use granted by the assembly under section 21.50.160, pertaining to uses involving the sale of alcoholic beverages, shall expire:
    - a. 120 days after the transfer of the license to sell alcoholic beverages from the premises has been approved by the alcoholic beverage control board, unless there is an application filed with the alcoholic beverage control board prior to the expiration of the 120-day period.
    - b. If the operation of the business becomes substantially different from the business and operation reviewed by the assembly when the conditional use was granted under section 21.50.160, pertaining to uses involving the sale of alcoholic beverages, the conditional use shall expire unless the licensee applies for and received assembly approval for a modification of the existing conditional use to reflect the change.
    - c. For purposes of subsection b. above, "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. A material change includes, without limitation, an increase in the late-night or early morning hours of operation; a change involving the type of entertainment presented which results in an increase in noise level at the property line; and increase in the parking requirements; a change from a business which meets the requirements of the State of Alaska, Alcoholic Beverage Control Board statutes and regulations for a restaurant designation permit to a business which would not meet such requirements.
  3. A conditional use granted by the assembly under section

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21.50.420, pertaining to marijuana retail sales establishments, 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 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.

(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 21.** 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.**

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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.

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

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

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

\*\*\*    \*\*\*    \*\*\*

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

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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.

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1 (GAAB 21.05.050.W; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No.  
 2 81-67(S); AO No. 81-72; AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-  
 3 91, 10-1-85; AO No. 86-90; AO No. 87-62; AO No. 87-148; AO No. 88-171(S-  
 4 1), 12-31-88; AO No. 88-147(S-2); AO No. 90-124; AO No. 91-1; AO No. 91-  
 5 39; AO No. 91-144; AO No. 92-57; AO No. 95-68(S-1), § 6, 8-8-95; AO No. 98-  
 6 160, § 4, 12-8-98; AO No. 98-188, §§ 1—3, 1-12-99; AO No. 99-62, § 19, 5-  
 7 11-99; AO No. 99-131, § 7, 10-26-99; AO No. 2001-80, § 3, 5-8-01; AO No.  
 8 2005-185(S), § 18, 2-28-06; AO No. 2005-124(S-1A), § 21, 4-18-06; AO No.  
 9 2006-49, § 1, 5-16-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-  
 10 121(S-1), § 5, 10-23-07; AO No. 2008-35(S), § 1, 3-18-08; AO No. 2010-3, §  
 11 4, 3-23-10; AO No. 2010-50(S), § 17, 8-31-10; AO No. 2014-58, § 8, 5-20-14)

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 13 **Section 23.** Anchorage Municipal Code (old code) section 21.40.160 is hereby  
 14 amended as follows (*the remainder of the subsection is not affected and therefore not*  
 15 *set out*):

16  
 17 **21.40.160 B-2B central business district, intermediate.**

18 \*\*\* \*\*

19  
 20 D. Conditional uses. Subject to the requirements of the conditional use  
 21 standards and procedures of this title, the following uses may be  
 22 permitted:

23 \*\*\* \*\*

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

34  
 35 **17. Marijuana retail sales establishment, in accordance with section**  
 36 **21.50.420.**

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 39 (GAAB 21.05.050.Y; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No.  
 40 81-67(S); AO No. 81-72; AO No. 82-49; AO No. 85-173, 3-17-86; AO No. 85-  
 41 91, 10-1-85; AO No. 86-90; AO No. 87-62; AO No. 88-171(S-1), 12-31-88; AO  
 42 No. 88-147(S-2); AO No. 90-124; AO No. 91-1; AO No. 91-39; AO No. 91-144;  
 43 AO No. 92-57; AO No. 95-68(S-1), § 7, 8-8-95; AO No. 96-131(S), § 3, 10-22-  
 44 96; AO No. 98-160, § 5, 12-8-98; AO No. 98-188, §§ 4—6, 1-12-99; AO No.  
 45 99-62, § 20, 5-11-99; AO No. 99-131, § 8, 10-26-99; AO No. 99-149, § 2, 12-  
 46 14-99; AO No. 2001-80, § 4, 5-8-01; AO No. 2005-185(S), § 19, 2-28-06; AO  
 47 No. 2005-124(S-1A), § 22, 4-18-06; AO No. 2006-49, § 2, 5-16-06; AO No.  
 48 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 6, 10-23-07; AO  
 49 No. 2008-35(S), § 2, 3-18-08; AO No. 2009-22, § 8, 4-14-09; AO No. 2010-3, §  
 50 5, 3-23-10; AO No. 2010-50(S), § 18, 8-31-10; AO No. 2014-58, § 9, 5-20-14)

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**Section 24.** 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*):

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

\*\*\*    \*\*\*    \*\*\*

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

\*\*\*    \*\*\*    \*\*\*

20.    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.

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

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(GAAB 21.05.050.X; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No. 81-67(S); 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), § 8, 8-8-95; AO No. 96-131(S), § 3, 10-22-96; AO No. 98-160, § 6, 12-8-98; AO No. 98-173, § 4, 11-3-98; AO No. 98-188, §§ 7—9, 1-12-99; AO No. 99-62, § 21, 5-11-99; AO No. 99-131, § 9, 10-26-99; AO No. 99-149, § 3, 12-14-99; AO No. 2001-80, § 5, 5-8-01; AO No. 2005-185(S), § 20, 2-28-06; AO No. 2005-124(S-1A), § 23, 4-18-06; AO No. 2006-49, § 3, 5-16-06; AO No. 2006-64(S-1), §§ 2, 3, 12-12-06; AO No. 2007-121(S-1), § 7, 10-23-07; AO No. 2008-35(S), § 3, 3-18-08; AO No. 2009-22, § 9, 4-14-09; AO No. 2010-3, § 6, 3-23-10; AO No. 2010-50(S), § 19, 8-31-10; AO No. 2014-58, § 10, 5-20-14)

**Section 25.** Anchorage Municipal Code (old code) is hereby amended to add a new section 21.50.420 as follows:

**21.50.420    Conditional use standards—Marijuana retail sales establishments.**

A.    Licenses required.  
1.    All marijuana establishments are required to obtain a license

- 1 from the state of Alaska Marijuana Control Board, and a license  
2 from the municipality of Anchorage, before beginning operations.  
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- 5 2. If at any time either the state license or the municipal license is  
6 suspended or revoked, the establishment shall immediately  
7 cease operations, until such time as both required licenses and  
8 the land use approval are valid.  
9
- 10 3. Licenses from the municipality of Anchorage shall be issued in  
11 accordance with chapter 10.80.  
12
- 13 B. Conditional use permit required.
- 14 1. All marijuana retail sales establishments are permitted only by  
15 conditional use. Such conditional use shall only require the  
16 approval of the assembly in accordance with section 21.15.030.  
17 The provisions of section 21.15.005 which pertain to notice and  
18 public hearing shall apply.  
19
- 20 2. Notwithstanding the submittal requirements in section 21.15.030,  
21 applications for conditional use permit for a marijuana retail  
22 sales establishment shall contain the following:  
23
- 24 a. A site plan to scale and dimensioned, depicting the  
25 building footprint, parking areas, vehicle circulation and  
26 driveways, pedestrian facilities, lighting, landscaping,  
27 loading facilities, freestanding sign location(s), required  
28 open space, snow storage area or alternative strategy,  
29 trash receptacle location and screening detail, and  
30 fences.
- 31 b. A security plan indicating how the applicant will comply  
32 with the requirements of municipal and state law and  
33 regulation.
- 34 c. A waste disposal plan.
- 35 d. A neighborhood responsibility plan, as required in  
36 subsection C.9. below.  
37
- 38 e. A copy of the application accepted by the state Marijuana  
39 Control Board.  
40
- 41 3. The planning department shall prepare and submit an analysis  
42 of the application with respect to the use-specific standards  
43 below, the conditional use standards of section 21.50.020, and  
44 requirements of title 10, and list of all marijuana retail sales  
45 establishments located within 1,000 feet of the subject location.  
46 The department shall also submit a proposed resolution for  
47 assembly consideration.

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4. In determining whether to grant, deny, or impose conditions on a conditional use permit for a marijuana retail sales establishment, the assembly shall not take into consideration the sum paid by any person to acquire the license or prepare the establishment. The assembly shall only approve the conditional use if the assembly finds the standards of section 21.50.020 have been met. The assembly may impose such special terms and conditions or modify existing conditions governing operation of the establishment as are in the public interest and are consistent with the purposes of this title.
5. An application for conditional use under this section that has been denied by the assembly shall not be accepted for rehearing for a period of one year following such denial, if the municipal clerk finds the proposed conditional use application is substantially the same as that denied by the assembly, and if no substantially new evidence or change in circumstances has occurred. This subsection shall not apply to an application filed under assembly direction at a hearing at which a like application was considered.
6. Conditions of conditional use permits issued under this section are enforceable under the provisions of this title. The assembly may revoke a conditional use permit for failure to comply with conditions of the permit, provided a public hearing with notice to the owner affected is first held.

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

All marijuana retail sales establishments shall meet the following standards:

1. Separation from protected land uses.  
All marijuana establishments shall be located at least 500 feet away from the following uses:
  - a. Community centers.
  - b. Neighborhood recreation centers.
  - c. Religious assemblies.
  - d. Boarding schools.
  - e. College or university.
  - f. Elementary or middle schools.
  - g. High schools.

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- h. Homeless and transient shelters.
- i. Dedicated parks.
- j. Correctional institutions.
- k. Habilitative care facilities.
- l. Correctional community residential centers.

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 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.
- 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.

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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.

9. Hours of operation.  
Establishments shall be closed to the public between the hours of midnight and 8:00 a.m. each day.

10. Signs.  
Signs shall comply with state regulation and chapter 21.47. No temporary signs are permitted.

11. Drive-through prohibited.  
Establishments shall not have drive-throughs.

12. Outdoor storage and display prohibited.  
No outdoor storage or display of products is permitted.

**Section 26.** Anchorage Municipal Code of Regulations section 21.05 is hereby amended as follows (*the remainder of the subsection is not affected and therefore not set out*):

**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)

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21.05.040 Hearing procedures.

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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

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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 27.** This ordinance shall be effective immediately upon passage and approval.

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

\_\_\_\_\_  
Chair of the Assembly

ATTEST:

\_\_\_\_\_  
Municipal Clerk

# AO 2016-XX EXHIBIT A

**TABLE 21.05-1: TABLE OF ALLOWED USES – RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AND OTHER DISTRICTS**  
 P = Permitted Use S = Administrative Site Plan Review C = Conditional Use M = Major Site Plan Review I = Special Land Use Permit for Marijuana  
 For uses allowed in the A, TA, and TR districts, see section 21.04.050.  
 All other uses not shown are prohibited.

Use Category	Use Type	RESIDENTIAL														COMMERCIAL					INDUST.					OTHER					Definitions and Use-Specific Standards
		R-1	R-1A	R-2A	R-2D	R-2M	R-3	R-4	R-4A	R-5	R-6	R-7	R-8	R-9	R-10	B-1A	B-1B	B-3	RO	MC	I-1	I-2	M1	AF	DR	PR	PLI	M			
<b>COMMERCIAL USES</b>																															
****	****																														
Visitor Accommodations	Recreational and vacation camp									C																					
<b>COMMERCIAL MARIJUANA USES</b>																															
	Marijuana cultivation facility																														
	Marijuana manufacturing facility																														
	Marijuana testing facility																														
	Marijuana retail sales establishment <sup>2</sup>																														

**AO 2016-XX  
EXHIBIT B**

**TABLE 21.05-3: TABLE OF ACCESSORY USES – RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AND OTHER DISTRICTS**  
**P = Permitted      S = Administrative Site Plan Review      C = Conditional Use Review**

Accessory Uses	RESIDENTIAL										COMMERCIAL					INDUST.					OTHER					Definitions and Use-Specific Standards			
	R-1	R-1A	R-2A	R-2D	R-2M	R-3	R-4	R-4A	R-5	R-6	R-7	R-8	R-9	R-10	B-1A	B-1B	B-3	RO	MC	L-1	L-2	MI	AF	DR	PR		PLI	W	
...																													
Large domestic animal facility								P/ C	P/ C	P/ C	P/ C	P/ C	P/ C	P/ C															21.05.070D.12.
Marijuana personal cultivation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P								21.05.070D.13.
Outdoor keeping of animals	P	P	P	P	P	P		P	P	P	P	P	P	P										P	P	P			21.05.070D.14(3).
...																													

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







**AO 2016-XX  
EXHIBIT F**

**TABLE 21.10-5: TABLE OF ACCESSORY USES – CHUGIAK-EAGLE RIVER RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AND OTHER DISTRICTS**  
**P = Permitted S = Administrative Site Plan Review C = Conditional Use Review**

Accessory Uses	RESIDENTIAL										COMMER.				INDUS.				OTHER				OV	Definitions and Use-Specific Standards		
	CE-R-1	CE-R-1A	CE-R-2A	CE-R-2D	CE-R-2M	CE-R-3	CE-R-5	CE-R-5A	CE-R-6	CE-R-7	CE-R-8	CE-R-9	CE-R-10	CE-B-3	CE-R-0	CE-R-C	CE-L-1	CE-L-2	CE-L-3	CE-D-R	CE-F-R	CE-F-LI			CE-D-0 <sup>3</sup>	CE-EVO
Large domestic animal facility							P/ C		P/ C	P/ C	P/ C	P/ C		P/ C	P/ C	P/ C		P/ C	P/ C	21.05.070D.12I 3j.						
<u>Marijuana, personal cultivation</u>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	21.05.070D.13.
Outdoor keeping of animals	P	P	P	P	P	P <sup>5</sup>	P	P	P	P	P	P	P								P				P	21.05.070D.14.

<sup>3</sup> For uses allowed in the CE-DO (Downtown Eagle River Overlay District), when the abbreviation of the approval process is followed by a "R", that indicates the use is allowed only in the portion of the overlay district where the underlying zoning is RO. When the abbreviation of the approval process is followed by a "B", that indicates the use is allowed only in the portion of the overlay district where the underlying zoning is B-3. If the abbreviation of the approval process has no suffix, then the use is allowed anywhere in the overlay district. For example, "P-R" means that the use is permitted only in the portion of the overlay district where RO is the underlying district.

<sup>4</sup> Accessory dwelling units in the CE-R-1 and CE-R-1A districts are limited to attached ADUs, which are added to or created within single-family dwellings.

<sup>5</sup> In the CE-R-3 district, outdoor keeping of animals is only permitted accessory to a single-family detached dwelling.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2013-139, § 2, 1-28-14; AO No. 2014-40(S), §§ 2(Att. A), 3, 4, 5-20-14; AO No. 2014-58, § 4(Att. C), 5-20-14)

# MUNICIPALITY OF ANCHORAGE



Community Development Department  
Development Services Division

*Mayor Ethan Berkowitz*

Private Development Section

RECEIVED

DEC 07 2015

MUNICIPALITY OF ANCHORAGE

## MEMORANDUM

### Comments to Planning and Zoning Commission Applications/Petitions

**DATE:** December 07, 2015

**TO:** Erika McConnell, Current Planning Section Supervisor

**FROM:** Brandon Telford, Plan Review Engineer

**SUBJECT:** Comments for Planning and Zoning Commission  
Public Hearing date: December 14, 2015

**Case 2015-0119** – An ordinance amending Anchorage Municipal Code (new code) Title 21 to enable marijuana establishments, and amend Anchorage Municipal code (old code) to enable retail marijuana stores in the downtown (Central Business District).

#### Department Recommendations:

The Private Development Section has no comment on the ordinance.

# MUNICIPALITY OF ANCHORAGE



Planning & Development Services Dept.  
Development Services Division

Building Safety

RECEIVED

DEC 04 2015

MUNICIPALITY OF ANCHORAGE  
BUILDING SAFETY DIVISION

## MEMORANDUM

### Comments to Miscellaneous Planning and Zoning Applications

**DATE:** December 4, 2015

**TO:** Erika McConnell, Manager, Zoning and Platting

**FROM:** Ron Wilde, P.E.  
Building Safety  
343-8371

**SUBJECT:** Comments for Case 2015-0119  
Marijuana amendments

No Comment



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

Department of Transportation and  
Public Facilities

CENTRAL REGION  
Planning & Administrative Services

4111 Aviation Avenue  
P.O. Box 196900  
Anchorage, Alaska 99519-6900  
Main Phone: (907)269-0520  
Fax: (907)269-0521  
Web site: dot.state.ak.us

December 2, 2015

Erika McConnell, Planning Section Manager  
MOA, Community Development Department  
Planning Division  
P.O. Box 196650  
Anchorage, Alaska 99519-6650

RECEIVED  
DEC 04 2015  
PLANNING & ADMINISTRATIVE SERVICES  
CENTRAL REGION

RE: MOA Zoning Review

Dear Ms. McConnell:

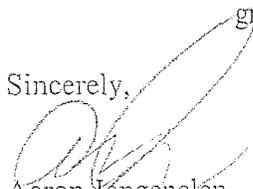
The Alaska Department of Transportation and Public Facilities (DOT&PF), Central Region Planning office has no comments on the following zoning applications:

- 2015-0119: An Ordinance amending Anchorage Municipal Codes re: Special Land Use Permit for Marijuana Establishments
- 2016-0007: An amendment to Title 21. Section 21.09.040C.2.j and table 21.09-2, to add the use "manufacturing, general".

The DOT&PF, Central Region platting review board has a comment on the following zoning applications:

- 2016-0001: Aurora Village Subdivision-Rezone Request
  - No direct access to Northern Lights Boulevard or Benson Boulevard will be granted. This lot can use the public use connection to the east.
- 2016-0002: Aurora Village Subdivision-Amendment to West Anchorage District Plan Land Use Map
  - No direct access to Northern Lights Boulevard or Benson Boulevard will be granted. This lot can use the public use connection to the east.

Sincerely,

  
Aaron Jongenelen  
AMATS Transportation Planner

Cc: Tucker Hurn, Right of Way Agent, Right of Way, DOT&PF  
Morris Beckwith, Right of Way Agent II, Right of Way, DOT&PF  
Scott Thomas, P.E., Regional Traffic Engineer, Traffic Safety and Utilities, DOT&PF  
Jim Amundsen, P.E., Highway Design Group Chief, DOT&PF

Municipality Of Anchorage  
ANCHORAGE WATER & WASTEWATER UTILITY

RECEIVED

DEC 02 2015

MUNICIPALITY OF ANCHORAGE  
PLANNING DIVISION

MEMORANDUM

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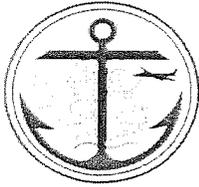
**DATE:** December 2, 2015  
**TO:** Erika McConnell, Supervisor, Planning Section, Planning Division  
**FROM:** Paul Hatcher, Engineering Technician III, AWWU Planning  
**SUBJECT: Zoning Case Comments**  
Hearing Date: December 14, 2015  
Agency Comments Due: December 3, 2015

AWWU has reviewed the materials and has the following comments.

**2015-0119 TITLE 21, An ordinance amending Anchorage Municipal Code (new code) Title 21 to enable marijuana establishments, and amending Anchorage Municipal Code (old code) to enable retail marijuana stores in the downtown (Central Business District), Grid N/A**

1. AWWU has no objection to this ordinance amendment.

If you have any questions pertinent to public water and sanitary sewer, you may call me at 564-2721 or the AWWU planning section at 564-2739, or e-mail [paul.hatcher@awwu.biz](mailto:paul.hatcher@awwu.biz)



# MUNICIPALITY OF ANCHORAGE

Development Services Division

Right of Way Section

Phone: (907) 343-8240 Fax: (907) 343-8250

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**DATE:** November 30, 2015  
**TO:** Planning Division, Current Planning Section  
**THRU:** Jack L. Frost, Jr., Right of Way Supervisor  
**FROM:** Lynn McGee, Senior Plan Reviewer  
**SUBJ:** Comments on Planning and Zoning Commission case(s) for December 14, 2015.

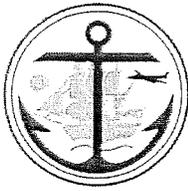
RECEIVED

NOV 30 2015

MUNICIPALITY OF ANCHORAGE  
DEPARTMENT OF PUBLIC WORKS

Right of Way Section has reviewed the following case(s) due December 3, 2015.

**2015-0119 "New" Title 21 Amendment  
(Ordinance amending Title 21 section (Marijuana Establishments in the  
Central Business District)**  
Right of Way Section has no comments at this time.  
Review time 15 minutes.



**MEMORANDUM**

DATE: November 20, 2015

TO: Erika B. McConnell, Current Planning Section Supervisor,  
Zoning and Platting Division

FROM: Kristen A. Langley, Traffic Safety Section Supervisor,  
Traffic Engineering Department

SUBJECT: Traffic Engineering Comments

RECEIVED

NOV 20 2015

MUNICIPALITY OF ANCHORAGE  
ZONING DIVISION

**2015-0119 An Ordinance amending Anchorage Municipal Code (new code) Title 21 to enable marijuana establishments, and amending Anchorage Municipal Code (old code) to enable retail marijuana stores in the downtown (Central Business District).**

Traffic Engineering has previously commented, and has no objections to the proposed amendment.

**“An Act to tax and regulate the production, sale, and use of marijuana.”**

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:**

**\*Section 1.** AS 17 is amended by adding a new chapter to read:

**Chapter 38. The regulation of marijuana**

**Sec. 17.38.010. Purpose and findings.**

(a) In the interest of allowing law enforcement to focus on violent and property crimes, and to enhance individual freedom, the people of the state of Alaska find and declare that the use of marijuana should be legal for persons 21 years of age or older.

(b) In the interest of the health and public safety of our citizenry, the people of the state of Alaska further find and declare that the production and sale of marijuana should be regulated so that:

(1) Individuals will have to show proof of age before purchasing marijuana;

(2) Legitimate, taxpaying business people, and not criminal actors, will conduct sales of marijuana; and

(3) Marijuana sold by regulated businesses will be labeled and subject to additional regulations to ensure that consumers are informed and protected.

(c) The people of the state of Alaska further declare that the provisions of this Act are not intended to diminish the right to privacy as interpreted by the Alaska Supreme Court in *Ravin v. State of Alaska*.

(d) Nothing in this Act proposes or intends to require any individual or entity to engage in any conduct that violates federal law, or exempt any individual or entity from any requirement of federal law, or pose any obstacle to federal enforcement of federal law.

**Sec. 17.38.020. Personal use of marijuana.**

Notwithstanding any other provision of law, except as otherwise provided in this chapter, the following acts, by persons 21 years of age or older, are lawful and shall not be a criminal or civil offense under Alaska law or the law of any political subdivision of Alaska or be a basis for seizure or forfeiture of assets under Alaska law:

(a) Possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;

(b) Possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown;

(c) Transferring one ounce or less of marijuana and up to six immature marijuana plants to a person who is 21 years of age or older without remuneration;

(d) Consumption of marijuana, except that nothing in this chapter shall permit the consumption of marijuana in public; and

(e) Assisting another person who is 21 years of age or older in any of the acts described in paragraphs (a) through (d) of this section.

**Sec. 17.38.030. Restrictions on personal cultivation, penalty.**

(a) The personal cultivation of marijuana described in AS 17.38.020(b) is subject to the following terms:

(1) Marijuana plants shall be cultivated in a location where the plants are not subject to public view without the use of binoculars, aircraft, or other optical aids.

(2) A person who cultivates marijuana must take reasonable precautions to ensure the plants are secure from unauthorized access.

(3) Marijuana cultivation may only occur on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property.

(b) A person who violates this section while otherwise acting in compliance with AS 17.38.020(b) is guilty of a violation punishable by a fine of up to \$750.

**Sec. 17.38.040. Public consumption banned, penalty.**

It is unlawful to consume marijuana in public. A person who violates this section is guilty of a violation punishable by a fine of up to \$100.

**Sec. 17.38.050. False identification, penalty.**

(a) A person who is under 21 years of age may not present or offer to a marijuana establishment or the marijuana establishment's agent or employee any written or oral evidence of age that is false, fraudulent or not actually the person's own, for the purpose of:

(1) Purchasing, attempting to purchase or otherwise procuring or attempting to procure marijuana or marijuana products; or

(2) Gaining access to a marijuana establishment.

(b) A person who violates this section is guilty of a violation punishable by a fine of up to \$400.

**Sec. 17.38.060. Marijuana accessories authorized.**

Notwithstanding any other provision of law, it is lawful and shall not be an offense under Alaska law or the law of any political subdivision of Alaska or be a basis for seizure or forfeiture of assets under Alaska law for persons 21 years of age or older to manufacture, possess, or purchase marijuana accessories, or to distribute or sell marijuana accessories to a person who is 21 years of age or older.

**Sec. 17.38.070. Lawful operation of marijuana-related facilities.**

(a) Notwithstanding any other provision of law, the following acts, when performed by a retail marijuana store with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a retail marijuana store, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

(1) Possessing, displaying, storing, or transporting marijuana or marijuana products, except that marijuana and marijuana products may not be displayed in a manner that is visible to the general public from a public right-of-way;

(2) Delivering or transferring marijuana or marijuana products to a marijuana testing facility;

(3) Receiving marijuana or marijuana products from a marijuana testing facility;

(4) Purchasing marijuana from a marijuana cultivation facility;

(5) Purchasing marijuana or marijuana products from a marijuana product manufacturing facility; and

(6) Delivering, distributing, or selling marijuana or marijuana products to consumers.

(b) Notwithstanding any other provision of law, the following acts, when performed by a marijuana cultivation facility with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a marijuana cultivation

facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

- (1) Cultivating, manufacturing, harvesting, processing, packaging, transporting, displaying, storing, or possessing marijuana;
- (2) Delivering or transferring marijuana to a marijuana testing facility;
- (3) Receiving marijuana from a marijuana testing facility;
- (4) Delivering, distributing, or selling marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store;
- (5) Receiving or purchasing marijuana from a marijuana cultivation facility; and
- (6) Receiving marijuana seeds or immature marijuana plants from a person 21 years of age or older.

(c) Notwithstanding any other provision of law, the following acts, when performed by a marijuana product manufacturing facility with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a marijuana product manufacturing facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

- (1) Packaging, processing, transporting, manufacturing, displaying, or possessing marijuana or marijuana products;
- (2) Delivering or transferring marijuana or marijuana products to a marijuana testing facility;
- (3) Receiving marijuana or marijuana products from a marijuana testing facility;
- (4) Delivering or selling marijuana or marijuana products to a retail marijuana store or a marijuana product manufacturing facility;
- (5) Purchasing marijuana from a marijuana cultivation facility; and
- (6) Purchasing of marijuana or marijuana products from a marijuana product manufacturing facility.

(d) Notwithstanding any other provision of law, the following acts, when performed by a marijuana testing facility with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee or agent of a marijuana testing facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

- (1) Possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring or delivering marijuana;
- (2) Receiving marijuana or marijuana products from a marijuana cultivation facility, a marijuana retail store, a marijuana products manufacturer, or a person 21 years of age or older; and
- (3) Returning marijuana or marijuana products to a marijuana cultivation facility, marijuana retail store, marijuana products manufacturer, or a person 21 years of age or older.

(e) Notwithstanding any other provision of law, it is lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law to lease or otherwise allow the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with paragraphs (a) through (d) of this section.

(f) Nothing in this section prevents the imposition of penalties upon marijuana establishments for violating this chapter or rules adopted by the board or local governments pursuant to this chapter.

(g) The provisions of AS 17.30.020 do not apply to marijuana establishments.

#### **Sec. 17.38.080. Marijuana Control Board.**

At any time, the legislature may create a Marijuana Control Board in the Department of Commerce, Community, and Economic Development or its successor agency to assume the power, duties, and responsibilities delegated to the Alcoholic Beverage Control Board under this chapter.

**Sec. 17.38.090. Rulemaking.**

(a) Not later than nine months after the effective date of this act, the board shall adopt regulations necessary for implementation of this chapter. Such regulations shall not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. Such regulations shall include:

(1) Procedures for the issuance, renewal, suspension, and revocation of a registration to operate a marijuana establishment, with such procedures subject to all requirements of AS 44.62, the Administrative Procedure Act;

(2) A schedule of application, registration and renewal fees, provided, application fees shall not exceed \$5,000, with this upper limit adjusted annually for inflation, unless the board determines a greater fee is necessary to carry out its responsibilities under this chapter;

(3) Qualifications for registration that are directly and demonstrably related to the operation of a marijuana establishment;

(4) Security requirements for marijuana establishments, including for the transportation of marijuana by marijuana establishments;

(5) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under the age of 21;

(6) Labeling requirements for marijuana and marijuana products sold or distributed by a marijuana establishment;

(7) Health and safety regulations and standards for the manufacture of marijuana products and the cultivation of marijuana;

(8) Reasonable restrictions on the advertising and display of marijuana and marijuana products; and

(9) Civil penalties for the failure to comply with regulations made pursuant to this chapter.

(b) In order to ensure that individual privacy is protected, the board shall not require a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age, and a retail marijuana store shall not be required to acquire and record personal information about consumers.

**Sec. 17.38.100. Marijuana establishment registrations.**

(a) Each application or renewal application for a registration to operate a marijuana establishment shall be submitted to the board. A renewal application may be submitted up to 90 days prior to the expiration of the marijuana establishment's registration.

(b) The board shall begin accepting and processing applications to operate marijuana establishments one year after the effective date of this act.

(c) Upon receiving an application or renewal application for a marijuana establishment, the board shall immediately forward a copy of each application and half of the registration application fee to the local regulatory authority for the local government in which the applicant desires to operate the marijuana establishment, unless the local government has not designated a local regulatory authority pursuant to AS 17.38.110(c).

(d) Within 45 to 90 days after receiving an application or renewal application, the board shall issue an annual registration to the applicant unless the board finds the applicant is not in compliance with regulations enacted pursuant to AS 17.38.090 or the board is notified by the relevant local government that the applicant is not in compliance with ordinances and regulations made pursuant to AS 17.38.110 and in effect at the time of application.

(e) If a local government has enacted a numerical limit on the number of marijuana establishments and a greater number of applicants seek registrations, the board shall solicit and consider input from the local regulatory authority as to the local government's preference or preferences for registration.

(f) Upon denial of an application, the board shall notify the applicant in writing of the specific reason for its denial.

(g) Every marijuana establishment registration shall specify the location where the marijuana establishment will operate. A separate registration shall be required for each location at which a marijuana establishment operates.

(h) Marijuana establishments and the books and records maintained and created by marijuana establishments are subject to inspection by the board.

### **Sec. 17.38.110. Local control.**

(a) A local government may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or by a voter initiative.

(b) A local government may enact ordinances or regulations not in conflict with this chapter or with regulations enacted pursuant to this chapter, governing the time, place, manner and number of marijuana establishment operations. A local government may establish civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in such local government.

(c) A local government may designate a local regulatory authority that is responsible for processing applications submitted for a registration to operate a marijuana establishment within the boundaries of the local government. The local government may provide that the local regulatory authority may issue such registrations should the issuance by the local government become necessary because of a failure by the board to adopt regulations pursuant to AS 17.38.090 or to accept or process applications in accordance with AS 17.38.100.

(d) A local government may establish procedures for the issuance, suspension, and revocation of a registration issued by the local government in accordance with (f) of this section or (g) of this section. These procedures shall be subject to all requirements of AS 44.62, the Administrative Procedure Act.

(e) A local government may establish a schedule of annual operating, registration, and application fees for marijuana establishments, provided, the application fee shall only be due if an application is submitted to a local government in accordance with (f) of this section and a registration fee shall only be due if a registration is issued by a local government in accordance with (f) of this section or (g) of this section.

(f) If the board does not issue a registration to an applicant within 90 days of receipt of the application filed in accordance with AS 17.38.100 and does not notify the applicant of the specific, permissible reason for its denial, in writing and within such time period, or if the board has adopted regulations pursuant to AS 17.38.090 and has accepted applications pursuant to AS 17.38.100 but has not issued any registrations by 15 months after the effective date of this act, the applicant may resubmit its application directly to the local regulatory authority, pursuant to (c) of this section, and the local regulatory authority may issue an annual registration to the applicant. If an application is submitted to a local regulatory authority under this paragraph, the board shall forward to the local regulatory authority the application fee paid by the applicant to the board upon request by the local regulatory authority.

(g) If the board does not adopt regulations required by AS 17.38.090, an applicant may submit an application directly to a local regulatory authority after one year after the effective date of this act and the local regulatory authority may issue an annual registration to the applicant.

(h) A local regulatory authority issuing a registration to an applicant shall do so within 90 days of receipt of the submitted or resubmitted application unless the local regulatory authority finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made pursuant to (b) of this section in effect at the time the application is submitted to the local regulatory authority. The local government shall notify the board if an annual registration has been issued to the applicant.

(i) A registration issued by a local government in accordance with (f) of this section or (g) of this section shall have the same force and effect as a registration issued by the board in accordance with AS 17.38.100. The holder of such registration shall not be subject to regulation or enforcement by the board during the term of that registration.

(j) A subsequent or renewed registration may be issued under (f) of this section on an annual basis only upon resubmission to the local government of a new application submitted to the board pursuant to AS 17.38.100.

(k) A subsequent or renewed registration may be issued under (g) of this section on an annual basis if the board has not adopted regulations required by AS 17.38.090 at least 90 days prior to the date upon which such subsequent or renewed registration would be effective or if the board has adopted regulations pursuant to AS 17.38.090 but has not, at least 90 days after the adoption of such regulations, issued registrations pursuant to AS 17.38.100.

(l) Nothing in this section shall limit such relief as may be available to an aggrieved party under AS 44.62, the Administrative Procedure Act.

#### **Sec. 17.38.120. Employers, driving, minors and control of property.**

(a) Nothing in this chapter is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees.

(b) Nothing in this chapter is intended to allow driving under the influence of marijuana or to supersede laws related to driving under the influence of marijuana.

(c) Nothing in this chapter is intended to permit the transfer of marijuana, with or without remuneration, to a person under the age of 21.

(d) Nothing in this chapter shall prohibit a person, employer, school, hospital, recreation or youth center, correction facility, corporation or any other entity who occupies, owns or controls private property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property.

#### **Sec. 17.38.130. Impact on medical marijuana law.**

Nothing in this chapter shall be construed to limit any privileges or rights of a medical marijuana patient or medical marijuana caregiver under AS 17.37.

#### **Sec. 17.38.900. Definitions.**

As used in this chapter unless the context otherwise requires:

(1) "Board" means the Alcoholic Beverage Control Board established by AS 04.06.

(2) "Consumer" means a person 21 years of age or older who purchases marijuana or marijuana products for personal use by persons 21 years of age or older, but not for resale to others.

(3) "Consumption" means the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.

(4) "Local government" means both home rule and general law municipalities, including boroughs and cities of all classes and unified municipalities.

(5) “Local regulatory authority” means the office or entity designated to process marijuana establishment applications by a local government.

(6) “Marijuana” means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. “Marijuana” does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(7) “Marijuana accessories” means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

(8) “Marijuana cultivation facility” means an entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

(9) “Marijuana establishment” means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

(10) “Marijuana product manufacturing facility” means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

(11) “Marijuana products” means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

(12) “Marijuana testing facility” means an entity registered to analyze and certify the safety and potency of marijuana.

(13) “Retail marijuana store” means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

(14) “Unreasonably impracticable” means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

\*Sec. 2. AS 43 is amended by adding a new chapter to read:

## **Chapter 61. Excise tax on marijuana**

### **Sec. 43.61.010. Marijuana tax.**

(a) An excise tax is imposed on the sale or transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. Every marijuana cultivation facility shall pay an excise tax at the rate of \$50 per ounce, or proportionate part thereof, on marijuana that is sold or transferred from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility.

(b) The department may exempt certain parts of the marijuana plant from the excise tax described in (a) of this section or may establish a rate lower than \$50 per ounce for certain parts of the marijuana plant.

**Sec. 43.61.020. Monthly Statement and Payments.**

(a) Each marijuana cultivation facility shall send a statement by mail or electronically to the department on or before the last day of each calendar month. The statement must contain an account of the amount of marijuana sold or transferred to retail marijuana stores and marijuana product manufacturing facilities in the state during the preceding month, setting out

- (1) the total number of ounces, including fractional ounces sold or transferred;
- (2) the names and Alaska address of each buyer and transferee; and
- (3) the weight of marijuana sold or transferred to the respective buyers or transferees.

(b) The marijuana cultivation facility shall pay monthly to the department, all taxes, computed at the rates prescribed in this chapter, on the respective total quantities of the marijuana sold or transferred during the preceding month. The monthly return shall be filed and the tax paid on or before the last day of each month to cover the preceding month.

**Sec. 43.61.030. Administration and Enforcement of Tax.**

(a) Delinquent payments under this chapter shall subject the marijuana cultivation facility to civil penalties under AS 43.05.220.

(b) If a marijuana cultivation facility fails to pay the tax to the state the marijuana cultivation facility's registration may be revoked in accordance with procedures established under AS 17.38.090(a)(1).

**\*Sec. 3.** The provisions of this Act are independent and severable, and, except where otherwise indicated in the text, shall supersede conflicting statutes, local charter, ordinance, or resolution, and other state and local provisions. If any provision of this Act, or the application thereof to any person or circumstance, is found to be invalid or unconstitutional, the remainder of this Act shall not be affected and shall be given effect to the fullest extent possible.