

**NOTICE OF MEETING  
REGULAR MEETING AGENDA**

- 1. CALL TO ORDER**
- 2. AGENDA APPROVAL**
- 3. PUBLIC COMMENT UPON MATTERS ALREADY ON THE AGENDA** *(The Public may comment on any item on the agenda with the exception of items shown under Public Hearings. The standard time limit is 3 minutes.)*
- 4. VISITORS**
- 5. RECONSIDERATION**
- 6. ADOPTION OF CONSENT AGENDA** *(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of Commissioner.)*
  - A. Meeting Minutes from the October 22, 2015 Regular Meeting **Page 3**
- 7. REPORTS**
  - A. Report to the Commission - City Planner Abboud
  - B. Kenai Peninsula Borough Cannabis Commission Report - Commissioner Monroe
  - C. Report from City Attorney Wells - Memorandum Regarding Comments to Marijuana Control Board **Page 11**
- 8. PUBLIC HEARING**
- 9. PENDING BUSINESS**
  - A. Cannabis Sales Taxes and Excise Taxes **Page 29**
  - B. Cannabis Zoning & Licensing
    1. Staff Report PL 15-80, Zoning for Cannabis, 2<sup>nd</sup> Public Hearing **Page 31**
    2. Draft Ordinance 15-XX **Page 35**
    3. Staff Report PL 15-84, Marijuana Licensing **Page 59**
- 10. NEW BUSINESS**
  - A. Memorandum from the City Clerk Re: 2016 Meeting Schedule **Page 61**
  - B. Appointment of a New Council Member to the Commission
  - C. Next Meeting Deliverables, Agenda Items **Page 69**
- 11. INFORMATIONAL MATERIALS**
  - A. 2016 Meeting Schedule and Packet Processing Deadlines **Page 71**
  - B. 2016 Commission Attendance at Council Meetings **Page 72**
  - C. Question and Answers on Articles 1-9, Updated November 10, 2015 **Page 73**
  - D. Excerpt from the Advisory Planning Commission Minutes for October 21, 2015 **Page 89**
  - E. Excerpt from the Advisory Planning Commission Minutes for November 4, 2015 **Page 94**
  - F. Raven's Call Looks at Marijuana Laws, Mat-Su Gazette, October-November 2015 Issue **Page 104**
  - G. Alaska Dispatch News Articles Re: Clubs and Public Smoking **Page 106**
- 11. COMMENTS OF THE AUDIENCE**
- 12. COMMENTS OF THE STAFF**
- 13. COMMENTS OF THE CHAIR**
- 14. COMMENTS OF THE COMMISSION**
- 15. ADJOURNMENT THE NEXT REGULAR MEETING IS THURSDAY, DECEMBER 17, 2015 at 5:30pm in the COWLES COUNCIL CHAMBERS located at City Hall 491 E. Pioneer Avenue, Homer Alaska**



Session 15-06, a Regular Meeting of the Cannabis Advisory Commission was called to order by Acting Chair Beauregard Burgess at 5:35 p.m. on October 22, 2015 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS HARRIS, ROBL, JONES, SARNO, BURGESS, LEWIS

ABSENT: COMMISSIONER STEAD, MONROE (EXCUSED)

STAFF: CITY PLANNER ABBOUD  
DEPUTY CITY CLERK KRAUSE

#### **APPROVAL OF AGENDA**

Acting Chair Burgess called for a motion to approve the agenda as presented.

LEWIS/HARRIS - SO MOVED.

There was no discussion.

The agenda was approved as presented by Consensus of the Commission.

#### **PUBLIC COMMENT**

The public may speak to the Commission regarding matters on the agenda that are not scheduled for public hearing. (3 minute time limit).

Chris Long, city resident, questioned what regulations the city intended to put into effect, if they plan to limit the number of licenses issued and if so how many medical versus recreational licenses will be issued.

Acting Chair Burgess responded to Mr. Long questions stating that any regulations the city would have considered implemented have already been addressed by the State. Currently they are working on zoning issues.

Comments to the audience on the restrictive nature of the regulations the state of Alaska intends to implement far exceed anything that the commission would have required and since the city cannot be less restrictive only more their hands are tied on what they can implement at this time.

#### **VISITORS**

#### **RECONSIDERATION**

#### **ADOPTION OF CONSENT AGENDA**

*(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Commissioner.)*

A. Meeting Minutes for the September 24, 2015 Regular Meeting

Acting Chair Burgess requested a motion to approve the Consent Agenda.

LEWIS/HARRIS - SO MOVED.

There was no discussion.

The Consent Agenda was approved as presented by Consensus of the Commission.

#### **REPORTS**

A. Report to the Commission - City Planner Abboud

City Planner Abboud provided a brief summary of his discussion with the City Manager regarding taxation with the City Attorney. He has not received anything to date. He still has plenty of questions about options and what would the city have to do to enact any of those options and what road they would go down regarding any of those scenarios.

He is interested in the Borough decision to have the Planning Commission act as the licensing authority so they would be authorized to collect the licensing fees. He would like to discuss the exposure and liability to the City of Homer in regards to appeals which would negate any fees they collected.

The Homer Advisory Planning Commission discussed the zoning issues at length at their meeting last night. The proposed zoning was introduced at the October 7<sup>th</sup> meeting and there was a parting of the ways, in fact the only thing that stayed the same with some heavy convincing was the recommendations for testing facilities. He was able to convince the commissioners that this was a legitimate testing facility with people in white coats, very secure, high paying positions, and involves a large investment.

The Advisory Planning Commission was concerned with regard to the image that this would project for the City of Homer, worried that going down a road of other illegalities not necessarily associated with businesses necessarily, associated activities as with other illegal drugs. He tried to assure them that these would be innocuous, have a vent, lighting, activities won't be visible from the street, enclosed and secured buildings. The Planning Commissioners have basically brought it down that a Conditional Use Permit (CUP) will be required to have any cannabis related type of operation in any of the districts. City Planner Abboud explained the process would then entail a prospective business owner to appear before the Advisory Planning Commission and explain their plan, address any concerns of the Commission. The CUP would also require notice to be sent to all property owners within the area of the proposed operation, who in turn can submit comments or testify in favor or opposition of the proposed operation in that specific location.

The Planning Commission's believes it to be best to be strict then relax restriction if there appears to be no problems. They agreed and followed most of the State recommendations on distances. They will have a public hearing on the November 4, 2015 meeting at 6:30 p.m.

They did not outright restrict any district with the exception of Town Center. He did not see any objection with that restriction since it was supposed to be pedestrian orientated.

The Rural residential Cultivation, they considered special aspects and any lot over 40,000 square feet could be permitted outright for a limited cultivation facility, 20,000 - 39,999 square foot would require a CUP, not allowed for any lot under 20,000 square foot.

City Planner Abboud requested the assistance of this commission to getting the word out and inviting people to come and testify. There will be a second public hearing in December since the Planning Commission only has one meeting for November and December. Then it will be submitted to Council for approval.

Commissioner Lewis questioned being able to get people to attend the public hearing and stated that people will wait until the Council level before they attend a meeting to comment. City Planner Abboud responded on the type of people who would attend and there being a whole other element that should be encouraged to comment.

Commissioner Burgess requested the draft ordinance and a map indicating where it will be permitted outright, where a CUP will be required and where it will not be permitted for the commission meeting November 30, 2015. City Planner Abboud responded that he was unsure how the City Attorney would recommend seeing this in code and he could provide that as soon as it is available for the Planning Commission. He wanted everyone aware that this will be a complicated ordinance for the ordinary person to understand. He will try to have this but if they get busy that there is no guarantee.

Commissioner Burgess stated a simple map for ease of discussion between this commission and the Planning Commission.

Commissioner Harris asked what the City Planner Abboud could realistically envision with regard to the number of retail operations, etc.

City Planner Abboud reported that the Planning Commission will have on their next agenda, November 4, 2015 to discuss licensing limitations; he believed that realistically the number of people who will be able to have the funds to expend and jump through all the state hoops to be very limited. He believed that the discussion will be limited.

Commissioner Sarno requested clarification on the intent of limitation on licensing. City Planner Abboud responded that they did not really go into it, and you can address the number or spacing, but he believes that the commission will be addressing the number of overall cultivation licenses, retail licenses, etc. that the city will issue.

Commissioner Burgess interjected that while he appreciated the expertise of the Planning Commission he did not believe that they should be more restrictive than the state from a zoning standpoint then create barriers to limit the number of licenses issued. The city has a limited opportunity to derive needed revenue from this industry and he opined that this will be essentially deprives the city of that possible revenue stream.

City Planner Abboud responded that the Planning Commission has different perspective, they believe that the image we are portraying to the community will have an undesirable impact on the community is more important.

There was a brief discussion on the Planning Commission trying to address values and that the commission should not try to enact those values but let the market and industry work itself out naturally. Staff recommended the Cannabis Commissioners attend the next Planning Commission meeting or submit comments to address those concerns.

#### B. Kenai Peninsula Borough Cannabis Task Force Report - Commissioner Monroe

Commissioner Monroe was not present to provide a report.

#### **PUBLIC HEARINGS**

*(Public Testimony is limited to 3 minutes. The Commission conducts Public Hearings by hearing a staff report if any, hearing public testimony and then acting on the Public Hearing items- Once the public hearing is closed the Commission cannot hear additional comments on the topic.*

#### **PENDING BUSINESS**

##### A. Cannabis Zoning Staff Report CAC 15-06 from City Planner Abboud

1. Memorandum from the Library Advisory Board to the CAC Re: Homer Public Library
2. Draft State of Alaska Proposed Regulations as Amended October 1, 2015

City Planner Abboud forwarded the recommendations, spoke about the buffer concerns and submitted a question regarding the phrase concerning religious services since he believed it can be a quagmire and the distance requirement from correctional facilities.

There was a brief discussion regarding the definition and the need for the state to provide a definition for this item. The city has zoning requirement but ultimately if the states description is ambiguous and could apply to just about any type of regularly conducted services anywhere such as a field.

Commissioner Sarno commented on the 3 AAC 306.900 3 AAC 306.900, stating that this regulation is discriminatory and unconstitutional. It is discriminatory because the title of the initiative passed by the voters includes the words "tax and regulate marijuana like alcohol." Once cannabis is purchased, it passes out of the jurisdiction of the state and becomes like a bottle of wine or beer.

The prohibition against consumption in public has a solution: private clubs and other businesses where patrons, over 21 years of age, can safely and convivially consume cannabis products as if in the safety of their own home. This provides for the thousands of tourists who will be coming to Alaska in search of a safe, genuine Alaskan cannabis experience.

This prohibition of cannabis clubs is unnecessary to the functioning of the taxation and regulation of production and sales of cannabis. This prohibition of cannabis clubs directly attacks harmless social consumption. Harmless social consumption is exactly what the spirit of the cannabis initiative aims to protect. This prohibition of cannabis clubs will result in litigation both unnecessary to public safety and needlessly expensive to the state. This prohibition of cannabis clubs violates the US Constitution. The 14th Amendment of the US Constitution provides for equal protection under the law. The prohibition of cannabis clubs is cultural discrimination. Discrimination against a culture is prohibited by the Constitution no less than discrimination by age, gender, handicap, race, and sexual preference.

Cannabis clubs, cannabis-friendly B&B's, cannabis cafes, and the like, are also protected by the First Amendment freedom to associate, a freedom as fundamental as freedom of the press.

Commissioner Sarno questioned the following:

1. Where will the tourists be able to consume cannabis? How about in their hotels or bed and breakfasts? Will these businesses be allowed to provide designated areas?

A: AS 17.38.040 prohibits the consumption of marijuana in public places. "In public" was defined by the board in a regulation that was made permanent this year and includes any place to which the public or a substantial portion of the public has access. The proposed regulation in Article 9 prohibits the creation of clubs that would invite the public in to consume marijuana but charge a membership fee, admission fee or cover charge for admission. AS 17.38 does not provide legal authority for the Marijuana Control Board to create a license type permitting consumption of marijuana in a place which is open to the public.

The Kachemak Cannabis Coalition recommends that the City of Homer recommend to the state that canna tourism businesses be included in the regulations for the state law on cannabis. These businesses need only be licensed like any other business. Bed & breakfasts, cafes, clubs and restaurants serve wine and beer. Therefore, people who want to operate cannabis-friendly businesses should be able to invite people who have legally purchased cannabis from dispensaries to partake at their clubs and lodgings.

Commissioner Sarno then questioned the proposed requirement of 3 AAC 306.030, Petition for license in area with no local government. She advocated that this requirement for advertising the business application for a license is onerous. She stated that discretion is standard in the cannabis industry and believed that this regulation makes it impossible for a business to be discreet. This regulation requiring that the neighbors' petition for a cannabis business is discriminatory. If a person wants to open a brewery within 50 miles of a local government, must their neighbors petition for their license to be granted? Cannabis is to be regulated like alcohol.

Commissioner Sarno further questioned the regulation regarding applying for a license for a premise more than five miles from a US post office stating it is incredibly onerous and discriminatory, and nearly impossible to achieve. She queried the 2/3 of residents within five mile radius requirement? There is no demonstrated harm. The effect of the regulation will be to make it impossible for rural residents to open grow operations.

Commissioners responded to her query regarding these requirements are the same for alcohol.

Commissioner Harris provided an explanation for the notification and petition requirement due to various aspects with children and farm equipment as an example.

Commissioner Burgess commented on the concept/definition of "public", with regards to Commissioner Sarno concern of where visitors would be able to consume, a rented/leased or "let" accommodation. He further noted that the recommendation was presented before council and opposed by Councilmember Zak. He suggested communicating with Council.

There was a brief discussion on submitting a recommendation to City Council to include informational materials along with smoking being allowed in lodging facilities.

SARNO/JONES - MOVED TO SUBMIT A RECOMMENDATION TO CITY COUNCIL TO RECOMMEND THE STATE ALLOW CLUBS.

Commissioner Young arrived at 6:22 p.m. Commissioner Burgess turned the meeting over to Chair Young.

Discussion on the motion and the benefit ensued included points were that if it would be proactive or backfire on the City with regard to State actions if the city pushes to allow clubs, no basis for the state to oppose clubs or similar facilities from a public safety perspective it would be beneficial to track and monitor, offering inspection, etc.

SARNO/BURGESS - MOVED TO AMEND THE MOTION THAT A RECOMMENDATION TO THE CITY COUNCIL TO TAKE A PRO-CANNABIS CLUB/PRIVATE CLUB POSITION CITING THE REASONS STATED BY COMMISSIONER ROBL.

Further points included the standing taken by the Marijuana Control Board that they do not have the right to address clubs since it was not included in the referendum; Colorado and Washington currently do not allow clubs; and an argument by Commissioner Harris was presented that the State is regulating clubs in the proposed regulations by not allowing them and as previously stated there is no basis regarding Public Safety that should discourage allowing clubs.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

#### **NEW BUSINESS**

A. Memorandum from Deputy City Clerk Krause Re: Taxation

1. Sales Taxes, Excise Taxes - State of Colorado (General Information)
2. Sales Taxes and Excise Taxes - State of Washington (General Information)
3. City of Homer Code - Title 9 Taxation (General Information)
4. State of Alaska Excise Tax Information

Chair Young read the item into the record.

Commissioner Burgess stated that they are limited in what actions they take and that zoning and taxation are currently the only regulatory avenues open to the municipality; he queried if staff has received any response from the City Attorney.

City Planner Abboud explained, with a head nod from Deputy City Clerk Krause, that he has endeavored to get information and direction from the city attorney but as of this morning he has received no response from her.

There was a discussion regarding how prudent it would be to having the ability to tax.

BURGESS/ROBL - MOVED TO SUBMIT A RECOMMENDATION TO CITY COUNCIL TO REQUEST THAT THE BOROUGH IMPLEMENT AN EXCISE TAX ON CANNABIS AND/OR ALCOHOL.

Further discussion on push back from the liquor industry, inclusion of alcohol leaves it up to council to remove or leave in place and that having the ability to implement a tax in order to defray the impacts to the city's workforce, the enforcement that will be required, and additional business footprints that develop in the city will require the additional revenue.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

The information included in the packet was very informative commented Commissioner Burgess and opined favorably on the State of Colorado taxation formulas, stating they made more sense and workable, noting that Washington left too much to municipalities in some areas and not enough in others, believing they were somewhat obstructionist on the state level

#### B. Next Meeting Deliverables, Agenda Items

City Planner Abboud stated he should be able to have the draft ordinance for the next meeting along with the maps. He will try to figure out how to get the information on the taxation issue from the City Attorney.

Commissioner Harris questioned the issue of the City taxing without the borough? Commissioner Burgess explained that the city can decide to tax marijuana but if the Borough doesn't do it then the city will have to administer and collect the tax which the Finance Department has stated that it would entail hiring additional personnel in finance. Council can decide to do that though. But if the municipalities on the peninsula wanted to tax it would streamline the administrative processes if the Borough was involved.

City Planner Abboud was unsure if there was enough time to get a taxation issue on the ballot if it was needed. There was a brief discussion on taxing and waiting to hear from the Borough first before proceeding further.

#### INFORMATIONAL MATERIALS

A. 2015 Meeting Schedule and Packet Processing Deadlines

B. 2015 Commission Attendance at Council Meetings

C. Memorandum to Council re: Recommendations and Questions to Submit to the State of Alaska Marijuana Control Board Regarding Proposed Regulations

Commissioner Sarno inquired about submitting recommendations if the MCB is done. Deputy City Clerk Krause responded that there is one final review of any recommendations and/or questions can be submitted and will have one final chance, she believed the date was mid-November. Commissioner Lewis confirmed that the recommendations and questions submitted by the Commission were approved at the last Council meeting with the exception of the one recommendation regarding clubs.

#### COMMENTS OF THE AUDIENCE

Members of the audience may address the Commission on any subject. (3 minute time limit)

Chris Long, resident, questioned the cultivation regulations on square footage that was mentioned, licensing fees and banking.

City Planner Abboud responded that for the state there is a limited cultivation license that is 500 square feet less and a large cultivation license which he did not believe there was any upper limitation on it. Commissioner Harris provided the information from the amended regulations changed the requirement of enclosure but that a no see privacy type fence or wall with a minimum height of 6 feet was required. The fees are at \$5000 and may vary depending on license, testing facility is dependent on where they set up shop, it was noted that there was someone Homer who was qualified with interested investment backers so there may be one in Homer, banking may take longer since most financial institutions are federally regulated and will not want to be involved with any aspect of the industry, it was mentioned that they may see a state credit union or similar institution created. Since these businesses will be cash based that is the issue that the Chief was relating to regarding Public Safety since it will mean massive amounts of cash laying around and that is a bigger concern than the drug.

#### COMMENTS OF STAFF

There were no comments from staff.

**COMMENTS OF THE CHAIR**

Chair Young thanked the commission for putting up with her tardiness seems like they were really productive and looks forward to the next meeting.

**COMMENTS OF THE COMMISSION**

Commissioner Sarno stated she regrets backing down on her motion. She did it because she has learned to see things in the point view from the City of Homer. However, she believes they have not heard the last of this.

Commissioner Robl stated that one thing they touched on tonight the possibility of issuing licenses or abdicating that to the state; he did not believe the City should pass on that opportunity and should get some advice from the city attorney before they say no. He believed that these licenses are being strictly enforced by the State and they would not have much to do other than zoning compliances; he does not see contentions with most of these and they could miss out on a pretty good revenue stream.

Commissioner Harris and Jones had no comment.

Commissioner Burgess stated it was a good meeting and if Commissioner Sarno was wanting to put something forward he would support that in the form of a resolution. Judging by the State actions at this point he is not sure what good it would do, he believed it will be 99% decided in the courts whether we see Clubs or not. He would just assume that when they come along and ask for permitting authority and the money from the permits, they just think the hippies down here are legit.

Commissioner Lewis stated that we may be crazy fringe banana-belters but we have the whales and king salmon all year round.

**ADJOURN**

There being no further business to come before the Commission, the meeting adjourned at 7:20 p.m. The next regular meeting is scheduled for MONDAY, NOVEMBER 30, 2015 at 5:30 p.m. in the City Hall Conference Room located upstairs.

\_\_\_\_\_  
Renee Krause, CMC, Deputy City Clerk

Approved: \_\_\_\_\_



**MEMORANDUM**  
**ATTORNEY-CLIENT PRIVILEGE**

**TO: CANNABIS ADVISORY COMMISSION  
RICK ABOUD  
CITY MANAGER KATIE KOESTER**

**FROM: HOLLY C. WELLS**

**RE: UPDATE REGARDING WRITTEN AND ORAL COMMENTS TO THE  
MARIJUANA CONTROL BOARD**

**CLIENT: CITY OF HOMER**

**FILE NO.: 506,742.222**

**DATE: NOVEMBER 18, 2015**

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The purpose of this memorandum is to provide the Cannabis Advisory Commission ("CAC") with an update regarding the oral presentation I made to the Marijuana Control Board ("MCB") on behalf of the CAC as well as the written commentary submitted to the MCB.

On October 16, 2015, I provided comments to the MCB on behalf of the City. The MCB members appeared very engaged and responsive during the presentation. Although there was only three minutes allotted for my presentation, the MCB requested that I complete my presentation and provide commentary on all of the issues I had originally intended to address. The MCB also requested that I submit the CAC's comments in writing, which we did on November 11, 2015. We have attached the email submitting these comments for your edification.

In addition to submitting comments, Katie Davies, Tom Klinkner, and I attended a presentation by Cynthia Franklin, the director of MCB, on November 16, 2015 before the Municipal Law Section of the Alaska Municipal League. Additionally, Katie and I mediated a roundtable discussion between Ms. Franklin and the conference attendees directly after her presentation. I intend to provide the CAC a summary of those discussions at the upcoming CAC meeting. Additionally, I have attached Ms. Franklin's power presentation to this memorandum for your review.



## Katie Davies

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**From:** Katie Davies  
**Sent:** Wednesday, November 11, 2015 10:46 AM  
**To:** 'john.calder@alaska.gov'  
**Cc:** Holly Wells; Lori Brownlee  
**Subject:** Public Comment regarding Marijuana Regulations

These comments are being submitted on behalf of the City of Homer, Alaska by its acting City Attorney, Holly Wells of Birch Horton Bittner & Cherot. Ms. Wells also presented these comments to the Marijuana Control Board at the October 16, 2015 oral public comment hearing in Anchorage, Alaska.

1. 3 AAC 306.010

Given the unique nature of each Alaskan community and its topography and land use approach, the City recommends that the regulations defer to the municipalities for restrictions on location via the zoning and planning authority grant to such municipalities. This approach will avoid unintentional contradictions between local and zoning laws and the regulations. It will also permit municipalities to adopt more or less restrictive location prohibitions depending upon the needs of the municipality in question. Similarly, the City recommends that any restriction based upon church services or religious places of worship be removed from the regulations as the communities within Alaska often involve the use of commercial or industrial spaces for religious services and other nontraditional religious service locations that would make the application of the regulations extremely challenging, if not impossible without severely impacting the regulated facilities ability to comply with the regulations.

2. 3 AAC 306.715; 3 AAC 306.325

Please clarify the handler permit process. Under the regulations, may a private entity become authorized to issue permits similar to other professional job classifications? Will the process for becoming an approved handler permit course under 3 AAC 306.325 be included in the regulations or will a policy regarding such courses be adopted prior to or in conjunction with the adoption of the regulations?

3. 3 AAC 306.020

Please explain the requirement for the social security numbers and other identifying information for "family member(s)" and "affiliates" of individuals seeking a license under 3 AAC 306.020. While the regulations require only identifying information on the owners or shareholders of partnerships and corporations, the requirements are much more far reaching for individuals. The City fears that requiring such personal information without regard for the relation of such information to the license itself or even the licensee may constitute a breach of privacy.

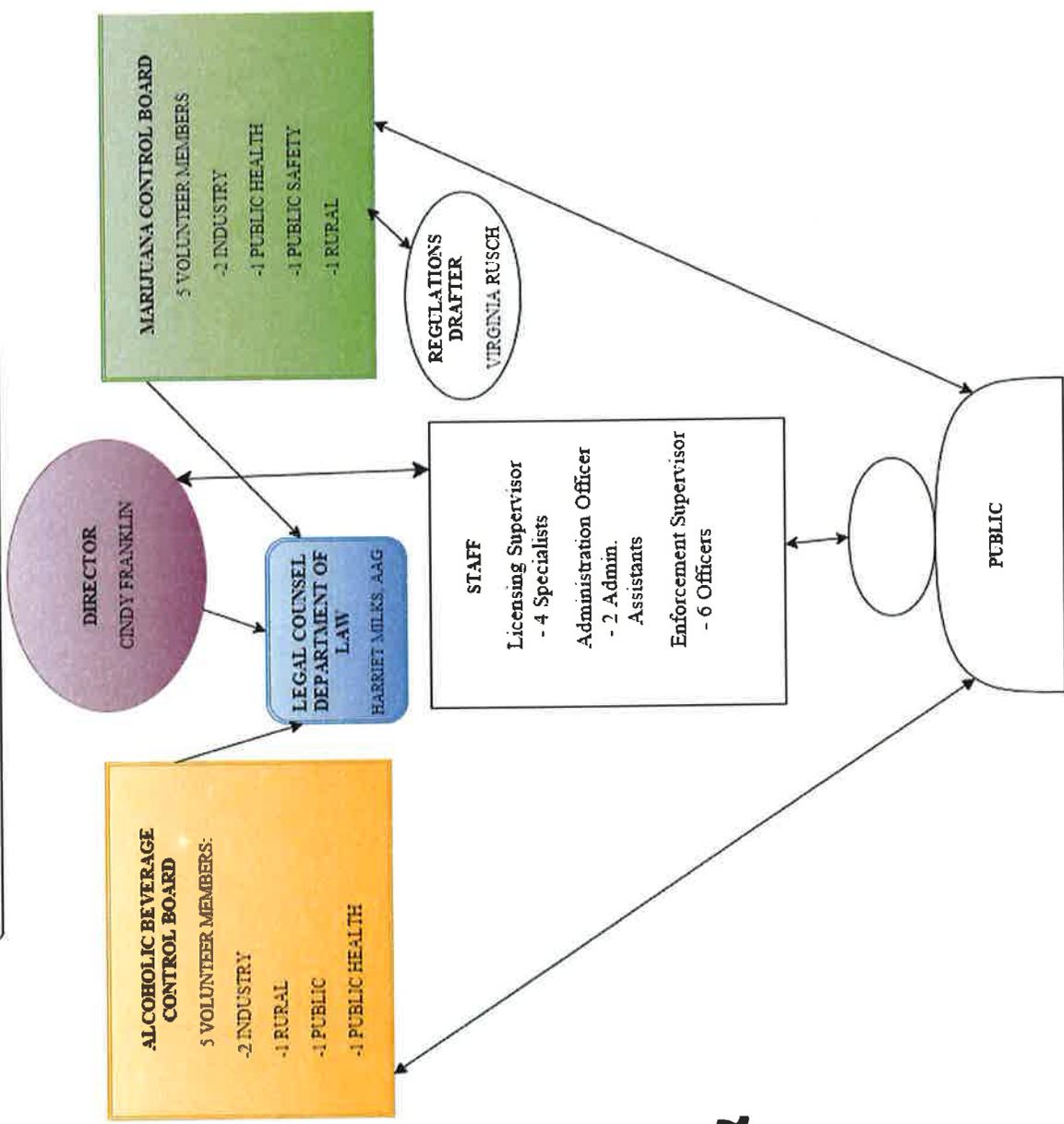
4. 3 AAC 306.400, et seq.

Please explain the intent in limiting the ability of cultivation facilities to sell directly to retail or manufacturing establishments and the interaction between a marijuana cultivation broker facility and a marijuana cultivation facility under the proposed regulations.

Please feel free to contact Ms. Wells or myself with any questions or concerns.

Thank you,  
Katie

DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT



# ALASKA LAWS & REGULATIONS

Cindy Franklin,  
Director Alcohol & Marijuana Control Boards

All 9 articles are currently posted for written public comment

# **TIMELINE OF REGULATIONS PROCESS**

Article 1  
Licensing & Fees

Article 2  
Local Option Rules

Article 3  
Retail MJ Stores

Article 4  
MJ Cultivation  
Facilities

Article 5  
MJ Product Mfg  
Facilities

Article 6  
MJ Testing  
Facilities

Article 7  
General Operating  
Requirement

Article 8  
Enforcement

Article 9  
General Provisions

# **FREQUENTLY ASKED LG QUESTIONS**

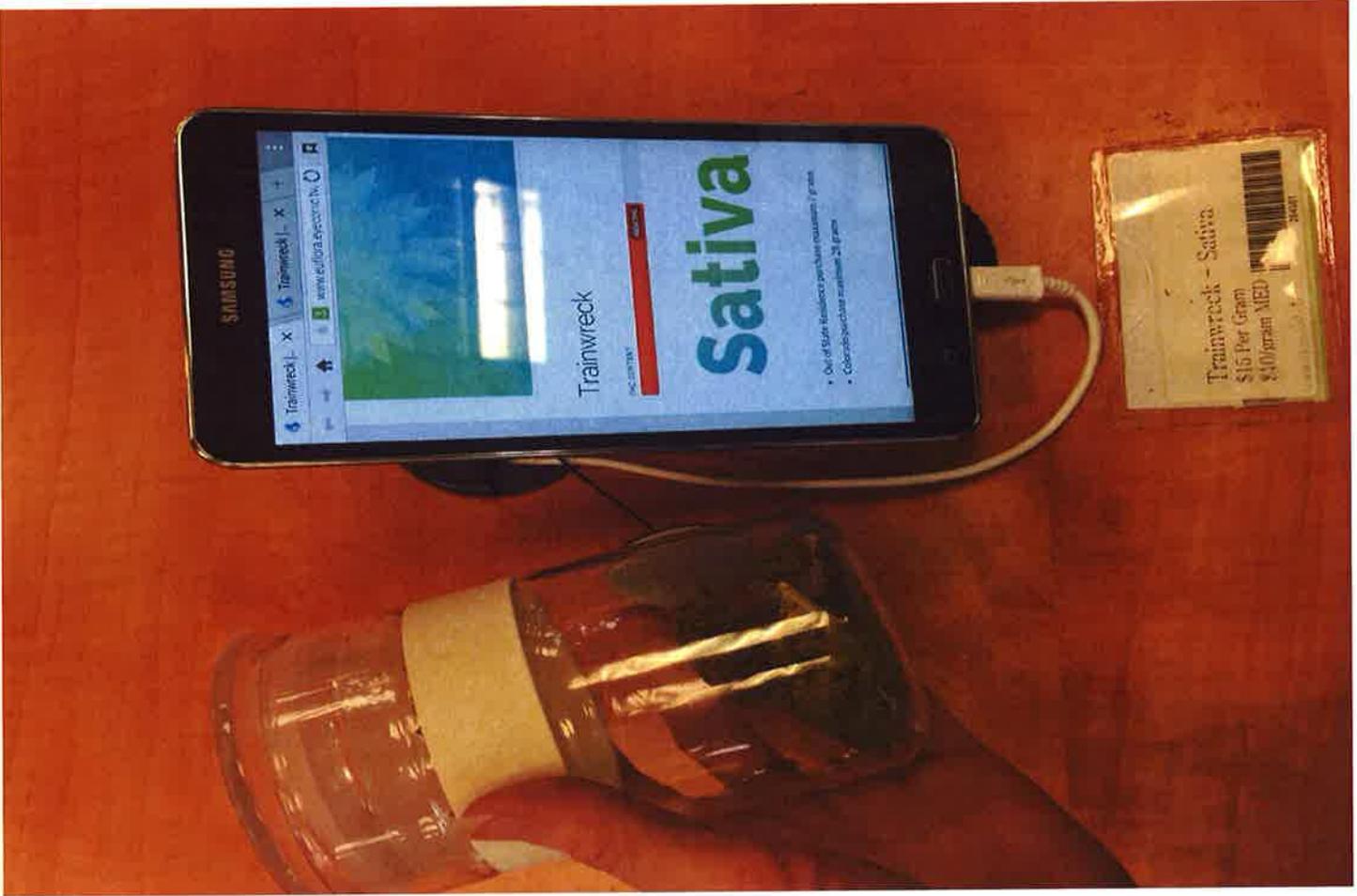
**Opt-Out Regulations v. Title 29- elections procedures**

**Banning Edibles**

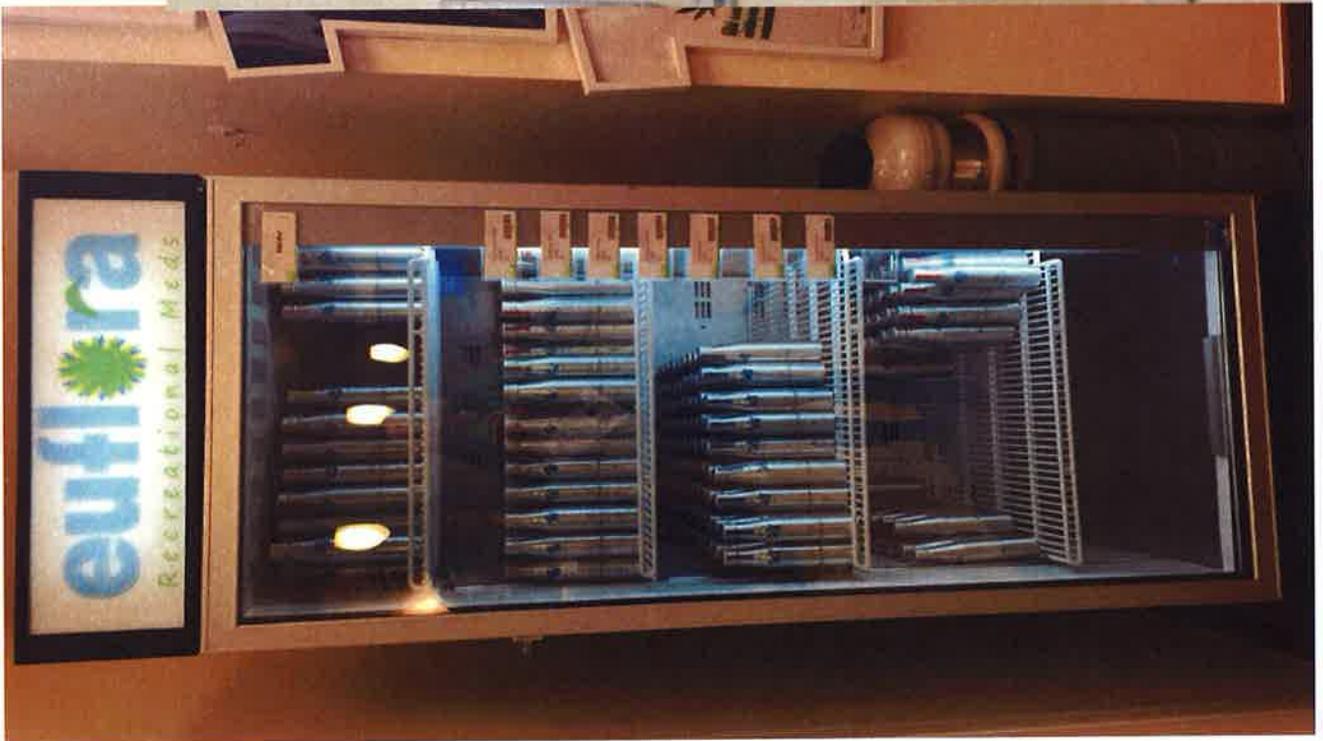
**Fee Sharing and Taxes**

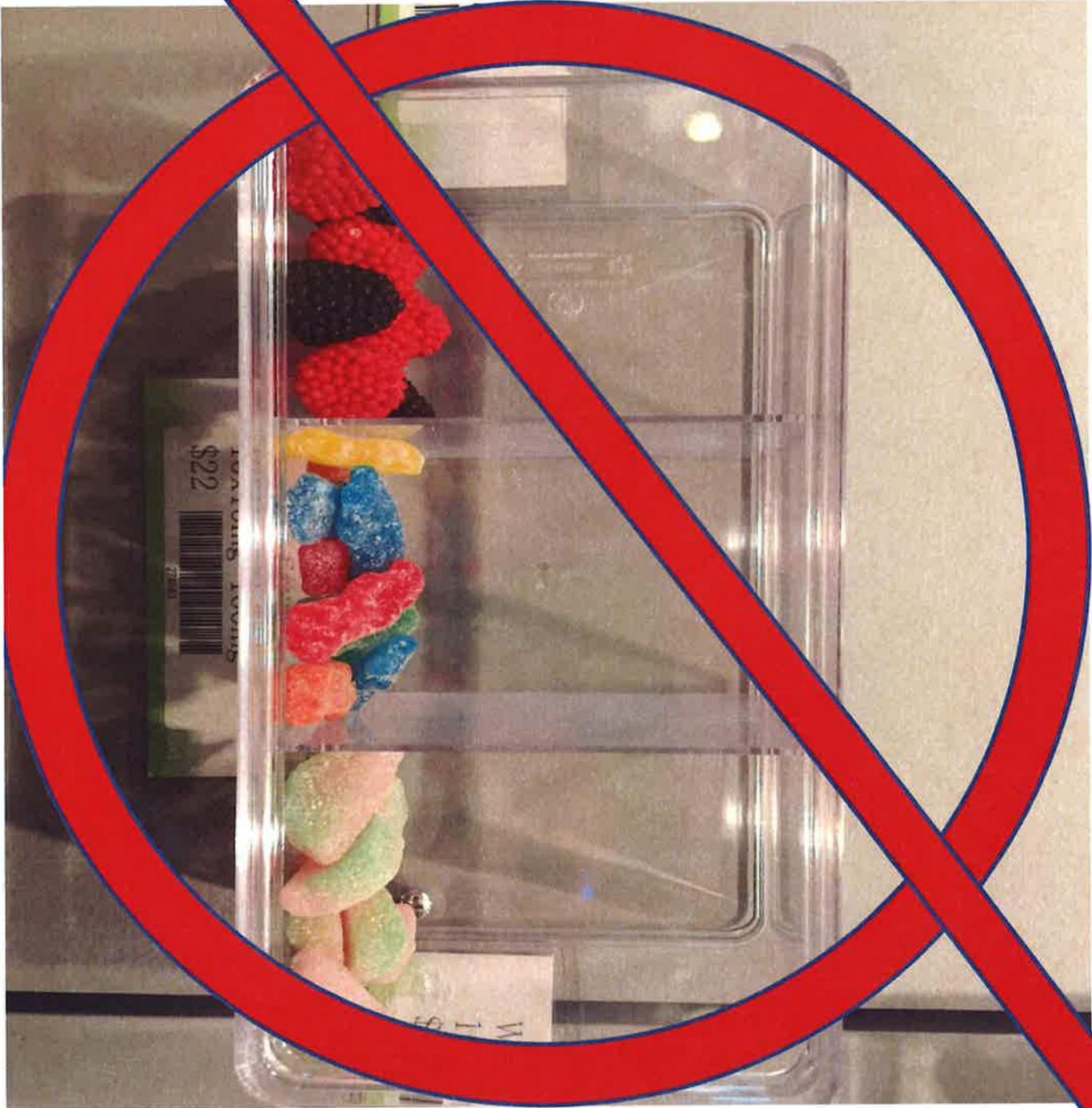
# **WHAT TO EXPECT- STORES & MARIJUANA PRODUCTS**















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Jason Redmond/Reuters

**Smoke vs. Snack: Why Edible Marijuana Is Stronger Than Smoking**





# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

### Staff Report CAC 15-06

TO: Cannabis Advisory Commission  
FROM: Rick Abboud, City Planner  
DATE: November 30, 2015  
SUBJECT: Taxation

**Introduction:** Included in the packet are materials from the City Attorney regarding the options for taxation. After reading through, you will find a bunch of reference material. The City Attorney proposes to bring back the issue in greater detail for the next meeting. We seem to be on a holding pattern waiting to see what the Borough will do. If the Borough does not impose any additional taxes then we, as a city, will be responsible for all regulation and collection of taxes per available options.

I have had preliminary talks with the Finance Director about the possibilities. It seems that we may be able to address taxation issues that deal with only a handful of business without a major increase in work load. Of course, it would be of great benefit to be able to remit the taxes to the borough.

Below are the next steps for the state:

- The final regulations package will be submitted to the Department of Law for review and approval.
- By February 24, 2016 the regulations will be filed by the Lt. Governor's office and the MCB will start accepting applications. Unless returned by the Governor, the Lt. Governor's office-approved regulations are effective 30 days after filed.
- The regulations will be effective on approximately March 25, 2016 (based on the date they are filed by the Lt. Governor's office).
- The initial marijuana industry licenses are expected to be awarded in late May 2016.

All I have heard are the news reports on what happened at the state level. I eagerly await a closer look at the final recommendations.

Included are the staff reports which are going to the Planning Commission for the meeting of December 2nd. Please consider contributing to the conversation.

**Staff Recommendation:** Review and make any suggestions that you may wish to forward to the City Attorney for the next meeting.

**Attachments:**

1. Staff Reports PL 15-80 (with ordinance and maps)



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

Planning

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Homer, Alaska 99603

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(f) 907-235-3118

## STAFF REPORT PL 15-80

**TO:** Homer Advisory Planning Commission  
**FROM:** Rick Abboud AICP, City Planner  
**MEETING:** December 2, 2015  
**SUBJECT:** Zoning for Marijuana, second public hearing

**Requested Action:** Conduct a public hearing on the draft ordinance regulating commercial marijuana activities by zoning district.

## GENERAL INFORMATION

This is the second of two scheduled public hearings. The draft ordinance creates zoning regulations for the four types of commercially regulated marijuana activities licensed by the state.

1. Cultivation. There are two sizes of cultivation operations:
  - Small scale is limited to 500 square feet of cultivation, and
  - Large scale is anything larger than that.
2. Testing
3. Manufacturing
4. Retail

The city may propose regulations in addition to the state regulations but may not allow anything that is less restrictive than the state. Below is a table of the activities proposed by zoning district. In addition to this, the city has proposed additional buffers:

- 1000 ft from schools (this mirrors the federal drug free zones)
- 200 ft from the library
- 200 ft from Jack Gist, Karen Hornaday, Bayview, and Ben Walters Parks

## Update

A few changes were made after the last public hearing. Small scale cultivation is now proposed to be a permitted activity in the East End Mixed Use District and a conditional use for lots exceeding 20,000 square feet in the Rural Residential District.

The state is now proposing allowing a consumption component to a retail facility. This is a bit tough to judge at the moment. While there is a great deal of rules and regulation regarding how the retail component will operate, there is no additional information (so far) regarding any other regulation regarding the operation of the facility with an attached place of consumption. This certainly adds to the complexity of the subject of retail facilities. The model that I have observed in Washington and Colorado was one that I saw as having little negative consequences as far as compared to other retail operations such as liquor or convenience stores. Thoughts and discussion is welcome.

## **Buffers**

At my Planning Conference, Cynthia Franklin was expanding on the choice of the 500 foot buffers, it was revealed that these were based on state law and, as such, had a solid basis for compliance with the Cole Memo. We finally found where this is located in Alaska Statute. The City Attorney informed me that her research showed the federal government does take a stance on the 1000 foot buffer from schools.

While I found no reference to “drug free zone” or “double penalty zone”, I found that misconduct that might be considered a sixth degree offense (possession of a schedule VIA controlled substance (marijuana)), becomes a third degree offense when “on or within 500 feet of a recreation or youth center as described below. This includes an athletic playing field or playground by state definition.

Interestingly, alcohol is only limited inside of a 200 foot buffer of churches, which is more in line with what we had proposed in an earlier version of the proposed ordinance. Regardless, we are only able to propose more restrictive regulations not more permissive than the state.

After review with the City Attorney, I have no recommendations. Below is the statute reference.

### **AS 11.71.030. Misconduct Involving a Controlled Substance in the Third Degree.**

(a) Except as authorized in AS [17.30](#), a person commits the crime of misconduct involving a controlled substance in the third degree if the person

(1) under circumstances not proscribed under AS [11.71.020](#) (a)(2) - (6), manufactures or delivers any amount of a schedule IIA or IIIA controlled substance or possesses any amount of a schedule IIA or IIIA controlled substance with intent to manufacture or deliver;

(2) delivers any amount of a schedule IVA, VA, or VIA controlled substance to a person under 19 years of age who is at least three years younger than the person delivering the substance; or

(3) possesses any amount of a schedule IA or IIA controlled substance

(A) with reckless disregard that the possession occurs

(i) on or within 500 feet of school grounds; or

(ii) at or within 500 feet of a recreation or youth center; or

(B) on a school bus.

### **AS 11.71.900. Definitions.**

(20) "recreation or youth center" means a building, structure, athletic playing field, or playground

(A) run or created by a municipality 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 minors;

(29) "school grounds" means a building, structure, athletic playing field, playground, parking area, or land contained within the real property boundary line of a public or private preschool, elementary, or secondary school;

**AS 04.11.410. Restriction of Location Near Churches and Schools.**

(a) A beverage dispensary or package store license may not be issued and the location of an existing license may not be transferred if the licensed premises would be located in a building the public entrance of which is within 200 feet of a school ground or a church building in which religious services are regularly conducted, measured by the shortest pedestrian route from the outer boundaries of the school ground or the public entrance of the church building. However, a license issued before the presence of either cause of restriction within 200 feet of the licensed premises may be renewed or transferred to a person notwithstanding this subsection.

A = Allowed. C = Conditional Use Permit needed.

**Table 1. Cannabis Activity by Zoning District**

Activity	District						
	CBD	GC1	GC2	EEMU	MC	RR	BCWPD
Retail	C	C	C	C	C		
MFG		C	C	C			
Testing	A	A	A	A			
Cultivation							
small	C	C	C	A		C*	C
large	C	C	C	C			

\*for lots over 20,000 square feet (not allowed on lots 20,000 square feet or less)

**STAFF COMMENTS:**

While we are looking at regulating relatively small aspects of the industry, the meat of requirements are found in the proposed regulations of the state. These regulations are quite extensive. There are requirements that apply (Article 7) to all of the activities along with more specific requirements that address each of the 4 individual licensing areas. One really needs to understand the state regulations to get an accurate picture of what these activities may look like when approved. There are 133 pages that compose articles 1-9, which the state uses for regulation. I will attempt to highlight some of these and draw attention to those that need particular consideration for zoning.

All activities are to be secured. This means that cameras and lighting needs to be adequate to identify those inside the facility and anyone within 20 feet of the outside entrances. Commercial grade locks will need to be installed. All personal that work or have ownership interest will need a handlers permit and this permit must be on the person at all times when in the facility.

Many other aspects of the activities are regulated by the state including:

- All waste disposal
- Transportation of the product
- Signage and advertising

- Inventory tracking
- No odor may be detectable off site
- None of the product may be consumed in any licensed facility
- No facilities may reduce or expand without board approval
- No delivery off-site
- No operation between the hours of 5am and 8am

State application procedures require announcement in the newspaper for 3 consecutive weeks and announcements on the radio twice a week for 3 consecutive weeks, as well as on-site and nearby postings.

The state has proposed buffers:

- 500 feet from a school, a recreation or youth center, a building which religious services are regularly conducted, or a correctional facility.

The City's regulations do not address personal use or consumption of marijuana. State regulations still allow for the growing, possession, and gifting as many as six marijuana plants. Only three of the plants can be mature and flowering at any one time. According to the State of Alaska (<https://www.commerce.alaska.gov/web/abc/MarijuanaInitiativeFAQs.aspx>) an unlicensed person may possess up to 4 ounces of marijuana. It is illegal to smoke marijuana in public as defined by the state, no additional restrictions have been suggested.

## **RECOMMENDATIONS:**

Hold a public hearing and consider amending the ordinance if appropriate. Recommend for adoption to the City Council.

## **ATTACHMENTS**

1. Draft ordinance 11.20.15
2. November 4<sup>th</sup> map series (3 maps)

1 CITY OF HOMER  
2 HOMER, ALASKA

3  
4 Planning Commission

5  
6 ORDINANCE 15-\_\_\_\_  
7

8 AN ORDINANCE OF THE CITY COUNCIL OF HOMER,  
9 ALASKA, AMENDING HOMER CITY CODE 21.12, RURAL  
10 RESIDENTIAL DISTRICT; HOMER CITY CODE 21.18,  
11 CENTRAL BUSINESS DISTRICT; HOMER CITY CODE 21.24,  
12 GENERAL COMMERCIAL 1; HOMER CITY CODE 21.26,  
13 GENERAL COMMERCIAL 2; HOMER CITY CODE 21.27, EAST  
14 END MIXED USE; HOMER CITY CODE 21.28, MARINE  
15 COMMERCIAL; HOMER CITY CODE 21.40, BRIDGE CREEK  
16 WATERSHED PROTECTION DISTRICT TO IDENTIFY THE  
17 ZONING DISTRICTS PERMITTING MARIJUANA FACILITIES  
18 AND ADOPTING CHAPTER 21.62 ENTITLED "MARIJUANA  
19 FACILITIES" REGARDING GENERAL LAND USE  
20 REQUIREMENTS FOR MARIJUANA CULTIVATION,  
21 MANUFACTURING, RETAIL, AND TESTING FACILITIES  
22

23 WHEREAS, it is in the City's best interest to draft comprehensive regulations  
24 regarding the use of property within the City to cultivate, manufacturer marijuana or to  
25 operate a retail store selling marijuana; and  
26

27 WHEREAS, the City is dedicated to drafting regulations that prevent the  
28 distribution of marijuana to minors; prevents revenue from the sale of marijuana from  
29 going to criminal enterprises, gangs, and cartels; prevents the diversion of marijuana  
30 from states where it is legal under state law in some form to other states; prevents state-  
31 authorized marijuana activity from being used as a cover or pretext for the trafficking of  
32 other illegal drugs or other illegal activity; prevents violence and the use of firearms in  
33 the cultivation and distribution of marijuana; prevents drugged driving and the  
34 exacerbation of other adverse public health consequences associated with marijuana use;  
35 prevents the growing of marijuana on public lands and the attendant public safety and  
36 environmental dangers posted by marijuana production on public land; and prevents  
37 marijuana possession or use on federal property.  
38

39 THE CITY OF HOMER ORDAINS:  
40

41 Section 1. Homer City Code Chapter 21.12 is amended to read as follows:  
42

Section 21.12.030 Conditional uses and structures.  
.....

[**Underlined added.** Deleted language stricken through.]

43                   The following uses may be permitted in the Rural Residential District  
44 when authorized by conditional use permit issued in accordance with  
45 Chapter 21.71 HCC:

- 46                   a. Planned unit development, limited to residential uses only;
- 47                   b. Religious, cultural and fraternal assembly;
- 48                   c. Cemeteries;
- 49                   d. Kennels;
- 50                   e. Commercial greenhouses and tree nurseries offering sale of plants or  
51 trees grown on premises;
- 52                   f. Mobile home parks;
- 53                   g. Public utility facilities and structures;
- 54                   h. Pipelines and railroads;
- 55                   i. Storage of heavy equipment, vehicles or boats over 36 feet in length as  
56 an accessory use incidental to a permitted or conditionally  
57 permitted principal use;
- 58                   j. Day care facilities; provided, however, that outdoor play areas must be  
59 fenced;
- 60                   k. Group care home;
- 61                   l. Assisted living home;
- 62                   m. More than one building containing a permitted principal use on a lot;
- 63                   n. Indoor recreational facilities;
- 64                   o. Outdoor recreational facilities;
- 65                   p. Public school and private school;

66 q. One small wind energy system having a rated capacity exceeding 10  
67 kilowatts; provided, that it is the only wind energy system of any capacity  
68 on the lot.

69 **r. Marijuana cultivation facility as defined in state statute and only up**  
70 **to 500 square feet on lots greater than 20,000 square feet.**

71  
72 Section 2. Homer City Code Chapter 21.18 is amended as follows:

73 Section 21.18.020 Permitted uses and structures.

74 The following uses are permitted outright in the Central Business District, except  
75 when such use requires a conditional use permit by reason of size, traffic volumes, or  
76 other reasons set forth in this chapter:

77 a. Retail business where the principal activity is the sale of merchandise  
78 and incidental services in an enclosed building;

79 b. Personal service establishments;

80 c. Professional offices and general business offices;

81 d. Restaurants, clubs and drinking establishments that provide food or  
82 drink for consumption on the premises;

83 e. Parking lots and parking garages, in accordance with  
84 Chapter 21.55 HCC;

85 f. Hotels and motels;

86 g. Mortuaries;

87 h. Single-family, duplex, and multiple-family dwellings,  
88 including townhouses, but not including mobile homes;

89 i. Floatplane tie-up facilities and air charter services;

90 j. Parks;

- 91 k. Retail and wholesale sales of building supplies and materials, only if  
92 such use, including storage of materials, is wholly contained within one or  
93 more enclosed buildings;
- 94 l. Customary accessory uses to any of the permitted uses listed in the CBD  
95 district; provided, that a separate permit shall not be issued for the  
96 construction of any detached accessory building prior to that of the main  
97 building;
- 98 m. Mobile homes, provided they conform to the requirements set forth in  
99 HCC 21.54.100;
- 100 n. Home occupations, provided they conform to the requirements of  
101 HCC 21.51.010;
- 102 o. Ministorage;
- 103 p. Apartment units located in buildings primarily devoted to business or  
104 commercial uses;
- 105 q. Religious, cultural, and fraternal assembly;
- 106 r. Entertainment establishments;
- 107 s. Public, private and commercial schools;
- 108 t. Museums and libraries;
- 109 u. Studios;
- 110 v. Plumbing, heating and appliance service shops, only if such use,  
111 including the storage of materials, is wholly within an enclosed building;
- 112 w. Publishing, printing and bookbinding;
- 113 x. Recreational vehicle parks only if located south of the  
114 Sterling Highway (Homer Bypass) from Lake Street west to the boundary  
115 of the Central Business District abutting Webber Subdivision, and from  
116 Heath Street to the west side of Lakeside Village Subdivision, provided

117 they shall conform to the standards in HCC 21.54.200 and following  
118 sections;

119 y. Taxi operation limited to a dispatch office and fleet parking of no more  
120 than five vehicles; maintenance of taxis must be conducted within an  
121 enclosed structure, and requires prior approval by the City Planner of  
122 a site, access and parking plan;

123 z. Mobile food services;

124 aa. Itinerant merchants, provided all activities shall be limited  
125 to uses permitted outright under this zoning district;

126 bb. Day care homes and facilities; provided, however, that outdoor play  
127 areas must be fenced;

128 cc. Rooming house, bed and breakfast and hostel;

129 dd. Auto repair and auto and trailer sales or rental areas, but only on  
130 Main Street from Pioneer Avenue to the Sterling Highway,  
131 excluding lots with frontage on Pioneer Avenue or the Sterling Highway,  
132 subject to the following additional requirements: Vehicles awaiting repair  
133 or service, inoperable vehicles, vehicles for parts, and vehicles awaiting  
134 customer pickup shall be parked indoors or inside a fenced enclosure so as  
135 to be concealed from view, on all sides. The fence shall be a minimum  
136 height of eight feet and constructed to prohibit visibility of anything inside  
137 of the enclosure. The portion of any vehicle exceeding eight feet in height  
138 may be visible outside of the fence. Vehicle parts (usable or unusable),  
139 vehicle service supplies, and any other debris created in the repair or  
140 servicing of vehicles shall also be stored indoors or inside the fenced  
141 enclosure out of view of the public;

142 ee. Farmers' market;

143 ff. Dormitory;

144 gg. Financial institutions;

- 145 hh. As an accessory use, one small wind energy system per lot having a  
146 rated capacity not exceeding 10 kilowatts;
- 147 ii. One detached dwelling unit, excluding mobile homes, as an accessory  
148 building to a principal single-family dwelling on a lot.
- 149 **jj. Marijuana testing facility as defined by state law.**

150

151

---

Section 21.18.030 Conditional uses and structures.

---

152 The following uses may be permitted in the Central Business District  
153 when authorized by conditional use permit issued in accordance with  
154 Chapter 21.71 HCC:

---

- 155 a. Planned unit developments, excluding all industrial uses;
- 156 b. Indoor recreational facilities and outdoor recreational facilities;
- 157 c. Mobile home parks;
- 158 d. Auto fueling stations;
- 159 e. Public utility facilities and structures;
- 160 f. Pipeline and railroads;
- 161 g. Greenhouses and garden supplies;
- 162 h. Light or custom manufacturing, repair, fabricating, and assembly,  
163 provided such use, including storage of materials, is wholly within an  
164 enclosed building;
- 165 i. Shelter for the homeless, provided any lot used for such shelter does  
166 not abut a residential zoning district;
- 167 j. More than one building containing a permitted principal use on a lot;

- 168 k. Group care homes and assisted living homes;
- 169 l. Drive-in car washes, but only on the Sterling Highway from Tract A-1
- 170 Webber Subdivision to Heath Street;
- 171 m. One small wind energy system having a rated capacity exceeding 10
- 172 kilowatts; provided, that it is the only wind energy system of any capacity
- 173 on the lot;
- 174 n. Other uses approved pursuant to HCC 21.04.020
- 175 **o. Marijuana retail facilities and cultivation facilities as defined by**
- 176 **state law.**

177 Section 3. Homer City Code Chapter 21.24 is amended as follows:

178 Section 21.24.020 Permitted uses and structures.

179 The following uses are permitted outright in the General Commercial 1

180 District, except when such use requires a conditional use permit by reason of size,

181 traffic volumes, or other reasons set forth in this chapter.

- 182 a. Air charter operations and floatplane tie-up facilities;
- 183 b. General business offices and professional offices;
- 184 c. Dwelling units located in buildings primarily devoted to business uses;
- 185 d. Auto repair;
- 186 e. Auto and trailer sales or rental areas;
- 187 f. Auto fueling stations and drive-in car washes;
- 188 g. Building supply and equipment sales and rentals;
- 189 h. Restaurants, including drive-in restaurants, clubs and drinking
- 190 establishments;

- 191 i. Garden supplies and greenhouses;
- 192 j. Heavy equipment and truck sales, rentals, service and repair;
- 193 k. Hotels and motels;
- 194 l. Lumberyards;
- 195 m. Boat and marine equipment sales, rentals, service and repair;
- 196 n. Mortuaries;
- 197 o. Open air businesses;
- 198 p. Parking lots and parking garages, in accordance with  
199 Chapter 21.55 HCC;
- 200 q. Manufacturing of electronic equipment, electrical devices, pottery,  
201 ceramics, musical instruments, toys, novelties, small molded products and  
202 furniture;
- 203 r. Publishing, printing and bookbinding;
- 204 s. Recreation vehicle sales, rental, service and repair;
- 205 t. Retail businesses;
- 206 u. Trade, skilled or industrial schools;
- 207 v. Wholesale businesses, including storage and distribution services  
208 incidental to the products to be sold;
- 209 w. Welding and mechanical repair;
- 210 x. Parks and open space;
- 211 y. Appliance sales and service;
- 212 z. Warehousing, commercial storage and mini-storage;
- 213 aa. Banks, savings and loans, credit unions and other financial institutions;

- 214 bb. Customary accessory uses to any of the permitted uses listed in the  
215 GC1 district; provided, that no separate permit shall be issued for the  
216 construction of any type of accessory building prior to that of the main  
217 building;
- 218 cc. Dry cleaning, laundry, and self-service laundries;
- 219 dd. Taxi operation;
- 220 ee. Mobile food services;
- 221 ff. Itinerant merchants, provided all activities shall be limited  
222 to uses permitted outright under this zoning district;
- 223 gg. Recreational vehicle parks, provided they shall conform to the  
224 standards in Article II of Chapter 21.54 HCC;
- 225 hh. Day care homes; provided, that a conditional use permit was obtained  
226 for the dwelling, if required by HCC 21.24.030; all outdoor play areas  
227 must be fenced;
- 228 ii. Rooming house and bed and breakfast;
- 229 jj. Dormitory;
- 230 kk. As an accessory use, one small wind energy system per lot.

231 **II. Marijuana testing facility as defined by state law.**

232 Section 21.24.030 Conditional uses and structures.

233 The following uses may be permitted in the General Commercial 1 District when  
234 authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

- 235 a. Campgrounds;
- 236 b. Crematoriums;
- 237 c. Multiple-family dwelling;

- 238 d. Public utility facility or structure;
- 239 e. Mobile home parks;
- 240 f. Planned unit developments;
- 241 g. Townhouses;
- 242 h. Pipelines and railroads;
- 243 i. Shelter for the homeless, provided any lot used for such shelter does
- 244 not abut an RO, RR, or UR zoning district;
- 245 j. More than one building containing a permitted principal use on a lot;
- 246 k. Day care facilities; provided, however, that outdoor play areas must be
- 247 fenced;
- 248 l. Other uses approved pursuant to HCC 21.04.020;
- 249 m. Indoor recreational facilities;
- 250 n. Outdoor recreational facilities
- 251 **o. Marijuana retail facilities, cultivation facilities, and manufacturing**
- 252 **facilities as defined by state law.**

253 Section 4. Homer City Code Chapter 21.26 is amended as follows:

254

255 Section 21.26.020 Permitted uses and structures.

256 The following uses are permitted outright in the General Commercial 2

257 District, except when such use requires a conditional use permit by reason of size,

258 traffic volumes, or other reasons set forth in this chapter:

- 259 a. Production, processing, assembly and packaging of fish, shellfish and
- 260 seafood products;
- 261 b. Construction, assembly and storage of boats and boat equipment;

- 262 c. Manufacture and assembly of pottery and ceramics, musical  
263 instruments, toys, novelties, small molded products, electronic instruments  
264 and equipment and electrical devices;
- 265 d. Research and development laboratories;
- 266 e. Trade, skills or industrial schools;
- 267 f. Publishing, printing and bookbinding facilities;
- 268 g. Auto, trailer, truck, recreational vehicle and heavy equipment sales,  
269 rentals, service and repair, excluding storage of vehicles or equipment that  
270 is inoperable or in need of repair;
- 271 h. Storage and distribution services and facilities, including truck  
272 terminals, warehouses and storage buildings and yards, contractors'  
273 establishments, lumberyards and sales, or similar uses;
- 274 i. Airports and air charter operations;
- 275 j. Underground bulk petroleum storage;
- 276 k. Cold storage facilities;
- 277 l. Parking lots and parking garages, in accordance with  
278 Chapter 21.55 HCC;
- 279 m. Mobile commercial structures;
- 280 n. Accessory uses to the uses permitted in the GC2 district that are clearly  
281 subordinate to the main use of the lot or building, such as wharves, docks,  
282 restaurant or cafeteria facilities for employees; or caretaker  
283 or dormitory residence if situated on a portion of the principal lot;  
284 provided, that separate permits shall not be issued for the construction of  
285 any type of accessory building prior to that of the main building;
- 286 o. Taxi operation;
- 287 p. Mobile food services;

- 288 q. Itinerant merchants, provided all activities shall be limited  
289 to uses permitted outright under this zoning district;
- 290 r. Recreational vehicle parks, provided they shall conform to the standards  
291 in Chapter 21.54 HCC;
- 292 s. Hotels and motels;
- 293 t. Dormitory;
- 294 u. As an accessory use, one small wind energy system per lot;
- 295 v. Open air business.
- 296 **w. Marijuana testing facilities as defined by law.**

297 Section 21.26.030 Conditional uses and structures.

298 The following uses may be permitted in the General Commercial 2  
299 District when authorized by conditional use permit issued in accordance with  
300 Chapter 21.71 HCC:

- 301 a. Mobile home parks;
- 302 b. Construction camps;
- 303 c. Extractive enterprises, including the mining, quarrying and crushing of  
304 gravel, sand and other earth products and batch plants for asphalt or  
305 concrete;
- 306 d. Bulk petroleum product storage above ground;
- 307 e. Planned unit developments, excluding residential uses;
- 308 f. Campgrounds;
- 309 g. Junk yard;
- 310 h. Kennels;

- 311 i. Public utility facilities and structures;
- 312 j. Pipelines and railroads;
- 313 k. Impound yards;
- 314 l. Shelter for the homeless, provided any lot used for such shelter does
- 315 not abut an urban, rural or office residential zoning district;
- 316 m. More than one building containing a permitted principal use on a lot;
- 317 n. Day care facilities; provided, however, that outdoor play areas must be
- 318 fenced;
- 319 o. Group care homes and assisted living homes;
- 320 p. Other uses approved pursuant to HCC 21.04.020;
- 321 q. Indoor recreational facilities;
- 322 r. Outdoor recreational facilities.
- 323 **s. Marijuana retail facilities, cultivation facilities, and manufacturing**
- 324 **facilities as defined by state law.**

325 Section 5. Homer City Code Chapter 21.27 is amended to read as follows:

326  
327 Section 21.27.020 Permitted uses and structures.

328  
329 The following uses are permitted outright in the Marine Commercial  
330 District, except when such use requires a conditional use permit by reason of size,  
331 traffic volumes, or other reasons set forth in this chapter:

- 332 a. Offices for tourism-related charter and tour businesses, such as fishing,
- 333 flightseeing, day excursions and boat charters and tours;
- 334 b. Marine equipment sales, rentals, service, repair and storage;
- 335 c. Retail stores limited to the sale of seafood products, sporting goods,
- 336 curios, and arts and crafts;
- 337 d. Business offices for water-dependent and water-related activities such
- 338 as fish brokers, off-shore oil and gas service companies, and stevedores;

- 339 e. Customary accessory uses that are clearly subordinate to the main use of  
340 the lot or building such as piers or wharves; provided, that separate  
341 permits shall not be issued for the construction of an accessory structure  
342 prior to that of the main structure;
- 343 f. Mobile food services;
- 344 g. Itinerant merchants, provided all activities shall be limited to uses  
345 permitted outright under this zoning district;
- 346 h. Recreational vehicle parks, provided they shall conform to the standards  
347 in Chapter 21.54 HCC;
- 348 i. Restaurants;
- 349 j. Cold storage facilities;
- 350 k. Campgrounds;
- 351 l. Manufacturing, processing, cooking, and packing of seafood products;
- 352 m. Parks;
- 353 n. Boat launching or moorage facilities, marinas;
- 354 o. Caretaker, business owner or employee housing as an accessory use to a  
355 primary use, and limited to no more than 50 percent of the floor area of a  
356 building and for use by an occupant for more than 30 consecutive days;
- 357 p. Lodging as an accessory use, limited to no more than 50 percent of the  
358 floor area of a building;
- 359 q. As an accessory use, one small wind energy system per lot.
- 360
- 361 **r. Marijuana testing facilities as defined by state law.**
- 362
- 363 **s. Marijuana cultivation facilities up to 500 square feet as defined by**  
364 **state law.**

365 Section 21.27.030 Conditional uses and structures.

366 The following conditional uses may be permitted in the East End  
367 Mixed Use District when authorized by conditional use permit issued in  
368 accordance with Chapter 21.71 HCC:

- 369 a. Construction camps;

- 370 b. Extractive enterprises, including crushing of gravel, sand and other  
371 earth products and batch plants for asphalt or concrete;
- 372 c. Auto fueling stations;
- 373 d. Bulk petroleum product storage;
- 374 e. Planned unit developments;
- 375 f. Junk yard;
- 376 g. Kennels;
- 377 h. Public utility facilities and structures;
- 378 i. Impound yards;
- 379 j. Indoor recreational facilities;
- 380 k. Outdoor recreational facilities;
- 381 l. Other uses approved pursuant to HCC 21.04.020.

382 **m. Marijuana testing facilities as defined by state law**

383 **n. Cultivation facilities up to 500 square feet as defined by state law.**

384 Section 6. Homer City Code Chapter 21.28 is amended to read as follows:

385  
386 Section 21.28.030 Conditional uses and structures

- 387 a. Drinking establishments;
- 388
- 389 b. Public utility facilities and structures;
- 390 c. Hotels and motels;
- 391 d. Lodging;
- 392 e. More than one building containing a permitted principal use on a lot;
- 393 f. Planned unit developments, limited to water-dependent and water-
- 394 related uses, with no dwelling units except as permitted by HCC

- 395 21.28.020(o);
- 396 g. Indoor recreational facilities;
- 397 h. Outdoor recreational facilities;
- 398 i. The location of a building within a setback area required by HCC  
399 21.28.040(b). In addition to meeting the criteria for a conditional use  
400 permit under HCC 21.71.030, the building must meet the following  
401 standards:

- 402 1. Not have a greater negative effect on the value of the adjoining  
403 property than a building located outside the setback area; and
- 404 2. Have a design that is compatible with that of the structures on  
405 the adjoining property.

406

407 **j. Retail marijuana facilities as defined by state law.**

408

409 Section 8. Homer City Code Chapter 21.40 is amended to read as follows.

410

411 Section 21.40.060 Conditional uses and structures.

412

413 The following uses are permitted in the BCWP district if authorized by a  
414 conditional use permit granted in accordance with Chapter 21.71 HCC and subject  
415 to the other requirements of this chapter:

- 416 a. Cemeteries;
- 417 b. Public utility facilities and structures;
- 418 c. Timber harvesting operations, timber growing, and forest crops,  
419 provided they conform to HCC 21.40.100;
- 420 d. Agricultural activity and stables, if they conform to HCC 21.40.090, but  
421 not including farming of swine;
- 422 e. Other uses similar to uses permitted and conditionally permitted in the  
423 BCWP district, as approved by written decision of the Planning  
424 Commission upon application of the property owner and after a public  
425 hearing;
- 426 f. Uses, activities, structures, exceptions, or other things described as  
427 requiring a conditional use permit in HCC 21.40.080(a), 21.40.110(b) or  
428 any other provision of this chapter;
- 429 g. More than one building containing a permitted principal use on a lot.
- 430

431 **h. Marijuana cultivation up to 500 square feet as defined by law.**

432  
433 Section 9. Chapter 21.62 is hereby enacted as follows:  
434

435  
436 **Chapter 21.62**

437  
438 **Marijuana Cultivation, Manufacturing, and Retail Facilities**

439  
440  
441 **Sections:**

442 **21.62.010 Scope.**

443 **21.62.020 Intent**

444 **21.62.030 Definitions**

445 **21.62.040 Pre-application conference.**

446 **21.62.050 Costs**

447 **21.62.060 Safety and Security Plan**

448 **21.62.070 Buffers.**

449 **21.62.080 General restrictions on all marijuana facilities.**

450  
451  
452 **21.62.010 Scope**

453  
454 **a. This chapter applies to the operation of all marijuana cultivation, manufacturing,**  
455 **testing, and retail facilities within the city boundaries.**

456  
457 **b. This chapter in no way protects marijuana facilities from enforcement of federal**  
458 **law nor is it intended to sanction conduct or operations prohibited by law. All**  
459 **persons engaged in the marijuana industry within the city operate at their own risk**  
460 **and have no legal recourse against the City in the event that city laws are**  
461 **preempted, negated or otherwise found unenforceable based upon federal law**  
462 **prohibiting the sale, distribution, consumption or possession of marijuana.**

463  
464 **21.62.020 Intent**

465  
466 **a. This chapter is intended to impose regulations that prevent:**

- 467  
468 **1. The distribution of marijuana to minors;**  
469 **2. Revenue from the sale of marijuana from going to criminal enterprises,**  
470 **gangs, and cartels;**  
471 **3. The diversion of marijuana from states where it is legal under state law in**  
472 **some form to other states where it is unlawful;**  
473 **4. State-authorized marijuana activity from being used as a cover or pretext**  
474 **for the trafficking of other illegal drugs or other illegal activity;**  
475 **5. Violence and the use of firearms in the cultivation and distribution of**  
476 **marijuana;**  
477 **6. Drugged driving and the exacerbation of other adverse public health**  
478 **consequences associated with marijuana use;**

- 479 7. The growing of marijuana on public lands and the attendant public safety  
480 and environmental dangers posted my marijuana production on public land;  
481 and  
482 8. Marijuana possession or use on federal property.  
483

484 21.62.030 Definitions [Reserved.]

485  
486 21.62.040 Pre-application Conference.

487  
488 21.57.050 Costs.

489  
490 The cost of all permits, studies and investigation required under this chapter  
491 shall be borne by the applicant.

492  
493 When Title 21 requires a conditional use permit for a marijuana facility, the  
494 applicant must meet with the City Planner to discuss the conditional use  
495 permit process and any issues that may affect the proposed conditional use.  
496 This meeting is to provide for an exchange of general and preliminary  
497 information only and no statement made in such meeting by either the  
498 applicant or the City Planner shall be regarded as binding or authoritative  
499 for the purposes of this title.

500  
501 21.62.060 Safety and Security Plan

502  
503 A conditional use permit for a marijuana facility required by this title shall  
504 include an analysis of the ways in which the intent and purpose of this  
505 chapter have been met and the safety concerns identified in Sections  
506 21.62.010 and 21.62.020 will be addressed.

507  
508 21.62.070 Buffers

509  
510 a) The Commission may require buffers, including berms, fences, trees, and  
511 shrubs, to minimize impacts to adjacent property. A landscaped buffer or  
512 combination of landscaping and berms of no less than ten feet in width will  
513 be required where the property with a marijuana facility adjoins districts in  
514 which marijuana facilities are prohibited or permitted only as a conditional  
515 use.

516  
517 b) The following buffer zones shall be applied to all marijuana facilities in all  
518 districts:

- 519  
520 1. Schools 1000 square feet  
521 2. Churches 500 square feet  
522 3. Jail 500 square feet  
523 4. Youth/rec. center 500 square feet  
524 5. Library 200 square feet  
525

c) Marijuana facilities abutting the Jack Gist Municipal Park, Hornaday Municipal Park, Bayview Municipal Park, Ben Walters Municipal Park, or Jeffrey Municipal Park must have 200 square feet or more buffers measured from the boundary of the park.

**21.62.80 General restrictions applied to all marijuana facilities.**

- a) All marijuana facilities in all districts shall comply with Section 21.59.030 of this title.
- b) An application for a conditional use permit under this chapter shall not be approved if the location of the facility violates the regulatory intent in Section 21.62.020.

Section 8. This ordinance shall take effect upon its adoption by the Homer City Council.

Section 9. This ordinance is of a permanent and general character and shall be included in the City code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

CITY OF HOMER

\_\_\_\_\_  
BETH WYTHER, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:

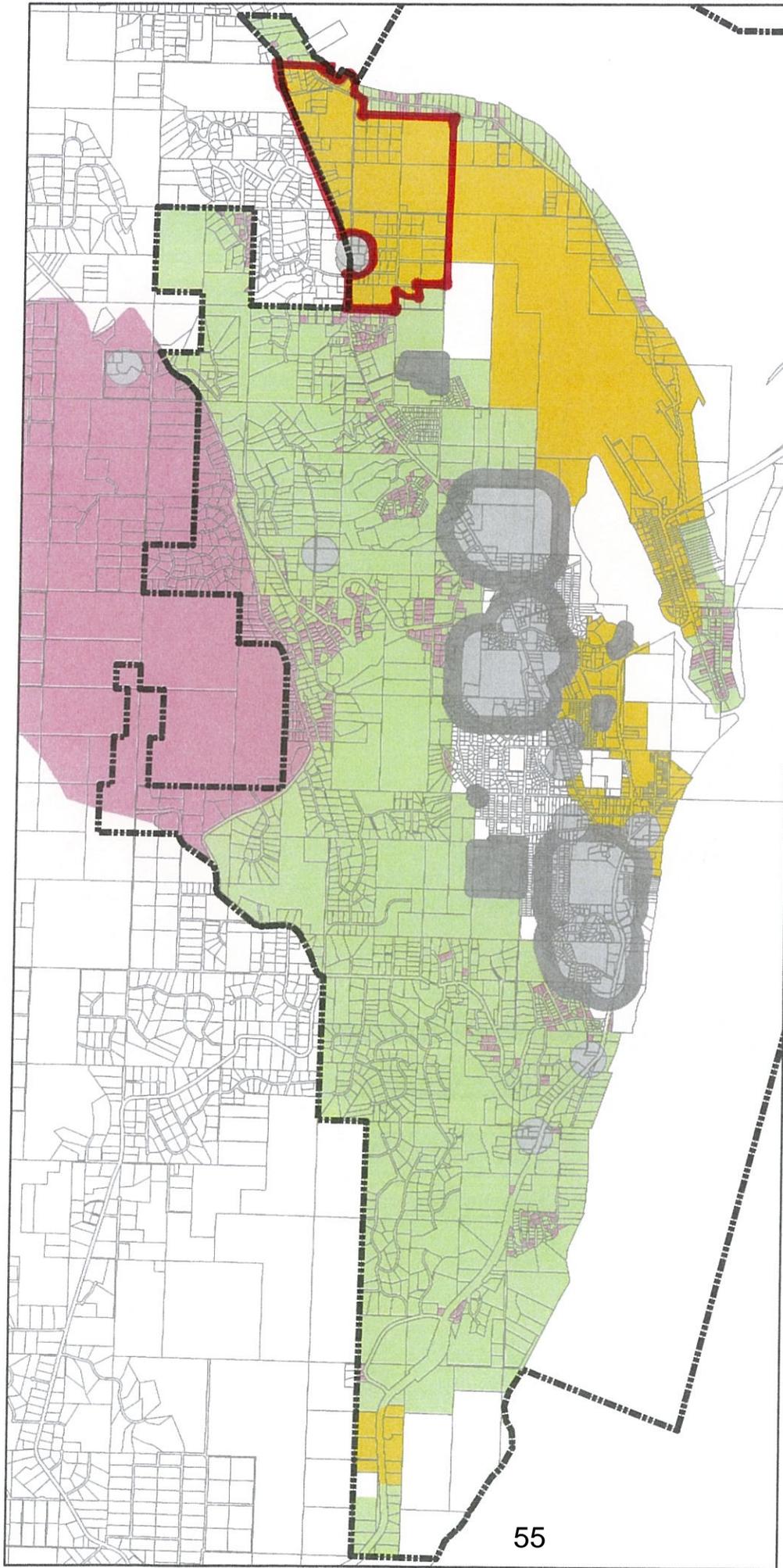
Reviewed and approved as to form:

\_\_\_\_\_  
Kate Koester, City Manager

\_\_\_\_\_  
City Attorney



# Commercial Cannabis Cultivation Map 11/4/2015



55

## Legend

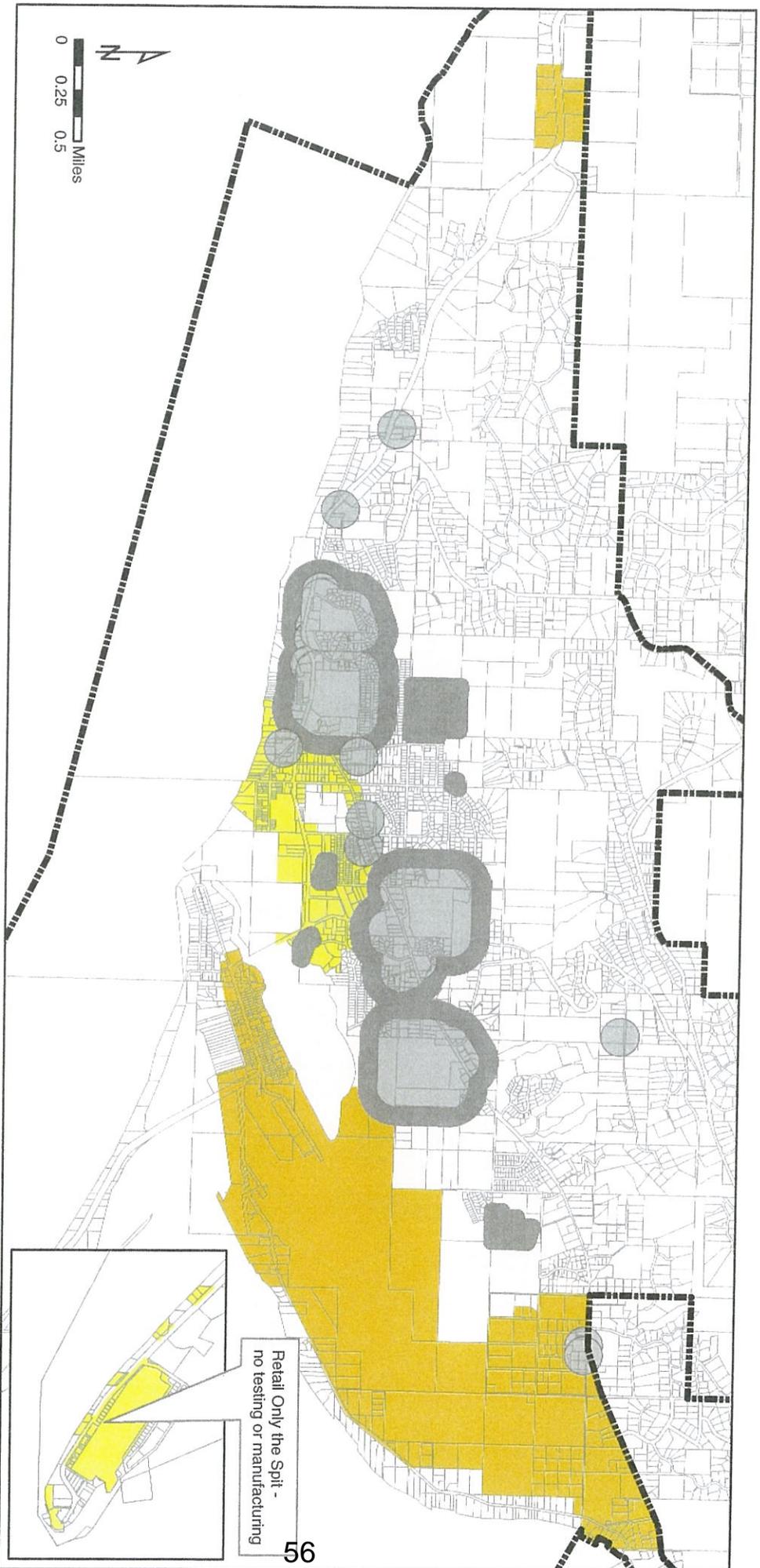
-  City Limits
-  State Buffers
-  Additional City Buffers
-  Small cultivation, permitted outright

## Commercial Cannabis Cultivation

-  Small cultivation only, by CUP.
-  Small cultivation only, CUP
-  Large and Small, CUP

Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.

11/4/2015 Cannabis Retail and Manufacturing Map.  
 Testing is allowed outright as a land use in the green area,  
 and in downtown Homer.



Retail Only the Spit -  
 no testing or manufacturing

**Legend**

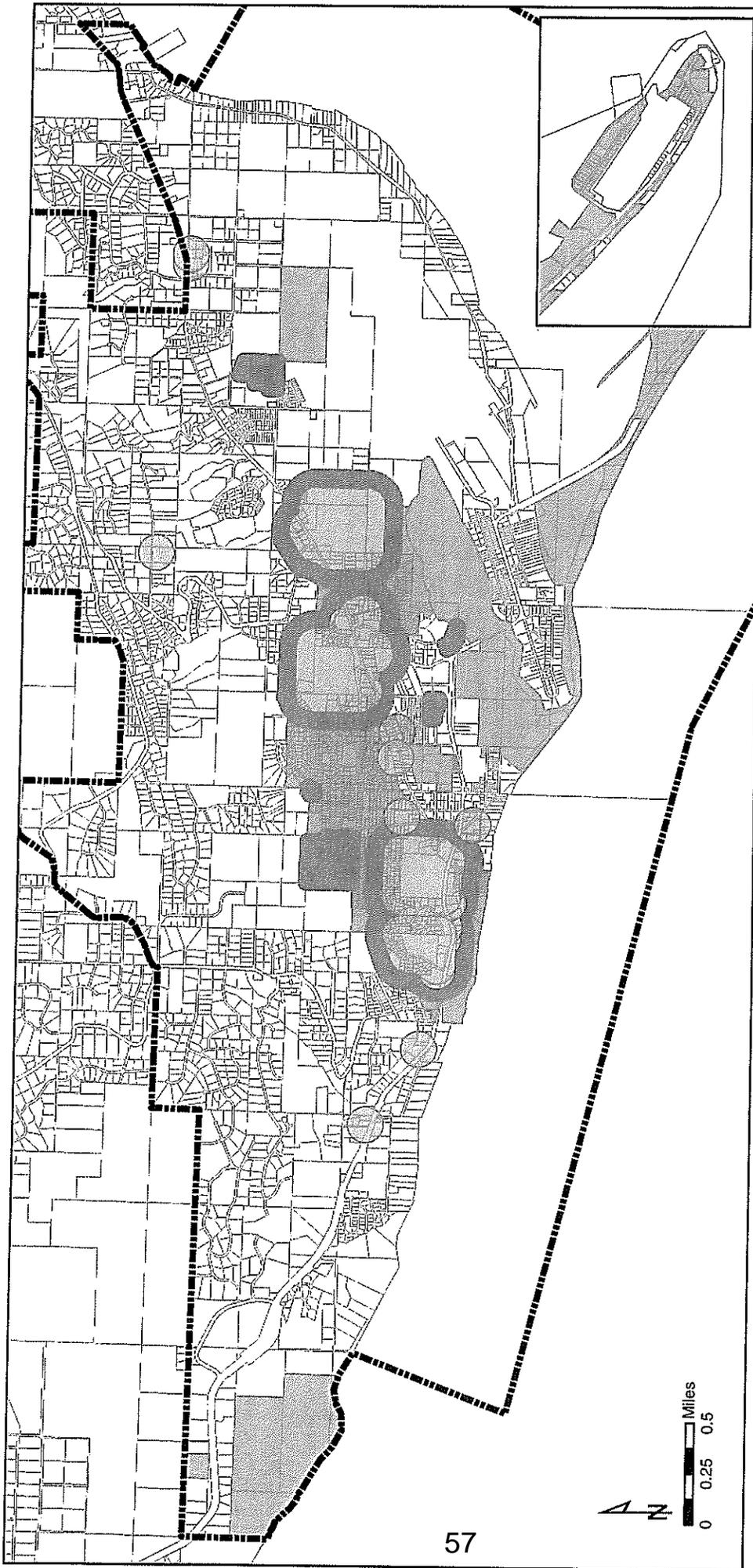
-  City Limits
-  State Buffers
-  Additional City Buffers

**Conditionally Permitted Cannabis Activities**

-  Retail, Mfg.
-  Retail. (. No Mfg).

Proposed state regulations call for buffers to be measured between the public entrances of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.

11/4/2015 Commercial Cannabis not allowed



11/4/2015 Commercial Cannabis not allowed





# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

[Planning@ci.homer.ak.us](mailto:Planning@ci.homer.ak.us)

(p) 907-235-3106

(f) 907-235-3118

### Staff Report PL 15-84

TO: Homer Advisory Planning Commission  
FROM: Rick Abboud, City Planner  
DATE: December 2, 2015  
SUBJECT: Marijuana Licensing

---

**Introduction:** I was asked to bring the subject of license restriction to the Planning Commission for consideration of license limitations including amount of licenses and hours of operation.

**Analysis:** Currently, hours of operation mirror those for selling alcohol which are not to operate between the hours of 5-8am. An amendment to the state regulations now permits use of the product at retail facilities. This action may deserve consideration in regards to the hours of operation.

Municipalities may also limit the amount of licenses. This can be done in a few different ways. It could be total licenses for each type of license throughout the city and/or it could be tied to the amount of license type allowed in the respective districts where such activities are allowed. After speaking with the City Attorney, it was cautioned that limiting the number of licenses may open up the city to litigation.

I believe that the demand for the various licenses in Homer will sort itself out, resulting in only a handful of operations at most. Of course, we do not have definitive proof of this yet. Keeping the facilities restricted to minimal zoning districts may be a better way to contain and measure the impact of the new industry.

My early recommendation to the CAC was to disallow any operations in residential districts. My reports on lessons learned in the various conference sessions and literature on the industry continue to support my recommendation. The only mitigating factor for this activity may be the reference to “allow for limited agricultural pursuits” in the purpose of the rural residential district [*The purpose of the Rural Residential District is primarily to provide an area in the City for low-density, primarily residential, development; allow for limited agricultural pursuits; and allow for other uses as provided in this chapter (Homer Comprehensive Plan 2010).*]

**Staff Recommendation:** If so desired make motion(s) to support policy decisions regarding the licensing and/or recommended hours of operation for retail marijuana establishments to the City Council.



# City of Homer

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Office of the City Clerk

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## Memorandum

TO: ADVISORY BODIES  
FROM: JO JOHNSON, CITY CLERK  
DATE: NOVEMBER 20, 2015  
SUBJECT: 2016 MEETING SCHEDULE

---

Please review the 2016 meeting schedule for your Advisory Body and approve with or without amendments. The draft resolution includes the entire 2016 meeting schedule. The resolution will be presented to Council on December 7, 2015 for adoption.

A memo or excerpt from the meeting minutes noting the action by your advisory body is requested. Please return this to the City Clerk by December 1, 2015.

Thank you!



1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

City Clerk

3  
4 **RESOLUTION 15-xxx**

5  
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 ESTABLISHING THE 2016 REGULAR MEETING SCHEDULE FOR  
8 THE CITY COUNCIL, ECONOMIC DEVELOPMENT ADVISORY  
9 COMMISSION, LIBRARY ADVISORY BOARD, PARKS AND  
10 RECREATION ADVISORY COMMISSION, ADVISORY PLANNING  
11 COMMISSION, PORT AND HARBOR ADVISORY COMMISSION,  
12 CANNABIS ADVISORY COMMISSION, PERMANENT FUND  
13 COMMITTEE, AND PUBLIC ARTS COMMITTEE.  
14

15 WHEREAS, Pursuant to Homer City Code Section 1.14.020, the City Council annually  
16 sets the schedule for regular and some special meetings, noting the dates, times and places  
17 of the City Council, Advisory Commissions, the Library Advisory Board, and standing  
18 committee meetings; and  
19

20 WHEREAS, The public is informed of such meetings through notices located at the City  
21 Clerk's Office, Clerk's Calendar on KBBI, the City Clerk's Website, and postings at the Public  
22 Library; and  
23

24 WHEREAS, HCC 1.14.020 - 040 states that meetings may be advertised in a local paper  
25 of general circulation at least three days before the date of the meeting and that special  
26 meetings should be advertised in the same manner or may be broadcast by local radio at  
27 least twice a day for three consecutive days or two consecutive days before the day of the  
28 meeting plus the day of the meeting; and  
29

30 WHEREAS, HCC 1.14.010 notes that the notice of meetings applies to the City Council  
31 and all commissions, boards, committees, subcommittees, task forces and any sub-unit of  
32 the foregoing public bodies of the City, whether meeting in a formal or informal meeting; that  
33 the failure to give the notice provided for under this chapter does not invalidate or otherwise  
34 affect any action or decision of a public body of the City; however, this sentence does not  
35 change the consequences of failing to give the minimum notice required under State Statute;  
36 that notice will ordinarily be given by the City Clerk; and that the presiding officer or the  
37 person or persons calling a meeting are responsible for notifying the City Clerk of meetings in  
38 sufficient time for the Clerk to publish notice in a newspaper of general circulation in the City;  
39 and  
40

41 WHEREAS, This Resolution does not preclude additional meetings such as emergency  
42 meetings, special meetings, worksessions, and the like; and

43 WHEREAS, Council adopted Resolution 06-144 on October 9, 2006 establishing the  
 44 Regular Meeting site for all bodies to be the City Hall Cowles Council Chambers.  
 45

46 NOW, THEREFORE, BE IT RESOLVED by the Homer City Council, that the 2016 meeting  
 47 schedule is established for the City Council, Economic Development Advisory Commission,  
 48 Library Advisory Board, Parks and Recreation Advisory Commission, Advisory Planning  
 49 Commission, Port and Harbor Advisory Commission, Permanent Fund Committee, and Public  
 50 Arts Committee of the City of Homer, Alaska, as follows:  
 51

52 Holidays - City Offices closed:

January 1*, New Year's Day, Friday	February 15*, Presidents' Day, the third Monday	March 28*, Seward's Day, last Monday	May 30*, Memorial Day, last Monday	July 4*, Independence Day, Monday	September 5*, Labor Day, first Monday
October 18*, Alaska Day, Tuesday	November 11*, Veterans Day, Friday	November 24* Thanksgiving Day, Thursday	November 25*, Friday, the day after Thanksgiving	December 26**, Christmas, Monday	

53  
 54 \*Indicates holidays - City offices closed.  
 55 \*\*If on a Sunday, the following Monday is observed as the legal holiday; if on a Saturday, the  
 56 preceding Friday is observed as the legal holiday pursuant to the City of Homer Personnel  
 57 Rules and Regulations.  
 58

59 CITY COUNCIL (CC)

January 11, 25	February 8, 22	March 14, 28	April 11, 25	May 9, 23	June 13, 27
July 11**, 25	August 8, 22	September 12, 26	October 4 Election	October 10, 24, for Oath of Office 17*	Canvass Board October 7 or 10
November 1 Runoff Election	November 14**, 28	December 12****	December 19**** if needed		

60  
 61 City Council's Regular Committee of the Whole Meetings at 5:00 p.m. to no later than 5:50  
 62 p.m. prior to every Regular Meeting which are held the second and fourth Monday of each  
 63 month at 6:00 p.m. \*\*\*The City Council traditionally reschedules regular meetings that fall on  
 64 holidays or High School Graduation days, for the following Tuesday. Council will not conduct  
 65 a First Regular Meeting in July.

66 AML Annual Conference Week is tentatively scheduled for November 14 – 18, 2016.

67 \*Tuesday meeting due to Memorial Day/Alaska Day.

68 \*\*There will be no First Regular Meeting in July or November.

69 \*\*\*\* The City Council traditionally cancels the last regular meeting in December and holds the  
 70 first regular meeting and one to two Special Meetings as needed. Generally the second  
 71 Special Meeting the third week of December, will not be held.

72

73 ECONOMIC DEVELOPMENT ADVISORY COMMISSION (EDC)

January 12	February 9	March 8	April 12	May 10	June 14
July 12	August 9	September 13	October 11	November 8	December 13

74

75 Economic Development Advisory Commission Regular Meetings are held on the second  
 76 Tuesday of each Month at 6:00 p.m.

77

78 LIBRARY ADVISORY BOARD (LAB)

	February 2	March 1		May 3	June 7
July 5		September 6	October 4		December 6

79

80 Library Advisory Board Regular Meetings are held on the first Tuesday of the months of  
 81 February, March, May, June, July, September, October, and December at 5:00 p.m.

82

83 PARKS AND RECREATION ADVISORY COMMISSION (P/R)

	February 18	March 17	April 21		
May 19	June 16		August 18		
September 15	October 20	November 17			

84

85 Parks and Recreation Advisory Commission Regular Meetings are held on the third Thursday  
 86 of each month at 5:30 p.m. with the exception of January, July, and December.

87

88 PLANNING COMMISSION (P/C)

January 6, 20	February 3, 17	March 2, 16	April 6, 20	May 4, 18	June 1, 15
July 20**	August 3, 17	September 7, 21	October 5, 19	November 2**	December 7**

89

90 Advisory Planning Commission Regular Meetings are held on the first and third Wednesday of  
 91 each month at 6:30 p.m. \*\*There will be no First Regular Meeting in July or Second Regular  
 92 Meetings in November and December.

93

94

95

96 PORT AND HARBOR ADVISORY COMMISSION (P/H)

January 27	February 24	March 23	April 27	May 25	June 22
July 27	August 24	September 28	October 26	November 16	December 21

97  
98 Port and Harbor Advisory Commission Regular Meetings are held on the fourth Wednesday of  
99 each month at 5:00 p.m., with the exception of May, June, July and August meetings that are  
100 held at 6:00 p.m. The Regular Meetings in the months of November and December are  
101 traditionally scheduled for the third Wednesday of the month.  
102

103 CANNABIS ADVISORY COMMISSION (CAC)

January 28	February 25	March 24	April 28	May 26	June 23
July 28	August 25	September 22	October 27	November 29	December 15

104  
105 Cannabis Advisory Commission Regular Meetings are held on the fourth Thursday of each  
106 month at 5:30 p.m. The Regular Meeting in the month of November is scheduled for the last  
107 Tuesday of the month and the Regular Meeting in December is scheduled for the third  
108 Thursday of the month.  
109

110 PERMANENT FUND COMMITTEE (PFC)

February 11	May 12	August 11	November 10
-------------	--------	-----------	-------------

111  
112 Permanent Fund Committee Regular Meetings are held quarterly on the second Thursday of  
113 the months of February, May, August, and November at 5:15 p.m.  
114

115 PUBLIC ARTS COMMITTEE (PAC)

February 11	May 12	August 11	November 10
-------------	--------	-----------	-------------

116  
117 Public Arts Committee Regular Meetings are held quarterly on the second Thursday of the  
118 months of February, May, August, and November at 5:00 p.m.  
119

120 PASSED AND ADOPTED by the Homer City Council this 7<sup>th</sup> day of December, 2015.

121  
122 CITY OF HOMER

123  
124  
125 \_\_\_\_\_  
126 MARY E. WYTHE, MAYOR  
127  
128  
129

130 ATTEST:

131

132

133

134 \_\_\_\_\_  
JO JOHNSON, MMC, CITY CLERK

135

136 Fiscal Impact: Adverting of meetings in regular weekly meeting ad and advertising of any  
137 additional meetings.





# City of Homer

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Office of the City Clerk

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## MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION

FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: NOVEMBER 23, 2015

SUBJECT: NEXT MEETING DELIVERABLES AND AGENDA ITEMS

---

Please discuss and request from Staff what you would like to have on the agenda for the next meeting for discussion or action by the Commission.

Please note that the November meeting will be conducted in the upstairs meeting room due to a Special Election being conducted the following day.

Recommendation  
Informational In Nature. No Action Required.



**2015/2016 MEETINGS**  
**CANNABIS ADVISORY COMMISSION**

Following are the regular meeting dates established for the Commission. All meetings will be in Council Chambers unless otherwise noted and start at 5:30 p.m.

<b><u>Meeting Date</u></b>	<b><u>Packet Deadline</u></b>
December 17, 2015	December 9 <sup>th</sup>
January 28, 2016	January 20, 2016
February 25, 2016	February 17, 2016
March 24, 2016	March 16, 2016
April 28, 2016	April 20, 2016
May 26, 2016	May 18, 2016
June 23, 2016	June 15, 2016
July 28, 2016	July 20, 2016
August 25, 2016	August 17, 2016
September 22, 2016	September 14, 2016
October 27, 2016	October 19, 2016
November 29, 2016 (Tuesday)	November 18, 2016
December 15, 2016	December 8, 2016

If a commissioner wishes to add an item on the agenda that would be relevant to the discussion/action of the commission please submit or drop off at the Clerk's Office no later than Noon on the packet deadline date.

Commissioners may email requests for information or materials that they would like in the packet to the clerk, Renee Krause at [rkrause@ci.homer.ak.us](mailto:rkrause@ci.homer.ak.us) or staff, Rick Abboud at [rabboud@ci.homer.ak.us](mailto:rabboud@ci.homer.ak.us).

The Clerk will email a draft agenda to the Chair and Staff no later than 4:00 p.m. on the packet deadline day. The Chair and Staff are requested to return the approved agenda with any additions and corrections to the Clerk no later than 10:00 a.m. the following day so that the meeting packet can be produced and available for distribution no later than 3 p.m.

**2016 HOMER CITY COUNCIL MEETINGS**  
**CANNABIS ADVISORY COMMISSION ATTENDANCE**

It is the goals of the Commission to have a member speak regularly to the City Council at council meetings. There is a special place on the council's agenda specifically for this. After Council approves the consent agenda and any scheduled visitors it is then time for staff reports, commission reports and borough reports. That is when you would stand and be recognized by the Mayor to approach and give a brief report on what the Commission is currently addressing, projects, events, etc. **A commissioner is scheduled to speak and has a choice at which council meeting they will attend. It is only required to attend one meeting during the month that you are assigned.** However, if your schedule permits please feel free to attend both meetings. Remember you cannot be heard if you do not speak.

The following Meeting Dates for City Council for 2016 is as follows:

The following Meeting Dates for City Council for 2016 is as follows:

January 11, 25 2016	_____	_____
February 8, 22 2016	_____	_____
March 14, 28 2016	_____	_____
April 11, 25 2016	_____	_____
May 9, 23 2016	_____	_____
June 13, 27 2016	_____	_____
July 25 2016	_____	_____
August 8, 22 2016	_____	_____
September 12, 26 2016	_____	_____
October 10, 24 2016	_____	_____
November 28 2016	_____	_____
December 12, 2016	_____	_____

Please review and if you will be unable to make the meeting you are tentatively scheduled for please Notify the Chair who may contact another commissioner or attend the meeting.

**QUESTIONS RECEIVED REGARDING ALL ARTICLES 1-9  
OF PROPOSED MARIJUANA REGULATIONS WITH ANSWERS**

**QUESTIONS ABOUT RULES REGARDING LICENSING AND FEES (ARTICLE 1):**

QUESTION 1: 306.010(a). This section describes the 500-foot boundary required between a proposed licensed marijuana establishment and specific uses that might be nearby. There appear to be two standards for measuring the distances.

a. Distances between a proposed licensed establishment and buildings where religious services are regularly conducted or a correctional facility are apparently measured shortest pedestrian route from the public entrance of the licensed establishment to the main public entrance of the religious establishment/correctional facility.

b. Distances between a proposed licensed establishment and schools/recreational or youth center is apparently measured by the shortest pedestrian route from the public entrance of the licensed establishment to the outer boundary of the school/recreation or youth center.

There appear to be two measurement standards here: one is door to door. The other is door to outer boundary. Are there two distinct methods of measuring the 500 foot boundary as described in a and b above? Does “outer boundary” mean a measurement from the property line of a lot on which hosts a school/recreational or youth center?

**ANSWER TO QUESTION 1:**

**A: Yes. The measurements are main entrance to main entrance for religious establishments and correctional facilities and main entrance of licensed establishment to outer boundary of school, recreation or youth center, meaning the property line.**

QUESTION 2. If a municipality allows licensed marijuana retail establishments within its boundaries, can the municipality prohibit the sale of non-smokable marijuana products in those establishments, if smokable marijuana products are permitted?

**ANSWER TO QUESTION 2:**

**A: Ballot measure 2 defines marijuana in an inclusive fashion that does not distinguish the method of consumption. For this reason, our interpretation of “opting out” of commercial marijuana establishments is that a local government would opt out of all types of marijuana, no matter the method of consumption. If a local government applied for and received its own license, it could decide as the license holder which types of products would be offered for sale.**

QUESTION 3. 306.010 provides for a local government protest based on zoning. Section 306.060 provides for a protest for reasons that are not arbitrary, capricious, and unreasonable. It appears that .060 provides for a local protest for reasons that may be unrelated to zoning. Is that your reading as well? Do local governments have the ability under 306.060 to protest a marijuana establishment license for any reason that is judged to be not arbitrary, capricious, and unreasonable?

**ANSWER TO QUESTION 3:**

**A: The local government could protest the issuance of a license for any reason as long as the reason is not arbitrary, capricious or unreasonable.**

QUESTION 4: I have been reading the parts of the articles that deal with advertising and have noticed that the only time a cultivator is allowed to advertise is during to application process. What I want to know is how big can I make the ad that announces my business and how long can I run the ad? I would want to get my name known to consumers. Would TV work instead of radio?

**ANSWER TO QUESTION 4:**

**A: The regulations do not specify the size of the advertisement and only specify the minimum amount of time for running an advertisement to meet the notification requirements. The regulations are silent regarding a television advertisement meeting the notification requirements.**

QUESTION 5: If one applies for and receives a Limited Cultivation license, are they required to do the extensive media/radio/newspaper advertising that is mentioned in section 306.025?

**ANSWER TO QUESTION 5:**

**A: All applicants for Marijuana Licenses (regardless of type) must be able to prove they've met the requirements of 306.025 in order to receive a license.**

QUESTION 6: My question is about 3AAC 306.030 b. which is about a petition required by the applicant and reads....."In this section a permanent resident means a person 21 years of age or older who has established a permanent place of abode. A person may be a permanent resident of only one place." How does the applicant know which neighbors are permanent residents under this definition? How is the applicant to know which homes are permanent abodes?

**ANSWER TO QUESTION 6:**

**A: The section as applied in liquor licensing has been interpreted to mean that signatures gathered at hotels from tourists, for instance, would not count. Residences in the neighborhood would be presumed to be permanent abodes and those living in the residences to be permanent residents.**

QUESTION 7: Which date will be considered the date you applied? The day you initiate your application electronically, or the day three weeks later that you pay your fee?

**ANSWER TO QUESTION 7:**

**A:  
The time frame for the board to grant or deny the license runs from the date the application is deemed to be complete, the fee is received and the application and half of the application fee is sent to the local government.**

QUESTION 8: If a permit application is submitted, and during the review process, a landlord sells or leases to another company, making the proposed site unavailable, will a modified application be allowed to be submitted without having to pay for a new application filing?

**ANSWER TO QUESTION 8:**

**A: The license application is integrally connected to the proposed premises. A completed application for which the proposed premises later become unavailable would nullify the application and require a new application for a newly proposed location.**

QUESTION 9: I have a question concerning the proposed marijuana regulations. Specifically regarding article 306.030 - is there a corresponding requirement for liquor establishments in areas with no local government? For instance, did Grizzly Pizza, Basin Liquors or Tonsina Lodge have to petition their neighbors in order to receive a license?

**ANSWER TO QUESTION 9:**

**A: Yes. AS 4.11.460 provides for the same process for liquor establishments in areas with no local governing body. Regarding the specific establishments in your question, they may or may not have completed this process depending upon the type of liquor license they hold and their location.**

Question 10: I am attending a local marijuana board meeting in Sitka. Board members are saying that a LRA will be collecting half of the licensing fees charged by the state if they themselves do the licensing. Is this true?

**ANSWER TO QUESTION 10:**

**A: No. AS 17.38.100(f) states, "If the board does not issue a registration to an applicant within 90 days of receipt of the 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.**

Question 11: Will the number of cultivators and establishments be determined by the population of the area in which they will do business, as it seems to be with alcohol licenses?

Will the state issue only a fixed number of growers' licenses (both Limited and Standard) or as many licenses as there are qualified applicants?

**ANSWER TO QUESTION 11:**

**A: The draft regulations do not set population limits for licenses, however AS 17.38.110 allows for local governments to further restrict the time, place, manner and number of licensed marijuana establishments.**

Question 12: Is the excise tax \$50 per ounce or \$50 per pound of product?

**ANSWER TO QUESTION 12:**

**A: \$50 per ounce.**

## **QUESTIONS ABOUT RULES REGARDING LOCAL OPTION (ARTICLE 2):**

QUESTION 1. Proposed 3 AAC 306.200-230 (Article 2) – The proposed changes to these sections of code partially address the Borough’s concerns expressed in previous comment letters to the Marijuana Control Board (MCB). However, there remain inconsistencies which place borough clerks in a difficult position. As an example, if a member of the public comes in to a clerk’s office for a borough with 8,000 residents with an application for an initiative petition under AS 29.26.110-160 to propose an ordinance which would prohibit marijuana testing facilities from locating anywhere within the borough boundaries, AS 29.26.110-160 would require the clerk to allow the petition, and only require signatures of 15 percent of the registered voters casting ballots in the most recent election. The clerk would appear to be required to certify the petition and allow the 10 or more sponsors to gather signatures within 90 days. The regulations would dictate a different treatment. How can the clerk avoid violating the statutes in an attempt to comply with the regulations?

### **ANSWER TO QUESTION 1:**

**A: The regulations process includes a review by the Department of Law to examine the regulations in the context of existing statutes. This process will include a comprehensive review of Title 29 as it relates to the proposed regulations.**

QUESTION 2: Initiatives under AS 29.26.110 may be area wide. The proposed regulations (Article 2) do not provide otherwise. What if the initiative is for an ordinance to limit the hours of operation of any marijuana related business on an area wide basis to 8 AM to 5 PM? AS 29.26.110 would allow such an ordinance. Previous statements from the MCB staff have indicated that the regulations would not allow the Borough to have an area wide regulation, and this initiative would be different from the question form in the regulations. Would such an initiative be allowed under the regulations?

### **ANSWER TO QUESTION 2:**

**A: The regulations process includes a review by the Department of Law to examine the regulations in the context of existing statutes. This process will include a comprehensive review of Title 29 as it relates to the proposed regulations.**

QUESTION 3: Under proposed 3 AAC 306.210 and 230 (Article 2) the regulations appear to limit ballot propositions to a single proposition, and prohibit a vote on new petitions for 36 months, a longer time period than the initiatives provided under the statutes. Can there be separate ballot questions with differing configurations of marijuana businesses presented at the same election? If a petition to prohibit processing is filed, will that prevent a vote on any petition on any other aspect related to marijuana businesses for 36 months?

**ANSWER TO QUESTION 3:**

**A: The regulations process includes a review by the Department of Law to examine the regulations in the context of existing statutes. This process will include a comprehensive review of Title 29 as it relates to the proposed regulations.**

QUESTION 4: In relation to proposed 3 AAC 306.200 (Article 2), if only a testing facility is prohibited by a ballot measure or ordinance, does that in effect prohibit processing or sale of marijuana, if the jurisdiction is only accessible by federally regulated transportation routes, for example, sea and air transport?

**ANSWER TO QUESTION 4:**

**A: Nothing in the regulations prohibits the transportation of marijuana by sea and air. Whether the prohibition in your example would provide an impediment to processing or sale of marijuana due to the illegality of marijuana at the Federal level is not within the control of the board and is not addressed in the regulations.**

**QUESTIONS ABOUT RULES REGARDING RETAIL MARIJUANA STORES (ARTICLE 3):**

QUESTION 1: Expiration Dates. Section 306.310(a)(5) provides that marijuana products cannot be sold after the expiration date shown on the label. Who is going to create these expiration dates? That needs to be specified. It should be the State that creates the expiration dates. What will the expiration dates be based on? And what happens to the product after the expiration date is reached? How will the product be disposed? This especially needs to be specified in the regulations, or else there could be serious black market and other issues.

**ANSWER TO QUESTION 1:**

**A: The regulations do not specify how the expiration dates are determined or the basis for the determination of expiration dates. Disposal of marijuana is addressed in several sections of the regulations including but not limited to 3 AAC 306.735.**

QUESTION 2: 306.310(b)(3)(B) ACTS PROHIBITED AT A MARIJUANA STORE  
This prohibits a retail store from selling any other consumable product. What is the purpose of this?

**ANSWER TO QUESTION 2:**

**A: The proposed regulation is intended to limit what is sold in a retail marijuana store. It is based on similar regulations in other states. The proposed regulation is intended to limit the attractiveness of a retail marijuana store to minors and persons who want to buy consumable items other than marijuana and marijuana products, and to keep traffic in marijuana stores limited to adults who want to purchase marijuana or marijuana products.**

**QUESTION 3: 306.360(c)(1) RESTRICTIONS ON ADVERTISING**

This prohibits advertising within 1000ft. of a school, child care facility, church etc. But a store can be within 500ft. Why allow a store but not the advertising?

**ANSWER TO QUESTION 3:**

**A: The buffer zone in 3 AAC 306.010 prohibits any marijuana establishment from being located within 500 feet of a school, recreation or youth center. The advertising restriction zone around a school contained in 3 AAC 306.360 for a retail marijuana store applies within one thousand feet of the perimeter of any child-centered facility, including a school, daycare or other facility providing services to children, a playground or recreation center, a public park, a library, or a game arcade that is open to persons under the age of 21; these are two different provisions created for separate purposes. The advertising restriction is intended to prevent the store owner from being accused of attempting to entice underage persons to come the store.**

QUESTION 4: This prohibits a retail store from giving away branded merchandise such as pens, key chains, t-shirts, mugs, etc... effectively discriminating against the establishment for no reason and further limiting already limited marketing abilities. Would a logo, a business name, an address, of a retail store on a pen or magnet really harm anyone? Can I get one with Budweiser on it?

**ANSWER TO QUESTION 4**

**A: The question of whether a logo on an item such as those listed in your question would really harm anyone is a policy question for the board. Advertising and marketing rules for liquor licenses are enacted by and enforced by the federal government. In the absence of federal regulations for advertising and marketing of marijuana and marijuana products, the state board must make the policy decisions around these rules.**

**QUESTION 5: 306.520(3)(B) APPLICATION FOR MARIJUANA PRODUCT**

**MANUFACTURING FACILITY-** This requires specific descriptions as to what the color/shape/texture of the product will be. It stands to reason that this description would be ever changing. Is this really predictable with any surety? This should not be required.

**ANSWER TO QUESTION 5:**

**A: According to the regulations as proposed, the products must be approved by the board. Once the product is approved, it must be produced in accordance to the specifications under which it was presented. If a manufacturer wants to add a different product, they must get the board's approval for the new product.**

QUESTION 6: The proposed (Articles 3 and 5) 3 AAC 306.360 (b) (5) discusses "other depictions designed to appeal to a child or other person under Age 21, that promotes consumption of marijuana;" and 3 AAC 306.510 (4) (D) discusses "...other pictures or images that would appeal to children." what provision defines whether a sign or packaging could be appealing to children, or those under age21?

**ANSWER TO QUESTION 6:**

**A: The sections referred to in this section include the following language immediately preceding the questioned language: 3 AAC 306.360 (b) (5) prohibits advertising that "includes an object or character, including a toy, a cartoon character, or any other depiction designed to appeal to a child or other person under the age of 21 and 306.510(4)(D) prohibits a product that "is packaged to look like candy, or in bright colors or with cartoon characters or other pictures or images that would appeal to children". The board will be looking at the advertisement and the product and will determine on a case by case basis whether the advertisement or the product falls into the category stated in the question. The remainder of the rules, discussing toys, cartoon characters, and brightly colored packaging will help guide the board in its evaluation of the advertisement or the product.**

**QUESTIONS ABOUT RULES REGARDING MARIJUANA CULTIVATION FACILITIES (ARTICLE 4):**

QUESTION 1: As presently written, it is defined as a total cultivation area not to exceed 500 square feet. This is quite vague. Does the 500 square feet just include the square footage of the cumulative number of containers, for instance. Does it include the corridors between plants? There is no cultivation going on there. What about trimming and drying space? Excluded? Included?

**ANSWER TO QUESTION 1:**

**A: As proposed in 3AAC 306.990(b)(35) "square feet under cultivation" (A) means an area of the licensed premises of a standard or limited marijuana cultivation facility that is used for growing marijuana, measured from the perimeter of the floor or**

**growing space for marijuana; and (B) does not include a processing or storage area, an equipment storage area, an office, a hallway, or another area, if that area is not used for growing marijuana;**

QUESTION 2: Harvested materials, "...may be combined in batches of distinct strains, not exceeding five pounds..." and "...clones or cuttings are limited to batches of up to 50 plants..." Are these statements intended to define the limits of a Standard Cultivation Facility license? Or do these values pertain to something else? And if they are intended to define limits of said facilities, does this limit a standard cultivation facility to an aggregate five pounds of harvested product? Or is it five pounds maximum per batch intended for sale to an appropriately licensed facility, or something entirely different? Also, is the stated 50 clone limit an aggregate limit of all clones, or clones of a specific strain? Also, are there limits of plants in the vegetative and flowering stages of growth? Or are these considered clones? Finally, if these limits do apply in this way would it be possible to apply for multiple Standard Cultivation Licenses in order to effectively increase the number of aggregate plants one can grow?

**ANSWER TO QUESTION 2:**

**A: These limits relate to the packaging for transport of marijuana from one licensed facility to another. There is no limit on the amount of marijuana that a person holding a Standard Cultivation Facility license can grow.**

QUESTION 3: Can one person apply for two limited permits on one property?

**ANSWER TO QUESTION 3:**

**A: No.**

QUESTION 4: Can one person apply for two limited permits on two different properties?

**ANSWER TO QUESTION 4:**

**A: Yes.**

QUESTION 5: Can two people each apply for one limited permit on one property?

**ANSWER TO QUESTION 5:**

**A: No. Licenses are premises based, which means that only one license could have right, title and interest in the property on which the license is located. The premises is defined by the diagram submitted with the application.**

**QUESTIONS ABOUT RULES REGARDING MARIJUANA PRODUCTION FACILITIES (ARTICLE 5):**

QUESTION 1: 306.555(c)(5) PRODUCTION OF MARIJUANA CONCENTRATE

This requires that any professional grade extraction equipment be approved by a local fire code official. What qualifications and experience does a fire code official have with extraction equipment? Is there perhaps someone more qualified that should be granting approval?

**ANSWER TO QUESTION 1:**

**A: Alaska Fire Code Inspectors are in the best position to provide approval of closed loop extraction systems. While they may or may not have experience inspecting marijuana extraction systems, they do have a wide variety of inspection experience with systems that incorporate gasses and high pressures. They do not need to be intimately familiar with THC or CBD extraction to determine whether or not the component materials are listed (in UL or Factory Mutual, for instance) or whether they meet manufacturers specifications. While there will be a learning curve, this is something Fire Code investigators face often. For instance, CO2 is now being used to cool hockey rinks and in commercial kitchens, and these systems need to be inspected.**

**QUESTIONS ABOUT RULES REGARDING TESTING FACILITIES (ARTICLE 6):**

QUESTION 1: My question is, "why test for heavy metals etc with all expensive equipment and lab supervision required when the end product is targeted for 'recreation' and not medicine? Is Wine and beer tested this extensively?

**ANSWER TO QUESTION 1:**

**A: The regulations do not require testing for heavy metals. Potency testing, microbial testing and solvent testing for products produced through solvent extraction are proposed for protection of the consumer purchasing marijuana or marijuana products at a licensed retail marijuana store. Product safety, labeling, marketing and advertising rules for liquor are enacted by and enforced by the federal government.**

**QUESTIONS ABOUT RULES REGARDING GENERAL OPERATING REQUIREMENTS (ARTICLE 7):**

QUESTION 1: Will the MCB require a standard marijuana inventory tracking system for each operation, or will each operation be responsible for obtaining and implementing their own software?

**ANSWER TO QUESTION 1:**

**A: Each marijuana establishment will be responsible for tracking the marijuana they cultivate, produce, sell or test by accessing and updating from their own equipment a web-based application maintained by the state.**

QUESTION 2: What defines “adequate space” for purposes under proposed 3 AAC 306.705(Article 7)?

**ANSWER TO QUESTION 2:**

**A: This specific term is not defined in the proposed regulations.**

QUESTION 3: Under proposed 3 AAC 306.715 (Article 7), what are acceptable procedures to avoid loitering? How does one determine such procedures are adequate?

**ANSWER TO QUESTION 3:**

**A: The proposed regulations state that the establishment must have policies and procedures designed to prevent loitering. What those policies look like is a decision that will be made by the applicant for the license.**

QUESTION 4: Under proposed 3 AAC 306.735 and 740 (Article 7), how will adequacy of health and safety standards and waste disposal be evaluated, and by whom?

**ANSWER TO QUESTION 4:**

**A: Whether or not a licensed establishment is adhering to the rules is ultimately a board decision.**

**QUESTIONS ABOUT RULES REGARDING ENFORCEMENT (ARTICLE 8):**

**QUESTIONS ABOUT RULES REGARDING GENERAL PROVISIONS (ARTICLE 9):**

QUESTION 1: Will LRAs be able to allow a community to have private clubs where marijuana products can be consumed on premises?

**ANSWER TO QUESTION 1:**

**A: The answer to this question depends on whether or not the MCB adopts 3AAC 306.900. If the MCB chooses to adopt this provision of the draft regulations, LRA’s will have no authority to allow clubs that are defined by the provision.**

**QUESTIONS ABOUT THE POWERS AND DUTIES OF THE MARIJUANA CONTROL BOARD:**

QUESTION 1: Can the MCB consider allowing nonresident ownership and still follow the requirements of the Cole Memorandum by requiring a Federal Background check to nonresidents?

**ANSWER TO QUESTION 1:**

**A: Yes. None of the proposed regulations have been adopted by the board at this time.**

QUESTION 2: Can the MCB limit the percentage of out of state ownership?

**ANSWER TO QUESTION 2:**

**A: Yes. None of the proposed regulations have been adopted by the board at this time.**

QUESTION 3: 3 AAC 306.900. Marijuana clubs prohibited. Can the MCB remove this section completely?

**ANSWER TO QUESTION 3:**

**A: Yes. None of the proposed regulations have been adopted by the board at this time.**

QUESTION 4: Can a single serving of marijuana product be changed from [five] to “ten” milligrams active THC?

**ANSWER TO QUESTION 4:**

**A: Yes. None of the proposed regulations have been adopted by the board at this time.**

QUESTION 5: 3 AAC 306.355. Limit on quantity sold. Can the MCB remove lines 14 and create an amend it to be consistent with the legal amount one can possess?

**ANSWER TO QUESTION 5:**

**A: Yes. None of the proposed regulations have been adopted by the board at this time.**

QUESTION 6: 306.755(b) BUSINESS RECORDS- This allows only 3 days for submission of records requested by the board. This is an unreasonable amount of time. What if

establishment owner is out of state/country? What if they are ill? What if there are other reasonable issues?

**ANSWER TO QUESTION 6:**

**A: This will be a board decision should the stated scenario arise.**

QUESTION 7: The board has repeatedly stated that it has no authority to create a provision to allow clubs. So how can it create a provision to prohibit them? And for what reason? The production, manufacture, or sale of marijuana is not taking place on these premises, what exactly is the problem?

**ANSWER TO QUESTION 7:**

**A: The regulations process includes a review by the Department of Law to examine the regulations in the context of existing statutes. This process will include a comprehensive review of AS 17.38 as it relates to the proposed regulations. Under the proposed regulations, there would be no way for the board to assure the public that the production, manufacture or sale of marijuana is not taking place in clubs that it does not have the legal authority to regulate. AS 17.38 requires the Marijuana Control Board to set the rules on what occurs in marijuana businesses, but it cannot set the rules for a type of business not created in AS 17.38.**

**GENERAL QUESTIONS (NOT SPECIFIED FOR ANY SECTION OR ARTICLE) :**

QUESTION 1: We have questions about the \$50.00 excise tax per ounce or portion thereof that is to be paid on cultivated marijuana. Where will this tax go, and what will it be used to pay for? Is any portion of this tax to be shared with the localities where the tax is collected?

**ANSWER TO QUESTION 1:**

**A: The excise tax is set by the initiative in the Department of Revenue's statutes. Regulations relating to the excise tax will be promulgated by the Department of Revenue and questions concerning the tax should be directed to the Department of Revenue. Nothing in these proposed regulations addresses your questions.**

QUESTION 2: Also, the license fee for each type of license, is this fee to be shared with localities where the licensee will conduct business?

**ANSWER TO QUESTION 2:**

**A: The application fee, set by the proposed regulations at \$1000, is shared 50/50 with the local government in which the proposed premises would be located. Neither the statute nor the regulations provide for sharing the licensing fee with local governments.**

QUESTION 3: Is a City Council or assembly automatically classified as a local regulatory authority to deal with marijuana license questions or does each City government need to designate a board or committee to be such?

Question 4: Will LRAs be necessary if the state is issuing licenses?

Question 5: Will LRAs have the power to create ordinances?

**ANSWER TO QUESTIONS 3-5:**

**A: These are questions of interpretation of the statute that are not answered by the regulations.**

QUESTION 6: Many of the regulations were clearly written for major populations centers. How will a small town of under 5,000 people be able to comply with and/or afford the requirements outline in the regulations?

**ANSWER TO QUESTION 6:**

**A: The regulations were written to comply with the requirement in AS 17.38 that the board promulgate regulations for the enactment of the initiative. Much thought and consideration has been given by the board to rural areas of the state and the challenges they face in participating in a highly regulated industry. Please identify the specific regulations you refer to in your question.**

QUESTION 7: Will the state establish wholesale/retail costs for the raw marijuana product?.....will there be a fixed price paid to the grower (before other costs) or will you allow the market to determine price?

**ANSWER TO QUESTION 7:**

**A: The draft regulations do not mandate the cost of raw Marijuana or Marijuana Products. It is expected that the market will determine costs.**

**QUESTIONS NOT COVERED IN PROPOSED REGULATIONS ARTICLES 1-9 (not answered)**

QUESTION 1: Once the regulations are passed and published, if the legality of any part is challenged in state court, will the entire process be placed on hold until such time as the suit is settled?

QUESTION 2: In light of the length of the permit review period, we have had several property owners with suitable sites for sale or lease, state that they will not hold a desired site off the market without considerable financial compensation. This presents a challenge to submitting a proposal for any site that is not already owned. This in turn, tends to favor commercial land developers and hinder new business start-ups. Can a single permit request be submitted with multiple site options as long as each site is fully evaluated and presented in the application?

QUESTION 3: If the Limited grower is required to only sell their product through a broker, how will the small grower be able to make any money (even just covering grow costs) once the \$50 per ounce excise tax is paid, the broker takes his cut and the sample/batch testing costs are paid? Are you assuming that a 500 sq ft space can produce a bounty crop every time and the broker's fee and testing costs are fixed?

**QUESTIONS THAT ARE ACTUALLY COMMENTS OR RHETORICAL QUESTIONS THAT CANNOT BE ANSWERED BY THE PROPOSED REGULATIONS IN ARTICLES 1-9 (not answered)**

COMMENT 1: Their argument that we must legalize clubs because otherwise people will break the law is circular logic. Shall we liberalize our laws so that people won't break the law? It doesn't make any sense. There is no "right" to marijuana consumption for tourists or locals. The cities and states don't have the legal obligation to accommodate marijuana consuming tourists or locals. The tourists already have such an impact on downtown Juneau and now they are going to be high too? It's gonna be too much. Shall we liberalize our drunk driving laws because people have to drive home after being at the bar?

COMMENT 2: 306.525(a)(1) APPROVAL OF CONCENTRATES AND MARIJUANA PRODUCTS- This puts a 76% purity limit on commercially produced concentrates. This 76% limit is preposterous; the intent of this regulation does not acknowledge the thousands of people in the state that are currently achieving high quality extraction at home. Why would anyone pay for a 76% product when they are making 81% at home? It is painfully clear that this would only promote more home extraction to take place.

COMMENT 3: This requires an applicant to provide an existing business license and legal documents forming an LLC, Corporation, etc. to the board prior to receiving a Marijuana Establishment license. What would incline someone to pay fees for these items without knowing if they will receive the Marijuana license?

COMMENT 4: 306.905(1) PUBLIC RECORDS- This would obviously be done to protect proprietary information from other competing businesses. If this applies to other competing businesses it must then also apply to any board member wishing to pursue a cannabis establishment license. How will the board protect this information from being seen by these board members? This is an obvious unfair advantage, perhaps even a conflict of interest for those sitting on the board.

Chair Stead called for a recess at 7:56 p.m. and the meeting re-convened at 7:59 p.m.

## **Plat Consideration**

### **Pending Business**

#### A. Staff Report PL 15-74, Zoning for Marijuana

City Planner Abboud reviewed the staff report.

Commissioner Erickson feels that the 200 foot buffer around the parks should be increased at Jack Gist Park and at Hornaday Park. There are narrow roads and people walking around. She expressed her concern about drug use and parties. There are already problems in both parks and she suggested they be considered drug free zones.

Commissioner Bos expressed his concern with allowing any of the activity in rural residential. He thinks it would be detrimental to the value of neighboring properties. He recognizes it's just a building and a business, but suggested they consider lot size in the rural residential areas.

Commissioner Venuti commented he doesn't think legal pot in Homer is going to suddenly increase the number of users. People are already using it now and anyone can get it as it is right now. He thinks there is a bigger danger of drinking and driving in our community.

Commissioner Highland asked what this might look like. City Planner Abboud reviewed some of the regulations and restrictions involved in having business related to marijuana including lighting, video monitoring, security measures, disposal plans, etc. He anticipates minimal traffic from the activities in rural residential areas. On larger lots, a small scale cultivation operation probably won't be noticeable.

Concern was raised throughout the discussion regarding limiting the number of operations that can be licensed within the city. City Planner Abboud commented they could address it but it will probably be a requirement in a different section of code. They also talked briefly about taxation and how much interest they have heard at the CAC about people wanting to start businesses.

ERICKSON/HIGHLAND MOVED THAT CULTIVATION, MANUFACTURING AND TESTING ARE ONLY ALLOWED IN INDUSTRIAL ZONES AND MANUFACTURING WOULD HAVE TO HAVE A CONDITIONAL USE PERMIT.

City Planner Abboud clarified that the industrial zones are East End Mixed Use or General Commercial 2 and not in commercial districts like CBD, Town Center, GC1, or residential the gateway district or Bridge Creek.

There were opposing comments that the motion is overly restrictive and different activities should be allowed in the other districts. The legislation is clear and restrictive enough on how these activities can occur.

Supporting comments included we don't have to be like Palmer and ban it completely, but it is an intoxicating substance and it would be better starting with tighter restrictions that can be reviewed and relaxed if needed as time goes on. It would be better than starting with looser restrictions and have to deal with nonconforming uses if they need to tighten things up.

VOTE: YES: HIGHLAND, ERICKSON, STROOZAS  
NO: STEAD, VENUTI, BRADLEY, BOS

Motion failed.

The Commission considered the options presented for rural residential limited cultivation standards:

**Option A:** No small scale growing allowed, only personal use as allowed under the law.

**Option B:** Conditional Use Permit Standards

- Activity would be allowed outright on 40,000 sq ft lots
- Minimum lot size is 20,000 sq ft, and a CUP required on lots 20,000 sq ft -39,999 sq ft
- New structures built for cultivation should be at least 20 feet from the nearest lot line. The goal would be separation between the grow and neighboring property. Grows may include exterior lighting, security cameras and occasional smell – theoretically there won't be any odor.

Comments included

- 40,000 sq ft lot eliminates a lot of in town lots, maybe it should be larger, but this is a good start
- A limited amount of cultivation operations allowed in rural residential, not four in the city

VENUTI/STROOZAS MOVED THAT WE ADOPT OPTION B FOR RURAL RESIDENTIAL.

City Planner Abboud commented that he isn't sure of the best way to address permits for an existing structure. It might insinuate that an existing structure would be allowed to be closer than 20 feet. It is something they will need to talk about.

After brief discussion City Planner Abboud suggested it may be best to deal with existing structures through the CUP process.

It was suggested that increasing the 40,000 sq ft would offer more of a buffer from neighbors. Point was raised that an acre is a lot of room and it will ultimately depend on placement of the grow structure.

VOTE: YES: STEAD, BRADLEY, STROOZAS, BOS, VENUTI  
NO: ERICKSON, HIGHLAND

Motion carried.

ERICKSON/BOS MOVED THAT THE PARKS BUFFER BE THE SAME AS A SCHOOL, SPECIFICALLY AT JACK GIST AND HORNADAY PARK OF 1000 FEET.

It was expressed that this is overly restrictive and a majority of the people who use Jack Gist are adults who play on the ball fields and Frisbee Park. Hornaday has the playground, but also a nice campground. If the goal is to limit the number of intoxicated people at the facilities, limiting the buffer zone doesn't do that.

City Planner Abboud noted that Hornaday Park is in residential office, and you can't do anything there anyway.

VOTE: YES: BOS, ERICKSON  
NO: BRADLEY, STEAD, STROOZAS, VENUTI, HIGHLAND

Motion failed.

VENUTI/HIGHLAND MOVED TO ONLY ALLOW CULTIVATION IN THE COMMERCIAL AREAS WITH A CONDITIONAL USE PERMIT.

Chair Stead clarified that includes central business district, GC1 and town center district.

Question was raised why they would allow growing in the middle of town square. It has been suggested in the past that area would be more for stores, parks, entertainment and the arts, things like that. It can be hard to deny a CUP if it fits all the criteria.

BOS/HIGHLAND MOVED TO AMEND AND REMOVE THE TOWN CENTER DISTRICT.

VOTE (Amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was no further discussion on the main motion as amended.

VOTE (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT  
Motion carried.

BOS/VENUTI MOVED TO LEAVE THE INDUSTRIAL AS IS ON THE CHART (Small and large scale primary permitted use) AND TAKE LARGE CULTIVATION OUT OF THE BRIDGE CREEK AREA.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

BOS/BRADLEY MOVED THAT MANUFACTURING BE ALLOWED BY CUP IN GC1, BY CUP IN GC2, AND PERMITTED IN EAST END MIXED USE.

Comment was raised that east end mixed use includes residential.

HIGHLAND/BOS MOVED TO AMEND TO INCLUDE A CUP FOR MANUFACTURING IN EAST END MIXED USE.

It was noted for clarification that with the amendment all allowed manufacturing will be in commercial and industrial and will be subject to a CUP.

VOTE (Amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was no further discussion on the main motion as amended.

VOTE (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

HIGHLAND/BRADLEY MOVED THAT TESTING BE ALLOWED AS THE CHART SHOWS.

Chair Stead clarified that with this motion testing would be allowed in commercial and industrial as an allowed activity.

BOS/ERICKSON MOVED TO AMEND THE MOTION TO INCLUDE THE SAME VALUES THAT THE MANUFACTURING HAS. GC1 IN COMMERCIAL, AND EAST END MIXED USE AND GC2 IN INDUSTRIAL ALL AS CUP.

It was clarified that the manufacturing and testing are completely separate operations, and also that testing could be done on product that comes in from all over the state. Point was raised that local cultivators could also send it out of town for testing and that it could be onerous to have a CUP.

It was suggested this is a good place to start, and they will have the opportunity to add CBD later if it seems reasonable.

VOTE (Amendment): YES: BOS, ERICKSON, HIGHLAND  
NO: VENUTI, BRADLEY, STEAD, STROOZAS

Motion failed.

Commissioner Erickson feels there are people who will be very offended by these activities.

VOTE (Main motion): YES: STROOZAS, VENUTI, BRADLEY, STEAD  
NO: ERICKSON, BOS, HIGHLAND

Motion carried.

HIGHLAND/STROOZAS MOVED TO ALLOW RETAIL IN COMMERCIAL AND INDUSTRIAL WITH A CUP.

There was brief discussion.

HIGHLAND/BOS MOVED TO EXTEND THE MEETING ADJOURNMENT 15 MINUTES UNTIL 9:45 P.M.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

BOS/HIGHLAND MOVED TO AMEND TO INCLUDE MARINE COMMERCIAL AS CUP.

There was brief discussion recognizing that it will be important to get public input for these activities. It was noted that they recommended testing be allowed outright with the understanding that it will be a laboratory environment.

VOTE (Amendment): NON OBJECTION: UNANIMOUS CONSENT

There was no further discussion on the main motion as amended.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

City Planner Abboud expressed his frustration with having to take these recommendations to the Cannabis Advisory Commission.

Commissioner Bos reiterated that this is a good place to start and there may be some changes here and there after they get public testimony.

### **New Business**

### **Informational Materials**

- A. City Manager's Report October 12, 2015
- B. 2015 Commissioner Attendance at City Council Meetings

Commissioner Bradley confirmed she will plan to report at the November 23<sup>rd</sup> City Council meeting instead of November 9<sup>th</sup>.

### **Comments of the Audience**

Members of the audience may address the Commission on any subject. (3 minute time limit)

### **Comments of Staff**

City Planner Abboud thanked them for their work on the marijuana zoning. There is a diverse group of views and it will help to get more public members providing feedback on this.

### **Comments of the Commission**

Commissioner Stroozas echoed that this is a good place to start. They did good work.

Commissioner Venuti said it was a good meeting. He commented that the Borough provided iPads to the Borough Planning Commissioners. He thinks it would be a good idea for the City to follow suit as it will save time and money in preparing and producing meeting packets. He recognized that some aren't computer savvy and could still receive a paper packet.

## Presentations

### Reports

#### A. Staff Report PL 15-74, City Planner's Report

City Planner Abboud reviewed his staff report.

### Public Hearings

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

#### A. Staff Report PL 15-75 Zoning for Marijuana

City Planner Abboud reviewed the staff report.

Chair Stead opened the public hearing.

Jackie Dentz, city resident, commented in opposition to allowing retail sales on the spit because it's a recreational area. She owns Frosty Bear Ice Cream parlor which draws kids, families, and elderly visitors. She also noted visitors from cruise ships are not allowed to bring marijuana on the ship. She doesn't think a retail establishment for marijuana belongs on the spit. She is fine if locals want to buy it and if it's done safely, but encouraged the Commission to think about where they recommend putting retail.

Crisi Mathews, city resident, owns a boardwalk on the spit and real estate in town with her husband Chad. She commented that a CUP is warranted for any grow or retail facility in a residential area, she thinks they will hurt residential property values. She also expressed opposition to allowing retail for marijuana on the spit. She noted several recreational venues that draw youth and families throughout the summer including Islands and Ocean, Alaska Coastal Studies, and HOWL which conduct many of their outings on the beaches, trails, docks, and campgrounds, as well as the Kevin Bell arena in the winter. She added that if retail is allowed and is available year round, there will be minimal oversight as a majority of the area shuts down off season. With a business in Homer and rental cabins in Anchor Point, as well as raising four children here, they have a lot of vested interest in seeing this continue to be a family community.

Chad Mathews, city resident, added that there are buildings on their boardwalk. The way it is worded now, the people who own those buildings, don't have to their permission as the boardwalk owner, to open a dispensary. He encouraged that be readdressed. He thinks with the amount of accidents and almost accidents they see on the spit and impaired drivers could be an issue, as well as the potation for increased break in attempts.

Garth Bradshaw had a business on the spit for many years and his preference is no sales at all within the community, as other communities in Alaska have done. He encourages them to follow suit. That being said, if they allow one person to sell it, how will they restrict others? He suspects there will need

to be limits on licenses, like with alcohol. He supports not selling it in Homer at all, his adult kids and his grandchildren are here and he doesn't like the exposure, and doesn't think it's the thing to do to our community.

Megan Murphy attempted to comment regarding the Waddell Park 2016 Replat Preliminary Plat. It was explained that topic would be addressed under Plat Consideration and if she was unable to stay, she could contact the planning staff for more information regarding the preliminary plat.

Shlomo Gherman commented that if the recreational sale of marijuana in town is done right it could be really effective, specifically bringing in more taxable revenue to the city. We could have a PFD type situation for many of the people living here. Colorado school district received \$6 million in additional funding from sales. No matter where you place a dispensary, once it's known the town has one, there is no stopping purchasing it. Whether it's on the spit or in town, it won't really make a difference, the real concern is managing how it's sold and who is able to purchase. It's very accessible now. If the issue is stoned people on the spit, they are already there.

There were no further public comments.

City Planner Abboud said limiting the number of establishments will be in the code under licensing and not zoning. He will have something on the next agenda for the Commission to make a recommendation.

VENUTI/STROOZAS MOVED THAT EAST END MIXED USE AREA BE ALLOWED TO HAVE SMALL VOLUME CULTIVATION.

There was brief discussion to clarify small grow operations would be allowed anywhere in the district with this motion. Other comments were that this should be more restrictive to begin with.

VOTE: YES: STEAD, VENUTI, STROOZAS, BRADLEY  
NO: HIGHLAND, ERICKSON

Motion carried.

HIGHLAND/VENUTI MOVED TO ADD A CUP FOR ALL SMALL CULTIVATION IN RURAL RESIDENTIAL.

Commissioner Highland commented that rural residential is the largest district, it is family oriented, and there are a lot of lots over 40,000 square feet. Allowing it outright doesn't give the residents the opportunity to speak about small grow operations in their neighborhood. Lighting is also an issue, as well as security, in rural residential.

It was noted that currently no small cultivation is allowed on lots under 20,000, and this motion allows it in all of rural residential with a CUP. It would include the smaller lots if approved as presented.

ERICKSON/HIGHLAND MOVED TO AMEND THAT A CUP BE REQUIRED ON LOTS OVER 20,000 SQUARE FEET.

There was brief discussion.

VOTE (Amendment): NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

There was brief discussion.

VOTE (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

There was discussion about buffers that are outlined by the state. City Planner Abboud said he would bring that back with information along with the license restrictions.

Discussion ensued regarding allowing retail on the spit and the comments from the public tonight.

HIGHLAND/ERICKSON MOVED TO DISALLOW RETAIL FOR MARIJUANA IN MARINE COMMERCIAL.

Commissioner Highland said tonight's public comments included good reasons to be concerned about retail sales out there.

Commissioner Venuti noted there are bars and liquor stores on the spit now that sell cheap liquor which he thinks is more dangerous.

Commissioner Erickson agrees with the public comments about not allowing retail in marine commercial.

Commissioner Bradley commented that a CUP is required for retail in marine commercial which is fairly restrictive.

Commissioner Stroozas expressed his thought that the fishing hole is a recreational facility for families with kids and youth based fishing events that are held there. Based on state buffers, that could justify disallowing retail on the spit. If the CUP remains in place, then an applicant complies with all the regulations, the Commission would have to allow it.

VOTE: YES: ERICKSON, STROOZAS, HIGHLAND  
NO: STEAD, BRADLEY, VENUTI

Motion failed for lack of a majority.

No further amendments were proposed and another public hearing is scheduled for December 2<sup>nd</sup>.

**Plat Consideration**



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

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## STAFF REPORT PL 15-75

**TO:** Homer Advisory Planning Commission  
**FROM:** Rick Abboud AICP, City Planner  
**MEETING:** November 4, 2015  
**SUBJECT:** Zoning for Marijuana, first public hearing

**Requested Action:** Conduct a public hearing on the draft ordinance regulating commercial marijuana activities by zoning district.

## GENERAL INFORMATION

This is the first of two scheduled public hearings. The draft ordinance creates zoning regulations for the four types of commercially regulated marijuana activities licensed by the state.

1. Cultivation. There are two sizes of cultivation operations:
  - Small scale is limited to 500 square feet of cultivation, and
  - Large scale is anything larger than that.
2. Testing
3. Manufacturing
4. Retail

The city may propose regulations in addition to the state regulations but may not allow anything that is less restrictive than the state. Below is a table of the activities proposed by zoning district. In addition to this, the city has proposed additional buffers:

- 1000 ft from schools (this mirrors the federal drug free zones)
- 200 ft from the library
- 200 ft from Jack Gist, Karen Hornaday, Bayview, and Ben Walters Parks

As proposed small scale cultivation (less than 500 square feet of cultivation) is permitted (no Conditional Use Permit (CUP)) in the Rural Residential District in lots over 40,000 square feet. A CUP is needed on lots between 39,999 and 20,000 square feet, and is not allowed on lots less than 20,000 square feet.

A = Allowed. C = Conditional Use Permit needed.

**Table 1. Cannabis Activity by Zoning District**

Activity	District						
	CBD	GC1	GC2	EEMU	MC	RR	BCWPD
Retail	C	C	C	C	C		
MFG		C	C	C			
Testing	A	A	A	A			
Cultivation							
small	C	C	C	C		C/A	C
large	C	C	C	C			

**STAFF COMMENTS:**

While we are looking at regulating relatively small aspects of the industry the meat of requirements are found in the states proposed regulations. The state regulations are quite extensive. There are requirements that apply (Article 7) to all of the activities along with more specific requirements that address each of the 4 individual licensing areas. One really needs to understand the state regulations to get an accurate picture of what these activities may look like when approved. There are 133 pages that compose articles 1-9, which the state uses for regulation. I will attempt to highlight some of these and draw attention to those that need particular consideration for zoning.

All activities are to be secured. This means that cameras and lighting needs to be adequate to identify those inside the facility and anyone within 20 feet of the outside entrances. Commercial grade locks will need to be installed. All personal that work or have ownership interest will need a handlers permit and this permit must be on the person at all times when in the facility.

Many other aspects of the activities are regulated by the state including:

- All waste disposal
- Transportation of the product
- Signage and advertising
- Inventory tracking
- No odor may be detectable off site
- None of the product may be consumed in any licensed facility
- No facilities may reduce or expand without board approval
- No delivery off-site
- No operation between the hours of 5am and 8am

State application procedures require announcement in the newspaper for 3 consecutive weeks and announcements on the radio twice a week for 3 consecutive weeks, as well as on-site and nearby postings.

Also the state has proposed buffers:

- 500 feet from a school, a recreation or youth center, a building which religious services are regularly conducted, or a correctional facility.

After reviewing the draft ordinance, I did find an inconsistency of policy. Currently, limited cultivation may be permitted without a CUP in the Rural Residential District (on lots 40,000 square feet or greater). In other districts such as the East End Mixed Use, an approved CUP would be required for the same activity. This seemingly encourages cultivation in a residential district while making it more restrictive in a district where I believe the activity would be more appropriate.

### **RECOMMENDATIONS:**

Hold a public hearing and consider amending the ordinance if appropriate. This item is scheduled for another HAPC public hearing December 4<sup>th</sup>.

### **ATTACHMENTS**

1. Draft ordinance
2. Memo form Attorney Wells
3. November 4<sup>th</sup> map series (3 maps)



**MEMORANDUM**  
**ATTORNEY-CLIENT PRIVILEGE**

**TO: PLANNING COMMISSION**

**FROM: HOLLY C. WELLS**

**RE: INITIAL DRAFT OF ORDINANCE REGARDING MARIJUANA REGULATIONS**

**CLIENT: CITY OF HOMER**

**FILE NO.: 506,742.222**

**DATE: OCTOBER 29, 2015**

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**Introduction**

The purpose of this memorandum is to provide the Planning Commission an introduction and overview to Ordinance \_\_\_\_, and to help facilitate a discussion on the regulation of marijuana activities, permitted and prohibited activities related to the marijuana industry in each of the zoning districts, and buffers required under the zoning code. Ordinance \_\_ incorporates the Planning Commission's zoning recommendations for the marijuana industry within the City of Homer, Alaska ("City"). Although Ordinance \_\_ focuses primarily on recommended revisions to the conditional use permit process to address the marijuana industry, we will be providing a supplemental memo and revisions to Ordinance \_\_ encompassing any other areas of the Homer City Code ("HCC") that need to be amended to reflect the introduction of the marijuana industry within the City.

**Ordinance 15-\_\_ Update**

Ordinance \_\_ incorporates the zoning and land use amendments to the City Code as recommended by the Planning Commission and expanded upon by the Planning Department. The amendments within the ordinance pertain to the conditional use permit standards that apply to all marijuana activities, permitted and prohibited activities related to the marijuana industry in each of the zoning districts, and buffers required under the zoning code.

## General Standards Affecting All Marijuana Facilities

In an effort to address the Commission's substantive and policy concerns stemming from all marijuana facility operations, Section 21.62 was proposed. This section incorporates the preventive measures required under federal policy as well as land use regulations that stem from the more specific challenges presented by marijuana facility land use within the City.

The Commission's recommendations for buffers requirements are also proposed in Title 21.62, and are as follows:

1) Schools	1000
2) Churches	500
3) Jail	500
4) Youth/rec. center	500
5) Library	200
6) Parks (see below)	200

Buffers for parks would be 200 square feet but would only apply to the Jack Gist, Hornaday, Bayview, Ben Walters, and Jeffery Parks. The buffer would be measured from the boundary of the park.

## Specific Zoning District Amendments

While the Commission's general comments and policy concerns are adopted through Chapter 21.62, Ordinance 15-\_\_ also amends Title 21 to identify the specific use requirements for each specific marijuana facility in each zoning district. A brief synopsis of such uses in each district is provided below.

### Residential Office ("RO")

- 1) As of this date, no use has been authorized in this district

### Rural Residential ("RR")

- 1) Testing, manufacturing, and retail are not permitted
- 2) Small scale cultivation is permitted in this district on 40,000 sq ft lots or larger
- 3) CUP will be required on lots 20,000-39,999 sq ft
- 4) Lighting standards in HCC 21.59.030 apply (Level One)
- 5) New structures built for cultivation should be at least 20 feet from the nearest lot line. The goal would be separation between the grow operations and the neighboring property to minimize conflict between cultivators and their neighbors.

Central Business District (“CBD”)

- 1) Testing is permitted in CBD
- 2) Retail is permitted only via conditional use permit
- 3) Cultivation is permitted only via conditional use permit

General Commercial 1 (“GC1”)

- 1) Testing is permitted
- 2) Manufacturing facilities are permitted
- 3) Retail is permitted only via conditional use permit
- 4) Cultivation is permitted only via conditional use permit

General Commercial 2 (“GC2”)

- 1) Testing is permitted
- 2) Manufacturing facilities are permitted
- 3) Retail is permitted only via conditional use permit
- 4) Cultivation is permitted only via conditional use permit

East End Mixed (“EEMU”)

- 1) Testing is permitted only via conditional use permit
- 2) Manufacturing facilities are permitted only via conditional use permit
- 3) Retail is permitted only via conditional use permit
- 4) Cultivation is permitted only via conditional use permit

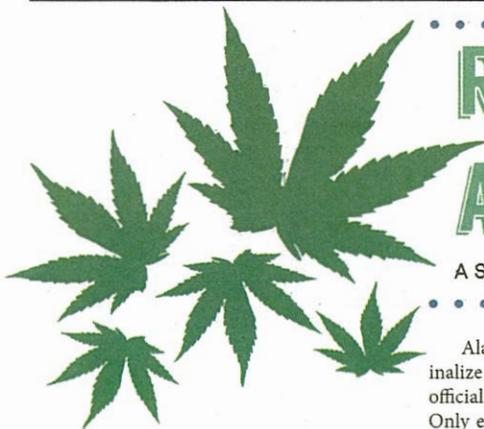
Marine Commercial (“MC”)

- 1) Retail is permitted in this district

Additionally, no marijuana industry cultivation efforts are permitted in some of the overlay districts.

**Conclusion**

This memorandum was created to serve only as an introduction to Ordinance 15-\_\_\_\_ and to help facilitate discussion regarding the Planning Commission’s recommendations. Ordinance 15-\_\_\_\_ incorporates most of the Commission’s recommended revisions but has by no means been finalized. In addition to the regulations proposed, we are currently considering additional definitions that may be needed to properly interpret the City Code.



# RAVEN'S CALL LOOKS AT MARIJUANA LAWS

A SPECIAL REPORT FROM MAT-SU CENTRAL SCHOOL'S RAVEN'S CALL NEWS TEAM

## BACKGROUND

The legalization of marijuana has been a controversial topic in America for many years. The use of hemp dates to at least 8000 B.C. However, it was not until 1973 that Oregon became the first state in the United States to take a step towards the legalization of marijuana by decriminalizing its use. Over the years, support for the legalization of marijuana has steadily increased. According to a Pewresearch.org gallup poll, 53% of Americans support the legalization of marijuana while 44% do not. Support for the legalization of marijuana increased 11 points between 2010 and 2013 and today 23 states allow the use of marijuana for medicinal purposes. Four states: Alaska, Colorado, Washington, and Oregon, allow the use of marijuana for recreational purposes. However, marijuana remains illegal under the federal law as a Schedule I narcotic.

Alaska has always been on the forefront of the legalization of marijuana. For 40 years, the ongoing battle to legalize marijuana has persisted. However, this push has been like a rollercoaster ride, with wins and losses constantly driving the issue up and down.

Alaska was one of the first states to decriminalize marijuana in 1975, when government officials exchanged jail time with a \$100 fine. Only eleven days later, the fine was dropped, obliterating any punishment if you were found in possession of marijuana. In 1990, voters approved the Alaska Marijuana Criminalization Act by 54% to 46%. This act recriminalized marijuana and made the possession of any amount punishable by up to a \$1,000 fine and 90 days in jail. The medicinal use of marijuana was legalized in 1998. Alaskan voters signed off the citizens initiative with 69% in favor of the legalization. Yet again, thirteen years after the Alaska Marijuana Criminalization Act was put into place, it was repealed in 2003. By 2014, only 51% of Alaskans were for the full legalization of recreational marijuana. A tight margin, with many Alaskans still viewing marijuana as a harmful substance and against legalizing it.

## ARGUMENTS: FOR AND AGAINST

Many supporters for the legalization of recreational marijuana believe that legalization will boost revenue in state and local governments through taxation. For example, a the Colorado Department of Revenue reported that by May 2015 another state with legalized

marijuana use, Colorado, had received more than \$88 million in tax revenue since its legalization. Similarly, According to the Drug Policy Alliance, in 2014 Denver's violent crime rate has gone down 2.2% and traffic fatalities have gone down 3%. Property crimes reduced by 8.9% and burglaries by 9.5%. Also, a recent Cato Institute study states that nationwide legalization would save governments \$8.7 billion each year.

Along with a reduction in crime, safety in the buying and selling of marijuana as a controlled substance has likely increased. When a person buys illegal marijuana off the street, he or she has no idea how it was processed and what was put into it. Medicinal use of marijuana has been used in more than a dozen states for the treatment of Post Traumatic Stress Disorder (PTSD), Multiple Sclerosis (MS) and many other health conditions. Medical marijuana use would likely increase with the legalization of marijuana, as perceptions shift toward acceptance of legal marijuana use. The argument, then, is that more tempered perceptions increased revenue, and higher safety standards make legalizing marijuana a reasonable action.

However, though there are clear benefits to legalizing marijuana, there are also many drawbacks. Concerns of the marijuana's addictive nature include: its high potential to be

gateway drug, its increased availability leading to health and safety costs, and its negative effects on people's health.

Another legalized substance, alcohol, is estimated to cost society 15 times more than the amount of revenue it generates, according to the U.S. Office of National Drug Control Policy. Although it is not as addictive as other drugs, research shows that almost ten percent of marijuana users will become dependent over time. Another major concern with legalizing marijuana is that it will become a gateway drug to harder drugs. Increased availability may result in more cases of people looking for harder drugs.

Those who are for marijuana legalization like to point out that tobacco, which is very harmful, is legal, yet marijuana is not. Similarly, just as tobacco use pumps carcinogens into the user's lungs, so does marijuana. While there are conflicting studies concerning this issue, higher estimates are very disturbing. Similarly, the NDCP states that Marijuana use also negatively affects the user's heart, boosting the risk of heart palpitations, arrhythmias, and heart attacks. So, while there are some benefits to marijuana legalization, people should also be aware that the drug may introduce many personal and societal problems.

## OTHER STATES

As noted above, several states have already legalized marijuana for medical purposes, and a few have legalized the drug for recreation under regulation. What has occurred in these states has direct impact on the unfolding legalization and subsequent legalization in Alaska.

California was the first state to legalize marijuana for medicinal purposes in 1996. The proposition in California removed state-level criminal penalties on the use, possession, and cultivation of marijuana by patients who possess a "written or oral recommendation" from

their physician. Colorado initiated a ballot amendment in 2001 much like the California Proposition. However, Colorado's initiative went further. In 2012 voters amended the Colorado State Constitution so that residents 21 or older could legally possess one ounce of THC. With this, Colorado was the first state in the country to legalize marijuana for recreational use, albeit with the caveat that it remains illegal to consume publicly. This is seen as a success, with supporters claiming "\$100 million is going to be licensed, taxpaying businesses and creating jobs."

The biggest blow to the Colorado marijuana users is that Cannabis Clubs are still unlawful due to ventilation regulations.

## ALASKA'S FUTURE OF MARIJUANA

While recreational marijuana use is now technically legal in the state of Alaska, there are still a lot of steps to rolling this legislation out completely.

The Alaska State Legislature has authority to create a marijuana control board, similar to the Alcoholic Beverage Control Board (ABC Board). The board has nine months to make the regulations surrounding marijuana distribution establishments. The board will then begin accepting business applications in February of 2016, and business licenses are set to be issued no later than May 2016.

Consumption of marijuana in public will remain illegal and punishable by a \$100 fine, though regulators are still working to define what "public" means. The Alaska Marijuana Control Board was created to develop regulations surrounding marijuana use. While these regulations are being written, issues such as driving under the influence of any mind-altering substance, remain illegal.

Ballot Measure 2 clearly states employers

will keep the right to implement their own policies about marijuana use. Companies who currently prohibit cannabis use will be able to continue those practices if they choose; however, enforcement can be a difficult issue as nothing prohibits marijuana use outside of work hours. Conversely, marijuana can be detected by common drug testing methods, sometimes days or weeks after consumption. Further, employers that either receive federal funds or contract with the federal government are mandated to abide by the 1988 Drug-Free Workplace Act, meaning those employees will be restricted from using marijuana.

Public opinion surrounding the establishment of recreational marijuana businesses is generally opposed to the idea, with a small percentage remaining undecided. An initiative to ban recreational marijuana businesses was not put on the ballot for voters in the Mat-Su Borough on October 6, 2015, but some are hoping to put the initiative on next year's ballot. This measure would prohibit the operation of any recreational marijuana business within the unincorporated areas of the Mat-Su Borough. For Palmer and Houston, the selling of marijuana within those city limits was voted down in the most recent elections, while in Wasilla the vote was not able to be put on the ballot for the city.

## FOLLOW UP

*Mat-Su Central Journalism students plan to follow up on this story, reporting on issues raised as regulations are implemented. We plan to also include community stakeholders in the conversation to see how this legislation affects them in real ways.*

# Alaska Dispatch News

Published on *Alaska Dispatch News* (<http://www.adn.com>)

[Home](#) > Alaska marijuana regulators loosen residency requirements for new business owners

[Laurel Andrews](#) <sup>[1]</sup>

November 20, 2015

**Main Image:**

[Marijuana Control Board 02 - 20151120.jpg-1448069976](#) <sup>[2]</sup>

At the end of an all-day meeting Friday to craft Alaska's first regulations over the cannabis industry, the state Marijuana Control Board adopted new rules that could blow the door wide open to Outside investment.

Marijuana businesses must be 100 percent Alaskan owned, but the definition of what makes an Alaskan was changed from matching what is needed to receive a Permanent Fund dividend to matching voter registration requirements, which is far easier to achieve.

Assistant Attorney General Harriet Milks called it a “sea change” that could “upend the whole program.”

Qualifying for a PFD [requires](#) <sup>[3]</sup> documents such as employment and school records or vehicle registration, and a certain number of days spent physically in the state.

By contrast, for Alaska voter registration [requirements](#) <sup>[4]</sup>, all that is needed is a physical address and no other voter registration elsewhere.

The vote passed 3-2 as the meeting came to a close, with Loren Jones, public health board member, and Peter Mlynarik, the public safety board member, dissenting.

Jones said he opposed the vote because all that would be needed to prove residency is to rent an apartment and cancel one’s voter registration in any other state.

Board member Mark Springer said he proposed the amendment because there had been concerns that the requirement would limit opportunity for some Alaskans to be able to invest.

“There are people in this state who travel out of state long enough not to get a dividend, but they live here, so I was looking at it as providing the opportunity,” Springer said.

He said he’d consider it a “major failure” if non-Alaskans flew up, rented an apartment and claimed residency. He noted that the amendment still had to withstand the Department of Law’s review.

Earlier in the day, the board had voted down two separate amendments that would have allowed for 25 percent Outside investment, but the final changes, some said, were actually far more inclusive for Outsiders.

“When you have 75 percent ownership then you give immediate value to Alaska residents. Now, right now .... an Alaska resident is not needed to have a place in this market,” marijuana industry attorney Jana Weltzin said.

“They don’t need us anymore,” Weltzin added.

“Believe me, I’m shocked,” Milks said. “They had legal authority probably to do it, but (the Department of Law) is going to look at it really, really carefully,” she said.

Leading into the vote, the discussion had focused on making sure there was adequate control and safety in the market, and the residency requirements allowed ~~100~~ that, Milks said. Now, with unchecked Outside

investment allowed to come in, “there’s no way to control any of it, so it’s a big problem.”

Board member Brandon Emmett said after the vote that after speaking with Weltzin, his attorney, he had concerns over the vote. Allowing for sole Outside investment wasn't their intent, he said.

“Next we see ... if that just opens the door to anyone and their cousin is true or now if we’ll actually get the investment that we needed,” Emmett said.

## On-site consumption

With Tuesday’s deadline approaching, the board had met in downtown Anchorage on Friday with hopes of ironing out remaining questions and concerns surrounding Alaska’s marijuana regulations.

Aspects small and large – from licensing fees to retail store hours to packaging requirements -- have been considered by the board in crafting its 133 pages of regulations. Forty-two pages of amendments were posted on the board’s website Friday morning.

Another big change Friday was allowing for marijuana retail licenses to have an area for on-site consumption of marijuana [5]. An adult 21-years or older would purchase marijuana and consume it in a designated area on the store’s premises, similar to a bar.

Details on the on-site consumption were not figured out Friday; they will be defined at a later date, Alcoholic Beverage Control and Marijuana Control Board director Cynthia Franklin said.

The vote passed 3-2; the audience, a room composed mostly of marijuana industry advocates, clapped after the vote.

“Common sense finally prevailed on one issue,” Weltzin said later.

## Other changes made Friday:

- The board voted to remove a cap on THC limits for marijuana concentrates. A prior draft version had capped THC at 76 percent, a calculation derived from the limit placed on spirits; board member Bruce Schulte argued that the cap was taking the idea of regulating marijuana like alcohol too literally.
- Marijuana can be packaged in such a way as to allow consumers to see the product before they purchase it in a retail store, the board voted Friday. A previous version of the regulations had specified that marijuana must be packaged in opaque plastic.
- A broker cultivation license was removed from proposed regulations. Under a previous draft version of the regulations, a license would have allowed for brokers to procure marijuana from small growers and then sell the marijuana to retailers. The license was seen as a way to help small black-market growers transition to the legal market, but the board decided that the broker did not fall under the auspices of a cultivation license.

The deadline for the state’s regulations is Tuesday. The rules will go through a formal review by the Alaska Department of Law before heading to Lt. Gov. Byron Mallott’s desk. There were no more plans for additional meetings before Tuesday.

**Source URL:** <http://www.adn.com/article/20151120/alaska-marijuana-regulators-loosen-residency-requirements-new-business-owners>

### Links:

[1] <http://www.adn.com/author/laurel-andrews>

[2] <http://www.adn.com/image/marijuana-control-board-02-20151120jpg-1448069976>

[3] <https://pfd.alaska.gov/Eligibility/Establishing-Residency> 107

# Alaska Dispatch News

Published on *Alaska Dispatch News* (<http://www.adn.com>)

[Home](#) > Alaska board OKs marijuana use in retail pot shops

[Laurel Andrews](#) <sup>[1]</sup>

November 20, 2015

**Main Image:**

[Marijuana Control Board 2.JPG-1448055413](#) <sup>[2]</sup>

**Main Image Credit:**

Loren Holmes / ADN

**Main Image Caption:**

The Marijuana Control Board meets to finalize commercial marijuana regulations at the Legislative Information Office in Anchorage on Friday, November 20, 2015.

The Marijuana Control Board voted to allow consumption of marijuana at retail stores, which, if approved by Lt. Gov. Byron Mallott, would make Alaska the first state to permit a regulated area for marijuana consumption outside of a person's home or other private spaces.

The change allows for people to buy marijuana at a retail store and consume it in a designated area on the premises.

The board voted 3-2 in favor of the amendment, with Loren Jones, public health board member, and Peter Mlynarik, the public safety board member, dissenting.

The regulations will go to the Department of Law for a formal review before heading to Mallott's desk.

The amendment functions as a placeholder; specifics as to what these establishments will look like will be decided at a later date, director Cynthia Franklin said.

Local laws banning indoor smoking still apply.

The vote represents a major shift from the board's former policy position, and comes after heated public debate surrounding sanctioning spaces for marijuana use.

Marijuana social clubs, however, where someone brings their own marijuana products to consume, are still considered illegal, the board said.

In Alaska, several social clubs focused on marijuana consumption opened after legalization, in response to the question of where one might go to consume marijuana. But the clubs were deemed to fall under the definition of a public place, and since public consumption is illegal, so were the clubs, the state argued. The clubs maintained they were acting legally.

Then in August, the Marijuana Control Board rolled out proposed regulations that would explicitly ban the clubs. The decision was met with a wave of negative public comment, including a brief demonstration by social club supporters during the board meeting.

The board had argued it didn't have the power to create an additional license type, as only four license types (retail, cultivation, manufacturing and testing facilities) were specified under Alaska's legalization initiative.

The proposed amendment sidesteps the argument by creating a space to consume marijuana under the auspices of a retail license. It would also exclude the retailers from the definition of a public space.

With the passage of the vote, Alaska is bucking a trend that has so far held steady in other states that have legalized recreational marijuana, where there are no state-sanctioned places to consume marijuana.

In Washington and Colorado, public consumption is illegal. In July, though, legislation was passed in Washington that explicitly banned clubs.

In Colorado, local governments are taking a crack at rules that would allow for clubs. The state doesn't monitor or license spaces for consumption, wrote Ro Silva, acting communications director for the Colorado Department of Revenue.

Meanwhile, in Oregon, social clubs are neither expressly permitted nor banned, said Mark Pettinger, spokesman for the recreational marijuana program with the Oregon Liquor Control Commission, but public consumption is likewise banned.

**Source URL:** <http://www.adn.com/article/20151120/alaska-board-oks-marijuana-use-retail-pot-shops>

**Links:**

[1] <http://www.adn.com/author/laurel-andrews>

[2] <http://www.adn.com/image/marijuana-control-board-2jpg-1448055413>



