

Municipal Clerk's Office

Amended and Approved

Date: 02/09/2016

Notice of Reconsideration, 02/10/2016

Amended and Approved

Date: 02/23/2016

Submitted by: Chair of the Assembly at the

Request of the Mayor

Prepared by: Planning Department

For reading: January 12, 2016

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

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

11

12 (Planning and Zoning Commission Case 2015-0119)

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

16

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**

29

30

\*\*\* \*\*

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
<u>Marijuana—Special Land Use Permit</u>	<u>21.03.105</u>	<u>D-H</u>						<u>R</u>
Master Plan, Institutional	21.03.110 A.	D-H	R-H					R

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

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

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

Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
---------	-------	-----	-----	----	------	-----	----

\*\*\*    \*\*\*    \*\*\*

**KEY TO ABBREVIATIONS:**  
 ASBLY = Anchorage Assembly  
 PZC = Planning and Zoning Commission  
 PB = Platting Board

ZBEA = Zoning Board of Examiners and Appeals  
 BOA = Board of Adjustment  
 UDC = Urban Design Commission  
 MS = Municipal Staff

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

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

**21.02.090    Assembly**

A.    Decision-Making Authority

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

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

\*\*\*    \*\*\*    \*\*\*

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

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

**21.03.020    Common Procedures**

\*\*\*    \*\*\*    \*\*\*

C.    Community Meetings

\*\*\*    \*\*\*    \*\*\*

2.    Applicability

a.    Types of Applications

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37

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.

\*\*\*      \*\*\*      \*\*\*

4. Notice of Community Meeting

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

\*\*\*      \*\*\*      \*\*\*

H. Notice

\*\*\*      \*\*\*      \*\*\*

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	Written (Mailed)	Notice Required		
			Published	Posted	Community Council
***      ***      ***					
Conditional Uses	21.03.080	✓	✓	✓	✓
<u>Marijuana—Special Land Use Permit</u>	<u>21.03.105</u>	✓	✓	✓	✓
Master Plan, Area	21.09.030E.	✓	✓	✓	✓
***      ***      ***					

38  
39

1  
2 **Section 4.** Anchorage Municipal Code (new code) is amended by adding new  
3 section 21.03.105 to read as follows:  
4

5 **21.03.105 Marijuana—Special Land Use Permit**  
6

7 A. Purpose

8 This section governs the review and approval process for land use  
9 approvals associated with marijuana establishments, where this  
10 approval process is indicated in table 21.05-1.  
11

12 B. Applicability

13 Land uses requiring a special land use permit for marijuana are  
14 identified in table 21.05-1, *Table of Allowed Uses*, table 21.05-3, *Table*  
15 *of Allowed Accessory Uses*, table 21.09-1, *Table of Allowed Uses*  
16 *(Girdwood)*, table 21.09-2, *Table of Accessory Uses (Girdwood)*, table  
17 21.10-4, *Table of Allowed Uses (Chugiak-Eagle River)*, and table 21.10-  
18 5, *Table of Accessory Uses (Chugiak-Eagle River)*.  
19

20 C. Application and Review Procedure  
21

22 1. Initiation

23 An application shall be initiated by the owner(s) of the subject  
24 property, or shall include a letter of authorization (with original  
25 signature) from the owner(s) of the subject property stating their  
26 non-objection to the application.  
27

28 2. Community Meeting

29 A community meeting is required in accordance with subsection  
30 21.03.020C.  
31

32 3. Application Submittal

33 Applications for a municipal marijuana license and a special land  
34 use permit for marijuana shall be submitted to the  
35 municipality~~[clerk's office]~~ on a form provided by the  
36 municipality~~[clerk's office]~~, after application to the state  
37 marijuana control board has been accepted. Applications shall  
38 contain the information required in title 10, and the following:  
39

40 a. For all marijuana establishments:

41  
42 i. A site plan to scale and dimensioned, depicting the  
43 building footprint, parking areas, vehicle circulation  
44 and driveways, pedestrian facilities, lighting,  
45 landscaping, loading facilities, freestanding sign  
46 location(s), required open space, snow storage  
47 area or alternative strategy, trash receptacle  
48 location and screening detail, and fences.  
49

50 ii. A security plan indicating how the applicant will  
51 comply with the requirements of municipal and  
52 state law and regulation.

- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52
- iii. A waste disposal plan.
  - b. For marijuana cultivation facilities:
    - i. A plan that specifies the methods to be used to prevent the growth of harmful mold.
    - ii. The projected amount of water that will be used.
    - iii. The projected amount of wastewater that will be discharged.
    - iv. A letter from the applicable electric utility stating that the power capacity at the proposed location is sufficient for the intended use.
    - v. An odor control plan indicating how the applicant will comply with the requirements of municipal and state law and regulation.
  - c. For marijuana manufacturing facilities:
    - 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.
    - ii. Certification of an an[-licensed] industrial hygienist or a professional engineer, as required in subsection 21.05.055B.2.
    - iii. The projected amount of water that will be used.
    - iv. The projected amount of wastewater that will be discharged.
    - v. “Industrial hygienist” as used in this section, shall mean an individual who meets the definition for “industrial hygienist” set forth in Alaska Statute 45.50.477(a). “Professional engineer” as used in this section, shall mean an individual who meets the definition for “professional engineer” set forth in Alaska Statute 08.48.341.
  - d. For marijuana retail sales establishment:
    - i. A neighborhood responsibility plan, as required in

subsection 21.05.055B.4.

1  
2  
3 4. Public Notice

4 Notice shall be provided in accordance with section 21.03.020H.

5  
6 5. Departmental Review

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

14  
15 6. Assembly Action

16  
17 a. The special land use permit for marijuana shall be  
18 considered by the assembly by resolution.

19  
20 b. After holding a public hearing, the assembly shall approve  
21 or deny the application. In considering action, the  
22 assembly shall apply the criteria set forth in subsection  
23 C.7. below. The conditions of approval shall include, at a  
24 minimum, operation of the business in compliance with all  
25 the plans and information made part of the application.

26  
27 c. The assembly shall not take into consideration the sum  
28 paid by any person to acquire the license for which a  
29 permit is requested.

30  
31 7. Approval Criteria

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

35  
36 a. The proposed use is consistent with the comprehensive  
37 plan, all applicable provisions of this title, and applicable  
38 state regulations.

39  
40 b. The proposed use is consistent with the purpose and  
41 intent of the zoning district in which it is located, including  
42 any district-specific standards set forth in chapter 21.04.

43  
44 c. The proposed use is consistent with applicable use-  
45 specific standards set forth in chapter 21.05.

46  
47 d. The proposed use is compatible with uses allowed on  
48 adjacent properties, in terms of its scale, site design, and  
49 operating characteristics (e.g., hours of operation, traffic  
50 generation, lighting, noise, odor, dust, and other external  
51 impacts).

52

- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25
- e. The proposed use is appropriately located with respect to existing and/or planned water supply, power supply, fire and police protection, wastewater disposal, storm water disposal, and similar facilities and services.
  - f. Any significant adverse impacts anticipated to result from the use can and will be mitigated or offset to the maximum extent feasible.
  - g. The owner/operator of the establishment has no previous denials or revocations of a marijuana license or special land use permit, or previous documented violations of municipal or state law/regulation relating to marijuana establishments. Alternately, the owner/operator has provided sufficient evidence of rehabilitation to the assembly.
  - h. The owner/operator of a marijuana retail establishment has meaningfully engaged in neighborhood responsibility planning with residents and other neighborhood businesses to mitigate concerns such as odor, parking, and security. Neighborhood responsibility planning guidelines may be included in AMC chapter 2.40.

26  
27  
28  
29  
30  
31  
32  
33  
34  
35

8. Effect of Denial

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

36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52

9. Modifications

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52

- 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. For the purpose of this section, "substantially different" means any material change in the operation of the business which could result in significant impact on the use and enjoyment of adjacent properties by property owners or occupants.

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

**21.04.060 Other Districts**

\*\*\*      \*\*\*      \*\*\*

G. TA: Turnagain Arm District

2. District-Specific Standards

\*\*\*      \*\*\*      \*\*\*

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 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.

\*\*\*      \*\*\*      \*\*\*

(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

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

9  
 10 1. Permitted Uses

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

16  
 17 2. Administrative Site Plan Review

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

24  
 25 3. Major Site Plan Review

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

32  
 33 4. Conditional Uses

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

40  
 41 5. Special Land Use Permit for Marijuana

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

45  
 46 6. Multiple Abbreviations

47  
 48 (Code reviser—renumber remaining sections.)

49  
 50 \*\*\* \*\*

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

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

**21.05.020      Generally Applicable Use Standards**

\*\*\*      \*\*\*      \*\*\*

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

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

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

\*\*\*      \*\*\*      \*\*\*

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

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

**21.05.055****Marijuana Establishments**

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

**A. Use-Specific Standards Applicable to All Marijuana Establishments****1. Licenses Required**

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

**2. Separation from Protected Land Uses**

- a. **All marijuana establishments shall be located at least 500 [1,000] feet away from the following uses except in zoning districts established for Chugiak-Eagle River in chapter 21.10, marijuana establishments shall be located at least 1000 feet away from all the following uses, including the uses specific to Chugiak-Eagle River listed below: [Note to Reviser: Changes in the preceding text underlined and italicized in bold per Amendment #4 & #10; changes italicized and underlined not in bold, per Amendment #19A; other changes below are taken from the S-Version or as indicated in notes the code reviser.]**
  - i. Boarding school.**
  - ii. College or university.**
  - iii. Elementary or middle school.**
  - iv. High school.**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

**v. Playground.**

**vi. A housing facility owned by a public housing authority.**

**vii. Child care center.** (Note to Reviser: Per Amendment #12)

**viii. Homeless and transient shelters.** [Note to Reviser: Per Amendment #13]

**ix. Habilitative care facilities.** [Note to Reviser: Per Amendment #13]

**x. Dedicated Parks in zoning districts established for Chugiak-Eagle River in chapter 21.10.** [Note to Reviser: Per Amendment #18B]

**xi. A residential district established for Chugiak-Eagle River in section 21.10.040.** [Note to Reviser: Per Amendment #11]

**xii. The Harry J. McDonald Memorial Center.** [Note to Reviser: Per Amendment #17]

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

**i[a-]** Community centers.

**ii[b-]** Neighborhood recreation centers.

**iii[c-]** Religious assemblies.

**[d. Boarding schools.**

**e. College or university.**

**f. Elementary or middle schools.**

**g. High schools.**

**h. Homeless and transient shelters.**

**i. Dedicated parks.]**

**iv[j-]** Correctional institutions.

**v. Athletic fields.**

**[k. Habilitative care facilities.]**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

vi[+] Correctional community residential centers.

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

**d.** *Except in zoning districts established for Chugiak-Eagle River in chapter 21. 10 (new code), this distance shall be measured by the shortest **practicable** pedestrian route from the entrance to the proposed marijuana establishment to: [Note to Reviser: Changes in the preceding text **underlined in bold italics** per Amendment #4; changes *underlined and italicized not in bold*, per this Amendment #19A. Changes below *underlined and italicized not in bold*, per this Amendment #19A. **Other changes not italicized** taken from S-Version.]*

*i.* the closest lot line of a school, community center, neighborhood recreation center, *correctional institution; [-to]*

*ii.* **the edge of a playground or athletic field (including abutting parking lots), and any dedicated park, ; and**

*ii.* the *closest lot line [main-public-entrance]* of any other use listed above.

**e.** *In zoning districts established for Chugiak-Eagle River in chapter 21. 10, this distance shall be measured “as the crow flies” from the closest side of the proposed marijuana establishment to:*

*i.* *the closest lot line of a school, community center, neighborhood recreation center, correctional institution, or residential district;*

*ii.* *the edge of a playground or athletic field (including abutting parking lots); and*

*iii.* *the closest lot line 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

1 contains a residential use other than a caretaker's residence.  
 2

3 5. Inspection of Premises

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

8 6. Ventilation

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

13 7. Public Display of Land Use Approval Conditions

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

20 8. Permanent Structure

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

27 B. Principal Uses

28 1. Marijuana Cultivation Facility

29 a. Definition

30  
 31 A facility that cultivates and harvests marijuana for  
 32 transfer or sale to a marijuana manufacturing facility, a  
 33 marijuana testing facility, or a marijuana retail sales  
 34 establishment.  
 35  
 36  
 37

38 b. Use-Specific Standards

39 i. Marijuana plants shall not be visible from a public  
 40 right-of-way.  
 41

42 ii. All cultivation facilities shall be organized in orderly  
 43 rows compliant with all building and fire codes.  
 44 Aisles between planting rows shall be included in  
 45 the square footage under cultivation.  
 46

47 iii. Direct retail sales to the general public is  
 48 prohibited.  
 49

50  
 51 **iv. Marijuana cultivation facilities are permitted in**  
 52 **the B-3 district when collocated with and**

attached to a marijuana retail sales establishment.

2. Marijuana Manufacturing Facility

a. Definition

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

b. Use-Specific Standards

i. An[-certified] industrial hygienist or a professional engineer shall attest that:

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

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

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

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

iv. “Industrial hygienist” as used in this section, shall mean an individual who meets the definition for “industrial hygienist” set forth in Alaska Statute 45.50.477(a). “Professional engineer” as used in this section, shall mean an individual who meets the definition for “professional engineer” set forth in Alaska Statute 08.48.341.

3. Marijuana Testing Facility

a. Definition

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

1  
2 b. Use-Specific Standards

3  
4 Direct retail sales to the general public is prohibited.

5  
6 4. Marijuana Retail Sales Establishment

7  
8 a. Definition

9  
10 An establishment that receives marijuana and/or  
11 marijuana products from a marijuana cultivation facility or  
12 a marijuana manufacturing facility, for sale to the public.

13  
14 b. Use-Specific Standards

15  
16 i. ~~Applications for land use approval for a retail~~  
17 ~~sales establishment shall include a~~  
18 ~~neighborhood responsibility plan to~~  
19 ~~demonstrate how the establishment will fulfill~~  
20 ~~its responsibilities to be a good neighbor,~~  
21 ~~including neighborhood outreach, methods for~~  
22 ~~future communication, and dispute resolution.~~

23  
24 ii. Establishments shall be closed to the public  
25 between the hours of midnight and 8:00 a.m. each  
26 day.

27  
28 iii. Signs shall comply with state regulation and  
29 chapter 21.11. No temporary signs are permitted.

30  
31 iiiv. Establishments shall not have accessory drive-  
32 throughs.

33  
34 iv. No outdoor storage or display of products is  
35 permitted.

36  
37 v. Marijuana retail sales establishments are  
38 permitted in the I-2 district when collocated  
39 with and attached to a marijuana cultivation  
40 facility or a marijuana manufacturing facility.

41  
42 vi. Assembly issuance of special land use  
43 permits for marijuana establishments and  
44 the related licensing and regulation of  
45 marijuana establishments under AMC title 10  
46 require engagement by the community  
47 council. The owner/operator of a marijuana  
48 retail sales establishment is encouraged to  
49 engage in neighborhood responsibility  
50 planning with neighborhood residents and  
51 other businesses. Where available, this may  
52 be done in conjunction with the community

**council. A copy of an informal memorandum of understanding (mou) outlining the elements confirmed with the community council may be included with the application. In the absence of a mou, the applicant may include applicant’s report on the status of community engagement efforts.**

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

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

**21.05.070 Accessory Uses and Structures**

\*\*\* \*\*

**13. Marijuana, Personal Cultivation**

**a. Definition**

Cultivating marijuana in compliance with AS 17.38.020 and AS 17.38.030 and this section.

**b. Use-Specific Standard**

Personal cultivation of marijuana shall not occur on any premise licensed as a commercial marijuana establishment pursuant to section 21.03.105 and 21.05.055.

**14. Outdoor Keeping of Animals**

*(Code reviser—renumber remaining sections.)*

\*\*\* \*\*

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

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

**21.07.090 Off-street parking and loading.**

\*\*\* \*\*

TABLE 21.07-4: OFF-STREET PARKING SPACES REQUIRED ("du" = dwelling unit; "sf" = square feet; "gfa" = gross floor area)			
Use Category	Use Type	Minimum Spaces Required	See Loading Subsection 21.07.090G.
***	***	***	
Visitor Accommodations	Recreational and vacation camp	See subsection 21.07.090E.3.	
<b>MARIJUANA USES</b>			

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

\*\*\* \*\*

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

\*\*\* \*\*

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO No. 2014-58, § 3(Att. B), 5-20-14)

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

**21.09.050 Use Regulations**

**A. Table of Allowed Uses**

1  
2

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14

1  
2 Table 21.09-2 below lists the uses allowed within the base zoning  
3 districts in Girdwood. If a use is not defined in this chapter, the definition  
4 in chapter 21.05 shall apply. When the uses in a district are determined  
5 through a master planning process per subsections 21.09.030E. and F.,  
6 this table shall not apply.  
7

8 1. Explanation of Table Abbreviations

9 a. *Permitted Uses*

10 "P" in a cell indicates the use is allowed by right in the  
11 respective zoning district. Permitted uses are subject to  
12 all other applicable regulations of title 21.  
13

14 b. *Administrative Site Plan Review*

15 "S" in a cell indicates the use requires administrative site  
16 plan review in the respective zoning district in accordance  
17 with the procedures of subsection 21.03.180B.,  
18 *Administrative Site Plan Review*.  
19

20 c. *Major Site Plan Review*

21 "M" in a cell indicates the use requires major site plan  
22 review in the respective zoning district[. UNTIL THE  
23 PROVISIONS FOR MAJOR SITE PLAN REVIEW ARE  
24 ADOPTED, AN "M" IN A CELL INDICATES THAT THE  
25 USE IS ALLOWED ONLY IF REVIEWED AND  
26 APPROVED AS A CONDITIONAL USE] in accordance  
27 with the procedures of subsection 21.03.180C., *Major*  
28 *Site Plan Review*.  
29

30 d. *Conditional Uses*

31 "C" in a cell indicates, in the respective zoning district, the  
32 use is allowed only if reviewed and approved as a  
33 conditional use in accordance with the procedures of  
34 section 21.03.080, *Conditional Uses*. Throughout title 21,  
35 the term "conditionally allowed" means approval through  
36 the conditional use process is required.  
37

38 e. *Special Land Use Permit for Marijuana*

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

43 f. O (with # inside)

44 A circle with a number inside references uses with a  
45 different review and approval procedure, depending on  
46 the gross floor area of the building, or of the largest  
47 building in a multi-building development. The explanation  
48 of the sizes and associated review and approval  
49 procedures is located at the end of the table.  
50

51 (Code reviser—re-letter remaining sections.)  
52

\*\*\*      \*\*\*      \*\*\*

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

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

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

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

**21.10.050      Use Regulations**

A.      Table of Allowed Uses

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

1.      Explanation of Table Abbreviations

a.      *Permitted Uses*

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

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 reviser—re-letter remaining sections.)*

\*\*\*      \*\*\*      \*\*\*

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

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

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

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

**21.14.040      Definitions**

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

\*\*\*      \*\*\*      \*\*\*

**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."

\*\*\*      \*\*\*      \*\*\*

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

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

**21.15.030      Approval of site plans and conditional uses.**

\*\*\*      \*\*\*      \*\*\*

1 G. Modification of final approval.

- 2
- 3 1. Except as provided in G.4. below, t[T]he authority that approved  
4 a conditional use or site plan may, upon application by the  
5 petitioner, modify the conditional use or site plan:
- 6
- 7 a. When changed conditions cause the conditional use or  
8 site plan no longer to conform to the standards for its  
9 approval.
- 10
- 11 b. To implement a different development or operational plan  
12 conforming to the standards for its approval.
- 13
- 14 2. Upon the filing of an application for a modification of a  
15 conditional use and after a review of the application to determine  
16 that it is complete and meets the requirements of this title, the  
17 department staff shall place the requested modification on the  
18 consent agenda of either the planning and zoning commission or  
19 the assembly, as the case may be, for approval, denial, further  
20 inquiry, public hearing and, thereafter, action by the respective  
21 body.
- 22
- 23 a. The planning and zoning commission or the Assembly,  
24 upon an express finding that the proposed modifications  
25 will have a significant effect on the surrounding  
26 neighborhood or on owners or occupiers of adjacent  
27 property that is the subject of the modification application,  
28 may determine that a public hearing is necessary. In such  
29 event the hearing shall be scheduled as soon as  
30 practicable after the matter first comes before the body  
31 for conclusion.
- 32
- 33 3. The modification application shall be considered as an  
34 application for final approval under subsection F of this section  
35 and therefore subject to the provisions of that section;
- 36
- 37 4. For modifications of approved marijuana retail sales  
38 establishments, the Planning Director shall be notified of  
39 modifications to hours of operations and of the first change to the  
40 licensed area of no more than 10 percent of the total area. All  
41 other modifications from the previous approval shall be  
42 processed in accordance with G.2. above.

43

44 H. Appeals.

- 45
- 46 1. Except as provided in subsection 2 of this subsection, an appeal  
47 from a planning and zoning commission decision regarding an  
48 application for conditional use or site plan approval under this  
49 section shall be brought in accordance with sections 21.30.010  
50 through 21.30.100
- 51
- 52 2. Any person adversely affected by a decision of the director or his

1 designee on an application for final approval of a site plan may  
 2 appeal to the planning and zoning commission within 15 days of  
 3 the decision. The appeal shall be scheduled before the  
 4 commission within 45 days. The commission shall exercise its  
 5 independent judgment in deciding an appeal under this  
 6 subsection.

7  
 8 3. Appeals of conditional use permits granted by the assembly shall  
 9 be appealable to the superior court under the Alaska Rules of  
 10 Court and/or laws of the State of Alaska.

11 \*\*\* \*\*

12 J. Abandonment of conditional use.

13  
 14  
 15 1. Except for conditional use permits granted by the assembly  
 16 under section 21.50.160, pertaining to uses involving the sale of  
 17 alcoholic beverages, or under section 21.50.420, pertaining to  
 18 marijuana retail sales establishments, an otherwise lawful  
 19 conditional use permit shall expire if:

20  
 21 a. For any reason the conditional use is abandoned in its  
 22 entirety for a period of one year or longer; or

23  
 24 b. The property owner notifies the planning and zoning  
 25 commission of the abandonment of the conditional use  
 26 permit. A conditional use shall not be abandoned under  
 27 this subsection if the result of the abandonment is the  
 28 creation of a nonconforming land use.

29  
 30 2. A conditional use granted by the assembly under section  
 31 21.50.160, pertaining to uses involving the sale of alcoholic  
 32 beverages, shall expire:

33  
 34 a. 120 days after the transfer of the license to sell alcoholic  
 35 beverages from the premises has been approved by the  
 36 alcoholic beverage control board, unless there is an  
 37 application filed with the alcoholic beverage control board  
 38 prior to the expiration of the 120-day period.

39  
 40 b. If the operation of the business becomes substantially  
 41 different from the business and operation reviewed by the  
 42 assembly when the conditional use was granted under  
 43 section 21.50.160, pertaining to uses involving the sale of  
 44 alcoholic beverages, the conditional use shall expire  
 45 unless the licensee applies for and received assembly  
 46 approval for a modification of the existing conditional use  
 47 to reflect the change.

48  
 49 c. For purposes of subsection b. above, "substantially  
 50 different" means any material change in the operation of  
 51 the business which could result in significant impact on  
 52 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 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. For the purpose of this section, "substantially different" means any material change in the operation of the business which could result in significant impact on the use and enjoyment of adjacent properties by property owners or occupants.

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

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

**21.35.020 Definitions and rules of construction.**

\*\*\*      \*\*\*      \*\*\*

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

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

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

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

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

\*\*\*      \*\*\*      \*\*\*

(GAAB 21.05.020; AO No. 77-355; AO No. 78-16; AO No. 78-28; AO No. 78-171; AO No. 78-231; AO No. 79-214; AO No. 80-42; AO No. 81-67(S); AO No. 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 21.** 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:

\*\*\*      \*\*\*      \*\*\*

16. Tower, high voltage transmission, exceeding maximum average tower height of 70 feet. Towers exceeding the maximum average

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

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

\*\*\* \*\*

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

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

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

\*\*\* \*\*

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

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

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

\*\*\* \*\*

(GAAB 21.05.050.Y; AO No. 77-20; AO No. 77-355; AO No. 80-57; AO No. 81-

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

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

\*\*\*      \*\*\*      \*\*\*

(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)

1 **Section 24.** Anchorage Municipal Code (old code) is hereby amended to add a new  
2 section 21.50.420 as follows:  
3

4 **21.50.420 Conditional use standards—Marijuana retail sales**  
5 **establishments.**  
6

7 A. Licenses required.

- 8 1. All marijuana establishments are required to obtain a license  
9 from the state of Alaska Marijuana Control Board, and a license  
10 from the municipality of Anchorage, before beginning operations.  
11  
12 2. If at any time either the state license or the municipal license is  
13 suspended or revoked, the establishment shall immediately  
14 cease operations, until such time as both required licenses and  
15 the land use approval are valid.  
16  
17 3. Licenses from the municipality of Anchorage shall be issued in  
18 accordance with chapter 10.80.  
19

20 B. Conditional use permit required.  
21

- 22 1. All marijuana retail sales establishments are permitted only by  
23 conditional use. Such conditional use shall only require the  
24 approval of the assembly in accordance with section 21.15.030.  
25 The provisions of section 21.15.005 which pertain to notice and  
26 public hearing shall apply.  
27  
28 2. Notwithstanding the submittal requirements in section 21.15.030,  
29 applications for conditional use permit for a marijuana retail sales  
30 establishment shall contain the following:  
31  
32 a. A site plan to scale and dimensioned, depicting the  
33 building footprint, parking areas, vehicle circulation and  
34 driveways, pedestrian facilities, lighting, landscaping,  
35 loading facilities, freestanding sign location(s), required  
36 open space, snow storage area or alternative strategy,  
37 trash receptacle location and screening detail, and  
38 fences.  
39  
40 b. A security plan indicating how the applicant will comply  
41 with the requirements of municipal and state law and  
42 regulation.  
43  
44 c. A waste disposal plan.  
45  
46 d. A neighborhood responsibility plan, as required in  
47 subsection C.9. below.  
48  
49 e. A copy of the application accepted by the state Marijuana  
50 Control Board.  
51  
52 3. The planning department shall prepare and submit an analysis of

1 the application with respect to the use-specific standards below,  
2 the conditional use standards of section 21.50.020, and  
3 requirements of title 10, and list of all marijuana retail sales  
4 establishments located within 1,000 feet of the subject location.  
5 The department shall also submit a proposed resolution for  
6 assembly consideration.  
7

- 8 4. In determining whether to grant, deny, or impose conditions  
9 on a conditional use permit for a marijuana retail sales  
10 establishment, the assembly shall not take into consideration  
11 the sum paid by any person to acquire the license or prepare  
12 the establishment. The assembly shall only approve the  
13 conditional use if the assembly finds the standards of section  
14 21.50.020 have been met, **as well as considering if the**  
15 **owner/operator of a marijuana retail establishment has**  
16 **meaningfully engaged in neighborhood responsibility**  
17 **planning with residents and other neighborhood**  
18 **businesses to mitigate concerns such as odor, parking,**  
19 **and security. Neighborhood responsibility planning**  
20 **guidelines may be included in AMC chapter 2.40.** The  
21 assembly may impose such special terms and conditions or  
22 modify existing conditions governing operation of the  
23 establishment as are in the public interest and are consistent  
24 with the purposes of this title.  
25
- 26 5. An application for conditional use under this section that has  
27 been denied by the assembly shall not be accepted for rehearing  
28 for a period of one year following such denial, if the municipal  
29 clerk finds the proposed conditional use application is  
30 substantially the same as that denied by the assembly, and if no  
31 substantially new evidence or change in circumstances has  
32 occurred. This subsection shall not apply to an application filed  
33 under assembly direction at a hearing at which a like application  
34 was considered.  
35
- 36 6. Conditions of conditional use permits issued under this section  
37 are enforceable under the provisions of this title. The assembly  
38 may revoke a conditional use permit for failure to comply with  
39 conditions of the permit, provided a public hearing with notice to  
40 the owner affected is first held.  
41

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

43  
44 All marijuana retail sales establishments shall meet the following  
45 standards:  
46

- 47 1. Separation from protected land uses.  
48

- 49 a. **All marijuana establishments shall be located at least**  
50 **500 feet away from the following uses:**  
51

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52

- i. Boarding school.
- ii. College or university.
- iii. Elementary or middle school.
- iv. High school.
- v. Playground.
- vi. A housing facility owned by a public housing authority.
- vii. Child care center.
- viii. Homeless and transient shelters.
- ix. Habilitative care facilities.
- x. Dedicated Parks in zoning districts established for Chugiak-Eagle River in chapter 21.10.

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

- i[a-] Community centers.
- ii[b-] Neighborhood recreation centers.
- iii[e-] Religious assemblies.
- ~~d. Boarding schools.~~
- ~~e. College or university.~~
- ~~f. Elementary or middle schools.~~
- ~~g. High schools.~~
- ~~h. Homeless and transient shelters.~~
- ~~i. Dedicated parks.]~~
- iv[j-] Correctional institutions.
- v. Athletic fields.
- ~~[k. Habilitative care facilities.]~~
- vi[l-] Correctional community residential centers.

c. All marijuana establishments shall be located at least

100 feet away from video arcades with at least 10 arcade machines.

d. This distance shall be measured by the shortest ***practicable*** pedestrian route from the entrance to the proposed marijuana establishment to: [Note to Reviser: Changes in the preceding text ***underlined in bold italics*** per Amendment #4; changes ***underlined in italics and not in bold***, per this Amendment #19A; changes below ***underlined in italics and not in bold***, per this Amendment #19A. Other changes taken from S-Version.]

i. the closest lot line of a school, community center, neighborhood recreation center, ***correctional institution; [~~to~~]***

ii. ***the edge of a playground or athletic field (including abutting parking lots), and any dedicated park,*** and

iii. the ***closest lot line [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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

a valid certificate of zoning compliance. No marijuana establishment shall be authorized in a vehicle or trailer, a mobile food unit, a standalone intermodal shipping container (connex unit), or a temporary structure.

**8. Neighborhood responsibility planning.**

Assembly issuance of special land use permits for marijuana establishments and the related licensing and regulation of marijuana establishments under AMC title 10 require engagement by the community council. The owner/operator of a marijuana retail sales establishment is encouraged to engage in neighborhood responsibility planning with neighborhood residents and other businesses. Where available, this may be done in conjunction with the community council. A copy of an informal memorandum of understanding (mou) outlining the elements confirmed with the community council may be included with the application. In the absence of a mou, the applicant may include applicant's report on the status of community engagement efforts.

~~[8. Neighborhood responsibility plan.~~

~~Applications for land use approval for a retail sales establishment shall include a neighborhood responsibility plan to demonstrate how the establishment will fulfill its responsibilities to be a good neighbor, including neighborhood outreach, methods for future communication, and dispute resolution.]~~

~~9[8][9]. Hours of operation.~~

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

~~10[9][40]. Signs.~~

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

~~11[0][4]. Drive-through prohibited.~~

~~Establishments shall not have drive-throughs.~~

~~12[1][2]. Outdoor storage and display prohibited.~~

~~No outdoor storage or display of products is permitted.~~

**Section 25.** Anchorage Municipal Code of Regulations chapter 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.**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53

A. The provisions of this chapter shall apply to hearings before the assembly for the revocation of conditional use permits or special land use permits for alcohol under title 21 for the retail sale of alcoholic beverages, and for conditional use permits or special land use permits for marijuana under title 21 for marijuana establishments.

B. The provisions of this chapter shall be in addition to those procedures established by Anchorage Municipal Code chapter 3.60.

(AR No. 98-251(S), § 1, 8-25-98)

\*\*\*      \*\*\*      \*\*\*

**21.05.040 Hearing procedures.**

\*\*\*      \*\*\*      \*\*\*

E. Ruling or decision. After closing statements are completed, the chair may entertain a motion to act upon the conditional use permit or special land use permit which motion must be seconded to be considered by the assembly.

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

(AR No. 98-251(S), § 1, 8-25-98)

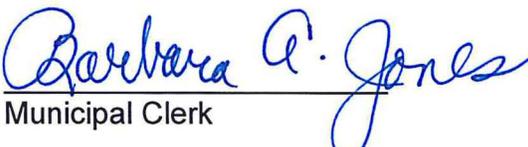
\*\*\*      \*\*\*      \*\*\*

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

PASSED AND APPROVED by the Anchorage Assembly this 23rd day of February, 2016

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

ATTEST:

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

**MUNICIPALITY OF ANCHORAGE**  
**Summary of Economic Effects -- General Government**

AO Number: 2016-3(S) Title: **AN ORDINANCE ADDING A NEW ANCHORAGE MUNICIPAL CODE (NEW CODE) SECTION 21.03.105, MARIJUANA—SPECIAL LAND USE PERMIT; ADDING A NEW SECTION 21.05.055, MARIJUANA ESTABLISHMENTS; AMENDING VARIOUS OTHER SECTIONS OF NEW CODE TO ACCOMMODATE MARIJUANA ESTABLISHMENTS; ADDING A NEW ANCHORAGE MUNICIPAL CODE (OLD CODE) SECTION 21.50.420, CONDITIONAL USE STANDARDS—MARIJUANA; AMENDING THE CONDITIONAL USE PROCESS, DEFINITIONS, AND THE B-2A, B-2B, AND B-2C DISTRICTS TO ALLOW RETAIL MARIJUANA ESTABLISHMENTS IN THE CENTRAL BUSINESS DISTRICT; AND AMENDING ANCHORAGE MUNICIPAL CODE OF REGULATIONS CHAPTER 21.05.**

Sponsor: Mayor  
 Preparing Agency: Planning Department  
 Others Impacted:

<b>CHANGES IN EXPENDITURES AND REVENUES:</b>		(In Thousands of Dollars)				
	FY16	FY17	FY18	FY19	FY20	
<b>Operating Expenditures</b>						
1000 Personal Services						
2000 Non-Labor						
3900 Contributions						
4000 Debt Service						
<b>TOTAL DIRECT COSTS:</b>	\$ -	\$ -	\$ -	\$ -	\$ -	
Add: 6000 Charges from Others						
Less: 7000 Charges to Others						
<b>FUNCTION COST:</b>	\$ -	\$ -	\$ -	\$ -	\$ -	
<b>REVENUES:</b>						
<b>CAPITAL:</b>						
<b>POSITIONS: FT/PT and Temp</b>						

**PUBLIC SECTOR ECONOMIC EFFECTS:**

The number of applications anticipated for land use approval for a marijuana establishment is unknown. The staffing levels needed to process the anticipated applications is also unknown. The Treasury Division prepared a ballot measure proposing a marijuana sales tax, calculated to offset the potential public sector economic effects of municipal regulation of commercial

**PRIVATE SECTOR ECONOMIC EFFECTS:**

Approval of this ordinance places requirements on private entities wishing to develop a commercial marijuana establishment; however, no private expenditures are required of the general public.

Prepared by: Erika McConnell Telephone: 343-7917

**MUNICIPALITY OF ANCHORAGE**  
**ASSEMBLY MEMORANDUM**

No. AM 26-2016

Meeting Date: January 12, 2016

1 **From:** MAYOR

2  
3 **Subject:** AN ORDINANCE ADDING A NEW ANCHORAGE MUNICIPAL  
4 CODE (NEW CODE) SECTION 21.03.105, MARIJUANA—SPECIAL  
5 LAND USE PERMIT; ADDING A NEW SECTION 21.05.055,  
6 MARIJUANA ESTABLISHMENTS; AMENDING VARIOUS OTHER  
7 SECTIONS OF NEW CODE TO ACCOMMODATE MARIJUANA  
8 ESTABLISHMENTS; ADDING A NEW ANCHORAGE MUNICIPAL  
9 CODE (OLD CODE) SECTION 21.50.420, CONDITIONAL USE  
10 STANDARDS—MARIJUANA; AMENDING THE CONDITIONAL USE  
11 PROCESS, DEFINITIONS, AND THE B-2A, B-2B, AND B-2C  
12 DISTRICTS TO ALLOW RETAIL MARIJUANA ESTABLISHMENTS  
13 IN THE CENTRAL BUSINESS DISTRICT; AND AMENDING  
14 ANCHORAGE MUNICIPAL CODE OF REGULATIONS CHAPTER  
15 21.05.

16  
17 The S version of AO 2016-3 reflects the recommendations of the Planning and  
18 Zoning Commission, as described below.

19  
20 On December 14, 2015, the Planning and Zoning Commission held a public  
21 hearing on this ordinance. Thirteen people testified. After closing the public  
22 hearing, the Commission postponed deliberations to their January 4, 2016,  
23 meeting and directed staff to prepare a number of amendments for the  
24 Commission to consider. On January 4, 2016, the Commission recommended  
25 13 amendments.

26  
27 Several of the amendments changed the zoning districts in which various  
28 marijuana uses would be allowed:

- 29
- 30 • Marijuana retail stores are removed from the RO, B-1A, and B-1B
  - 31 districts.
  - 32 • Marijuana retail stores are permitted in the I-1 district.
  - 33 • Marijuana retail stores are permitted in the I-2 district, if they are
  - 34 collocated with and attached to a marijuana cultivation or manufacturing
  - 35 facility.
  - 36 • Marijuana cultivation facilities are permitted in the B-3 district, if collocated
  - 37 with and attached to a marijuana retail store.
  - 38 • Marijuana manufacturing facilities are permitted in the B-3 district, if they
  - 39 only manufacture edibles and do not have extraction processes or other
  - 40 types of manufacturing.

1  
2 The Commission was attempting to maximize the locations in which marijuana  
3 businesses could operate, as well as facilitate collocation of different license  
4 types, such as cultivation and sales. Additionally, the Commission felt that small  
5 neighborhood commercial areas that were often located within residential areas  
6 (B-1A and B-1B) were not appropriate for marijuana stores, and that the RO  
7 district, which does not allow any stand-alone retail uses and also often contains  
8 residential uses, was not an appropriate district for marijuana stores.

9  
10 An amendment to the Community Meeting section recommends that if an  
11 applicant does not choose to use the community council meeting for their  
12 community meeting, then the applicant must notify the community council of the  
13 separate community meeting. This was consistent with the intent of giving  
14 community councils early notification of potential new marijuana businesses  
15 within their council area.

16  
17 The protected land uses and required separation distances (buffers) are  
18 changed to be consistent only with state regulations and federal drug free zones.  
19 No additional protected land uses or buffer distances are proposed. The  
20 Commission was concerned about adequate land area for the establishment of  
21 marijuana uses. Please see the attached supplemental staff report dated  
22 January 4, 2016 for an explanation of the federal drug free zone.

23  
24 The requirement for marijuana retail stores to develop a neighborhood  
25 responsibility plan was eliminated. The Commission had concerns about the fact  
26 that no other type of business is required to develop such a plan and that the  
27 ordinance is not clear enough regarding what is expected. They felt that issues  
28 and problems can be addressed during the yearly license renewal by the  
29 Assembly.

30  
31 The Commission also drafted a resolution to send to the State of Alaska  
32 Marijuana Control Board requesting that the MCB provide guidance on  
33 acceptable pesticide use for cultivation facilities, in order to prevent harmful  
34 pesticide contamination of flower/bud and edibles that has been found in some  
35 other states.

36  
37 There were a few other minor amendments to provide clarity.

38  
39 **THE ADMINISTRATION RECOMMENDS APPROVAL.**

40  
41 Prepared by: Erika McConnell, Planning Department  
42 Approved by: Hal H. Hart, Planning Director  
43 Concur: Christopher M. Schutte, Director,  
44 Office of Economic and Community Development  
45 Concur Lance Wilber, Director, Office of Management and  
46 Budget  
47 Concur: William D. Falsey, Municipal Attorney  
48 Concur: Michael K. Abbott, Municipal Manager  
49 Respectfully submitted: Ethan A. Berkowitz, Mayor

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11

Attachments: PZC Resolution 2016-001--DRAFT  
PZC Supplementary Staff Report dated January 4, 2016  
Draft 2 Maps showing Protected Land Uses and Buffers from  
State Regulation  
Draft 3 Maps showing Protected Land Uses and Buffers from  
State Regulation and Federal Drug Free Zones  
PZC Resolution 2016-002—DRAFT  
PZC Meeting Minutes—December 14, 2015

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

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

(Case 2015-0119)

---

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

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

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

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

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

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

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

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

---

Hal H. Hart, AICP  
Secretary

---

Tyler P. Robinson  
Chair

ebm

(Case 2015-0119)

# *Municipality of Anchorage*

## MEMORANDUM

---

**DATE:** January 4, 2016

**TO:** Planning and Zoning Commission

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

**SUBJECT:** Case 2015-0119: Supplementary Memo re Ordinance Amending Title 21 to Establish Marijuana Uses

At the December 14, 2015, Planning and Zoning Commission meeting, the Commission opened and closed the public hearing on this case. Commissioners then identified 15 potential amendments, requesting staff to draft amendment language for the Commission to consider at its January 4, 2016, meeting. The list of 15 amendments is Attachment 1. Additionally, staff is proposing four more amendments, shown in Attachment 2.

A significant issue has come to light since the December 14 meeting, regarding federal drug free zones. The state of Alaska drug free zone is on or within 500 feet of school grounds, at or within 500 feet of a recreation or youth center, or on a school bus. (A.S. 11.71.040)

The federal drug free zone applies to "within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility." (21 U.S.C. §860)

While most states and local governments who have adopted regulations relating to marijuana establishments have established separation requirements that mirror the federal drug free zone, the Marijuana Control Board used the state's drug free zone distance. This both leaves a great deal of risk with the applicant, and also creates risk that the federal government could sue the municipality. The Cole memo (Attachment 3), which provides guidance from the Department of Justice to all United States Attorneys regarding marijuana enforcement under the Controlled Substances Act,

Planning and Zoning Commission  
Case 2015-0119  
January 4, 2016  
Page 2 of 2

states, "If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms." (emphasis added)

The Municipal Attorney recommends that the land use regulations implement the federal drug free zone as shown in Amendment 17 in Attachment 2.

Revised maps have been prepared. Draft 2 of the maps show the separation distances as required by the state of Alaska regulations. Draft 3 of the maps show the separation distances required by both state regulations and federal law.

**ATTACHMENT 1**

**Case 2015-0119: An ordinance amending Title 21 to establish marijuana uses**

**Amendments requested by PZC for consideration**

**January 4, 2016**

No.	Proposed by	Location	Amendment	Staff Comments
1.	Staff (in 12/14/15 staff report)	Exhibit A	Delete the "T" for marijuana retail sales establishment in the RO district.	Recommend either 1. and 2., or 1.a. Staff recommends 1 and 2.
1.a.	Spring	21.04.030E.2.a.	<p>a. <b>Limitations on Retail Uses</b>            Any uses allowed by table 21.05-1 and categorized by this code as "entertainment and recreation," "personal services, repair, and rental," or "food and beverage service," or "commercial marijuana uses" may be located in the RO district only within a building that also contains office, health services, and/or residential uses, except that "food and beverage kiosk" may be located in a stand-alone building on those lots with frontage on a street of collector classification or higher. Such commercial uses shall be limited to 25 percent of the gross floor area of the building. No outdoor storage or merchandise display is allowed.</p>	<p>Recommend either 1. and 2., or 1.a. Staff recommends 1 and 2.</p> <p>Note: this amendment would require a change to the ordinance title.</p>
2.	Staff (in 12/14/15 staff report)	Exhibit E	Delete the "T" for marijuana retail sales establishment in the CE-RO district.	Recommend either 1. and 2., or 1.a. Staff recommends 1 and 2.
3.	Staff (in 12/14/15 staff laid-on-the-table amendments)	21.05.020B.2.	<p>2. <b>Minimum Distance from Certain Uses</b>            Except as provided in subsection B.3. below, permitted principal uses, accessory uses, or conditional uses that are prohibited by law from having minors or unaccompanied minors on the premises for reasons other than <u>existence of marijuana or sale of liquor</u>, shall be located so that all portions of the lot on which the use is located shall be 1,000 feet or more from the property line of:</p>	Staff supports this amendment.
4.	Staff (in 12/14/15 staff laid-on-the-table amendments)	21.03.105C.10.c. Page 8	<p>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 modification of the existing approval to reflect the change. <u>For the purpose of this section, "substantially different" means any material change in the operation of the business which could result in significant impact on the use and enjoyment of adjacent properties by property owners or occupants.</u></p>	Staff supports this amendment.

No.	Proposed by	Location	Amendment	Staff Comments
5.	Staff (in 12/14/15 staff laid-on-the-table amendments)	Exhibit E	For "Marijuana testing facility" and "Marijuana retail sales establishment" in the CE-DO district, change "T" to "T-B."	Staff supports this amendment.
6.	Spring	21.03.020C.4.	4. Notice of Community Meeting The applicant shall provide written (mailed) notice of the community meeting in accordance with subsection H.3. below, at least 21 days prior to the community meeting. <u>If the applicant does not use the community council meeting as the community meeting, the applicant shall provide community council notice in accordance with subsection H.6. below.</u>	Staff supports this amendment.  Note: this amendment requires a change to the ordinance title.
7.	Spring	Exhibits A and E  21.05.055B.1.b.iv. Page 13	Add marijuana cultivation facility to the R-6, R-7, R-8, R-9, and R-10 districts  <u>b.iv. Only cultivation facilities with a "limited marijuana cultivation facility" license from the state of Alaska are permitted in the residential districts indicated in tables 21.05-1 and 21.10-4.</u>	Staff presumes the intent was to allow the limited cultivation facility (max 500 square feet)  Staff does not support allowing cultivation in residential districts at this time. Concerns include access to marijuana by children, community safety, and inspection/enforcement resources.  Water/Wastewater: A Mother Jones article, quoting the Press Democrat, states, "researchers estimate each plant consumes six gallons of water a day" although the article is focused on outdoor cultivation, and the amount of water varies by size of plant. Estimates from industry websites are significantly lower.  Wastewater from home cultivation in large lot districts would generally go into on-site septic systems.
8.	Spring	Exhibits A and E	Allow retail stores in the I-1 district	Staff is neutral on this amendment.

No.	Proposed by	Location	Amendment	Staff Comments
9.	Spring	Exhibits A and E  21.05.055B.4b.vi. Page 14	Allow retail stores in the I-2 district with a footnote referencing the standard below  <u>b.vi. A marijuana retail sales establishment is permitted in the I-2 district when collocated with and attached to a marijuana cultivation facility or a marijuana manufacturing facility.</u>	Is it ok if the retail store and the cultivation or manufacturing facility are in separate buildings on the same lot? Can they be in separate parts of a large mall? As written, the answer is no.  Staff is neutral on this amendment, but does not support stand-alone retail stores in the I-2 district.
10.	Spring	21.05.055A.2. Pages 11-12	2. Separation from Protected Land Uses <u>a.</u> All marijuana establishments shall be located at least 500 feet away from the following uses:  <u>ia.</u> Community centers. <u>iiib.</u> Neighborhood recreation centers. <u>iiie.</u> Religious assemblies. <u>ivd.</u> Boarding schools. <u>ve.</u> College or university. <u>vif.</u> Elementary or middle schools. <u>viig.</u> High schools. <del>h. Homeless and transient shelters.</del> <del>i. Dedicated parks.</del> <u>viii.</u> Correctional institutions. <u>ix.</u> Athletic fields. <u>x.</u> Playgrounds. <del>k. Habilitative care facilities.</del> <u>xli.</u> Correctional community residential centers.  <u>b.</u> This distance shall be measured by the shortest pedestrian route from the entrance to the proposed marijuana establishment to the closest lot line of a school, community center, neighborhood recreation center, to the edge of a playground or athletic field (including abutting parking lots), and any dedicated park, and to the main public entrance of any other use listed above.	The direction from PZC was to remove those uses that are not protected land uses in the state regulations.  The state definition of "recreation or youth center" is A building, structure, athletic playing field, or playground (A) run or created by a local government or the state to provide athletic, recreational, or leisure activities for minors; or (B) operated by a public or private organization licensed to provide shelter, training, or guidance for persons under 21 years of age  Thus "dedicated parks" are removed, but "athletic fields" and "playgrounds" are added.  The state definition of "correctional facility" is, "a prison, jail, camp, farm, half-way house, group home, or other placement designated by the commissioner for the custody, care, and discipline of prisoners." CCRCs are retained.  See Attachment 2, additional amendments proposed by staff, for staff recommendation.
11.	Spring	21.03.105C.7.h. Page 7	<u>h. The concentration of marijuana facilities within a 1,000 foot radius of the proposed facility is appropriate.</u>	Staff is concerned that without a density standard, the application of this provision will be arbitrary and capricious.

No.	Proposed by	Location	Amendment	Staff Comments
12.	Spring	21.03.105C.3.b.vi. Page 5	vi. <u>A list of pesticides, herbicides, and/or fungicides that may be used in the facility.</u>	Staff is neutral on this amendment.
13.	Spring	Exhibits A and E  21.05.055B.2.b.iii. Page 13	Allow manufacturing facilities in the B-3 district with a footnote referencing the standard below  iii. <u>Marijuana manufacturing facilities that only manufacture edibles, but do not have extraction facilities or other types of manufacturing, are permitted in the B-3 district.</u>	Staff does not support this amendment. Commercial food production is an industrial use, allowed in the B-3 by conditional use, possibly due to the fact that some facilities already exist in B-3 zoning. Marijuana manufacturing facilities that create edibles will not be open to the public and will thus be more industrial than not. And the land use impacts of a manufacturing facility that creates edibles versus a manufacturing facility that creates other types of marijuana products do not seem different—separating out edible production does not seem justified.
14.	Robinson	Exhibits A and E	Allow cultivation facilities in the B-3 district	Staff does not support this amendment. Commercial horticulture is a permitted use in the B-3 district. The types of uses that fall under “commercial horticulture” include greenhouses and nurseries. Oftentimes (although not always), these types of businesses are open to the public—Anchorage residents can walk inside and select products to purchase. However, marijuana cultivation facilities are not open to the public, and the plants are not permitted to be visible to the public. Thus these establishments will operate in warehouses—large industrial buildings with no windows and no public access. These facilities will not add vibrancy to the commercial areas of Anchorage. Consider the Mat-Maid building on Northern Lights/Benson just west of Arctic: is the community desirous of more windowless warehouse buildings in Midtown? In our town centers?

No.	Proposed by	Location	Amendment	Staff Comments
15.	Robinson	21.05.055B.4.b.i. Page 14	<p data-bbox="569 172 1373 196">Neighborhood Responsibility Plan</p> <p data-bbox="569 237 1373 415">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. <u>The neighborhood responsibility plan shall, at a minimum, address the following:</u></p> <p data-bbox="667 448 1373 537"><u>(A) Establishing a point of contact, whose name and contact information shall be clearly posted on the outside of the store.</u></p> <p data-bbox="667 570 1373 691"><u>(B) A schedule of outreach to the surrounding area (residents and property owners within 500 feet) and/or the community council, to be not less than one contact per year.</u></p> <p data-bbox="667 724 1373 846"><u>(C) A discussion of how problems/issues/disputes brought forward by neighbors will be addressed, such as meeting with the complainant or discussing the issue at a community council meeting.</u></p>	Staff proposes these amendments, to clarify the content of a neighborhood responsibility plan.

**ATTACHMENT 2**

**Case 2015-0119: An ordinance amending Title 21 to establish marijuana uses  
Additional proposed amendments for PZC consideration  
January 4, 2016**

Amendment 16

*At least one Commissioner mentioned removing retail stores as an allowed use in the B-1A and B-1B districts, but this was not in the final list created by the Commission.*

Exhibit A: Remove "Marijuana retail sales establishment" from the B-1A and B-1B zoning districts.

Amendment 17

*This staff proposal relates to new information regarding federal drug free zones—see the staff memo for a full explanation.*

AMC 21.05.055A.2. (Pages 11-12)

2. Separation from Protected Land Uses
  - a. All marijuana establishments shall be located at least 1,000 feet away from the following uses:
    - i. Boarding school.
    - ii. College or university.
    - iii. Elementary or middle school.
    - iv. High school.
    - v. Playground.
    - vi. A housing facility owned by a public housing authority.
  - b. All marijuana establishments shall be located at least 500 feet away from the following uses:
    - ia. Community centers.
    - ii. Neighborhood recreation centers.
    - iii. Religious assemblies.
    - d. ~~Boarding schools.~~
    - e. ~~College or university.~~

f. ~~Elementary or middle schools.~~

g. ~~High schools.~~

h. ~~Homeless and transient shelters.~~

i. ~~Dedicated parks.~~

iv. Correctional institutions.

v. Athletic fields.

k. ~~Habilitative care facilities.~~

vii. Correctional community residential centers.

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

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

#### Amendment 18

*Consider measuring separation distance as lot line to lot line. This will eliminate potential conflicts over "shortest pedestrian route" and provide the most clarity. However, this would have the potential to "punish" an establishment located in a mall, an industrial park, or on another type of large parcel. The state begins measuring at the front door of the marijuana establishment and uses the shortest pedestrian route. The federal drug free zone is measured from the property line of the protected use—if one possesses with intent to distribute or manufactures a controlled substance within the 1,000 foot radius, that is a violation of federal law. It is unclear how this would be applied if a building fell half within and half without the drug free zone.*

AMC 21.05.055A.2. (Page 12)

d. This distance shall be measured from the lot line of ~~by the shortest pedestrian route from the entrance to the proposed marijuana establishment to the edge of a playground or athletic field (including abutting parking lots),~~ or 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.

## Amendment 19

*Recent internal discussions revealed a lack of consistent understanding of the term, "business hours" on page 12. Some took the term to mean municipal business hours, and others assumed the business hours of the facility. Establishments other than stores may not have "business hours," and there may be times when the municipality may need to request an inspection outside of M-F, 8-5. To be consistent with state regulations and the working draft of the licensing ordinance, the following amendment is recommended.*

AMC 21.05.055A.5.

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 at any reasonable time and in a reasonable manner.



The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

## MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole   
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.<sup>1</sup>

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

---

<sup>1</sup> These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman  
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch  
United States Attorney  
Eastern District of New York  
Chair, Attorney General's Advisory Committee

Michele M. Leonhart  
Administrator  
Drug Enforcement Administration

H. Marshall Jarrett  
Director  
Executive Office for United States Attorneys

Ronald T. Hosko  
Assistant Director  
Criminal Investigative Division  
Federal Bureau of Investigation

Joint Base Elmendorf-Richardson

Chugach State Park

Chugach State Park

Anchorage Bowl

# DRAFT 2 Separation Distance from Protected Land Uses for Marijuana Establishments

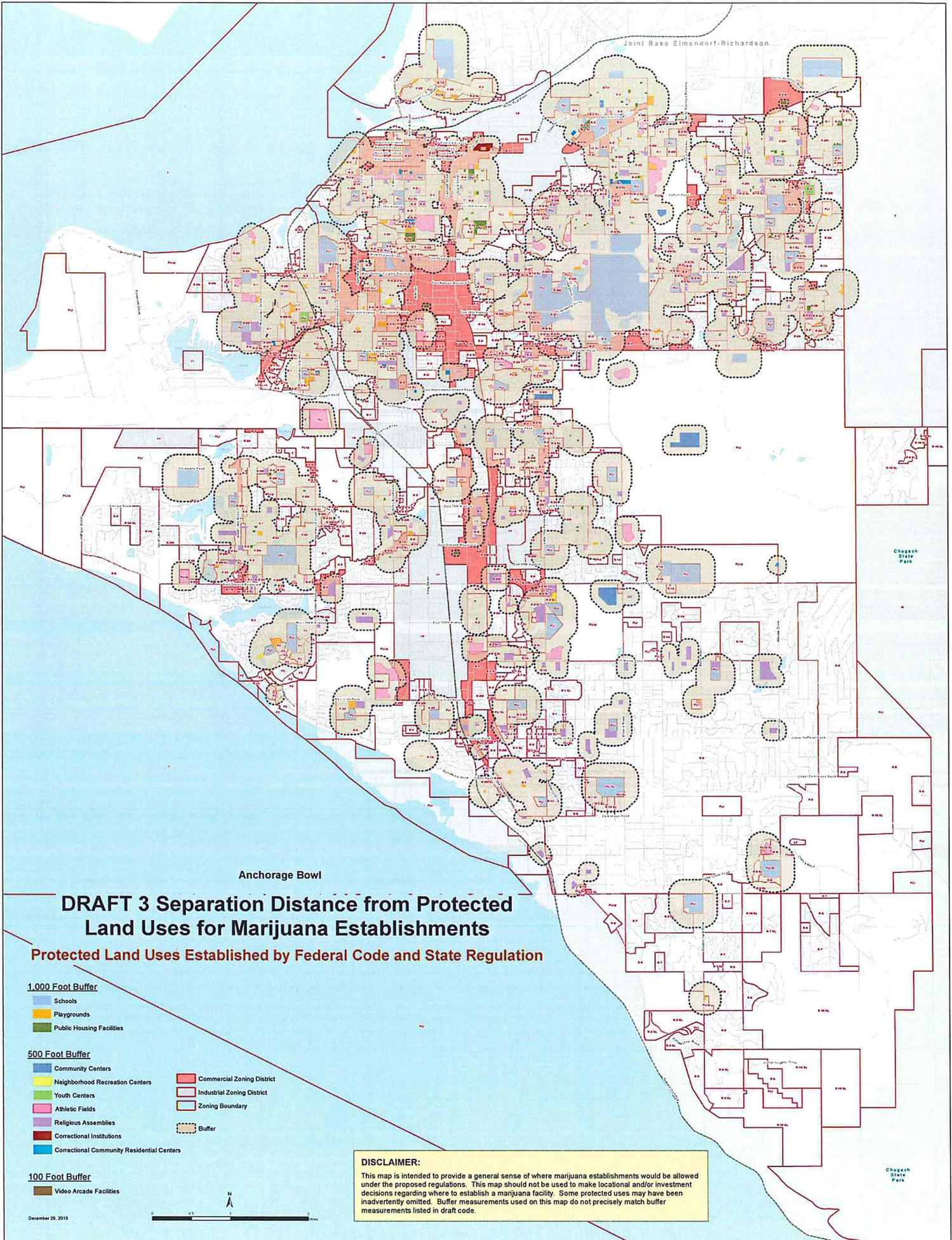
Protected Land Uses Established by State Regulation

**500 Foot Buffer**

- Schools
- Playgrounds
- Athletic Fields
- Youth Centers
- Neighborhood Recreation Centers
- Community Centers
- Religious Assemblies
- Correctional Institutions
- Correctional Community Residential Centers
- Commercial Zoning District
- Industrial Zoning District
- Zoning Boundary
- Buffer

**DISCLAIMER:**  
 This map is intended to provide a general sense of where marijuana establishments would be allowed under the proposed regulations. This map should not be used to make locational and/or investment decisions regarding where to establish a marijuana facility. Some protected uses may have been inadvertently omitted. Buffer measurements used on this map do not precisely match buffer measurements listed in draft code.





Anchorage Bowl

# DRAFT 3 Separation Distance from Protected Land Uses for Marijuana Establishments

## Protected Land Uses Established by Federal Code and State Regulation

### 1,000 Foot Buffer

- Schools
- Playgrounds
- Public Housing Facilities

### 500 Foot Buffer

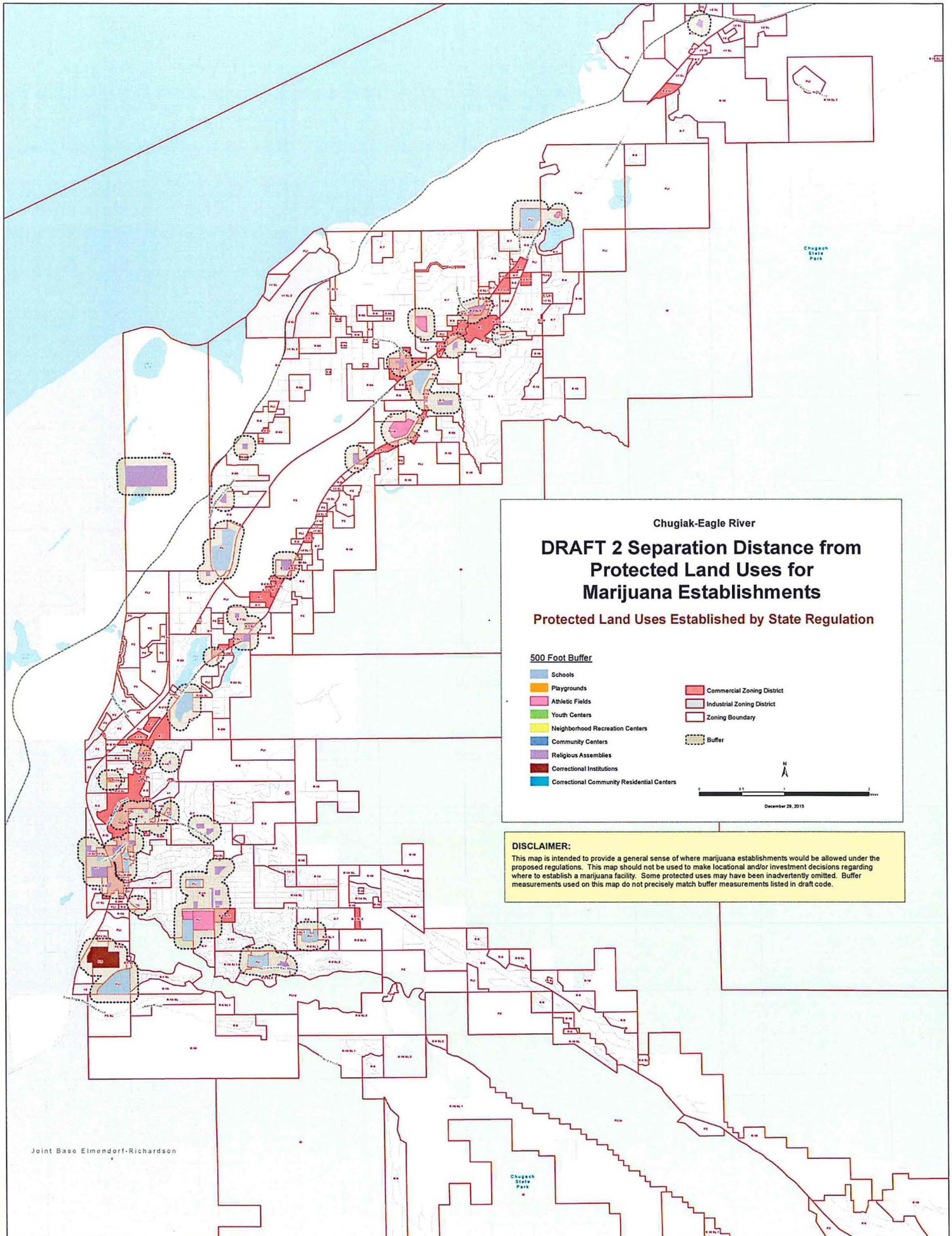
- Community Centers
- Neighborhood Recreation Centers
- Youth Centers
- Athletic Fields
- Religious Assemblies
- Correctional Institutions
- Correctional Community Residential Centers
- Commercial Zoning District
- Industrial Zoning District
- Zoning Boundary
- Buffer

### 100 Foot Buffer

- Video Arcade Facilities



**DISCLAIMER:**  
 This map is intended to provide a general sense of where marijuana establishments would be allowed under the proposed regulations. This map should not be used to make locational and/or investment decisions regarding where to establish a marijuana facility. Some protected uses may have been inadvertently omitted. Buffer measurements used on this map do not precisely match buffer measurements listed in draft code.



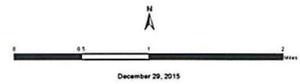
Chugiak-Eagle River

**DRAFT 2 Separation Distance from Protected Land Uses for Marijuana Establishments**

Protected Land Uses Established by State Regulation

500 Foot Buffer

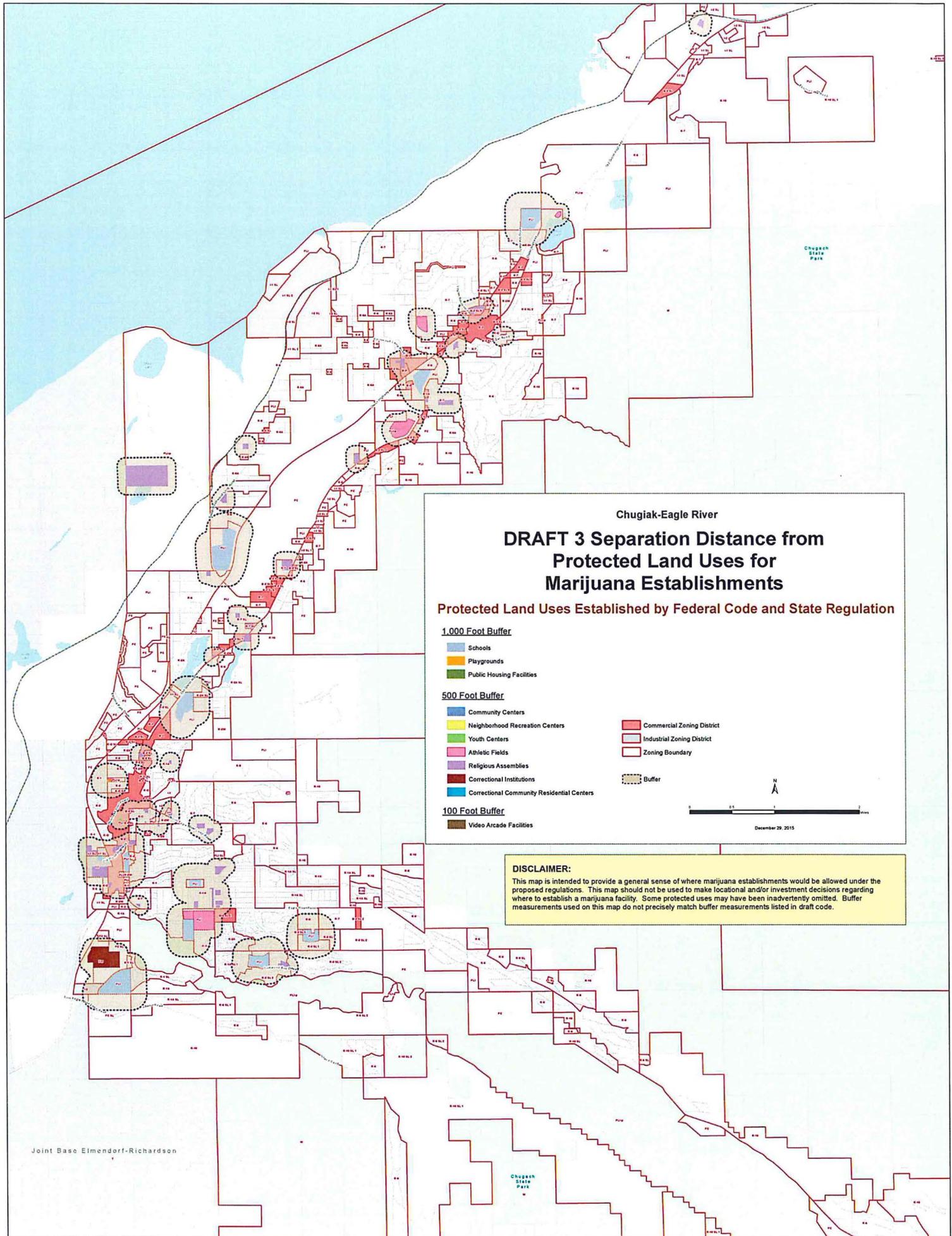
- |  |  |
|--|--|
| <span style="display:inline-block; width:10px; height:10px; background-color:lightblue; border:1px solid black;"></span> Schools                               | <span style="display:inline-block; width:10px; height:10px; background-color:lightcoral; border:1px solid black;"></span> Commercial Zoning District |
| <span style="display:inline-block; width:10px; height:10px; background-color:orange; border:1px solid black;"></span> Playgrounds                              | <span style="display:inline-block; width:10px; height:10px; background-color:lightpink; border:1px solid black;"></span> Industrial Zoning District  |
| <span style="display:inline-block; width:10px; height:10px; background-color:lightpink; border:1px solid black;"></span> Athletic Fields                       | <span style="display:inline-block; width:10px; height:10px; border:1px solid black;"></span> Zoning Boundary   |
| <span style="display:inline-block; width:10px; height:10px; background-color:lightgreen; border:1px solid black;"></span> Youth Centers                        | <span style="display:inline-block; width:10px; height:10px; border:1px dashed black;"></span> Buffer   |
| <span style="display:inline-block; width:10px; height:10px; background-color:yellow; border:1px solid black;"></span> Neighborhood Recreation Centers          |  |
| <span style="display:inline-block; width:10px; height:10px; background-color:lightblue; border:1px solid black;"></span> Community Centers                     |  |
| <span style="display:inline-block; width:10px; height:10px; background-color:purple; border:1px solid black;"></span> Religious Assemblies                     |  |
| <span style="display:inline-block; width:10px; height:10px; background-color:darkred; border:1px solid black;"></span> Correctional Institutions               |  |
| <span style="display:inline-block; width:10px; height:10px; background-color:blue; border:1px solid black;"></span> Correctional Community Residential Centers |  |



**DISCLAIMER:**  
 This map is intended to provide a general sense of where marijuana establishments would be allowed under the proposed regulations. This map should not be used to make locational and/or investment decisions regarding where to establish a marijuana facility. Some protected uses may have been inadvertently omitted. Buffer measurements used on this map do not precisely match buffer measurements listed in draft code.

Joint Base Elmendorf-Richardson

Chugach State Park



Chugiak-Eagle River  
**DRAFT 3 Separation Distance from  
 Protected Land Uses for  
 Marijuana Establishments**

Protected Land Uses Established by Federal Code and State Regulation

**1,000 Foot Buffer**

- Schools
- Playgrounds
- Public Housing Facilities

**500 Foot Buffer**

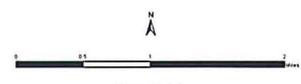
- Community Centers
- Neighborhood Recreation Centers
- Youth Centers
- Athletic Fields
- Religious Assemblies
- Correctional Institutions
- Correctional Community Residential Centers
- Video Arcade Facilities

**100 Foot Buffer**

- Video Arcade Facilities

- Commercial Zoning District
- Industrial Zoning District
- Zoning Boundary

Buffer



December 29, 2015

**DISCLAIMER:**  
 This map is intended to provide a general sense of where marijuana establishments would be allowed under the proposed regulations. This map should not be used to make locational and/or investment decisions regarding where to establish a marijuana facility. Some protected uses may have been inadvertently omitted. Buffer measurements used on this map do not precisely match buffer measurements listed in draft code.

Joint Base Elmendorf-Richardson

Chugach State Park

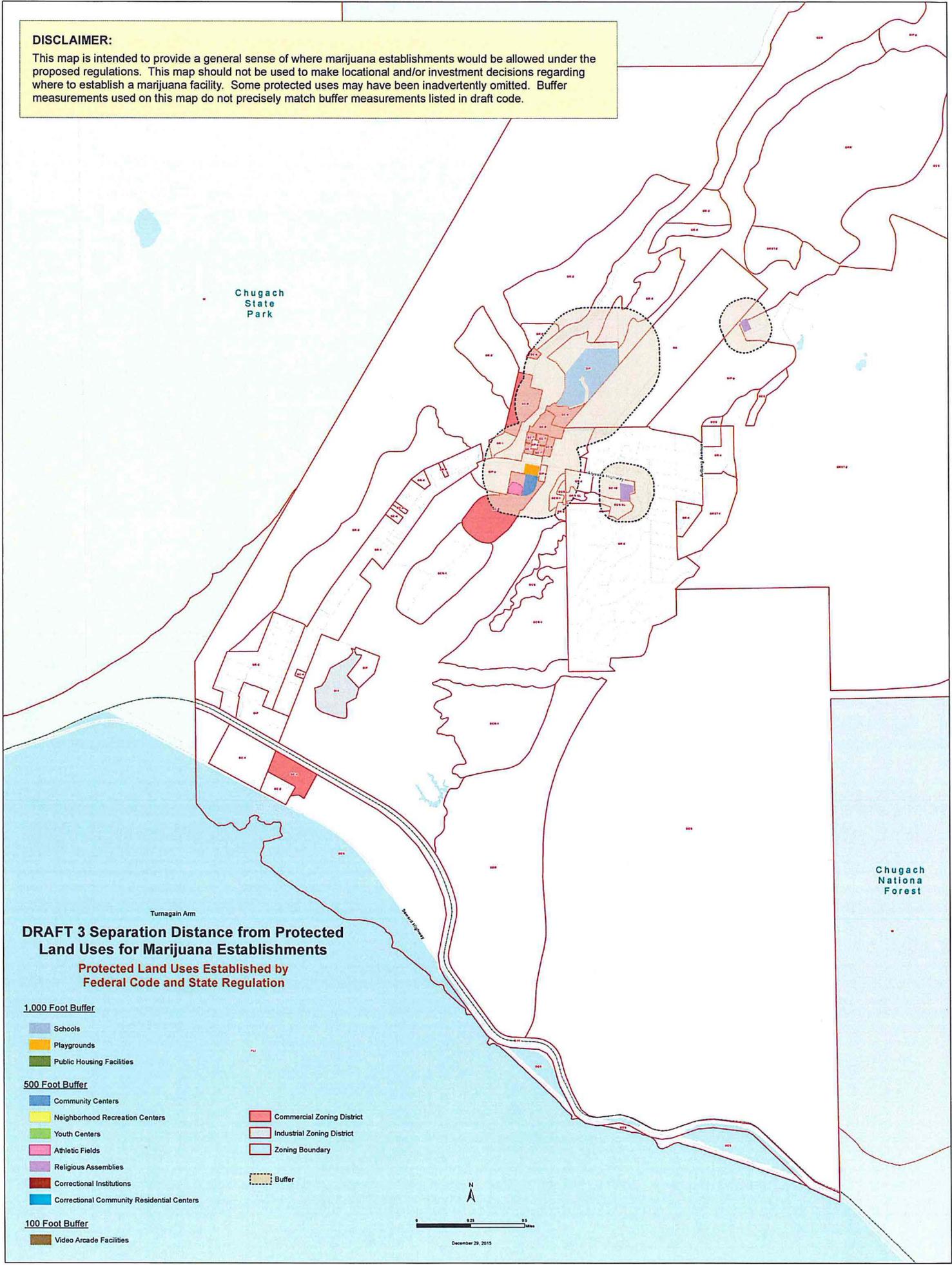
**DISCLAIMER:**

This map is intended to provide a general sense of where marijuana establishments would be allowed under the proposed regulations. This map should not be used to make locational and/or investment decisions regarding where to establish a marijuana facility. Some protected uses may have been inadvertently omitted. Buffer measurements used on this map do not precisely match buffer measurements listed in draft code.



**DISCLAIMER:**

This map is intended to provide a general sense of where marijuana establishments would be allowed under the proposed regulations. This map should not be used to make locational and/or investment decisions regarding where to establish a marijuana facility. Some protected uses may have been inadvertently omitted. Buffer measurements used on this map do not precisely match buffer measurements listed in draft code.



Chugach  
State  
Park

Chugach  
Nationa  
Forest

Turnagain Arm

**DRAFT 3 Separation Distance from Protected  
Land Uses for Marijuana Establishments**  
Protected Land Uses Established by  
Federal Code and State Regulation

**1,000 Foot Buffer**

- Schools
- Playgrounds
- Public Housing Facilities

**500 Foot Buffer**

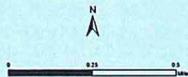
- Community Centers
- Neighborhood Recreation Centers
- Youth Centers
- Athletic Fields
- Religious Assemblies
- Correctional Institutions
- Correctional Community Residential Centers

**100 Foot Buffer**

- Video Arcade Facilities

- Commercial Zoning District
- Industrial Zoning District
- Zoning Boundary

Buffer



December 29, 2015

**MUNICIPALITY OF ANCHORAGE**  
**PLANNING AND ZONING COMMISSION RESOLUTION NO. 2016-002**

A RESOLUTION ADDRESSED TO THE STATE OF ALASKA MARIJUANA CONTROL BOARD REGARDING PESTICIDE USE IN CANNABIS CULTIVATION.

(Case 2015-0119)

---

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

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

WHEREAS, the ordinance establishes the time, place, and manner for marijuana cultivation facilities; and

WHEREAS, there are no pesticides approved for use on cannabis; the Federal Insecticide, Fungicide, and Rodenticide Act does not cover cannabis cultivation as cannabis is illegal under federal law; and

WHEREAS, states in which marijuana (medicinal and/or recreational) has been legalized are scrambling to figure out how to address pesticides used on cannabis plants; and

WHEREAS, pesticides are being used and will continue to be used on cannabis to control insects and fungus; and

WHEREAS, testing of both flower/bud and edibles in Oregon showed some concentration of residual pesticides with potential to cause harm in humans. Twenty-nine percent of flower/bud tested had detectable levels of pesticides, with 14% failing the EPA standard for acceptable pesticide levels for human consumption. Fifty-five percent of concentrates tested had detectable levels of pesticides, with 46% failing the EPA standard for acceptable pesticide levels for human consumption.

NOW, THEREFORE, BE IT RESOLVED by the Anchorage Planning and Zoning Commission that the Commission urges the State of Alaska Marijuana Control Board to:

1. Provide clear information about acceptable pesticide usage to cannabis growers.
2. Inform cannabis growers that acceptable pesticide usage are those pesticides that are:
  - a. Listed as minimum risk in the Federal Insecticide, Fungicide, and Rodenticide Act Section 25B;
  - b. Are acceptable for use in organic practices; and

3. Are recommended by the Cannabis Safety Institute.

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

---

Hal H. Hart, AICP  
Secretary

---

Tyler P. Robinson  
Chair

DRAFT

**PLANNING AND ZONING COMMISSION**  
**Assembly Chambers**  
**Z.J. Loussac Library**  
**3600 Denali Street**  
**Anchorage, Alaska**

**MINUTES OF**  
**December 14, 2015**  
**6:30 PM**

**A. ROLL CALL**

Present Tyler Robinson  
Jon Spring  
Brandon Walker  
Brandon Spoerhase  
Anthony Cange  
Andre Spinelli  
Danielle Bailey

Excused Stacey Dean  
Gregory Strike

Staff Erika McConnell  
Sharon Ferguson  
Hal Hart

**B. MINUTES - None**

**C. SPECIAL ORDER OF BUSINESS / EXECUTIVE SESSIONS**

**1. Disclosures**

CHAIR ROBINSON disclosed in Case 2015-0106 that he is employed by Cook Inlet Housing Authority. Cook Inlet Tribal Council's Board of Director's appoints the Board of Director's for Cook Inlet Housing Authority. This was a function of state enabling regional housing authorities many years ago, and is the only form of governance aspect with the relationship of the two organizations. In addition, they have a small annual grant that passes from Cook Inlet Housing Authority to CITC, unrelated to this case, and the two will work together on a project occasionally. The only knowledge he has of this case is what he has read in the packet and can remain impartial.

MS. FERGUSON replied that, yes, the petitioner can plant enough trees. They have agreed to a very small tree that would survive in that three-foot bed. They also have a requirement on the southern most parking area, described earlier, to meet the landscaping in that area also, which is also part of the visual enhancement landscaping requirement.

COMMISSIONER SPRING expressed that if the Commission has the authority to approve this conditional use, then he feels this is a fine compromise. It would be nice to review the variance and whether the dimensional requirements could be reduced, and determine what landscaping would fit into the area. He believes he will vote in favor of removing Condition 3.

AMENDMENT

AYE: Spinelli, Cange, Spoerhase, Walker, Spring, Robinson, Bailey  
NAY: None

**PASSED**

COMMISSIONER CANGE added that, although some of the recommendations set forth by the Municipality are being removed, he believes this project is in the best interest of the community. It is supported by the community council through a submitted letter. He intends to support the motion.

MAIN MOTION AS AMENDED

AYE: Spinelli, Cange, Spoerhase, Walker, Spring, Robinson, Bailey  
NAY: None

**PASSED**

COMMISSIONER SPRING conveyed that he is proud to vote in favor of this conditional use. He knows from experience with the Airport Heights Community Council the need for child care facilities in this area, and it is difficult to locate an area that will not impact residential areas and neighbors. This is the perfect location in a Town Center, and is also located on the very productive and highly used Transit Route 45. The site plan submitted meets the standards for conditional use general requirements, and specific requirements for a conditional use.

CHAIR ROBINSON added that the landscaping plan provided makes every intent to provide visual enhancement landscaping as intended by the code. The action by the Commission simply recognizes a built property without requiring a petitioner to go through additional steps.

2. **CASE: 2015-0119 (EBM)**  
**PETITIONER: Community Development Dept. - Planning Municipality of Anchorage**  
**REQUEST: 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).**

ERIKA MCCONNELL presented the staff report and recommendations on behalf of the Municipality's Planning Division.

The Commission discussed RO zoning requirements regarding food service preparation facilities; onsite consumption for retail stores; how extracting and manufacturing differs; and impacts from the odor and chemicals involved. They also discussed baked goods, and the use of pesticides on marijuana crops.

CHAIR ROBINSON opened the hearing to public testimony. The following individuals testified:

CATHY GLEASON  
CAROL KILGROW  
CHRISTOPHER CONSTANT, Fairview Community Council  
BRUCE SCHULTE, Alaska Marijuana Industry Association  
JANA WELTZIN, Council  
BRYANT THORP  
ROCKY BURNS  
THERESA COLLINS  
NICK MILLER, Anchorage Cannabis Business Association  
JESSICA JANSEN  
KIM COLE, Coalition for Responsible Cannabis Legislation  
CHERYL BOWIE  
LEE HAYWOOD

CHAIR ROBINSON closed the public hearing.

COMMISSIONER WALKER moved in Case 2015-0119 to recommend to the Assembly the amendments to Title 21 with the recommendations from staff. COMMISSIONER SPRING seconded.

CHAIR ROBINSON clarified with staff that two recommendations pertaining to the RO district were associated with the original staff packet with three more laid on the table this evening. He asked Commissioner Walker if his motion is to include all five of those recommendations in his main motion. He stated that this is to be recommended to the Assembly for their approval.

COMMISSIONER CANGE expressed his main concern is limiting what a person can and cannot do. A significant amount of public testimony has been heard regarding that, and in what areas. Referring to Exhibit C, he thinks a marijuana manufacturing and testing facility should be allowed in a commercial area, but is not sure of a cultivation facility. He does feel that combining some of these facilities in a commercial area is advantageous, and opens up a little more for not only the consumer, but the average business person who wants to get into this business. Limiting it to just industrial given the constraints of I-1 land in the area, he is not comfortable with. Retail sales, as some sort of an accessory, should be allowed in the industrial area, but he is not sure of the size and scale. Given what other businesses are allowed that are in manufacturing, he does not think it is correct to not allow marijuana the same conditions just because it is just that, marijuana. Again, he stated that he does not feel the separation from technical land use needs to be any more onerous than what the state has put into place. He knows the state levels are at minimum, but some of these facilities, as supported by public testimony,

have grown adults that will do what they want to do, and he does not see much sense in limiting it from homeless shelters.

COMMISSIONER BAILEY noted that there are a significant amount of restrictions, and it will also have to be presented as a conditional use permit to assess out some of those specific areas, whereas, if everything is eliminated from the front end, nothing will be left to work with. Several individuals spoke in favor of the benefits that this can have, even the individual from the Fairview Community Council mentioned that this could bring in revenue to the area, and make jobs available in the area. Below are a few of the areas she addressed.

1. Allowing manufacturing in a business and commercial area. These particular items have a stronger impact negatively on the community than any other area.
2. There seems to be a general consensus that reverting to the state classification of separate uses made more sense. At a minimum, at least eliminating the park requirements with staff saying that has the biggest impact on eliminating a lot of area that could be used as space.
3. It is a very good idea to require a minimum notification to the community council, if they are not able to present to them.
4. A new area of the limited cultivation. It would make sense to allow that in an industrial, commercial and R-7 commercial horticulture area for the reason that people instead of trying to move this to a legitimate industry, and the Commission will want to encourage that black market to go away. One of the worst things that could happen from this is if everyone is trying to get rid of this black market industry, but it is made so exclusive, and costly, that the black market is still cheaper at the end, and all the same problems from the beginning still remain.
5. Should allow collocation; and defining that is allowing retail and manufacturing together along with cultivation. As long as they have a separation between those areas. She is not sure if a dividing wall would be allowed.

Overall, she thinks the general ordinances had the right intentions in place, but it is just trying to protect communities from a nuisance coming in since this is a new business area. She feels it just went a little bit too far.

In response to Chair Robinson as to why she chose one residential zoning district, COMMISSIONER BAILEY explained that she should review other areas further, but if the Commission is allowing a certain amount of commercial growth to happen it does not make sense, to her, to not allow it, specifically because marijuana is involved. A different process for that to be handled would be to ensure security measures are in place. She is not sure if other residential areas could be compatible, however, it seems as though those involved in the marijuana industry are doing an exceptional job of attending community councils. The community councils have not yet expressed whether they would accept these, and if the community councils were to agree to this being in all of the residential zones, she would be more open to it, but in the absence of that she would not want to expand it further.

CHAIR ROBINSON reminded the Commission that people did not testify this evening with the thought that this was a proposed allowed use.

MS. MCCONNELL responded to Commissioner Spring's request to briefly explain if horticultural cultivation not being allowed in large lot zoning was considered in their development of the ordinance, noting that this was discussed amongst the administration level and with the Assembly Committee. The main issues included security, access by minors, and the capacity for inspection and enforcement if there were a multitude of small cultivation facilities spread throughout all of the residential zones. She added that regarding the license requirement for the five-hundred square foot or less, she does not believe the state sets an inspection schedule, but just makes it aware that they can inspect. The Municipality does not yet have their licensing because the inspection would be through the licensing process.

COMMISSIONER SPRING noted he is interested in an amendment regarding separating bakeries from manufacturing. He disagreed with the idea that the Municipality should allow manufacturing in the B-3 zoning district because, clearly, it is currently not allowed, and that would be inconsistent with the existing code. Bakeries are allowed in B-3 as a conditional use.

MS. MCCONNELL explained that commercial food production is under the manufacturing and production use category, so it is considered manufacturing as a conditional use in the B-3. That may have been allowed because there are some existing facilities.

CHAIR ROBINSON clarified that food production in the B-3 is also sold on the premises, and the code says that people that just produce and distribute is a different classification than in the general business district. MS. MCCONNELL concurred.

COMMISSIONER WALKER implied that he never intended to support the motion, but made it in order for the Commission to go into a Committee of the Whole. It is clear, at this point, that the Commission has a lot to discuss, and he is intending to withdraw his motion.

CHAIR ROBINSON indicated that he would like to collect the specifics because he does not foresee the Commission being able to act on this tonight. He would like the Commission to capture the intent of some potential amendments, and then direct staff to take that intent and help the Commission craft actual Assembly Ordinance related amendments by January 4<sup>th</sup>.

COMMISSIONER SPRING outlined nine possible amendments to be drafted by Ms. McConnell, and to be included on page 8 of the staff report. He noted the changes are as follows:

- 5.a. Change Recommendation 1 on page 8 that reads, "In Exhibit A, delete the "T" for marijuana retail sales establishment in the RO district." He spoke with staff during the hearing and he would like to add, "If not deleted in the RO zone, include marijuana sales in the list of businesses in Section 21.04.030E.2.a." This basically restricts stand-alone.
6. This was suggested by the Fairview Community Council. If alternative community meetings are used, which are required under the ordinance, then the petitioner should be required to communicate with the community council.
7. Add marijuana cultivation to zones R-6, R-7, R-8, R-9 and R-10 zoning districts. He believes that would require a "T" being designated in Exhibit A.

CHAIR ROBINSON emphasized that the best approach, when the Commission actually makes their recommendation, would be to address and act on each of the proposals individually.

COMMISSIONER SPRING pointed out that discussion had revolved around the lack of industrial land available for cultivation. He noticed on the maps there is, inevitably, going to be some errors with at least one in Eagle River, around the Birchwood Airport where it was I-2SL, but did not include that, which is a huge industrial area. It might be useful when staff provides the previous information, for GIS (if they have time) to look at what the impact would be on the industrial land availability if the buffer criteria were reduced. He is particularly interested in the dedicated park requirement because that would create a significant amount of available land. Whether he votes on the R-7 through R-10 expansion depends on how much land is available in the existing industrial.

MS. MCCONNELL indicated that she intends to contact the state for clarification what they consider to be a recreational youth center. She will also provide a map, prior to the hearing, that displays what the buffers would look like if the Municipality only used the state requirements.

COMMISSIONER SPRING continued with his proposals.

8. Add and allow marijuana sales in I-1 zoning districts as a stand-alone.
9. Allow collocation of all types of marijuana establishments in the I-1 and I-2 zoning districts.

CHAIR ROBINSON mentioned that if proposed amendment 8 failed as a stand-alone retail use in the I-1, then proposed amendment 9 would allow retail collocated with another.

COMMISSIONER SPRING commented that Chair Robinson has made a good point. If number 8 were approved, then collocation would not be needed, except for the testing.

MS. MCCONNELL clarified that the testing cannot be combined with any of the other licenses. She added that Chair Robinson is correct that if number 8 were to be approved, then that would allow the collocation only in the I-1, but not the I-2 zoning district. Stand-alone retail stores could be proposed in the I-1, and retail stores collocated with, either a cultivation or a production, or both facilities in the I-2, but not stand-alone. She offered to draft these amendments for the Commission.

COMMISSIONER SPRING continued.

10. Delete in Section 21.05.055A. homeless and transient shelter as well as the dedicated parks separation distance criteria and habilitative care. He believes that all of these in the separation criteria should be deleted. The others are similar to what the state had and do not contain the exact wording. The remaining CCRCs, he considers being correctional facilities to some extent.

MS. MCCONNELL disagreed noting that habilitative care is not at all a correctional facility. She will inquire with the state if they consider a halfway house to be a correctional facility.

CHAIR ROBINSON restated the proposed amendment.

COMMISSIONER SPRING continued.

11. Add criteria that the Assembly should take into consideration, high concentration of marijuana establishments, within a thousand feet, in their approval of special land use permits.
12. Add Section 21.03.105C.3.b.vi., a list of pesticides used in the cultivation of marijuana.
13. Separate bakeries from other manufacturing facilities, or allow the marijuana bakeries in a B-3 zoning district.

COMMISSIONER BAILEY suggested, regarding the last proposed amendment, adding the verbiage “use of kitchens” rather than just bakeries.

COMMISSIONER SPRING agreed to the suggestion, but is not sure the difference between a bakery and manufacturing. The intent is to allow manufactured edibles or the production of edibles in the B-3 zoning district whether it be a rental, temporary space, a permanent facility, or associated with retail sales.

COMMISSIONER WALKER added that people may be looking for an industrial kitchen, and he believes those are already limited to industrial zoning classifications. To produce food for consumption by the public, he thinks it has to be done in a certified kitchen that the health department has inspected, which are often times associated with restaurants, etc.

COMMISSIONER BAILEY feels it is important to add that treating everything equal, such as allowing a current baker to proceed in commercial zoning, then why would the Commission not allow a new bakery to exclusively do this in commercial zoning. It is worth considering that it should not just be for a rental, but include new businesses as well. She added, for consistency, that manufacturing cannot be done with retail, but since the Commission is reviewing the collocation, and are considering allowing an amendment that would allow a bakery. She feels it would be worth considering allowing a bakery that would also be retail.

MS. MCCONNELL clarified that if these are allowed in the B-3, and retail stores are in the B-3 then there is nothing else that would prevent them from being together. It sounded as if Commissioner Bailey was suggesting additional amendments might be needed. To her knowledge, the request is separating edible production from other types of manufacturing or extraction facilities, and allowing edible production in the B-3. This is the one item that discusses increasing the uses allowed in the B-3.

COMMISSIONER BAILEY referred to page 13, 2.b.ii that states, “Direct retail sales through the general public is prohibited when there is manufactured production.” She wanted to clarify that consistency, and she believes Commissioner Spring mentioned allowing use in the limited cultivation area.

MS. MCCONNELL noted that the cultivation facility, or the manufacturing facility and the retail store would still not be able to sell to the public out of the manufacturing facility. The product would have to be transferred from the manufacturing facility into the retail store, and then sell out of the retail store. She added that a wall would suffice, but paperwork is involved proving it has been tested.

COMMISSIONER WALKER would like to add with respect to limited cultivation, he was hoping to ensure a discussion of waste disposal and enforcement. He could see both of those proving to be problematic.

MS. MCCONNELL clarified that he is referring to Commissioner Spring's proposed number 7, and if it were approved allowing limited cultivation in some of the large-lot residential districts, how waste disposal enforcement would be a concern.

COMMISSIONER WALKER mentioned the five-hundred foot pedestrian standard. His understanding is that the intent when creating these maps, but from a GIS perspective they do not have a function to create a perimeter based on a five-hundred foot walking distance from the front door of a building, so Ms. McConnell created a five-hundred foot polygon around the property.

MS. MCCONNELL explained that this was intended to give everyone a general sense, but when someone is ready to choose their property, they will need to discuss with staff the shortest pedestrian route, and perform a more detailed investigation.

CHAIR ROBINSON noted that his concerns are regarding cultivation in the B-3 and the Responsibility Protection Plan. He is sensitive Fairview's experience with what appears to be an irresponsible business owner, but feels that without better definition, he cannot support it as written. If it proves to be problematic, then it will be addressed at a later stage. His employment involves development that is not always the most popular development, but who is given the authority to decide what a tenant on the property is allowed to do. He is worried that the Commission would put such an enforcement capacity in a place that becomes very uneven across the Municipality. He added that Ms. McConnell has been presented with some tasks to research and bring back to the January 4, 2016 meeting.

COMMISSIONER WALKER moved to postpone Case 2015-0119 to January 4, 2016.  
COMMISSIONER CANGE seconded.

AYE: Spinelli, Cange, Spoerhase, Walker, Spring, Robinson, Bailey  
NAY: None

**PASSED**

MS. MCCONNELL asked the Commission to turn to page 25 of the ordinances, which is page 33 of the staff packet. She expressed her disappointment that no one noticed in Section 25, the code citation number for the conditional use standards for the downtown district is now 21.50.420.

**H. APPEARANCE REQUEST - None**

# *Municipality of Anchorage*

## MEMORANDUM

---

**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  
16

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**  
29

TABLE 21.02-1: SUMMARY OF MAJOR TITLE 21 DECISION-MAKING AND REVIEW RESPONSIBILITIES								
<p><i>NOTE: This table summarizes the major review and decision-making responsibilities for the procedures contained in Chapter 21.03. Exceptions to general rules apply; see Chapter 21.03 for details on each procedure.</i></p> <p>A = APPEAL = Authority to Hear and Decide Appeals  D = DECISION = Responsible for Review and Final Decision  H = HEARING = Public Hearing Required  R = REVIEW = Responsible for Review and/or Recommendation Only</p>								
	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
***	***	***						
Land Use Permits	21.03.100				A <sup>3</sup>	A <sup>3</sup>		D
<u>Marijuana—Special Land Use Permit</u>	<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								
<p><i>NOTE: This table summarizes the major review and decision-making responsibilities for the procedures contained in Chapter 21.03. Exceptions to general rules apply; see Chapter 21.03 for details on each procedure.</i></p> <p>A = APPEAL = Authority to Hear and Decide Appeals                      D = DECISION = Responsible for Review and Final Decision                      H = HEARING = Public Hearing Required                      R = REVIEW = Responsible for Review and/or Recommendation Only</p>								
	Section	ASBLY	PZC	UDC	PB	ZBEA	BOA	MS
***	***	***						
<p><b>KEY TO ABBREVIATIONS:</b>                      ASBLY = Anchorage Assembly                      PZC = Planning and Zoning Commission                      PB = Platting Board</p>				<p>ZBEA = Zoning Board of Examiners and Appeals                      BOA = Board of Adjustment                      UDC = Urban Design Commission                      MS = Municipal Staff</p>				

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37

(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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

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

\*\*\* \*\*

(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**

\*\*\* \*\*

**C.      Community Meetings**

\*\*\* \*\*

**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.

\*\*\* \*\*

**H.      Notice**

\*\*\* \*\*

**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			Community Council
		Written (Mailed)	Published	Posted	
*** **					
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.	✓	✓	✓	✓
***	***	***			

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

(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:

- 1  
2  
3  
4  
5  
6  
7  
8
- 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.
- 9  
10  
11
- ii. A security plan indicating how the applicant will comply with the requirements of municipal and state law and regulation.
- 12
- iii. A waste disposal plan.
- 13
- b. For marijuana cultivation facilities:
- 14  
15
- i. A plan that specifies the methods to be used to prevent the growth of harmful mold.
- 16
- ii. The projected amount of water that will be used.
- 17  
18
- iii. The projected amount of wastewater that will be discharged.
- 19  
20  
21  
22
- iv. A letter from the applicable electric utility stating that the power capacity at the proposed location is sufficient for the intended use.
- 23  
24  
25  
26
- v. An odor control plan indicating how the applicant will comply with the requirements of municipal and state law and regulation.
- 27
- c. For marijuana manufacturing facilities:
- 28  
29  
30  
31  
32  
33  
34
- 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.
- 35  
36
- ii. Certification of a licensed industrial hygienist, as required in subsection 21.05.055B.2.
- 37
- iii. The projected amount of water that will be used.
- 38  
39
- iv. The projected amount of wastewater that will be discharged.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

- 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).
- 5
- 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.
- 10
- 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.
- 14
- 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.
- 22
- 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.
- 32
- 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:
- 37
- 38 i. The first change to the gross square footage of the  
39 licensed area of 10 percent or less.
- 40
- 41 ii. A change in hours of operation.
- 42
- 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:
- 47
- 48 i. Changes to the gross square footage of the  
49 licensed area of more than 10 percent.
- 50

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

- 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**

\*\*\*    \*\*\*    \*\*\*

G.    TA: Turnagain Arm District

2.    District-Specific Standards

\*\*\*    \*\*\*    \*\*\*

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

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.

\*\*\*      \*\*\*      \*\*\*  
(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

46  
 47 (Code revisor—renumber remaining sections.)

48 \*\*\* \*\*

49  
 50 (AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2013-139, § 1, 1-28-

1 14; AO 2014-58, § 2(Att. A), 5-20-14)

2  
3 **Section 7.** Anchorage Municipal Code (new code) table 21.05-1 is hereby  
4 amended as shown in Exhibit A.

5  
6 **Section 8.** Anchorage Municipal Code (new code) section 21.05.055 is hereby  
7 created to read as follows:

8  
9 **21.05.055 Marijuana Establishments**

10 This section defines specific commercial and industrial use types relating to  
11 marijuana growing, processing, production, testing, and sales, listed in table  
12 21.05-1. This section also contains use-specific standards that apply to  
13 specific use types. The use-specific standards apply regardless of the  
14 approval process for the particular use type. All uses involving the commercial  
15 cultivation, production, testing, and sales of marijuana are governed by this  
16 section; no other use in any other section shall involve marijuana. Personal  
17 cultivation and use of marijuana is not regulated by this section.

18  
19  
20 **A. Use-Specific Standards Applicable to All Marijuana Establishments**

21  
22 **1. Licenses Required**

- 23 a. All marijuana establishments are required to obtain a  
24 license from the state of Alaska Marijuana Control Board,  
25 and a license from the municipality of Anchorage, before  
26 beginning operations.  
27  
28 b. If at any time either the state license or the municipal  
29 license is suspended or revoked, the establishment shall  
30 immediately cease operations, until such time as both  
31 required licenses and the land use approval are valid.  
32  
33 c. Licenses from the municipality of Anchorage shall be  
34 issued in accordance with chapter 10.80.

35  
36 **2. Separation from Protected Land Uses**

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

- 39  
40 a. Community centers.  
41  
42 b. Neighborhood recreation centers.  
43  
44 c. Religious assemblies.  
45  
46 d. Boarding schools.  
47  
48 e. College or university.  
49  
50 f. Elementary or middle schools.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

- 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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48

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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

- 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**

\*\*\*      \*\*\*      \*\*\*

**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
<u>Marijuana Uses</u>			
<u>Marijuana cultivation facility</u>	<u>Same as for general industrial uses</u>		
<u>Marijuana manufacturing facility</u>			
<u>Marijuana retail facility</u>	<u>Same as for general commercial establishments</u>		
<u>Industrial Uses</u>			
Light contractor and special trades, dry cleaning establishment	Same as for general commercial establishments		
*** **			

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

(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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

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.)

\*\*\*      \*\*\*      \*\*\*

(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*):

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

**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.

\*\*\*        \*\*\*        \*\*\*

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."

\*\*\*        \*\*\*        \*\*\*

(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.**

\*\*\*        \*\*\*        \*\*\*

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

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.

\*\*\*      \*\*\*      \*\*\*

J. Abandonment of conditional use.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

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.**

\*\*\*      \*\*\*      \*\*\*

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.

\*\*\*      \*\*\*      \*\*\*

1 (GAAB 21.05.020; AO No. 77-355; AO No. 78-16; AO No. 78-28; AO No. 78-  
 2 171; AO No. 78-231; AO No. 79-214; AO No. 80-42; AO No. 81-67(S); AO No.  
 3 81-97; AO No. 81-180; AO No. 82-54; AO No. 82-167; AO No. 83-91(S); AO  
 4 No. 84-14; AO No. 84-52; AO No. 85-58; AO No. 85-159; AO No. 85-91, 10-1-  
 5 85; AO No. 85-216; AO No. 86-19; AO No. 86-78; AO No. 86-90; AO No. 86-  
 6 171; AO No. 88-172; AO No. 88-171(S-1), 12-31-88; AO No. 89-35, 4-7-89;  
 7 AO No. 88-147(S-2); AO No. 90-50(S); AO No. 91-35; AO No. 90-152(S); AO  
 8 No. 91-90(S); AO No. 91-184; AO No. 92-7(S-2); AO No. 92-26; AO No. 92-  
 9 93; AO No. 92-128(S); AO No. 92-129(S); AO No. 93-58; AO No. 93-148, § 1,  
 10 11-16-93; AO No. 94-62, § 2, 4-12-94; AO No. 95-68(S-1), §§ 2, 3, 8-8-95; AO  
 11 No. 95-173, § 1, 11-14-95; AO No. 96-41, § 1, 3-5-96; AO No. 96-131(S), § 1,  
 12 10-22-96; AO No. 98-106, § 1, 7-21-98; AO No. 98-160, § 3, 12-8-98; AO No.  
 13 99-62, § 2, 5-11-99; AO No. 2000-119(S), § 8, 2-20-01; AO No. 2001-79(S), §  
 14 1, 5-8-01; AO No. 2001-80, § 1, 5-8-01; AO No. 2001-101(S), § 2, 4-9-02; AO  
 15 No. 2002-109, § 2, 9-10-02; AO No. 2002-117, § 4, 1-28-03; AO No. 2003-  
 16 62(S-1), § 3, 10-1-03; AO No. 2003-97, § 1, 9-30-03; AO No. 2003-132, § 1,  
 17 10-7-03; AO No. 2003-124(S), § 1, 1-20-04; AO No. 2004-108(S), § 2, 10-26-  
 18 04; AO No. 2005-9, § 1, 3-1-05; AO No. 2005-150(S-1), § 1, 2-28-06; AO No.  
 19 2005-185(S), § 1, 2-28-06; AO No. 2005-124(S-1A), § 4, 4-18-06; AO No.  
 20 2006-121, § 1, 9-26-06; AO No. 2006-64(S-1), § 1, 12-12-06; AO No. 2007-62,  
 21 § 1, 5-15-07; AO No. 2008-80, § 1, 9-16-08; AO No. 2009-22, § 1, 4-14-09; AO  
 22 No. 2010-3, § 1, 3-23-10; AO No. 2010-50(S), § 1, 8-31-10; AO No. 2011-  
 23 93(S), § 1, 9-27-11; AO No. 2014-58, § 5, 5-20-14)

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

28  
 29 **21.40.150 B-2A central business district core.**

30  
 31 \*\*\* \*\*

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

35 \*\*\* \*\*

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

46  
 47 **17. Marijuana retail sales establishment, in accordance with section**  
 48 **21.50.420.**

49  
 50 \*\*\* \*\*

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)

12  
 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.

37  
 38 \*\*\* \*\*

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)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

**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.**

\*\*\*    \*\*\*    \*\*\*

(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  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47

from the state of Alaska Marijuana Control Board, and a license from the municipality of Anchorage, before beginning operations.

2. If at any time either the state license or the municipal license is suspended or revoked, the establishment shall immediately cease operations, until such time as both required licenses and the land use approval are valid.

3. Licenses from the municipality of Anchorage shall be issued in accordance with chapter 10.80.

B. Conditional use permit required.

1. All marijuana retail sales establishments are permitted only by conditional use. Such conditional use shall only require the approval of the assembly in accordance with section 21.15.030. The provisions of section 21.15.005 which pertain to notice and public hearing shall apply.

2. Notwithstanding the submittal requirements in section 21.15.030, applications for conditional use permit for a marijuana retail sales establishment shall contain the following:

a. A site plan to scale and dimensioned, depicting the building footprint, parking areas, vehicle circulation and driveways, pedestrian facilities, lighting, landscaping, loading facilities, freestanding sign location(s), required open space, snow storage area or alternative strategy, trash receptacle location and screening detail, and fences.

b. A security plan indicating how the applicant will comply with the requirements of municipal and state law and regulation.

c. A waste disposal plan.

d. A neighborhood responsibility plan, as required in subsection C.9. below.

e. A copy of the application accepted by the state Marijuana Control Board.

3. The planning department shall prepare and submit an analysis of the application with respect to the use-specific standards below, the conditional use standards of section 21.50.020, and requirements of title 10, and list of all marijuana retail sales establishments located within 1,000 feet of the subject location. The department shall also submit a proposed resolution for assembly consideration.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

- 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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50

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)

\*\*\*        \*\*\*        \*\*\*

21.05.040 Hearing procedures.

\*\*\*        \*\*\*        \*\*\*

E. Ruling or decision. After closing statements are completed, the chair may entertain a motion to act upon the conditional use permit or special land use permit which motion must be seconded to be considered by the assembly.

1. Before action on a conditional use permit or special land use

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40

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 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	I-1	I-2	MI		AF	DR	PR	PLI	W
...	...	...																										
Large domestic animal facility									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			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		21.05.070D.14(3).
...	...	...																										

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

AO 2016-xx  
EXHIBIT C

TABLE 21.09-2: TABLE OF ALLOWED USES

*P = Permitted; C = Conditional; S = Administrative Site Plan Review; M = Major Site Plan Review; T = Special Land Use Permit for Marijuana;*  
*O (with # inside) = see end of table*  
*For GIP, GCR-1, GCR-2, GCR-3, GDR, and GRR districts, see Section 21.09.040, Zoning Districts*

Use Category	Use Type	Residential						Commercial										Ind.		Resort		Other			Definitions and Use Specific Standards	
		gR 1	gR 2	gR 2A	gR 3	gR 4	gR 5	gC 1	gC 2	gC 3	gC 4	gC 5	gC 6	gC 7	gC 8	gC 9	gC 10	gl 1	gl 2	gR ST1	gR ST2	G A	G O S	G W		
<b>COMMERCIAL</b>																										
*** **																										
Visitor Accommodations	Lodging Reservations/ Auto Rental Check-In							④	④	①	②	⑤	③	①	③	②	③			④	④					21.09.050B.4.e.
<b>COMMERCIAL MARIJUANA USES</b>																										
	Marijuana cultivation facility																		I	I					<u>21.05.055B.1.</u> <u>21.03.105</u>	
	Marijuana manufacturing facility																		I	I					<u>21.05.055B.2.</u> <u>21.03.105</u>	
	Marijuana testing facility											I	I		I	I			I	I					<u>21.05.055B.3.</u> <u>21.03.105</u>	
	Marijuana retail sales establishment								I		I	I	I	I	I										<u>21.05.055B.4.</u> <u>21.03.105</u>	
<b>INDUSTRIAL</b>																										
Industrial Service	General industrial service																								C	21.05.060A.4.
*** **																										

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2014-133, 11-5-14)

AO 2016-XX  
EXHIBIT D

TABLE 21.09-3: TABLE OF ACCESSORY USES																								
<i>P = Permitted; S = Administrative Site Plan Review; M = Major Site Plan Review; C = Conditional Use For GIP, GCR-1, GCR-2, GCR-3, GDR, and GRR districts, see Section 21.09.040, Zoning Districts</i>																								
Accessory Uses	Residential					Commercial										Ind.		Resort		Other			Definitions and Use Specific Standards	
	gR1	gR2	R2	gR3	gR4	gR5	gC1	gC2	gC3	gC4	gC5	gC6	gC7	gC8	gC9	gC10	gl1	gl2	gRST1	gRST2	G A	G O S		G W
Accessory dwelling unit (ADU)	P	P	P	P	P					P	P	P							P	P				21.05.070D.1 21.09.050C.2.a
Bed and breakfast (up to 3 guestrooms)	P	P	P	P	P				S	S	S					S								21.05.070D.2.
Bed and breakfast (4 or 5 guestrooms)	M	M	M	M	M				S	S	S													21.05.070D.2
Beekeeping	P	P	P	P	P																			<u>21.05.070D.3.</u>
Dormitory																	P	C	C				<u>21.05.070D.5.</u>	
Drive-through service						C	C			C														21.09.050C.2.b
Garage or carport, private residential	P	P	P	P	P	P			P	P	P	P	P	P	P	P			P	P				<u>21.05.070D.8.</u>
Home- and garden-related use	P	P	P	P	P	P			P	P	P	P	P	P	P	P			P	P				<u>21.05.070D.9.</u>
Home occupation	P	P	P	P	P	P			P	P	P	P	P	P	P	P			P	P				21.05.070D.12.
<u>Marijuana, personal cultivation</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>P</u>			<u>P</u>	<u>P</u>	P	P	P	P	P			P	P				<u>21.05.070D.13.</u>
Outdoor keeping of household pets	P	P	P	P	P	P			P	P	P													
Paddock, stable or barn			P								P													
Private storage of non-commercial equipment	P	P	P	P	P	P			P	P	P	P												21.09.050C.2.c.
Vehicle repair/rebuilding, outdoor, hobby			P																					<u>21.05.070D.18.</u>

(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-RO	CE-RC	CE-I-1	CE-I-2	CE-I-3	CE-DR	CE-PR	CE-PLI	CE-DO <sup>3</sup>		CD-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	P/C		P/C	P/C	P/C		P/C	21.05.070D.12[3]	
<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		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

Private Development Section

*Mayor Ethan Berkowitz*

RECEIVED

DEC 07 2015

## MEMORANDUM

MUNICIPALITY OF ANCHORAGE

### 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

## 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 01 2015  
PLANNING & ADMINISTRATIVE SERVICES  
CENTRAL REGION

RE: MOA Zoning Review

Dear Ms. McConnell:

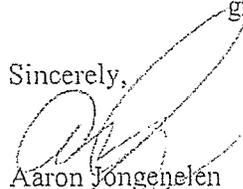
The Alaska Department of Transportation and Public Facilities (DOT&PF), Central Region Planning office has no comments on the following zoning applications:

- 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

*"Keep Alaska Moving through service and infrastructure."*

Municipality Of Anchorage  
ANCHORAGE WATER & WASTEWATER UTILITY

RECEIVED

DEC 02 2015

MUNICIPALITY OF ANCHORAGE  
PLANNING DIVISION

MEMORANDUM

---

**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

---

**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  
DEVELOPMENT SERVICES DIVISION

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.



# MUNICIPALITY OF ANCHORAGE

Traffic Engineering Department



## 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.



**AO Adopting Land Use Regulations for Marijuana Businesses  
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	I-1	I-2	MI		AF	DR	PR	PLI	W
...	...	...																										
Large domestic animal facility									P/C	P/C	P/C	P/C	P/C	P/C													21.05.0700.12.	
Marijuana, personal cultivation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P	P	P	P	21.05.0700.13.
Outdoor keeping of animals	P	P	P	P	P	P			P	P	P	P	P	P										P	P	P	21.05.0700.14[3].	
...	...	...																										

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



**AO Adopting Land Use Regulations for Marijuana Businesses  
EXHIBIT D**

TABLE 21.09-3: TABLE OF ACCESSORY USES																								
<i>P = Permitted; S = Administrative Site Plan Review; M = Major Site Plan Review; C = Conditional Use For GIP, GCR-1, GCR-2, GCR-3, GDR, and GRR districts, see Section 21.09.040, Zoning Districts</i>																								
Accessory Uses	Residential					Commercial										Ind.		Resort		Other			Definitions and Use Specific Standards	
	gR1	gR2	gR2A	gR3	gR4	gR5	gC1	gC2	gC3	gC4	gC5	gC6	gC7	gC8	gC9	gC10	gl1	gl2	gRST1	gRST2	GA	GOS		GW
Accessory dwelling unit (ADU)	P	P	P	P	P						P	P	P							P	P			21.05.070D.1 21.09.050C.2.a
Bed and breakfast (up to 3 guestrooms)	P	P	P	P	P						S	S	S				S							21.05.070D.2.
Bed and breakfast (4 or 5 guestrooms)	M	M	M	M	M						S	S	S											21.05.070D.2
Beekeeping	P	P	P	P	P																			<u>21.05.070D.3.</u>
Dormitory																		P	C	C				<u>21.05.070D.5.</u>
Drive-through service						C	C				C													21.09.050C.2.b
Garage or carport, private residential	P	P	P	P	P						P	P	P	P	P	P	P			P	P			<u>21.05.070D.8.</u>
Home- and garden-related use	P	P	P	P	P						P	P	P	P	P	P	P			P	P			<u>21.05.070D.9.</u>
Home occupation	P	P	P	P	P						P	P	P	P	P	P	P			P	P			21.05.070D.12.
<u>Marijuana, personal cultivation</u>	P	P	P	P	P						P	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>						<u>P</u>			<u>P</u>	<u>P</u>			<u>21.05.070D.13.</u>
Outdoor keeping of household pets	P	P	P	P	P						P	P	P											
Paddock, stable or barn			P										P											
Private storage of non-commercial equipment	P	P	P	P	P						P	P	P	P										21.09.050C.2.c.
Vehicle repair/rebuilding, outdoor, hobby			P																					<u>21.05.070D.18.</u>

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



**AO Adopting Land Use Regulations for Marijuana Businesses**  
**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-RO	CE-RC	CE-I-1	CE-I-2	CE-I-3	CE-DR	CE-PR		CE-PLI	CE-DO <sup>3</sup>	CE-EVO	
...	...	...							P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	21.05.070D.12[3]
<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		P	21.05.070D.14.
...	...	...																								
<p><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.</p> <p><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.</p> <p><sup>5</sup> In the CE-R-3 district, outdoor keeping of animals is only permitted accessory to a single-family detached dwelling.</p>																										

(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)