

**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 December 17, 2015 Regular Meeting **Page 3**
- 7. REPORTS**
  - A. Report to the Commission - City Planner Abboud
  - B. Kenai Peninsula Borough Cannabis Task Force Report - **Page 9**  
Minutes from the December 10, 2015 Meeting
- 8. PUBLIC HEARING**
- 9. PENDING BUSINESS**
  - A. Memorandum from City Planner Abboud dated January 20, 2016 Re: CAC 16-01 Update **Page 17**
    1. Zoning Map - Commercial Cultivation
    2. Zoning Map - Retail & Manufacturing
    3. Ordinance 16-04, Amending Homer City Code 21.18; 21.24, 21.26, 21.27, 21.28, 21.40 To Identify The Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements For Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities.
    4. Memorandum 16-016 to Mayor and Council Re: Results of Ballot Measure 2 to Legalize Recreational Marijuana for City of Homer Voters
    5. Memorandum 16-017 to Mayor and Council Re: Draft Ordinance Proposing to Zone Marijuana related Activities within the City of Homer
  - B. Allowing Marijuana Social Clubs in Homer (This item was postponed at the last meeting)
    1. Memorandum from City Attorney Wells **Page 43**
- 10. NEW BUSINESS**
  - A. Welcome New Commissioner!
  - B. Next Meeting Deliverables, Agenda Items **Page 55**
- 11. INFORMATIONAL MATERIALS**
  - A. 2016 Meeting Schedule and Packet Processing Deadlines **Page 57**
  - B. 2016 Commission Attendance at Council Meetings **Page 58**
  - C. Recent Alaskan City Actions Taken Related to Marijuana **Page 59**
- 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, FEBRUARY 25, 2016 at 5:30pm in the COWLES COUNCIL CHAMBERS located at City Hall 491 E. Pioneer Avenue, Homer Alaska**



Session 15-08, a Regular Meeting of the Cannabis Advisory Commission was called to order by Acting Chair Don Stead at 5:35 p.m. on December 17, 2015 in the Cowles Council Chambers located at City Hall 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS HARRIS, STEAD, SARNO, REYNOLDS, JONES, ROBL

ABSENT: COMMISSIONER LEWIS (EXCUSED); YOUNG AND MONROE (NON-EXCUSED)

STAFF: CITY PLANNER ABBOUD  
DEPUTY CITY CLERK KRAUSE

Due to technical problems recording the minutes may not reflect full comments as stated by person or persons who attended this meeting.

### APPROVAL OF AGENDA

Acting Chair Stead called for a motion to approve the agenda.

HARRIS/REYNOLDS - MOVED TO APPROVE THE AGENDA.

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).

George Frazier, resident, commented on the zoning restrictions, noting a lot of the area that is allowed outright for cultivation had questionable usable land for growing which means it is useless to the industry; extractions - banning this will result in people doing it in their backyard or garages and will lead to more accidents. He is a professional and qualified within the industry and believed it would be best to leave it to qualified persons rather than banning altogether. On the issue of social clubs, he offered that shutting this down then you should shut down the Elks and other similar clubs.

Mr. Frazier responded to questions from the commission on his system and setup regarding extraction.

Jeremiah Emerson, non-resident, commented on the proposed zoning. He requested that an allowance would be made to allow people to grow limited cultivation operations in residential areas. He also commented against the CUP process for the cannabis industry and it is not required for Bars and Alcohol. He further commented that the danger was no more than a welding shop with regard to extraction processes.

Ryan Walker, non-resident commented on the proposed zoning and believed that they shouldn't be limited, prohibiting people from making extra money in having a limited grow. He has seen several people who have personally benefitted from being able to use marijuana instead of pain medication. This would provide an opportunity to the residents. He agreed with banning extraction processes in a person's back yard, a community extraction plant would be a better option.

Mr. Walker responded to questions from the commission regarding persons coming forward and having legal grow operations.

Tim Clark, resident, asked about covenants with regards to zoning and that prohibits a lot of things in certain areas. He agreed with the extraction process being left to the professionals. There should be a facility in town where people can have it done.

Scott Owens, resident, commented on having PTSD and that cannabis is his only alternative and believed that a club would allow him a safe place to use. He has not met a bad cannabis user and does

not believe it is a gateway drug. He believes that anyone should be able to grow on their property if they want. He does believe in responsibility for one's actions. He has been a longtime user and has never had any bad problems.

Susan Kilfoil, Anchor Point, thanked the commission for what they were doing. She acknowledged that this was a long process. She attended a Soldotna meeting and when a question was asked on the number who would purchase cannabis legally or on the black market and state that most of the attendees raised their hands that they would purchase legal marijuana. Ms. Kilfoil also questioned if wineries and breweries don't smell just as bad as a grow operation.

Jessica Inman, resident, comment against the proposed zoning restrictions. She commented on the benefits of using cannabis for medical purposes stating that cannabis has more beneficial uses than the public realizes. She stated that alcohol which causes more problems and that it is legal.

Kelly Gross, resident, commented on the benefits to him of cannabis for pain management and anxiety. He supported allowing extraction.

## 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 November 30, 2015 Regular Meeting

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

HARRIS/REYNOLDS - MOVED TO ADOPT THE CONSENT AGENDA.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## REPORTS

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

Commissioner Monroe was not present to provide a report.

#### B. Memorandum from City Attorney Wells dated December 9, 2015

1. Amendments Proposed by the MCB members & Staff
2. Redlined Final Marijuana Regulations
3. Legal-Ness of Marijuana
4. Nitty Gritty on Marijuana Regulations

The commission entertained a brief discussion on the information provided by City Attorney Wells noting the following remarks:

- Outright ban on extraction should be thoroughly reviewed and considered
- Valid License is required
- 1000 foot buffer zones
- processing personal use cannabis by someone else should be allowed

Deputy City Clerk reminded the commission that this was just a report and that more in-depth discussion and motions should take place later in the agenda.

**PUBLIC HEARINGS**

There were no items scheduled for public hearing.

**PENDING BUSINESS**

**A. Cannabis Sales Taxes and Excise Taxes**

City Planner Abboud stated that they are waiting on the borough, if they do not participate that means the city will have to implement regulations, collections, etc. City Planner Abboud suggested that the commission should make a recommendation to the council to send a recommendation to the Borough regarding taxation and collection

REYNOLDS/HARRIS - MOVED TO SUBMIT A RECOMMENDATION TO COUNCIL TO SEND A RECOMMENDATION TO THE BOROUGH TO TAKE UP THE TAXATION AND COLLECTION OF TAXES ON CANNABIS AND CANNABIS RELATED ACTIVITIES AND REMIT THE PORTION DUE TO THE CITY.

There was brief discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Stead inquired if the city was allowed to establish an excise tax and the City Planner responded in the positive but stated it would require the establishing of the rules and regulations regarding the collection and payment.

**B. Cannabis Zoning & Regulations - Staff Report CAC 15-08 from City Planner Abboud**

1. Draft Ordinance 16-XX
2. Zoning Maps
3. News Articles

City Planner Abboud reviewed the process so far regarding the zoning. He stated that the Planning Commission had a long meeting and did not get through all the changes and so they will be taking it up again at their January 6th meeting. He pointed out that they did allow it outright in several areas as the chart in the packet indicates. If everything goes well they can expand on it is the Commission's thinking.

City Planner Abboud noted that several communities are postponing taking action to see how everything pans out in those places that allow retail, cultivation, etc. He then, referencing the proposed zoning maps, pointed out the buffer zones, stating that in Colorado there were instances when the Federal officers raided businesses that did not follow those buffer zones. He then informed the commission that his research found that the federal regulations also included colleges in the 1000 foot buffer zone.

City Planner Abboud stated that there is still one more meeting to comment and review before submission to Council and they can make further comments or recommendations at their January 28<sup>th</sup> meeting.

Commissioner Sarno pointed out a grammar related error on line 199 of the draft ordinance.

HARRIS/REYNOLDS - MOVED TO SUBMIT A RECOMMENDATION TO COUNCIL AND THE PLANNING COMMISSION THAT MANUFACTURING AS DESCRIBED IN PROPOSED STATE REGULATIONS BE ALLOWED OUTRIGHT IN THE GC1, GC 2, AND EAST END MIXED USE DISTRICTS.

Discussion ensued on the intent of the motion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Harris commented on the requirements of having a commercial grow in any of the areas indicated on the map by the color yellow.

HARRIS/SARNO - MOVED TO ALLOW LIMITED COMMERCIAL CULTIVATION OPERATIONS IN ANY OF THE RESIDENTIAL DISTRICTS.

Discussion on the restrictions and requirements by the state imposed on the limited grow operations; illegal commercial grow versus personal use grow; the lengthy discussion by the Planning Commission regarding allowing commercial enterprises in the residential districts then additional businesses would have to be considered; comparison to alcohol; taking baby steps by allowing it in certain areas and see how that works; further discussion on the benefits to the growing the economy; limited grows are happening now the only difference by allowing it will allow the person's neighbor to comment that they don't want it. Commissioner Robl believed that they should allow the neighborhoods to make their own decisions whether they want to allow it or not.

City Planner Abboud responded to the question regarding the CUP process and how they don't have the CUP for a bar but then again they don't have bars in neighborhoods. The Planning Commission did not want to see these businesses in the residential districts, they prefer to see them in commercial districts and the urban residential areas are just too small a lot and cited the issues with having the requirements for a limited grow. Chair Stead stated he could vote in favor if it was allow in Rural Residential and on lots over 20,000 sf. Chief Robl favored the system of allowing choice.

HARRIS/SARNO - MOVED TO AMEND THE MOTION TO INCLUDE NOTIFICATION TO THE NEIGHBORING PROPERTY OWNERS IN RESIDENTIAL AREAS.

Discussion on the CUP process being similar but this wasn't to that extent; the limited cultivation is a maximum of 500 sf and is not a lot of space on 1/2 an acre. Commissioner Jones supported using the CUP process since it was already in place.

VOTE. (Amendment) YES. SARNO, REYNOLDS, HARRIS, JONES

VOTE. (Amendment) NO. ROBL, STEAD.

Motion carried

SARNO/REYNOLDS - MOVED TO AMEND TO RURAL RESIDENTIAL DISTRICT.

There was no discussion.

VOTE. (Amendment). YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VOTE. (Main Motion as Amended) NO. ROBL, STEAD, JONES, REYNOLDS

VOTE. (Main Motion as Amended) YES. HARRIS, SARNO.

Motion failed.

Acting Chair Stead noted the time of the meeting and inquired if it was the Commissions was agreeable to extend the meeting 15 minutes he would like a motion.

REYNOLDS/HARRIS - MOVED TO EXTEND THE MEETING 15 MINUTES.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

The meeting time was extended to 7:45 p.m.

**NEW BUSINESS**

A. Memorandum on THC Extraction

1. Proposed Ordinance 16-XX

Acting Chair Stead read the title into the record. City Planner Abboud commented that this ordinance does not prohibit legal manufacturing processes.

Discussion on the ordinance ensued in regards to personal extraction processes and the preference to leave that for the professionals.

REYNOLDS/JONES - MOVED TO RECOMMEND THE DRAFT THC EXTRACTION ORDINANCE FOR ADOPTION BY COUNCIL.

No further discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Allowing Marijuana Social Clubs in Homer

1. Memorandum from City Attorney Wells

Acting Chair Stead requested a motion to postpone to the next meeting due to time constraints.

REYNOLDS/ROBL - SO MOVED.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

C. Next Meeting Deliverables, Agenda Items

Commissioner Harris requested more information on Zoning.

Acting Chair Stead noted that the Marijuana Social Clubs will be on the agenda.

**INFORMATIONAL MATERIALS**

A. 2016 Meeting Schedule and Packet Processing Deadlines

B. 2016 Commission Attendance at Council Meetings

C. Resolution 15-105, 2016 Regular Meeting Schedule of Advisory Bodies

D. Memorandum from the CAC re: Approving the 2016 Regular Meeting Schedule

E. Final Proposed Marijuana Regulations dated 12/01/15

There was no discussion on the informational materials due to time constraints.

**COMMENTS OF THE AUDIENCE**

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

George Frazier commented on the areas marked for CUP on the Spit is the small boat harbor and did not think the USCG would want this out there and agreed that no activities other than retail should be

on the spit, downtown could have a café style instead of club. He asked what the definition of conditional use is? City Planner Abboud responded with a description of the CUP process and provided examples.

Tim Clark resident commented on the zoning and the CUP process and believed that would be appropriate. The commission should consider allowing the clubs.

Wes Schact, nonresident, commented on promoting the cannabis social clubs and other cannabis related activities. He spoke in favor of supporting clubs.

Homer Olson, resident, commented favorably for allowing clubs or cafés in town. They are also looking at opening a new business that is related to the industry.

Frank Hodnick, former resident, requested clarification on social clubs and commented in favor of having them.

#### **COMMENTS OF STAFF**

Deputy City Clerk Krause had no comments.

City Planner Abboud stated he will contact Commissioner Monroe.

#### **COMMENTS OF THE CHAIR**

#### **COMMENTS OF THE COMMISSION**

Commissioner Sarno, Harris and Robl had no comments.

Commissioner Reynolds thanked City Planner Abboud for his efforts and information.

Commissioner Jones thanked everyone for attending and to keep an eye on the regulations that the state are imposing as the City can only be stricter than those regulations imposed by them; Ultimately the Marijuana Control Board and Council have the final say.

#### **ADJOURN**

There being no further business to come before the Commission, the meeting adjourned at 7:50 p.m. The next regular meeting is scheduled for THURSDAY, JANUARY 28, 2016 at 5:30 p.m. in the City Hall Cowles Council Chambers located at 491 E Pioneer Avenue, Homer, Alaska.

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Renee Krause, CMC, Deputy City Clerk

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



# Kenai Peninsula Borough

## Marijuana Task Force

### Meeting Minutes

December 10, 2015

6:00 p.m.

George A. Navarre Borough Administration Building  
Assembly Chambers

Committee Members: Chair Leif Abel; Vice Chair Paul Ostrander, Chief of Staff; Blaine Gilman, Assembly District 2; Ron Long; Soldotna Police Chief Peter Mlynarik; Shane Monroe; Dave Nunley; Dollynda Phelps, Wayne Ogle, Assembly District 3; Marc Theiler

Staff Support: Holly Montague, Deputy Borough Attorney, Bruce Wall, Planner and Johni Blankenship, Borough Clerk

#### CALL TO ORDER

The meeting was called to order by Chair Abel at 6:00 p.m.

#### ROLL CALL

The following members were present:

Chair Abel

Vice Chair Ostrander

Blaine Gilman

Ron Long

Chief Peter Mlynarik

Dave Nunley

Wayne Ogle (*arrived at 6:28 p.m.*)

Dollynda Phelps

Marc Theiler

Absent:

Shane Monroe (*excused*)

*[Clerk's Note: Chair Abel announced the resignation of Task Force member Amy Fenske.]*

#### Also in attendance were:

Johni Blankenship, Borough Clerk

Michele Turner, Deputy Borough Clerk

Holly Montague, Deputy Attorney

Bruce Wall, Planner

#### APPROVAL OF AGENDA

MOTION:

Long moved to approve the agenda.

SECOND: Theiler.

MOTION: Phelps moved to remove Item 2 under New Business. *"Marijuana Task Force Recommendation to Kenai Peninsula Borough Assembly Regarding Permit Requirements and Standards for Marijuana Establishments (Fenske) a. Maps demonstrating how above regulations would affect the location of marijuana establishments in the Kalifornsky Beach area (Wall) b. Discussion Item – Oregon Article regarding Marijuana Grows Causing Black Outs (Fenske)*

SECOND: Theiler.

VOTE ON MOTION TO AMEND:

YES: Long, Phelps, Nunley, Theiler, Abel

NO: Gilman, Mylnarik, Ostrander

MOTION TO AMEND PASSED: 5 Yes, 3 No, 2 Absent

MOTION: Phelps moved to amend the agenda by adding a new business item, 2. Discussion regarding time, place and manner.

SECOND: Theiler.

VOTE ON MOTION TO AMEND:

YES: Gilman, Long, Mylnarik, Nunley, Ogle, Ostrander, Phelps, Theiler, Abel

NO:

MOTION TO AMEND PASSED: 9 Yes, 0 No, 1 Absent

THE MOTION TO APPROVE THE AGENDA AS AMENDED PASSED BY UNANIMOUS CONSENT.

**APPROVAL OF MINUTES**

October 29, 2015 Marijuana Task Force Meeting

MOTION: Phelps moved to approve the October 29, 2015 Marijuana Task Force meeting minutes.

SECOND: Long.

THE MOTION PASSED BY UNANIMOUS CONSENT.

**PUBLIC COMMENT** (3 minutes per speaker; 60 minute aggregate)

The following people spoke in opposition to Ms. Fenske's proposal regarding permit requirements:

**Brian Olson**, Poppy Lane  
**Matthew Cook**, Keystone Drive  
**Bill Glenn**, Kasilof  
**Jeremiah \_\_\_\_\_**, Kachemak

**John Cox**, Anchor Point spoke in opposition to the proximity regulations outlined in 3 AAC Chapter 306.

**Susan Kilfoil**, Anchor Point thanked the task force members and stated she appreciated the work they were doing.

**Lindianne Sarvo**, Kachemak spoke in support of helping establish the open market for cannabis and the end of its prohibition.

**Mike Neo**, Kasilof suggested the task force recommendations to the borough assembly mirror the state regulations.

**David Nardiney**, stated prohibition was not over and would like the borough to use the state regulations as a base.

**Michelle Holly**, Soldotna stated Canada and Mexico were both legalizing cannabis and would like to see the prohibition of cannabis end.

**Les Baker**, Soldotna the cannabis community was alive and well in the borough and appreciated the state's regulations.

MOTION: Long moved to extend the public comment period by 15 minutes.

SECOND: Gilman

MOTION: Gilman moved to amend the motion to extend the public hearing period by 60 minutes.

SECOND: Nunley.

THE AMENDED MOTION PASSED BY UNANIMOUS CONSENT.

**Joshua Bird**, Kenai stated cannabis was a needed resource in the state and oil should not be the state's main resource it should be cannabis.

**Carol Short**, Sterling stated cannabis was a viable source of income and suggested the task force read the issue of *TIME* magazine featuring cannabis on the cover.

**Steve Gossman**, Kasilof encouraged the task force to support the small cultivators and not the big cultivators.

**Kathy Anderson**, addressed the task force regarding the benefits of medical marijuana and what she has directly seen in the medical industry.

**John Dexter**, Kasilof discussed economics of the cannabis industry and the businesses within our community.

**Tia Spurl**, Soldotna addressed the assembly regarding her medical use of marijuana after chemo treatments and asked the task force to not make it difficult for people to get marijuana because they really needed it.

**Ryan Walker**, Fritz Creek shared with the task force that he had a serious problem with alcohol and has not had alcohol since using cannabis. He also shared stories regarding similar situations with friends.

There being no one else who wished to speak, the public comment period was closed.

## **NEW BUSINESS**

### ***MCB Final Amendments to 3 AAC Chapter 306. Regulations of Marijuana Industry (Abel)***

Chief Mlynarik stated the Marijuana Control Board adopted the final amendments and forwarded them to the state.

#### ***Discussion regarding state regulations governing time, place and manner***

#### **MOTION:**

Phelps moved for the task force to recommend to the assembly to allow the very comprehensive state regulations to govern the time, place and manner of marijuana establishments within the borough.

*Justification:* In light of recent cities proposing further restrictions on the operation or prevention of marijuana establishments, we urge the council to acknowledge the very robust regulations created by the state Marijuana Control Board over the past 9 months. These regulations have countless hours of time and energy put into them by a large number of professionals and were created so as to satisfy the Federal Cole Memo but also the privileges set forth by AS 17.38.

One of the Federal requirements asked for "Robust Regulations", and that's exactly what we've got, so much so many in our state have given up the idea of becoming a legal marijuana establishment. There is no reason to think that our state MCB did not do a very thorough job and it would be wise to allow these regulations to take effect and address issues that can be

identified when they actually are an issue, and not just a concern, a "what-if" scenario if you will. Do we not trust our elected Marijuana Control Boards' ability to perform this task?

One of the requirements of AS 17.38.090(a) reads "...such regulations shall not prohibit the operations of marijuana establishments, either expressly or through regulations that make their operation unreasonably impractical..." Many of these additional restrictions do just that, by prohibiting said establishments in one fashion or another. The state board's legal counsel was careful to adhere to this for very specific reasons. Section 306.810(c) frowns upon intentions that are arbitrary, capricious or unreasonable, some new restrictions being proposed are just that.

Every additional requirement being proposed in municipalities and cities has already been addressed by the MCB in great detail. Distance from schools and churches, operational safeguards for each establishment such as video surveillance, public protections such as odor control and visibility limitations, a very strict tracking system is an absolute requirement to prevent diversion into BM hands. All of these safeguards as well as others work together to create a very well regulated and enforceable system. Every detail has been addressed and discussed at length and provides a clear picture for both the public and law enforcement, as additional and possibly unnecessary restrictions can and will cause confusion.

In the face of financial burden and shortages in our state, the Borough should also consider the amount of time and money that will be saved in allowing state regulations to do their job.

Therefore, at this time, the KPB MTF recommends that the best course of action for the Borough Assembly is to allow the very comprehensive state regulations to govern the time place and manner of marijuana establishments within the Borough so as to save time, money, and possible liability thereof.

SECOND:

Nunley.

Gilman spoke in opposition to this motion and stated people should have the right to prohibit marijuana establishments in their neighborhoods.

Theiler spoke in support of the motion and stated adding more regulations at this stage of the game was frustrating.

Mlynarik stated local government having regulations was important and believed that was the state's hope as well.

Long stated the importance of local government regulations, but wanted to be careful that the regulations do not infringe on property owners' rights.

MOTION: Phelps moved to postpone the motion to the next task force meeting.

SECOND: Theiler.

THE MOTION TO POSTPONE PASSED UNANIMOUSLY.

**OLD BUSINESS** – None.

**OTHER** – Discussion Items.

1. ***City of Kenai Planning and Zoning Commission Resolution No. PZ15-30: An Ordinance to Establish Land-Use Regulations for Commercial Marijuana Establishments***

Theiler indicated he attending the meeting and he like the direction the City of Kenai was headed.

2. ***City of Soldotna Ordinance 2015-041: Establishing a Marijuana Local Regulatory Authority (Mayor, Public Hearing on December 9, 2015)***
3. ***City of Soldotna Ordinance 2015-042: Establishing a Moratorium on Commercial Marijuana (Daniels, Public Hearing on December 9, 2015)***
4. ***City of Soldotna Ordinance 2015-043: Regulating Commercial Marijuana, by Limiting the Number of Retail Marijuana Facilities, Prohibiting Commercial Cultivation Facilities Unless at the Same Location as a Retail Facility and Prohibiting Commercial Marijuana Manufacturing Facilities Unless at the Same Location as a Retail Facility (Baxter, Public Hearing on December 9, 2015)***

Chair Abel stated Ordinance 201-041 passed by unanimous consent, Ordinance 2015-042 passed by a vote of 4 Yes and 2 No, and Ordinance 2015-043 failed by a vote of 6 No, 0 Yes.

#### **APPOINTMENT OF NEW TASK BOARD MEMBER**

Ostrander asked the task force if they wanted to fill seat vacated by Amy Fenske's. The task force agreed to move forward with the current ten members.

**ANNOUNCE NEXT MEETING DATE AND TIME**

The next meeting was set for January 7, 2016 at 6:00 p.m. to be held in the Assembly Chambers of the George A. Navarre Borough Administration Building.

**ADJOURNMENT**

The meeting was adjourned at 9:12 p.m. with no objections.

I certify the above represents accurate minutes of the Marijuana Task Force of December 10, 2015.

  
\_\_\_\_\_  
John Blankenship, MMC, Borough Clerk

Approved by Task Force: 1-7-2016









# City of Homer

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## Staff Report CAC 16-01

TO: Cannabis Advisory Commission  
FROM: Rick Abboud, City Planner  
DATE: January 20, 2016  
SUBJECT: Update

**Introduction:** The Planning Commission did forward a draft ordinance to the City Council. A summary of the proposal is below. The Commission sees this as a starting point and understands that they will be reviewing the recommendations as the state changes regulations and the city gains experience with the industry.

The City Council will introduce the ordinance at the meeting of January 25<sup>th</sup>. This allows for two additional meetings on the subject prior to the February 25<sup>th</sup> date when the state will start to accept applications. My goal is to get something adopted so that there will be some opportunity for those wishing to apply.

**What are others doing?** Since the last meeting Wasilla is moving towards a ban on retail marijuana sales and Bethel passed a 6 month hold on marijuana activities. This is leaving Homer as one of only a few communities supporting the industry at this time.

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

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

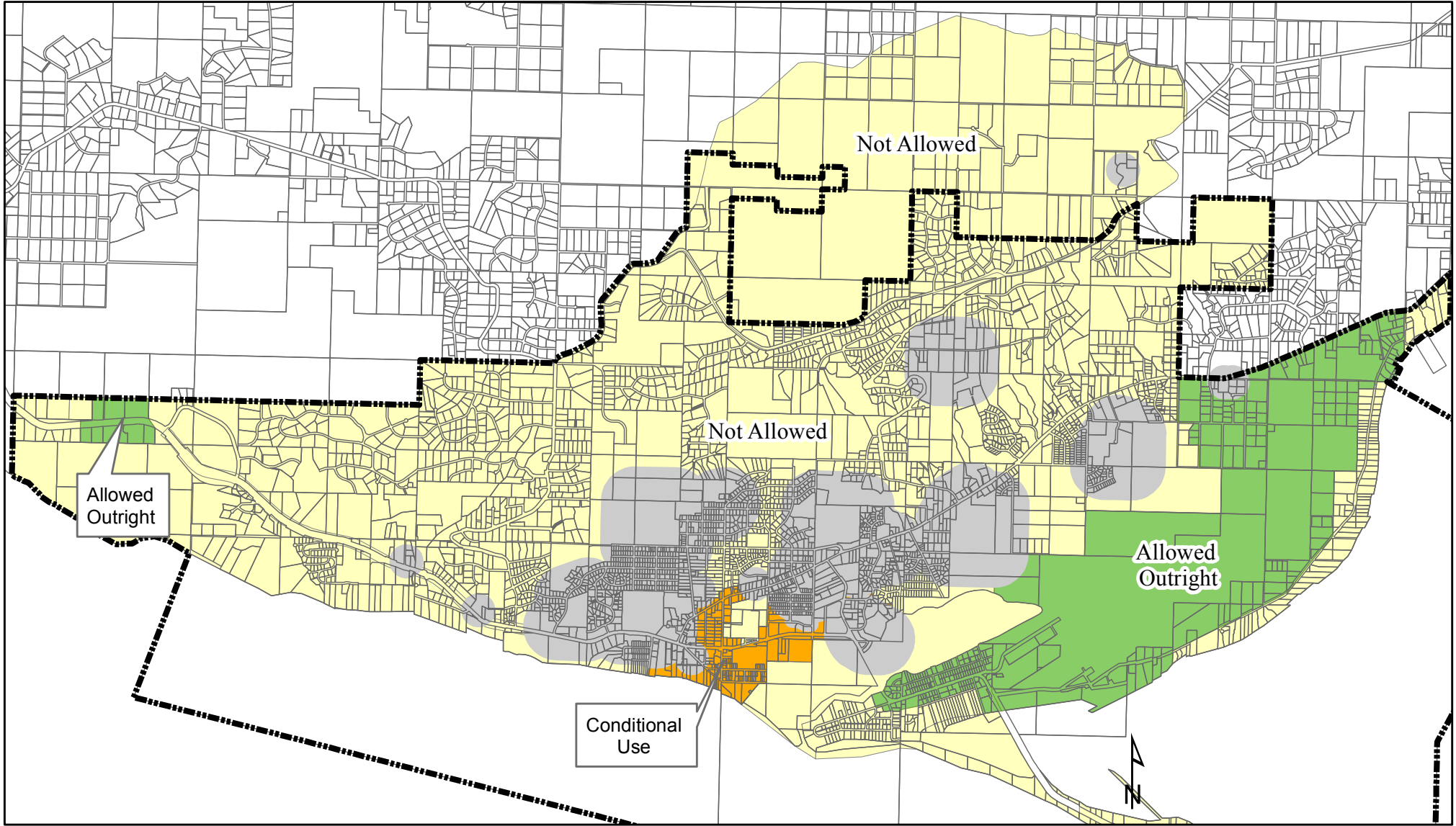
The Planning Commission also proposes some buffer distances in addition to the state provisions. These buffers are based on the federal governments' double penalty zone as defined in US Code. This includes 1000 feet buffers from the two colleges, the Alaska Bible Institute and the Kenai Peninsula College. 1000 feet buffers from Karen Hornaday, Jack Gist, Bayview, and Ben Walters Parks are also

recommended. Another recommendation is a 200 foot buffer from the library. The language used by the state and the federal government does not describe a library, but after a request from the Library Advisory Board, the commission did recommend a 200 foot buffer. This buffer with the buffer extended from the college and consideration of the uses and ownership of nearby properties realistically ensures that operations will not be proposed anywhere in close proximity to the library. The combination of the library and college buffers, and existing land uses and land ownership (post office, banks) realistically ensures that operations will not be proposed anywhere close to the library.






**Attachments:**

1. ordinance
2. Commercial Cannabis zoning maps (2)
3. CC memo

# Commercial Cannabis Cultivation Map 1/25/2016

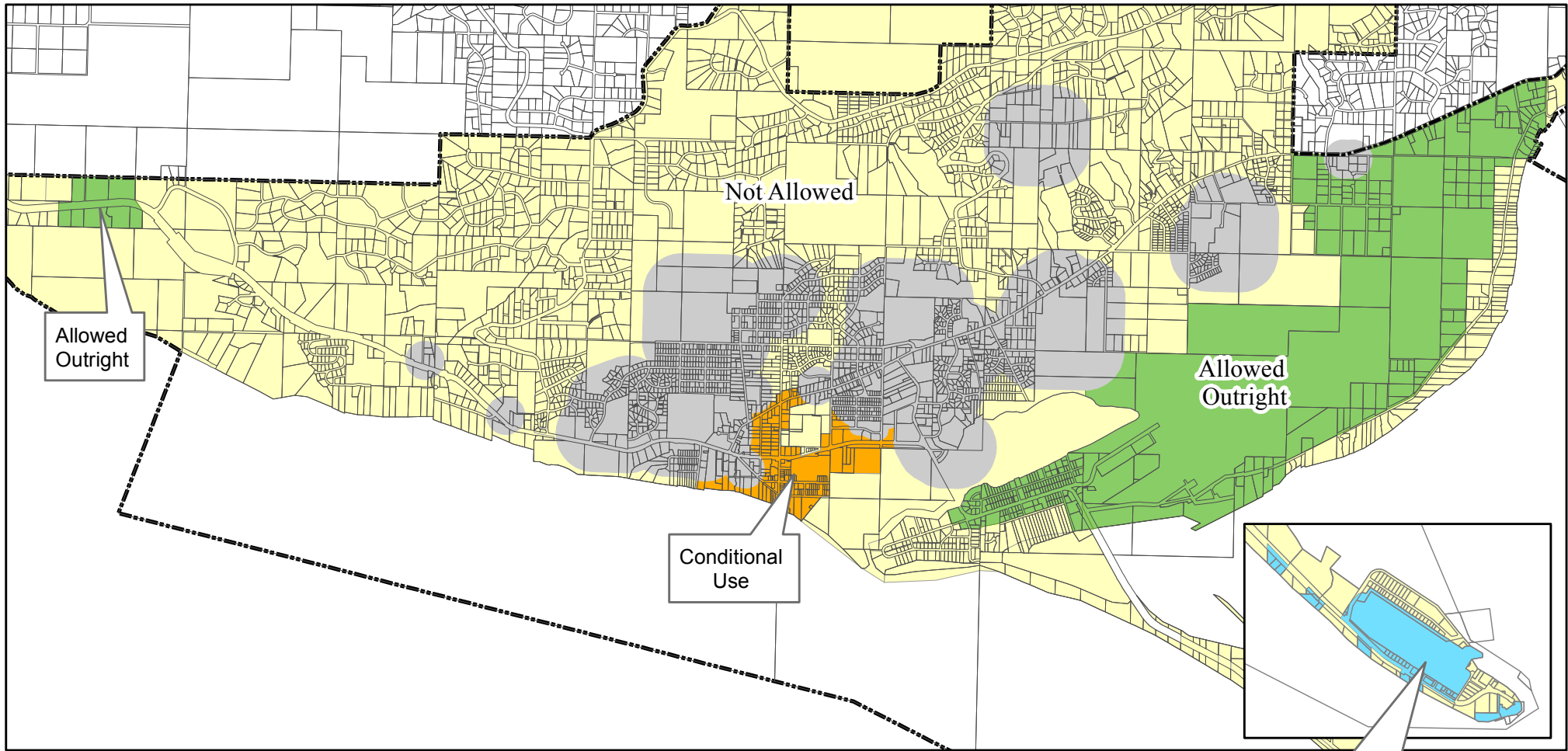


## Legend







-  City Limits
-  Buffers
-  Permitted
-  CUP
-  No Commercial Cannabis Businesses

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.

**Commercial Cannabis Retail and Manufacturing Map, January 25, 2016**  
**Testing is allowed outright in the green areas, and in downtown Homer.**



**Legend**

-  City Limits
  -  Buffers
  -  Retail and Manufacturing allowed outright
  -  Retail and Manufacturing by Conditional Use Permit
  -  Retail Only, CUP
  -  No Commercial Cannabis Businesses
- Commercial Cannabis Activities**

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.

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

4  
5 Planning Commission  
6

7 **ORDINANCE 16-\_\_\_**  
8

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

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

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

38 THE CITY OF HOMER ORDAINS:  
39

40 Section 1. Homer City Code Chapter 21.18 is amended as follows:

41 Section 21.18.020 Permitted uses and structures.

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

[**Bold and underlined added.** Deleted language stricken through.]

- 45 a. Retail business where the principal activity is the sale of merchandise  
46 and incidental services in an enclosed building; .....
- 47 b. Personal service establishments;
- 48 c. Professional offices and general business offices;
- 49 d. Restaurants, clubs and drinking establishments that provide food or  
50 drink for consumption on the premises;
- 51 e. Parking lots and parking garages, in accordance with  
52 Chapter 21.55 HCC;
- 53 f. Hotels and motels;
- 54 g. Mortuaries;
- 55 h. Single-family, duplex, and multiple-family dwellings,  
56 including townhouses, but not including mobile homes;
- 57 i. Floatplane tie-up facilities and air charter services;
- 58 j. Parks;
- 59 k. Retail and wholesale sales of building supplies and materials, only if  
60 such use, including storage of materials, is wholly contained within one or  
61 more enclosed buildings;
- 62 l. Customary accessory uses to any of the permitted uses listed in the CBD  
63 district; provided, that a separate permit shall not be issued for the  
64 construction of any detached accessory building prior to that of the main  
65 building;
- 66 m. Mobile homes, provided they conform to the requirements set forth in  
67 HCC 21.54.100;
- 68 n. Home occupations, provided they conform to the requirements of  
69 HCC 21.51.010;

- 70 o. Ministorage;
- 71 p. Apartment units located in buildings primarily devoted to business or  
72 commercial uses;
- 73 q. Religious, cultural, and fraternal assembly;
- 74 r. Entertainment establishments;
- 75 s. Public, private and commercial schools;
- 76 t. Museums and libraries;
- 77 u. Studios;
- 78 v. Plumbing, heating and appliance service shops, only if such use,  
79 including the storage of materials, is wholly within an enclosed building;
- 80 w. Publishing, printing and bookbinding;
- 81 x. Recreational vehicle parks only if located south of the  
82 Sterling Highway (Homer Bypass) from Lake Street west to the boundary  
83 of the Central Business District abutting Webber Subdivision, and from  
84 Heath Street to the west side of Lakeside Village Subdivision, provided  
85 they shall conform to the standards in HCC 21.54.200 and following  
86 sections;
- 87 y. Taxi operation limited to a dispatch office and fleet parking of no more  
88 than five vehicles; maintenance of taxis must be conducted within an  
89 enclosed structure, and requires prior approval by the City Planner of  
90 a site, access and parking plan;
- 91 z. Mobile food services;
- 92 aa. Itinerant merchants, provided all activities shall be limited  
93 to uses permitted outright under this zoning district;
- 94 bb. Day care homes and facilities; provided, however, that outdoor play  
95 areas must be fenced;

- 96 cc. Rooming house, bed and breakfast and hostel;
- 97 dd. Auto repair and auto and trailer sales or rental areas, but only on
- 98 Main Street from Pioneer Avenue to the Sterling Highway,
- 99 excluding lots with frontage on Pioneer Avenue or the Sterling Highway,
- 100 subject to the following additional requirements: Vehicles awaiting repair
- 101 or service, inoperable vehicles, vehicles for parts, and vehicles awaiting
- 102 customer pickup shall be parked indoors or inside a fenced enclosure so as
- 103 to be concealed from view, on all sides. The fence shall be a minimum
- 104 height of eight feet and constructed to prohibit visibility of anything inside
- 105 of the enclosure. The portion of any vehicle exceeding eight feet in height
- 106 may be visible outside of the fence. Vehicle parts (usable or unusable),
- 107 vehicle service supplies, and any other debris created in the repair or
- 108 servicing of vehicles shall also be stored indoors or inside the fenced
- 109 enclosure out of view of the public;
- 110 ee. Farmers' market;
- 111 ff. Dormitory;
- 112 gg. Financial institutions;
- 113 hh. As an accessory use, one small wind energy system per lot having a
- 114 rated capacity not exceeding 10 kilowatts;
- 115 ii. One detached dwelling unit, excluding mobile homes, as an accessory
- 116 building to a principal single-family dwelling on a lot.
- 117 **jj. Marijuana testing facility as defined by state law.**

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118

119 Section 21.18.030 Conditional uses and structures.

---

120 The following uses may be permitted in the Central Business District

121 when authorized by conditional use permit issued in accordance with

122 Chapter 21.71 HCC:

---



- 123 a. Planned unit developments, excluding all industrial uses;
- 124 b. Indoor recreational facilities and outdoor recreational facilities;
- 125 c. Mobile home parks;
- 126 d. Auto fueling stations;
- 127 e. Public utility facilities and structures;
- 128 f. Pipeline and railroads;
- 129 g. Greenhouses and garden supplies;
- 130 h. Light or custom manufacturing, repair, fabricating, and assembly,  
131 provided such use, including storage of materials, is wholly within an  
132 enclosed building;
- 133 i. Shelter for the homeless, provided any lot used for such shelter does  
134 not abut a residential zoning district;
- 135 j. More than one building containing a permitted principal use on a lot;
- 136 k. Group care homes and assisted living homes;
- 137 l. Drive-in car washes, but only on the Sterling Highway from Tract A-1  
138 Webber Subdivision to Heath Street;
- 139 m. One small wind energy system having a rated capacity exceeding 10  
140 kilowatts; provided, that it is the only wind energy system of any capacity  
141 on the lot;
- 142 n. Other uses approved pursuant to HCC 21.04.020
- 143 **o. Marijuana cultivation facilities, manufacturing facilities, and retail**  
144 **facilities as defined by state law.**

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

146 Section 21.24.020 Permitted uses and structures.

147                           The following uses are permitted outright in the General Commercial 1  
148 District, except when such use requires a conditional use permit by reason of size,  
149 traffic volumes, or other reasons set forth in this chapter.

---

- 150                           a. Air charter operations and floatplane tie-up facilities;
- 151   b. General business offices and professional offices;
- 152                           c. Dwelling units located in buildings primarily devoted to business uses;
- 153                           d. Auto repair;
- 154                           e. Auto and trailer sales or rental areas;
- 155                           f. Auto fueling stations and drive-in car washes;
- 156                           g. Building supply and equipment sales and rentals;
- 157                           h. Restaurants, including drive-in restaurants, clubs and drinking  
158 establishments;
- 159                           i. Garden supplies and greenhouses;
- 160                           j. Heavy equipment and truck sales, rentals, service and repair;
- 161                           k. Hotels and motels;
- 162                           l. Lumberyards;
- 163                           m. Boat and marine equipment sales, rentals, service and repair;
- 164                           n. Mortuaries;
- 165                           o. Open air businesses;
- 166                           p. Parking lots and parking garages, in accordance with  
167 Chapter 21.55 HCC;

- 168 q. Manufacturing of electronic equipment, electrical devices, pottery,  
169 ceramics, musical instruments, toys, novelties, small molded products and  
170 furniture;
- 171 r. Publishing, printing and bookbinding;
- 172 s. Recreation vehicle sales, rental, service and repair;
- 173 t. Retail businesses;
- 174 u. Trade, skilled or industrial schools;
- 175 v. Wholesale businesses, including storage and distribution services  
176 incidental to the products to be sold;
- 177 w. Welding and mechanical repair;
- 178 x. Parks and open space;
- 179 y. Appliance sales and service;
- 180 z. Warehousing, commercial storage and mini-storage;
- 181 aa. Banks, savings and loans, credit unions and other financial institutions;
- 182 bb. Customary accessory uses to any of the permitted uses listed in the  
183 GC1 district; provided, that no separate permit shall be issued for the  
184 construction of any type of accessory building prior to that of the main  
185 building;
- 186 cc. Dry cleaning, laundry, and self-service laundries;
- 187 dd. Taxi operation;
- 188 ee. Mobile food services;
- 189 ff. Itinerant merchants, provided all activities shall be limited  
190 to uses permitted outright under this zoning district;

191 gg. Recreational vehicle parks, provided they shall conform to the  
192 standards in Article II of Chapter 21.54 HCC;

193 hh. Day care homes; provided, that a conditional use permit was obtained  
194 for the dwelling, if required by HCC 21.24.030; all outdoor play areas  
195 must be fenced;

196 ii. Rooming house and bed and breakfast;

197 jj. Dormitory;

198 kk. As an accessory use, one small wind energy system per lot.

199 **ll. Marijuana cultivation facilities, manufacturing facilities, retail**  
200 **facilities, and testing facilities as defined by state law.**

201  
202 Section 4. Homer City Code Chapter 21.26 is amended as follows:

203 Section 21.26.020 Permitted uses and structures.

204 The following uses are permitted outright in the General Commercial 2  
205 District, except when such use requires a conditional use permit by reason of size,  
206 traffic volumes, or other reasons set forth in this chapter:

207 a. Production, processing, assembly and packaging of fish, shellfish and  
208 seafood products;

209 b. Construction, assembly and storage of boats and boat equipment;

210 c. Manufacture and assembly of pottery and ceramics, musical  
211 instruments, toys, novelties, small molded products, electronic instruments  
212 and equipment and electrical devices;

213 d. Research and development laboratories;

214 e. Trade, skills or industrial schools;

215 f. Publishing, printing and bookbinding facilities;

- 216 g. Auto, trailer, truck, recreational vehicle and heavy equipment sales,  
217 rentals, service and repair, excluding storage of vehicles or equipment that  
218 is inoperable or in need of repair;
- 219 h. Storage and distribution services and facilities, including truck  
220 terminals, warehouses and storage buildings and yards, contractors'  
221 establishments, lumberyards and sales, or similar uses;
- 222 i. Airports and air charter operations;
- 223 j. Underground bulk petroleum storage;
- 224 k. Cold storage facilities;
- 225 l. Parking lots and parking garages, in accordance with  
226 Chapter 21.55 HCC;
- 227 m. Mobile commercial structures;
- 228 n. Accessory uses to the uses permitted in the GC2 district that are clearly  
229 subordinate to the main use of the lot or building, such as wharves, docks,  
230 restaurant or cafeteria facilities for employees; or caretaker  
231 or dormitory residence if situated on a portion of the principal lot;  
232 provided, that separate permits shall not be issued for the construction of  
233 any type of accessory building prior to that of the main building;
- 234 o. Taxi operation;
- 235 p. Mobile food services;
- 236 q. Itinerant merchants, provided all activities shall be limited  
237 to uses permitted outright under this zoning district;
- 238 r. Recreational vehicle parks, provided they shall conform to the standards  
239 in Chapter 21.54 HCC;
- 240 s. Hotels and motels;
- 241 t. Dormitory;

242 u. As an accessory use, one small wind energy system per lot;

243 v. Open air business.

244 **w. Marijuana cultivation facilities, manufacturing facilities, retail**  
245 **facilities, and testing facilities as defined by state law.**

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

247

248

Section 21.27.020 Permitted uses and structures.

249

250 The following uses are permitted outright in the East End Mixed Use  
251 District, except when such use requires a conditional use permit by reason of size,  
252 traffic volumes, or other reasons set forth in this chapter:

253 a. Auto, trailer, truck, recreational vehicle and heavy equipment sales,  
254 rentals, service and repair;

255 b. Drive-in car washes;

256 c. Building supply and equipment sales and rentals;

257 d. Garden supplies and greenhouses;

258 e. Boat and marine equipment sales, rentals, manufacturing, storage yard,  
259 service and repair;

260 f. Welding and mechanical repair;

261 g. Restaurants, including drive-in restaurants, clubs and drinking  
262 establishments;

263 h. Religious, cultural, and fraternal assembly;

264 i. Studios;

265 j. Personal services;

266 k. Agricultural activities, including general farming, truck farming,  
267 nurseries, tree farms and greenhouses;

268 l. Private stables;

269 m. Storage of heavy equipment, vehicles or boats;

270 n. Plumbing, heating and appliance service shops;

271 o. Home occupations on a lot whose principal permitted use is residential,  
272 provided they conform to the requirements of HCC 21.51.010;

273 p. Mortuaries and crematoriums;

274 q. Open air businesses;

275 r. Parking lots and parking garages, in accordance with Chapter 21.55  
276 HCC;

277 s. Manufacturing, fabrication and assembly;

278 t. Retail businesses;

279 u. Trade, skilled or industrial schools;

280 v. Wholesale businesses, including storage and distribution services  
281 incidental to the products to be sold;

282 w. Parks and open space;

283 x. Warehousing, commercial storage and mini-storage;

284 y. Recreational vehicles, subject to the standards in HCC 21.54.320(a), (b)

- 285 and (c);  
286 z. Dry cleaning, laundry, and self-service laundries;  
287 aa. Mobile food services;  
288 bb. As an accessory use, one small wind energy system per lot;  
289 cc. Production, processing, assembly and packaging of fish, shellfish and  
290 seafood products;  
291 dd. Research and development laboratories;  
292 ee. Storage and distribution services and facilities, including truck  
293 terminals, warehouses and storage buildings and yards, contractors'  
294 establishments, lumberyards and sales, or similar uses;  
295 ff. Cold storage facilities;  
296 gg. Mobile commercial structures;  
297 hh. Single-family and duplex dwellings, only as an accessory use  
298 incidental to a permitted principal use; provided, that no permit shall be  
299 issued for the construction of an accessory dwelling prior to the  
300 establishment of the principal use;  
301 ii. The repair, replacement, reconstruction or expansion of a single-family  
302 or duplex dwelling, including a mobile home, that existed lawfully before  
303 its inclusion in the GC1, GC2 or EEMU zoning districts, notwithstanding  
304 any provision of Chapter 21.61 HCC to the contrary; provided, that a  
305 mobile home may not be used to replace or expand such a dwelling;  
306 jj. Customary accessory uses to any of the uses permitted in the EEMU  
307 district that are clearly subordinate to the main use of the lot or building,  
308 including without limitation wharves, docks, storage facilities, restaurant  
309 or cafeteria facilities for employees; or caretaker or employee dormitory  
310 residence if situated on a portion of the same lot as the principal use;  
311 provided, that no permit shall be issued for the construction of any type of  
312 accessory building prior to the establishment of the principal use;  
313 kk. Taxi operation;  
314 ll. Itinerant merchants, provided all activities shall be limited to uses  
315 permitted outright under this zoning district;  
316 mm. More than one building containing a permitted principal use on a lot;  
317 nn. The outdoor harboring or keeping of dogs, small animals and fowl as  
318 an accessory use to a residential use in a manner consistent with the  
319 requirements of all other provisions of the Homer City Code and as long  
320 as such animals are pets of the residents of the dwelling and their numbers  
321 are such as not to unreasonably annoy or disturb occupants of neighboring  
322 property.  
323 **oo. Marijuana cultivation facilities, manufacturing facilities, retail**  
324 **facilities, and testing facilities as defined by state law.**  
325

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

- 327  
328 Section 21.28.030 Conditional uses and structures  
329  
330 a. Drinking establishments;

- 331 b. Public utility facilities and structures;
- 332 c. Hotels and motels;
- 333 d. Lodging;
- 334 e. More than one building containing a permitted principal use on a lot;
- 335 f. Planned unit developments, limited to water-dependent and water-
- 336 related uses, with no dwelling units except as permitted by HCC
- 337 21.28.020(o);
- 338 g. Indoor recreational facilities;
- 339 h. Outdoor recreational facilities;
- 340 i. The location of a building within a setback area required by HCC
- 341 21.28.040(b). In addition to meeting the criteria for a conditional use
- 342 permit under HCC 21.71.030, the building must meet the following
- 343 standards:
- 344 1. Not have a greater negative effect on the value of the adjoining
- 345 property than a building located outside the setback area; and
- 346 2. Have a design that is compatible with that of the structures on
- 347 the adjoining property.

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

349

350

351

352 Section 9. Chapter 21.62 is hereby enacted as follows:

353

354

355 **Chapter 21.62**

356

357 **Marijuana Cultivation, Manufacturing, Retail, and Testing Facilities**

358

359

360 **Sections:**

361 **21.62.010 Scope.**

362 **21.62.020 Intent**

363 **21.62.030 Definitions**

364 **21.62.040 Pre-application conference.**

365 **21.62.050 Costs**

366 **21.62.060 Safety and Security Plan**

367 **21.62.070 Buffers.**

368 **21.62.080 General restrictions on all marijuana facilities.**

369

370



371 **21.62.010 Scope**

372  
373 **a. This chapter applies to the operation of all marijuana cultivation, manufacturing,**  
374 **retail , and testing facilities within the city boundaries.**

375  
376 **b. This chapter in no way protects marijuana facilities from enforcement of federal**  
377 **law nor is it intended to sanction conduct or operations prohibited by law. All**  
378 **persons engaged in the marijuana industry within the city operate at their own risk**  
379 **and have no legal recourse against the City in the event that city laws are**  
380 **preempted, negated or otherwise found unenforceable based upon federal law**  
381 **prohibiting the sale, distribution, consumption or possession of marijuana.**

382  
383 **21.62.020 Intent**

384  
385 **a. This chapter is intended to impose regulations that prevent:**

- 386  
387 **1. The distribution of marijuana to minors;**  
388 **2. Revenue from the sale of marijuana from going to criminal enterprises,**  
389 **gangs, and cartels;**  
390 **3. The diversion of marijuana from states where it is legal under state law in**  
391 **some form to other states where it is unlawful;**  
392 **4. State-authorized marijuana activity from being used as a cover or pretext**  
393 **for the trafficking of other illegal drugs or other illegal activity;**  
394 **5. Violence and the use of firearms in the cultivation and distribution of**  
395 **marijuana;**  
396 **6. Drugged driving and the exacerbation of other adverse public health**  
397 **consequences associated with marijuana use;**  
398 **7. The growing of marijuana on public lands and the attendant public safety**  
399 **and environmental dangers posted my marijuana production on public land;**  
400 **and**  
401 **8. Marijuana possession or use on federal property.**

402  
403 **21.62.030 Definitions [reserved]**

404  
405 **21.62.040 Pre-application Conference.**

406  
407 **21.57.050 Costs.**

408  
409 **The cost of all permits, studies and investigation required under this chapter**  
410 **shall be borne by the applicant.**

411  
412 **When Title 21 requires a conditional use permit for a marijuana facility, the**  
413 **applicant must meet with the City Planner to discuss the conditional use**  
414 **permit process and any issues that may affect the proposed conditional use.**  
415 **This meeting is to provide for an exchange of general and preliminary**  
416 **information only and no statement made in such meeting by either the**  
417 **applicant or the City Planner shall be regarded as binding or authoritative**

418 for the purposes of this title.

419  
420 **21.62.060 Safety and Security Plan**

421  
422 **A conditional use permit for a marijuana facility required by this title shall**  
423 **include an analysis of the ways in which the intent and purpose of this**  
424 **chapter have been met and the safety concerns identified in Sections**  
425 **21.62.010 and 21.62.020 will be addressed.**

426  
427 **21.62.070 Buffers**

428  
429 a) **The Commission may require buffers, including berms, fences, trees, and**  
430 **shrubs, to minimize impacts to adjacent property. A landscaped buffer or**  
431 **combination of landscaping and berms of no less than ten feet in width will**  
432 **be required where the property with a marijuana facility adjoins districts in**  
433 **which marijuana facilities are prohibited or permitted only as a conditional**  
434 **use.**

435  
436 b) **The following buffer zones shall be applied to all marijuana facilities in all**  
437 **districts:**

- 438  
439 **1. Schools 1000 feet**
- 440 **2. Churches 500 feet**
- 441 **3. Jail 500 feet**
- 442 **4. Youth/rec. center 500 feet**
- 443 **5. Library 200 feet**
- 444

445 c) **Marijuana facilities abutting the Jack Gist Municipal Park, Karen Hornaday**  
446 **Municipal Park, Bayview Municipal Park, or Ben Walters Municipal Park**  
447 **must have 1000 feet or more buffers measured from the boundary of the**  
448 **park.**

449  
450 d) **For purposes of this section, “schools” mean property primarily used as a**  
451 **private or public elementary or secondary education facility or property**  
452 **primarily used as a post-secondary education facility, including but not**  
453 **limited to private, faith-based, and public colleges and universities.**

454  
455 **21.62.80 General restrictions applied to all marijuana facilities.**

456  
457 a) **All marijuana facilities in all districts shall comply with Section 21.59.030 of this**  
458 **title.**

459  
460 b) **An application for a conditional use permit under this chapter shall not be approved**  
461 **if the location of the facility violates the regulatory intent in Section 21.62.020.**

462  
463  
464 Section 8. This ordinance shall take effect upon its adoption by the Homer City Council.







# City of Homer

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

Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

(p) 907-235-3130

(f) 907-235-3143

## Memorandum 16-016

TO: MAYOR WYTHE AND CITY COUNCIL  
FROM: JO JOHNSON, MMC, CITY CLERK  
DATE: JANUARY 19, 2016  
SUBJECT: RESULTS OF BALLOT MEASURE 2 TO LEGALIZE RECREATIONAL MARIJUANA FOR CITY OF HOMER VOTERS

---

Official election results from the General Election of November 4, 2014 of Ballot Measure 2 to legalize recreational marijuana for City of Homer voters are as follows:

BALLOT MEASURE 2	YES	NO	TOTAL VOTES
Homer No. 1	492	417	909
Homer No. 2	358	324	682
Totals	850	741	1,591

There were 4,499 registered voters in Homer No. 1 and 2 precincts with 1,591 people voting on Ballot Measure 2 for a 35% turnout.

53% of votes cast were YES for legalized recreational marijuana; 47% of votes cast were NO.

Informational only.

**State of Alaska - 2014 General Election**  
**November 4, 2014**  
**Official Results**

Jurisdiction	Ballot Measure 2 - 13PSTUM				Ballot Measure 3 - 13MINW			
	Reg. Voters	Total Votes	YES	NO	Reg. Voters	Total Votes	YES	NO
Jurisdiction Wide	1707	710	330	380	1707	710	436	274
31-300 Anchor Point	997	434	282	152	997	433	342	91
31-310 Diamond Ridge	577	221	120	101	577	221	154	67
31-320 Fox River	1597	596	271	325	1597	591	338	253
31-340 Funny River No. 2	2490	909	492	417	2490	920	673	247
31-350 Homer No. 1	2009	682	358	324	2009	686	475	211
31-360 Homer No. 2	1677	696	425	271	1677	697	504	193
31-370 Kachemak/Fritz Creek	2312	1003	564	439	2312	1002	658	344
31-380 Kaslof	1217	481	243	238	1217	493	333	160
31-390 Nimitchik	0	2452	1317	1135	0	2461	1703	758
District 31 - Absentee	0	282	193	89	0	275	227	48
District 31 - Question	0	69	40	29	0	68	41	27
District 31 - Early Voting	14583	8535	4635	3900	14583	8557	5884	2673
<b>Total</b>								



# City of Homer

www.cityofhomer-ak.gov

## Planning

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Homer, Alaska 99603

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### Memorandum 16-017

TO: MAYOR WYTHE AND HOMER CITY COUNCIL  
 THROUGH: KATIE KOESTER, CITY MANAGER  
 FROM: RICK ABBOUD, CITY PLANNER  
 DATE: JANUARY 14, 2016  
 SUBJECT: DRAFT ORDINANCE PROPOSING TO ZONE MARIJUANA RELATED ACTIVITIES WITHIN THE CITY OF HOMER

The Planning Commission has been working on this item since August. It has been an agenda item at six meetings, two of which have been public hearings. This proposed ordinance deals specifically with zoning regulations for the four activities defined by the state: Cultivation; Limited (small - under 500 square feet) and Standard (large - more than 5000 square feet), Manufacturing, Retail, and Testing. The best way to express this is the table below and the map attached. At this point, there is no distinction for zoning purposes between limited and standard cultivation operations.

Our goal with this ordinance is to provide a place to start with the regulation of the industry and to have some options available prior to the date when the state is scheduled to accept applications, February 24<sup>th</sup>. This will allow the City Council to introduce and hold two public hearing prior to this date. The Planning Commission wants to allow the industry to start in a somewhat limited area until we gain more experience, with the thought it would be much easier to loosen rules in the future rather than try to ratchet it back later and leave nonconformities behind. If the Council recommends something that needs to be review by the Planning Commission, I recommend passing the parts of the ordinance that are acceptable to the Council, so that entrepreneurs have reasonable options to apply for a license February 24<sup>th</sup>. If no ordinance is adopted, commercial marijuana will be an unlisted use, meaning every application will be a conditional use with a fairly high threshold for approval. This is an unreasonable expectation.

It is important to consider the regulation that is proposed by the state when considering the regulations proposed by the city. We may not propose anything that is more liberal than what the state proposes. A brief summary of the state regulation is provided and attached is the regulation proposed at the time of this report.

A = Allowed (reviewed by the Planning Office). C = Conditional Use Permit needed (hearing before the Planning Commission required).

**Table 1. Cannabis Activity by Zoning**

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

The Planning Commission also proposes some buffer distances in addition to the state provisions. These buffers are based on the federal governments' double penalty zone as defined in US Code. This includes 1000 feet buffers from the two colleges, the Alaska Bible Institute and the Kenai Peninsula College. 1000 feet buffers from Karen Hornaday, Jack Gist, Bayview, and Ben Walters Parks are also recommended. Another recommendation is a 200 foot buffer from the library. The language used by the state and the federal government does not describe a library, but after a request from the Library Advisory Board, the commission did recommend a 200 foot buffer. This buffer with the buffer extended from the college and consideration of the uses and ownership of nearby properties realistically ensures that operations will not be proposed anywhere in close proximity to the library. The combination of the library and college buffers, and existing land uses and land ownership (post office, banks) realistically ensures that operations will not be proposed anywhere close to the library.

You will surely be made aware of a petition that proposes that limited cultivation be allowed outright in the Rural Residential District and that marijuana activities be allowed outright in the Central Business District. Both of these subjects have been discussed at length by the Planning Commission. The commission believes that the limited cultivation in the Rural Residential District is too commercial to meet the purpose of the district. A limited cultivation operation is required by the state to have exterior lighting to facilitate surveillance (including within 20 feet of each entrance), a security alarm on all windows and doors, and continuous video monitoring. Approval for a commercial business from the Fire Marshal is required. All persons dealing with the product must have a marijuana handler permit. There must be a plan for odor control to ensure that it is not detectable off the premises. This is just a sampling of the many requirements of the state licensing requirements found in the final regulations through 12-1-15. Another concern about limited cultivation in the Rural Residential District is density. Because of the city regulations for lot size, many lots that have access to water and sewer are small. In any event, the commission would not entertain commercial activities on lots less than 20,000 square feet (about half an acre). In addition, there was discussion about the minimum distance between a commercial grow operation, and the adjoining property. In the end, commercial cultivation was not recommended for the district.

The Commission also thought that cannabis activities in the Central Business District would be best with additional review of the Planning Commission and an opportunity for neighbors to be noticed and participate in the hearing.

### **State of Alaska**

While the City is 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 (Article 7) that apply to all of the activities along with more specific requirements that address each of the 4 individual licensing areas individually. One really needs to understand the state regulations to get an accurate picture of what these businesses may look like when approved. There are 127 pages that compose articles 1-9 of the proposed state regulations. I have highlighted some of these below, and draw particular attention to those that are a relevant consideration for zoning.

Many aspects of marijuana businesses 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 (with the exception of the newly proposed consumption component of the retail license-more rules to come)
- No facilities may reduce or expand without board approval
- No delivery off-site
- No operation between the hours of 5 am and 8 am
- All business activities must 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.
- 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 such as:

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

### **Other aspects of the industry not addressed**

During our conversation with the commission we received testimony and talked about other aspects of the industry not related to zoning such as; public consumption, driving under the influence, and a host of other concerns related to consumption. These items are for the police. Another item that came up frequently is the cannabis club or cafe. I put this in two categories.

I consider the cannabis club as a fraternal organization of sorts. This is not open to the general public in the sense that you have to be a member to enter, think ELKs. In this case, I would treat this use as the 'run-of-the-mill' fraternal assembly. The fraternal assembly may do anything that is not against the law. If they break the law, it would be the business of law enforcement to address.

I would describe a cannabis café as a place open to the general public where sales and consumption take place. The state is working on an allowance for a retail marijuana store to have a place for consumption. We do not have the specifics of this yet, but it is in the realm of a state licensed activity. I will not propose provision in city code for an activity that is not recognized by the state. If the state rules change in the future, the City can address it at that time.

Att.

1. Ordinance 16-04
2. Commercial Cannabis Cultivation Map 1/25/16
3. Commercial Cannabis Retail and Manufacturing Map, 1/25/16
4. State Regulations





## City of Homer

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## MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION  
FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK  
DATE: JANUARY 21, 2016  
SUBJECT: ALLOWING SOCIAL CLUBS IN HOMER

---

This item was on the December 17, 2015 agenda under New Business. Due to time constraints the commission postponed this item to the January meeting.

Recommendation

Bring to the Floor with a motion to discuss.



**MEMORANDUM**

**TO: CANNABIS ADVISORY COMMISSION  
RICK ABBOUD, CITY PLANNER**

**FROM: HOLLY WELLS, CITY ATTORNEY  
LEILA R. KIMBRELL, ATTORNEY**

**RE: CONSIDERATIONS FOR MARIJUANA SOCIAL CLUBS**

**CLIENT: CITY OF HOMER, ALASKA**

**FILE NO.: 506,742.222**

**DATE: DECEMBER 9, 2015**

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This memorandum is intended to provide a brief overview of legal issues that the City and the Cannabis Advisory Commission (CAC) may want to consider when deciding whether to allow social clubs for legalized marijuana.

**Background:**

In 2014, the voters of Alaska approved a ballot measure to legalize personal and recreational use of marijuana, including legalizing a commercial marijuana industry to be taxed and regulated by the State and its political subdivisions. On November 20, the State Marijuana Control Board (MCB) adopted a final set for regulations governing legalized marijuana. The draft regulations that were proposed initially included an express ban on so-called "social clubs" for marijuana. However, during the November 20th meeting, the MCB removed this language from the final regulations. Attached is a copy of an article from the Alaska Dispatch News (ADN) that nicely summarizes the changes made by the MCB at this meeting. The MCB also adopted language in the final regulations that will allow individuals to purchase and consume legalized marijuana products onsite at retail establishments. This makes Alaska the first state to legalize on-site consumption at retail establishments. The regulations go into effect February 23, 2016. The State is expected to begin issuing marijuana business licenses next May.

**Social Clubs:**

So-called "social clubs" are clubs that, unlike a bar or other retail establishment, are comprised of paying members where marijuana is shared and consumed between members but not sold directly by the establishment.

The State Attorney General and MCB have taken the position that social clubs are not permitted notwithstanding the fact that the final regulations no longer expressly prohibit social clubs. One rationale that has been stated by State Assistant Attorney General Harriet Milks is that such social clubs are subject to no smoking laws in effect prior to 2014. However, smoking bans do not exist in all communities and thus, this reasoning does not seem to apply to all jurisdictions. This issue is not resolved and the MCB has stated it will revisit the social clubs issue at its next meeting. A legal question exists whether the MCB has the authority to regulate these clubs under the initiative. Social clubs are not listed on the types of marijuana establishments that the State may license next year. The current list includes: marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and marijuana retail stores. Our office will keep you apprised of any new developments.

However, in light of the regulations allowing for on-site consumption and to allow for so-called marijuana cafes, alternatives exist for avenues of onsite consumption.

#### Considerations:

The new law allows municipalities to govern time, place, and manner restrictions on marijuana business operations, including the number allowed to operate. There are many considerations in deciding whether to permit marijuana social clubs. The following list is not intended to be exhaustive, but representative of the issues that Homer might face should it decide to allow social clubs to operate within the City.

- Zoning – if social clubs are permitted, considerations of where, when, and how they are permitted to operate should be considered. This office has previously provided recommendations for legalized marijuana-related zoning issues. For examples, buffer requirements between schools and churches.
- Licensing – if social clubs are permitted, another consideration is whether to limit the number.
- Public safety – like bars, social clubs present concerns relating to public safety, ensuring patrons are of legal age, etc.
- Smoking bans – currently, Homer businesses, including restaurants and bars, can decide whether or not they want to allow smoking within their establishments. Smoking is prohibited in all public buildings, City structures, vehicles and watercraft. HCC 5.05010 *et seq.* Whether smoking should be allowed in a social club, if permitted, is an issue to be considered. Although City voters have rejected city-wide smoking bans in the past, the Alaska Supreme Court has upheld the enforcement of smoking bans in private clubs. See *Fraternal Order of Eagles, Juneau-Douglas Aerie 4200 v. City and Borough of Juneau*, 254 P.3d 348 (Alaska 2011).
- Marketing/Attracting business – Proponents of social clubs argue such places provide a legal place (and in some cases the only place) to consume legalized

marijuana, and can attract cannabis-related tourism thereby increasing local business and tax revenues.

- Federal Controlled Substances Act – Under federal law, marijuana remains an illegal under the federal Controlled Substances Act (CSA). The U.S. Department of Justice (DOJ) has taken a general position that it likely won't focus its efforts on those in compliance with state laws; however, state and local laws are not a legal defense to a violation of federal law for individuals who operate inconsistently with state legalization laws. If the City does permit social clubs, it will be necessary to include notice that clubs (and other legal businesses) are still subject to federal laws.

The decision whether or not to allow these clubs is ultimately a policy decision. Some communities are allowing social clubs, such as the City of Fairbanks. The City of Kenai is presently considering a city-wide ban. Washington, Oregon and Denver, Colorado have also banned social clubs. It may helpful to contact these communities to find out more about their experiences.

Conclusion:

This memorandum highlights some of the general issues that arise from social clubs to facilitate discussion and review by the CAC. We are available to provide more focused legal advice if you have specific issues that you would like addressed. Because uncertainty remains as to whether social clubs will be permissible under state law it may be in the City's best interests to wait for further clarification from the MCB even though other communities are moving forward to permit the operation of social clubs within their jurisdiction.

Please call with any questions.

LRK/DSG

SECTIONS

Cannabis North

# Alaska Marijuana Control Board live blog: Board removes THC limit for marijuana concentrates

Laurel Andrews | November 20, 2015

Email

*Alaska's Marijuana Control Board is meeting Friday, Nov. 20, to finalize the state's commercial marijuana regulations. This story will be updated throughout the day, as changes are made to the proposed rules.*



Marijuana Control Board vice chair Mark Springer discusses a motion with other board members at the Legislative Information Office in Anchorage on Friday morning.

Loren Holmes / ADN

### Update 4:30 p.m. Friday:

In the final hour of the meeting the board voted to change the marijuana business residency requirements. Now, one must meet the requirements of Alaska voter registration, far easier to achieve than the previous draft, which were based off of Permanent Fund Dividend requirements.

To meet this requirement, a resident will need to have a physical Alaska address and no voter registration in any other state.

Board member Mark Springer said he worried that the board was eliminating “a good stream of money” by having such stringent residency requirements.

The amendment passed 3-2.

### Update 4 p.m. Friday:

An amendment limiting marijuana establishments to being open from 10 a.m. to 11 p.m. every day failed.

The draft regulations proposing that a retail store could be open any time except between 5 a.m. – 8 a.m. remained in place.

The amendment failed 3-2.

### Update 2:45 p.m. Friday:

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.

Board member Peter Mlynarik wrote that the board doesn't have the power to create a new license type, as a broker isn't truly a marijuana cultivator.

The amendment passed 4-1, with Loren Jones dissenting.

### Update 2 p.m. Friday:

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.

Board chair Bruce Schulte said allowing for clear packaging was needed for the industry, as the appearance of marijuana is important to consumers.

When marijuana leaves the store, however, it must be in opaque, child-resistant, re-sealable packaging.

The amendment passed 3-2.

**Update 1:30 p.m. 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.

The amendment passed 3-2.

**Update 11:45 a.m. Friday:**

The board voted 3-2 in favor of allowing non-cannabis products to be sold at marijuana retail stores, including T-shirts and other merchandise.

Edible products, such as tobacco cigarettes and food, cannot be sold in marijuana businesses under the amendment.

**Update 11:20 a.m. Friday:**

The Marijuana Control Board has voted 3-2 to allow for onsite consumption of marijuana at retail stores across the state.

The change allows for people to buy marijuana products at a retail store and consume them in a designated area on the premises, but the rule would not supersede local laws.

If the rule is OK'd by state lawyers and Lt. Gov. Byron Mallott, Alaska would become the first state that supports and regulates marijuana consumption in an area outside of a person's home or other private space.

Audience members clapped after the vote.

**Update 11 a.m. Friday:**

The Marijuana Control Board voted to remove an explicit ban on marijuana social clubs but said they were still considered illegal under Alaska law.

The board does not have the power to either expressly ban or sanction clubs, according to Harriet Milks, assistant attorney general, and the proposed ban was outside of the board's purview.

The removal of an explicit ban doesn't make social clubs legal, director Cynthia Franklin told the board.

The vote passed 3-2. Despite the warning that social clubs were still considered illegal, an audience member yelled "YES!" after the vote.

Theresa Collins, owner of marijuana social club Pot Luck Events, wiped tears from her face.

**Update 10:30 a.m. Friday:**

A proposal allowing for Outside investment in Alaska marijuana businesses has been rejected by the Marijuana Control Board.

The amendment, which failed on a 3-2 vote, proposed outside investment of up to 25 percent.

Current draft regulations require businesses to be 100 percent Alaskan-owned.

Board member Loren Jones expressed concern that businesses would not be able to conduct proper background checks on Outside investors.

Board member Brandon Emmett argued that since marijuana businesses can't get loans under federal law, investment options were limited.

**Update 10 a.m. Friday:**

Marijuana businesses will still need to be 500 feet from churches under Alaska law. An amendment that would

have lowered the distance to 200 feet was voted down by the board.

A 500-foot separation between marijuana businesses and schools, youth centers and correctional facilities and churches remains on the books.

The proposed amendment was based on geographic limitations of smaller communities, where a 500-foot radius from churches would "effectively bar all marijuana businesses from their community," including testing facilities or cultivation centers, said board chair Bruce Schulte.

Board member Peter Mlynarik voted against the amendment, saying many churches have youth programs and to exclude them from the 500-foot separation area would be "discriminatory."

The amendment failed 3-2, with Schulte and Brandon Emmett voting in favor.

**Original story:**

The Alaska Marijuana Control Board is meeting Friday at the Anchorage Legislative Information Office, finalizing rules for the state's fledgling commercial cannabis industry.

Forty-two pages of proposed amendments were posted Friday morning.

One proposed amendment permits the consumption of marijuana on retail store premises -- a potential answer to the question of where besides private homes Alaskans and tourists would be able to consume marijuana.

If that amendment passes, it would represent a major shift in marijuana policy and would make Alaska the first state to allow for a licensed, regulated space for consumption of marijuana.

Local laws banning indoor smoking would remain in effect.

A pair of similar amendments from board members Brandon Emmett and Bruce Schulte propose allowing Outside investment of up to 25 percent in Alaska marijuana businesses.

The proposed residency requirements would also be a major shift from the original proposals put forth by the board, which banned all outside investment or ownership.

*This story will be updated throughout the day. Check back regularly.*

---

**RELATED:**

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

[ABC Board approves liquor stores in Bethel](#)

Contact Laurel Andrews at [laurel@alaskadispatch.com](mailto:laurel@alaskadispatch.com) or on [Twitter](#)

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## First Fairbanks pot club opens downtown

By Sam Friedman sfriedman@newsminer.com Nov 24, 2015



Eric Engman/News-Miner

Private cannabis club owner Marcus Mooers demonstrates packing a bowl on opening day at The Higher Calling Club on First Avenue in downtown Fairbanks.

FAIRBANKS — Fairbanks' first pot club, The Higher Calling Club, quietly opened Monday afternoon in a remodeled former wine bar on First Avenue.

Under its new ownership, the merlot red walls of the former Cafe Alex have been repainted an herbal green and the interior is furnished with overstuffed couches, a foosball table and a small stage. Business owners Marcus and Megan Mooers set out coffee and doughnuts.

"We're going to have the whole cafe feel to it is what we're looking for," he said. "As you can see, we're trying really hard not to just run some kind of stoner slum house."

The owners greeted about a half dozen new club members who came in during the first hour. The customers paid either a daily \$10 rate or \$25 monthly rate to join the club and then went into a side

room to smoke.

Under the business' policy, club members can smoke pot or eat pot-infused foods inside the club, but cannot buy or sell it. They're also not allowed to smoke tobacco inside the building.

Social pot clubs like The Higher Calling Club and Anchorage's Pot Luck Events are in a legal purgatory regarding Alaska's new marijuana industry. Monday's opening date for The Higher Calling Club was months ahead of the May 2016 date the state Marijuana Control Board has set for granting retail pot shop licenses.

But social clubs like The Higher Calling Club aren't retail shops. Marcus Mooers argues his business is legal because it doesn't sell pot and isn't a type of business that Alaska's 2014 voter-approved marijuana law specifically prohibits.

"This is America," he said. "The law doesn't get to tell us what we can do, it tells us what we can't do. There is no law that says we can't do this."

A previous Alaska pot business that tried to get into the business early — marijuana delivery service Discreet Deliveries — was the target of law enforcement raids this year.

Repeated calls to staff members of Alaska's Marijuana Control Board for clarification about Alaska's marijuana laws were not immediately returned Monday.

On Friday, the pot board voted to repeal an explicit ban on social marijuana clubs at a meeting in Anchorage, the Alaska Dispatch News reported. Board Director Cynthia Franklin said at the meeting that repealing the explicit ban doesn't make pot clubs legal. Assistant Attorney General Harriet Milks said at the meeting that the marijuana board doesn't have the power to expressly ban or sanction clubs, the Alaska Dispatch News reported.

Marcus Mooers said he had planned to open Monday regardless of the board's vote on Friday, but he was happy to see the board vote against the social club restriction.

Mooers spoke to Fairbanks North Star Borough assembly members and Fairbanks Police Randall Aragon about his business at a marijuana meeting this summer. He said most of the assembly was supportive of the idea. He said the police chief agreed with his analysis of the state marijuana law.

"Those guys may not be aware that we were opening today. However, they knew it was coming," Mooers said.

The police chief wasn't available for comment Monday because he was in interviews all afternoon, City of Fairbanks spokeswoman Amber Courtney said.

She said that neither she nor city Mayor John Eberhart had heard about the new pot business. A quick records check showed that Mooers has a city business license under "arts, entertainment and recreation" but not a city building inspection, she said.

"I've done some outreach to the city attorney and some other people who would be making decisions in this matter to bring it to their attention," Courtney said. "To my knowledge, nobody from the city has specifically told him that it was OK to open a pot smoking business."

Originally from Asheville, North Carolina, Marcus Mooers credits his interest and experience with marijuana to his youth as a "Deadhead," following the concerts of rock band The Grateful Dead. Mooers, 43, came to Fairbanks in 2003 to study physics at the University of Alaska Fairbanks. He's worked in numerous fields including helping with the Phoenix spacecraft that landed on Mars in 2008. He said he's been a pizza cook, a bagel slinger and the owner of film business Frostbite Films.

Mooers picked the name "The Higher Calling" in part for its punny name. The club's acronym spells THC, the active ingredient in marijuana. He has ambitions to grow the business to include hosting concerts and cannabis-related classes. The building has kitchen space, and he wants to eventually sell non-marijuana food cooked on site.

The new business is across First Avenue from the Fairbanks Native Association's Head Start building. Mooers said he hopes to avoid conflict with the daycare facility by not opening until the afternoon and by keeping the entrance discreet. The borough's buffer zones between schools and marijuana businesses doesn't apply to The Higher Calling because he doesn't sell marijuana, he said.

"We're not going to put signage up that's going to attract children or anything like that. We're basically going to do little in the way of signage," he said.

The business' only outdoor sign now is a piece of paper with the business name and logo taped to the glass front door.

*Contact outdoors editor Sam Friedman at 459-7545. Follow him on Twitter at [twitter.com/FDNMoutdoors](https://twitter.com/FDNMoutdoors).*



# City of Homer

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## MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION

FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: JANUARY 21, 2016

SUBJECT: NEXT MEETING DELIVERABLES AND AGENDA ITEMS

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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.

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	_____	_____ Alt. Lewis or Reynolds _____
February 8, 22 2016	<u>Sarno</u> _____	_____ Alt. Lewis or Reynolds _____
March 14, 28 2016	<u>Stead</u> _____	_____ Alt. Lewis or Reynolds _____
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.

Introduced by: Council Member Fansler  
Date: January 12, 2016  
Public Hearing: January 26, 2016  
Action:  
Vote:

## *CITY OF BETHEL, ALASKA*

### **Ordinance #16-01**

#### **AN ORDINANCE BY THE BETHEL CITY COUNCIL ESTABLISHING A LIMITED MORATORIUM ON COMMERCIAL MARIJUANA**

**WHEREAS**, on November 4, 2014 Alaskan voters approved Ballot Measure 2, An Act to Tax and Regulate the Production, Sale, and Use of Marijuana; codified as Alaska Statute Chapter 17.38;

**WHEREAS**, the initiative, which went into effect on February 24, 2015, requires the State to begin accepting and processing applications for the registration of marijuana establishments by February 24, 2016;

**WHEREAS**, subsequently, the State established the Marijuana Control Board, which has proposed regulations for commercial marijuana establishments;

**WHEREAS**, neither Ballot 2, nor the proposed regulations by the Marijuana Control Board have specifically addressed Marijuana Clubs, which allow for the consumption of marijuana or marijuana products on the premises;

**WHEREAS**, the Alaska Statute Chapter 17.38 creates classes of registrations, licenses, or permits to enable the lawful conduct of certain types of marijuana commerce and businesses;

**WHEREAS**, the conduct of these commercial and business activities is unlawful without the appropriate registration, license or permit;

**WHEREAS**, AS 17.38.110 Local Control, enacted by Ballot Measure 2, empowers municipalities to limit and prohibit the operation of these businesses by enactment of ordinance or voter initiative;

**WHEREAS**, the initiative also authorizes local governments to enact legislation concerning the time, place and manner related to the operation of registered marijuana establishments;

**WHEREAS**, it is in the public's best interest that the City of Bethel thoughtfully consider and adopt land use regulations that ensure the orderly development and regulation of marijuana establishments, including sale, cultivation, manufacture, transport, and/or consumption of marijuana by persons

Introduced by: Council Member Fansler  
Date: January 12, 2016  
Public Hearing: January 26, 2016  
Action:  
Vote:

assembled within a commercial or industrial structure within the City of Bethel;

**WHEREAS**, it is also in the best interest of the City of Bethel to establish a moratorium prohibiting the consumption of marijuana and marijuana products in Marijuana Clubs, until further guidance is provided by the Marijuana Control Board or State Legislature or local ordinance ensuring minimum health and safety standards are met to protect consumers, the public, first responders, and employees of such establishments;

**WHEREAS**, the purpose of this moratorium is to allow the City of Bethel a reasonable period of time to consider and enact legislation concerning the operation of marijuana establishments, including Marijuana Clubs, within the City

**WHEREAS**, enacting a six (6) month moratorium on the operation of certain commercial marijuana businesses does not infringe upon personal use rights guaranteed by Alaska Statute Chapter 17.38;

**WHEREAS**, Alaska Statute 17.38.110 Local Control, specifically allows for municipalities to prohibit and regulate commercial marijuana establishments in a manner that does not conflict with the applicable statutes and, the City, as a second class municipality, has all legislative powers not prohibited by law.

**THEREFORE BE IT ORDAINED** by the City Council of Bethel, Alaska, as follows:

**SECTION 1. Form.** This is a non-codified Ordinance and shall not become part of the Bethel Municipal Code.

**SECTION 2. Moratorium.** The City Council finds and determines a situation affecting the life, health, property, and the public peace exists in that, the processing of any land use, zoning, or licensing approvals for marijuana operations with the City are not in the public's interest until such time the City has adopted marijuana regulations.

To address this situation, the City Council, imposes a six month moratorium on the processing of any land use approvals or licensing applications for marijuana establishment businesses within the City of Bethel.

**SECTION 3. Definition.** "Marijuana Club" means a licensed or non-licensed place where: (1) Marijuana or marijuana products are received or kept, or to which marijuana or marijuana products are brought (2) for consumption by the public or members of a club, association, or corporation on the licensed or non-licensed premises and (3) any

Introduced by: Council Member Fansler  
Date: January 12, 2016  
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Action:  
Vote:

fee, including but not limited to a membership fee, cover charge, or the sale of food, ice, mixers, or other drinks occurs, or a fee is charged for the use of marijuana accessories for use in the consumption of marijuana or marijuana products.

**SECTION 4. Disclaimer.** Nothing in this Ordinance endorses or is intended to endorse the legality of a Marijuana Business or Marijuana Club operating within the State of Alaska.

**SECTION 5. Effective Date.** This ordinance shall become effective immediately upon the adoption by the City Council.

**BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BETHEL, ALASKA  
THIS \_\_\_\_ DAY OF JANUARY 2016, BY A VOTE OF \_\_\_\_ IN FAVOR AND \_\_\_\_  
OPPOSED.**

\_\_\_\_\_  
Richard Robb, Mayor

ATTEST:

\_\_\_\_\_  
Lori Strickler, City Clerk



**KENAI CITY COUNCIL WORK SESSION  
DECEMBER 17, 2015  
KENAI CITY COUNCIL CHAMBERS  
MAYOR PAT PORTER, PRESIDING**

**NOTES**

Council present: P. Porter, R. Molloy, H. Knackstedt, B. Gabriel, T. Navarre, M. Boyle,

Others present: City Manager R. Koch, City Attorney S. Bloom, City Planner M. Kelley,  
City Clerk S. Modigh and Chief of Police G. Sandahl

Mayor Porter began the work session at approximately 6:00 p.m. and introduced City Planner Matt Kelley and City Attorney Scott Bloom who would be presenting during the work session.

Mayor Porter opened public hearing and the following individuals addressed Council:

Dave Dunley, 915 Sterling, spoke in favor of the cannabis industry within Kenai and noted the more the industry was regulated, the more the black market would thrive.

Lee Fable, representing individuals interested in creating marijuana establishments within the City, spoke in favor of establishments for consumption and spoke in opposition of the 1000 foot buffer. He further noted that the decisions Council was making affect residents that have been part of the community for many years.

City Attorney Boom and City Planner Kelley began the discussion with options for determining how buffer distances would be measured between Commercial Marijuana Establishments (CME).

Council spoke in favor of the buffer distance being measured from CME building exterior to property-line when it's a stand-alone building, otherwise the buffer distance would be measured from CME walls to property line when in multi-use building.

Attorney Bloom recommended establishing a 1000 feet buffer distance, based on a Federal regulation, from property line to property line for schools. It was noted that the Planning and Zoning Commission approved its legislation proposing a 500 foot buffer distance being measured from the shortest pedestrian route from the public entrance of the building, which was the same regulation established by the State.

Council discussed the difference between the buffer distance options and were divided on whether the distance would be established as 1000 feet as recommended by the City Attorney or 500 foot buffer from schools as recommended by the P&Z Commission.

Council considered if CME's should be only allowed in a standalone building or if they should be allowed in multi-use buildings. Attorney Bloom reminded Council of the current smoking regulations within Kenai Municipal Code (KMC). It was noted that the Planning Commission did not address this matter. Majority of Council spoke in favor of CME's being allowed in multi-use buildings.

Council discussed the difference in regulating consumption based on smoking versus edible, topicals etc.

Council considered whether or not to amend the list of buffer facilities recommended by the P&Z Commission. The buffer facilities required by State regulations were schools, recreation or youth centers, churches and correctional facilities. The Commission included playgrounds, parks, day care facilities, swimming pools, substance abuse treatment facilities, hospitals and housing facilities owned by a public housing authority with children as residents.

Council discussed each facility added by the Commission separately and spoke in favor of the City following the State's regulated facilities.

Attorney Bloom outlined the State's regulations for advertising.

Council considered whether to remove the definition of marijuana accessories from KMC 14.20.320 – Definitions and KMC 14.20.330 – Standards for Commercial Marijuana Establishments. Majority of Council spoke in favor of removing the definition from KMC.

Council considered out door cultivation which was prohibited in the legislation recommended by the P&Z Commission. Majority of Councilors spoke in favor of allowing outdoor growing.

Attorney Bloom reminded that all establishments would be required to apply for a Conditional Use Permit.

Council considered the proposed zoning districts as recommended by the P&Z Commission and whether it should be amended to include additional zoning districts.

It was discussed whether marijuana testing labs be required to go through the City's Conditional Use Permit process in areas zoned for such facilities, since the City would be noticed by the State.

It was requested by a couple Councilors to allow retail marijuana establishments in central commercial with limited boundaries.

Attorney Bloom advised that the Borough would not collect an excise tax on behalf of the City and that the City's finance department is not currently equipped to handle collection and administration of an additional tax.

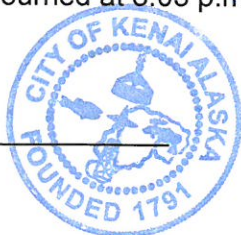
Bloom advised that the City would need to appoint a local regulatory board to ensure the City can collect on some of the licensing fees.

Council thanked Administration for putting the work session and meeting material together.

The work session was adjourned at 8:03 p.m.

Notes prepared by:

  
Sandra Modigh, CMC  
City Clerk







Sponsored by: Mayor Porter

## CITY OF KENAI

### ORDINANCE NO. 2868-2015

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, ESTABLISHING A MORATORIUM ON THE CONSUMPTION OF MARIJUANA AND MARIJUANA PRODUCTS IN MARIJUANA RETAIL ESTABLISHMENTS AND MARIJUANA CLUBS.

WHEREAS, on November 4, 2014, Alaskan voters approved Ballot Measure 2, An Act to Tax and Regulate the Production, Sale, and Use of Marijuana; and,

WHEREAS, subsequently, the State established the Marijuana Control Board, which has proposed regulations for commercial marijuana establishments; and,

WHEREAS, the proposed regulations allow for a Retail Marijuana Store to permit on-site consumption of marijuana or marijuana products purchased on the licensed premises with prior approval of the Marijuana Control Board; and,

WHEREAS, the proposed regulations do not provide any standards for which the Marijuana Control Board would approve or disapprove a Retail Marijuana Store to permit consumption of marijuana or a marijuana product on its premises; and,

WHEREAS, neither Ballot Measure 2, nor proposed regulations by the Marijuana Control Board have specifically addressed Marijuana Clubs, which allow for consuming marijuana or marijuana products on the premises; and,

WHEREAS, it is in the best interest of the City of Kenai to establish a moratorium prohibiting the consumption of marijuana and marijuana products in Retail Marijuana Stores and Marijuana Clubs, until further guidance is provided by the Marijuana Control Board or State Legislature ensuring minimum health and safety standards are met to protect consumers, the public, first responders, and employees of such establishments; and,

WHEREAS, a moratorium will allow the City a reasonable time to review any state action, or even potentially develop its own regulations, prior to allowing the consumption of marijuana and marijuana products in Retail Marijuana Stores and Marijuana Clubs; and,

WHEREAS, Alaska Statute 17.38.110 Local Control, specifically allows for municipalities to prohibit and regulate commercial marijuana establishments in a manner that does not conflict with the applicable statutes and, the City, as a home rule municipality, has all legislative powers not prohibited by law or charter.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

**Section 1.** Form: That this is a non-code ordinance.

**Section 2.** Moratorium:

(a) The consumption of marijuana and marijuana products in Retail Marijuana Stores and Marijuana Clubs is prohibited.

(b) The City Council shall file a protest with the director of the Marijuana Control Board, or any other regulatory agency, against any application for a Retail Marijuana Store license that proposes to allow the consumption of marijuana or marijuana products on the Licensed Premises.

(c) If a state licensure process becomes available for a Marijuana Club, the City Council shall file a protest against any application for a Marijuana Club license that proposes to allow the consumption of marijuana or marijuana products on the licensed premises with the director of the Marijuana Control Board, or any other regulatory agency. If a state licensure process remains unavailable for a Marijuana Club, the City may seek any available injunctive remedy in the Superior Court, including its costs and fees for bringing such action against a Marijuana Club that allow, encourages or provides for the consumption of marijuana or marijuana products on its non-licensed premises.

(d) Definitions. For purposes of this Moratorium the following definitions apply:

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

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

(3) "Marijuana Accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for ingesting, inhaling, or otherwise introducing marijuana into the human body.

(4) "Retail Marijuana Store" means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

(5) “Licensed Premises” means any or all designated portions of a building or structure, or rooms or enclosures in the building or structure, at the specific address for which a marijuana establishment license is issued, and used, controlled, or operated by the marijuana establishment to carry out the business for which it is licensed.

(6) “Non-Licensed Premises” means any or all designated portions of a building or structure, or rooms or enclosures in the building or structure used, controlled, or operated by a non-licensed Marijuana Club.

(7) “Marijuana Club” means a licensed or non-licensed place where (1) marijuana or marijuana products are received or kept, or to which marijuana or marijuana products are brought (2) for consumption by the public or by members of a club, association, or corporation on the licensed or non-licensed premises and (3) any fee, including but not limited to a membership fee, cover charge, or the sale of food, ice, mixers, or other drinks occurs, or a fee is charged for the use of marijuana accessories for use in the consumption of marijuana or marijuana products.

**Section 3.** Moratorium Period: The Moratorium and all prohibitions contained therein, shall be in effect for one year from the effective date of this Ordinance, unless terminated sooner or extended by Ordinance of the City Council.

**Section 4.** Disclaimer: Nothing in this Ordinance endorses or is intended to endorse the legality of a Marijuana Club operating without a state issued license.

**Section 5.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

**Section 6.** Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after adoption.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 6th day of January, 2016.

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PAT PORTER, MAYOR

ATTEST:

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Sandra Modigh, City Clerk

Introduced: December 16, 2015  
Enacted: January 6, 2016  
Effective: February 5, 2016



*"Village with a Past, City with a Future"*

210 Fidalgo Avenue, Kenai, Alaska 99611-7794  
Telephone: 907-283-7535 / FAX: 907-283-3014

# MEMORANDUM

**TO:** Council Members  
**FROM:** Mayor Porter  
**DATE:** December 10, 2015  
**SUBJECT:** Ordinance No. 2868-2015

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This Ordinance is intended to establish a Moratorium prohibiting the consumption of marijuana and marijuana products in Retail Marijuana Stores and Marijuana Clubs at least until further guidance is provided by the State, or the City enacts its own regulations protecting consumers, the public, first responders and employees of such establishments from potential health and safety threats. The Moratorium, additionally would allow the City to learn more about the potential impacts of on-site consumption. The Moratorium is proposed for one year, but could be extended or repealed as reasonable.

The most recent regulations proposed by the Marijuana Control Board (Board) allow for the on-site consumption of marijuana and marijuana products on the licensed premises of a Retail Marijuana Store with prior approval of the Board. However, no standards for when such approval would be granted or denied are provided in the regulations. Before on-site consumption in a commercial setting is allowed, there should be safeguards in place to protect the health and safety of consumers, the public, first responders and employees of such establishments. I recognize that other non-marijuana related establishments currently allow the smoking of tobacco products, but understand the effect of exposure to tobacco smoke and marijuana smoke to be significantly different. I also recognize that there are establishments that serve alcohol and that persons under the influence of alcohol often leave these establishments and pose a potential danger to themselves and others, however, I don't understand how consumers of marijuana or marijuana products may act similarly or differently when leaving a facility and what steps the City should take, if any to protect the consumer or public. Also unclear, is what effect on-site consumption might have on employees if consistently exposed to marijuana smoke, or if standards can be imposed to negate this concern. I understand there is concern from police and emergency medical responders of entering an environment where there is a high likelihood of exposure to marijuana smoke. There is also concern from employees of other businesses providing delivery services inside such establishments. This concern may also be mitigated through the development of reasonable health and safety standards.

Marijuana Clubs are currently not able to obtain a state license for operation. I understand that the position of the director of the Board, and the Alaska Attorney Generals position is that they cannot currently operate legally under the statutory and regulatory framework in place and proposed. Prohibiting consumption of marijuana and marijuana products in Marijuana Clubs effectively prohibits the operation of Marijuana Clubs. Aside from the legal issues surrounding Marijuana Clubs, similar concerns regarding the impacts of on-site consumption as in a Marijuana Retail Store.

The Ordinance provides necessary definition incorporated from state statute and regulation, except as related to clubs, where no definitions exist in statute or regulation.

For licensed establishments, the Moratorium provides for a protest to be filed with the director of the board upon receipt of an application allowing for on-site consumption. This remedy is not available for non-licensed Marijuana Clubs, and instead provides for the City to seek an injunction in the Superior Court.

The Ordinance also contains a disclaimer, making it clear that the Moratorium is not endorsing the legality of non-licensed Marijuana Clubs in its prohibition of on-site consumption.

Your consideration is appreciated.



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210 Fidalgo Avenue, Kenai, Alaska 99611-7794  
Telephone: 907-283-7535 / FAX: 907-283-3014  
www.kenai.city

# MEMORANDUM

**TO:** Mayor Porter and Council Members *SS*  
**FROM:** City Attorney, Scott Bloom  
**DATE:** December 29, 2015  
**SUBJECT:** Amendment to Ordinance No. 2868-2015, subsection (d)(7)

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The following definition of "Marijuana Club" is recommended to replace the definition contained in Ordinance No. 2868-2015, subsection (d)(7), with new language provided in bold:

(7) "Marijuana Club" means a licensed or non-licensed **premises maintained or operated for the purpose of providing a place** where (1) marijuana or marijuana products are received or kept, or to which marijuana or marijuana products are brought (2) for consumption by the public or by members of a club, association, or corporation on the licensed or non-licensed premises and (3) any fee, including but not limited to a membership fee, cover charge, or the sale of food, ice, mixers, or other drinks occurs, or a fee is charged for the use of marijuana accessories for use in the consumption of marijuana or marijuana products.

The definition proposed above narrows the scope of the original proposed definition by including a purpose statement to eliminate capturing certain businesses like a hotel where someone may bring marijuana and consumes it in a room. For ease of comparison, the original definition is provided below.

(7) "Marijuana Club" means a licensed or non-licensed place where (1) marijuana or marijuana products are received or kept, or to which marijuana or marijuana products are brought (2) for consumption by the public or by members of a club, association, or corporation on the licensed or non-licensed premises and (3) any fee, including but not limited to a membership fee, cover charge, or the sale of food, ice, mixers, or other drinks occurs, or a fee is charged for the use of marijuana accessories for use in the consumption of marijuana or marijuana products.

Your consideration is appreciated.



*"Village with a Past, City with a Future"*

210 Fidalgo Avenue, Kenai, Alaska 99611-7794  
Telephone: 907-283-7535 / FAX: 907-283-3014



# MEMO:

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**TO:** Rick Koch – City Manager  
**FROM:** Gus Sandahl – Police Chief *GS*  
**DATE:** 12/30/15  
**SUBJECT:** Memo in Support of Ordinance 2868-2015

I support the proposed moratorium prohibiting the consumption of marijuana and marijuana products in retail marijuana stores and marijuana clubs in the interest of limiting the exposure of marijuana smoke to first responders.

Although we can't predict the frequency to which police and fire/ems personnel will respond to retail marijuana stores; the moratorium will at least help to reassure responders that they will be free from exposure to marijuana smoke when responding to such establishments.



**AGENDA**  
**KENAI CITY COUNCIL WORK SESSION**  
**DECEMBER 17, 2015 – 6:00 P.M.**  
**KENAI CITY COUNCIL CHAMBERS**  
**210 FIDALGO AVE., KENAI, AK 99611**  
<http://www.ci.kenai.ak.us>

- A. Call to Order (Mayor Porter)**
- B. Introduction (Mayor Porter)**
- C. Public Comment (*Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated*)**
- D. Presentation on revisions to Ordinance to regulation Commercial Marijuana Establishments (City Attorney, Scott Bloom & City Planner, Matt Kelley)**

1. KMC 14.20.330 – Standards for Commercial Marijuana Establishments.

Council discussed various options for methodology of establishing buffer distances between Commercial Marijuana Establishments (CME's)

- a. In Proposed Code - Buffers are measured from property line to property line.
- b. State Regulation – Buffers distances are measured from shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the school, recreation or youth center, or the main public entrance of the building in which religious services are regularly conducted, or the correctional facility.
- c. Option – Buffer distance is measured from CME building exterior to property line, when stand-alone building. Buffer distance is measured from CME walls to property line, when in multi-business building.

2. Buffer Distance from Schools.

- a. In Proposed Code KMC 14.20.330(g)(1) - A 500 foot buffer distance from schools is established, property line to property line.
- b. State Regulation – 500 feet to outer boundaries of school.
- c. Option #1 – Buffer distance is increased to 1000 feet, property line to property line.
- d. Option #2 – Buffer Remains 500 feet and is measured from CME to School property line.

3. Consider if Commercial Marijuana Establishments should be only allowed in a standalone building or if they should be allowed in a multi-use building.
  - a. In Proposed Code: Not addressed.
  - b. State Regulation: Not addressed.
  - c. Option #1 – All CME's are required to be in standalone buildings.
  - d. Option #2 – Retail Marijuana Store which allows on-site consumption is required to be in a standalone building. Retail Store which does not allow on-site consumption and all other CME's are allowed to be in a multi-use building.
  - e. Option #3 – Retail Stores which allow on-site consumption are allowed to be in multi-use buildings. All other CME's are allowed in multi-use buildings.
  - f. Option #4 All CME's are allowed to be in multi-use buildings..
4. Consider and review proposed KMC 14.20.330(g)(2) as to whether or not amend the list of buffer facilities recommended by the Planning & Zoning Commission.

The following buffer facilities were added by the Planning & Zoning Commission in addition to the State Regulations: Playground, Parks, Licensed Day Care Centers, Public Swimming Pools, State Licensed Substance Abuse Treatment Provider or Facility Providing Substance Abuse Treatment, Hospitals and Housing Facilities Owned by a Public Housing Authority with Children as Residents.

The following buffer facilities are required by State Regulations: School, Recreation or Youth Center, Church, Correctional Facility.

- a. Option #1 – Amend buffer facilities to match State Regulations.
  - b. Option #2 – Do not amend buffer facilities.
  - c. Option #3 – Amend some of the buffer facilities and leave State required buffer facilities.
5. Remove definition of Marijuana Accessories from KMC 14.20.320 – Definitions and KMC 14.20.330 – Standards for Commercial Marijuana Establishments.
    - a. Option #1 – Remove Definition.
    - b. Option #2 – Do not remove Definition.

6. Review the proposed Zoning Districts as recommended by the Planning & Zoning Commission (KMC 14.22.010 – Land Use Table) and consider whether they should be amended to include additional Zoning Districts.
  - a. Option #1 – Consider amending the Land Use Table to add additional Zoning Districts which would permit CME's by a Conditional Use Permit.
  - b. Option #2 – Do not consider amending the Land Use Table to add additional Zoning Districts which would allow CME's by a Conditional Use Permit.

**E. Council Discussion**

**F. Adjournment**

*All meetings are open to the public and participation is encouraged. Agendas and supporting documents are posted on the City's website at [www.ci.kenai.ak.us](http://www.ci.kenai.ak.us). For additional information, please contact the City Clerk's Office at 907-283-8231.*

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Sponsored by:

**CITY OF KENAI**

**ORDINANCE NO. \*-2015**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AMENDING KENAI MUNICIPAL CODE CHAPTER 14.20.230 – HOME OCCUPATIONS, TO PROHIBIT COMMERCIAL MARIJUANA ESTABLISHMENTS AS ALLOWED USES, AMENDING KENAI MUNICIPAL CODE CHAPTER 14.20.320 – DEFINITIONS, TO ADD MARIJUANA RELATED DEFINITIONS, ENACTING KENAI MUNICIPAL CODE CHAPTER 14.20.330 - STANDARDS FOR COMMERCIAL MARIJUANA ESTABLISHMENTS, CREATING STANDARDS FOR COMMERCIAL MARIJUANA ESTABLISHMENTS AND AMENDING KENAI MUNICIPAL CODE CHAPTER 14.22.010 – LAND USE TABLE, TO ADD COMMERCIAL MARIJUANA ESTABLISHMENT USES AND REGULATIONS AND MAKE OTHER HOUSEKEEPING CHANGES.

WHEREAS, on November 4, 2014, the voters of the State of Alaska passed Ballot Measure 2, an Act to Tax and Regulate the Production, Sale, and Use of marijuana, codified as Alaska Statute 17.38; and,

WHEREAS, Alaska Statute 17.38.110 states in part that “a local government may enact ordinances or regulations not in conflict with this chapter or with regulations enacted pursuant to this chapter, governing the time, place, manner and number of marijuana establishment operations”; and,

WHEREAS, the City of Kenai is the “local regulatory authority” pursuant to Alaska Statute 17.38 as well as the local zoning authority; and,

WHEREAS, the City of Kenai, as a home rule municipality, has the authority to provide responsible Zoning Regulations that protect the public peace, health, safety and welfare; and,

WHEREAS, the United States Department of Justice has issued guidance (“the Cole Memorandum”, dated February 14, 2014) describing eight marijuana-related federal enforcement priorities, including “Preventing the distribution of marijuana to minors”; and,

WHEREAS, the Planning and Zoning Commission held Work Sessions on: August 12, 2015; September 22, 2015; September 23, 2015 and October 28, 2015 to discuss comments and concerns from the Citizens of Kenai, and Planning and Zoning Commissioners regarding implementation of Ballot Measure 2 related to local zoning issues; and,

WHEREAS, this Ordinance is consistent with Alaska Statute 11.71.040 requiring the buffering of Controlled Substances within 500 feet of School Grounds and Recreation or Youth Centers; and,

New Text Underlined; [DELETED TEXT BRACKETED]

WHEREAS, some uses are especially susceptible to the potential negative impacts of marijuana-related activities and land-uses, requiring buffering in addition to the standard Zoning Regulations; and,

WHEREAS, Kenai Municipal Code does not define “Retail Marijuana Store”, “Marijuana Cultivation Facility”, “Marijuana Product Manufacturing Facility” or “Marijuana Testing Facility” and these facility types should be defined for consistency with Alaska State Law and to establish regulations for their use within the City of Kenai; and,

WHEREAS, Kenai Municipal Code does not define “Commercial Marijuana Establishment” which should be defined for consistency with Alaska State Law; and,

WHEREAS, additional definitions related to Marijuana should be added to Kenai Municipal Code 14.20.320 to further regulate the cultivation, growing, preparation, packaging, storing, selling, and public consumption of Commercial Marijuana and Marijuana Products; and,

WHEREAS, Kenai Municipal Code Chapter 14.20.330 should be enacted to establish standards for the construction, operation and development of Commercial Marijuana Establishments to ensure safe and consistent operations within the City of Kenai; and,

WHEREAS, Commercial Marijuana Establishments should only be allowed by Conditional Use subject to the provisions of Kenai Municipal Code Section 14.20.150 to allow the Planning & Zoning Commission to evaluate each establishment to ensure consistency with Commercial Marijuana Regulations and the goals of the Kenai Zoning Code; and,

WHEREAS, the growing, cultivation, preparation, packaging, manufacturing, processing or storing of all Marijuana, Marijuana Concentrate or Marijuana Products should only be conducted within a fully enclosed secure indoor facility or greenhouse with view obscuring rigid walls, a roof, doors, to promote health and safety; and,

WHEREAS, when a Greenhouse is used for the cultivation of Marijuana it should be enclosed by a sight obscuring wall or fence at least six feet high, to reduce hazards to public health, safety and welfare; and,

WHEREAS, to protect the public health, safety and welfare of the citizens of the City of Kenai, all Commercial Marijuana Establishments must not emit an odor that is detectable by the public from outside the Commercial Marijuana Establishment; and,

WHEREAS, allowing both a Marijuana Cultivation Facility, Indoor Standard and a Indoor Limited to cultivate and grow Marijuana in the: Rural Residential (RR), Rural Residential-1 (RR-1), Suburban Residential (RS), Suburban Residential-1 (RS-1), Suburban Residential-2 (RS-2), Urban Residential (RU) or Limited Commercial (LC) on lots at least forty thousand (40,000) square feet or greater in size strikes an appropriate balance between the goals of the City Planning and Zoning Ordinances, Goals of the Residential Neighborhood Development Policies of the Comprehensive Plan and Commercial Marijuana interests; and,

WHEREAS, Commercial Marijuana Establishments shall be a prohibited use as a Home Occupation in order to preserve the character, health and safety of neighborhoods; and,

WHEREAS, the Planning and Zoning held a Public Hearing on November 10, 2015 and recommended the Council of the City of Kenai approve this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, that

**Section 1.** Form: That this is a code ordinance.

**Section 2.** Amendment of Chapter 14.20 of the Kenai Municipal Code: That Kenai Municipal Code, Chapter 14.20 – Kenai Zoning Code, is hereby amended as follows:

**14.20.230 Home Occupations.**

- (a) Intent. It is the intent of this chapter to permit home occupations that are compatible with other permitted uses and with the residential character of a neighborhood, and that are clearly secondary or incidental to the residential use of the main building. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances would not be aware of its existence other than for a sign as permitted in this chapter. Home occupations are permitted accessory uses only so long as all the development requirements listed in this section are observed.
- (b) Uses Permitted. Subject to the development requirements of this section, home occupations include, but are not limited to, the following uses:
- (1) Art [s]Studio;
  - (2) Day care of no more than eight (8) children under the age twelve (12), including children related to the caregiver;
  - (3) Dressmaking;
  - (4) Sewing and tailoring;
  - (5) Barbers and beauticians; and
  - (6) Tutoring and musical instruction.
- (c) Uses Prohibited. The following uses are prohibited as home occupations:
- (1) Commercial auto, small machine, and boat repair;
  - (2) Commercial kennels or similar uses;
  - (3) Convalescent homes for the care of more than two (2) patients;
  - (4) Mortuaries;

- (5) Private schools with organized classes;
- (6) Real estate office; and
- (7) Restaurants.
- (8) Commercial Marijuana Establishments

(d) Development Requirements.

- (1) Not more than one (1) person outside the family shall be employed in the [h]Home occupation.
- (2) No more than thirty percent (30%) of the gross floor area of all buildings on the lot shall be used for the home occupation.
- (3) The home occupation shall be carried on wholly within the principal building, or other buildings which are accessory thereto. Any building used for a home occupation shall be wholly enclosed.

(e) Permit Application.

- (1) An application for a home occupation permit shall be filed in writing with the City Planning and Zoning Department and signed by the person requesting to operate the home occupation.
- (2) If the administrative official finds the application meets the criteria of KMC 14.20.230 and recommends that the Commission should grant the permit, the official shall place consideration of the application on the consent agenda of the Planning and Zoning Commission. Otherwise, the administrative official shall place consideration of the application as a regular new business item on the Commission's agenda. Applications listed on the consent agenda are considered routine and will be approved by one (1) motion. There will be no separate discussion of the application unless a member of the Commission so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the general orders.
- (3) A finding by the Planning and Zoning Commission that an application does not meet the criteria of KMC 14.20.230 may be appealed in accordance with KMC 14.20.290.
- (4) Notice of the consideration by the Commission of a home occupation permit application shall be published once at least two (2) days prior to the meeting in a paper of general circulation in the City of Kenai.

(f) Permits Nontransferable. A home occupation permit granted under this section is nontransferable to another person or location.

(g) Exemption. No home occupation permit shall be required for:

New Text Underlined; [DELETED TEXT BRACKETED]



- (1) Activities or business which are carried on solely by use of phones, computers and mail or delivery services; or
- (2) A State-approved relative home day care provider that provides care to no more than five (5) children (including the caregiver's own children) under the age of twelve (12) of which no more than two (2) may be under thirty (30) months of age and who are the caregiver's grandchildren, great-grandchildren, sibling (only if living in a separate residence), niece or nephew (not a great niece or nephew), and which involve no outside sign, little or no increase in traffic, and with only occasional visits by members of the public to the home.

(h) Fire Code Inspections.

- (1) Day care facilities shall be inspected by the Fire Marshal for compliance with the Fire Code (KMC 8.05) prior to approval of the permit. Thereafter, they shall be inspected every other year by the Fire Marshal. Failure to comply with the Fire Code (KMC 8.05) shall be grounds for the suspension or revocation of the facilities' home occupation permit.
- (2) Residences which are the subject of a home occupation permit application (other than day care facilities) may be required to be inspected by the Fire Marshal for compliance with the Fire Code (KMC 8.05) prior to approval of the permit, if the Fire Marshal determines it is necessary for public safety.

**14.20.320 Definitions.**

(a) General Interpretation.

- (1) Words used in the present tense include the future tense.
- (2) The singular number includes the plural.
- (3) The word "person" includes a corporation as well as an individual.
- (4) The word "lot" includes the word "plot" or parcel."
- (5) The term "shall" is always mandatory.
- (6) The word "used" or "occupied" as applied to any land or building shall be constructed to include the words "intended," "arranged" or "designed to be used or occupied."

(b) Specific Definitions.

**"Accessory [b]Building"** means a detached building or structure, the use of which is appropriate, subordinate, and customarily incidental to that of the main building or to the main use of the land which is located on the same lot as the main building or use, except as allowed by a conditional use permit.

An accessory building shall be considered to be a part of main building when joined to the main building by a common wall or when any accessory building and the main building are connected by a breezeway.

**“Accessory [u]Use”** means a use customarily incidental and subordinate to the principal use of the land, building, or structure and located on the same lot or parcel of land.

**“Administrative [o]Official”** means the person charged with the administration and enforcement of this chapter.

**“Agricultural [b]Building”** means a building or structure used to shelter farm implements, hay, grain, poultry, livestock, or other farm produce, in which there is no human habitation and which is not used by the public.

**“Agriculture”** means the science, art, and business of cultivating soil, producing crops, and raising livestock; farming.

**“Airport”** means a location where aircraft such as fixed-wing aircraft, helicopters, and blimps take off and land. Aircraft may be stored or maintained at an airport. An airport consists of at least one (1) surface such as a runway for a plane to take off and land, a helipad, or water for takeoffs and landings, and often includes buildings such as control towers, hangars and terminal buildings.

**“Alley”** means a public way designed and intended to provide only a secondary means of access to any property abutting thereon.

**“Alteration”** means any change, addition, or modification in construction, location, or use classification.

**“Animal [b]Boarding”** means any building or structure and associated premises in which animals are fed, housed, and/or exercised for commercial gain.

**“Apartment [h]House,”** see “Dwelling, multiple-family.”

**“Area, [b]Building”** means the total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of steps.

**“Assemblage”** means a large gathering of people for an event such as a concert, fair, or circus.

**“Assisted [l]Living”** means a living arrangement in which people with special needs, especially seniors with disabilities, reside in a facility that provides help with everyday tasks such as bathing, dressing, and taking medication.

**“Automobile [s]Sales”** means the use of any building or structure and associated premises for the display and sale of new or used automobiles, panel trucks or vans, trailers, or recreation vehicles and including any warranty repair work and other repair service conducted as an accessory use.

**“Automobile [s]Service [s]Station”** means the use of any building or structure and associated premises or other space used primarily for the retail sale and dispensing of motor fuels, tires, batteries, and other small accessories; the installation and servicing of such lubricants, tires, batteries, and other small accessories; and such other services which do not customarily or usually require the services of a qualified automotive mechanic.

**“Automobile [w]Wrecking”** means the dismantling of used motor vehicles or trailers or the storage or sale of parts from dismantled or partially dismantled, obsolete, or wrecked vehicles.

**“Automotive [r]Repair”** means the use of any building or structure and associated premises on which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

**“Bank”** means any establishment or building or structure used for a financial institution that provides financial services for its clients or members. The term “bank” includes savings and loan.

**“Bed and [b]Breakfast”** means a residential, owner-occupied dwelling in which rooms are rented to paying guests on an overnight basis with no more than one (1) meal served daily.

**“Boarding [h]House”** means a dwelling where the principal use is a dwelling by the owner or keeper and where the owner or keeper provides lodging for three (3) or more persons who are not members of the owner’s or keeper’s family and the lodgers pay compensation to use one (1) or more rooms. The common parts of the building or structure are maintained by the owner or keeper who may also provide lodgers with some services, such as meals, laundry, and cleaning. Boarding houses are not motels or hotels and are not open to transient guests.

**“Building”** means any structure built for the support, shelter, or enclosure of persons, animals, or property of any kind.

**“Building Code”** means the building code and/or other building regulations applicable in the City.

**“Building, [e]Existing”** means a building erected prior to the adoption of the ordinance codified in this chapter or one for which a legal building permit has been issued.

**“Building [h]Height”** means the vertical distance from the “grade,” as defined herein, to the highest point of the roof.

**“Building, [p]Principal or [m]Main”** means a building or structure in which is conducted the principal or main use on the lot which said building is situated.

**“Business/[c]Consumer [s]Services”** means the provision of services to others on a fee or contract basis, such as advertising and mailing; building maintenance; employment service; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services.

**“Cabin [r]Rentals”** means the renting out of one (1) or more individual, detached dwelling units or buildings to provide overnight sleeping accommodations for a period of less than thirty (30) consecutive days.

**“Cemetery”** means any property used to inter the dead in buried graves or in columbarium, stacked vaults, or similar structures.

**“Centerline”** means the line which is in the center of a public right-of-way.

**“Church”** means a building or structure in which persons regularly assemble for worship, ceremonies, rituals, and education pertaining to a particular system of beliefs. The term “church” includes a synagogue or temple.

**“City”** means the City of Kenai, Alaska.

**“Clinic”** (or outpatient clinic or ambulatory care clinic) means a health care facility that is primarily devoted to the care of outpatients. Clinics can be privately operated or publicly managed and funded, and typically cover the primary health care needs of populations in local communities, in contrast to larger hospitals which offer specialized treatments and admit inpatients for overnight stays.

**“Collector [s]Street”** means a street located and designed for the primary purpose of carrying through traffic and of connecting major areas of the City. Unless otherwise designated by the Commission, collector street shall be defined on the plan for streets and community facilities in the comprehensive development plan.

**“College”** means an educational institution providing postsecondary (after high school) education.

**“Commercial [k]Kennel”** has the same meaning given in KMC 3.05.010.

**“Commercial Marijuana Establishment”** means any Retail Marijuana Store, Marijuana Cultivation Facility, Marijuana Product Manufacturing Facility, and Marijuana Testing Facility.

**“Commercial [r]Recreation”** means a recreation facility operated as a business and open to the public for a fee.

**“Commission”** means the Kenai Planning and Zoning Commission.

**“Communication [a]Antenna”** has the same meaning given in KMC 14.20.255.

**“Communication [t]Tower”** has the same meaning given in KMC 14.20.255.

**“Conditional [u]Use”** means a use which is permitted under the terms of this chapter provided that under the specified procedures, the Commission finds that certain conditions, specified in this chapter are fulfilled. Conditional uses are listed in the Land Use Table.

**“Condominium”** means a common interest ownership dwelling in which:

- (1) Portions of the real estate are designated for separate ownership;
- (2) The remainder of the real estate is designated for common ownership solely by the owners of those portions;
  
- (3) The undivided interests in the common elements are vested in the unit owners. In the Land Use Table (KMC 14.22.010), “condominiums” shall be treated as two (2) or more family dwellings. For example, a four (4) unit condominium building would be treated as a four (4) family dwelling.

**“Coverage”** means that percentage of the total lot area covered by the building area.

**“Crematory/[f]Funeral home”** means building or structure used for preparation of the deceased for display and/or interment and may also be used for ceremonies connected with interment. Preparation may include cremation, which is the process of reducing dead bodies to basic chemical compounds in the form of gases and bone fragments. This is accomplished through burning—high temperatures, vaporization, and oxidation.

**“Day [c]Care [c]Center”** means an establishment where child care is regularly provided for children for periods of less than twenty-four (24) hours, including the building housing the facility and adjoining areas, and where tuition, fees, or other compensation for the care of the children is charged.

**“Dormitory”** means a building, whether public or private, associated with a school, college or university and designed, used, and arranged for private sleeping, studying, and living accommodation for students.

**“Dwelling”** means a building or any portion thereof designed or used exclusively for residential occupancy including one-family, two-family and multiple-family dwellings, but not including any other building wherein human beings may be housed.

**“Dwelling, [o]One-[f]Family”** means any detached building containing only one (1) dwelling unit.

**“Dwelling, [t]Two-[f]Family”** means any building containing only two (2) dwelling units.

**“Dwelling, [m]Multiple-[f]Family”** means any building containing three (3) or more dwelling units.

**“Dwelling [u]Unit”** means one (1) or more rooms and a single kitchen in a dwelling designed as a unit for occupancy by not more than one (1) family for living or sleeping purposes.

**“Elementary [s]School”** means any school usually consisting of grades pre-kindergarten through grade 6 or any combination of grades within this range.

**“Essential [s]Service”** means the erection, construction, alteration, or maintenance by public utility companies or municipal departments or commissions, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. This definition shall not be interpreted to include public buildings.

**“Family”** means any number of individuals living together as a single housekeeping unit in a dwelling unit.

**“Farming”** means a tract of land cultivated for the purpose of commercial agricultural production.

**“Fence, [h]Height”** means the vertical distance between the ground directly under the fence and the highest point of the fence.

**“Floor [a]Area”** means the total of each floor of a building within the surrounding outer walls but excluding vent shafts and courts.

**“Fraternal [o]Organization”** means a group of people formally organized for a common object, purpose, or interest (usually cultural, religious or entertainment) that conducts regular meetings and has written membership requirements.

**“Frontage”** means all the property fronting on one (1) side of a street between intersection streets.

**“Garage, [p]Private”** means an accessory building or any portion of a main building used in connection with residential purposes for the storage of passenger motor vehicles.

**“Garage, [p]Public”** means any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting, or equipping of automobiles or other vehicles.

**“Gas [m]Manufacturer/[s]Storage”** means the surface use of lands used in the production, the mechanical transformation, or the chemical transformation of hydrocarbon gas and includes uses for gas conditioning/compressor stations. “Storage” means surface uses necessary for storage of produced or non-native natural gas.

**“Governmental [b]Building”** means a building or structure owned and operated by any department, commission, or agency of the United States or of a state or municipality and used to conduct official business of government.

**“Grade ([g]Ground [l]Level)”** means the average level of the finished ground at the center of all walls to a building. In case walls are parallel to and within five (5) feet of a public sidewalk, the ground level shall be measured at the sidewalk.

**“Greenhouse”** means a building or structure, usually a glassed or clear plastic enclosure, used for the cultivation and protection of plants.

**“Guest [r]Room”** means any room in a hotel, dormitory, boarding, or lodging house used and maintained to provide sleeping accommodations for one (1) or more persons.

**“Guide [s]Service”** means any activity on any premises used for collecting or returning persons from recreational trips when remuneration is provided for the service.

**“Gunsmith”** means a person who repairs, modifies, designs, or builds firearms.

**“High [s]School”** means a secondary school usually consisting of grades 9 through 12 or any appropriate combination of grades within this range.

**“Home [o]Occupation”** means an accessory carried out for remuneration by a resident in the resident’s dwelling unit, excluding Commercial Marijuana Establishments.

**“Hospital”** means an institution that provides medical, surgical, or psychiatric care and treatment for the sick or the injured.

**“Hotel”** means a building or group of buildings containing more than five (5) guest rooms used for the purpose of offering public lodging on a day-to-day basis with or without meals.

**“Housing Facility Owned by a Public Housing Authority with Children as Residents”** means rental housing owned and operated by a public housing authority that allows tenancy by families with children as residents. Senior housing facilities are excluded.

**“Junkyard”** means any space one hundred (100) square feet or more of any lot or parcel of land used for the storage, keeping, or abandonment of junk or waste material, including scrap metals or other scrap materials, or for the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or any parts thereof.

**“Library”** means a collection of sources, resources, and services, and the structure in which it is housed; it is organized for use and maintained by a public body, an institution, or a private individual.

**“Licensed Premises For Commercial Marijuana Establishment”** means any and all designated portions of a building or structure, or rooms or enclosures in the building or structure, at the specific address for which a Commercial Marijuana Establishment license is issued, and used, controlled, or operated by the Commercial Marijuana Establishment to carry out the business for which it licensed.

**“Loading [s]Space”** means an off-street space or berth on the same lot with a building or structure to be used for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

**“Lodge”** means a building or group of buildings containing five (5) or fewer guest rooms used for the purpose of offering public lodging on a day-to-day basis with or without meals.

**“Lot”** means a parcel of land occupied or to be occupied by a principal use and having frontage on a public street.

**“Lot, [c]Corner”** means a lot situated at the junction of, and bordering on, two (2) intersecting streets, two (2) platted rights-of-way, two (2) government easements, or any combination thereof.

**“Lot [c]Coverage”** means that portion of the lot covered by buildings or structures that require a building permit.

**“Lot [d]Depth”** means the horizontal distance separating the front and rear lot lines of a lot and at right angles to its width.

**“Lot [l]Line, [f]Front-[c]Corner [l]Lot”** means the shortest street line of a corner lot.

**“Lot [l]Line, [f]Front-[i]Interior [l]Lot”** means a line separating the lot from the street.

**“Lot [l]Line, [r]Rear”** means a line that is opposite and most distant from the front lot line, and in the case of irregular, triangular, or gore shaped lot, a line not less than ten feet (10') in length, within a lot, parallel to and at the maximum distance from the front lot line.

**“Lot [l]Line, [s]Side”** means any lot boundary line not a front lot line or a rear lot line.

**“Lot [w]Width”** means the mean horizontal distance separating the side lot lines of a lot and at right angles to its depth.

**“Manufactured [h]Housing”** means a dwelling unit that meets Department of Housing and Urban Development Standards for manufactured housing and is wider than sixteen feet (16’), has a roof pitch of 4:12 or greater with roofing and siding common to standard residential construction and is transported to the site and placed on a permanent foundation.

**“Manufacturing/[f]Fabricating/[a]Assembly”** means the mechanical or chemical transformation of materials or substances into new products including assembling of components parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

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

**“Marijuana Concentrate”** means resin, oil, wax, or any other substance derived from the marijuana plant by any method which isolates the Tetrahydrocannabinol (THC)-bearing resins of the plant.

**“Marijuana Cultivation Facility”** means any entity with a state license registered to cultivate, prepare, and package marijuana and to sell marijuana to Marijuana Retail Facilities, Marijuana Products Manufacturing Facilities, Marijuana Brokerage Facilities, Marijuana Testing Facilities, but not to consumers.

**“Marijuana Cultivation Facility, Indoor Standard”** means a state licensed, fully enclosed Commercial Marijuana Facility, in which all growing, preparation and packaging are conducted completely indoors in a fully enclosed secure indoor facility or greenhouse with view obscuring rigid walls, a roof, and doors with 500 or more square feet under cultivation. Net floor area of all cultivation facility structures shall not exceed 10,000 square feet.

**“Marijuana Cultivation Facility, Indoor Limited”** means a state licensed, fully enclosed Commercial Marijuana Facility in which all growing, preparation and packaging are conducted completely indoors in a fully enclosed secure indoor facility or greenhouse with view obscuring rigid walls, a roof, and doors with 500 or fewer square feet under cultivation. Net floor area of all cultivation facility structures shall not exceed 5,000 square feet.

**“Marijuana Cultivation Broker Facility, Indoor”** means a state licensed, fully enclosed secure indoor facility providing essential business functions of a Marijuana Cultivation Facility, Indoor Limited, including storing marijuana, purchasing or arranging the purchase of the Marijuana Cultivation Facility, Indoor Limited’s marijuana crop, arranging testing and transportation of marijuana and filing the reports and paying the marijuana excise tax required under State of Alaska Statutes 43.61.010 and 43.61.020. Net floor area of all Marijuana Cultivation Broker Facilities shall not exceed 10,000 square feet.



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

**“Marijuana Product Manufacturing Facility”** means a state licensed fully enclosed secure indoor facility registered to purchase marijuana, manufacture, prepare and package marijuana products, and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

**“Marijuana Testing Facility”** means a state licensed commercial marijuana testing facility that is registered to analyze and certify the safety and potency of Marijuana and Marijuana Products.

**“Mini-[s]Storage [f]Facility”** means a completely enclosed structure containing three (3) or more areas or rooms available for lease or rent for the purpose of the general storage of household goods, vehicles or personal property; where the lessee of the unit is provided direct access to deposit or store items and where vehicles do not fill the majority of the allowed storage space.

**“Mobile [h]Home”** means a structure, which is built on a permanent chassis in accordance with Department of Housing and Urban Development Standards and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities. A mobile home is subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided.

**“Mobile [h]Home [p]Park”** means a site with required improvements and utilities for the long-term parking of mobile homes which may include services and facilities for the residents.

**“Modular [h]Home”** means a dwelling constructed in modules or sections at a place other than the building site, built to conform to Title 4 of the Kenai Municipal Code, is transported to the site and then assembled and placed on a permanent foundation.

**“Motel”** means a group of one (1) or more detached or semi-detached buildings containing two (2) or more individual dwelling units and/or guest rooms designed for, or used temporarily by, automobile tourists or transients, with a garage attached or parking space conveniently located to each unit, including groups designated as auto courts, motor lodges, or tourist courts.

**“Museum”** means a building or structure that houses and cares for a collection of artifacts and other objects of scientific, artistic, or historical importance and makes them available for public viewing through exhibits that may be permanent or temporary.

**“Nonconforming [l]Lot”** means a lot lawfully existing at the time this chapter became effective, which by reason of area or dimensions, does not meet the development requirements for the zone in which it is located.

**“Nonconforming [s]Structure”** means a structure or portion thereof, lawfully existing at the time this chapter became effective, which by reason of its yards, coverage, height, or other aspects of design, does not meet the development requirements of this zone.

**“Nonconforming [u]Use”** means a use of a structure of land, or of a structure and land in combination, lawfully existing at the time this chapter became effective, or established on the premises of a previous nonconforming use as specified in this chapter, which is not in conformity with the uses permitted in the zone in which it exists.

**“Nursing, [c]Convalescent or [r]Rest [h]Home”** means a building or structure used as a residence for people who require constant nursing care and/or have significant deficiencies with activities of daily living.

**“Office”** means a room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

**“Park”** means a tract of land, designated by a public entity for the enjoyment of the public and generally used for active and passive recreational activities.

**“Parking, [p]Public [l]Lots”** means a parking area available to the public, whether or not a fee for use is charged.

**“Parking [s]Space, [p]Private”** means any automobile parking space, excluding garages, not less than nine feet (9') wide and one hundred eighty (180) square feet in total area.

**“Parking [s]Space, [p]Public”** means an area of not less than one hundred eighty (180) square feet exclusive of drives or aisles giving access thereto in area accessible from streets and alleys for the storage of passenger motor vehicles operated by individual drivers.

**“Person”** means a natural person, his or her heirs, executors, administrators, or assigns, and also including firm, partnership, or corporation, or their successors and/or assigns or the agent of any of the aforesaid.

**“Personal [s]Services”** mean establishments engaged in providing services involving the care of a person or his or her apparel.

**“Planned [u]Unit [r]Residential [d]Development”** means an alternative method of development of a residential neighborhood under more flexible conditions than otherwise required in a specific zoning district.

**“Playground”** means any outdoor facility, including any parking lot appurtenant thereto, intended for recreation other than team sports, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swing sets, and teeterboards.

**“Principal [u]Use”** means the major or predominant use of a lot or parcel of land.

**“Profession”** means an occupation or calling requiring the practice of a learned art through specialized knowledge based on a degree issued by an institution of high learning, e.g., Doctor of Medicine.

**“Property [o]Owner”** means the owner shown on the latest tax assessment roll.

**“Public”** means a place to which the public or a substantial group or persons has access and includes highway, rivers, lakes, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, hallways, lobbies and other parts of apartments houses and hotels not constituting rooms or apartments designed for actual residence.

**“Recreation”** means leisure activities sometimes requiring equipment and taking place at prescribed places, sites, parks, or fields. It can include active recreation, such as structured individual or team activities requiring the use of special facilities, courses, fields or equipment or passive recreation, such as activities that do not require prepared facilities such as wildlife and bird viewing, observing and photographing nature, picnicking, and walking.

**“Recreational [v]Vehicle”** means a vehicular-type unit, primarily designed as temporary living quarters for recreational camping, or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. Recreational vehicles include, but are not limited to, travel trailers, camping trailers, truck campers, and motor homes.

**“Recreational [v]Vehicle [p]Park”** means an area established by a conditional use permit for the parking of two (2) or more recreational vehicles on a temporary basis.

**“Restaurant”** means an establishment where food and drink is prepared, served, and consumed primarily within the principal building.

**“Retail [b]Business”** means establishments engaged in selling goods or merchandise to the general public for business or personal/household consumption and rendering services incidental to the sale of such goods.

**“Retail Marijuana Store”** means a state licensed entity registered to purchase marijuana from a marijuana cultivation facility, to purchase marijuana and marijuana products from a marijuana manufacturing facility, and sell marijuana and marijuana products to consumers.

**“Secondary [u]Use”** means a use allowed on a lot or parcel of land only if there is also an allowed principal use on the property.

**“Sign”** means any words, letters, parts of letters, figures, numerals, phrases, sentences, emblems, devices, trade names, or trademarks by which anything is made known, such as are used to designate an individual, firm, association, corporation, profession, business, or a commodity or product, which are visible from any public street or highway and used to attract attention.

**“Square Feet Under Cultivation”** means an area of the licensed premises of a standard or limited cultivation facility that is used for growing marijuana, measured on the perimeter of the floor or growing space for marijuana “Square Feet Under Cultivation” does not include hallways, equipment storage areas, or other areas within the licensed premises that are not used for growing marijuana such as an office, or a processing or storage area.

**“State [h]Highway”** means a right-of-way classified by the State of Alaska as a primary or secondary highway.

**“Storage [y]Yard”** means a lot used primarily for the storage of operational vehicles, construction equipment, construction materials or other tangible materials and equipment.

**“Street”** means a public right-of-way used as a thoroughfare and which is designed and intended to provide the primary means of access to property abutting thereon.

**“Structure”** means that which is built or constructed, an edifice or a building of any kind, composed of parts joined together in some definite manner.

**“Subsurface [e]Extraction of [n]Natural [r]Resources”** means removing valuable minerals or other geological materials from the earth, from an ore body, vein or (coal) seam. Materials recovered could include gas, oil, base metals, precious metals, iron, uranium, coal, diamonds, limestone, oil shale, rock salt and potash.

**“Surface [e]Extraction of [n]Natural [r]Resources”** means removal of material, usually soil, gravel, or sand for use at another location.

**“Swimming Pool”** means any public facility, including any parking lot appurtenant thereto, intended for the purposes of swimming and other water-related recreational activities.

**“Taxidermy”** means the act of mounting or reproducing dead animals, fish, and/or birds for display.

**“Theater”** means a building or structure, or part thereof, devoted to the indoor exhibition of motion pictures and/or of live dramatic, speaking, musical, or other presentations.

**“Townhouse”** means single-family dwelling units constructed in a series or group of two (2) or more units separated from an adjoining unit by an approved party wall or walls, extending from the basement of either floor to the roof along the linking lot line.

**“Tree [n]Nursery”** means a place where trees/plants are propagated and grown to usable size.

**“Use”** means the purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

**“Variance”** means the relaxation of the development requirements of this chapter to provide relief when the literal enforcement would deprive a property owner of the reasonable use of his or her real property.

**“Warehouse”** means a building or structure used for the storage of goods, wares and merchandise that will be processed, sold or otherwise disposed of off of the premises.

**“Wholesale [b]Business”** means business conducted primarily for the purpose of selling wares or merchandise in wholesale lots to retail merchants for resale.

**“Yard”** means an open, unoccupied space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this chapter, on the same lot on which a building is situated.

**“Yard, [f]Front”** means a yard extending across the full width of the lot between the front lot line of the lot and the nearest exterior wall of the building which is the nearest to the front lot line.

**“Yard, [r]Rear”** means a yard extending across the full width of the lot between the most rear main building and the rear lot line.

**“Yard, [s]Side”** means a yard on each side of a main building and extending from the front lot line to the rear lot line. The width of the required side yard shall be measured horizontally from the nearest point of a side lot line to the nearest part of the main building.

**“Youth Center”** means any public or private recreation facility and / or gymnasium, including any parking lot appurtenant thereto, intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

**“Zoning [c]Change”** means the alteration or moving of a zone boundary; the reclassification of a lot, or parcel of land, from one zone to another; and the change of any of the regulations contained in this chapter.

**“Zoning [o]Ordinance or [o]Ordinances”** mean the zoning ordinance of the City of Kenai and Kenai Municipal Code Chapter 14.

**Section 3.** Amendment of Chapter 14.20 of the Kenai Municipal Code: That Kenai Municipal Code, Chapter 14.20 – Kenai Zoning Code, is hereby amended to add the following Section as follows:

**14.20.330 Standards for Commercial Marijuana Establishments.**

The purpose of this Section is to establish general standards for Commercial Marijuana Establishments.

- (a) A Commercial Marijuana Establishment shall only be allowed with a Conditional Use Permit under Kenai Municipal Code Section 14.20.150.
- (b) Applicants applying for a Conditional Use Permit must include an area map drawn to scale indicating all land uses on other properties within a 500-foot proximity of the lot upon which the applicant is seeking a Conditional Use Permit. This shall be in additional to the Conditional Use Permit submission requirements in Kenai Municipal Code Section 14.20.150.
- (c) A Public Hearing shall be scheduled before the Planning and Zoning Commission to review the Conditional Use Permit application once it has been deemed complete. The Public Hearing shall be scheduled in accordance with the requirements in Kenai Municipal Code Section 14.20.280, except that notification shall be mailed to all real property owners on record on the Borough Assessor’s records within a five hundred (500) foot periphery of the parcel affected by the proposed action.
- (d) The growing, cultivating, preparation, packaging, manufacturing, processing or storing of all Marijuana, Marijuana Concentrate or Marijuana Products shall be conducted within a fully enclosed secure indoor facility or greenhouse with view obscuring rigid walls, a roof and doors. A Greenhouse must be enclosed by a sight obscuring wall or fence at least six feet high.

- (e) All Commercial Marijuana Establishments shall not emit an odor that is detectable by the public from outside the Commercial Marijuana Establishment.
- (g) No portion of a parcel upon which any Commercial Marijuana Establishment is located shall be permitted within the following buffer distances:
- (1) 1000 feet from any primary and secondary schools (K-12) including vocational programs, post-secondary schools including but not limited to trade, technical, or vocational schools, colleges and universities; and,
  - (2) 500 feet from any playgrounds, parks, youth centers, licensed day care centers, public swimming pools, adult and juvenile correctional facilities, churches, State licensed substance abuse treatment provider or facility providing substance abuse treatment, State licensed Clinic providing substance abuse treatment, Hospitals, and Housing Facilities Owned by a Public Housing Authority with Children as Residents; and,
  - (3) Buffer distances shall be measured from property line to property line.
- (h) Except as otherwise provided for in this Section, no Person or Licensee may construct, build, operate or otherwise develop a Commercial Marijuana Establishment on any parcel zoned: Rural Residential (RR), Rural Residential-1 (RR-1), Suburban Residential (RS), Suburban Residential-1 (RS-1), Suburban Residential-2 (RS-2), Urban Residential (RU), Townsite Historic (TSH), Conservation (C), Recreation (R), Central Commercial (CC), General Commercial (GC), Education Zone (ED) or Central Mixed Use (CMU).
- (i) A Person or Licensee may apply for a Conditional Use Permit to allow for the construction and operating of a Marijuana Testing Facility in the Central Commercial (CC), General Commercial (GC) or Central Mixed Use (CMU) zones.
- (j) On Lots of forty thousand (40,000) square feet or greater in size, and zoned: Rural Residential (RR), Rural Residential-1 (RR-1), Suburban Residential (RS), Suburban Residential-1 (RS-1), Suburban Residential-2 (RS-2), Urban Residential (RU) or Limited Commercial (LC); a Person or Licensee may apply for a Conditional Use Permit to allow for the construction and operation of a Marijuana Cultivation Facility, Indoor Standard or a Marijuana Cultivation Facility, Indoor Limited as defined by Alaska State Law.
- (k) A Marijuana Cultivation Facility, Indoor Standard, Marijuana Cultivation Facility, Indoor Limited, or a Marijuana Cultivation Broker Facility, Indoor shall only be allowed on a Lot which has an existing structure consistent with a principal permitted use.
- (l) A Marijuana Cultivation Facility located in an Accessory Building shall be subject to the setback provisions in Kenai Municipal Code Section 14.24.020 – Development Requirements Table. A Person or Licensee seeking relief from the provisions in the Development Requirements Table may apply for a Variance subject to the provisions of Kenai Municipal Code Section 14.20.180.

**Section 4.** Amendment of Chapter 14.22 of the Kenai Municipal Code: That Kenai Municipal Code, Chapter 14.22 – Land Use Table, is hereby amended as follows:

14.22.010 LAND USE TABLE

KEY: P = Principal Permitted Use C = Conditional Use S = Secondary Use N = Not Permitted		NOTE: Reference footnotes on following pages for additional restrictions														
ZONING DISTRICTS																
LAND USES	C	RR	RR-1	RS	RS-1	RS-2	RU	CC	CG	IL	IH	ED	R	TSH	LC	CMU
<b>RESIDENTIAL</b>																
One-Family Dwelling	C <sup>18</sup>	P	P	P	P	P	P	P <sup>21</sup>	S <sup>1</sup>	S <sup>2</sup>	S <sup>2</sup>	C <sup>22</sup>	P	P	P	S <sup>1</sup> /C <sup>21</sup>
Two-, Three-Family Dwelling	C <sup>18</sup>	P	P	P	P	P	P	P <sup>21</sup>	S <sup>1</sup>	C	C	C <sup>22</sup>	P	P	P	S <sup>1</sup> /C <sup>21</sup>
Four-Family Dwelling	C <sup>18</sup>	P	C <sup>3,29</sup>	P	N	N	P	P <sup>21</sup>	S <sup>1</sup>	C	C	C <sup>22</sup>	N	P	C	S <sup>1</sup> /C <sup>21</sup>
Five-, Six-Family Dwelling	C <sup>18</sup>	C <sup>3</sup>	N	P	N	N	P	P <sup>21</sup>	S <sup>1</sup>	C	C	N	N	P	C	S <sup>1</sup> /C <sup>21</sup>
Seven- or More Family Dwelling	C <sup>18</sup>	C <sup>3</sup>	N	C <sup>3</sup>	N	N	P	P <sup>21</sup>	S <sup>1</sup>	C	C	N	N	P	C	S <sup>1</sup> /C <sup>21</sup>
Mobile Home Parks <sup>6</sup>	N	C	N	C	C	C	C	C	C	C	C	N	C	C	C	C
Planned Unit Residential Development <sup>7</sup>	C <sup>18</sup>	C	C <sup>29</sup>	C	C	C	C	C	C	C	C	N	C	C	C	C
Townhouses <sup>4</sup>	C <sup>18</sup>	C <sup>3</sup>	C <sup>3,29</sup>	C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	C	C	C	C	C <sup>22</sup>	C	C	C	C
Accessory Building on Parcel Without Main Building or Use (See KMC 14.20.200)	N	C	C	C	C	C	C	N	N	N	N	N	N	C	N	N
LAND USES	C	RR	RR-1	RS	RS-1	RS-2	RU	CC	CG	IL	IH	ED	R	TSH	LC	CMU
<b>COMMERCIAL</b>																
Automotive Sales	N	C	N	N	N	N	C	P	P	P	P	N	N	N	N	P
Automotive Service Stations	N	C	N	N	N	N	C	P	P	P	P	N	C	N	N	P
Banks	N	C	N	C	N	N	C	P	P	P	C	N	C	C	C	P
Business/Consumer Services	N	C	N	C	N	N	C	P	P	P	C	N	C	C	C	P
Marijuana Testing Facility <sup>30</sup>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>
Commercial Recreation	N	C	N	C	N	N	C	P	P	C	C	N	P	C	C	P
Guide Service	N	C	N	C	N	N	C	P	P	P	P	N	P	P	C	P
Hotels/Motels	N	C	N	C	N	N	C	P	P	P	C	N	C	P	C	P
Lodge	N	C	N	C	N	N	C	P	P	P	C	N	P	P	C	P
Professional Offices	N	C	C <sup>29</sup>	C	N	N	P	P	P	P	P	N	C	P	P	P

Restaurants	<u>N</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>
Marijuana Cultivation Facility, Indoor Standard <sup>30</sup>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>
Marijuana Cultivation Facility, Indoor Limited <sup>30</sup>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>
Retail Business	<u>N</u> <sup>26</sup>	<u>C</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>S</u> <sup>24</sup>	<u>S</u> <sup>24</sup>	<u>C</u>	<u>C</u>	<u>P</u>
Retail Marijuana Store <sup>30</sup>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>
Theaters	<u>N</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>P</u>
Wholesale Business	<u>N</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>S</u> <sup>24</sup>	<u>C</u>	<u>C</u>	<u>N</u>
Marijuana Cultivation Broker Facility, Indoor <sup>30</sup>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>
<b>LAND USES</b>	<b>C</b>	<b>RR</b>	<b>RR-1</b>	<b>RS</b>	<b>RS-1</b>	<b>RS-2</b>	<b>RU</b>	<b>CC</b>	<b>CG</b>	<b>IL</b>	<b>IH</b>	<b>ED</b>	<b>R</b>	<b>TSH</b>	<b>LC</b>	<b>CMU</b>
<b>INDUSTRIAL</b>																
Airports	<u>P</u> <sup>20</sup>	<u>C</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>
Automotive Repair	<u>N</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P</u>
Gas Manufacturer/Storage	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u> <sup>9</sup>	<u>C</u> <sup>9</sup>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
Manufacturing/Fabricating/Assembly	<u>N</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>C</u>
Marijuana Product Manufacturing Facility <sup>30</sup>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
Mini-Storage Facility	<u>N</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>
Storage Yard	<u>N</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>
Warehouses	<u>N</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>N</u>
<b>LAND USES</b>	<b>C</b>	<b>RR</b>	<b>RR-1</b>	<b>RS</b>	<b>RS-1</b>	<b>RS-2</b>	<b>RU</b>	<b>CC</b>	<b>CG</b>	<b>IL</b>	<b>IH</b>	<b>ED</b>	<b>R</b>	<b>TSH</b>	<b>LC</b>	<b>CMU</b>
<b>PUBLIC/INSTITUTIONAL</b>																
Assisted Living	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
Churches*	<u>C</u>	<u>P</u> <sup>10</sup>	<u>P</u> <sup>10</sup>	<u>P</u> <sup>10</sup>	<u>P</u> <sup>10</sup>	<u>P</u> <sup>10</sup>	<u>P</u> <sup>10</sup>	<u>P</u> <sup>10</sup>	<u>P</u> <sup>10</sup>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u> <sup>10</sup>	<u>P</u>	<u>P</u>	<u>P</u>
Clinics	<u>C</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>
Colleges*	<u>C</u>	<u>C</u>	<u>C</u> <sup>29</sup>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>
Elementary Schools*	<u>C</u>	<u>C</u>	<u>C</u> <sup>29</sup>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>
Governmental Buildings	<u>C</u>	<u>C</u>	<u>C</u> <sup>29</sup>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>
High Schools*	<u>C</u>	<u>C</u>	<u>C</u> <sup>29</sup>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>
Hospitals*	<u>C</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>
Libraries*	<u>C</u>	<u>C</u>	<u>C</u> <sup>29</sup>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>P</u>
Museums	<u>C</u>	<u>C</u>	<u>C</u> <sup>29</sup>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>P</u>

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Parks and Recreation	P	C	C <sup>29</sup>	C	C	C	C	P	P	P	P	P	P	C	P	
<b>LAND USES</b>	<b>C</b>	<b>RR</b>	<b>RR1</b>	<b>RS</b>	<b>RS1</b>	<b>RS2</b>	<b>RU</b>	<b>CC</b>	<b>CG</b>	<b>IL</b>	<b>IH</b>	<b>ED</b>	<b>R</b>	<b>TSH</b>	<b>LC</b>	<b>CMU</b>
<b>MISCELLANEOUS</b>																
Animal Boarding/Commercial Kennel <sup>13</sup>	C	C	N	C	C	N	N	C	C	C	C	N	C	N	C	C
Assemblies <sup>15</sup> (Large: Circuses, Fairs, Etc.)	C	C	N	C	C	C	C	P <sup>15</sup>	P <sup>15</sup>	P <sup>15</sup>	P <sup>15</sup>	P <sup>15</sup>	C	P	N	P <sup>15</sup>
Bed and Breakfasts	C	C	C	C	C	C	C	C	C	C	C	N	P	C	C	P
Cabin Rentals	C	C	N	C	N	N	N	P	P	P	C	N	P	P	C	P
Cemeteries	C	C	N	C	N	N	N	N	C	C	C	N	C	C	N	N
Communications Towers & Antenna(s), Radio/TV Transmitters/Cell Sites** <sup>28</sup>	P	C	N	C	C	C	C	P	P	P	P	P	C	C	C	C
Crematories/Funeral Homes	N	C	N	C	N	N	C	C	C	C	C	N	C	C	C	C
Day Care Centers <sup>12</sup>	C	C	C <sup>29</sup>	C	C	C	C	P	P	P	C	C	C	C	P	P
Dormitories/Boarding Houses	C	C	N	C	C	C	P	P <sup>21</sup>	S	C	P	P <sup>23</sup>	C	C	C	P
Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Farming/General Agriculture***	P	P	N	N	N	N	N	N	N	N	P	N	P	N	N	N
Fraternal Organizations/Private Clubs/Social Halls and Union Halls	N	C	N	C	C	C	C	P	P	P	C	N	C	P	C	P
Greenhouses/Tree Nurseries <sup>13</sup>	C	C	N	C	C	C	C	P	P	P	C	N	C	C	C	P
Gunsmithing, Taxidermy	N	C	N	C	C	C	C	P	P	P	P	N	C	P	P	P
Nursing, Convalescent or Rest Homes	N	C	N	C	C	C	C	P	P	C	C	C	C	C	C	P
Parking, Public Lots <sup>12</sup>	C	C	N	C	C	C	C	C	C	C	C	C	C	C	C	C
Personal Services <sup>25</sup>	C	C	N	C	C	C	C	P	P	P	P	C	C	P	P/C <sup>27</sup>	P
Recreational Vehicle Parks	C	C	N	C	N	N	C	C	C	C	C	N	C	C	N	C
Subsurface Extraction of Natural Resources <sup>16</sup>	C	C	C	C	C	C	C	C	C	C	C	N	C	N	N	N
Surface Extraction of Natural Resources <sup>17</sup>	C	C	N	C	N	N	C	N	C	C	C	N	C	N	N	N

\* See 42 USCA Sec. 2000cc (Religious Land Use and Institutionalized Persons Act of 2000)

\*\* See 42 Telecommunications Act of 1996, Sec. 704(a)

\*\*\* See, however, the limitations imposed under KMC 3.10.070

**Footnotes:**

1. Allowed as a secondary use except on the ground floor of the part of the building fronting on collector streets and major highways. Commercial or industrial which falls under the landscaping/site plans requirements of KMC 14.25 shall include any secondary uses in the landscaping and site plans.

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2. One (1) single-family residence per parcel, which is part of the main building.
3. Allowed as a conditional use, subject to satisfying the following conditions:
  - a. The usable area per dwelling unit shall be the same as that required for dwelling units in the RS zone;
  - b. The site square footage in area must be approved by the Commission;
  - c. Yards around the site, off-street parking, and other development requirements shall be the same as for principal uses in the RR zone;
  - d. Water and sewer facilities shall meet the requirements of all applicable health regulations;
  - e. The proposed dwelling group will constitute a residential area of sustained desirability and stability, will be in harmony with the character of the surrounding neighborhood, and will not adversely affect surrounding property values;
  - f. The buildings shall be used only for residential purposes and customary accessory uses, such as garages, storage spaces, and recreational and community activities;
  - g. There shall be provided, as part of the proposed development, adequate recreation areas to serve the needs of the anticipated population;
  - h. The development shall not produce a volume of traffic in excess of the capacity for which the access streets are designed;
  - i. The property adjacent to the proposed dwelling group will not be adversely affected.
4. See "Townhouses" section.
5. See "Mobile Homes" section.
6. Allowed as a conditional use, subject to "Mobile Homes" section and provided that any mobile home park meets the minimum Federal Housing Authority requirements.
7. See "Planned Unit Residential Development" section.
8. Allowed as a conditional use, provided that the proposed location and the characteristics of the site will not destroy the residential character of the neighborhood.
9. Allowed as a conditional use, provided that all applicable safety and fire regulations are met.

10. Provided that no part of any building is located nearer than thirty (30) feet to any adjoining street or property line.
11. Allowed as a conditional use, provided that no part of any building is located nearer than thirty (30) feet to any adjoining street or property line and provided further that the proposed location and characteristics of the use will not adversely affect the commercial development of the zone.
12. Allowed as a conditional use, provided that the following conditions are met:
  - a. The proposed location of the use and the size and characteristic of the site will maximize its benefit to the public;
  - b. Exits and entrances and off-street parking for the use are located to prevent traffic hazards on public streets.
13. Allowed as a conditional use, provided that setbacks, buffer strips, and other provisions are adequate to assure that the use will not be a nuisance to surrounding properties. The Commission shall specify the conditions necessary to fulfill this requirement. Animal boarding and commercial kennels require a kennel license (see KMC Chapter 3.15).
14. Allowed as a conditional use, provided that no indication of said use is evident from the exterior of the mortuary.
15. Allowed, provided that the following conditions are met:
  - a. An uncleared buffer strip of at least thirty (30) feet shall be provided between said use and any adjoining property in a residential zone.
  - b. Exits and entrances and off-street parking for the use shall be located to prevent traffic hazards on the public streets.
16. See “Conditional Uses” section.
17. See “Conditional Use Permit for Surface Extraction of Natural Resources” section.
18. Conditional Use allowed only on privately held property. Not allowed on government lands.
19. Reserved.
20. The airport related uses allowed under this entry are aircraft approach zones per KMC 14.20.070(a), except that for properties contained inside the airport perimeter fence or having access to aircraft movement areas, ramps, taxiways or parking aprons, FAA authorized uses are allowed.

21. Developments for use shall be the same as those listed in the “Development Requirements Table” for the RU/TSH zones.
22. Allowed as a conditional use in conjunction with a permitted use in the ED zone. For example, housing for teachers or students for a school in the zone.
23. Allowed as an accessory use in conjunction with a permitted use in the ED zone. For example, a dormitory used to house students for a school or educational facility.
24. Retail businesses allowed as a secondary use in conjunction with the primary use (e.g., a gift shop or coffee shop within another business).
25. Art studios, barbers, beauticians, tattoo parlors, dressmakers, dry cleaners and self-service laundries, fitness centers, photographic studios, tailors, tanning salons and massage therapists.
26. Food services are allowed on a temporary or seasonal basis of not more than four (4) months per year.

27. Personal services not set forth in the [ABOVE] below matrix are conditional uses.

Limited Commercial Zone		
Personal Services	Permitted(P)	Conditional Use(C)
Art Studios	X	
Barbers	X	
Beauticians	X	
Dressmakers	X	
Dry Cleaners		X
Fitness Centers	X	
Massage Therapist		X
Photographic Studios	X	
Self-Service Laundries		X

New Text Underlined; [DELETED TEXT BRACKETED]

Tailors	X	
Tanning Salons	X	
Tattoo Parlors		X

28. Communications tower/antenna(s) allowed as a principal permitted (P) use if the applicable conditions set forth in KMC 14.20.255 are met or a conditional use (C) if the applicable conditions set forth in KMC 14.20.255 and 14.20.150 are met.
29. Use allowed only for those parcels that abut the Kenai Spur Highway. The access to any such parcel must be either from: (a) driveway access on the Kenai Spur Highway; or (b) driveway access from a dedicated right-of-way and that driveway access is not more than two hundred seventy-five (275) feet as measured from the constructed centerline of the Kenai Spur Highway to the center of the driveway access as shown on an as-built drawing/survey of the parcel.
30. See Marijuana Regulations, Section 14.20.230 – Home Occupations, Section 14.20.320 – Definitions, Section 14.20.330 – Standards for Commercial Marijuana Establishments.

**Section 6.** Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

**Section 7.** Effective Date: That pursuant to Kenai Municipal Code Section 1.15.070(f), this ordinance shall take effect 30 days after adoption.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this \* day of \*, 2015.

\_\_\_\_\_  
PAT PORTER, MAYOR

ATTEST:

New Text Underlined; [DELETED TEXT BRACKETED]

---

Sandra Modigh, City Clerk

Introduced: \*, 2015  
Adopted: \*, 2015  
Effective: \*, 2015

DRAFT

New Text Underlined; [DELETED TEXT BRACKETED]

**CALL TO ORDER AND ROLL CALL**

Mayor Sprague called the Regular Soldotna City Council Meeting of December 9, 2015, to order at 6:00 p.m.

There were present:

Mayor Pete Sprague  
Paul Whitney  
Keith Baxter  
Regina Daniels

Meggean Marquez  
Linda Murphy  
Tim Cashman

comprising a quorum of the council.

Also in attendance were:

Mark Dixson, City Manager  
John Czarnezki, City Planner  
Peter Mlynarik, Police Chief  
Shellie Saner, City Clerk

**APPROVAL OF AGENDA AND CONSENT AGENDA***(06:01:53)*

MOTION: Council Member Murphy moved to approve the agenda and consent agenda.

Mayor Sprague called for additions, corrections or deletions to the agenda or consent agenda.

Copies having been made available to the public, City Clerk Saner noted by title only the resolutions and ordinances on the consent agenda.

- November 10, 2015 Regular Council Meeting Minutes
- Ordinance 2015-044 – Amending Soldotna Municipal Code 3.08.010 – Revenue and Finance – Municipal Sales Tax – Tax Levied Amount, Removing Paragraph (b) Related to No Sales Tax Exemption on Nonprepared Food (City Manager) (Public Hearing on January 13, 2016)
- Resolution 2015-055 – Supporting the Efforts of the Central Area Rural Transit System (CARTS) to Secure Funding from the Alaska Mental Health Trust Fund to Complete a Feasibility Analysis of Implementing Expanded Transit Services in the Central Peninsula Area (City Manager)
- Resolution 2015-056 – Adopting an Alternate Allocation Method for the FY16 Shared Fisheries Business Tax Program and Certifying that this Allocation Method Fairly Represents the Distribution of Significant Effects of Fisheries Business Activity in FMA 14: Cook Inlet (City Manager)
- Mayoral 2016 City Board/Commission Appointments

Mayor Sprague called for public comment, with none offered.

AGENDA AND CONSENT AGENDA APPROVED: Unanimous

## PRESENTATIONS WITH PRIOR NOTICE

(06:04:19)

Michelle Drew of BDO USA, LLP gave a review of the 2015 Audit, noting the City of Soldotna received a clear unmodified opinion.

## PUBLIC COMMENTS AND PRESENTATIONS

(06:21:39)

Brian Olson, non-resident addressed the Council regarding the process for annexation.

## ASSEMBLY/LEGISLATIVE REPORT

(06:24:58)

Assembly Representative Dale Bagley reported on the Kenai Peninsula Borough Health Care Task Force, noting that \$127,000 would be used for hiring a consultant.

## PUBLIC HEARINGS

(06:26:43)

### **Ordinance 2015-040 – Increasing Estimated Revenues and Appropriations by \$6,350.52 in the Parks and Recreation Capital Projects Fund for a Donation Received from the Soldotna Community Playground Group (City Manager)**

MOTION: Council Member Baxter moved to enact Ordinance 2015-040.

City Manager Dixon reported the ordinance was necessary to accept the funds and utilize them for the intended purpose.

Mayor Sprague opened the public hearing, asking for public comment. With no one wishing to speak, the item was back before the Council.

VOTE ON MOTION:

Yes: Cashman, Murphy, Baxter, Whitney, Daniels, Marquez

No: None

MOTION PASSED: 6 Yes, 0 No

(06:28:14)

### **Ordinance 2015-041 – Establishing a Marijuana Local Regulatory Authority (Mayor Sprague)**

MOTION: Council Member Whitney moved to enact Ordinance 2015-041.

Mayor Sprague reported establishing a local regulatory authority would allow the City to share in revenues that may be generated by marijuana businesses within the City.

Mayor Sprague opened the public hearing, asking for public comment.

The following people spoke in support of Ordinance 2015-041:

Joyce Cox, resident

Eric Derleth, non-resident

With no one else wishing to speak, the item was back before the Council.

VOTE ON MOTION:

Yes: Cashman, Murphy, Baxter, Whitney, Daniels, Marquez

No: None

MOTION PASSED: 6 Yes, 0 No



**Ordinance 2015-042 – Establishing a Moratorium on Commercial Marijuana (Daniels)**

MOTION: Council Member Cashman moved to enact Ordinance 2015-042.

Council Member Daniels reported the City Attorney drafted the ordinance; it would ban commercial marijuana establishments for two-years within the City, which was important and would give the City time to take responsible action.

Mayor Sprague opened the public hearing, asking for public comment.

The following people spoke in opposition to Ordinance 2015-042:

- |                                  |                           |
|----------------------------------|---------------------------|
| Mark Tyler, non-resident         | Lee Fable, non-resident   |
| Joyce Cox, resident              | Fred Sturman, resident    |
| Brian Olson, non-resident        | Daniel Lynch, resident    |
| Patricia Patterson, non-resident | Devin Byron, non-resident |
| Eric Derleth, non-resident       |                           |

The following people spoke in support of Ordinance 2015-042:

- |                            |                           |
|----------------------------|---------------------------|
| Kim Mlynarik, non-resident | Roger Whittaker, resident |
| Barb Jewel, resident       | Gloria Sweeny, resident   |

With no one else wishing to speak, the item was back before the Council.

MOTION: Council Member Marquez moved to amend Ordinance 2015-042 as follows:

The seventh whereas to read, "enacting a [TWO] one year moratorium on the operation of certain commercial marijuana businesses does not infringe upon the personal use rights guaranteed by Alaska Statute Chapter 17.38;"

Section 1, subsection 8.30.030, paragraph A to read, "There shall be no marijuana business within the city before January 1, [2018] 2017."

Section 1, subsection 8.30.030, paragraph B to read, "No person may submit an application for a land use permit, zoning permit or building permit for a marijuana business before January 1, [2018] 2017."

Council Member Baxter spoke in support of the amendment.

Council Member Murphy spoke in opposition to the amendment.

VOTE ON MOTION TO AMEND:

- Yes: Baxter, Marquez
- No: Cashman, Murphy, Whitney, Daniels

MOTION TO AMEND FAILED: 2 Yes, 4 No

Council Members Whitney, Murphy, Cashman and Daniels spoke in support of Ordinance 2015-042.

Council Members Marquez and Baxter spoke in opposition to Ordinance 2015-042.

VOTE ON MAIN MOTION:

- Yes: Cashman, Murphy, Whitney, Daniels
- No: Baxter, Marquez

MAIN MOTION PASSED: 4 Yes, 2 No

**Ordinance 2015-043 – Regulating Commercial Marijuana, by Limiting the Number of Retail Marijuana Facilities, Prohibiting Commercial Cultivation Facilities Unless at the Same Location as a Retail Facility and Prohibiting Commercial Marijuana Manufacturing Facilities Unless at the Same Location as a Retail Facility (Baxter)**

MOTION: Council Member Baxter moved to enact Ordinance 2015-043.

Council Member Baxter reported the ordinance did not endorse or encourage recreational use of marijuana; the intent was to enact prudent restrictions on the number and type of marijuana business within our city.

Mayor Sprague opened the public hearing, asking for public comment.

The following people spoke in support of Ordinance 2015-043:

- Joyce Cox, resident
- Daniel Lynch, resident

The following people spoke in opposition to Ordinance 2015-043:

- Kim Mlynarik, non-resident
- Barb Jewel, resident

With no one else wishing to speak, the item was back before the Council.

MOTION: Council Member Baxter moved to postpone Ordinance 2015-043 until May 25, 2016.

Council Members Cashman, Whitney, Murphy and Daniels spoke in opposition to postponement.

Council Member Baxter spoke in support of postponement.

VOTE ON MOTION TO POSTPONE:

- Yes: Baxter
- No: Cashman, Murphy, Whitney, Daniels, Marquez

MOTION TO POSTPONE FAILED: 1 Yes, 5 No

VOTE ON MAIN MOTION:

- Yes: None
- No: Cashman, Murphy, Baxter, Whitney, Daniels, Marquez

MAIN MOTION FAILED: 0 Yes, 6 No

**UNFINISHED BUSINESS** – None

**NEW BUSINESS** – None

**APPEALS** – None

**MAYOR/COUNCIL REPORTS**

Mayor Sprague reported that the Alaska Board of Fisheries would not be conducting a meeting on the Kenai Peninsula in 2017 and summarized the “National Friends of the Libraries” proclamation. He noted that he spoke to the Women League of Voters on November 13, 2015; attended the Alaska Municipal League (AML) Conference in Anchorage the week of November 14, 2015 and the Tree Lighting on Saturday. He said

he would be meeting with representatives from the Green Dot Program on Thursday and thanked the Council for confirming the appointments to the Boards and Commissions.

Council Member Whitney reported on the December 2, 2015 Planning and Zoning Commission meeting.

Council Member Baxter reported on the Kenai River Special Management Area meeting.

## **CITY MANAGER'S REPORT**

(08:02:12)

City Manager Dixon summarized his written report, provided to Council. He reminded everyone that on January 13, 2015 there would be a Work Session on the Water & Sewer Master Plan prior to the regular meeting.

## **PUBLIC COMMENTS**

(08:02:42)

Fred Sturman, resident addressed the Council regarding the financial difficulties facing the State and local economies.

Daniel Lynch, resident addressed the Council regarding the wait and see position taken on marijuana compared to City purchases.

## **COUNCIL COMMENTS**

(08:10:39)

Council Member Daniels reported that she missed the Soldotna Tree Lighting event, attended one-day of the AML Conference and that she had attended the General Contractors Conference where her husband's company had received a Specialty in Construction Award.

Council Member Baxter noted that he was encouraged to not be the only no vote on the moratorium ordinance and requested the administration brings the issue back to the Council in the beginning of next year. He attended the Tree Lighting event and said it gets better every year.

Council Member Cashman reported that he attended the AML Conference in Anchorage and thanked the City for the opportunity.

Council Member Murphy reported that during the AML Conference she coordinates of the Newly Elected Officials training and that Council Member Cashman was a principle member of the mock meeting. She felt that the moratorium was the correct choice and the City would benefit by observing how things work out around the state. She offered her condolences to the people of San Bernardino.

Council Member Marquez echoed Council Members Baxter encouragement for future work sessions on marijuana regulations. She thanked Council Members Daniels and Baxter for bringing forward the marijuana ordinances and congratulated Finance Director Imholte and her department for a spot on audit.

Council Member Whitney congratulated Finance Director Imholte and her department for a spot on audit. He noted that he would be out of state for the January 13, 2016 meeting and would attend telephonically if possible.

## **EXECUTIVE SESSION - None**

## **PENDING LEGISLATION**

Ordinance 2015-035 – Amending Soldotna Municipal Code 2.50.040 Airport Commission to Provide Provisions that Require Nonresident Commissioners to be Airport Users (City Manager) [Postponed until January 13, 2016]

**MEETING ANNOUNCEMENTS**

(08:15:56)

Mayor Sprague announced the following meetings to schedule at Soldotna City Hall:

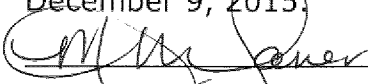
- December 17, 2015 Airport Commission 5:30 p.m.
- January 6, 2015 Planning & Zoning Commission 6:00 p.m.
- January 13, 2015 Regular City Council Meeting 6:00 p.m.

**ADJOURNMENT**

(08:16:00)

There being no further business to come before the Council, Mayor Sprague adjourned the December 9, 2015 Council Meeting at 8:16 p.m. The next regular meeting is scheduled for January 13, 2016 at 6:00 p.m.

I certify the above represents accurate minutes of the Soldotna City Council meeting of December 9, 2015.



Michelle M. Sander, CMC, City Clerk

Approved by Council: January 13, 2016

*\*\*The student representative may cast advisory votes on all matters except those subject to executive session discussions. Advisory votes shall not affect the outcome of the official council vote and shall be recorded in the minutes. A student representative may not move or second items during the council meeting.*

Introduced By: Mayor  
Date: November 10, 2015  
Public Hearing: December 9, 2015  
Action: Enacted  
Vote: 6 Yes, 0 No

CITY OF SOLDOTNA  
ORDINANCE 2015-041

AN ORDINANCE ESTABLISHING A MARIJUANA LOCAL REGULATORY AUTHORITY

---

WHEREAS, the State of Alaska has legalized personal use of marijuana; and

WHEREAS, marijuana, as an intoxicant, is rightfully regulated by the City of Soldotna for the health and safety of its residents; and

WHEREAS, the residents of Alaska passed Ballot Measure No. 2 - An Act to Tax and Regulate the Production, Sale, and Use of Marijuana, codified as Alaska Statute Chapter 17.38; and

WHEREAS, the Alaska Statute Chapter 17.38 creates classes of registrations, licenses, or permits to enable the lawful conduct of certain types of marijuana commerce and business; and

WHEREAS, the conduct of these commercial and business activities is unlawful without the appropriate registration, license, or permit; and

WHEREAS, AS 17.38.110(c) Local Control, enacted by Ballot Measure 2, allows a local government to designate a local regulatory authority, that is responsible for processing applications to operate marijuana establishments within the boundaries of the local government; and

WHEREAS, without establishing a local regulatory authority, the city would not be able to receive a portion of fees charged by the state to businesses involved in marijuana commerce; and

WHEREAS, designating the city council as the "local regulatory authority" is in the best interest of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA, ALASKA:

Section 1. That Soldotna Municipal Code (SMC) Title 8 – Health and Safety is hereby amended by the addition of new Chapter 8.30 – Marijuana Regulations to read as follows:

**Chapter 8.30**

**MARIJUANA REGULATION**

**8.30.020 Local Regulatory Authority**

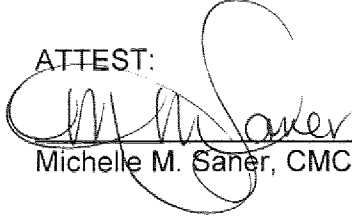
**8.30.020 Local Regulatory Authority**

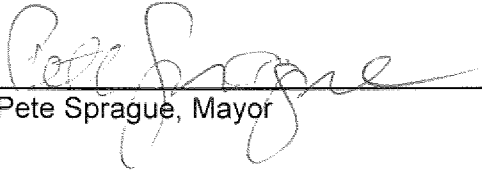
The city council is designated as the "local regulatory authority" as that term is used in Alaska Statutes Chapter 17.38 and any implementing legislation or rule-making.

Section 3. This ordinance shall become effective immediately upon its enactment.


ENACTED BY THE CITY COUNCIL THIS 9TH DAY OF DECEMBER, 2015.

ATTEST:

  
Michelle M. Sauer, CMC, City Clerk

  
Pete Sprague, Mayor

Ayes: Cashman, Murphy, Baxter, Whitney, Daniels, Marquez  
Noes: None

**TO:**  Members of the City Council  
**FROM:** Pete Sprague, Mayor  
**DATE:** November 10, 2015  
**SUBJECT:** Ordinance 2015-041 – Establishing a Local Regulatory Authority

---

This ordinance would establish the City of Soldotna as the local regulatory authority that may establish regulations regarding marijuana commerce and business within the city if the state fails to do so. It would also allow the city to share in fees charged by the state to businesses involved in marijuana commerce. Your consideration is appreciated.







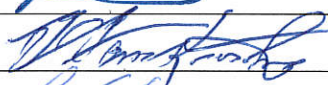
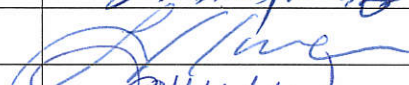

**CITY COUNCIL LEGISLATION STAFF REPORT**

**Ordinance Serial No. 16-07: Amending Wasilla Municipal Code 9.40.010, and adding section 9.40.065 to ban the retail sale of marijuana within the Wasilla City limits and amending WMC 9.40.050, to clarify that marijuana may not be consumed in public.**

Originator: Mayor Bert L. Cottle

Date: December 29, 2015

Agenda of: January 11, 2015

Route to:	Department Head	Signature	Date
X	Police Chief		12-28-15
X	Public Works Director		12/28/15
X	Finance Director		12-28-15
X	Deputy Administrator		12/28/15
X	City Clerk		12/28/15

Reviewed by Mayor Bert L. Cottle:

 12:29:2015

**Fiscal Impact:**  yes  no

**Account name/number:**

**Attachments:** none

**Summary Statement:** This ordinance is proposed to amend Wasilla Municipal Code Title 9 to ban the retail sale of marijuana within the Wasilla City limits and to clarify that marijuana may not be consumed in public. The city adopted Ordinance Serial No. 15-08 to limit the manufacture, transport, and use of marijuana in clubs within the city limits. Ordinance Serial No. 16-07 is proposed to expand and clarify additional limitations; prohibiting the sale of marijuana within the city limits, and to clarify that marijuana may only be consumed on residential private property in accordance with Alaska Statute 17.38.040.

**Staff Recommendation:** Adopt Ordinance Serial No. 16-07.

1 Code Ordinance

By: Administration  
Introduced:  
Public Hearing:  
Action:

2  
3  
4  
5  
6 **City of Wasilla**  
7 **Ordinance Serial No. 16-07**

8  
9 **An ordinance of the Wasilla City Council amending Wasilla Municipal Code 9.40.010 to**  
10 **include definitions of retail marijuana stores and marijuana cultivation facilities, adding**  
11 **section 9.40.062 to ban the retail sale of marijuana within the Wasilla City limits, adding**  
12 **section 9.40.064 to ban marijuana cultivation facilities, amending WMC 9.40.050, to clarify**  
13 **that marijuana may not be consumed in public, and amending WMC 1.20.030, Disposition-**  
14 **-Scheduled Offenses, in regard to the fine schedule for the regulation of marijuana.**

15  
16 WHEREAS, the voters of the City of Wasilla precincts voted in opposition of Ballot  
17 Measure 2, An Act to Tax and Regulate the production, sale, and use of marijuana, which was  
18 codified as Alaska Statute 17.38 et seq.; and

19  
20 WHEREAS, in response to the voters, on February 23, 2015, the Wasilla City Council  
21 adopted Ordinance Serial No. 15-08(AM), an ordinance of the Wasilla City Council adopting  
22 Wasilla Municipal Code, Chapter 9.40 Regulation of Marijuana, pertaining to the manufacture,  
23 transport, possession, and use of marijuana and substances derived from marijuana; and

24  
25 WHEREAS, Ordinance Serial No. 15-08(AM) banned certain activities related to  
26 marijuana, including the manufacture of marijuana, public use of marijuana, and marijuana clubs  
27 within the Wasilla City limits; and

28  
29 WHEREAS, consistent with the will of the City of Wasilla voters regarding Ballot  
30 Measure 2, the City of Wasilla seeks to amend the Wasilla Municipal Code, Chapter 9.40  
31 Regulation of Marijuana, to ban the retail sale of marijuana and marijuana cultivation facilities  
32 within the Wasilla City limits and to clarify that marijuana may not be consumed in public.

33  
34 **Section 1. Classification.** Sections 1 through 5 of this ordinance are of a general and  
35 permanent nature and shall become part of the city code.

36  
37 **Section 2. Amendment of section.** WMC 9.40.010, Definitions, is amended to  
38 include the following definitions:

39  
40 **RETAIL MARIJUANA STORE. An entity registered with the Alaska**  
41 **Marijuana Control Board to purchase marijuana from marijuana cultivation**  
42 **facilities, to purchase marijuana and marijuana products from marijuana**  
43 **product manufacturing facilities, and to sell marijuana and marijuana**  
44 **products as defined in Alaska Statute 17.38.900(13).**

45  
46 **MARIJUANA CULTIVATION FACILITY. An entity registered to**  
47 **cultivate, prepare, and package marijuana and to sell marijuana to retail**

**Bold and underline, added.** ~~Strikethrough, deleted~~

48 stores, to marijuana product manufacturing facilities, to other marijuana  
49 cultivation facilities, and to act as a wholesaler, but not to sell marijuana to  
50 consumers, as defined in Alaska Statute 17.38.900(8).  
51

52 **Section 3. Amendment of chapter to add new section.** WMC 9.40.062, Retail  
53 marijuana stores prohibited – Chapter is amended as follows:  
54

55 **9.40.062 RETAIL MARIJUANA STORES PROHIBITED**

56  
57 **(A) Retail marijuana stores are prohibited within the Wasilla City**  
58 **limits.**

59  
60 **(B) Each day in which a violation of this provision is committed**  
61 **shall be deemed a separate violation.**  
62

63 **Section 4. Amendment of chapter to add new section.** WMC 9.40.064, Marijuana  
64 cultivation facilities prohibited – Chapter is amended as follows:  
65

66 **9.40.064 MARIJUANA CULTIVATION FACILITIES PROHIBITED**

67  
68 **(A) Marijuana cultivation facilities are prohibited within the**  
69 **Wasilla City limits.**

70  
71 **(B) Each day in which a violation of this provision is committed**  
72 **shall be deemed a separate violation.**  
73

74 **Section 5. Amendment of section.** WMC 9.40.050, Limitations on use, is amended  
75 as follows:

76 **(A) Marijuana may be consumed only on private residential real**  
77 **property with consent of the owner pursuant to AS 17.38.040.**

78  
79 **(B) Use of marijuana may not disturb other residents of the same or**  
80 **neighboring properties. Any use disturbing other residents or neighbors must**  
81 **cease immediately.**  
82  
83

**Bold and underline, added.** ~~Strikethrough, deleted~~





