

**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 February 25, 2016 Regular Meeting **Page 3**
- 7. REPORTS**
 - A. Report to the Commission
 - B. Kenai Peninsula Borough (KPB) Marijuana Task Force Report (MTF)- **Page 9**
 1. Minutes from the April 21, 2016 Meeting
- 8. PUBLIC HEARING**
- 9. PENDING BUSINESS**
 - A. Generating Revenue through Cannabis
 1. Memorandum from City Attorney Wells dated May 18, 2016 **Page 13**
 - a. Attachment A
 - b. Attachment B
- 10. NEW BUSINESS**
 - A. Draft Onsite Consumption Regulations 3 AAC 306.365 and Draft Submissions to the Board Regulations 3 AAC 306.925 **Page 87**
 - B. Next Meeting Deliverables, Agenda Items **Page 101**
- 11. INFORMATIONAL MATERIALS**
 - A. 2016 Meeting Schedule and Packet Processing Deadlines **Page 103**
 - B. 2016 Commission Attendance at Council Meetings **Page 104**
 - C. Marijuana Handler Permit Application and Certification Information **Page 105**
 - D. Ordinance 16-23, Repealing Homer City Code Chapter 6.12 Drug Abuse and Paraphernalia **Page 123**
 - E. News Articles regarding the Marijuana Industry In and Outside Alaska **Page 128**
- 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, JUNE 23, 2016 at 5:30pm in the COWLES COUNCIL CHAMBERS located at City Hall 491 E. Pioneer Avenue, Homer Alaska**

Session 16-03, a Regular Meeting of the Cannabis Advisory Commission was called to order by Chair Aryn Young at 5:30 p.m. on April 28, 2016 in the Cowles Council Chambers located at City Hall 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS HARRIS, STEAD, SARNO, ROBL, YOUNG AND REYNOLDS

TELEPHONIC: COMMISSIONER CLARK

ABSENT: COMMISSIONERS LEWIS (EXCUSED)

STAFF: CITY PLANNER ABBOUD
DEPUTY CITY CLERK KRAUSE

APPROVAL OF AGENDA

Chair Young called for a motion to approve the agenda.

REYNOLDS/STEAD - SO MOVED.

There was no discussion.

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

PUBLIC COMMENT

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 February 25, 2016 Regular Meeting

Chair Young called for adoption of the Consent agenda.

CARROLL/REYNOLDS - MOVED TO ADOPT THE CONSENT AGENDA.

Chair young inquired if there were any corrections or changes to the minutes. There were none offered.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

REPORTS

A. Report to the Commission - City Planner Abboud

City Planner Abboud reported that he was in conversation with the City Attorney regarding taxes and they are in the same position with regard to taxes on the Borough's intent to collect sales taxes. He noted that they were hoping that they remit to the city if there are taxes collected on businesses in Homer. He reported that there are different ways to collect taxes either excise or sales and it may be a good thing to talk what the appropriate level if they want to collect tax would be and maybe later what the mechanism would be to collect that tax.

B. Kenai Peninsula Borough (KPB) Marijuana Task Force Report (MTF)-

1. KPB Ordinance 2016-10 Shall the Borough Adopt Local Option to Prohibit The Operation of Any Commercial Marijuana Establishment in the Borough Outside Cities
2. Memorandum from Blaine Gilman, Assembly President re: KPB Ordinance 2016-10
3. Comment submitted by Chair of the KPB MTF Leif Abel re: KPB Ordinance 2016-10
4. KPB Ordinance 2016-12 Amending KPB 7.30.020 Changing the Way Distance is Measured Between Marijuana Establishments and Schools, Churches and Correctional Facilities
5. Memorandum from Stan Wells, KPB Assembly re: KPB Ordinance 2016-12

Chair Young invited comments on the Borough Task Force information provided in the packet. Commissioner Sarno stated that she has an objection to the Borough voter putting the question to the voters the same as she objected to the city putting the question to vote again. She also appreciates and agrees with Chair Able letter and would like to know how the rest of the commission feels with the issue.

Commissioner Harris and Carroll stated that the Borough has pulled Ordinance and have decided to let the voters bring the issue forward via Initiative similar to what is now happening in the city. Further points made by the commission were:

- Petitioners would need a little over 900 signatures to have it on the October Borough ballot.
- There is really little if anything the commission could do about this issue as the decision does not affect city residents.
- The voter results regarding the 2014 Voter Initiative 2 shows more in favor than not so the issue does not make sense.

PUBLIC HEARINGS

PENDING BUSINESS

A. Generating Revenue through Cannabis (This item was carried over from the February 25, 2016 meeting agenda)

Commissioner Robl advocated for some local mechanism to generate revenue and is not sure what would be the best approach as far as local licensing and taxing but believes they should discuss it and move a recommendation forward.

HARRIS/REYNOLDS - MOVED TO RECOMMEND CITY COUNCIL ENACT A 3% EXCISE TAX ON MARIJUANA PRODUCTS IN ADDITION TO ANY TAXES IMPELEMENTED BY THE KENAI PENINSULA BOROUGH AND IT BE IMPLEMENTED WHEN AND IF THE KENAI PENINSULA BOROUGH ENACTS A TAX.

Discussion ensued on the Borough dragging their feet but that this tax was to be placed on businesses that were dealing with marijuana related product not those selling merchandise such as t-shirts, etc. Clarification was made that if the city implements an excise tax that they could collect it independently. Discussion included the following points:

- Costs involved to the city for collection, inspection and enforcement
- Starting with a low tax amount, create a timetable and the increments that will become effective so businesses and investors know what to expect
- What the next step would be and can they get input from the Finance Director and the City Attorney for the next meeting
- Recommend additional fees such as licenses, inspection, etc.
- How they would apply the tax amount which is usually a fixed amount against the product amount and that could be taken from the mandatory quarterly reports with regards to an excise tax versus sales tax
- Implementing a sales tax on just marijuana, clarification needed on limits and collection may be difficult

HARRIS/REYNOLDS - MOVED TO AMEND THE MOTION TO INCREASE THE SALES TAX RATE ON MARIJUANA PRODUCTS BY 2% - 3%

This amendment would increase the revenue for the city, further discussion was trying to determine to collection aspects, requesting input from the Finance Director for the next meeting. Discussion included points of being flexible and general in nature since the commission does not know what will happen in Homer. Commissioner Robl again inquired from City Planner Abboud about having input from Finance on the best practice for collecting fees or taxes from the industry. City Planner Abboud stated he would have to check that out and reiterated the mixed message from the City Attorney in the last memorandum. He is not an expert on taxes. He went on to explain that they can make a process and gain the experience doing that; the Finance Director has stated that it can be done in house, but it may be hard to break out.

Commissioner Reynolds requested attendance of the City Attorney telephonically to answer their questions and concerns at the next meeting.

Commissioner Carroll volunteered to research information from smaller towns in Colorado that are similar to Homer, which will not be awash in dispensaries. Geographically that will not happen here but maybe she would be able to see what those towns have done in regards to taxes.

VOTE. NO. ROBL, STEAD, YOUNG, SARNO, CARROLL, REYNOLDS, CLARK.
YES. HARRIS

Motion failed.

Commissioner Carroll inquired about adding a discussion for drug paraphernalia. Commissioner Reynolds noted that at the next Council meeting there will be an ordinance to update that section of the Homer City Code and Commissioner Robl noted that that enforcement action was taken without his knowledge and would be reversed tomorrow if he can get to it.

HARRIS/REYNOLDS - MOVED TO RECOMMEND HAVING A \$100 DOLLAR LICENSING FEE FOR ANY MARIJUANA BUSINESS.

There was discussion regarding it being a one-time fee and that would not be worth the additional work to collect and that it should be an annual fee. Commissioner Harris stated her intent of the motion to not to be charged to cannabis related merchandise retailers, etc., but only to cannabis product retailers. She would also like to see a cap to any fees charged.

VOTE. NO. REYNOLDS, CARROLL, SARNO, YOUNG, STEAD, HARRIS, ROBL, CLARK

Motion failed.

B. Cannabis Businesses on the Spit (This item was carried over from the February 25, 2016 meeting agenda)

1. Memorandum from the Port and Harbor Advisory Commission dated April 12, 2016 re:
Recommendation to Allow Retail Marijuana on the Spit

HARRIS/REYNOLDS - MOVD TO FORWARD A MOTION IN SUPPORT OF THE PORT AND HARBOR ADVISORY COMMISSION MTION TO ALLOW CANNABIS BUSINESSES ON THE SPIT.

There was a brief discussion in support of the motion.

VOTE. YES. UNANIMOUS CONSENT.

Motion carried.

Commissioner Harris would like to recommend that they do not limit the onsite consumption especially on the Spit. Commissioner Reynolds opined that they should be able to include that in the previous motion and requested clarification. The Clerk noted that they could amend the motion to address consumption.

REYNOLDS/CARROLL - MOVED TO IMMEDIATELY RECONSIDER THE PREVIOUS MOTION.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

HARRIS/REYNOLDS - MOVED TO SUPPORT THE PORT & HARBOR ADVISORY COMMISSION RECOMMENDATION TO ALLOW CANNABIS BUSINESSES ON THE SPIT AND FURTHER RECOMMEND ALLOWING ONSITE NON-SMOKE CONSUMPTION IN ANY CANNABIS RETAIL BUSINESS ON THE SPIT OR IN THE CITY UNTIL STATE REGULATIONS HAVE BEEN DECIDED AND APPROVAL OF HOMER POLICE DEPARTMENT CHIEF.

Commissioner Robl was opposed to onsite consumption due to the exposure to first responders and believes that will also be a major concern at the state level. There was further discussion on the ventilation system requirements and how the consumption of marijuana is conducted in various manners and that most popular is by vaping. Discussion also included the use of protection equipment but use of masks, Commissioner Robl added that Fire or EMT may be able to use face masks but that type of apparatus would impede a police officer by providing impairment to the peripheral vision. It was noted that they would not move to allow the consumption until regulations were established at the State level.

REYNOLDS/CARROLL - MOVED TO AMEND ALLOWING RETAIL AND CONSUMPTION ESTABLISHMENTS ON THE SPIT THAT DID NOT ALLOW SMOKING OF CANNABIS.

There was a brief discussion on the process for the amendment to the motion, preferred combustion (vaping) of cannabis, applicants from Homer aware that they will allow consumption on site since it is being considered by the State to allow sales of food and drink other than cannabis related in the same location.

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

Motion carried.

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

Motion carried.

NEW BUSINESS

A. Welcome New Commissioner!

Chair Young welcomed Commissioner Clark. Commissioner Clark was excited to be on the commission and looks forward to assisting in getting this industry to Homer.

B. Next Meeting Deliverables, Agenda Items

Commissioner Harris requested review of general operations guidelines such as wastewater, ventilation and if the city would be adding anything. Commissioner responses to the request was that the State requirements would be more than adequate and did not see what more they could do.

INFORMATIONAL MATERIALS

- A. 2016 Meeting Schedule and Packet Processing Deadlines
- B. 2016 Commission Attendance at Council Meetings

Commissioner Robl volunteered to attend the May 9th meeting
Commissioner Carroll volunteered for the June and July meetings
Commissioner Harris volunteered for August 8, 2016 meeting.

- C. Kenai Peninsula Borough Ordinance 2016-07 and Related Memoranda
- D. Cannabis Conundrum - Article from the ABA Banking Journal Feb 2014 Issue re Banking & Marijuana

Commissioner Sarno commented that the article was a bit out of date and that there is discussion of creating a State Bank so that there would be an option available and would address the concerns of the Cole Memo. City Planner Abboud responded that the City Attorney has information on banking that could be available for the next meeting. Commissioner Reynolds also commented on the action at the Federal level that may be going forth in the not too distance future.
Commissioner Carroll offered some comments on the California vote on recreational marijuana.

- E. ADN News Article dated April 17, 2016 re: Cannabis Clubs
- F. Local Governments and Marijuana Regulations Revised 040216 A Guide for the City of Homer

Commissioner Reynolds commented that the document was very informative and recommended keeping the document to refer to for each meeting. There was a lot of valuable information that was put together for them.

- G. Notice of Marijuana Control Board Meeting - April 27, 2016

COMMENTS OF THE AUDIENCE

Jeremiah Emmerson thanked the commission for their work and commended them on their actions. He knows it is not easy. He wanted to provide input on the taxes, sales taxes of 3% would be good on retail since they do not have the overhead that growers do, so to have another excise tax in addition to what the state is charging is not favorable. He also commented that Homer will not get a penny if there are no licenses so he advocated for changing the zoning out on the Spit. He then advocated for changes in the rural residential regarding cultivation.

Wes Schact, resident of Fritz Creek commented on the removing of marijuana from the Schedule 1 list with the Feds with regard to the banking issues. He has found that eco-tourism industry is a growing industry and with everybody coming to Homer if could be very lucrative for the city. He offered that having a low sales tax on cannabis businesses would be alright. He commented on the benefits to B & B's charters, etc.

COMMENTS OF STAFF

City Planner Abboud had no comments

Deputy City Clerk Krause commented on the ability to collect fees or taxes could be done simply by existing staff and that creating the forms would be as simple as converting some existing Borough forms for City use. That this should be done since the revenue is very important to off

COMMENTS OF THE CHAIR

Chair Young passed on her comments.

COMMENTS OF THE COMMISSION

Commissioner Robl, Stead, Sarno and Clark had no comments.

Commissioner Harris commented that it was a very good meeting and cannabis is here and the businesses are coming and if they don't do anything in the city then the businesses are just going to set up right outside the city

Commissioner Carroll thanked Chief Robl for addressing the paraphernalia issue with Alaska Glass Shop.

Commissioner Reynolds commented that Chair Young did a great job running the meeting and thank you.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 6:33 p.m. The next regular meeting is scheduled for THURSDAY, MAY 26, 2016 at 5:30 p.m. in the City Hall Cowles Council Chambers located at 491 E Pioneer Avenue, Homer, Alaska.

Renee Krause, CMC, Deputy City Clerk

Approved: _____

Kenai Peninsula Borough

Marijuana Task Force

Meeting Minutes

April 21, 2016

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; 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 Leif Abel

Vice Chair Paul Ostrander

Blaine Gilman

Ron Long (via teleconference)

Chief Peter Mlynarik

Dave Nunley

Wayne Ogle

Dollynda Phelps (via teleconference)

Marc Theiler (via teleconference)

Also in attendance were:

Johni Blankenship, Borough Clerk

Michele Turner, Deputy Borough Clerk

Holly Montague, Deputy Attorney

Bruce Wall, Planner

APPROVAL OF AGENDA

MOTION:

Ostrander moved to approve the agenda.

SECOND:

Nunely

MOTION:

Gilman moved to amend the agenda by removing F. New Business item 1.a. Ordinance 2016-10 as it was withdrawn at the last assembly meeting.

There was no objection to the removal of Agenda Item 1.A.

The motion to pass the agenda as amended was approved by unanimous consent.

APPROVAL OF MINUTES – None.

[Clerk’s Note: The January 20, 2016 meeting minutes were reviewed and approved by Chair Abel and Vice Chair Ostrander as it was uncertain if the task force would be meeting again in the future.]

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

Chair Abel opened the public comment period.

Brian Olson, Soldotna spoke in opposition to Ordinance 2016-12.

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

NEW BUSINESS

1. Review and Recommendations on Assembly Proposed Legislation

- b. Ordinance 2016-12: An Ordinance Amending KPB 7.30.020 to Change the Way Minimum Distances are Measured Between Marijuana Establishments and Schools, Churches and Correctional Facilities, and Imposing Minimum Distances Between Marijuana Establishments and Local Option Zoning Districts (Welles) (Hearing on 05/03/16)

MOTION: Ostrander moved to recommend enactment of Ordinance 2016-12.

SECOND: Ogle.

Task Force Members Phelps, Nunely, Ostrander, Ogle and Long spoke in opposition to recommend enactment of Ordinance 2016-12.

Task Force Member Gilman and Mlynarik spoke in support recommending enactment of Ordinance 2016-12.

VOTE ON MOTION

Yes: Gilman, Mlynarik
No: Long, Nunley, Ogle, Ostrander, Phelps, Theiler, Abel
Absent: None
MOTION FAILED: 7 Yes, 2 No, 0 Absent

OLD BUSINESS

The task force discussed the stability of the marijuana industry, in light of the recent introduction of legislation that would put a question on the October ballot to prohibit the commercial operation of marijuana establishments within the borough. Task force member Nunley asked for some surety that the borough would not introduce any more legislation that would or could negatively impact the marijuana industry. Task force member Gilman indicated the inclusion of local option language in the

State Statutes would make it impossible to rule out any future legislation as it was an option that could be exercised by the local governing body or its citizens.

Chair Abel passed the gavel to Vice Chair Ostrander and offered rebuttal to fear related testimony that was given at the April 17, 2016 Assembly meeting regarding marijuana related crimes and the danger of marijuana edibles to children.

Ms. Phelps indicated the legalization and regulation of the cannabis industry would assist with the reduction of black market crimes and edibles that were currently being produced by home users which are not tested or regulated.

The task force member continued to discuss the pros and cons of the legalization of the commercial marijuana industry.

OTHER

Chair Abel opened the floor to additional public comment.

Bob Thraves, Soldotna spoke in opposition to commercial marijuana establishments in the borough.

Michael Cooper, Nikiski spoke in support of commercial marijuana establishments in the borough.

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

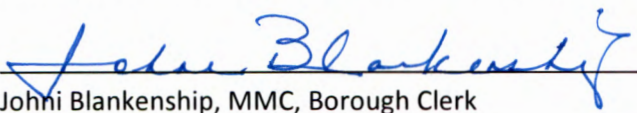
ANNOUNCE NEXT MEETING DATE AND TIME

The Marijuana Task Force is scheduled to automatically sunset on June 30, 2016; seeing no need for a meeting at this time, no future meeting was scheduled. The Task Force members did reserve the right to call a meeting in the interim for cause at the request of any member to the chair.

ADJOURNMENT

The meeting was adjourned at 7:23 p.m. with no objections.

I certify the above represents accurate minutes of the Marijuana Task Force of April 21, 2016.


John Blankenship, MMC, Borough Clerk

Approved by Chair Abel and Vice Chair Ostrander: 4/26/16



MEMORANDUM

**TO: CANNABIS ADVISORY COMMISSION
RICK ABOUD**

FROM: HOLLY C. WELLS

RE: ANALYSIS OF OPTIONS FOR TAXING MARIJUANA

CLIENT: CITY OF HOMER

FILE NO.: 506,742.222

DATE: MAY 19, 2016

I. INTRODUCTION

The Cannabis Advisory Commission (“CAC”) requested an update regarding the City of Homer’s options for taxing marijuana. This memorandum attempts to provide the CAC a summary of the relevant law and most viable tax options available to it, as well as examples of taxes imposed upon marijuana and similar products by the State of Alaska and other municipalities. While this memorandum draws attention to the potential challenges and benefits associated with each tax option, a comprehensive analysis of the implementation of any given tax cannot be completed until the details of such a tax are known. Thus, if and when the CAC chooses to recommend a tax on marijuana and identifies the essential terms of the recommended tax, I will conduct a more tailored analysis of the legal propriety of the selected tax method.

II. DISCUSSION AND ANALYSIS

Alaska Statute 29.35.010(6) grants municipalities “general powers, subject to other provisions of law, to levy a tax or special assessment, and impose a lien for its enforcement.” The Alaska Constitution requires that a “liberal construction shall be given to the powers of local government units.” Thus, the City’s ability tax is subject only to the limitations expressly imposed by the Alaska Statutes and boundaries of the constitution.

A. Imposing Sales and Use Taxes on Marijuana and Marijuana Products

Generally, municipalities have broad authority to adopt sales and use taxes on a local level.¹ Specifically, the statutes permit municipalities to levy taxes on sales, rents and services provided within the municipality.² The sales tax in Homer is currently imposed at 7.5% (4.5% City of Homer and 3% Kenai Peninsula Borough). This general sales tax applies to “all sales, rents and services within the City except as the same may be otherwise exempted by law.”³ Thus, this general sales tax would apply to marijuana and marijuana products unless such products are exempted from that tax. An increase in the rate of levy of a sales tax must be authorized by ordinance and ratified by a majority of the voters at an election.⁴

While the City may increase the City’s sales tax without Borough approval, the City faces certain restrictions regarding the goods and services it may tax based upon the Borough’s tax regime. Under AS 29.45.700(a), the City’s sales tax structure must mirror that of the Borough with regard to which transactions are taxable or exempt from taxation, subject to the authority of the “assembly...by ordinance to authorize a city to levy and collect sales and use taxes on other sources.”⁵ As of the date of this memorandum, the Kenai Peninsula Borough (the “Borough”) does not impose a separate or higher sales tax on marijuana or marijuana products. Indeed, imposing a higher sales tax on marijuana and marijuana products would likely violate requirements under Alaska law and the Constitution requiring tax rates to be nondiscriminatory and uniform. Specifically, the Alaska Supreme Court found that Homer improperly adopted a sales tax on rents (“bed tax”) at a higher rate than the tax on other goods and services, in part, because:

The differential rate in effect makes this tax a selective tax. It clearly imposes a burden on one transaction that is not imposed on any other. Additionally, the tax was not levied pursuant to the vote on the general

¹ See AS 29.45.650-710.

² One of the hallmarks of a sales tax is that it taxes the actual transaction involved; i.e., the tax is imposed when the sale, rental, or provision of services takes place and not before. This distinguishes a sales tax from a license or privilege tax, which is a sum exacted for the privilege of carrying on an occupation in general, rather than any particular exercise of this privilege. *City of Homer v. Gangl*, 650 P.2d 396, 399 (1982).

³ HCC 9.16.010.

⁴ AS 29.45.670. This statute is part of Article 4 of AS 29.45 entitled “Borough Sales and Use Tax.” It applies to the City through AS 29.45.700(a), which provides in relevant part, “[a] city in a borough that levies and collects areawide sales and use taxes may levy sales and use taxes on all sources taxed by the borough in the manner provided for boroughs.”

⁵ *City of Homer v. Gangl*, 650 P.2d 396, 399-400.

sales tax, but after a special proposition vote. The city bed tax is clearly selective and, therefore, violates the requirement of uniformity.⁶

Thus, if the Borough adopts a sales tax, AS 29.53.440 requires the City to impose the same tax or none at all and it is highly unlikely that the City may adopt a sales tax on marijuana at a higher rate than the general sales tax rate imposed on other goods and services.

Alternatively, the Borough could choose to exempt a marijuana sales tax if the City decides to implement the tax. In 2005, the sales tax laws changed to allow a borough to exempt any source from the borough sales tax if it is taxed by a city within the borough.⁷ However, if the Borough does not implement a sales tax, the City will incur the cost of collecting the sales tax. This could prove to be costly. Additionally, the City may still face a challenge if the sales tax rate it imposes on marijuana exceeds the rate of other goods and services in the City.

When considering the implementation of a sales tax, the CAC may benefit from reviewing the sales taxes adopted by other municipalities. To this end, we have attached the following to this memo as Exhibit A:

1. The City of Fairbanks, Alaska and the Fairbanks North Star Borough ordinances imposing a 5% sales tax on the sale of marijuana.
2. The Municipality of Anchorage ordinance imposing a 5% sales tax on the sale of marijuana.

B. Imposing an Excise Tax on Marijuana and Marijuana Products

Given the limitations and uncertainties surrounding a marijuana sales tax, an excise tax on marijuana may better serve the City's interests. Prior to imposing an excise tax, the CAC will need to consider a myriad of issues, including but not limited to:

- Does the CAC believe it's in the City's best interest to impose an excise tax on marijuana?
- How should the tax be calculated?
- What should the tax rate be?
- When should the tax be imposed? For example, should it be imposed at the point of sale or production?

⁶ *Gangl*, 650 P.2d 396, 401-02.

⁷ This allows a borough to ensure that an item in the city costs the consumer no more than it would cost in the borough. This tends to "level" the playing field when purchasing certain items in both the city and the borough.

- Who should be subject to the tax? Should it apply to the retailers, the manufacturers, the cultivators or the consumers?
- How should taxes be reported? Should it be a self reporting system relying upon tax returns? If so, when should the returns be due? Quarterly?
- What administrative resources would be needed to collect and enforce the tax?

While this memo does not delve into each of these considerations, it is designed to provide the CAC with the legal framework necessary to knowledgeably delve into these questions.

1. The Basics: What is an Excise Tax?

Generally speaking, an “excise tax” is a “tax on the enjoyment of a privilege or tax on the manufacture, sale or consumption of a commodity.” With regard to tobacco, an excise tax is treated as a tax on the commodity (the cigarette), and regardless of how many times it is sold, it is taxed as a commodity only once.⁸ Excise taxes are often a great option for municipalities as they may be implemented without voter approval and do not have many of the limitations placed on sales taxes regarding the uniformity of the rate or limitations on what may be taxed.

In addition to more general excise taxes, it is worth noting that some municipalities within Alaska impose severance taxes. Severance taxes are a type of excise tax. There are two boroughs, the Denali Borough and the Kodiak Island Borough that impose a severance tax. A severance tax is imposed on harvesting or extracting natural resources.

2. Specific Considerations When Implementing an Excise Tax

As recognized above, if the City decides to implement an excise tax on marijuana, it will need to make numerous decisions regarding the structure and enforcement of the tax. While the tax enforcement and collection process is discussed later in this memo, the CAC will first need to establish a rate of taxation, a point of taxation, and the means of calculating the amount of tax owed.

In determining the best approach, the CAC has many options. While it cannot impose a tax based on the value of marijuana without potentially imposing a sales rather than excise tax, the City may adopt an excise tax that is imposed at the point of sale to a consumer. It may also impose the tax upon the transfer from the cultivation facility to either the retail or the manufacturing facility. For example, the State of Alaska has implemented a marijuana excise tax based upon the sale or transfer from the cultivation facility to the retail store or manufacturing facility. The rate imposed is \$50

⁸ See *Fannon v. Matanuska-Susitna Borough*, 192 P.3d 982, 989 (Alaska 2008).

per ounce on marijuana at the point of sale or transfer. The legislature also preserved the State's right to establish lower tax rates for different parts of the marijuana plant. See AS 43.61.010.

The Mat-Su Borough imposed a tobacco excise tax that was upheld by the Alaska court. In the Mat-Su Borough, the tobacco tax was 50 mils per cigarette and 45% of the wholesale price of all other tobacco products. The tax was imposed on the person who:

- (1) first acquires the cigarettes or other tobacco products within the borough;
- (2) brings or causes cigarettes or other tobacco products to be brought into the borough;
- (3) makes, manufactures, or fabricates cigarettes or other tobacco products in the borough; or
- (4) ships or transports cigarettes or other tobacco products into the borough.^[2]

Thus, the Mat-Su Borough imposed the tax on the first entity to bring or create the tobacco product within the Mat-Su Borough. While the Mat-Su Borough identified several different points of taxation, it ensured that the tax was only applied at the initial import or creation into the Mat-Su Borough and not at more than one point of transfer or import.⁹

The only municipality that has adopted an excise tax on marijuana at this time is Houston, Alaska.¹⁰ Houston levies its excise tax on the cultivation of marijuana. Specifically, Houston taxes non-exempt marijuana at:

- (a) \$10 per ounce for any part of the flower or bud as defined in Alaska regulations;
- (b) \$2 per ounce for the remainder of the plant

The Houston Municipal Code ("HMC") also mandates that cultivation facilities that are also licensed as manufacturing or retail facilities within Houston must pay the tax on marijuana transferred in-house.

Houston's excise tax regime is comprehensive. Under Houston's excise tax laws, entities licensed to operate in Houston must submit a monthly tax return and full

⁹ *Fannon v. Matanuska-Susitna Borough*, 192 P.3d 982, 983 (Alaska 2008)

¹⁰ See Houston, Alaska Ordinance 16-09 amending the Houston Municipal Code to impose an excise tax and certain licensing requirements on marijuana facilities within the City of Houston. This ordinance is attached to this memorandum as Exhibit B, for the CAC's ease of reference.

payment for each location operated within Houston.¹¹ The City Clerk may file an involuntary return if a person or entity licensed to operate a cultivation, manufacturing, or retail marijuana facility within Houston does not file a tax return.¹² Houston Municipal Code also incorporates provisions regarding civil fraud, tax liens, and audit procedures.¹³

Houston also imposes a 6% late filing and a 6% late payment penalty on taxpayers if the total amount owed is not paid within seven days of the due date. In the event that a taxpayer fails to file or pay within 15 days from the tax return deadline, the late filing and late payment penalties increase to 15% for late filing and 15% for late payment.¹⁴

The State of Alaska, the Mat-Su Borough, and Houston demonstrate the difference between excise tax regimes. While the CAC may prefer a different direction, the excise taxes adopted in the above jurisdictions may provide the CAC with discussions regarding the specifics of an excise tax on marijuana.

III. CONCLUSION

Ultimately, the decision whether or not to impose a tax on marijuana and the type of tax to impose raises numerous challenges for the CAC. Prior to delving into any taxation approach, the CAC will need ample input from the Borough, the marijuana industry, and City staff. At this time, there are no pending applications for marijuana facilities in the City. Additionally, the Borough has not yet proposed any taxes on marijuana. If the City dedicates both human and financial resources to determining the viability of taxing the marijuana industry in Homer before such an industry exists, it may prove difficult to determine the potential revenue generated by the tax or the costs of administering it. Consequently, I recommend the CAC wait to gauge both the Borough's taxing approach and the reality of the industry within the City prior to proposing legislation on taxation. This approach also affords the CAC time to gain knowledge on its taxing options and analyze the success or failure of such taxes in other communities.

¹¹ HMC 4.24.130.

¹² HMC 4.24.130.

¹³ HMC 4.24.160-HMC 4.24.220.

¹⁴ HMC 4.24.160.

ATTACHMENT A

ORDINANCE NO. 5986, AS AMENDED

**AN ORDINANCE ENACTING A RETAIL SALES TAX ON MARIJUANA
AND REFERRING THE ORDINANCE FOR RATIFICATION AT THE
NEXT GENERAL ELECTION**

WHEREAS, Alaska Statute 17.38 was adopted by Ballot Measure 2, An Act to Tax and Regulate the Production, Sale and Use of Marijuana, and provided for legal sale of marijuana in Alaska; and

WHEREAS, under the provisions of AS 17.38, retail sales of marijuana will begin sometime in 2016; and

WHEREAS, Fairbanks Charter Section 6.5 provides that any new or additional sales tax levied by the City Council, other than hotel/motel, alcohol, or tobacco, must be approved by the voters in a general election; and

WHEREAS, in order to be in place when the legal sale of marijuana begins in 2016, the ratification of an ordinance imposing a sales tax on the sale of marijuana must be on the ballot for the City's general election in October of 2015;

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. Fairbanks General Code, Chapter 74, is hereby amended by adding a new Article VI – Marijuana Sales Tax, as follows:

ARTICLE VI. MARIJUANA SALES TAX

Sec. 74-200. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Marijuana means all parts of the plant (genus) Cannabis, whether growing or not, the seed thereof, the resin extracted from any part of the plant, and any compound, manufacture, 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 that 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.

Buyer means without limiting the scope thereof, any person or other entity that purchases or contracts to purchase marijuana.

Certification of registration means the certificate issued by the chief financial officer under section 74-204.

Consideration means anything of value, including but not limited to money, credit, rights, goods, services, and property, received by a seller from a buyer.

Estimated tax means the tax determined under section 74-207.

Retail sale means the transfer of any marijuana from a marijuana retail establishment to any person or entity, for any consideration. If state law is amended to allow other marijuana establishments to conduct sales of marijuana directly to buyers who are not licensed marijuana establishments, such sales will also be considered retail sales subject to taxation under this Article.

Sale made within the city means any retail sale where: (1) the buyer takes possession of, or title to, the purchased marijuana within the city; and/or (2) the seller receives consideration for the purchased marijuana within the city.

Sales price means the price of any marijuana.

Seller means any person or any other entity that sells or contracts to sell any marijuana to a buyer.

Tax means the marijuana sales tax as levied under this article.

Taxable retail sale means any sale made within the city that is not entirely exempt from the tax levied under this article.

Unremitted tax means

- (1) Any tax not remitted to the city that a seller is required by this article to collect from a buyer, notwithstanding whether the seller actually collects such tax from a buyer; and
- (2) Any estimated tax not remitted to the city.

Sec. 74-201. Marijuana sales tax levy.

There is levied within the corporate limits of the city a tax of five percent upon the sales price of all retail sales of marijuana made within the corporate limits of the city.

Sec. 74-202. Due date; delinquency.

The obligation for the payment of the tax is upon the buyer. All taxes imposed by this article are due and payable by the buyer at the time of sale, or with respect to credit transactions at the time of collection, and are delinquent if not paid when due.

Sec. 74-203. Obligation of seller to collect.

Every seller making sales taxable under this article shall collect the taxes from the buyer at the time of sale, or with respect to credit transactions at the time of collection of sales price, and shall deliver the same to the City of Fairbanks in accordance with the requirements in this article. The seller will be compensated the amount of two percent of the taxes transmitted to the city for the use of seller's resources in collecting the taxes. This compensation will only occur when the seller submits reports and pays the taxes on time.

Sec. 74-204. Seller registration; certification; revocation.

(a) All sellers of marijuana within the City of Fairbanks must possess a current certificate of registration, for the purpose of collecting and remitting the tax under this article, prior to engaging in any retail sales or opening additional places of business.

(b) All sellers requiring a certificate of registration under subsection (a) of this section must first possess current State of Alaska and City of Fairbanks business licenses, and a current state marijuana license as required by AS 17.38, and, if applicable, a City of Fairbanks marijuana license. Copies of the business licenses and all applicable marijuana licenses must be provided to the city before a certificate of registration will be issued.

(c) Upon receipt of a properly executed application for the certificate of registration, on a form prescribed by the chief financial officer, the chief financial officer will issue without charge to the seller a certificate of registration. The certificate of registration shall bear the name of the seller and the address of the registered place of business. The certificate must be prominently displayed at the place of business along with all business and marijuana licenses.

(d) The certificate of registration is neither assignable nor transferable. The seller must immediately surrender the certificate to the chief financial officer if the seller ceases to do business at the location named on the certificate, or if the seller otherwise sells, assigns, transfers, conveys, or abandons the seller's business to any person or any other entity. When there is a change of address for the seller's place of business, a new certificate of registration is required bearing the same registration number, but showing the new location address.

(e) A seller must submit an updated application as prescribed by the chief financial officer upon any change in form of ownership, business name, or contact information. The chief financial officer, after receipt of the updated application, shall then determine whether a new certificate of registration should be issued. If a new certificate of registration is issued, the seller must first surrender the prior certificate of registration to the chief financial officer before taking possession of the new certificate.

(f) The chief financial officer may revoke a certificate of registration if a seller fails to comply with any of the provisions of this article. A seller may not engage in retail sales while the certificate of registration is revoked.

(g) Any seller who violates any requirement of this section is subject to the penalties provided under this article. The city is also entitled to injunctive relief to prevent the seller from engaging in retail sales until the seller complies with the requirements of this section.

Sec. 74-205. Segregation of taxes collected; title.

Upon collection by the seller of the taxes imposed in this article, title to the collected taxes vests in the city. Pending transmittal to the city, the seller shall hold the tax funds in trust for the benefit of the city.

Sec. 74-206. Sales tax returns; transmittal; payment of taxes due.

(a) Every seller possessing a current certificate of registration shall, on or before the 15th day of the month, file a properly completed return for the preceding month upon forms furnished by the city and remit payment for the amount received from the following:

- (1) All retail sales made within the city.
- (2) The amount received from nontaxable sales.
- (3) The amount received from all taxable sales.
- (4) The amount of tax.
- (5) The taxes collected.
- (6) Such other information and supporting papers as the chief financial officer may require.

(b) Every seller holding a certificate of registration in the city shall sign and transmit the return together with taxes collected to the city on or before the proper date.

(c) A report shall be filed by every seller possessing a current certificate of registration even if the seller has not engaged in taxable retail sales during the reporting period.

(d) All returns must be received by the city clerk's office no later than 4:00 p.m. on the 15th day of the month following tax collection. Postmarks will not be considered.

Sec. 74-207. Estimated tax.

If the city is unable to ascertain the tax due to be remitted by a seller by reason of the failure of the seller to keep accurate books, allow inspection, failure to file a return or falsification of

records, the city may make an estimate of the tax due based on any available evidence. Notice of the city's estimate of taxes due will be mailed to the seller. Unless the seller files an accurate monthly report covering the time period subject to the city's estimate or files a written appeal within 30 days of the mailing of the city's estimate, the city's estimate becomes final for the purpose of determining the seller's tax liability.

Sec. 74-208. Administrative appeals.

(a) A seller or buyer may appeal to the city mayor any estimated tax, penalties, costs, fees, or other decision under this article made by the chief financial officer. Any appeal must be filed within 30 days after the notice of any decision is mailed to the seller or buyer. The failure to appeal a decision of the chief financial officer renders the decision final.

(b) The appeal must state the legal and factual basis for the appeal and include all written evidence relevant to the appeal within the appellant's possession. If the appeal raises relevant questions of fact, the city mayor shall conduct a hearing. At the hearing, the parties shall have the right to present testimony and cross-examine witnesses. The mayor shall then issue a written decision that includes findings of fact.

(c) An administrative appeal decision by the mayor is a final decision that shall be enforced under this article unless stayed by court order or by agreement of the city and appellant. The mayor's final decision may be appealed to superior court in the fourth judicial district as provided by state law.

Sec. 74-209. Presumption; credit.

(a) Every sale made within the city, unless explicitly exempted by this article, is presumed to be subject to the tax imposed under this article in any action to enforce the provisions of this article.

(b) A credit will be allowed for taxes erroneously collected. Such credit will be made by the chief financial officer after receipt and review of documentation and amended return supporting such request. Upon receipt of such documentation, the chief financial officer will examine the documentation and submit a written decision within 15 days.

Sec. 74-210. Sales tax returns; confidential information.

(a) All returns filed with the city for the purpose of complying with the terms of this article and all data obtained from such returns are declared to be confidential, and such returns and data obtained from such returns will be kept from inspection of all persons, except the chief financial officer and the city attorney; nevertheless, upon the advice of the city attorney, the chief financial officer may present to the finance committee or city council in private sessions assembled, any return or data obtained from such returns.

(b) It is unlawful for any city employee to publicly divulge any financial information obtained from any return filed with the city or from any data obtained from any such returns unless authorized by the seller or unless the person receiving such information is permitted to view such

returns under the terms of this article.

(c) It is the duty of the chief financial officer to safely keep the returns referred to in this article and all data taken from such returns secure from public inspection and secure from all private inspection except as provided in the article. The chief financial officer may, after six years from the date any such return has been filed, destroy the return.

(d) The use of such returns in a criminal or civil action brought to enforce the terms of this article against any person is not a violation of this article. The city in the prosecution of any such action may allege, prove, and produce any return filed by and on behalf of the defendant, including any data obtained from such return.

(e) Nothing in this article will be construed to prohibit a seller or their duly authorized representative from receiving a copy of any return or report filed by the seller, or to prohibit the publication by the city of statistics classified so as to prevent the identification of particular reports or returns.

Sec. 74-211. Recordkeeping duty; investigation.

(a) A seller shall keep complete and accurate books, records, and accounts, showing all inventory purchases and the gross receipts for all sales made within the city, for a period of three years from the date of each sale. In addition to all their record keeping requirements under this article, a seller shall maintain all written and electronic records relating to any marijuana sale, for a period of three years after such sale, including but not limited to:

1. All local, state, and federal tax reports and forms;
2. All accounting records;
3. All sales receipts; and
4. All documentary evidence supporting any exemption provided under this article.

(b) Upon reasonable notice, a seller must make all records and materials specified in subsection (a) of this section available for inspection by the chief financial officer or authorized representative during customary business hours.

(c) The chief financial officer may conduct random audits of seller's monthly reports by examining any of the records and materials specified in subsection (a) of this section and other data deemed necessary.

(d) For the purpose of ascertaining the correctness of a return or for the purpose of determining the amount of tax collected or which should have been collected by any person, the chief financial officer or mayor may hold investigations and hearings concerning any matters covered by this article and may examine any relevant books, papers, records or memoranda of any such person, and may require the attendance of such person, or any officer or employee of such

person. The mayor shall have the power to administer oaths to such persons. The mayor shall issue all formal subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda.

(e) All subpoenas issued under the terms of this article may be served by any person. The fees of witnesses for attendance and trial shall be the same as the fees of witnesses before the superior court, such fees to be paid when the witness is excused from further attendance. When a witness is subpoenaed at the instance of any party to any such proceeding, the mayor may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case the mayor may, at his discretion, require a deposit to cover the cost of such service and witness fees. A subpoena issued shall be served in the same manner as a subpoena issued out of a court of record.

(f) The superior court, upon the application of the mayor, is empowered to compel obedience to such subpoena and compel the attendance of witnesses, the production of relevant books, papers, records or memoranda, and the giving of testimony before the city attorney or any of his duly authorized representatives in the same manner and extent as witnesses may be compelled to obey the subpoenas and order of the court. For purposes of this section, the term "witness," in addition to any person covered under the terms of this article, shall include any person or entity with knowledge or information relevant to sales made under this article.

(g) The mayor, or any party in an investigation or hearing before the mayor, may cause the deposition of witnesses residing within or outside the state to be taken in the manner prescribed by law for like depositions in civil actions in courts of this state, and to that end compel the attendance of witnesses and the production of relevant books, papers, records or memoranda.

Sec. 74-212. Recovery of taxes.

(a) Taxes due but not paid may be recovered by the city by an action at law against the buyer. Taxes collected but not transmitted may be recovered by an action against the seller, and sales tax returns shall be prima facie proof of taxes collected but not transmitted.

(b) In addition to any other remedies and administrative procedures provided under this article, the city may file a civil action against any seller or buyer for recovery of any tax, unremitted tax, penalties, interest, costs, and fees, that have not been paid or remitted when due.

(c) Any person who holds an ownership interest in a seller, or any other person who is an agent of the seller, is personally liable for all taxes, penalties and interest due from such seller under this article.

Sec. 74-213. Tax lien.

(a) Any tax, unremitted tax, penalties, interest, costs and fees that this article requires a seller or buyer to pay or remit shall constitute a lien in favor of the city upon all assets, earnings, revenue and property of the seller, other persons liable under subsection 74-212(c) (recovery of taxes), or the buyer. This lien arises when any such payment or remittance is not made when due and continues until the payment or remittance is fully satisfied through execution, foreclosure sale, or

any other legal means. This lien is not valid as against a mortgagee, pledgee, purchaser, or judgment creditor until notice of the lien is recorded in the office of the district recorder for the fourth judicial district.

(b) When recorded, a lien authorized under this section has priority over all other liens except those for property taxes and special assessments and all liens perfected before the recording of the sales tax lien for amounts actually advanced before the recording of the sales tax lien and mechanics' and materialmen's liens which have been recorded before the recording of the sales tax lien. Upon such filing, the lien is superior to all other liens except as otherwise provided by state or federal law.

Sec. 74-214. Foreclosure.

(a) Delinquent sales tax liens on real property shall be enforced by quarterly foreclosures on March 31, June 30, September 30 and December 31.

(b) Tax liens shall be foreclosed in the manner provided for in sections 58-49 through 58-61.

Sec. 74-215. Interest rate; administrative costs.

(a) A simple interest rate of 1.25 percent per month, or a lesser rate if required by state law, shall accrue on all unremitted taxes, not including penalty and administrative fees, from the original due date provided under this section until remitted in full.

(b) In addition to any other penalties imposed under this article, a seller shall pay any administrative fees, outside collection agency fees, attorney fees, and other costs and fees incurred by the city or its agent(s) in connection with any collection, or attempted collection, from the seller of any unremitted tax, unpaid interest, or unpaid penalties due under this article.

(c) The city will apply a seller's payment in the following order: first to any unpaid administrative fees, outside collection agency fees, attorney fees, and other collection costs and fees; second to any unpaid penalties; third to any unpaid interest that has accrued on un-remitted taxes; and fourth, to the principal of any un-remitted taxes.

Sec. 74-216. Penalties for violations.

(a) *Failure to file or remit.* A seller who has made sales in the city and who thereafter fails to file a sales tax return or remit the collected tax as required by this article shall incur a civil penalty of \$100.00 if the return or the tax is received later than the last day of the month in which it is due and shall incur a civil penalty of \$1,000.00 if the return or the tax is received later than the last day of the next month following the month in which it was due.

(b) *Non-retention of records.* A seller who does not provide required records upon request as listed in Section 74-211 shall incur a civil penalty of \$1,000.00.

(c) *Collection of taxes.* A seller who in the course of his business makes sales upon which a tax

is levied under this article and who fails to collect such taxes shall incur a civil penalty of double the tax which should have been collected.

(d) *False statements.* Any person who makes any false statement to a seller or to the chief financial officer or mayor which is material in determining whether a sale is taxable under this article is guilty of a misdemeanor and shall be punished as provided in section 1-15.

(e) *Certificate of registration.* Any seller and any officer of a corporate seller failing to file a certificate of registration or failing to furnish the data required in connection with such certificate or failing to display or surrender the certificate of registration as required by this article, or attempting to assign or transfer such certificate shall be guilty of a misdemeanor and shall be punished as provided in section 1-15.

(f) *Penalty.* Any person who violates any of the provisions of this article shall be punishable as provided in section 1-15. A separate offense shall be deemed committed upon each day of a continuing violation.

Sec. 74-217. Collection policy.

It shall be the policy of the city that delinquent taxes shall be promptly collected without offset, compromise or time extensions for payment.

Sec. 74-218. Rules and regulations.

(a) The mayor is empowered to enact rules and regulations to implement the sales tax levied under this article.

(b) The chief financial officer shall take all lawful and necessary actions to administer this article including, but not limited to, adopting and revising procedures, fees, and written guidelines for the determination of the taxability of sales.

(c) The chief financial officer may also take other lawful actions to administer this article including, but not limited to, issuing written determinations of the taxability of specific sales upon request and contracting services for collection of delinquent accounts.

(d) With the approval of the chief financial officer, the finance department staff shall prepare, implement, and revise forms for the administration of this article.

Section 2. The City Clerk is directed to place this ordinance on the ballot for ratification by the voters of the City of Fairbanks at the next general election, with the ballot proposition to read as follows:

Ballot Question No. _____

Information: On July 20, 2015, the Fairbanks City Council passed Ordinance No. 5986, as Amended; which enacted a five percent retail sales tax on Marijuana sold within the City of Fairbanks. Fairbanks Charter Section 6.5 provides that any new or additional sales tax levied by the City Council must be approved by the voters in a general election.

Should Ordinance No. 5986, as Amended, An Ordinance Enacting a Retail Sales Tax on Marijuana and Referring the Ordinance for Ratification at the Next General Election, be ratified?

_____ Yes

_____ No

A "Yes" vote ratifies Ordinance No. 5986, as Amended, and allows the City of Fairbanks to impose a 5% retail sales tax on any sale of marijuana within the City of Fairbanks.

A "No" vote rejects Ordinance No. 5986, as Amended, and no sales tax may be imposed by the City of Fairbanks on the sale of marijuana.

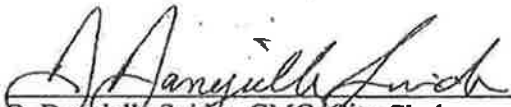
Section 3. This ordinance was passed by this Council on the 20th day of July 2015 but does not become effective until ratified by the voters of the City of Fairbanks.



JOHN EBERHART, MAYOR


AYES: Walley, Matherly, Gatewood, Pruhs, Cleworth, Staley
NAYS: None
ABSENT: None
ADOPTED: July 20, 2015

ATTEST:



D. Daniëlle Snider, CMC, City Clerk

APPROVED AS TO FORM:



Paul J. Ewers, City Attorney

ORDINANCE NO. 5970

**AN ORDINANCE AMENDING FAIRBANKS GENERAL CODE SECTION
46-42 DISTURBING THE PEACE BY ADDING A NEW SUBSECTION
RELATING TO MARIJUANA SMOKE**

WHEREAS, Ballot Measure 2 – An Act to Tax and Regulate the Production, Sale and Use of Marijuana, codified as Alaska Statute 17.38, providing for the legalization of marijuana, was passed by the voters in the recent state election and certified on November 28, 2014, by the State of Alaska, Division of Elections; and

WHEREAS, the effective date of the legislation enacted by Ballot Measure 2 was February 24, 2015; and

WHEREAS, on February 23, 2015, the City Council passed Ordinance No. 5964 defining those “public places” where consuming marijuana is prohibited; and

WHEREAS, consumption of marijuana by smoking produces an airborne by-product that could affect and possibly harm those in close proximity to its consumption; and

WHEREAS, FGC Sec. 46-42 (Disturbing the Peace) currently does not take into account when the smoke and odor of marijuana consumption disturbs the peace and privacy of others.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. Fairbanks General Code Section 46-42 Disturbing the Peace is amended by adding subsections (g), (h), and (i) as follows:

Sec. 46-42. Disturbing the peace.

* * * * *

- (g) In addition to subsections (a) and (b), a person commits the offense of disturbing the peace if they:
 - (1) In a private place, consume marijuana with the intent to disturb or in reckless disregard of the peace and privacy of others after having been informed by another that the conduct is disturbing the peace and privacy of others not in the same place; or
 - (2) After being informed by a police officer that their consumption of marijuana is in violation of subpart (1), refuses to abate the consumption.

(h) For purposes of this section, the following definitions and conditions apply:

- (1) *Consume* has the meaning, in all conjugate forms, of "consumption" set forth in AS 17.38.900.
- (2) *Marijuana* has the meaning set forth in AS 17.38.900.
- (3) *Private place* means any place that is not a "public place" as defined in FGC Sec. 46-44(b)(3).
- (4) To disturb the peace and privacy of others, the consumption of marijuana must be of such a nature that it would disturb a not unduly sensitive individual.

(i) Violation of subsection (g) above is a minor offense punishable by a fine of \$100.00. Disposition of this offense may be without court appearance pursuant to AS 29.25.070 and the Alaska Minor Offense Rules upon payment of the \$100 fine and payment of the state surcharge required by AS 12.55.039 and AS 29.25.074. This fine may not be judicially reduced.

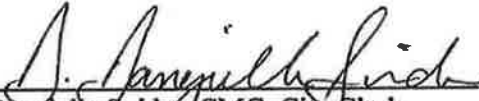
SECTION 2. That the effective date of this Ordinance shall be the 25th day of April 2015.


John Eberhart, City Mayor

AYES: Pruhs, Gatewood, Staley, Cleworth, Matherly, Walley
NAYS: None
ABSENT: None
ADOPTED: April 20, 2015

ATTEST:

APPROVED AS TO FORM:


D. Danyielle Snider, CMC, City Clerk


Paul J. Ewers, City Attorney

ORDINANCE NO. 5964

**AN ORDINANCE AMENDING FAIRBANKS GENERAL CODE CHAPTER
46 OFFENSES BY ADDING A NEW SECTION TO PROHIBIT THE
CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE**

WHEREAS, Ballot Measure 2 – An Act to Tax and Regulate the Production, Sale and Use of Marijuana, codified as Alaska Statute 17.38, providing for the legalization of marijuana, was passed by the voters in the recent state election and certified on November 28, 2014, by the State of Alaska, Division of Elections; and

WHEREAS, newly enacted AS 17.38.040 states as follows:

Public consumption banned, penalty.

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

; and

WHEREAS, the state statute does not define “public”; and

WHEREAS, the state statute does not discuss or mandate any enforcement mechanism; and

WHEREAS, the proponents of the effort to legalize marijuana referred to themselves as the “campaign to Regulate Marijuana Like Alcohol”; and

WHEREAS, the Fairbanks General Code, FGC Sec. 46-80, bans the consumption of alcohol in certain public places; and

WHEREAS, the effective date of the legislation enacted by Ballot Measure 2 is February 24, 2015; and

WHEREAS, within the City of Fairbanks, the enforcement of the state’s smoking in public statute would be the responsibility of the Fairbanks Police Department; and

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. Fairbanks General Code Chapter 46 Offenses is amended by adding the following section to Article II:

Sec. 46-44. Consuming marijuana in public place.

(a) It is unlawful for any person to knowingly consume marijuana when the person is:


- (1) On, in, or upon any public place, except as permitted by ordinance, regulation, statute or permit; or
- (2) Outdoors on property adjacent to a public place, and without consent of the owner or person in control thereof.

(b) For purposes of this section, the following definitions apply:

- (1) *Consume* has the meaning, in all conjugate forms, of "consumption" set forth in AS 17.38.900.
- (2) *Marijuana* has the meaning set forth in AS 17.38.900.
- (3) *Public place* means a place to which the public or a substantial group of persons has access and includes, but is not limited to, streets, highways, sidewalks, alleys, transportation facilities, parking areas, convention centers, sports arena, schools, places of business or amusement, shopping centers, malls, parks, playgrounds, prisons, and hallways, lobbies, doorways and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

(c) Violation of this section is a minor offense punishable by a fine of \$100.00. Disposition of this offense may be without court appearance pursuant to AS 29.25.070 and the Alaska Minor Offense Rules upon payment of the \$100 fine and payment of the state surcharge required by AS 12.55.039 and AS 29.25.074. This fine may not be judicially reduced.

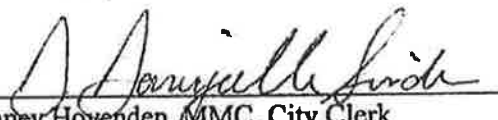
SECTION 2. That the effective date of this Ordinance shall be the 28th day of February 2015.



 John Eberhart, City Mayor

AYES: Matherly, Cleworth, Walley, Staley, Gatewood, Pruhs
 NAYS: None
 ABSENT: None
 ADOPTED: February 23, 2015

ATTEST:

APPROVED AS TO FORM:


 Janey Hovenden, MMC, City Clerk


 Paul J. Ewers, City Attorney

1 By: Christopher Quist
2 Introduced: 04/14/2016
3 Advanced: 04/14/2016
4 Amended: 04/28/2016
5 Adopted: 04/28/2016
6
7

8 FAIRBANKS NORTH STAR BOROUGH

9
10 ORDINANCE NO. 2016-24

11 AN ORDINANCE PROVIDING FOR A BALLOT QUESTION AND TO AMEND THE
12 FAIRBANKS NORTH STAR BOROUGH CODE OF ORDINANCES RELATING TO
13 ALCOHOLIC BEVERAGE TAX
14

15
16 WHEREAS, A sales tax or increase in the rate of levy of a sales tax must
17 be approved by the voters; and
18

19 WHEREAS, Alaska Statute 17.38 was amended by Ballot Measure 2, An
20 Act to Tax and Regulate the Production, Sale and Use of Marijuana, and provided for
21 legal retail sales of marijuana and marijuana products in Alaska; and
22

23 WHEREAS, Ordinance No. 2016-16 authorized a proposed ballot question
24 for the October 4, 2016 election to provide for a marijuana and marijuana product sales
25 tax; and
26

27 WHEREAS, It is the intent of this assembly to tax marijuana like alcohol;
28 and
29

30 WHEREAS, Marijuana and alcohol should therefore be subject to the
31 same rate of levy of a sales tax; and
32

33 WHEREAS, The proposed ballot question on marijuana and marijuana
34 product sales tax, if passed, will levy an areawide 5% tax on the retail sale of marijuana
35 and marijuana products with a limited exemption up to 5% for marijuana and marijuana
36 products sales taxed by the City of Fairbanks and the City of North Pole, and provides
37 the Borough with authority to increase the rate of levy by 1%; and
38

39 WHEREAS, Sales taxes serve to diversify revenue, establishing revenue
40 sources other than property tax; and
41

42 WHEREAS, An increase in the alcoholic beverage sales tax should only
43 become effective if a marijuana and marijuana product sales tax is enacted.

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be *added* is underlined

Text to be *deleted* is [BRACKETED AND CAPITALIZED]

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NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:

Section 1. Section 3 of this ordinance is of a general and permanent nature and shall be codified.

Section 2. Election. At the regular election to be held on October 4, 2016, the following question shall be placed before the qualified voters of the borough:

“Shall the Fairbanks North Star Borough have the authority to increase the rate of levy of the areawide 5% sales tax of alcoholic beverages by 1%, with a limited exemption up to 6% for alcoholic beverages taxed by the city of Fairbanks and the city of North Pole?”

Section 3. FNSBC 3.59.040 is amended to read as follows:
The following sales are exempt from the collection of the alcoholic beverage tax:

A. Retail sales within the city of Fairbanks and the city of North Pole up to a total tax amount of five percent of the sales price from the borough tax or the amount the city separately levies a sales tax on the same item, whichever is less. [ONLY TO THE EXTENT THAT SUCH RETAIL SALES ARE TAXED BY ANY OTHER MUNICIPALITY WITHIN THE BOROUGH,] subject to the following limitations:

1. The borough does not intend to act as a collection agent for city taxes on retail sales.

2. If any municipality within the borough imposes a city tax on retail sales exceeding the tax imposed by the borough, neither the seller nor the buyer is entitled to a refund from the borough from such retail sales.

[3. IF ANY MUNICIPALITY WITHIN THE BOROUGH DOES NOT IMPOSE A CITY TAX ON ANY RETAIL SALES, IMPOSES A CITY TAX ONLY ON CERTAIN RETAIL SALES, OR IMPOSES A CITY TAX ON RETAIL SALES THAT IS LESS THAN FIVE PERCENT TIMES THE SELLING PRICE, THE SELLER SHALL:

A. COLLECT A TAX EQUAL TO FIVE PERCENT TIMES THE SELLING PRICE MINUS ANY CITY TAX IMPOSED BY SUCH MUNICIPALITY ON THAT SAME RETAIL SALE; AND

B. REMIT THIS TAX TO THE BOROUGH IN ACCORDANCE WITH THE REQUIREMENTS OF THIS CHAPTER.]

B. Any wholesale sale (sale for resale) of alcoholic beverages by a bona fide alcoholic beverage distributor.


CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED AND CAPITALIZED]

84 Section 4. Effective date. Section 2 of this ordinance shall be effective at
85 5:00 p.m. on the first Borough business day following its adoption. Section 3 of this
86 ordinance shall become effective on January 1, 2017, if a majority of the qualified voters
87 voting on the question called for in Section 2 and a majority of the qualified voters voting
88 on the question called for in Ordinance No. 2016-16 have cast their votes in favor of the
89 questions.

90
91 PASSED AND APPROVED THIS 28TH DAY OF APRIL, 2016.

92
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96 
97 John Davies
98 Presiding Officer
99

100
101 ATTEST:

102 
103
104

105 Nanci Ashford-Bingham, MMC
106 Borough Clerk
107

108 Ayes: Sattley, Hutchison, Cooper, Roberts, Lawrence, Dodge, Quist, Davies
109 Noes: Westlind

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT
Text to be added is underlined
Text to be deleted is [BRACKETED AND CAPITALIZED]

CLERK'S OFFICE
AMENDED AND APPROVED

Date: 5-10-2016

Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Finance and Law Departments
For reading: May 10, 2016

ANCHORAGE, ALASKA
AO No. 2016-49(S), As Amended

1
2 **AN ORDINANCE AMENDING THE ANCHORAGE MUNICIPAL CODE BY**
3 **ENACTING CHAPTER 12.50, RETAIL SALES TAX ON MARIJUANA AND**
4 **MARIJUANA PRODUCTS, TO ESTABLISH THE REQUIREMENTS AND**
5 **PROCEDURES FOR THE ADMINISTRATION, COLLECTION AND**
6 **ENFORCEMENT OF THE MARIJUANA RETAIL SALES TAX APPROVED BY**
7 **THE VOTERS, INCLUDING, BUT NOT LIMITED TO, PROVISIONS**
8 **REGARDING: DEFINITIONS, TAX RATE, RETAILER REGISTRATION, TAX**
9 **CREDITS, TAX RETURNS, PROHIBITED ACTS, PENALTIES AND INTEREST,**
10 **APPLICATION OF PAYMENTS, RECORDS RETENTION, INSPECTION AND**
11 **CONFIDENTIALITY, TAX REFUNDS, AND TAXPAYER REMEDIES.**

12
13 **THE ANCHORAGE ASSEMBLY ORDAINS:**

14
15 **Section 1.** Anchorage Municipal Code Title 12 is hereby amended by enacting a
16 new Chapter 12.50 to read as follows:

17
18 Chapter 12.50 RETAIL SALES TAX ON MARIJUANA AND
19 MARIJUANA PRODUCTS

20
21 **12.50.010 Definitions.**

22
23 Any words, terms and phrases not defined in this section shall, if
24 defined therein, have the meaning given in AS 17.38.900 or regulations
25 adopted by the Alaska Marijuana Control Board, or otherwise shall have
26 their ordinary and common meaning. The following words, terms, and
27 phrases, when used in this chapter, shall have the meanings ascribed to
28 them in this section, except where the context clearly indicates a different
29 meaning:

30
31 *Certificate* means a certificate of registration.

32
33 *Certificate of registration* means a license issued by the department
34 authorizing a specified retailer to assess, collect, and timely remit to the
35 department the retail marijuana sales tax levied by this chapter.

36
37 *Chief fiscal officer* means the chief fiscal officer of the municipality or
38 designee.

39
40 *Consideration* means something of value given by each party to a
41 contract that induces that party to enter into the agreement to exchange

1 mutual performances. Consideration must have a value that can be
2 objectively determined.

3
4 *Consumer* means a natural person who purchases retail marijuana
5 or retail marijuana products for personal use by persons 21 years of age or
6 older, but not for resale to others.

7
8 *Department* means the finance department of the municipality.

9
10 *Fiduciary* means a retailer or a person or responsible party acting on
11 behalf of a retailer, to whom the duties to collect, segregate and remit the
12 taxes authorized by this chapter is entrusted for purposes specified in this
13 chapter.

14
15 *Funds* means money, assets or intangible assets that can be
16 converted to United States currency and/or coin.

17
18 *Inventory count* means the effective date and details of a count by
19 description, including the trade name and brand, purchase price and total
20 quantity on-hand of all marijuana and marijuana products.

21
22 *Marijuana* means all parts of the plant of the genus *Cannabis*,
23 whether growing or not, the seeds thereof, the resin extracted from any part
24 of the plant, and every compound, manufacture, salt, derivative, mixture, or
25 preparation of the plant, its seeds, or its resin, including marijuana
26 concentrate.

27
28 *Marijuana product(s)* means products that are concentrated extracts
29 of marijuana and products that are comprised of marijuana and other
30 ingredients that are intended for use or consumption, such as, but not
31 limited to, edible products, oils, ointments, and tinctures.

32
33 *Marijuana cultivation facility* means any person licensed by the State
34 of Alaska to cultivate, prepare and package marijuana and to sell marijuana
35 to retailers, to marijuana product manufacturing facilities, and to other
36 marijuana cultivation facilities, but not to consumers.

37
38 *Marijuana product manufacturing facility* means any person licensed
39 by the State of Alaska to purchase marijuana; manufacture, prepare, and
40 package marijuana products; and sell marijuana and marijuana products to
41 other marijuana product manufacturing facilities and to retailers, but not to
42 consumers.

43
44 *Municipality* means the Municipality of Anchorage.

45
46 *Person* includes an individual, company, partnership, limited liability
47 partnership, joint venture, joint agreement, limited liability company,

1 association (mutual or otherwise), corporation, estate, trust, business trust,
2 receiver, trustee, syndicate, or any combination acting as a unit.

3
4 *Responsible party* means a person who has a level of control over,
5 or entitlement to, the funds or assets of a retailer that, as a practical matter,
6 enables the individual, directly or indirectly, to control, manage, or direct the
7 retailer or the retail operations.

8
9 *Retail marijuana sales tax* means the sales tax levied by Charter
10 section 14.06 and this chapter on retail marijuana and retail marijuana
11 products sold at a retailer and paid by the consumer, pursuant to this
12 chapter.

13
14 *Retailer* means any person or responsible party who is required to be
15 licensed as a retail marijuana store by the State of Alaska and the
16 municipality to sell marijuana or marijuana products to the public.
17 [PURCHASE MARIJUANA AND/OR MARIJUANA PRODUCTS FROM MARIJUANA
18 CULTIVATION FACILITIES AND/OR MARIJUANA PRODUCT MANUFACTURING
19 FACILITIES, AND TO REPACKAGE, MIX, HANDLE, SERVE OR SELL MARIJUANA OR
20 MARIJUANA PRODUCTS SOLELY TO CONSUMERS IN EXCHANGE FOR MONEY,
21 CREDIT, PROPERTY OR OTHER CONSIDERATION.]

22
23 *Retail sale* means any exchange or barter, in any manner or by any
24 means whatsoever, for consideration, of marijuana or marijuana products
25 by a retailer to a consumer.

26
27 *Sale(s) price* means the consideration, whether money, rights, credit
28 or other property expressed in the terms of money paid or delivered by a
29 consumer to a retailer, without deduction for the cost of property sold,
30 materials used, labor cost, discount, delivery costs or any other expense
31 whatsoever paid or accrued and without deduction on account of losses.

32
33 *Tax return* means the monthly report to be submitted to the
34 department as required by 12.50.170.

35
36 **12.50.020 Applicability of chapter.**

37
38 Unless provided otherwise, this chapter shall apply to the taxation of all
39 retail marijuana or marijuana product sales within the municipality.

40
41 **12.50.030 Retail sales tax on marijuana and marijuana products.**

42
43 A. There is hereby levied a tax on all retail sales of marijuana and
44 marijuana products in an amount equal to five percent (5%) of the
45 sales price paid.

46
47 B. The tax on marijuana and marijuana products may be adjusted by
48 the assembly as provided in Charter section 14.06.

- 1
2 C. Every retailer making a taxable retail sale under this chapter shall
3 collect the retail marijuana sales tax from the consumer at the time of
4 collection of the sales price, and shall deliver the same to the
5 municipality in accordance with the requirements of this chapter.
6

7 **12.50.040 Tax exemptions.**

- 8
9 A. The following transactions are exempt from the tax levied by section
10 12.50.030:

- 11
12 1. Sales of marijuana or marijuana products to a customer who
13 is an officer or employee of a foreign government which is
14 exempt from taxation by law or treaty.
15

16 **12.50.050 Intent and purpose of chapter and taxpayer.**

17
18 It is the intent and purpose of this chapter to collect the tax from the
19 person who purchases marijuana or marijuana products from a retailer
20 within the municipality. Notwithstanding anything to the contrary contained
21 in this chapter, the taxpayer shall be those persons described in this section
22 and no others.
23

24
25 **12.50.060 Tax receipts to be segregated and held in trust for the**
26 **municipality.**

- 27
28 A. Taxes collected pursuant to this chapter belong to the municipality at
29 the time collected from the consumer by the retailer. The retailer has
30 a fiduciary duty to the municipality for these taxes. The taxes shall be
31 segregated from the retailer's funds, at least by book account, and
32 held in trust for the exclusive benefit of the municipality until remitted
33 to the municipality.
34

- 35 B. When the circumstances described in section 12.50.160E. have
36 occurred, the chief fiscal officer may require the retailer to maintain a
37 separate account, as directed, for segregating tax monies collected.
38 The retailer required to establish an account under this section shall
39 deposit tax monies therein upon collection. Any costs incurred to
40 maintain the separate account shall be borne by the retailer.
41

42 **12.50.070 Certificate of registration: eligibility.**

- 43
44 A. To be eligible for a certificate of registration, a retailer [PERSON]
45 applying for a certificate [TO CONDUCT BUSINESS AS A RETAILER] shall:
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1. Possess a current business license as required by AS 43.70, and all current State of Alaska marijuana retailer licenses as required by AS 17.38. Copies of the licenses must be provided to the municipality before a certificate of registration will be issued;
2. Have arranged for locations intended for the retailer's business that comply with municipal land use ordinances and regulations and have received, or will receive prior to issuance of a certificate, approval for a special land use permit from the municipality if one is required;
3. Have obtained a current retail marijuana store license issued by the municipal clerk; and
4. Provide verification and affirmation that all responsible parties for the retailer:
 - a. have not at any time in the most recent five-year period been convicted of a crime related to theft of tax dollars, attempted theft of tax dollars, failure to remit taxes due, embezzlement, theft, or similar financial crimes;
 - b. have not at any time during the most recent five-year period had a certificate of registration under this chapter revoked more than once;
 - c. do not have delinquent tax obligations to the municipality or have substantially unpaid delinquent financial obligations to the municipality; and
 - d. do not have any unresolved issues regarding a prior certificate of registration issued under this chapter.

12.50.080 Certificate of registration: required.

- A. Except as otherwise provided in this chapter, every retailer shall obtain a certificate of registration for each location at which the business of retail sales of marijuana or marijuana products are conducted, prior to operating as a retailer within the municipality.
- B. Retailers shall display their certificate of registration in a conspicuous place where it can be readily viewed by consumers at the registered place of business.
- C. A certificate of registration issued under this chapter shall state the following:
 1. business name and business address of the retailer;
 2. name of the person(s) owning the retail business;
 3. retailer's form of business organization; and

1 4. issue date of the certificate.

2 D. Except as otherwise provided in this chapter, a certificate issued
3 under this chapter is valid from the issue date through the following
4 September 30.

5 E. A retailer [PERSON] whose certificate is lost, stolen or defaced shall
6 immediately file an application with the department for reissuance of
7 the certificate for the balance of the unexpired term.

8 F. A certificate issued by this chapter is in addition to any other license
9 required by law.

10 G. A certificate issued under this section is a privilege for a retailer to
11 have and there is no right, entitlement or property interest created by
12 the issuance of a certificate to a retailer.

13
14 **12.50.090 Certificate of registration: application.**

15
16 A. Application for registration to operate as a retailer within the
17 municipality shall be made to the chief fiscal officer on a form
18 provided by the department, containing such information as the
19 department may require, including:

20 1. The [APPLICANT] retailer's name and mailing address;

21 2. Names and addresses of all owners of the [APPLICANT]
22 retailer and all responsible parties for the retailer, including
23 as follows:

24 **a. Corporation: names and addresses of the principal**
25 **officers including president, vice-president,**
26 **secretary, managing officer, and all stockholders**
27 **who own 10 percent (10%) or more of the stock in**
28 **the corporation;**

29 **b. Partnership, including a limited partnership: names**
30 **and addresses of all general partners and all**
31 **partners with an interest of 10 percent (10%) or**
32 **more; or**

33 **c. Limited Liability Company: names and addresses**
34 **of all members with an ownership interest of 10**
35 **percent (10%) or more and the names and**
36 **addresses of all managers;**

37 3. A copy of the [APPLICANT] retailer's current State of Alaska
38 business license, including the line of business (LOB) code or
39 equivalent;

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4. A copy of the [APPLICANT] retailer's current State of Alaska retail marijuana store license and current employee list setting out the full name(s) and marijuana handler permit number(s) as required by 3 AAC 306.755(a)(2);
5. The name under which the [APPLICANT] retailer will conduct business operations;
6. The physical location of each retail business operation where the [APPLICANT] retailer will conduct business within the municipality;
7. The signature of a responsible party for the retailer [THE APPLICANT], constituting [THE APPLICANT'S] acknowledgment of, and firmly binding the [APPLICANT] retailer, its owners, and all responsible parties to, the following:
 - a. an agreement that any contemporaneous or future complaints filed by the department in the Alaska Court System related to responsibilities, duties, consequences, or disputes associated with this chapter shall at all times be within the venue of the Anchorage District or Superior courts located in Anchorage, Third Judicial District;
 - b. an obligation, in the event that an owner, partner, managing member, responsible party, or employee of the [APPLICANT] retailer subsequently commits civil fraud, as defined by this chapter and demonstrated by a preponderance of the evidence to have occurred, to remit to the municipality an amount that equals the taxes that would have been paid to the municipality if all the retail sales taxes collected had been remitted, pursuant to this chapter; and
 - c. an acknowledgment of a responsible party for the retailer [THE APPLICANT] that the [APPLICANT] retailer and any person involved in a civil fraud, as defined by this chapter and demonstrated by a preponderance of evidence to have occurred, will become ineligible to register or hold a certificate under this section for a period of five (5) years, beginning with the date of conviction of fraud or the date of revocation of the [APPLICANT] retailer's registration in accordance with section 12.50.130;
8. The signature of a responsible party for the retailer [THE APPLICANT] authorizing the State of Alaska to release information provided by or related to the [APPLICANT] retailer in accordance with AS 17.38 to the department at the request of the department;

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9. [IN ADDITION TO OTHER REQUIREMENTS IN THIS SECTION, A BUSINESS ENTITY THAT APPLIES FOR A CERTIFICATE OF REGISTRATION SHALL PROVIDE THE FOLLOWING INFORMATION:
- A. CORPORATION: NAMES AND ADDRESSES OF THE PRINCIPAL OFFICERS INCLUDING PRESIDENT, VICE-PRESIDENT, SECRETARY, MANAGING OFFICER, AND ALL STOCKHOLDERS WHO OWN 10 PERCENT (10%) OR MORE OF THE STOCK IN THE CORPORATION;
 - B. PARTNERSHIP, INCLUDING A LIMITED PARTNERSHIP: NAMES AND ADDRESSES OF ALL GENERAL PARTNERS AND ALL PARTNERS WITH AN INTEREST OF 10 PERCENT (10%) OR MORE; OR
 - C. LIMITED LIABILITY ORGANIZATION: NAMES AND ADDRESSES OF ALL MEMBERS WITH AN OWNERSHIP INTEREST OF 10 PERCENT (10%) OR MORE AND THE NAMES AND ADDRESSES OF ALL MANAGERS;

10.] The [APPLICANT’S] signature of a responsible party for the retailer confirming that the retailer [APPLICANT] fully understands the relevant compliance requirements of this chapter; and

10 [11]. Such other information as the department may require.

- B. A [N APPLICANT] retailer having more than one retail location within the municipality shall apply with the department for a certificate to register each separate location, and may submit an application for additional locations other than the main or original location on a form provided by the department, which shall include:
 - 1. A copy of the [APPLICANT] retailer’s current State of Alaska retail marijuana store license for each additional location and current employee list for the additional location setting out the full name(s) and marijuana handler permit number(s) as required by 3 AAC 306.755(a)(2);
 - 2. A copy of the retailer’s [APPLICANT’S] certificate of registration for its main or original retail location, or indicate such main application is pending; and
 - 3. Such other information as the department may require.
- C. All retailers [PERSONS] registered under this chapter shall maintain compliance with all relevant municipal and State of Alaska laws and administrative requirements related to the registered business, including but not limited to: business license, retail marijuana licenses, special land use permit and any related required periodic reporting.
- D. All retailers [PERSONS] applying for registration under this chapter shall affirm that the [APPLICANT] retailer, and if a business entity

1 then all persons identified in subsection A.2. [A.9.], is current with
2 all financial obligations due to the municipality.

- 3 E. A [N APPLICANT] retailer applying for a certificate of registration
4 under this chapter shall provide security for its fiduciary
5 performance in accordance with section 12.50.160. Evidence of
6 such security shall be submitted to the department with the
7 application.
- 8 F. An [PERSON'S] application for and acceptance of the certificate
9 issued under this chapter constitutes confirmation and [OF THE
10 PERSON'S] acknowledgement on behalf of the [APPLICANT AND]
11 retailer and all responsible parties for the retailer of the
12 fiduciary duties pursuant to this chapter.
- 13 G. Each signature on the application shall be by a person or agent
14 having such authority to sign and bind the retailer [APPLICANT] and
15 shall be under penalty of prosecution for unsworn falsification.
16

17 **12.50.100 Certificate of registration: denial.**

- 18
- 19 A. The department may deny an application for registration if:
- 20 1. there is reasonable cause to believe that the retailer or a
21 responsible party for the retailer [APPLICANT] has willfully
22 withheld information requested to determine the
23 [APPLICANT] retailer's eligibility to receive a certificate of
24 registration;
- 25 2. there is reasonable cause to believe that information
26 submitted in the application is false or misleading and is not
27 made in good faith;
- 28 3. there is reasonable cause to believe that the [APPLICANT]
29 retailer's business organization has been structured to
30 avoid payment of taxes, penalties, interest, or costs due
31 under this chapter;
- 32 4. the [APPLICANT] retailer, or any owner, partner, member, or
33 responsible party has an unpaid financial obligation due to
34 the municipality;
- 35 5. the [APPLICANT] retailer, or any owner, partner, member,
36 responsible party, or employee had a certificate under this
37 chapter revoked by the department within the previous five
38 (5) years;
- 39 6. the [APPLICANT] retailer, or any owner, partner, member,
40 responsible party, or employee has been convicted of a
41 felony or misdemeanor theft of money within the previous
42 five (5) years; or
- 43 7. the application is not complete.

- 1 B. The department shall deny an application if the [APPLICANT] retailer
2 does not currently possess all other licenses required by law.
- 3 C. The department shall provide the reasons for a denial in writing to
4 the retailer [APPLICANT]. The retailer [APPLICANT] may appeal the
5 denial in accordance with section 12.50.290.
6

7 **12.50.110 Certificate of registration: fee, renewal.**
8

- 9 A. Except for a retailer [N APPLICANT] having more than one retail
10 business location within the municipality, each application for
11 registration shall be accompanied by a fee of \$250.00. For a
12 retailer [N APPLICANT] having more than one retail business
13 location within the municipality, the fee for registration shall be
14 \$250.00 for the first retail location being registered and \$25.00 for
15 each additional retail location being registered.
- 16 B. A fee of \$25.00 shall be charged for issuing a replacement
17 certificate to a retailer whose certificate of registration has
18 automatically expired because the retailer moves the business to
19 another location within the municipality and applies for a certificate
20 for the new location for the remaining balance of the term.
- 21 C. A fee of \$25.00 shall be charged for reissuing a certificate that has
22 been lost, stolen or defaced.
- 23 D. A retailer may apply for renewal of its certificate up to two (2)
24 months prior to expiration of the current certificate.
25

26 **12.50.120 Certificate of registration: expiration.**
27

- 28 A. A certificate of registration issued under this chapter shall
29 automatically expire if any of the following occur:
- 30 1. Immediately after September 30 following the issuance
31 date, unless the certificate states otherwise.
- 32 2. The retailer moves the business to another location within
33 the municipality. The retailer shall immediately file an
34 application with the department for issuance of a
35 replacement certificate for the new location for the
36 remaining balance of the term.
- 37 3. On the last day of the term of a surety bond, deposit in
38 escrow, or letter of credit submitted as financial guarantee,
39 unless the retailer has either renewed the surety bond,
40 deposit in escrow, or letter of credit, or provided a new
41 financial guarantee, or the department has waived the
42 requirement for financial guarantee., The retailer must

1 immediately reapply, pursuant to section 12.50.090, to
2 renew its certificate.

- 3 4. A retailer ceases to engage in business as a retailer,
4 ceases to engage in business at its registered place(s) of
5 business, changes its name, or changes the name by which
6 the registered retail business operation is advertised or
7 marketed by the retailer.

- 8
9 B. A retailer must immediately submit an updated application, as
10 prescribed by the chief fiscal officer, upon any change in form of
11 ownership, or if the retailer is owned by a business entity, upon
12 any change in the owners of the entity who owns the retailer. The
13 chief fiscal officer will review the updated application, pursuant to
14 this chapter. A new certificate of registration will not be issued until
15 the department has received the expired certificate.

16
17 **12.50.130 Certificate of registration: surrender, suspension, or**
18 **revocation.**

- 19 A. A retailer shall surrender its certificate of registration to the
20 department as follows:
21 1. within ten (10) days after its certificate expires; or
22 2. immediately, upon suspension or revocation by the
23 department.
- 24 B. The department may suspend or revoke a certificate issued under
25 this chapter for any violation of this chapter.
- 26 C. A certificate of registration shall be automatically revoked:
27 1. when the retailer's required financial guarantee lapses, is not
28 renewed, expires, is modified without the written consent of
29 the chief fiscal officer, is cancelled, or is otherwise terminated;
30 or
31 2. in the event the municipality exercises a claim against the
32 financial guarantee and the retailer fails to replace, renew or
33 replenish its financial guarantee, in an amount equal to the
34 amount of the paid claim or in an aggregate amount as
35 required by section 12.50.160, no later than thirty (30) days
36 after the date such claim was paid.
- 37 D. The department shall revoke a certificate of registration if:
38 1. a retailer fails to remit substantially all (at least ninety-five
39 percent) of the taxes due under this chapter within forty-five
40 (45) calendar days of the due date;
41 2. subsequent to the issuance of the certificate the department

1 discovers that the retailer or a responsible party for the
2 retailer has willfully withheld information requested to
3 determine the retailer's [APPLICANT'S] eligibility to receive a
4 certificate, or there is reasonable cause to believe that
5 information submitted in the application was false or
6 misleading and was not made in good faith; or

7 3. when the retailer's circumstances change to a point where it
8 no longer meets eligibility requirements set forth in section
9 12.50.070.

10 E. If the department decides to revoke a certificate issued under this
11 chapter, based on any violation of this chapter, the department shall
12 notify the retailer of the date it intends to enforce such revocation. A
13 retailer may apply to the department to request a hearing before the
14 chief fiscal officer on the department's action or determination, as set
15 forth in section 12.50.290.

16
17 **12.50.140 Certificate of registration: transfer or assignment.**

18
19 *Non-transferable.* The certificate of registration issued under this section is
20 not assignable or transferable, except that in the case of death, bankruptcy,
21 receivership, or incompetency of the retailer (or its principals if the retailer is
22 an entity), or if the certificate is transferred to another by operation of law,
23 the department may extend the certificate for a limited time to the executor,
24 administrator, trustee, receiver, or the transferee.

25
26 **12.50.150 Fiduciary duties.**

27
28 A. The fiduciary duties include at a minimum:

- 29 1. determining, implementing, and enforcing sufficient and
30 relevant policies and practices to ensure proper performance
31 of fiduciary duties;
- 32 2. charging, collecting, and safeguarding all taxes required by
33 this chapter to be collected by the retailer;
- 34 3. directing and reviewing the actions of each member, officer,
35 director, employee, and contractor employed or used by the
36 retailer in the exercise of the fiduciary duties under this
37 chapter;
- 38 4. performing all acts, not prohibited by this chapter, whether or
39 not expressly authorized, that a reasonable and prudent
40 person would consider necessary or proper in administering
41 and safeguarding the taxes collected under this chapter; and

1 5. maintaining accounting records associated with taxes
2 collected under this chapter in accordance with generally
3 accepted accounting principles.

4 B. The fiduciary is liable for a breach of a duty that is assigned or
5 delegated. However, the fiduciary is not liable for a breach of a duty
6 that has been delegated to another person if the duty is assigned by
7 law to another person, except to the extent that the fiduciary or
8 designee:

9 1. knowingly participates in, or knowingly undertakes to conceal,
10 an act or omission of another person knowing that the act or
11 omission is a breach of that person's duties under this
12 chapter; or

13 2. by failure to comply with this section in the administration of
14 specific responsibilities, enables another person to commit a
15 breach of duty.

16 C. Funds held in a fiduciary capacity shall be clearly identified in a
17 retailer's financial statement and, if maintained in an account at a
18 financial institution, the account shall be clearly identified as a
19 fiduciary account.

20
21 **12.50.160 Security for fiduciary performance.**

22
23 A. *Guarantee required.* To ensure that a retailer performs its fiduciary
24 responsibility to timely collect, account for, safeguard, and remit
25 taxes levied by this chapter, the retailer shall provide a guarantee by
26 one or more of the methods specified in this section. The amount of
27 the guarantee shall be in the amount that the chief fiscal officer
28 estimates to be an average amount of annual sales tax collected by
29 the retailer, a comparable retailer(s), industry averages, or
30 \$10,000.00, whichever is higher. Except as specified in subsection D
31 of this section, the requirement for a guarantee shall remain in force
32 for the entire period the retailer [APPLICANT] is registered [AS A
33 RETAILER] in accordance with section 12.50.080.

34 B. *Persons to provide guarantee.* The guarantee required under this
35 section shall be provided for by the [APPLICANT] retailer or by
36 personal guarantee from an owner(s), partner(s), member(s),
37 officer(s), director(s), or responsible party(ies) of the retailer, or any
38 combination thereof.

39 C. *Methods.* The retailer shall include one or more of the following
40 methods to guarantee performance of its fiduciary responsibilities at
41 the time of application for a certificate of registration:

42 1. *Surety bond.* The retailer may elect to provide a surety bond,
43 in an amount defined in subsection A of this section, from a
44 company authorized to do such business in the state. The

1 bond shall be in a form acceptable to the municipal attorney.
2 The bond shall be payable to the municipality and shall be
3 conditioned upon payment in full of the tax, including
4 penalties and interest due and to become due and owing to
5 the municipality by said retailer during the effective period of
6 the bond under the provisions of this chapter. The surety may
7 terminate this bond, except as to any liability already incurred
8 or accrued, and may do so upon giving the retailer and the
9 chief fiscal officer written notice to that effect. The surety shall
10 provide written notice to the chief fiscal officer not less than
11 thirty (30) days before the expiration, non-renewal, lapse,
12 termination, or other similar event affecting such surety bond.
13 Thirty (30) days after receipt by the chief fiscal officer of such
14 notice or upon a later date specified in the notice, or upon the
15 filing and acceptance of a new bond, the existing bond shall
16 terminate and be of no more force and effect, except as to
17 any liabilities or indebtedness incurred or accrued thereunder
18 as of the date of termination.

19 2. *Deposit in escrow.* The retailer may elect to deposit a cash
20 sum, in an amount defined in subsection A of this section,
21 either with the municipality or in escrow with a responsible
22 financial institution authorized to do such business in the
23 state. In the case of an escrow account, the retailer shall file
24 with the municipality an escrow agreement, which includes
25 the following terms:

- 26 a. funds of the escrow account shall be held in trust until
27 released by the municipality and may not be used or
28 pledged by the retailer as security in any matter during
29 that period other than payment of the tax, penalties,
30 and interest due and to become due and owing to the
31 municipality under this chapter; and
32 b. in the case of a failure on the part of the retailer to
33 remit taxes due under this chapter by the required due
34 date, the institution shall immediately make all funds in
35 such account available to the municipality for use in
36 satisfying those taxes due, along with any related
37 penalties and interest as provided for in this chapter.

38 3. *Letter of credit.* The retailer may elect to provide, from a bank
39 or other responsible financial institution authorized to do such
40 business in the state, a letter of credit in a form acceptable to
41 the municipal attorney. Such letter shall be filed with the
42 municipality and shall certify the following:

- 43 a. the financial institution irrevocably guarantees funds in
44 an amount defined in subsection A of this section; and

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b. in the case of failure on the part of the retailer to remit taxes due under this chapter by the required due date, the financial institution shall pay to the municipality immediately and without further action such funds as are necessary to satisfy those taxes due, along with any related penalties and interest as provided for in this chapter, up to the limit of credit stated in the letter.

D. Once a retailer has filed a tax return and remitted the full amount of taxes due under this chapter, by the due date prescribed by this chapter, for twenty-four (24) consecutive reporting periods, the retailer may submit a written request to the chief fiscal officer for a waiver of the requirement for the retailer to post a guarantee. The chief fiscal officer shall provide written approval of such request, stating the date the requirement for a guarantee shall expire, except when the following circumstances apply:

1. the retailer has had any certificate of registration previously issued under this chapter revoked by the department; or
2. the department has reasonable cause to believe that the retailer is a related party or related entity to another retailer or prior retailer whose certificate of registration has previously been revoked under this chapter.

E. The chief fiscal officer may require the retailer to provide a financial guarantee that is double the amount established by subsection A of this section, based on the following:

1. a responsible party was ineligible for a five-year period under a limitation in subsection 12.50.070A.4., and the five-year period has passed;
2. the retailer has incurred penalties under this chapter for three (3) consecutive reporting periods; or
3. the retailer has incurred penalties under this chapter in at least six (6) reporting periods out of nine (9) consecutive months.

F. The agreement or contract and other evidence of a guarantee under this section is subject to inspection upon demand by the department.

12.50.170 Tax return and remittance.

A. Within thirty (30) days after the end of each calendar month, every retailer shall submit to the department a tax return upon a form provided by the department and shall remit therewith all taxes required to be collected by this chapter during the immediately preceding calendar month. A tax return shall be filed even if there are no taxes due for the period being reported. Tax returns and taxes to be remitted under this chapter must be actually received by the department within the time required by this section.

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1. The tax return shall be signed under penalty of perjury by an officer of the retailer and shall include the following for that reporting period:
 - a. the name and mailing address of the retailer;
 - b. the name and title of the person filing the tax return;
 - c. the aggregate amount of the retail sales within the municipality transacted by the retailer, with sales of marijuana reported separately from sales of marijuana products;
 - d. the aggregate amount of any allowable deductions, with deductions related to marijuana reported separately from deductions related to marijuana products;
 - e. the amount of retail sales tax due;
 - f. marijuana and marijuana product acquisition data; and
 - g. such other relevant information and supporting documentation as the department may require.
2. If a retailer fails to file a tax return under this section or when the chief fiscal officer finds that a tax return filed by a retailer is not supported by the records required to be maintained under this chapter, the chief fiscal officer may prepare and file an involuntary tax return on behalf of the retailer. Taxes due on an involuntary tax return may be premised upon any information that is available to the chief fiscal officer including comparative data for similar businesses. A retailer shall be liable for the taxes stated on an involuntary tax return, together with penalties and interest provided in this chapter.
3. The department shall notify the retailer of an involuntary tax return, the basis of the department's calculations, the retailer's rights under section 12.50.290, and provide written notice that payment of the taxes, penalties, and interest is due immediately.
4. Unless otherwise determined by the chief fiscal officer in a decision under section 12.50.290, taxes due under this section shall be due on the same date as if a tax return had been filed by the retailer in accordance with this chapter, and interest, penalties, and costs thereon shall accrue from such date.
5. A tax return prepared by the chief fiscal officer is prima facie evidence of taxes due, and the penalties and interest accruing from said tax liability. In an application under section 12.50.290, it is the retailer's burden to rebut the presumed sufficiency of a tax return prepared by the department.

- 1 6. A retailer with multiple locations must either file a separate tax
2 return for each location or use a supporting schedule that
3 clearly identifies the data and balances associated with each
4 separate location.

5
6 **12.50.180 Amended tax returns.**

7
8 Any tax return filed under section 12.50.170 may be amended by the
9 retailer.

10
11 **12.50.190 Application of payments.**

12 Any payment submitted to the department for taxes, interest,
13 penalties or costs due under any tax return, provision of this chapter, or any
14 finding or determination by the department under this chapter shall be
15 credited to the tax period for which remitted, but shall be credited first to the
16 payment of costs and then to the payment of penalties, interest, and taxes
17 due, in that order.

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19
20 **12.50.200 Tax refunds.**

21
22 A. If the department determines after audit that a retailer's tax
23 remittance exceeds the actual amount due, the department shall,
24 upon written request of the retailer, refund the excess to the retailer
25 without interest.

26 B. The retailer shall apply for a refund in writing on a form provided by
27 the department no later than two (2) years from the date the excess
28 payment was transmitted to the department. Any claim for a refund
29 filed more than two (2) years after the date of the excess payment is
30 forever barred. For purposes of this section, a "refund" means
31 payment by the municipality to the retailer or book entry by the
32 municipality to offset other current or future amounts due from the
33 retailer.

34 C. *If a retailer discovers that it has miscalculated the retail*
35 *marijuana sales tax, and a consumer paid more tax than*
36 *should have been collected, the excess tax shall be*
37 *remitted to the municipality pursuant to section 12.50.170.*

38
39 **12.50.210 Confidentiality of records.**

40 A. All tax returns filed under this chapter, all data obtained from such
41 tax returns, and all financial information obtained from an inspection
42 of records in accordance with this chapter are confidential and may
43 not be released except upon court order, when necessary to enforce
44 the provisions of or to collect the taxes due under this chapter and
45 except for inspection by the mayor, the chief fiscal officer, the

1 municipal attorney, the internal auditor and municipal assessor or the
2 assembly in the performance of their official duties.

3 B. Except when necessary to the performance of their official duties to
4 enforce the provisions of or to collect taxes due under this chapter,
5 no person may divulge, without express written permission by the
6 retailer, to another any information, data or financial information of a
7 retailer, a retailer's records or a tax return filed under this chapter
8 unless the person receiving such information, data or financial
9 information is a person authorized by this chapter to inspect the tax
10 return, information, data or financial information.

11 C. It is the duty of the chief fiscal officer to safely keep tax returns, all
12 data taken therefrom, and all financial information obtained from an
13 inspection of the retailer's records secure from public and private
14 inspection, except as provided by this chapter.

15 D. This section does not prohibit the municipality from compiling and
16 publishing statistical information concerning the data submitted,
17 provided no identification of particular tax returns or retailer
18 information, data or financial information is made.

19
20 **12.50.220 Maintenance and inspection of documents and records.**
21

22 A. Every retailer subject to this chapter shall keep a complete and
23 accurate record of all marijuana and marijuana products acquired
24 and sold within the municipality by such person.

25 B. It shall be the responsibility of the retailer to obtain and preserve
26 evidence sufficient to support all acquisitions of marijuana and
27 marijuana products and retail sale transactions and allowable
28 deductions subject to this chapter, and all claimed exemptions from
29 payment, collection, or remittance of the retail marijuana sales taxes
30 under this chapter. Specification in this chapter of the records to be
31 kept by a retailer shall not relieve the retailer of its responsibility to
32 keep sufficient records. Unless a longer period is ordered by the
33 chief financial officer under section 12.50.230 or a court of
34 competent jurisdiction, a retailer shall keep and preserve all required
35 records within the municipality for not less than three (3) calendar
36 years after the end of the calendar year in which such records are
37 created and shall make available such records for inspections by the
38 department upon request. Sufficient records shall include, but not
39 necessarily be limited to:

- 40 1. Each retail sale of marijuana or marijuana products within the
41 municipality shall be recorded by the retailer and the record
42 shall include, at minimum: the date of sale, the type of
43 marijuana or marijuana product sold, the quantity of marijuana
44 or marijuana products sold, the sales price, the amount of
45 retail sales taxes due on the sale, and the amount and

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method of payment received. A comparable receipt of sale shall be offered to each consumer at the time of purchase;

2. As applicable, all periodic statements and records from financial institutions provided to, or available to, the retailer for accounts in which retail marijuana sales taxes were deposited;
3. As applicable, all periodic statements provided to the retailer from credit or debit card processors containing details of consumer payment transactions for retail sales or retail marijuana sales taxes;
4. Books of account, journals, ledgers, and other compilations of source documents that reconcile to total retail sales and retail marijuana sales taxes collected as listed on the tax returns filed with the department under the authority of this chapter;
5. Periodic inventory counts and maintenance of detailed inventory records. Detail must be subtotaled and distinguished between marijuana and marijuana products, which are to be further distinguished by type (i.e., products intended for consumption, such as, but not limited to, edible products, ointments, and tinctures);
6. Marijuana and marijuana product acquisition data; and
7. Sufficient documentation confirming eligibility under section 12.50.070.

C. Persons subject to this chapter shall keep such other documents and records as the department prescribes.

D. All records and documents required by this chapter to be kept or retained are subject to inspection within the municipality upon demand by the department.

E. The chief fiscal officer or a designee, upon presentation of proper identification, may inspect the records which a person is required to maintain under this section, whether on-site or at an off-site location, or inspect the records of a person whom the chief fiscal officer has probable cause to believe is a retailer or a person subject to this chapter in order to determine whether that person is a retailer or is subject to this chapter.

1. Upon notice of the department's intent to inspect records, a person or retailer subject to this chapter shall retain such records and preserve their availability to the department until released by the department in writing, regardless of whether such retention and preservation continues beyond the three-year period specified in this section.
2. The chief fiscal officer's authority to inspect records shall not be limited to records within the three calendar year retention

1 period. If a person subject to this chapter has possession or
2 control of records described in this section that are older than
3 the three-year period specified in this section, the person
4 subject to this chapter shall make such records available for
5 inspection upon request.

6 F. The chief fiscal officer may enter the business premises of a retailer
7 where marijuana or marijuana products are kept or stored, so far as
8 it may be necessary for the purpose of examining such marijuana or
9 marijuana products and the related business records.

10 G. The department may inspect records required by this chapter of all
11 responsible parties who had control of, or access to, funds collected
12 from consumers of the retailer, and such persons shall be subject to
13 the requirements of this section.

14 H. Where the Constitution of the United States or of the State of Alaska
15 so requires, the chief fiscal officer shall obtain an administrative
16 search warrant authorizing an inspection and shall exhibit the
17 warrant to the person in charge of the premises before conducting
18 the inspection. The chief fiscal officer shall apply to the trial courts of
19 the State of Alaska to obtain an administrative search warrant,
20 stating in the application the name and address of the premises to be
21 inspected, the authority to conduct the inspection, the nature and
22 extent of the inspection, and the facts and circumstances justifying
23 the inspection. Warrants issued under this section shall be returned
24 to the court by which issued within ten (10) days after the date
25 issued.

26
27 **12.50.230 Tax avoidance, civil fraud.**

28 A. If the department has reasonable cause to believe that a retailer or a
29 responsible party for the retailer has structured a retail sale
30 transaction to avoid collecting or remitting the retail marijuana sales
31 tax levied under this chapter, or has wrongfully deceived consumers
32 or the department, the department may take one or both of the
33 following actions:

- 34 1. declare there is a rebuttable presumption that the substance
35 of a specific retail sale is a taxable transaction under this
36 chapter and proceed to establish, levy and collect the tax
37 together with costs, penalties and interest as provided for in
38 this chapter; or
39 2. prepare and file an involuntary return(s) on behalf of the
40 retailer, as provided in section 12.50.170.

41 B. *Civil fraud.* If the department finds a tax deficiency or part of a tax
42 deficiency is due to fraud, then a penalty shall be assessed against
43 the person committing the fraud. A civil fraud penalty may be
44 assessed against a person in addition to a penalty for failure to file or

1 failure to pay.

- 2 1. Fraud is the intentional misrepresentation of a material fact
3 with the intent to evade payment of tax which the person
4 believed to be owing. The person must have had knowledge
5 of its falsity and intended that it be acted upon or accepted as
6 the truth. The department must prove fraud by a
7 preponderance of the evidence.
- 8 2. An intent to evade tax may be demonstrated by any relevant
9 evidence, including but not limited to the following:
- 10 a. The person provided false explanations regarding
11 understated or omitted acquisitions of marijuana or
12 marijuana products;
- 13 b. The person provided falsified or incomplete source
14 documents;
- 15 c. The person has not justified an omission or
16 understatement of a significant amount of acquisitions
17 of marijuana or marijuana products;
- 18 d. The person substantially overstated a deduction and
19 has failed to justify the overstatement; or
- 20 e. The person knowingly provided false statements,
21 falsified documents, or falsified evidence to acquire a
22 significant amount of marijuana or marijuana products
23 in a manner that results in the evasion of payment for
24 taxes due under this chapter.
- 25 f. The person, without possessing valid State and
26 Municipal retail marijuana store licenses,
27 exchanged or bartered, in any manner or by any
28 means whatsoever, for consideration, marijuana or
29 marijuana products to a consumer.

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33 **12.50.240 Tax lien.**

- 34 A. Taxes due and not paid on the date required by this chapter,
35 together with all interest, penalties and costs accruing thereafter,
36 shall immediately become a lien in favor of the municipality upon all
37 of the retailer's real and personal property, including rights to such
38 property. Such lien shall continue until all taxes, penalties, interest
39 and costs due the municipality have been paid, or the lien released
40 in whole or in part.
- 41 1. A separate notice of such lien shall be given each retailer
42 liable for the taxes by mail, and shall be recorded in the
43

1 Anchorage Recording District, Third Judicial District, State of
2 Alaska and any other recording district the department may
3 choose.

- 4 2. Notice of the lien shall specify the person(s) liable for payment
5 of the tax, the amount of taxes and the date they were due, a
6 statement of the interest, penalties and costs accrued and
7 which may thereafter accrue, the tax period for which the
8 taxes were due and such other information as the department
9 may determine or as may be required by law.

- 10 B. No failure or defect in the notice of lien, except as to amount if
11 different than the recording thereof, shall adversely affect the
12 existence or priority of the lien created under this section to the
13 extent of the correct amount which is the same or less than that
14 stated in the recorded lien.

15
16 **12.50.250 Collection of taxes, interest, penalties, and costs.**

17
18 Taxes, interest, penalties, and costs due under this chapter and
19 unpaid may be collected by any lawful means, including a civil action for the
20 collection of a debt, by executing a claim against security provided under
21 section 12.50.160, by foreclosure of the tax lien in accordance with AS
22 09.45.170 through 09.45.220 or similar statutes in substitution thereof, or by
23 any combination of the above.

24
25 **12.50.260 Prohibited acts.**

26
27 In addition to other acts and omissions prohibited by this chapter:

- 28 A. No person shall engage in business as a retailer or conduct any
29 exchange or barter for consideration, in any manner or by any
30 means whatsoever, of marijuana or marijuana products to a
31 consumer in the municipality without a proper and current
32 registration under this chapter.
- 33 B. No person shall fail or refuse to pay the tax imposed by this chapter.
- 34 C. A retailer or responsible party shall not advertise or state to the
35 public or to any consumer directly or indirectly that the tax or any part
36 of it will be assumed or absorbed by the retailer, or that the tax will
37 not be added to the retail sale, or that the tax will be refunded except
38 as provided in this chapter.
- 39 D. A retailer or responsible party shall not absorb or fail to add the tax
40 or any part of it or fail to state the tax separately to the consumer.
- 41 E. No retailer or responsible party shall deny the chief fiscal officer,
42 subsequent to proper identification, access to the retailer's required
43 records and inventory of marijuana and marijuana products for

- 1 purposes of inspection under this chapter.
- 2 F. No person, retailer, or responsible party shall charge or collect in
3 excess of the proper amount of tax due under this chapter.
- 4 G. No person, retailer, or responsible party shall fail to make a required
5 remittance to the department of funds collected and to be held in
6 trust for the municipality.
- 7 H. A person shall not divert or otherwise appropriate for business or
8 personal use funds required to be held in a fiduciary capacity under
9 this chapter. Use of funds held in a fiduciary capacity under this
10 chapter for any purpose other than the one for which the funds are
11 being held is prohibited. Prohibited purposes under this section
12 include, but are not limited to, using funds held or received in a
13 fiduciary capacity to:
- 14 1. pledge as collateral to secure an amount owing;
15 2. guarantee a contract of surety; or
16 3. assign.
- 17 I. A person required under AMC chapter 12.50 to collect from the
18 consumer and remit to the department a retail marijuana sales tax
19 shall not fail to collect the tax from the consumer at the time of sale,
20 regardless of billing practices, installment agreements, credit
21 procedures, or bad debts.
- 22 J. A person shall not prepare and submit to the department a false tax
23 return with the intent to fail to remit taxes due pursuant to this
24 chapter.
- 25 K. No person whose certificate is expired, suspended or revoked shall
26 acquire, sell, or offer to sell marijuana or marijuana products or
27 permit marijuana or marijuana products to be sold or offered for sale
28 during the period of the suspension or revocation on any premises
29 occupied or controlled by that person.
- 30 L. A retailer shall not sell marijuana or marijuana products except in
31 transactions authorized by state law [TO ANOTHER PERSON WHO IS
32 REGISTERED OR IS REQUIRED TO BE REGISTERED UNDER THIS CHAPTER].
- 33 M. [A RETAILER SHALL NOT SELL MARIJUANA OR MARIJUANA PRODUCTS AT A
34 SALES PRICE THAT IS LESS THAN THE COST TO THE RETAILER OF THE
35 MARIJUANA OR THE MARIJUANA PRODUCTS BEING SOLD.
- 36 N.] A person shall not knowingly use, allow or permit the use of real
37 property in the municipality by a retailer for use in conducting its
38 business as a retailer, unless the retailer is properly registered with
39 the department under this chapter. Providing such real property after
40 notice from the department that such provision of real property
41 violates this subsection is prima facie evidence of the violation.
- 42 N [O]. A person shall not knowingly provide advertising, web hosting, or

1 other marketing services to a retailer in the municipality that is not
2 properly registered under this chapter. Providing such services after
3 notice from the department that such provision of services violates
4 this subsection is prima facie evidence of the violation.
5

6 **12.50.270 Interest.**
7

8 In addition to any penalties imposed by this chapter, interest at the
9 rate of 12 percent per annum shall accrue daily and be due from the retailer
10 on the unremitted balance of taxes after the date on which their remittance
11 was due.
12

13 **12.50.280 Penalties.**

14 A. A retailer who fails to file a tax return within seven (7) calendar days
15 following its due date shall automatically incur a civil penalty for each
16 tax return not filed equal to ten percent of the taxes actually due the
17 municipality. A retailer who fails to remit the full amount of any tax
18 due within seven (7) calendar days following its due date shall incur
19 and pay a civil penalty of ten percent of the actual amount of taxes
20 due but remaining unpaid after such date. If a retailer [PERSON] fails
21 to pay the full amount of the tax due or file a tax return or report
22 required under this chapter within sixteen (16) calendar days after its
23 due date, each of the aforementioned civil penalties shall be
24 increased from ten percent (10%) to twenty-five percent (25%).

- 25 1. The penalty shall be computed on the unpaid balance of the
26 tax liability as determined by the department.
27 2. Notice of the penalties incurred and to be incurred shall be
28 given to the person responsible for payment of the taxes or
29 filing the tax return or report when such tax payment or tax
30 return or report is delinquent for seven (7) calendar days after
31 its due date.
32 3. The penalties provided for in this subsection shall be in
33 addition to all other penalties and interest provided for under
34 this chapter.

35 B. The department may revoke a certificate of registration issued under
36 this chapter for any violation of this chapter.

37 C. If a retailer fails to remit at least ninety-five percent (95%) of the
38 taxes due under this chapter within forty-five (45) calendar days of
39 the due date, the department shall revoke the retailer's certificate of
40 registration issued under this chapter and the retailer shall incur a
41 civil penalty up to and including an amount equal to the unpaid
42 delinquent taxes.

43 D. A retailer or responsible party who willfully fails to collect or remit the

- 1 tax levied by this chapter shall incur a civil penalty equal to twice the
2 amount of the tax which should have been collected.
- 3 E. The penalty for a civil fraud, as defined in section 12.50.230, is 200
4 percent of the deficiency due or \$1,000.00[\$500.00], whichever is
5 greater. The penalty is computed on the total amount of the
6 deficiency due. If more than one person is found culpable for the
7 fraudulent act(s) or omission(s), each person shall be jointly and
8 severally liable for the penalty under this section.
- 9 F. A managing member, officer, director, owner or responsible party of
10 an enterprise engaged in business as a retailer without a certificate
11 of registration issued under this chapter is personally liable for all
12 taxes which should have been collected and remitted to the
13 municipality, plus a penalty equal to twenty-five percent (25%) of the
14 tax which should have been collected, in addition to all costs, taxes,
15 interest and other penalties due under this chapter.
- 16 G. The municipal attorney may petition the court for injunctive relief
17 against a person engaged in business as a retailer without a
18 certificate of registration issued under this chapter.
- 19 H. In addition to any other remedy or penalty provided by this chapter, a
20 retailer, responsible party or any person who violates or threatens to
21 violate a provision of this chapter or a valid order of the department
22 or chief fiscal officer authorized under this chapter, shall be subject
23 to a civil penalty as described in this section, or injunctive relief to
24 restrain the person from continuing the violation or threat of violation,
25 or both such civil penalty and injunctive relief. Upon application by
26 the municipality for injunctive relief and a finding that a person is
27 violating or threatening to violate a provision of this chapter or a valid
28 order of the department or chief fiscal officer authorized under this
29 chapter, the Superior Court shall grant injunctive relief to restrain the
30 violation.
- 31 I. Any person who violates any provision of this chapter shall be liable
32 for a civil penalty of up to \$1,000.00 for each separate violation.
33 Where multiple instances of the same violation occur, each instance
34 shall constitute a separate violation.
- 35 J. Civil and criminal penalties shall be cumulative remedies and shall
36 not relieve a retailer, responsible party, or person conducting retail
37 sales of marijuana or marijuana products of the duties imposed
38 under this chapter.
- 39 K. A person who owns or controls the real property where an
40 unregistered retailer is operating and who, after being notified by the
41 department that the continued operation of the unregistered retailer
42 is in violation of this chapter, allows the unregistered retailer to
43 continue to operate on the property is complicit in a prohibited act

1 under section 12.50.260 and shall be subject to penalties set forth in
2 this section.

3 L. A person who provides advertising, web hosting, or other marketing
4 services to a retailer in the municipality not having a certificate of
5 registration under this chapter after receiving notice from the
6 department to cease such services is complicit in a prohibited act
7 under section 12.50.260 and shall be subject to penalties set forth in
8 this section.

9 M. A person who commits an act prohibited by this chapter is subject to
10 prosecution pursuant to Title 8 of this Code.

11
12 **12.50.290 Remedies for a person aggrieved.**

13
14 A. Any person aggrieved by any action or determination of the
15 department under this chapter may apply to the department and
16 request a hearing before the chief fiscal officer on the department's
17 action or determination within thirty (30) days from the date the
18 department transmits by mail, e-mail, fax, hand delivery or other
19 delivery method notice of the department's action or determination.

20 1. An application for a hearing must notify the department of the
21 specific action or determination complained of and, if
22 applicable, the amount of tax, interest, cost or penalty
23 contested and the reason for such contest.

24 2. The uncontested portion of any tax due under this chapter
25 shall be paid when due regardless of any application for a
26 hearing. Payment of the total amount due may be made at
27 any time before the hearing. If the department has reasonable
28 cause to believe that collection of the total amount due might
29 be jeopardized by delay, immediate payment of the total
30 amount may be demanded and the department may pursue
31 any collection remedies provided by law. Payment in full does
32 not affect a person's right to a hearing.

33 B. Upon timely application for a hearing under subsection A of this
34 section, the chief fiscal officer shall hold a hearing and render a
35 decision or determination in accordance with chapter 3.60 to
36 determine whether a correction or reversal of the department's action
37 or determination is warranted.

38 1. If a person requesting a hearing fails to appear at the
39 hearing, the chief fiscal officer may issue a decision
40 without taking evidence from that person, unless the
41 person shows reasonable cause for failure to appear
42 within seven days after the date scheduled for the hearing.

1 C. Within thirty (30) days after receipt of a written decision by the chief
2 fiscal officer, a person aggrieved by the decision may appeal the
3 decision to the Superior Court of the Third Judicial District.


- 4 1. The person aggrieved shall be given access to the
5 department's file in the matter for preparation of such appeal.
6 2. Taxes, costs, penalties, and interest declared to be due in the
7 decision of the chief fiscal officer must be paid within thirty
8 (30) days after the date of the decision or a supersedeas bond
9 guaranteeing their payment must be filed with the court in
10 accordance with Alaska Court Rules of Appellate Procedures.

11 D. If after the appeal to the Superior Court is heard it appears that the
12 action or determination of the department and/or the decision of the
13 chief fiscal officer was correct, the court shall confirm such action,
14 determination or decision, as the case may be. If the department's
15 action or determination or the decision of the chief fiscal officer's
16 decision was incorrect, the court may determine the proper action,
17 determination or decision. If the person aggrieved is entitled to
18 recover all or part, of any tax due or paid, the court shall order the
19 repayment and the department shall pay such amount within
20 fourteen (14) days and attach a certified copy of the judgment to the
21 payment.

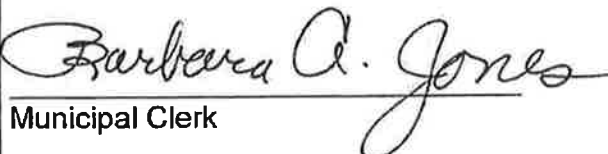
22 E. Hearings before the chief fiscal officer under this chapter may, at the
23 option of the chief fiscal officer, be conducted by an administrative
24 hearing officer designated by the chief fiscal officer. If the chief fiscal
25 officer refers such matter to an administrative hearing officer, the
26 administrative hearing officer shall conduct the hearing and prepare
27 findings and conclusions. These findings and conclusions shall be
28 forwarded to the chief fiscal officer for adoption, rejection or
29 modification and issuance of a final order or decision by the chief
30 fiscal officer.
31

32 **Section 2.** This ordinance shall become effective immediately upon passage
33 and approval by the Anchorage Assembly.

34
35 PASSED AND APPROVED by the Anchorage Assembly this 10th day of
36 May, 2016.

37
38
39 
40 Chair of the Assembly

41
42 ATTEST:

43 
44
45
46 Municipal Clerk



MUNICIPALITY OF ANCHORAGE

Assembly Memorandum

No. AM 296-2016(A)

Meeting Date: May 10, 2016

1 **From:** MAYOR

2
3 **Subject:** AO 2016-49(S): AN ORDINANCE AMENDING THE
4 ANCHORAGE MUNICIPAL CODE BY ENACTING CHAPTER
5 12.50, RETAIL SALES TAX ON MARIJUANA AND MARIJUANA
6 PRODUCTS, TO ESTABLISH THE REQUIREMENTS AND
7 PROCEDURES FOR THE ADMINISTRATION, COLLECTION
8 AND ENFORCEMENT OF THE MARIJUANA RETAIL SALES
9 TAX APPROVED BY THE VOTERS, INCLUDING, BUT NOT
10 LIMITED TO, PROVISIONS REGARDING: DEFINITIONS, TAX
11 RATE, RETAILER REGISTRATION, TAX CREDITS, TAX
12 RETURNS, PROHIBITED ACTS, PENALTIES AND INTEREST,
13 APPLICATION OF PAYMENTS, RECORDS RETENTION,
14 INSPECTION AND CONFIDENTIALITY, TAX REFUNDS, AND
15 TAXPAYER REMEDIES.
16

17
18 This memorandum describes the significant changes made after receiving
19 Assemblymember comments, as compared to the originally submitted AO 2016-
20 49, in accordance with Anchorage Municipal Code section 2.30.050F. The
21 changes are generally for purposes of using consistent terminology, shift rules
22 and restrictions to be more fair to retail marijuana businesses, and streamline
23 procedures and requirements.
24

25 The changes in this S-version are:

- 26
27 1. Change the definition of "retailer."
28 2. Eliminate use of the terms "applicant" and "applicant retailer" and replace
29 with "retailer" or "responsible party for the retailer" as appropriate.
30 3. Replace the term "person" with "retailer" or "responsible party for the
31 retailer" in several instances.
32 4. Consolidate proposed subsections AMC 12.50.090A.2. and A.9.
33 5. Revise the prohibition in proposed AMC 12.50.260L. on selling marijuana
34 or marijuana products to other retailers to prohibit transactions not
35 authorized by state law.
36 6. Delete the prohibition in proposed AMC 12.50.260M. on selling marijuana
37 or marijuana products at a price less than cost.
38
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THE ADMINISTRATION RECOMMENDS APPROVAL OF THE S-VERSION.

Prepared by: Daniel Moore, Municipal Treasurer
Concur: Robert E. Harris, CFO
Concur: Lance Wilber, Director, Office of Management and Budget
Concur: William D. Falsey, Municipal Attorney
Concur: Michael K. Abbott, Municipal Manager
Respectfully submitted: Ethan A. Berkowitz, Mayor

ATTACHMENT B

Introduced by: Deputy Mayor Wilson
Substitution Date: April 14, 2016
Public Hearing: April 14, 2016
Adoption Date: April 14, 2016
Effective Date: July 1, 2016

Vote: Barney, Johansen, Jorgensen, Stout, Wilson and Thompson in favor

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HOUSTON, ALASKA
ORDINANCE 16-09 (Substitute)

AN ORDINANCE OF THE HOUSTON CITY COUNCIL AUTHORIZING THE LEVY OF A MARIJUANA EXCISE TAX AND AMENDING HOUSTON MUNICIPAL CODE (HMC) TITLE 4, REVENUE AND FINANCE, BY ADOPTING CHAPTER 4.24 EXCISE TAX ON MARIJUANA.

BE IT ORDAINED AND ENACTED BY THE CITY OF HOUSTON, ALASKA:

SECTION I: CLASSIFICATION: This ordinance is of a permanent nature and shall become part of the Houston Municipal Code.

SECTION II: SEVERABILITY: If the provisions of this ordinance, or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to any other person or circumstances shall not be affected thereby.

SECTION III: PURPOSE: The purpose of this ordinance is to:

- Levy an excise tax on the cultivation of marijuana in the City; and
- Adopt Chapter 4.24, Excise Tax on Marijuana, to administer and enforce the tax.

SECTION IV: EFFECTIVE DATE: This ordinance shall take effect July 1, 2016.

SECTION V: ENACTMENT: Houston Municipal Code, Title 4, Revenue and Finance, is hereby amended and enacted as follows:

Title 4
REVENUE AND FINANCE

Chapters:

- 4.01 Financial Policies
- 4.05 Fiscal Provisions
- 4.10 Purchasing and Contracting
- 4.16 Real and Personal Property Tax
- 4.18 Special Assessments
- 4.20 Sales Tax
- 4.22 Disposition of City-Owned Personal Property

Bold and Underline, added. ~~Strike through~~, deleted.

Introduced by: Deputy Mayor Wilson
Substitution Date: April 14, 2016
Public Hearing: April 14, 2016
Adoption Date: April 14, 2016
Effective Date: July 1, 2016

Vote: Barney, Johansen, Jorgensen, Stout, Wilson and Thompson in favor

4.24 Excise Tax on Marijuana

**Chapter 4.24
EXCISE TAX ON MARIJUANA**

Sections:

- 1
2
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9 **4.24.010** **Applicability, purpose and authority.**
10
11 **4.24.020** **Definitions.**
12
13 **4.24.030** **Excise tax on marijuana.**
14
15 **4.24.040** **Exemptions.**
16
17 **4.24.050** **License required; issuance**
18
19 **4.24.060** **License fee.**
20
21 **4.24.070** **Expiration and renewal of license.**
22
23 **4.24.080** **Ownership change to be reported.**
24
25 **4.24.090** **Transfer of license.**
26
27 **4.25.100** **Refund or credit of tax or license fee.**
28
29 **4.24.110** **Display of license; surrender of license; suspension or revocation of**
30 **license.**
31
32 **4.24.120** **Tax returns.**
33
34 **4.24.130** **Involuntary returns.**
35
36 **4.24.140** **Amended tax returns.**
37
38 **4.24.150** **Application of payments.**
39

Bold and Underline, added. Strike through, deleted.

Introduced by: Deputy Mayor Wilson
Substitution Date: April 14, 2016
Public Hearing: April 14, 2016
Adoption Date: April 14, 2016
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- 1 4.24.160 Prohibited acts and penalties
2
3 4.24.170 Civil fraud.
4
5 4.24.180 Tax lien.
6
7 4.24.190 Interest on unpaid tax.
8
9 4.24.200 Taxpayer, licensee, or other person remedies.
10
11 4.24.210 Inspection and maintenance of documents and records.
12
13 4.24.220 Administrative regulations.
14
15 4.24.230 Confidentiality of records.
16
17 4.24.220 Taxpayer, licensee, or other person remedies.
18
19 4.24.010 Applicability, purpose and authority.
20
21 A. Applicability. Unless provided otherwise, this chapter shall apply to the taxation of all
22 marijuana cultivated within the City for commercial or retail sale purposes, including
23 marijuana cultivated by a standard marijuana cultivation facility and a limited marijuana
24 cultivation facility..
25
26 B. Purpose. The purpose of this section is to provide for the levy of an excise tax on
27 marijuana cultivated within the City by any marijuana cultivation facility, and the
28 enforcement of such tax.
29
30 C. Authority. This chapter and the regulations related to marijuana establishments herein
31 are adopted pursuant to the authority granted by AS 17.38.100 and AS 29.35.010(6).
32
33 4.24.020 Definitions
34
35 A. "Flower and bud" means the hairy, sticky, or crystal-covered parts of mature female
36 marijuana plants generally harvested for their high potency content;
37
38 B. "Marijuana" has the meaning given in AS 17.38.900;
39

Bold and Underline, added. Strike through, deleted.

Introduced by: Deputy Mayor Wilson
Substitution Date: April 14, 2016
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1 C. "Marijuana cultivation facility" has the meaning given in AS 17.38.900 and includes
2 both a standard marijuana cultivation facility and a limited marijuana cultivation facility
3 as licensed under 3 AAC 306.400;
4

5 D. "Marijuana product manufacturing facility" has the meaning given in AS 17.38.900;
6

7 E. "Marijuana testing facility" has the meaning given in AS 17.38.900;
8

9 F. "Ownership change" means:

10
11 1. If the licensee is a partnership, including a limited partnership, any change in the
12 identity of the partners, or in the ownership percentages held by any partners;
13

14 2. If the licensee is a limited liability company, any change in the identity of the
15 members, or in the ownership percentage held by any member; or
16

17 3. If the licensee is a corporation, any sale of corporate stocks to a person not
18 currently an owner, or any change of the percentage ownership of an existing shareholder.

19 G. "Retail marijuana store" has the meaning given in AS 17.38.900;
20

21 H. "Transfer" means the exchange of marijuana, as defined under AS 17.38.900, with or
22 without consideration, or by barter, between marijuana establishments, or within
23 marijuana establishments possessing multiple permits, for commercial purposes.
24

25 4.24.030 Excise tax on marijuana.

26
27 A. Tax to be paid. The City hereby levies an excise tax on all marijuana cultivated in any
28 facility licensed pursuant to 3 AAC 306.400, including standard marijuana cultivation
29 facilities, and limited marijuana cultivation facilities as follows:
30

31 B. Marijuana Excise Tax

32
33 1. All non-exempt marijuana transferred from a marijuana cultivation facility shall
34 be taxed as follows:

35
36 a. Any part of the flower and bud, as defined in 15 AAC 61.290, will be taxed
37 at \$10.00 per ounce;

Bold and Underline, added. Strike-through, deleted.

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Substitution Date: April 14, 2016
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1
2 b. The remainder of the plant, not included in (B)(1)(a) of this section, will be
3 taxed at \$2.00 per ounce.
4

5 2. A marijuana cultivation facility that is also licensed as a marijuana product
6 manufacturing facility must pay tax on all marijuana transferred from the cultivation
7 facility to the product manufacturing facility for the month in which the marijuana was
8 transferred.
9

10 3. A marijuana cultivation facility that is also licensed as a retail marijuana store
11 must pay tax on all marijuana transferred from the cultivation facility to the retail
12 marijuana store for the month in which the marijuana was transferred.
13

14 4.24.040 Exemptions

15
16 A. The tax imposed under this chapter does not apply to marijuana if the State of Alaska
17 prohibits the levying of this tax under AS 17.38.
18

19 B. Transfers to a licensed marijuana testing facility are exempt from the excise tax on
20 marijuana.
21

22 4.24.050 License required; issuance.
23

24 A. Except as otherwise provided by AS 17.38.020, no marijuana cultivation facility may
25 plant, propagate, cultivate, harvest, trim, dry, cure, package, or transfer marijuana
26 without a license issued under this chapter.
27

28 B. The City Clerk, upon application and payment of the fee, shall issue a license to each
29 marijuana cultivation facility. The application must include the following information:
30

31 1. The applicant's name and address;
32

33 2. The name under which the marijuana cultivation facility will operate;
34

35 3. A copy of the applicant's City business license and state marijuana establishment
36 license.
37

38 4. Such other information that is indicated on the City's application form.
39

Bold and Underline, added. Strike through, deleted.

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1 C. The City Clerk may refuse to issue a license if there is reasonable cause to believe that
2 the applicant has willfully withheld information requested to determine the applicant's
3 eligibility to receive a license, or if there is reasonable cause to believe that information
4 submitted in the application is false or misleading and is not made in good faith.
5

6 D. A license required by this chapter is in addition to any other license required by law.
7

8 E. A license issued under this chapter shall include:
9

10 1. The name and address of the licensee;

11
12 2. The type of business to be conducted;

13
14 3. The address at which the business is conducted;

15
16 4. A license number; and

17
18 5. The year for which the license is issued.
19

20 4.24.060 License fee

21
22 A. For each license issued under this chapter, and for each renewal, the fee is \$250.00 per
23 year.
24

25 4.24.070 Expiration and renewal of licenses.
26

27 A. Licenses issued under this chapter shall expire on June 30 of each respective year.
28 On or before May 1 of each year, the City Clerk shall send written notice to licensees
29 that it must file a renewal application prior to the expiration of the license. Such notice
30 shall be sent to each licensee's current address on file with the Clerk's office.
31

32 1. If June 30 falls on a Saturday or Sunday, the deadline is extended to 4:30 pm
33 on the first business day following June 30.
34

35 2. A licensee is not excused from filing a renewal application as required in this
36 section even if the applicant fails to receive a renewal notice from the City
37 Clerk.
38

Bold and Underline, added. Strike through, deleted.

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1 B. A person whose license is lost, stolen, or defaced shall immediately file an application
2 with the City Clerk for reissuance of the license for the balance of the unexpired year.

3
4 4.24.080 Ownership change to be reported.

5
6 A licensee under this chapter shall, not later than 10 days after an ownership change,
7 report such change to the City Clerk on a form prescribed by the Clerk.

8
9 B. If any change required to be reported under this section will result in a change in
10 controlling interest of the license, the licensee must file an application for transfer of license
11 to another person pursuant to HMC 4.24.090.

12
13 4.24.090 Transfer of license.

14
15 A license under this chapter is not transferrable, but instead expires upon the effective date
16 of an ownership change. Not later than 10 days after the effective date of ownership
17 change, the licensee shall provide written notice to the City Clerk of the same, which must
18 include the name, address, form of organization, and jurisdiction of organization of the
19 transferee, and surrender the license to the Clerk.

20
21 4.24.100 Refund or credit of tax or license fee

22
23 A. The City Clerk shall not refund any license fee paid pursuant to this chapter upon the
24 surrender or revocation of a license after the beginning of the license year, with the
25 exception that upon application, the City Clerk will refund a license fee shown to have been
26 paid or collected in error.

27
28 B. If a remittance by a licensee exceeds the amount due, and the City Clerk, on audit of the
29 account in question, is satisfied that this is the case, the City Clerk shall, upon written
30 request of the licensee, refund the excess to the licensee without interest.

31
32 C. Any claim for refund filed more than one year after the due date of the tax is forever
33 barred.

34
35 D. A licensee may claim a credit for excise tax paid for marijuana that is returned to the
36 licensee. The credit must be claimed for the month in which the marijuana was returned.
37 The licensee must provide proof acceptable to the City Clerk that the tax had been
38 previously paid and was refunded to the purchaser.

Bold and Underline, added. Strike through, deleted.

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1
2 **4.24.110 Display of License; surrender of license; suspension or revocation of license.**

3
4 **A. A license issued under this chapter shall be prominently displayed at the licensee's place**
5 **of business.**

6
7 **B. A licensee shall surrender a license within 10 days after:**

8
9 **1. A revocation of license;**

10
11 **2. A cessation of business;**

12
13 **3. A change of ownership; or**

14
15 **4. A change of a place of business.**

16
17 **C. The City Clerk may suspend or revoke a license issued under this chapter:**

18
19 **1. For violation of this chapter or a regulation of the City adopted pursuant to this**
20 **chapter;**

21
22 **2. If a licensee ceases to act the capacity for which the license was issued.**

23
24 **D. No marijuana cultivation facility whose license is suspended or revoked shall plant,**
25 **propagate, cultivate, harvest, trim, dry, cure, or package marijuana for transfer during the**
26 **suspension or revocation on. No disciplinary proceeding or action is barred or abated by**
27 **the expiration, transfer, surrender, or renewal of a license issued under this chapter.**

28
29 **E.-The City Clerk will inform the Alaska Marijuana Control Board of a licensee's failure to**
30 **pay tax due or to file a return as required by this chapter, and will initiate license**
31 **suspension or revocation proceedings by filing an accusation as provided in AS 17.38.090.**

32
33
34 **4.24.120 Tax returns.**

35
36 **A. On or before the last day of each calendar month a licensee shall submit to the City**
37 **Clerk a tax return, upon forms provided by the City Clerk, for each license, and submit**
38 **payment for the taxes due as prescribed by the City Clerk.**

39

Bold and Underline, added. Strike through, deleted.

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1 1. The return shall be signed under penalty of perjury by the licensee or agent and
2 shall include:

3
4 a. A copy of the tax return for that month submitted by the licensee to the
5 Alaska Department of Revenue in accordance with 15 AAC 61.010;

6
7 b. The name and address of the licensee;

8
9 c. The name and address of the person filing the return, if different from the
10 licensee;

11
12 d. The number of the applicable license issued under this chapter;

13
14 e. The name under which the marijuana cultivation facility is being operated;

15
16 f. A report setting forth the total amount of marijuana transferred from the
17 marijuana cultivation facility in ounces, with fractional ounces calculated
18 to the third decimal place, for the preceding month;

19
20 g. The amount of tax due;

21
22 h. Such other information and supporting documentation which may be
23 required by the City Clerk.

24
25 B. A marijuana cultivation facility licensed under this chapter shall file a tax return each
26 month, even if it did not cultivate or transfer any marijuana in the City during the
27 preceding month.

28
29 C. The taxes imposed under this chapter and the return required by this section must be
30 received by the City Clerk, or postmarked on or before the last day of each calendar month
31 following the month covered by the return.

32
33 D. A separate tax return must be filed for each location when a taxpayer is operating in
34 several locations within the City.

35
36 4.24.130 Involuntary returns.

37
38 If a licensee fails to file a return as required by this chapter, or when the City Clerk finds
39 that a return is not supported by the records to be maintained pursuant to this chapter, the

Bold and Underline, added. Strike through, deleted.

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1 City Clerk may prepare and file a return on behalf of the licensee. Involuntary returns
2 filed under this section may be premised upon any information that is available to the City
3 Clerk, including, among other things, a copy of the materials the applicant submitted to the
4 Alaska Department of Revenue in accordance with 15 AAC 61.010, and comparative data
5 for similar businesses. A licensee for whom an involuntary return is filed under this section
6 shall be subject to liability for the tax stated in the return, as well as subject to the penalties
7 and interest provided for in this chapter. A return prepared by the City Clerk is prima
8 facie, good and sufficient for all legal purposes. However, nothing prevents the licensee
9 from presenting evidence on appeal to rebut the presumed sufficiency of a return prepared
10 by the City Clerk, nor does the presumption of sufficiency alter the parties' respective
11 burdens of proof once the licensee has presented evidence to rebut that presumption.

12
13 4.24.140 Amended tax returns.

14
15 A. Any tax return filed hereunder may be amended by the licensee within one year after
16 the due date of the tax return being amended. No amendment by the licensee shall be
17 allowed after this one-year period.

18
19 B. Any tax return prepared and filed by the City Clerk on behalf of the licensee may be
20 amended by the licensee within one year of the date filed by the City Clerk. No amendment
21 by the licensee shall be allowed after this one-year period.

22
23 4.24.150 Application of payments.

24
25 Any payment submitted to the City Clerk for any taxes, penalties, interest, or cost due
26 under any provision of this chapter or any return or any finding or determination by the
27 City Clerk under this chapter shall be credited to the monthly tax period for which was
28 remitted, first to the payment of costs and then to penalties, interest, and taxes in that
29 order.

30
31 4.24.160 Prohibited acts and penalties.

32
33 A. No person shall operate a marijuana cultivation facility within the City without
34 complying with the provisions of this chapter.

35
36 B. A penalty of six percent of the taxes due shall be incurred automatically when a person
37 fails to pay the full amount of the tax due under this chapter within seven calendar days
38 following its due date. An additional penalty of six percent of the taxes due shall be
39 incurred automatically when a person fails to file a tax return or report within seven

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1 calendar days following its due date under this chapter. If a person fails to pay the full
2 amount of the tax due and/or file a tax return or report as required under this chapter
3 within 16 days after its due date, the six percent penalties incurred above will automatically
4 above shall be increased automatically to 15 percent.

5
6 1. The penalty shall be computed on the unpaid balance of the tax liability as
7 determined by the City Clerk.

8
9 2. Notice of the penalties incurred and to be incurred shall be given to the person
10 responsible for payment of the taxes or for filing the return or report when such tax
11 payment or return or report is delinquent for seven calendar days after its due date.

12
13 3. The penalties provided for in this section shall be in addition to all other penalties
14 and interest for under this chapter.

15
16 C. If a properly filed amended return reduces the total tax liability or the tax required to
17 be paid, or the deterrent reduces the tax liability, the related penalty will be reduced
18 accordingly.

19
20 D. All penalties and remedies enumerated in this chapter are cumulative.

21
22 E. Unless otherwise provided in this section, any person who violates or fails to comply with
23 the provisions of this chapter shall be personally liable for all costs, interests, penalties and
24 taxes due under this chapter plus a penalty equal to 30 percent of the tax due. For good
25 cause shown, the Mayor may waive or reduce all or part of any penalty imposed under this
26 subsection.

27
28 4.24.170 Civil fraud.

29
30 A. A civil fraud penalty may be assessed against a person in addition to a penalty for
31 failure to file or failure to pay.

32
33 B. If it is determined by the City Clerk that a tax deficiency or part of a tax deficiency is
34 due to fraud, then a penalty will be added to the tax. The penalty is 50 percent of the
35 deficiency due or \$500.00, whichever is greater. The penalty is computed on the total
36 amount of the deficiency due.

37

Bold and Underline, added. ~~Strike through~~, deleted.

Introduced by: Deputy Mayor Wilson
Substitution Date: April 14, 2016
Public Hearing: April 14, 2016
Adoption Date: April 14, 2016
Effective Date: July 1, 2016

Vote: Barney, Johansen, Jorgensen, Stout, Wilson and Thompson in favor

1 C. Fraud is the intentional misrepresentation of a material fact with the intent to evade
2 payment of tax which the person believed to owe. The person must have had knowledge of
3 its falsity and intended that it be acted upon or accepted as the truth.

4
5 D. To establish civil fraud, the City Clerk must prove by clear and convincing evidence
6 that:

- 7
8 1. The tax liability was understated; and
9
10 2. The understatement was the result of an intent to evade tax.

11
12 E. An intent to evade tax may be demonstrated by any relevant evidence, including but not
13 limited to the following:

- 14
15 1. The person has provided false explanations regarding understated or omitted
16 amounts of marijuana cultivated or transferred;
17
18 2. The person has provided falsified or incomplete source documents;
19
20 3. The person has not justified an omission or understatement of a significant
21 amount of marijuana cultivated or transferred;
22
23 4. The person has substantially overstated a deduction and has failed to justify the
24 overstatement.

25
26 4.24.180 Tax lien.

27
28 A. If any person who is liable to pay a tax or license fee under this chapter neglects or
29 refuses to pay the tax or licensee fee after demand, the amount, including interest,
30 additional amounts, or assessable penalty together with costs, is a lien in favor of the City
31 upon all property and rights to property, real or personal, belonging to that person.

32
33 B. The lien imposed by this section arises upon delinquency and continues until the amount
34 is paid or a judgment against the person arising out of the liability is satisfied.

35
36 C. A lien arising out of a tax due under this chapter, including the penalties and interest on
37 the tax, shall be prior, paramount, and superior to all other liens, mortgages,
38 hypothecation, conveyances, and assignments, upon all real and personal property of the

Bold and Underline, added. Strike through, deleted.

Introduced by: Deputy Mayor Wilson
Substitution Date: April 14, 2016
Public Hearing: April 14, 2016
Adoption Date: April 14, 2016
Effective Date: July 1, 2016

Vote: Barney, Johansen, Jorgensen, Stout, Wilson and Thompson in favor

1 person liable for the tax and upon all the real and personal property used with the
2 permission of the owner to carry on the business which is subject to the tax.
3

4 D. The lien on personal and real property may be enforced in a manner similar to that
5 provided by A.S. 29.45.300—29.45.480 for enforcement of real and personal property tax
6 liens.
7

8 4.24.190 Interest on unpaid tax.
9

10 In addition to any penalties imposed by this chapter, interest at the rate of 12 percent per
11 annum shall be charged on the unpaid balance of delinquent taxes.
12

13 4.24.200 Taxpayer, licensee, or other person remedies.
14

15 A. Any person aggrieved by any action of the City Clerk in issuing, suspending, revoking,
16 or refusing to issue any license under this chapter or in fixing the amount of taxes,
17 penalties, interest, or costs under this chapter may apply to the City Clerk and request a
18 hearing within 30 days from the date the City Clerk mails the notice of the Clerk's action.
19 Upon timely application under this subsection or a hearing, the Mayor shall hold a hearing
20 to determine whether a correction is warranted. Hearings before the Mayor under this
21 subsection may, at the option of the Mayor, be conducted by an administrative hearing
22 officer designated by the Mayor. The hearing officer shall conduct the hearing and prepare
23 findings and conclusions. These findings and conclusions must be forwarded to the Mayor
24 for adoption, rejection, or modification and issuance of a final order or decision by the
25 Mayor. An application for a hearing must notify the City Clerk of the specific action
26 complained of and amount of tax, interest, cost, or penalty contested and the reason it is
27 contested. After receipt of a written decision by the Mayor, a person may appeal to the
28 Superior Court of the Third Judicial District in accordance with the Alaska Appellate
29 Court rules. The person shall be given access to the department's file in the matter for
30 preparation of the appeal.
31

32 B. A request for appeal is filed on the date it is personally delivered, or is delivered to the
33 City Clerk by the United States Postal Service, the date of the postmark stamped on the
34 properly addressed cover in which the request is mailed. If the due date falls on Saturday,
35 Sunday, or a City observed holiday the due date is the next working day. A current mailing
36 address must be provided to the City Clerk with the request for appeal, and any change in
37 mailing address after the request for appeal is filed must be reported to the City Clerk.
38

Bold and Underline, added. Strike through, deleted.

Introduced by: Deputy Mayor Wilson
Substitution Date: April 14, 2016
Public Hearing: April 14, 2016
Adoption Date: April 14, 2016
Effective Date: July 1, 2016

Vote: Barney, Johansen, Jorgensen, Stout, Wilson and Thompson in favor

1 C. If the notice to the person pursuant to subsection (A) of this section shows an amount
2 due, the uncontested portion of the amount due must be paid within 30 days after the date
3 of the notice. If the uncontested amount is not paid within 30 days, collection action will be
4 taken on that amount even if the person has filed a request for appeal. Payment of the total
5 amount due may be made any time before the hearing. If the City Clerk has reason to
6 believe that collection of the total amount due might jeopardize by delay, immediate
7 payment of the total amount will be demanded and the City Clerk may pursue any
8 collection remedies provided by law. Payment in full does not affect the person's right to a
9 hearing.

10
11 D. If a person requests a hearing and fails to appear at the hearing, the Mayor or hearing
12 officer may issue a decision without taking evidence from that person, unless that person
13 shows reasonable cause for failure to appear within seven days after the date scheduled for
14 the hearing.

15
16 E. Taxes, licenses fees, penalties and interest declared to be due in the final administrative
17 decision must be paid within 30 days after the date of the decision, or a bond must be filed
18 with the court in accordance with the Alaska Court Rules of Appellate Procedures.

19
20 4.24.210 Inspection and maintenance of documents and records.

21
22 A. Marijuana cultivation facilities shall keep complete and accurate records to support the
23 information to be included in the monthly tax returns required by this chapter, including
24 information regarding transfers. The records must include an accounting that inventories
25 live plants, trimmings, and any dried product on the first and last day of each month
26 including:

27
28 1. An invoice, sales receipt or other record memorializing the transfer of marijuana
29 from a marijuana cultivation facility, which must separately state the amount of tax due
30 after the sale or transfer.

31
32 B. Any person selling marijuana at a retail marijuana store who cannot produce records
33 showing taxes were paid on any marijuana in their possession are secondarily liable for the
34 unpaid tax on marijuana.

35
36 C. Persons subject to the chapter shall keep such other documents and records as the City
37 Clerk prescribes.

38
Bold and Underline, added. Strike through, deleted.

Introduced by: Deputy Mayor Wilson
Substitution Date: April 14, 2016
Public Hearing: April 14, 2016
Adoption Date: April 14, 2016
Effective Date: July 1, 2016

Vote: Barney, Johansen, Jorgensen, Stout, Wilson and Thompson in favor

1 D. The City Clerk may, during business hours, enter the business premises of a licensee
2 under this chapter, so far as it may be necessary for the purpose of examining such
3 products and the related business records.

4
5 4.24.220 Administrative regulations.

6
7 The City Clerk may adopt policies and procedures providing for the application and
8 interpretation of this chapter and provide forms for reporting and collecting the tax
9 imposed by this chapter.

10
11 4.24.230 Confidentiality of records.

12
13 A. All tax returns, documents, records, and/or reports filed with the City pursuant to this
14 chapter and all data obtained from tax returns, documents, records, and/or reports are
15 confidential as provided by HMC 2.50.050 (F) and may not be released for inspection by
16 any person except the Mayor, Treasurer, City Attorney, or the Council; provided, however
17 that such data may be released upon court order.

18
19 B. It is the duty of the City Clerk to safely keep tax returns, documents, records, and /or
20 reports and all data thereof secure from public and private inspection except as provided
21 by this chapter.

22
23 C. This section does not prohibit the City from compiling and publishing statistical
24 evidence concerning the data submitted; provided, that no identification of particular tax
25 returns, documents, records, and/or reports is made. Nothing in this sections shall be
26 deemed to prohibit the internal auditor from examining the tax returns, documents,
27 records, and/or reports; provided that no information obtained from specific or identified
28 tax returns shall be made available to persons other than those authorized to review them
29 under subsection (A) of this section.

30
31 ADOPTED by the Houston City Council on April 14 2016.

32
33
34 THE CITY OF HOUSTON, ALASKA

35
36 
37 Virgie Thompson, Mayor

38
39
40 ATTEST:

Bold and Underline, added. ~~Strike through~~, deleted.

City of Houston
Page 15 of 16

Ordinance No. 16-09 (S)

Introduced by: Deputy Mayor Wilson

Substitution Date: April 14, 2016

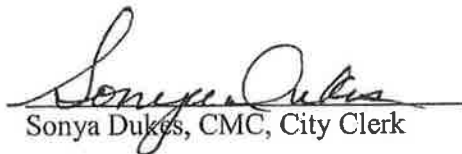
Public Hearing: April 14, 2016

Adoption Date: April 14, 2016

Effective Date: July 1, 2016

Vote: Barney, Johansen, Jorgensen, Stout, Wilson and Thompson in favor

1
2
3
4


Sonya Duker, CMC, City Clerk



Bold and Underline, added. ~~Strike through~~, deleted.



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION

FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: MAY 19, 2016

SUBJECT: NEW DRAFT MARIJUANA REGULATIONS

The following draft regulations are available for Public Comment the deadline for submittal of comments is June 21, 2016. Any comments or recommendations regarding the proposed regulations from the Commission can be presented at the June 13, 2016 Council meeting for approval.

Recommendation
Informational In Nature. No Action Required.

NOTICE OF PROPOSED REGULATIONS
REGARDING MARIJUANA AND ONSITE CONSUMPTION
MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to adopt regulations to amend 3 AAC 306.300 et seq. These proposed regulations relate to onsite consumption of marijuana and marijuana products in licensed marijuana retail stores.

The Marijuana Control Board proposes to adopt regulations in Title 3 of the Alaska Administrative Code, dealing with onsite consumption of marijuana and marijuana products in licensed marijuana retail stores, including the following:

- (1) 3 AAC 306.365 – Onsite consumption endorsement regulations are proposed as follows:

The regulations consist of a series of provisions establishing the procedure for applying for an onsite consumption endorsement, fees, rules regarding a Local Government's right to protest, rules regarding separation of the onsite consumption area from the remainder of the retail marijuana store, rules regarding ventilation, rules regarding intoxicated or drunken persons in the consumption area, rules regarding the transaction limits of marijuana or marijuana products sold, rules regarding pricing and marketing, rules regarding requirements of onsite consumption endorsement holders, rules regarding restrictions of onsite consumption endorsement holders, rules regarding labeling, and definitions.

You may comment on the proposed regulations, including the potential costs to private persons of complying with the proposed regulations, by submitting written comments to John Calder, AMCO (Alcohol and Marijuana Control Office) at 550 W. 7th Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at john.calder@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. Please indicate the article and section number to which each comment refers, if applicable. **Please indicate in the subject line that you are commenting on the onsite consumption endorsement.** The comments must be received no later than 4:30 p.m. on June 21, 2016.

You may submit written questions relevant to the proposed regulations to John Calder by email and physical address. Please do not submit questions through the Alaska Online Public Notice System. The questions must be received at least 10 days before the end of the public comment period, by June 11, 2016 at 4:30 p.m. The Marijuana Control Board will aggregate its response to substantially similar questions and make the questions and response available on the Marijuana Control Board website. The Marijuana Control Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact John Calder at (907) 269-0350 no later than June 11, 2016 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulations is available through the electronic link to the complete text on the Alaska Online Public Notice System, on the Alcohol & Marijuana Control Office website at <https://www.commerce.alaska.gov/web/amco/> and by contacting John Calder at 550 W. 7th Ste 1600, Anchorage, AK 99501.

After the public comment period ends, the Marijuana Control Board will either adopt the proposed regulations or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.**

Statutory Authority: AS 17.38.090

Statutes Being Implemented, Interpreted, or Made Specific: AS 17.38.090

Fiscal Information: The proposed regulations are not expected to require an increased appropriation.

DATE: May 12, 2016

Cynthia A. Franklin, Director
Marijuana Control Board

3 AAC 306.365. Onsite consumption endorsement for retail marijuana stores. (a)

An applicant for an onsite consumption endorsement must file an application on a form the board prescribes, including the documents and endorsement fee set out in this section.

(b) An application for a new or renewal onsite consumption endorsement must include

(1) the name of the applicant and DBA and license number of the retail marijuana store requesting the endorsement, along with the applicant's state business license number issued under AS 43.70;

(2) the applicant's operating plan, in a format the board prescribes, describing to the board's satisfaction the marijuana retail store's plans for

(1) security;

(2) ventilation;

(3) isolation of the marijuana consumption area from other areas of the retail marijuana store;

(4) disposal of unconsumed marijuana; and

(5) preventing introduction into the consumption area of marijuana or marijuana products not sold by the retail marijuana store.

(3) a detailed premises diagram showing the location of

(1) serving area or areas;

(2) ventilation exhaust points if applicable;

(3) doors, windows or other exits;

(4) access control points; and

(5) adequate separation from non-consumption area(s) of the marijuana retail store.

(c) The non-refundable fee for a new or renewal onsite consumption endorsement is \$1000.

(d) A retail marijuana store that is issued an onsite consumption endorsement under this section is authorized to sell marijuana and marijuana product to patrons only for consumption on the licensed premises and in an area separated from the remainder of the premises by a secure door and containing a separate ventilation system. The holder of a marijuana retail store onsite consumption endorsement may sell for consumption on the premises

(1) marijuana bud or flower in quantities not to exceed one gram to any one person in a single transaction;

(2) edible marijuana products in quantities not to exceed 10mg of THC to any one person in a single transaction;

(3) marijuana concentrates intended for inhalation in quantities not to exceed .25 grams to any one person in a single transaction;

(4) food or beverages not containing marijuana;

(e) The retail marijuana store holding an onsite consumption endorsement under this chapter must

(1) destroy all unconsumed marijuana left abandoned or unclaimed in the marijuana consumption area in accordance with their operating plan and 3 AAC 306.740;

(2) maintain a ventilation system that directs air from the onsite consumption area to the outside of the building through a filtration system adequate to reduce odor;

(3) restrict access to the onsite consumption area to persons not less than 21 years of age;

(4) monitor patrons for overconsumption;

(5) provide written materials containing marijuana dosage and safety information for each type of marijuana or marijuana product sold for consumption in the onsite consumption area at no cost to patrons ; and

(6) assure that consumers purchasing marijuana or marijuana product sold for consumption in the marijuana consumption area have access to the label for that marijuana or marijuana product as required in 3 AAC 306.345.

(f) The holder of a marijuana retail store onsite consumption endorsement may not

(1) allow any employee or agent to consume marijuana or marijuana product during the course of a work shift;

(2) allow intoxicated or drunken persons to enter or to remain on premises;

(3) sell, give or barter marijuana or marijuana product to an intoxicated or drunken person;

(4) allow a person to consume marijuana or marijuana product not purchased for consumption in the consumption endorsement area licensed retail facility;

(5) allow a person to introduce marijuana or marijuana products onto the premises of a retail marijuana store which was obtained off of the licensed premises

(5) offer or deliver, as a marketing device to the general public, free marijuana or marijuana product to a patron;

(6) deliver marijuana or marijuana product to a person already possessing marijuana or marijuana product that was purchased for consumption on the premises;

(7) sell, offer to sell, or deliver marijuana or marijuana product at a price less than the price regularly charged for the marijuana or marijuana product during the same calendar week;

(8) sell, offer to sell, or deliver an unlimited amount of marijuana or marijuana product during a set period of time for a fixed price;

(9) sell, offer to sell, or deliver marijuana or marijuana product on any one day at prices less than those charged the general public on that day;

(10) encourage or permit an organized game or contest on the licensed premises that involves consuming marijuana or marijuana product or the awarding of marijuana or marijuana product as prizes; or

(11) advertise or promote in any way, either on or off the premises, a practice prohibited under 3 AAC 306.365(h)(5) – 3 AAC 306.365(h)(10) of this section.

(g) A person may not remove from the licensed premises marijuana or marijuana product that has been purchased on the licensed premises for consumption under this section.

(h) Local governments retain a right to protest the issuance or renewal of individual retail marijuana store onsite consumption endorsements that is separate from the right to protest the issuance of retail marijuana store licenses. Not later than 60 days after the director sends notice of an application for a new or renewal onsite consumption endorsement, a local government may protest the application by sending the director and the applicant a written protest and the reasons for the protest. The director may not accept a protest received after the 60-day period. If a local government protests an application for a new or renewal onsite consumption endorsement, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

(i) A local government may recommend that the board approve an application with a condition or conditions for a new or renewal onsite consumption endorsement. The board will impose a condition or conditions recommended by a local government unless the board finds any of the recommended conditions to be arbitrary, capricious, and unreasonable. If the board imposes a

condition recommended by a local government, the local government will assume responsibility for monitoring compliance with the condition unless the board provides otherwise.

(j) The holder of an onsite consumption endorsement must apply for renewal annually at the time of renewal of the underlying retail marijuana store license.

3 AAC 306.990 (b)

(27) “marijuana consumption area” means an area within a retail marijuana store premises, where marijuana and marijuana products may be consumed.

(37) “retail marijuana store premises” means an area encompassing both the retail marijuana store and the marijuana consumption area.

NOTICE OF PROPOSED REGULATIONS
REGARDING ADMINISTRATION OF THE MARIJUANA CONTROL BOARD
MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to adopt regulations to amend 3 AAC 306.900. These proposed regulations relate to administration of the Marijuana Control Board

The Marijuana Control Board proposes to adopt regulations in Title 3 of the Alaska Administrative Code, dealing with Administration of the board, including the following:

- (1) 3 AAC 306.925 – Submissions to the board regulations are proposed as follows:

The regulations consist of a series of provisions establishing administrative procedures for submissions to the board, rules regarding the management of staff, rules regarding the conduct of board meetings and rules regarding public comment at board meetings.

You may comment on the proposed regulations, including the potential costs to private persons of complying with the proposed regulations, by submitting written comments to John Calder, AMCO (Alcohol & Marijuana Control Office) at 550 W. 7th Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at john.calder@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. Please indicate the article and section number to which each comment refers, if applicable. **Please indicate in the subject line that you are commenting on the Administration of the Marijuana Control Board.** The comments must be received no later than 4:30 p.m. on June 21, 2016.

You may submit written questions relevant to the proposed regulations to John Calder by email and physical address. Please do not submit questions through the Alaska Online Public Notice System. The questions must be received at least 10 days before the end of the public comment period, by June 11, 2016 at 4:30 p.m. The Marijuana Control Board will aggregate its response to substantially similar questions and make the questions and response available on the Marijuana Control Board website. The Marijuana Control Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact John Calder at (907) 269-0350 no later than June 11, 2016 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulations are available through the electronic link to the complete text on the Alaska Online Public Notice System, on the Alcohol & Marijuana Control Office website at <https://www.commerce.alaska.gov/web/amco/> and by contacting John Calder at 550 W. 7th Ste 1600, Anchorage, AK 99501.

After the public comment period ends, the Marijuana Control Board will either adopt the proposed regulations or other provisions dealing with the same subject, without further notice, or decide to take no

action. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.**

Statutory Authority: AS 17.38.090

Statutes Being Implemented, Interpreted, or Made Specific: AS 17.38.090

Fiscal Information: The proposed regulations are not expected to require an increased appropriation.

DATE: May 12, 2016

Cynthia A. Franklin, Director
Marijuana Control Board

3 AAC 306.925. Submissions to the board. Except as otherwise specifically provided in this chapter, applications and communications of a formal nature must be submitted in writing, upon prescribed forms as appropriate, to the board at its main office, and are not considered timely filed until received there.

3 AAC 306.930. Staff. (a) The director of the board is responsible for the management of the board's offices, the administration of the board's functions and the enforcement of AS 17.38 and this chapter.

(b) The director will employ and supervise necessary clerical and investigative personnel and will prescribe their duties and authority.

(c) The director will prescribe forms for application for new licenses, transfers, renewals and for endorsements, petitions, and other necessary documents.

3 AAC 306.935. Conduct of board meetings. (a) The board will, at the first meeting of each calendar year, select a chair from among its members to preside over board meetings during the ensuing year.

(b) The board will meet at the call of the chair after reasonable public notice is given.

(c) For the purposes of AS 17.38.093(b), the "whole membership" is all persons appointed and serving as members of the board. If necessary, the director shall cast a tie-breaking vote with the consent of the board executed at the beginning of the meeting.

(d) The director is responsible for preparing an informative agenda for each board meeting. A copy of the agenda will be available for inspection by persons who request it.

3 AAC 306.940. Public comment at board meetings. (a) At its public meetings, the board will receive public comment upon items of agenda business and other issues of public interest related to commercial marijuana establishments, including the conduct of business by

licensees and the compliance by licensees and others with the statutes and regulations related to commercial marijuana establishments. Public comment may also be submitted to the board in writing by any person at any time, however comment on a proposed regulation must be made within the time provided in the public notice for the proposed regulation.

(b) The right to be heard provided for in this section does not constitute intervention in a proceeding or exhaustion of an administrative remedy.



City of Homer

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MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION

FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: MAY 19, 2016

SUBJECT: NEXT MEETING DELIVERABLES AND AGENDA ITEMS

Please discuss and request from Staff or the Clerk what the Commission 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.

<u>Meeting Date</u>	<u>Packet Deadline</u>
December 17, 2015	December 9 th
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 or staff, Rick Abboud at 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	<u>Robl</u> _____	_____
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.

From: PSUMInfo (CED sponsored) <psuminfo@alaska.gov>
Sent: Friday, May 13, 2016 11:30 AM
To: PSUMInfo (CED sponsored)
Subject: Marijuana handler permits; proposed regulations regarding onsite consumption of marijuana; proposed regulations relating to administration of the Marijuana Control Board
Attachments: MarijuanaHandlerPermitApplicationInstructions.pdf;
DRAFTRegulationOnsiteConsumption.pdf;
DRAFTRegulationsMCBAdministration925-940.pdf

Marijuana handler permits

Beginning on May 17, 2016 individuals will be able to [initiate an application for a marijuana handler permit](#) on the [AMCO website](#). [Marijuana handler permit applications instructions](#) are available online and attached here for your convenience. Applicants must complete a [Marijuana Control Board-approved Marijuana Handler Permit Education Course](#) to receive a marijuana handler permit card. Additional courses will be added to the list as they are approved. Applicants should bring

- cover page from the online application
- marijuana handler permit course completion certificate
- a 2" X 2" full color passport photo
- photo ID

to an AMCO office in Anchorage, Fairbanks, or Juneau to receive a marijuana handler card. Applicants who do not live near an AMCO office can mail the required documentation. Applicants are encouraged to read the [instructions](#) in their entirety before applying.

AMCO Offices:

Anchorage	Atwood Building (550 W. 7 th Ave, room 108) Marijuana handler permit card hours: Tuesdays and Thursdays from 9–11 a.m. and 1–3 p.m.
Fairbanks	1979 Peger Rd call 907-451-2030 to schedule an appointment for a marijuana handler permit card
Juneau	State Office Building (333 Willoughby Ave, 9 th floor) call 907-465-2330 to schedule an appointment for a marijuana handler permit card

Proposed regulations regarding onsite consumption of marijuana

The Marijuana Control Board proposed to adopt regulations to amend 3 AAC 306.300 et seq. relating to onsite consumption of marijuana and marijuana products in licensed marijuana retail stores. The proposed regulations are available on the [AMCO website](#) and attached here for your convenience.

You may comment on the proposed regulations, including the potential costs to private persons of complying with the proposed changes, through the [Alaska Online Public Notice System](#) using the "comment" link. You may also submit written comments to John Calder, Alcohol & Marijuana Control Office at 550 W. 7th Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at john.calder@alaska.gov – *please indicate in the subject line that you are commenting on the onsite consumption endorsement*. The comments must be received no later than **4:30 p.m. AKDT on June 21, 2016**.

You may submit written questions relevant to the proposed action to John Calder by email and physical address. Please do not submit questions through the Alaska Online Public Notice System. The questions must be received at least 10 days before the end of the public comment period. The Marijuana Control Board will aggregate its response to substantially similar questions and make the questions and response available on the [AMCO website](#). The Marijuana Control Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

After the public comment period ends, the Marijuana Control Board will either adopt the proposed regulations or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. You should comment during the time allowed if your interests could be affected.

Proposed regulations relating to administration of the Marijuana Control Board

The Marijuana Control Board proposed to adopt regulations in Title 3 of the Alaska Administrative Code dealing with administration of the board, including 3AAC 306.925. The proposed regulations are available on the [AMCO website](#) and attached here for your convenience.

You may comment on the proposed regulations, including the potential costs to private persons of complying with the proposed changes, through the [Alaska Online Public Notice System](#) using the "comment" link. You may also submit written comments to John Calder, Alcohol & Marijuana Control Office at 550 W. 7th Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at john.calder@alaska.gov – *please indicate in the subject line that you are commenting on the Administration of the Marijuana Control Board*. The comments must be received no later than **4:30 p.m. AKDT on June 21, 2016**.

You may submit written questions relevant to the proposed action to John Calder by email and physical address. Please do not submit questions through the Alaska Online Public Notice System. The questions must be received at least 10 days before the end of the public comment period. The Marijuana Control Board will aggregate its response to substantially similar questions and make the questions and response available on the [AMCO website](#). The Marijuana Control Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

After the public comment period ends, the Marijuana Control Board will either adopt the proposed regulations or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. You should comment during the time allowed if your interests could be affected.

State of Alaska

Alcohol and Marijuana Control Office

550 West 7th Ave, Suite 1600

Anchorage, Alaska 99501

(907) 269-0350

commerce.alaska.gov/web/amco

marijuana@alaska.gov



Alaska Marijuana Control Board Marijuana Handler Permit Application Instructions

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501

marijuana.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>

Phone: 907.269.0350

What is this packet?

Each licensee, employee, or agent of a marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or marijuana product, or who checks the identification of a consumer or visitor, must obtain a marijuana handler permit card from AMCO before being licensed or beginning employment at a marijuana establishment, per 3 AAC 306.700. Marijuana handler permits are valid for three years from the date of issue.

The following instructions regarding new marijuana handler permit applications for submission to the Alcohol and Marijuana Control Office (AMCO) were created to assist you in completing forms and gathering necessary documents. The AMCO staff has worked diligently to make these instructions easy to understand and provide valuable training and resources for all applicants to ensure that permit applications and supplemental documents are completed accurately.

Applicants should complete the following before proceeding with a new marijuana handler permit application:

- Read the **Frequently Asked Questions (FAQs)** provided on our website at <http://www.commerce.alaska.gov/web/amco>
- Read these **Instructions**
- Complete a Marijuana Control Board approved **Marijuana Handler Permit Education Course**

If you have completed the above bulleted requirements and still have a marijuana handler permit question, you may send your question in an email to amco.enforcement@alaska.gov.

Cynthia A. Franklin
Director

Sarah Daulton Oates
Records & Licensing Supervisor

Alcohol and Marijuana Control Office Hours

AMCO will begin issuing marijuana handler permit cards the week of May 16, 2016. For the week of May 16 – May 20, 2016, marijuana handler permit cards will be issued in Anchorage in Room 108 of the Atwood Building (550 W 7th Avenue). Applicants who live in Fairbanks or Juneau must schedule an appointment with your local AMCO investigator to have permit cards issued.

AMCO Headquarters (Anchorage Office)

Marijuana Handler Permit Card hours: Tuesday and Thursday: 9:00am – 11:00am and 1:00pm – 3:00pm Alaska Standard Time

Regular office hours: Monday – Friday: 9:00am – 4:00pm

Our office closes: Every day from 12:00pm – 1:00pm for lunch



Alaska Marijuana Control Board Marijuana Handler Permit Application Instructions

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501

marijuana.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>

Phone: 907.269.0350

Online Application Instructions

In order to receive a marijuana handler permit card, please complete the following steps:

1. Go to <https://www.commerce.alaska.gov/web/amco/MarijuanaApplication.aspx>. Click the button titled "Initiate Marijuana Application".
2. You will be redirected to myAlaska where you will use your myAlaska login ID and password to log in.
3. Once you have logged in, you will arrive at a Home screen. Select the button titled "Secure Site".
4. Click the button titled "Apply for a new Handler Permit".
5. Fill out the application entirely, and then click the "Save Handler" button.
6. Click the button titled "Review Application", and **REVIEW YOUR APPLICATION**.
7. Once you have reviewed your application for accuracy and completeness, click the "Submit Application" button. You will be redirected to your account Home, where you can view your permit information by clicking on the handler permit number. From there, you will click on the "Standard Cover Page" button and print one copy.

HANDLER PERMIT 1000

Welcome, *MarijuanaUser3* [Account Home](#) [Sign-Out](#)

Handler Permit Number: 1000
Handler Status: **Initiated**
Issue Date:
Effective Date:
Expiration Date:

ACTIONS & DOCUMENTS

[Standard Cover Page](#)

Name: Jim Morrison
Date of Birth: 05/17/1955
Phone Number: 907-269-0350
Email Address: marijuana@alaska.gov
Mailing Address: 550 W 7th Ave
Suite 1600
Anchorage, AK 99501
UNITED STATES

HANDLER EVENTS

▶ Initial Application

Status: Incomplete

8. Once you have reached this stage of your Online Application, AMCO staff will make payment available to you online. Pay the \$50 fee by accessing your myAlaska account.



Alaska Marijuana Control Board Marijuana Handler Permit Application Instructions

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501

marijuana.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>

Phone: 907.269.0350

Checklist for All Permit Applications

The following documents and items must be submitted before an application will be considered complete:

- Online Application
- Standard Cover Page
- Marijuana Handler Permit Education Course Completion Certificate (original copy)
- Passport Photo (2" x 2" full color photo)
- Permit Fee (\$50, paid online)

Document Submission and Card Issuance Instructions

In order to receive a marijuana handler permit card, please complete the following steps:

1. Complete a Marijuana Control Board approval Marijuana Handler Permit Education Course.
2. Complete the marijuana handler permit Online Application (detailed instructions are included later).
3. Log in to your account and pay the \$50 permit fee (AMCO staff will make this available to you after reviewing your Online Application).

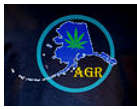
4. **For applicants who live near Anchorage, Fairbanks, or Juneau:**

Bring a copy of your Standard Cover Page, your original Marijuana Handler Education Course Completion Certificate, an original passport photo, and a valid form of photo identification to your local AMCO office (see page 1 for office hours). Your card will be issued and provided to you by AMCO staff.

For applicants who do not live near Anchorage, Fairbanks, or Juneau:

Mail a copy of your Standard Cover Page, your original Marijuana Handler Education Course Completion Certificate, an original passport photo, and a clear and readable color copy of a valid form of photo identification to the Anchorage AMCO office at the address below. Your card will be issued within five business days and mailed to you at the mailing address on your application.

Alcohol & Marijuana Control Office
Attn: Enforcement
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501



Alaska Green Resources

[Home](#)[Class schedule](#)[BUY SEATS](#)[Contact](#)[About](#)

About us

Alaska Green Resources has been working hard from day one to actively participate in the industry process. We are based in Kenai and have provided a forum for discussion on many state and local issues.

We are happy to be the first state approved course provider and will get you up to speed on everything you need to know to acquire your state required Marijuana Handler Permit card.





Alaska Green

Resources

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CLASSES WILL BEGIN MID-MAY!

MAY 14 - 10am-2pm, Kenai Chamber of Commerce Seating is limited to 30

MAY 20 - 5pm-9pm, ACBA Member Class in Anchorage Seating is limited to 30

MAY 21 - 10am-2pm **POTLUCK EVENTS - THIS CLASS HAS CHANGED LOCATION TO 7801 KING ST., ANCHORAGE. PLEASE MAKE NOTE** Seating is limited to 30

JUNE 4 - 10am-2pm, Challenger Learning Center in Kenai Seating is limited to 30

ONLINE COURSE AVAILABLE NOW!



Alaska Green Resources

Home Class schedule BUY SEATS Contact About

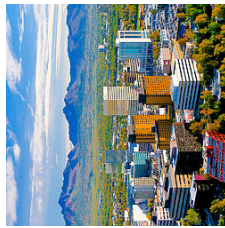
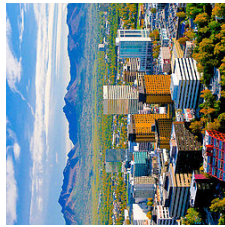
Please send email at time of purchase to jeffndol@yahoo.com to RESERVE your seat! Kenai Prices include TAX

INCLUDE:

- Full Name(s)
- Date of class desired
- Purchase amount
- Contact info

CLICK ON "BUY NOW" TO PURCHASE

You will receive a confirmation email with your RESERVED seat numbers.



ONLINE COURSE - NOW AVAILABLE!!!

\$68.90

ONLINE COURSE AVAILABLE AT <https://ak-marijuana-handler-permit-course.teachery.co/ak-marijuana-handler>

KENAI - ASCA MEMBER

\$58.30

Buy Now

KENAI - FULL PRICE

\$68.90

Buy Now

ANCHORAGE-ASCA MEMBER

\$55.00

Buy Now

ANCHORAGE - FULL PRICE

\$65.00

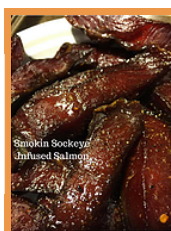
Buy Now

[Home](#)[About](#)[Classes](#)[Contact](#)

Welcome to the Alaska Marijuana Handler's Card course!

This course is required for anyone who plans to work directly with the plant, secure the people working with or transporting it. If you are in the Alaskan cannabis industry, this course is for you! We are endorsed by the Alaska Marijuana Control Board and offer courses online for your convenience, or periodically in person.

Check out some of Alaska's finest in our scrolling gallery below:



Our Classes

Whether you take the course strictly online, in person, or as a live webinar, we have education solutions to meet your needs.

The test is an untimed, multiple choice exam. You get three tries to earn a 70% passing score, all while learning the required regulations for the industry, making you a valuable employee.

Events & Workshops

Online Course



Click on the Classes link at the top of the page to purchase.

This course is broken up into 11 lessons, each having between one and three videos between 3 and 8 minutes in length. Transcripts are included with each lesson because I know that sometimes you want to listen to the information and sometimes you need to just read it. Work on this at your own pace in the comfort of your home.



In Person Training

This will take place periodically as needed at large events and in major cities. The Classes page has sign up information with upcoming dates.

Webinars

These will take place periodically as well, so check the class schedule. Webinars will require internet, and the participants will interact through the phone connection and through the chat function on the platform.

[Having an issue?](#)

Alaska Marijuana Handler's Card

This course is needed if you plan to work in the Alaska cannabis industry in any way, from cultivation, manufacturing, testing, retail, transportation, or security. Below is the early bird pricing! Get it now before it's gone! (offer good until May 11)



Already purchased this course? [Log in \(/login\)](/login)

Contact Information

All fields are required.

First Name

Last Name

Email Address



Your satisfaction is guaranteed.



Your information is 100% secure.



Teachery protects your privacy.



Your order information is safe and your order is secure. You will receive an email confirmation upon successful payment with next steps.

Payment Information

All fields are required.

Credit Card Number

CVC

Expiration
Month

1 - January ▾

Expiration Year

2016 ▾

Have a promo code?

enter code

Order Total:

\$65.00

Order Now

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<https://www.teachery.co>

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<https://www.teachery.co>

[Home](#)[About](#)[Classes](#)[Contact](#)

Handle Alaska



Events & Workshops

The Alaska Marijuana Handler Card is a state endorsed course for anyone who works in the Alaska cannabis industry in any of the licensed establishments. Whether you're an owner, cultivator, processor, lab technician, budtender, transporter, or working security, this is the perfect course to teach you all of the required laws and regulations in the industry.

This is also the only course that gives back to the cannabis community and industry by donating a portion of the proceeds to the Alaska Marijuana Industry Association for lobbying efforts in Juneau and to subsidize member events. All AMIA members get a \$10 discount, so consider joining today!

This course must cover: Alaska's medical marijuana laws, Ballot Measure 2, all of the state wide regulations (Ch 306), the effects of marijuana consumption, how to identify an impaired individual, how to distinguish valid forms of government issued IDs, how to intervene and prevent unlawful consumption, and the penalties for any unlawful acts.

The course is divided into 11 lessons in video format, along with transcripts. After course completion, one has 3 chances to pass the exam with a 70% pass rate. The course exam certificate and fingerprint cards must then be submitted to the director of the Marijuana Control Board who will issue the actual Handler Card to you.

Online | Anytime \$65

[Online course link](#)



This course is broken up into 11 lessons, each having between one and three videos between 3 and 8 minutes in length. Transcripts are included with each lesson because we know that sometimes you want to listen to the information and sometimes you need to just read it. Work on this at your own pace in the comfort of your home.

Please let me know if the button brings you to a screen that asks you to create your own course. Some people are having issues and others are not. handlealaska@gmail.com



In Person Training \$90

I would like to apologize, but I am going to have to postpone the in person session originally planned for May 7th until Saturday, May 21st due to some payment processing issues. Please set that day aside if you would like to do it at that time.

Classes will be held at 360 E. International Airport Rd.

These in person trainings must be more expensive due to the expense of renting the space, tables and chairs, plus compensating the instructor for their time.

We will also offer trainings at CannaCon, August 26-28, days and times to be determined. If these 4 in person classes book up, I will consider adding another class in June or July.

Webinars \$80

Again, due to payment processing issues, the webinar payment option will be available soon. The first Webinar will be on June 18th from 9:00 - 1:00.

Webinars will require internet, and the participants will interact through the phone connection and through the chat function.

This option is less expensive than an in person session since only the instructor's time must be compensated.



(<http://marijuanahandlers.com>)

Your industry resource for education, networking and organization!

MARIJUANA HANDLERS™

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Courses (<http://marijuanahandlers.com/index.php/lp-courses/>)

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STATE APPROVED MANDATORY COURSE!

YOU MUST HAVE THIS COURSE TO OBTAIN YOUR MARIJUANA HANDLER CARD

YOU MUST HAVE A MARIJUANA HANDLER CARD TO WORK IN THE INDUSTRY

GET CERTIFIED NOW ONLINE

\$50

GET CERTIFIED SPECIAL

CLICK HERE TO REGISTER FIRST (<http://marijuanahandlers.com/index.php/register/>)

Buy Now



- › **EDUCATION** - We provide online and offline training in the Marijuana industry. Workers properly trained in various facets of the industry ultimately enhance the integrity of the individual and the industry. MARIJUANA HANDLERS™ administers courses and classes approved for State Marijuana Handler Certification and Continuing Education.
- › **NETWORK** - Networking with peers and others and having a forum to exchange ideas and information are vital for the industry's success. Networking with others and exchanging information facilitates business growth. MARIJUANA HANDLERS™ contributes by providing public forums, employment resources, job boards and more.
- › **ORGANIZATION** - MARIJUANA HANDLERS™ provides it's members with organizational tools and business resources. An organized, focused workforce with goals and objectives benefits the entire industry. MARIJUANA HANDLERS™ members receive access to forums, educational classes,

organizational resources and employment opportunities.

GET CERTIFIED – STATE APPROVED – REGISTER NOW – GOOD FOR 3 YEARS!

Regulation of Marijuana Industry – 3 AAC 306.700.

(a) A marijuana establishment and each licensee, employee, or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or a marijuana product, or who checks the identification of a consumer or visitor, must obtain a marijuana handler permit from the board before being licensed or beginning employment at a marijuana establishment.

(b) To obtain a marijuana handler permit, a person must complete a marijuana handler permit education course approved by the board, pass a written test demonstrating an understanding of the course material, and obtain a certificate of course completion from the course provider.

Alaska Marijuana Classified ADS

Post Ads (<http://marijuanahandlers.com/index.php/ads/post-ads>)

Browse Ads (<http://marijuanahandlers.com/index.php/ads/browse-ads>)

Search Ads (<http://marijuanahandlers.com/index.php/ads/search-ads>)







Ad Category

[Change Category](#)

Category:

There were no listings found.

Map Legend

-  Limited Marijuana Cultivation Facility
-  Standard Marijuana Cultivation Facility
-  Retail Marijuana Store
-  Marijuana Testing Facility
-  Marijuana Concentrate Manufacturing Facility
-  Marijuana Product Manufacturing Facility

Add or Update Resource

Alaska Resource Map - Marijuana Businesses & Establishments



(<http://marijuanahandlers.com/wp-content/plugins/leaflet-maps-marker-pro/leaflet-kml.php?layer=4&name=show>)

(<http://marijuanahandlers.com/wp-content/plugins/leaflet-maps-marker-pro/leaflet-fullscreen.php?layer=4>)

(<http://marijuanahandlers.com/wp-content/plugins/leaflet-maps-marker-pro/leaflet-qr.php?layer=4>)

(http://marijuanahandlers.com/wp-content/plugins/leaflet-maps-marker-pro/leaflet-geojson.php?layer=4&callback=jsonp&full=yes&full_icon_url=yes)

(<http://marijuanahandlers.com/wp-content/plugins/leaflet-maps-marker-pro/leaflet-georss.php?layer=4>)

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

Reynolds

3
4 **ORDINANCE 16-23**

5 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
6 REPEALING HOMER CITY CODE, CHAPTER 6.12, DRUG ABUSE
7 AND PARAPHERNALIA.
8

9
10 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

11
12 Section 1. Homer City Code, Chapter 6.12, Drug Abuse and Paraphernalia, is hereby repealed:

13
14 6.12.010 Definition.

15
16 As used in this chapter, the following terms shall have the meanings as defined herein:
17 “Controlled substance” means a drug, substance, or immediate precursor included in
18 the schedules set out in AS 11.71.140 through 11.71.190, as amended.

19 “Drug paraphernalia” means all items, equipment, devices, products and materials of
20 any kind which are used, or intended for use, in planting, propagating, cultivating,
21 growing, harvesting, manufacturing, compounding, converting, producing,
22 processing, preparing, testing, analyzing, packaging, repackaging, storing, containing,
23 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human
24 body a controlled substance as defined herein. Drug paraphernalia includes, but is not
25 limited to:

26 1. Kits used or intended for use in planting, propagating, cultivating, growing,
27 or harvesting of any species of plant which is a controlled substance or from
28 which a controlled substance can be derived;

29
30 2. Kits used or intended for use in manufacturing, compounding, converting,
31 producing, processing, or preparing controlled substances;

32
33 3. Isomerization devices used or intended for use in increasing the potency of
34 any species of plant which is a controlled substance;

35
36 4. Testing equipment used or intended for use in identifying or in analyzing the
37 strength, effectiveness or purity of controlled substances except for use by or
38 under the direction of law enforcement agencies or medical research or
39 treatment facilities;

40
41 5. Scales and balances used or intended for use in weighing or measuring
42 controlled substances;

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

43 ~~6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite,~~
44 ~~dextrose and lactose, used or intended for use in cutting controlled~~
45 ~~substances;~~

46
47 ~~7. Separation gins and sifters used or intended for use in removing twigs and~~
48 ~~seeds from, or in otherwise cleaning or refining, marijuana;~~

49
50 ~~8. Blenders, bowls, containers, spoons and mixing devices used or intended for~~
51 ~~use in compounding controlled substances;~~

52
53 ~~9. Capsules, balloons, envelopes and other containers used, intended for use,~~
54 ~~or designed for use in packaging small quantities of controlled substances;~~

55
56 ~~10. Containers and other objects used or intended for use in storing or~~
57 ~~concealing controlled substances;~~

58
59 ~~11. Hypodermic syringes, needles and other objects used or intended for use in~~
60 ~~injecting controlled substances into the human body;~~

61
62 ~~12. Objects used or intended for use in injecting, inhaling, or otherwise~~
63 ~~introducing marijuana, cocaine, hashish, or hashish oil into the human body,~~
64 ~~such as:~~

65
66 ~~a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or~~
67 ~~without screens, permanent screens, hashish heads, or punctured~~
68 ~~metal bowls;~~

69
70 ~~b. Water pipes;~~

71
72 ~~c. Carburetion tubes and devices;~~

73
74 ~~d. Smoking and carburetion masks;~~

75
76 ~~e. Roach clips, meaning objects used to hold burning material, such as a~~
77 ~~marijuana cigarette, that has become too small or too short to be held~~
78 ~~in the hand;~~

79
80 ~~f. Miniature cocaine spoons, and cocaine vials;~~

81
82 ~~g. Chamber pipes;~~

83
84 ~~h. Carburetor pipes;~~

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

- 85 i. Electric pipes;
- 86
- 87 j. Air-driven pipes;
- 88
- 89 k. Chillums;
- 90
- 91 l. Bongs;
- 92
- 93 m. Ice pipes or chillers;
- 94

95 In determining whether an object is drug paraphernalia, a court or other authority
96 should consider, in addition to all other logically relevant factors, the following:

- 97 i. Statements by the manufacturer, owner or by anyone in control of the object
98 concerning its use;
- 99
- 100
- 101 ii. Prior convictions, if any, of an owner, or of anyone in control of the object,
102 under any State or Federal law relating to any controlled substance;
- 103
- 104 iii. The proximity of the object, in time and space, to a direct violation of AS
105 11.71.010 through 11.71.060, as amended;
- 106
- 107 iv. The proximity of the object to controlled substance;
- 108
- 109 v. The existence of any residue of controlled substances on the object;
- 110
- 111 vi. Direct or circumstantial evidence of the intent of an owner, or of anyone in
112 control of the object, to deliver it to persons who he knows, or should
113 reasonably know, intend to use the object to facilitate a violation of AS
114 11.71.010 through 11.71.060, as amended; the innocence of an owner, or of
115 anyone in control of the object, as to a direct violation of AS 11.71.010 through
116 11.71.060, as amended, shall not prevent a finding that the object is intended
117 for use as drug paraphernalia;
- 118
- 119 vii. Instructions, oral or written, provided with the object concerning its use;
- 120
- 121 viii. Descriptive materials accompanying the object which explain or depict its
122 use;
- 123
- 124 ix. National and local advertising concerning its use;
- 125
- 126 x. The manner in which the object is displayed for sale;

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

- 127 xi. Whether the owner, or anyone in control of the object, is a legitimate
128 supplier of like or related items to the community, such as a licensed
129 distributor or dealer of tobacco products;
130
131 xii. Direct or circumstantial evidence of the ratio of sales of the object(s) to the
132 total sales of the business enterprise;
133
134 xiii. The existence and scope of legitimate uses for the object in the community;
135
136 xiv. Expert testimony concerning its use.

137 ~~“Sell” or “sale” means the commercial transfer of ownership, possession or use of~~
138 ~~drug paraphernalia in the regular course of a wholesale or retail business for~~
139 ~~consideration of any type.~~
140

141
142 6.12.020 Sale of drug paraphernalia unlawful.

143
144 It is unlawful for any person to sell, or possess with intent to sell, drug paraphernalia,
145 knowing that it will be used to plant, propagate, cultivate, grow, harvest,
146 manufacture, compound, convert, produce, process, prepare, test, analyze, pack,
147 repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the
148 human body a controlled substance, except as specifically authorized and permitted
149 under the provisions of AS Title 17 and by such rules and regulations as are adopted
150 pursuant thereto.

151
152 6.12.030 Penalties.

153
154 a. Any person who violates any provision of this chapter shall be punished under the
155 general penalty provision of the Homer City Code, or be subject to injunctive relief to
156 restrain the person from continuing the violation or threat of violation, or both
157 injunctive relief and a civil penalty. Upon application for injunctive relief and a finding
158 that a person is violating or threatening to violate any provision of this chapter, the
159 Superior Court shall grant injunctive relief to restrain the violation.

160
161 b. Any item sold or possessed with the intent to sell by any person after a court has
162 adjudicated such an item to constitute drug paraphernalia as defined by HCC 6.12.010
163 shall be subject to forfeiture of the paraphernalia to the City upon order of the court
164 entered in any injunction proceedings instituted under the authority of this section or
165 in a separate forfeiture action instituted by the City.

166
167
168

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

169 Section 2. This ordinance shall take effect upon its adoption by the Homer City
170 Council.

171
172 Section 3. This ordinance shall be of a permanent and general character and shall be
173 included in the City code.

174
175 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
176 _____, 2016.

177
178 CITY OF HOMER
179
180
181 _____
182 MARY E. WYTHER, MAYOR

183
184 ATTEST:

185
186
187 _____
188 JO JOHNSON, MMC, CITY CLERK

189
190 YES:
191 NO:
192 ABSTAIN:
193 ABSENT:

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196 First Reading:
197 Public Hearing:
198 Second Reading:
199 Effective Date:

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201 Reviewed and approved as to form.

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203 _____
204 Mary K. Koester, City Manager

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206 Date: _____

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209 Date: _____

209 Fiscal Note: NA

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

Alaska Dispatch News

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

[Home](#) > [Mat-Su mayor issues veto on marijuana moratorium](#)

[Zaz Hollander](#) ^[1]

May 16, 2016

PALMER -- The Matanuska-Susitna Borough mayor on Monday vetoed a moratorium on marijuana businesses designed to extend through a boroughwide vote on a commercial cannabis ban in October.

Mayor Vern Halter's veto is not yet in effect. The Borough Assembly, which meets Tuesday evening, can override it. An item is also on the agenda to "reconsider" the moratorium, which was sponsored by Assembly member Randall Kowalke. Kowalke represents Willow, which is also Halter's hometown.

The fate of the marijuana industry is being closely watched in Mat-Su, considered Alaska's reputed cannabis capital because of its cultivation history and close access to markets in Anchorage.

Halter, in a statement explaining his decision, said borough regulations on marijuana are still being considered and months from finalization. He also expressed his opposition to the borough regulating marijuana beyond gathering taxes.

Halter couldn't be reached for clarification Monday evening. A borough spokesperson said the mayor wouldn't be available to discuss the veto until Tuesday.

A citizens initiative on the Oct. 4 ballot asks voters if they want to block marijuana businesses in the borough outside the cities. It exempts commercial hemp.

The borough Assembly adopted the moratorium earlier this month after hearing lengthy testimony from both sides of the issue: Industry backers said they deserved a chance to show the public how they operated before the vote; industry opponents said the vote should happen first.

Most of the moratorium was set to expire Oct. 19, except for grow facilities, which expired Aug. 17.

Halter, in his statement, said the state should regulate marijuana, with the borough taxing marijuana sales but not adding codes specific to marijuana.

"We have no police power and our Code compliance division is overworked already. To add Codes on marijuana will be difficult for us to enforce," Halter wrote. "From the very beginning our overly large Borough Marijuana Committee has made the process cumbersome and confusing."

The borough is working on changes to code that would address various land-use aspects of the nascent industry, such as how to address marijuana facilities in residential areas.

A 17-member Marijuana Advisory Committee was appointed by former Mayor Larry DeVilbiss last year. The committee released draft potential land-use regulations in January, and the borough planning commission made recommendations that led to additional changes by borough planning staff.

The planning commission was holding a public hearing on amendments to marijuana facility permitting Monday. The marijuana committee will review regulatory changes on May 19.

Alaska Dispatch News

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[Home](#) > [Mat-Su Assembly upholds marijuana moratorium, overriding mayor's veto](#)

[Zaz Hollander](#) ^[1]

May 18, 2016

PALMER -- The Matanuska-Susitna Borough's moratorium on marijuana businesses still stands.

The borough assembly on Tuesday night voted unanimously to override [Mayor Vern Halter's veto of the moratorium](#) ^[2].

The moratorium lasts until Oct. 19. Borough residents will vote on a commercial cannabis ban on the Oct. 4 ballot. A citizen's initiative asks voters if they want to block marijuana businesses in the borough outside cities.

Halter issued the veto Monday. He said during Tuesday evening's meeting that he didn't think the moratorium was necessary given the slow progress of the marijuana licensing process, which makes it unlikely many businesses will be up and running before the election. He repeated his belief the state should regulate the marijuana industry outside of cities, with the borough simply collecting taxes.

The assembly on Tuesday also removed a provision of the moratorium that provided an earlier, August sunset date for cultivation facilities.

Source URL: <http://www.adn.com/article/20160518/mat-su-assembly-upholds-marijuana-moratorium-overriding-mayors-veto>

Links:

[1] <http://www.adn.com/author/zaz-hollander>

[2] <http://www.adn.com/article/20160516/mat-su-mayor-issues-veto-marijuana-moratorium>

Alaska Dispatch News

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

[Home](#) > [Something interesting happens to weed after it becomes legal](#)

Keith Humphreys | The Washington Post
May 4, 2016

Two years ago, Washington state began an unprecedented policy experiment by allowing large-scale production and sale of recreational marijuana to the public. The effects on public health and safety and on the relationship of law enforcement to minority communities will take years to manifest fully, but one impact has become abundantly clear: Legalized marijuana is getting very cheap very quickly.

Marijuana price data from Washington's Liquor and Cannabis Board was aggregated by Steve Davenport of the Pardee RAND Graduate School and Jonathan Caulkins, a professor at Carnegie Mellon University. After a transitory rise in the first few months, which Davenport attributes to supply shortages as the system came on line, both retail prices and wholesale prices have plummeted. Davenport said that prices "are now steadily falling at about 2 percent per month. If that trend holds, prices may fall 25 percent each year going forward."

Although some observers will be surprised by these sharp price declines -- perhaps particularly some investors in the emerging legal marijuana industry -- seasoned drug policy analysts have long predicted this effect. As noted by Caulkins and his colleagues in the book "Marijuana Legalization: What Everyone Needs to Know," prohibition imposes many costs on drug producers. They must operate covertly, forgo advertising, pay higher wages to compensate for the risk of arrest, and lack recourse to civil courts for resolving contract disputes. Legal companies in contrast endure none of these costs and also can benefit from economies of scale that push production costs down.

Falling pot prices create winners and losers. Because state taxes are based on a percentage of the sales price, declining prices mean each sale puts less money in the public purse. On the other hand, bargain-basement prices undercut the black market, bringing the public reduced law enforcement costs, both in terms of tax dollars spent on jail and the damage done to individuals who are arrested.

For consumers who enjoy pot occasionally while suffering no adverse effects from it, low prices will be a welcome but minor benefit; precisely because they consume modest amounts, the price declines are only a modest win. On the downside, young people tend to be price-sensitive consumers, and their use of inexpensive pot may rise over time, as might that of problematic marijuana users.

How cheap can legal pot become? Says Caulkins, "It's just a plant. There will always be the marijuana equivalent of organically grown specialty crops sold at premium prices to yuppies, but at the same time, no-frills generic forms could become cheap enough to give away as a loss leader -- the way bars give patrons beer nuts and hotels leave chocolates on your pillow."

Source URL: <http://www.adn.com/article/20160504/something-interesting-happens-weed-after-it-becomes-legal>

Alaska Dispatch News

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

[Home](#) > How will marijuana businesses handle their cash? Outside companies might help

[Annie Zak](#) ^[1]

April 30, 2016

Main Image:

[160430MarijuanaCashBiz1.jpg-1462056664](#) ^[2]

Main Image Caption:

Sara Williams is CEO of Midnight Greenery, which hopes to open a marijuana retail location in downtown Anchorage. Photographed on Saturday, April 30, 2016.

Sara Williams just isn't that comfortable with handling \$10 million in cash.

Williams is the CEO of Midnight Greenery, a retail store she and co-owner Tina Smith plan to open in Anchorage this year to sell cannabis flowers, concentrates, oils, edibles and other products.

But like most who are eager to get into Alaska's marijuana industry, Williams is worried about what to do with all the incoming cash that she can't keep in a bank -- especially if business goes well.

Most banks want nothing to do with marijuana businesses because cannabis is still illegal at the federal level. That means businesses like Midnight Greenery will have to deal almost entirely with cash.

"You can have a safe for daily purposes," Williams said, "but my business plan is saying I could be pushing \$10 million annually, in cash. Millions of dollars needs an off-site storage backup plan, for sure."

Williams said she asked Wells Fargo, Northrim Bank and Matanuska Valley Federal Credit Union about opening an account and was denied by all three.

As a result, Midnight Greenery is planning to use a vault at an Anchorage security company to keep its cash safe.

But Williams and other entrepreneurs might have other options soon: Outside companies which could help ease cannabis-cash anxiety are now eyeing Alaska as one of their next stops.

[Here's what Alaska's marijuana bars may look like] ^[3]

A California company called PayQwick is looking at making a move north.

"We're very interested in Alaska and want to be there," said Ken Berke, PayQwick CEO. It's simply a matter of when.

PayQwick, which Berke likens to PayPal for pot, allows customers and businesses in the marijuana industry to use an app or PayQwick cards, which are linked to other bank accounts, to pay for marijuana products, getting around the problem of not being able to use an actual debit or credit card in a store. In addition to customers, retailers and processors can use the system to make payments to each other as well.

The company's system relies on seed-to-sale tracking systems for payments to work. [Alaska recently chose Franwell](#) ^[4], a tracking company that Oregon and Colorado also use, for that service. Berke said he wants to wait until that system takes off in Alaska to do business here.

PayQwick debuted in Washington state last year, where Berke said it's already hit \$8 million in transactions. The company is also preparing to set up shop in Oregon and Colorado.

Arizona-based Hypur is another company that marijuana businesses might look to for some relief. Hypur develops software for financial institutions and helps cash-intensive industries -- including cannabis -- conduct cashless transactions.

[Highly Informed: Answers to your questions about marijuana in Alaska] ^[5]

Though Hypur marketing director Jessica Lee wouldn't mention much about the company's plans in specific states, she said "Alaska is one that's ... been on our radar, and there's conversations going on in Alaska."

In 2014, the U.S. Department of Justice and the Treasury's Financial Crimes Enforcement Network spelled out new guidelines for prosecutors, and for banks that want to provide services for marijuana businesses. The guidelines explained law enforcement would focus on high-priority cases -- like marijuana ending up in the hands of minors, or cannabis revenue going to criminal organizations -- and said banks would have to monitor any marijuana clients' accounts very closely.

But the agencies also reiterated that taking cannabis money was still federally illegal and financial institutions could still be prosecuted -- not exactly comforting news for banks.

Some financial institutions in Washington state actually have opened up to marijuana, said Rick Riccobono, director of banks at Washington's Department of Financial Institutions. Those include Salal Credit Union, Numerica Credit Union and O Bee Credit Union, he said.

Salal has been banking the marijuana industry for about two years. Carmella Houston, vice president of business services there, said it was a challenge to work with cannabis businesses -- the credit union is state-chartered but still federally insured -- but it's "definitely been profitable." Salal has fielded about 2,000 inquiries and opened about 200 accounts.

"It's been crazy," she said. "The demand has been more than what we can do."

In Alaska, though, it appears that no one is warming to the idea.

"The DOJ came out and said, 'If you follow these things, maybe it'll be OK,' but it's just so unclear right now," said Keith Fernandez, vice president of corporate

communications and development at Denali Federal Credit Union. Denali doesn't do business with marijuana companies. "I think all financial institutions are hoping at the federal level someone will step in and say, 'OK, it either is allowed or it isn't.' But right now it is such a gray area."

Others are more tight-lipped.

"Our board has decided not to serve those accounts," said Chrissy Bell, senior vice president of communications and culture at Anchorage-based Credit Union 1. "I think there's not much more we have to say."

Steve Lundgren is president and CEO of Denali State Bank and the president of the Alaska Bankers Association. He said despite those federal guidelines, the association has still decided not to support banking marijuana.

"Even though we could bank the business, it would require so much federal oversight on our part that most of the banks here in the state have decided not to do that," Lundgren said. "We're not advocating for anything, but it would help us if federal law was aligned with state law."

The state's banking agency is also watching how institutions will handle an influx of cash.

"We've been trying to figure out how best we can help," said Kevin Anselm, director of the state's Division of Banking and Securities. She said she's watched PayQwick from afar and that there's a big need in Alaska for companies that will help with the banking conundrum, especially because having all-cash businesses could present a public safety issue.

"The banks and institutions are very nervous about taking in marijuana deposits or dealing with clients, even existing clients, that might be doing any sort of marijuana business," she said. "We really need a federal law change."

[Houston, alone in Mat-Su, considers new marijuana regulations] ^[6]

And until that happens, or a new company crops up, Alaska's pot businesses are left to fend for themselves. Some are turning to private security firms, such as Valkyrie Security and Asset Protection, to protect their money and marijuana.

That's the company Williams said was the answer to Midnight Greenery's banking questions, and she might even store some cannabis with the firm in addition to cash.

Sutton-based Valkyrie, which was founded in 2015 specifically to address the needs of the marijuana industry, doesn't just provide secure storage vaults. It also arranges armed guards and armored transport across Alaska's road system, alarm systems and more.

The company has three locations: in Anchorage, Fairbanks and the Matanuska-Susitna Borough, which will also be protected by armed guards.

Larry Clark, Valkyrie CEO, said he's in talks with many companies that have applied for marijuana licenses from the state, reaching from Fairbanks to Anchorage. He's even received calls from Barrow and Sitka.

"We're trying to be the extra layer of security," he said.

But it won't be simple for Valkyrie to provide these services. For one thing, it's no small task to transport cash and pot some 350 miles between Alaska's largest city and Fairbanks in an unassuming armored SUV. Clark said the company is constantly vigilant about someone trying to hijack its operations.

"Some of the costs the company is absorbing in the beginning to make this all happen, and show the state and municipal leaders that this is a very viable industry but it has to be handled very carefully ... We don't want to see an increase in crime," Clark said.

Wasilla-based Cheeky Monkey is hoping to become the "Starbucks franchise of cannabis dispensaries," said co-founder Joshua Furlong. But there are big challenges in the effort to go national and international, considering banks and even PayPal have put up roadblocks.

"The whole money side of things, that's the most difficult part of the business," Furlong said. "We still get turned down by the banks. It makes it difficult for security, transparency and legality."

Right now, though, there aren't many options, despite the want and need.

"We want our community to be served," Anselm said. "The state of Alaska is open for business."

Source URL: <http://www.adn.com/article/20160430/how-will-marijuana-businesses-handle-their-cash-outside-companies-might-help>

Links:

[1] <http://www.adn.com/author/annie-zak>

[2] <http://www.adn.com/image/160430marijuanacashbiz1jpg-1462056664>

[3] <http://www.adn.com/article/20160427/heres-what-alaskas-marijuana-bars-may-look>

[4] <http://www.adn.com/article/20160311/alaska-signs-5-year-contract-marijuana-seed-sale-tracking-company>

[5] <http://www.adn.com/term/highly-informed>

[6] <http://www.adn.com/article/20160311/houston-alone-mat-su-considers-new-marijuana-regulations>

