

**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/PRESENTATIONS** *(20 Minutes Scheduled for Presentation and Q & A)*
  - A. Jenny Carroll, Special Projects & Communications Coordinator  
2017-2022 Capital Improvement Plan & Proposed New Projects  
Reference Pages 89-189
- 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 June 23, 2016 Regular Meeting **Page 3**
- 7. REPORTS - State, Borough, Council, Staff**
  - A. City Attorney Report on Issues Surrounding Marijuana and Taxation, offense
  - B. City Planner Report 16-12 **Page 9**
- 8. PUBLIC HEARING**
- 9. PENDING BUSINESS**
  - A. Draft Ordinance 16-XX, Amending Title 9, "Taxation," to add Chapter 9.18, entitled "Excise Tax on Marijuana"
    1. Taxation Issues Related to Exemptions for Seniors and Medical Use **Page 49**
    2. Differentiating between Medical and Recreational Cannabis Related to Taxation
  - B. General Taxation Issues in the Cannabis Industry **Page 50**
    1. Issues with Taxing Marijuana at the State Level by Richard Phillips, **Page 53**  
The Institute on Taxation and Economic Policy, May 2015
- 10. NEW BUSINESS**
  - A. Revisiting the Zoning Regulations for Limited Cultivation within the City and Retail Businesses on the Spit **Page 69**
  - B. Proposed Amendments to the State Marijuana Regulations: Testing Facility requirements, Notices for Marijuana Stores and Onsite Consumption and rijuana Products in Marijuana Retail Stores **Page 71**
  - C. Capital improvement Plan 2017-2022 Commission Recommendations **Page 89**
  - D. Next Meeting Agenda Items **Page 191**
- 11. INFORMATIONAL MATERIALS**
  - A. 2016 Meeting Schedule and Packet Processing Deadlines **Page 193**
  - B. 2016 Commission Attendance at Council Meetings **Page 194**
- 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, AUGUST 25, 2016 at 5:30pm in the COWLES COUNCIL CHAMBERS located at City Hall 491 E. Pioneer Avenue, Homer Alaska**



Session 16-05, a Regular Meeting of the Cannabis Advisory Commission was called to order by Acting Chair David Lewis at 5:32 p.m. on June 23, 2016 in the Cowles Council Chambers located at City Hall 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS HARRIS, SARNO, REYNOLDS, CLARK, ROBL AND LEWIS

ABSENT: COMMISSIONERS STEAD, CARROLL, YOUNG

STAFF: DEPUTY CITY CLERK KRAUSE  
CITY PLANNER ABBOUD

TELEPHONIC: CITY ATTORNEY WELLS

### APPROVAL OF AGENDA

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

### PUBLIC COMMENT

Mr. Terry Lynn, San Diego, California, has visited the area over the years and was here to obtain feedback from the City on a medicinal cannabis retailer in Homer and being open to the industry and retail operations.

There were a few comments and suggestions from the commission on reviewing the state regulations regarding the residency requirements. City Planner Abboud commented on the zoning requirements. It was noted that there is no separation between recreational and medicinal retail.

### 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 May 26, 2016 Regular Meeting

Acting Chair Lewis called for adoption of the Consent agenda.

HARRIS/REYNOLDS - MOVED TO ADOPT THE CONSENT AGENDA.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### REPORTS

A. Report to the Commission - City Planner Update 16-11

1. Memorandum from City Attorney Wells re: Onsite Consumption

City Planner Abboud reviewed his brief report and commented on the applications that were approved. It was noted that only one near Homer had been approved and it was a cultivation license.

There was a brief discussion on the Borough approval of a license near Homer it is assumed that it was the location on Crossman Ridge and if the borough petition to ban was approved how difficult it would be to relocate those businesses.

City Attorney Wells commented on the regulations for onsite consumption at the state level and also noted that there will be a meeting that she would be able to attend if the Commission would like her to on their behalf. The commission agreed as long as there were no additional costs to the City for her attendance as she has waived her cap for the time being. City Attorney Wells opined that they are looking at September before onsite would be authorized.

## **PUBLIC HEARINGS**

### **PENDING BUSINESS**

A. Draft Ordinance 16-XX Amending Title 9, Taxation to Add Chapter 9.18, entitled Excise Tax on Marijuana

1. City of Houston, Alaska, Ordinance 16-09(A), Levy a Marijuana Excise Tax
2. City of Houston, Alaska, Ordinance 16-08, Marijuana Licensing and Regulation

City Attorney Wells explained the difference between excise taxes and sales taxes and how they are applied. She further added that you run into problems when you are using a percentage versus a flat fee.

Acting Chair Lewis inquired if it would be better to apply an excise tax on weight or THC especially when dealing with edibles. Is there a better way to equal those out?

City Attorney Wells will need to check with a consultant but the legal response was a recommendation to follow what has been done by other municipalities and that provides a benefit of staying in step until the newness of the industry has worn off.

Acting Chair Lewis inquired if they can apply different excise taxes for a smokable product and edibles or other consumables?

City Attorney Wells responded that you cannot tax a product twice. She provided the example of taxing from one entity to another.

Vice Chair Lewis agreed but then further explained what he was asking by offering the following example:

- We are going to charge \$7 per quarter ounce and then break it into grams that breaks it down to \$1.00 per gram of product then they have a \$5.00 per purchase of edibles or similar.

City Attorney Wells stated that would be allowed.

Commissioner Harris inquired if an excise inventory tax can be applied to inventory at the retail level? City Attorney Wells responded that would be allowed as long as the tax is not applied as a percentage of value can be done at the point of sale.

Commissioner Harris confirmed that you cannot tax at the cultivation level and the retail level. She then asked if a inventory tax of a set amount per product be easier?

City Attorney Wells responded that legally the city can structure the tax as they want it, it would be doable the question would be when filing tax returns and she requested time to research the aspects and looking for real life examples and bring back to the July meeting.

That was acceptable to the commission.

Commissioner Harris then inquired if for the city's purposes they refer to the "flower and bud" that they use the correct term "cola". She advocated for the correct term.



City Attorney Wells responded that the city can use the correct terms but they need to be exercise caution that they do not create confusion with the state. She provided an example of using terms that deviate to create a separate and distinct taxing scheme. If they use different definitions it must be separated and used only in the excise tax chapter in the city code.

Commissioner Harris expressed her reasoning on using the correct term providing the example of charging the whole plant as bud because her understanding of the definition, shown on line 79-80, page 20 in the packet, the root could be charged.

A brief discussion ensued on the definition and the clarification thereof. City Attorney Wells agreed that the scientific term for the definitions could be included for further clarification.

Acting Chair Lewis requested City Attorney Wells to bring back the draft ordinance with the revisions for the next meeting on the inventory excise tax compared to an end of sale excise tax would be appreciated. Commissioner Reynolds pointed out the amounts denoted in the memorandum under the consumption regulations, page 3 of 7; Commissioner Clark recommended basing the excise tax on these amounts whether it is for takeout or consume on premise such as \$1.00 per type. Acting Chair Lewis countered that then they would have to separate the onsite from the retail and if they only allow vaping would they do the whole gram. Commissioner Clark responded that he was suggesting that the excise tax would reflect whether it was a gram for product or 10 mg for edibles or a quarter of a gram for vaping.

The commission entertained discussion on whether the amount of \$1.00 would be too steep for a fledgling industry, they did not want to shoot the golden goose however they did want to charge accordingly. It was agreed that they could charge an amount that would be appropriate and compared content versus per package. City Attorney Wells commented that one of the jurisdictions in the Lower 48 did set the tax too high which in turn sent the industry back to the black market. While she doesn't have a legal opinion on this she will research for the next meeting what tax schemes are in place and these data points will maybe assist the commission in determining the appropriate to apply.

Commissioner Sarno inquired if the Planning Department would be able to field the effects from Licensees so that they can have a real life situation. City Planner Abboud responded that there would be limited resources since so far no one has applied for a license from the city and that due to the limited number of facilities you would have to have a region wide report maybe an association would form as a city it would be difficult.

City Attorney Wells added that the legal market needs to determine at what price can the business be sustainable against the black market, then it may be easier to ascertain at what levels to tax since the industry would be able to sustain that; if you set the tax initially then the argument is that the industry will set the price according to the tax and it may take longer to work itself out.

Acting Chair Lewis posed a scenario of implementing a twenty-five cent excise tax for the first year then revising it in the second. City Attorney Wells stated that would be allowed and also noted that they will not know what the cost of enforcement and administration will be and that would be prudent to review those costs and revise accordingly. She also answered Commissioner Clarks questions regarding application of a cap on the overall sale, but advised caution that it was a per transaction cap not a sale, so that while they are applying it at the point of sale it is not based on the sale. Acting Chair Lewis clarified that they would cap on purchases a \$10.00 correct similar to the cap on Borough Sales tax. City Attorney Wells responded that yes however cautioned the commission that they are going to have to be very careful when writing the code as to where they are applying the tax but it will be the facility's responsibility to pay the tax however they may pass that cost on to the consumer and she requested the opportunity to revisit that when they get there since it may look even different in writing than she is picturing it now.

Commissioner Reynolds commented that she did not think they should limit themselves but in the same reasoning she did not want to charge an exorbitant amount that would be unreasonable. Commissioner

Harris commented on the capping of taxes if they were not going to tax per package and would support a cap for the first five years since she did not want City Council to tax the industry right out of existence since many members of the Council are not supportive of the industry at this time. Commissioner Harris then inquired about the confidentiality of records such as tax returns with personal data but believed it would be good for the public to see what kind of taxes are brought in by cannabis and not rely on information brought by an opponent to cannabis. City Attorney Wells was not sure that it would be appropriate since these parallel state and federal requirements but the tax assessment roll in the realm of property tax are public. She noted that what they would want to create is similar to an assessment roll that is not as itemized as a tax return. City Attorney Wells can support creating a system similar to the assessment and documents to support that for public disclosure.

Acting Chair Lewis requested City Attorney Wells come up with a couple of draft ordinances then the commission would be willing to pass on this until the next meeting.

City Attorney Wells responded that she and City Planner Abboud can provide the information to the commission and recommended a more worksession like meeting to get through that information. She requested the commission let City Planner Abboud know of any additional information wanted for their next meeting and she will provide it. She opined that the commission should have a very robust packet of information for their next meeting.

Commissioner Harris inquired as of today could the city council stop someone from starting a business in city limits if they were in compliance with state and city regulations. City Attorney Wells responded that yes they could but her recommendation would be to ground any denial based on zoning regulations etc., that the city has implemented.

Acting Chair Lewis commented on banning changes and limiting Council which would in essence be baiting Council. He further stated that at the next meeting the commission can discuss what would be a reasonable tax to implement. Every year Council changes in the fall so it will be what it will be and they move on.

## **NEW BUSINESS**

### **A. Next Meeting Deliverables, Agenda Items**

Commissioner Sarno stated that the Alaska Small Cultivators Association has requested the commission to revisit the zoning in the city for small cultivation and she would like that on the agenda for the next meeting.

The commissioners commented and offered their opinions on putting the zoning back on the agenda to revisit the issue of small cultivations within city limits.

Commissioner Harris and Clark requested the zoning issue to cover the Spit also noting the recommendation of support from the Port & Harbor Advisory Commission for retail businesses on the Spit.

Commissioner Harris requested a motion of support for commercial cannabis businesses.

**HARRIS/CLARK - MOVED TO ISSUE A MOTION OF SUPPORT FOR ALL RETAIL, CULTIVATORS AND COMMERCIAL BUSINESSES INCLUDING THOSE JUST OUTSIDE CITY LIMITS.**

There was no discussion.

Motion was approved by Consensus of the Commission.

**INFORMATIONAL MATERIALS**

- A. 2016 Meeting Schedule and Packet Processing Deadlines
- B. 2016 Commission Attendance at Council Meetings
- C. Marijuana Handler Permit Application and Certification Information
- D. Ordinance 16-23, Repealing Homer City Code Chapter 6.12 Drug Abuse and Paraphernalia
- E. News Articles regarding the Marijuana Industry In and Outside Alaska

Acting Chair Lewis mentioned the informational articles contained some interesting items as usual.

**COMMENTS OF THE AUDIENCE**

Terry Lynn, San Diego, California commented on the direction of the discussions the commissioners entertained tonight and cautioned them to start low. Those small amounts add up but also noted that most users of medical marijuana are on limited budgets and also recommended taxing recreational marijuana to the limits. Mr. Lynn reiterated that they were doing a great job and going in the right direction but to keep it low when you do start.

Acting Chair Lewis asked City planner Abboud if it would be possible to request the City Attorney provide information on separating the taxes for medical and recreational marijuana.

City Planner Abboud responded that he can consult with City Attorney Wells but opined that to differentiate the two would mean a legal wrangle. He stated that technically he heard that Colorado had an issue separating the two and Alaska did not do that so the City of Homer would have to do that and it would mean a lot of work but was not sure the City had the expertise to do it.

Acting Chair Lewis requested City Planner Abboud to please forward the request to the City Attorney.

Commissioner Harris inquired about enacting a senior exemption?

A brief discussion on what parameters and how that would be applied, who determines what ensued. Acting Chair Lewis suggested that the commission could certainly discuss that and recommended when it came time for Commissioner Harris' comments to request that for the next agenda.

**COMMENTS OF STAFF**

Deputy City Clerk Krause commented it was all good.

City Planner Abboud had no comments.

**COMMENTS OF THE CHAIR**

Acting Chair Lewis had no comments.

**COMMENTS OF THE COMMISSION**

Commissioner Robl had no comments

Commissioner Harris commented it was a good meeting. She requested Senior Exemption and Medical Exemption for medical marijuana card holders if they had a card from a physician.

Commissioner Clark thanked Mr. Lynn for coming to the meeting tonight and looked forward to hearing from him at future meetings.

Commissioner Sarno commented on the limiting the exemption to people with a medical card it should be as simple as they state they are using it for medical purposes in the beginning.

Commissioner Reynolds did not have any comments but recommended that if you google cannabis, city of homer, zoning map you get a really good map.

**ADJOURN**

There being no further business to come before the Commission, the meeting adjourned at 6:34 p.m. The next regular meeting is scheduled for THURSDAY, JULY 28, 2016 at 5:30 p.m. in the City Hall Cowles Council Chambers located at 491 E Pioneer Avenue, Homer, Alaska.

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Renee Krause, CMC, Deputy City Clerk

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



# City of Homer

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

## Planning

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### Staff Report CAC 16-12

TO: Cannabis Advisory Commission  
FROM: Rick Abboud, City Planner  
DATE: July 28, 2016  
SUBJECT: Recreational vs. Medical taxation

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#### Introduction

Last meeting of the CAC, I was asked to look into the option to treat recreational use marijuana different than medical and senior use for taxation considerations.

#### Analysis

After looking through articles on the subject of marijuana taxation, I can begin to identify some reoccurring themes. Much of the information did not go heavily in depth into the medical issues vs recreation in regards to taxation, but did have much to consider about taxes in general.

#### Medical Marijuana (Item 9A)

In Alaska, one might consider medical marijuana when someone has obtained a medical marijuana card. We have to assume that all card holders are responsible medical users and thus should not be taxed additionally for their medical use. I believe that some sort of log would be required, but I have a question about whether HIPPA applies here, probably not because it is not a 'prescription'. *Issues with Taxing Marijuana at the State Level, Richard Phillips, May, 2015, p.5*, suggests that, "...a huge part of the recreational marijuana tax base could disappear as individuals are incentivized to falsely claim a medical need to get the discount."

The included papers mention how difficult it has been to administer the two different systems. If we are to do this as a city, we would want to simplify it. We would want to make a simple process for all involved and not introduce opportunity for litigation. A large difference between Washington and Colorado programs in relation to Alaska is that the medical marijuana is completely separated from recreational marijuana. I do not believe that we would be interested in devising some sort of medical only system. This would leave us to allow any dispensary the option to sell medical marijuana.

My conclusion at this point is that we would want to do legal research and consider if there is any issues with a point of sale selling to both medical and recreational users, since I have not found anyone doing so.

### **Senior Exemptions (Item 9A)**

This could be pretty straight forward, present a valid id. We may want to log these exemptions for audit purposes. A more in-depth discussion might be in order for consideration of equitable distribution of taxes. Providing a tax benefit for the elderly to recreate with marijuana seems a bit uneven.

### **General Taxation Issues (Item 9B)**

While researching taxation, I am finding more concerns with our ability to administer an additional excise tax that considerately reaches all the forms of marijuana retail items. Additionally, the cost to produce a taxation ordinance that addresses the various unique issues will be in the tens of thousands of dollars.

“Tax rates on final retail sales are the most workable form of taxation” (Tax Foundation Special Report, No. 231, May 2016). The same report shows that Washington is able to apply a percentage excise tax on retail marijuana sales, where we have been informed that Alaska law will not allow this practice. So we are left with an excise tax that must be based on something other than final retail sale price.

We have seen the Houston ordinance and it was noticed that the proposed language of the ordinance was a tax at the point of cultivation. The commission has thought that a retail tax would be the best source of revenue. Retail seems to be the most likely license to be sought in the city, but we have no proposals as of yet. Other than Houston, we are seeing municipal sales taxes proposed by other communities in Alaska, which seem untenable in Homer if the borough does not adopt an additional tax.

When comparing laws that are in effect or proposed, I find that an excise tax gets quite complicated when trying to tax something other than the transfer of raw product. The Commission had suggested a rate of tax per weight of product. There are a few issues with this. 1. Weight is not really good even distribution of value. Generally (and especially in the recreational market), THC is more aligned with value. So the higher value product will have a lower effective tax rate when taxed in this per-unit way and it may encourage producers to lower the tax rates by producing the highest value THC product. Measuring THC has been cited as unreliable (*Issues with Taxing Marijuana at the State Level, Richard Phillips, May, 2015*). 2. Products other than leaf/bud type of marijuana would need another taxing scheme for the retail level. So far, I believe we may not have a manufacturing license proposed in the peninsula. This would mean that edibles would be shipped from Anchorage or somewhere else. Now we need to figure a measure other than sale price or product weight upon which to base a tax.

A cost/benefit analysis may be in order. If we are left with working out the details of an excise tax for which we have no working examples. In consideration of Alaska law, we can easily expect to spend \$20K getting it researched and worked out. Additionally, there will be a cost to administer and enforce our new law. This comes at a time of great fiscal stress. Unless we are able to get a considerate return on our effort, I would not recommend seeking additional tax beyond the sales taxes.

Realistic revenue estimation is a difficult task, but maybe we could consider the scale that might be necessary to support our effort. I am going to make some 'hopefully' not so wild assumptions. At the May meeting, it was suggested that a 3% tax be added. I will base my estimate on the assumption that we are able to come up with some form of tax that has an effective rate of 3%. Some estimates I have seen say that perhaps between 25% and 30% or more of Alaskans partake. For my purposes, I am only going to consider that everyone using is smoking, so that I don't have to figure out how all the other products might work. It was mentioned at the last meeting that one ounce in Homer now sells for \$300. I know that an ounce is 28 grams and when I was in Denver and Seattle some time ago, it was selling for \$25-\$30/gram but I have read that it has come down in price. That would press the price to over \$700/ounce, which I think might be closer to the entire cost including taxes. But, who is going to pay \$700 when you can get it for \$300? So we need to be closer to \$300, say \$400. 3% of \$400 is \$12.

We already have some potential retail competition just outside of town, so we may lose some market share. 25% of the nearby 10K people is 2500 users. We lose some market down the road and may serve 2000 (if they all choose to use the legal market) plus some portion of the tourists who have not already been supplied. The hardest part is to determine likely usage habits which, I will not guess. In order to make the \$20K, that it might take to enact an ordinance, would require 1667 ounces to be sold or nearly an ounce for the approximate 2000 users. Seems like it may work to collect \$20,000 or so annually. But, because we have no experience and no valid measures of just how much product is really used, it is really hard to say with any certainty.

What we do know is that the revenue is likely to start out slow and then pick up. Not enough time has passed to gage when it will level off or figure the true growth potential. Other estimates seem to be very low to start and then increase, but these are figures from states that are located adjacent to other states of with significant population. There are just so many variables!!

I could use the states estimates found in the Alaska Daily News, July 7, 2015. Again, the article stresses that it "was anybody's guess". I believe that I was in the ballpark for the amount of

users compared to the article, but the article went on to define a few variables that I did not address. They predicted that between 30 and 80 percent of users would convert to the legal market and that they used an average of 3.4 to 3.7 ounces a year. This information is only somewhat useful. The spread of 30 to 80 percent represents a nearly 300% variance. Working with these numbers we would predict between \$25,560 and \$67,200 in additional revenue at an effective tax rate of 3% of sales price.  $((.3*2000=600)(600*3.55=2130oz))$  or  $((.8*2000=1600)(1600*3.55=5600oz))$ .  $2130*(400*.03)=$25560$  and  $5600*(400*.03)=$67200$ . Academically, I see these numbers as outside of any reliability that that could be reasonable valid. That said, I would have to predict that the lowest number is likely more accurate in the short term and would rise in time. And, of course, this doesn't even consider how the products other than bud might contribute.

### **Zoning (item 10A)**

We have recently addressed zoning at the Planning Commission and City Council. Conditions have not changed and we have gained no experience with the industry. I do not see any recommendations changing at this time. All proposed zoning changes must be reviewed by the Planning Commission prior to consideration by the Council. Members of the City Council, Planning Commission, City Manager, City Planner, or a petition bearing the signatures, and the printed names and addresses, of not less than 50 qualified City voters may initiate a code amendment.

At this time, since we have recently considered this subject, I would recommend a petition be presented for initiation of a zoning amendment (with hesitation, for fear of doing the same thing over again and expecting a different result).

### **Next (Item 10B)**

I have talked with the Attorney about what might be the best item to next address. We believe that application review process needs to be established. The role of my office, the CAC, and the City Council all need to be defined, so that applicants can know what to expect. I also believe that we need to set a fee commensurate with the amount of effort it would take the City to process an application. I will confer with legal for guidance for the next meeting.

### **Staff Recommendation**

I am hoping to have the City Attorney available for questions. It would be efficient for me to try and deal with the concerns you have before the meeting. If you know you have something you want to ask the Attorney, please pass it along to me and I can provide it to the Attorney, so that she might be better prepared for the meeting. Be prepared to suggest a plan to move forward.

### **Attachments**



1. Colorado Dept of Revenue, Taxpayer Service Division, June 2016, Excise 23: Excise Tax on Marijuana
2. Tax Foundation Special Report Marijuana Legalization and Taxes Special Report #231, Joseph Henchman and Morgan Scarboro, May 2016 : Lessons for Other States from Colorado and Washington
3. Alaska Marijuana News, Alaska Dispatch News, Laurel Andrews, July 7, 2015: The state weighs in: How much money will marijuana bring to Alaska?
4. Tax Foundation, Lessons on Legalizing and Taxing Marijuana from Colorado and Washington Experience, Joseph Henchman, October 30, 2014
5. Tax Foundation Fiscal Fact, #437, August 2014, Joseph Henchman, Taxing Marijuana: The Washington and Colorado Experience
6. Colorado Dept. of Revenue, Taxpayer Service Division, January 2014, Sales 93: Sales Tax on Marijuana





## Excise 23

# Excise Tax on Retail Marijuana

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### GENERAL INFORMATION

Retail marijuana is subject to a 15% excise tax on the average market price of retail marijuana. § 39-28.8-302, C.R.S. For bud, trim, and wet whole plant, the excise tax is imposed on the first sale or transfer from a retail marijuana cultivation facility to a retail marijuana store, retail marijuana product manufacturing facility or to another retail marijuana cultivation facility. For seeds and immature plants, the excise tax is imposed on the first sale or transfer from a retail marijuana cultivation facility to a retail marijuana store or retail marijuana product manufacturing facility.

The tax shall be calculated on the basis of the category of the retail marijuana product (i.e., bud, trim, wet whole plant, immature plant, or seed) being sold or transferred.

For example, the total weight of all trim sold or transferred shall be multiplied by the average market rate for trim, and the result shall be multiplied by 15% to arrive at the amount of excise tax due.

In the case of a sale or transfer of concentrate created by a retail marijuana cultivation facility, the tax can be calculated either by

1. (If a wet whole plant was used to create the concentrate) using the total weight of wet whole plant multiplied by the average market rate for wet whole plant and the result shall be multiplied by 15%, or
2. (if trimmed retail marijuana was used to create the concentrate) multiplying the weight of the trim that was used to create the concentrate by the average market rate for trim, adding that result to the amount of bud used to create the concentrate multiplied by the average market rate for bud, and multiplying that sum by 15% to arrive at the amount of tax due

If any medical marijuana is transferred to a retail marijuana cultivation facility, the subsequent sale or transfer from the retail marijuana cultivation facility to a retail marijuana store, a retail marijuana products manufacturing facility or another retail marijuana cultivation facility, including but not limited to a transfer from the retail marijuana cultivation facility to another retail marijuana establishment under common ownership with the retail marijuana cultivation facility, is subject to the retail marijuana excise tax.

If a city or county imposes an excise tax on retail marijuana, that excise tax should be reported and remitted directly to that city or county.

**Medical marijuana is not subject to the 15% retail marijuana state excise tax.**

For additional information, visit the Colorado Taxation Division web site, [www.TaxColorado.com](http://www.TaxColorado.com).

### OTHER TAX REQUIREMENTS

Retail marijuana and retail marijuana-infused products are also subject to sales tax. For information on retail marijuana sales tax see FYI Sales 93, Sales Tax on Marijuana.

### AVERAGE MARKET RATE

The department will determine the average market price of bud, trim, wet whole plant, immature plant, and seeds twice a year to be effective each January 1 and July 1. The average market price can be found at [www.TaxColorado.com](http://www.TaxColorado.com).

### SALES TAX LICENSE REQUIREMENTS

A sales tax license or wholesale tax license is required for each marijuana cultivation facility. If a cultivation facility is owned by and located at the same address as the retail marijuana store or dispensary and the retail store already has a retail sales tax license, no additional sales tax license is required for the marijuana cultivation facility. If the marijuana cultivation facility's location is not at the same address as the dispensary, a wholesale sales license is required.

**FILING REQUIREMENTS**

Retail marijuana excise tax must be reported electronically through Revenue Online. The Retail Marijuana Excise Tax is due the 20<sup>th</sup> of each month for transfers or sales made in the previous month. **A return must be filed even if no sales or transfers were made or if no tax is due for the period. Returns with a “zero” tax must be filed to avoid non-filer notices and penalty assessments. The Retail Marijuana Excise Tax Return is filed on Revenue Online at [www.Colorado.gov/RevenueOnline](http://www.Colorado.gov/RevenueOnline).**

**EXEMPTIONS**

There are no exemptions for retail marijuana excise tax.

**PENALTY AND INTEREST**

Cultivators who neglect or refuse to file a marijuana excise tax return or who fail to pay the marijuana excise tax by the due date will be assessed a penalty. Interest is due on missing and late payments of the retail marijuana excise tax.

**CREDITS/REFUNDS**

If credit exceeds tax due, a Claim for Refund (DR 0137) must be submitted to request a refund.

**RECORDKEEPING REQUIREMENT**

Colorado law requires that every retail marijuana cultivation facility keep at each licensed place of business complete and accurate records for that place of business for at least four years after filing.

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FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.

# Marijuana Legalization and Taxes: Lessons for Other States from Colorado and Washington

By Joseph Henchman    Morgan Scarboro  
Vice President,           Analyst  
Legal & State Projects

## Key Findings

- Marijuana tax collections in Colorado and Washington have exceeded initial estimates, and a nationwide legalization-and-tax regime could see states raise billions of dollars per year in marijuana tax revenue.
- Colorado, Washington, and Oregon have all taken steps to reduce their marijuana tax rates, with Alaska considering it, after initial rates of 30 percent or more did not reduce the black market sufficiently. More recent ballot initiative proposals across the country propose rates between 10 and 25 percent.
- Tax rates on final retail sales have proven the most workable form of taxation. Other forms of taxation that have been proposed, such as taxing marijuana flowers at a certain dollar amount, taxing at the processor or producer level rather than the retail level, or taxing products by their level of THC, have faced practical implementation difficulties.
- Medical marijuana is usually more loosely regulated and less taxed than recreational marijuana. In Washington, moving non-medical sales to the retail market has proven difficult given the enormous differentials in tax rates and regulatory structure, and officials there wish the two systems had been tackled simultaneously.
- While the revenue can be in the tens or even hundreds of millions of dollars, it takes a lead time to develop. Revenues started out slowly in Colorado and Washington, as consumers became familiar with the new system and after state and local authorities spent time and money setting up new frameworks and regulatory infrastructure.
- Significant attention must be given to health, agricultural, zoning, local enforcement, and criminal penalty issues. These important issues have generally been unaddressed in ballot initiatives and left for resolution in the implementation process.

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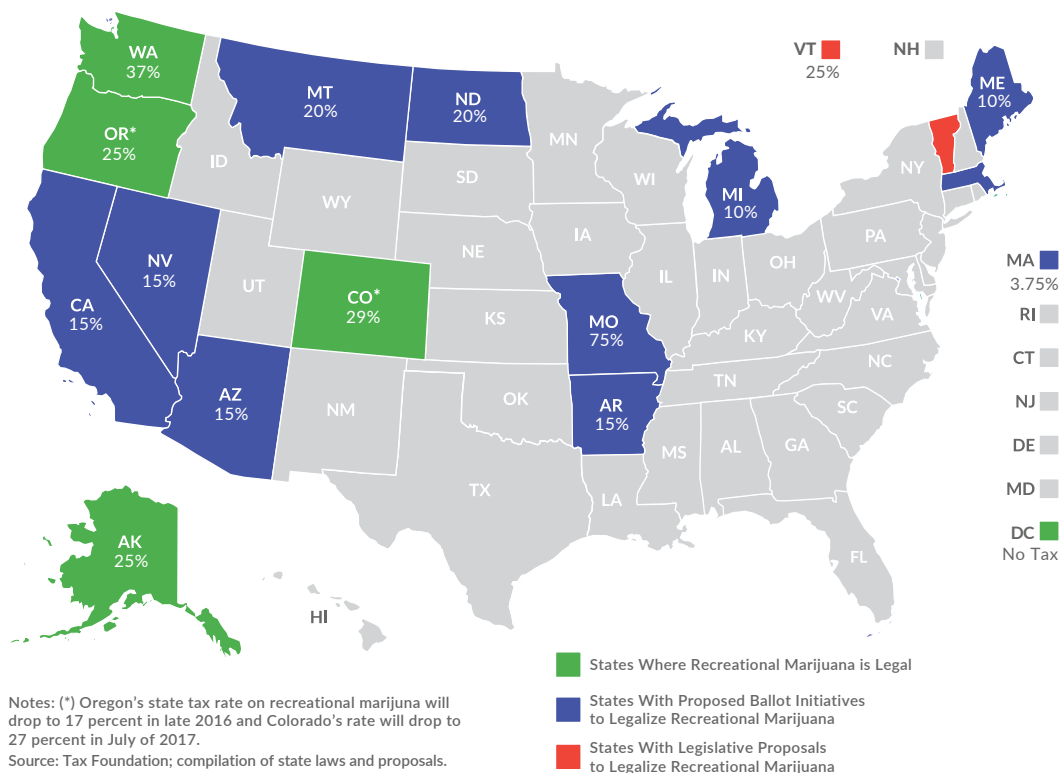
## Introduction

Four states and the District of Columbia have legalized the sale of retail marijuana by popular vote, with an additional 25 states permitting medical marijuana or decriminalizing marijuana possession.<sup>1</sup> Beginning in 2011, polls have consistently showed a majority of Americans supportive of legalizing marijuana,<sup>2</sup> and a number of states are likely to consider legalization ballot initiatives or legislative measures in the next few years.

Creating a legal structure out of whole cloth has been challenging. Colorado and Washington faced challenges in revising health inspection, business regulatory, and criminal enforcement structures for the industry. In both states, sales are for adults age 21 or over, it remains illegal to use in public and to drive under the influence (defined in both states as more than 5 nanograms of THC per mL of blood<sup>3</sup>), and transporting marijuana outside the state is illegal.

### How High Is the Tax on Recreational Marijuana in Your State?

State Excise Tax Rates on Recreational Marijuana, 2016



1 **Legalization:** Colorado (passed 2012, in effect 2014), Washington (passed 2012, in effect 2014), Oregon (passed 2014, in effect 2015), Alaska (passed 2014, in effect 2016), the District of Columbia (passed 2014, non-sales features in effect 2015, sales features on hold due to congressional opposition). **Medical marijuana:** California (1996), Alaska (1998), Oregon (1998), Washington (1998), Maine (1999), Colorado (2000), Hawaii (2000), Nevada (2000), Montana (2004), Rhode Island (2006), New Mexico (2007), Vermont (2007), Michigan (2008), Arizona (2010), New Jersey (2010), Delaware (2011), the District of Columbia (2011), Connecticut (2012), New Hampshire (2013), Massachusetts (2013), Maryland (2014), Minnesota (2014), New York (2014), Guam (2014), Georgia (2015), Texas (2015). **Decriminalization:** Oregon (1973), Alaska (1975), Colorado (1975), California (1976), Maine (1976), Minnesota (1976), Ohio (1976), New York (1977), North Carolina (1977), Mississippi (1978), Nebraska (1979), Nevada (2002), Massachusetts (2009), Maryland (2014), Delaware (2015), Missouri (2017).

2 See Gallup, "Illegal Drugs," <http://www.gallup.com/poll/1657/illegal-drugs.aspx>.

3 For more on drugged driving laws, see National Organization for the Reform of Marijuana Laws, *Drugged Driving*, <http://norml.org/legal/drugged-driving>.

(Neighboring states are still impacted, however.<sup>4</sup>) In Washington, adults can purchase up to one ounce of “bud” (the flowering part of the plant), 16 ounces of edible solids, 72 ounces of marijuana-infused liquids, or 7 grams of concentrates or lotions. In Colorado, residents can purchase up to one ounce of any kind of marijuana product and non-residents can purchase up to a quarter of an ounce.

Sellers must be licensed and must meet health and safety requirements and employers can still ban use by employees. Both states have also struggled to split enforcement and zoning responsibilities between the state government and local governments, as well as the revenues to pay for it. Washington adopted a strict cap on licensed locations, modeled after its strict licensing of alcohol stores. Colorado relied on local authorities for retail store location decisions.

Taxing marijuana presents unique challenges because the product takes so many different forms.<sup>5</sup> Excise taxes on other products are historically imposed at a specific amount regardless of the retail price. Examples include the federal gasoline tax of 18.4 cents per gallon and the federal cigarette tax of \$1.0066 per pack. Because marijuana can be purchased as a cigarette, an edible, a liquid, or a vapor, all with a wide variety of concentrations, a specific excise tax is untenable. Each state thus far has framed its tax as a certain percentage of the retail or wholesale sales price (see Table 1).

**Table 1.**  
**Recreational Marijuana Tax Rates by State**

State	Marijuana Tax	Other Taxes
Colorado	15 percent tax on wholesale marijuana price plus 10 percent state tax on marijuana sales price. 10 percent tax drops to 8 percent effective July 2017.	State and local sales taxes; business license fees; local marijuana taxes.
Washington	37 percent excise tax on marijuana sales price. Previously a 25 percent tax on producer sales to processors, another 25 percent tax on processor sales to retailers, and a further 25 percent tax on retailer sales to customers.	State Business & Occupation (B&O) taxes; state and local sales taxes.
Oregon	25 percent excise tax on marijuana sales price. Drops to 17 percent tax when regulatory structure begins operation in late 2016.	Localities can add another 2 percent tax.
Alaska (not yet in effect)	\$50 per ounce on marijuana cultivator, or approximately 20 percent effective tax rate. May change before implementation in late 2016.	
District of Columbia	Federal law currently prohibits DC from taxing marijuana.	

Source: State laws.

4 See, e.g., Joseph Henchman, *U.S. Supreme Court Declines to Hear Case Challenging Colorado Marijuana Law*, Tax Foundation Tax Policy Blog (Mar. 21, 2016), <http://taxfoundation.org/blog/us-supreme-court-declines-hear-case-challenging-colorado-marijuana-law>; Trevor Hughes, *In tiny Nebraska towns, a flood of Colorado marijuana*, USA TODAY, June 11, 2014, <http://www.usatoday.com/story/news/nation/2014/06/11/colorado-marijuana-exports/9964707/>; Harriet Baskas, *Marijuana at airports: Colo., Wash. adjust to new law*, USA TODAY, June 20, 2014, <http://www.usatoday.com/story/travel/flights/2014/06/18/marijuana-colorado-washington-tsa-airports/10681759/>; Matt Ferner, *Keep Your Legal Weed in Colorado, Say Cops in Neighboring States*, HUFFINGTON POST, May 28, 2014, [http://www.huffingtonpost.com/2014/05/28/colorado-marijuana\\_n\\_5405422.html](http://www.huffingtonpost.com/2014/05/28/colorado-marijuana_n_5405422.html).

5 In the 1980s, many states enacted drug tax stamp laws requiring those selling illegal drugs such as marijuana, cocaine, and heroin to pay exorbitant taxes and affix stamps issued by the state to the product. Their underlying purpose was not to achieve compliance but rather to collect additional tax-related fines and penalties for those convicted of drug offenses. The laws fell out of vogue after courts concluded that it violated the Fifth Amendment right against self-incrimination to require purchasing of tax stamps for illegal products unless the state created a “firewall” between revenue officials and drug enforcement officials. See, e.g., *Waters v. Farr*, 291 S.W.3d 873 (Tenn. 2009). Consequently, the drug tax stamp laws and their stamps (which remain on the books in Alabama, Connecticut, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Minnesota, Nebraska, Nevada, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, and Utah) have essentially become collector’s curiosities.

Additionally, the product is still against federal law, which in turn keeps the nascent industry on a cash basis, results in some account holders hiding the true nature of their business, and may lead to punitive federal tax treatment.<sup>6</sup>

## Colorado

Retail marijuana sales in Colorado began on January 1, 2014, after voters approved Amendment 64 legalizing marijuana in November 2012 (55 percent to 45 percent) and Proposition AA establishing marijuana taxes in November 2013 (65 percent to 35 percent).<sup>7</sup>

After an initially slow start (with two in five purchases made by out-of-state visitors), Colorado marijuana tax revenues now greatly exceed original estimates of \$70 million per year. Collections of \$56 million in calendar year 2014 grew to \$113 million in calendar year 2015, and will likely exceed \$140 million in calendar year 2016. The state has scheduled a tax reduction for July 2017, after a state-sponsored study substantiated the claims that high tax rates were permitting the continued existence of black and gray market suppliers. The low tax rate on medical marijuana (2.9 percent) relative to retail marijuana (29 percent) has also resulted in little shift from medical to retail. Finally, harmonizing marijuana taxes with the state's TABOR spending limitation law has resulted in some implementation headaches.

### Colorado Effective Tax Rate on Marijuana Totals 29 Percent

Colorado's marijuana tax is structured as:

- A 15 percent excise tax on the "average market rate" of wholesale marijuana, plus
- A 10 percent state tax on retail marijuana sales, plus
- The state sales tax of 2.9 percent, plus
- Local sales taxes, plus
- Local marijuana taxes such as a 3.5 percent tax in Denver.<sup>8</sup>

Additionally, marijuana retailers must pay state license fees.<sup>9</sup>

<sup>6</sup> See Joseph Henchman, *Marijuana Legalization and Taxes: The Impact of Section 280E*, Tax Foundation Special Report (Apr. 20, 2016).

<sup>7</sup> See Ballotpedia, Colorado Marijuana Legalization Initiative, Amendment 64 (2012), [https://ballotpedia.org/Colorado\\_Marijuana\\_Legalization\\_Initiative,\\_Amendment\\_64\\_\(2012\)](https://ballotpedia.org/Colorado_Marijuana_Legalization_Initiative,_Amendment_64_(2012)); Ballotpedia, Colorado Proposition AA, Taxes on the Sale of Marijuana (2013), [https://ballotpedia.org/Colorado\\_Proposition\\_AA,\\_Taxes\\_on\\_the\\_Sale\\_of\\_Marijuana\\_\(2013\)](https://ballotpedia.org/Colorado_Proposition_AA,_Taxes_on_the_Sale_of_Marijuana_(2013)). A 2006 initiative legalizing the possession of marijuana had been rejected, 41 percent to 59 percent. See Ballotpedia, Colorado Marijuana Possession, Initiative 44 (2006), [https://ballotpedia.org/Colorado\\_Marijuana\\_Possession,\\_Initiative\\_44\\_\(2006\)](https://ballotpedia.org/Colorado_Marijuana_Possession,_Initiative_44_(2006)).

<sup>8</sup> See Colorado Department of Revenue, *Information for Cultivators*, <http://www.colorado.gov/cs/Satellite/Revenue/REVMX/1251649610680>; Jeremy P. Meyer, *Denver Voters Backing 3.5 Percent Tax on Pot*, DENVER POST, Nov. 5, 2013, [http://www.denverpost.com/breakingnews/ci\\_24461037/denver-voters-weigh-3-5-percent-marijuana-tax](http://www.denverpost.com/breakingnews/ci_24461037/denver-voters-weigh-3-5-percent-marijuana-tax).

<sup>9</sup> See Colorado Department of Revenue, *Retail Fees*, [https://www.colorado.gov/pacific/sites/default/files/MED%20Fee%20Table%20Color%20for%20Invest\\_1.pdf](https://www.colorado.gov/pacific/sites/default/files/MED%20Fee%20Table%20Color%20for%20Invest_1.pdf).



When these taxes are added up, a \$30 eighth of pot (1/8 oz.) will have about \$8.59 in taxes tacked onto it, or about a 29 percent overall effective tax rate.<sup>10</sup> (By comparison, the equivalent Colorado tax on cigarettes is about 31 percent and on beer about 8 percent.) The 10 percent state marijuana tax will drop to 8 percent beginning in July 2017, after concerns that the rate was too high to wipe out the black market.<sup>11</sup>

## Colorado Marijuana Tax Collections Will Likely Exceed \$140 Million per Year

During the initiative campaign, voters were told marijuana excise taxes would boost revenues by \$70 million per year, with the first \$40 million each year dedicated to school construction, leaving \$30 million for enforcement and general state funds.<sup>12</sup> Revenues initially proved disappointing for calendar year 2014, totaling \$56 million in tax revenue on sales of \$304 million.

However, impressive year-over-year growth in calendar year 2015 resulted in \$113 million in retail marijuana tax revenue on sales of \$568 million. In the most recent six months for which data are available (September 1, 2015 to February 29, 2016), Colorado collected \$64 million in retail marijuana tax revenue, up 64 percent from the same period a year earlier. Collections in calendar 2016 will likely be somewhere between \$143 million (assuming the market has stabilized at around \$56 million in monthly sales) to \$185 million (assuming the current growth rate continues). The state received some attention in 2015 when marijuana tax revenues were twice those of alcohol taxes; they may end up quadruple by the end of 2016.<sup>13</sup>

10 See, e.g., Global Index Price for Marijuana, *Colorado, United States*, <http://www.priceofweed.com/prices/United-States/Colorado.html>; John Ingold, *Colorado Voters Approve New Taxes on Recreational Marijuana*, *Denver Post*, Nov. 5, 2013, [http://www.denverpost.com/breakingnews/ci\\_24462839/colorado-voters-approve-new-taxes-recreational-marijuana](http://www.denverpost.com/breakingnews/ci_24462839/colorado-voters-approve-new-taxes-recreational-marijuana).

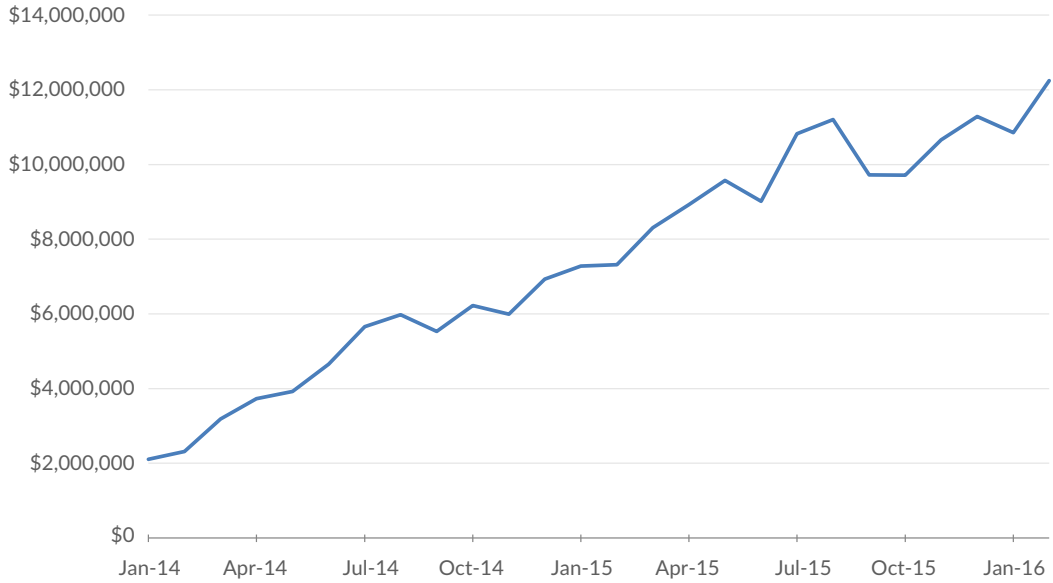
11 See John Frank, *Colorado to offer one-day tax holiday on marijuana*, *DENVER POST* (Jun. 4, 2015) (quoting Governor Hickenlooper: "We still have a black market, and we want to moderate our taxes to make sure that the risk of someone selling illegally. ... We want to eliminate that," Hickenlooper said. "And one way is to make sure there is not as large a price differential."), [http://www.denverpost.com/news/ci\\_28252221/colorado-offer-one-day-tax-holiday-marijuana](http://www.denverpost.com/news/ci_28252221/colorado-offer-one-day-tax-holiday-marijuana).

12 See Colorado Legislative Council Staff, Economics Section, *Focus Colorado: Economic and Revenue Forecast* (June 20, 2014) at 29-30, [http://www.leg.state.co.us/lcs/econforecast.nsf/vwFile/1406/\\$File/14JuneForecast.pdf#page=29](http://www.leg.state.co.us/lcs/econforecast.nsf/vwFile/1406/$File/14JuneForecast.pdf#page=29).

13 See, e.g., Tanya Basu, *Colorado Raised More Tax Revenue From Marijuana Than From Alcohol*, *TIME* (Sep. 16, 2015), <http://time.com/4037604/colorado-marijuana-tax-revenue/>.

Figure 1.

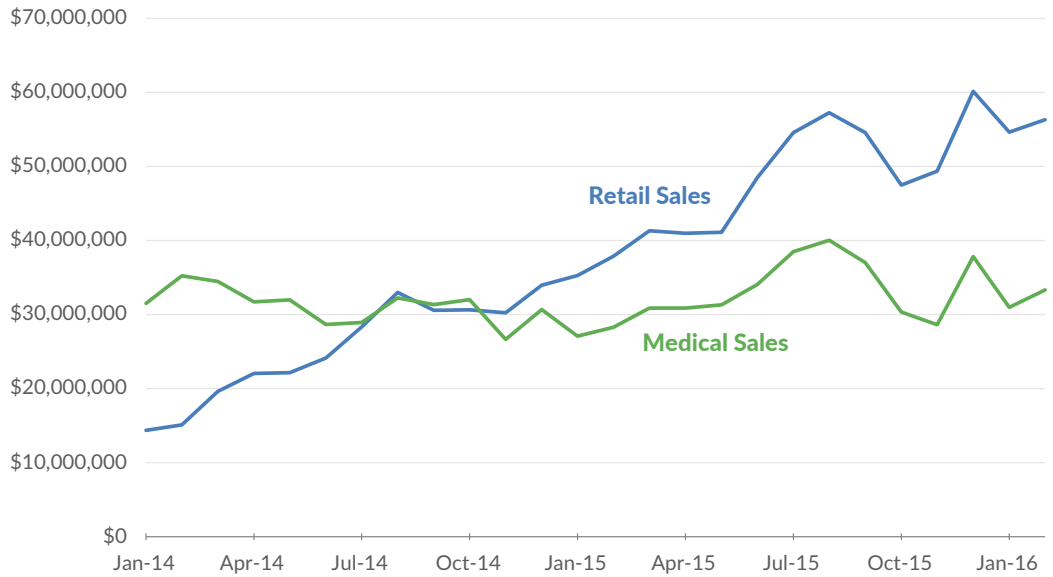
**Colorado Retail Marijuana Tax Revenue by Month**



Source: Colorado Department of Revenue.

Figure 2.

**Colorado Retail Marijuana and Medical Marijuana Sales by Month**



Source: Colorado Department of Revenue.

## Colorado Has Made Inroads against the Gray and Black Market, but the Tax Differential between Retail and Medical Has Meant that Medical Sales Have Not Dropped

Marijuana demand was estimated at 130 metric tons in a July 2014 analysis by the Colorado Department of Revenue, outstripping legal supply (77 metric tons).<sup>14</sup> The report estimated the balance to be the gray market (home growing and caregivers, some 46 metric tons) and the black market (7 metric tons).<sup>15</sup> Visitors holding an out-of-state identification card have been responsible for 44 percent of retail sales.<sup>16</sup>

Colorado also imposes a 2.9 percent sales tax on medical marijuana sales, which pre-existed Amendment 64 and collects approximately \$10 million per year. Medical marijuana sales have been roughly flat year-over-year as the retail market came online, controverting earlier predictions that retail marijuana would cannibalize medical marijuana sales. The Department of Revenue suggests that tax differentials are a key reason, because medical marijuana purchases are subject only to state and local sales taxes (after paying a \$15 registration fee), a tax rate one-third of that imposed on retail marijuana.<sup>17</sup>

One way people have been avoiding their tax liability is through marijuana delivery services.<sup>18</sup> These services, often advertised on Craigslist and similar posting websites, do not pay taxes as their products are allegedly “not for sale.” Instead, the delivery service asks for specific “donations” depending on the amount of marijuana the consumer purchases. One Denver advertisement, for example, asks for a \$200 donation for ounce, 21 percent cheaper than the \$243 average price in legal retail stores. Such subterfuge would be unlikely to pass muster before a judge or tax collector.

## Harmonizing Marijuana Taxes with Colorado TABOR’s Has Resulted in Implementation Headaches

Colorado’s Taxpayer Bill of Rights (TABOR), enacted in 1992, requires the state to refund taxpayers if the state’s spending or revenue collections exceed the previous projections.<sup>19</sup> Flush state revenues and higher state spending in 2015 triggered this provision for the first time since 2001, which required the marijuana tax (as a newly enacted tax) be reset to zero percent, with all amounts collected be refunded. To prevent this, legislators asked voters to approve a measure that overrides the repeal and refund requirements, permitting the state to keep the \$66 million in marijuana revenue collected up to that point. Voters approved the measure, Proposition BB, in November 2015 by a margin of 69 percent to 31 percent.<sup>20</sup>

14 See Colorado Department of Revenue, *Market Size and Demand for Marijuana in Colorado* (July 2014), <https://www.colorado.gov/pacific/sites/default/files/Market%20Size%20and%20Demand%20Study,%20July%209,%202014%5B1%5D.pdf>.

15 See *id.*

16 See *id.*

17 See Colorado Department of Revenue, *Market Size and Demand for Marijuana in Colorado* (July 2014), <https://www.colorado.gov/pacific/sites/default/files/Market%20Size%20and%20Demand%20Study,%20July%209,%202014%5B1%5D.pdf>.

18 *Pot Delivery Services Thriving In Colorado’s Black Market*, CBS News, (May 6, 2015), <http://denver.cbslocal.com/2015/05/06/pot-delivery-services-thriving-in-colorados-black-market/>.

19 See Jared Walczak, *Colorado’s Marijuana Revenue High and Pending TABOR Refunds*, Tax Foundation Tax Policy Blog (May 27, 2015), <http://taxfoundation.org/blog/colorados-marijuana-revenue-high-and-pending-tabor-refunds>.

20 See Ballotpedia, *Colorado Marijuana TABOR Refund Measure, Proposition BB* (2015), [https://ballotpedia.org/Colorado\\_Marijuana\\_TABOR\\_Refund\\_Measure,\\_Proposition\\_BB\\_\(2015\)](https://ballotpedia.org/Colorado_Marijuana_TABOR_Refund_Measure,_Proposition_BB_(2015)).



To satisfy the constitution's requirement that state marijuana taxes be repealed for some length of time, legislators decided to suspend the 15 percent marijuana excise tax and the 10 percent marijuana sales tax (but not the regular state and local sales taxes) for one day, September 16, 2015.<sup>21</sup> The one-day holiday did not seem to boost sales for the month as a whole.<sup>22</sup>

## Washington

Retail marijuana sales in Colorado began on July 8, 2014, after voters approved Initiative 502 in November 2012 (56 percent to 44 percent). Medical marijuana had been legal in the state since the passage of Initiative 692 in 1998, and that industry had been a "Wild West" with effectively no state licensing requirements, production standards, agricultural or health regulations, or taxation beyond the regular sales tax. Having separate and parallel medical marijuana and retail marijuana systems proved unworkable, so medical marijuana will fall under a harmonized and merged regulatory framework beginning in July 2016.<sup>23</sup> The new framework also directs 30 percent of marijuana tax revenue (after the first \$25 million) to local governments based on population.

### Washington Now Imposes a 37 Percent Excise Tax on Marijuana After Struggling with Separate Taxes on Processors, Retailers, and Sales

As of July 2015, Washington imposes a 37 percent excise tax on the retail marijuana sales, plus the state Business & Occupation (B&O) gross receipts tax, plus the state sales tax of 6.5 percent, plus local sales taxes. The 37 percent excise tax replaces the earlier, more complicated tax structure: a 25 percent tax on producer sales to processors, another 25 percent tax on processor sales to retailers, and a further 25 percent tax on retailer sales to customers. The effective tax rate is approximately 37 percent.<sup>24</sup> This compares to a 104 percent effective tax rate on cigarettes and 11 percent effective tax rate on beer.<sup>25</sup> The 37 percent marijuana tax rate was selected as a revenue-neutral level compared to the earlier taxes, eliminates unintended double-taxation for businesses not set up as vertically integrated producer-processors, and its structure as an excise tax also ensures that retailers will not have collections included as gross income for federal income tax purposes.<sup>26</sup>

21 See Joseph Henchman, *Colorado Suspends Marijuana Tax for One Day on September 16*, Tax Foundation Tax Policy Blog (Sep. 9, 2015), <http://taxfoundation.org/blog/colorado-suspends-marijuana-tax-one-day-september-16>.

22 See Ricardo Baca, *Colorado monthly marijuana sales slump in September*, THE CANNABIST (Nov. 11, 2015), <http://www.thecannabist.co/2015/11/11/colorado-marijuana-sales-update-september-2015/43676/>.

23 S.B. 5052, the Cannabis Patient Protection Act (signed into law, Apr. 24, 2015).

24 See Niraj Chokshi, *Moody's: Washington might not see the marijuana tax windfall previously projected*, Washington Post, July 22, 2014, <http://www.washingtonpost.com/blogs/govbeat/wp/2014/07/22/moodys-washington-might-not-see-the-marijuana-tax-windfall-previously-projected/>.

25 *Washington state House Democrats drop beer tax, other revenue proposals*, ASSOCIATED PRESS, Apr. 23, 2013, [http://www.oregonlive.com/politics/index.ssf/2013/04/washington\\_state\\_house\\_democra.html](http://www.oregonlive.com/politics/index.ssf/2013/04/washington_state_house_democra.html).

26 Cannabis Now, *Washington Reforms Law to 37 Percent Flat Tax on Pot*, (Jul. 2, 2015), <http://cannabisnowmagazine.com/current-events/economics-current-events/washington-reforms-law-to-37-percent-flat-tax-on-pot>.

## Revenue Started Slow But is Now Growing Quickly to Perhaps \$270 Million per Year

Voters were told legalization could bring in as much as \$1.9 billion over five years, with 40 percent going to the state general fund and local budgets and the remaining 60 percent intended for substance abuse prevention, research, education, and health care. In its first full year of sales, from July 1, 2015 to June 30, 2016, Washington state collected \$62 million in marijuana excise taxes, \$10 million in state sales taxes, \$1.3 million in state B&O taxes, and \$3.6 million in local sales taxes on \$157 million on retail sales.<sup>27</sup> (Medical marijuana generated another \$7 million in sales tax revenue, but this revenue is expected to decline due to medical marijuana law changes.)

Excise tax collection estimates for FY 2016 are \$134 million. Retail sales started very slowly in 2014, growing year-over-year from \$7 million in October 2014 to \$35 million in October 2015. As of April 2016, state sales average over \$2 million a day, which would mean excise tax revenue reaching some \$270 million per year.

## Washington Pursued a Strict License System Similar to Previous Liquor Control

Initiative 502 directed the Washington State Liquor Control Board (WSLCB) to license and regulate marijuana retailers. The Board had shed most of its earlier responsibilities following the end of the state's liquor store monopoly in 2012, and its new marijuana responsibilities gave it a new lease on life (and a new name, the Liquor & Cannabis Board, still WSLCB).

The WSLCB set out to establish a “seed to sale” tracking system to control inventory, establish and maintain health standards, and facilitate agricultural and health regulation. The WSLCB had never previously collected taxes and much of that infrastructure had to be built from scratch, including cash collection abilities (opening new offices, buying armored cars, and even installing a teller window at the existing Olympia office). The WSLCB initially capped the number of retail licenses at 334, six more than the number of liquor stores pre-privatization. The number of licenses has since been increased to 556 following the expansion of the regulatory framework to medical marijuana providers.<sup>28</sup> Unrestricted medical “collective gardens” have been replaced by cooperatives with a maximum of four patients.<sup>29</sup>

27 The Liquor & Cannabis Board and Department of Revenue provide separate revenue reports, the former for the excise tax and the latter for the sales taxes and B&O tax. See Washington State Liquor and Cannabis Board, *Weekly Marijuana Report*, <http://lcb.wa.gov/marj/dashboard>; Washington Department of Revenue, *Recreational Marijuana Taxes*, [http://dor.wa.gov/Content/AboutUs/StatisticsAndReports/stats\\_RMJTaxes.aspx](http://dor.wa.gov/Content/AboutUs/StatisticsAndReports/stats_RMJTaxes.aspx).

28 See Washington State Liquor & Cannabis Board, *Board to increase number of retail marijuana stores following analysis of marketplace* (Jan. 6, 2016), <http://www.liq.wa.gov/pressreleases/lcb-to-increase-number-of-retail-mj-stores>.

29 See, e.g., Jayson Chesler, *Washington merges recreational and medical marijuana to stop illegal sales*, News21 (Aug. 15, 2015), [HTTP://WEEDRUSH.NEWS21.COM/WASHINGTON-MERGES-RECREATIONAL-AND-MEDICAL-MARJUANA-TO-STOP-ILLEGAL-SALES/](http://WEEDRUSH.NEWS21.COM/WASHINGTON-MERGES-RECREATIONAL-AND-MEDICAL-MARJUANA-TO-STOP-ILLEGAL-SALES/).

## After Experience, Washington Modified Its Approaches on Zoning and Tribal Issues

Washington has also encountered implementation issues. Since I-502 provided no implementation funds prior to retail launch, the WSLCB was underfunded, particularly in enforcement and auditing. A state restriction prohibiting marijuana retailers within 1000 feet of schools, playgrounds, recreation centers, child care centers, transit centers, and libraries proved overbroad, and has been replaced with a 100 foot restriction around schools and playgrounds while letting local zoning authorities decide any further limitations. A compact with the Suquamish tribe was approved in September 2015 whereby the tribe and Washington agree to cooperate and collaborate in regulating the production, processing, sale, and taxation of marijuana.<sup>30</sup> Similar to tobacco tribal compacts, the tribe will impose its own excise tax to minimize cross-border arbitrage.

## Oregon

Retail marijuana sales in Colorado began on October 1, 2015, after voters approved Measure 91 legalizing marijuana in November 2014 (56 percent to 44 percent).<sup>31</sup> Sales were originally not to start until fall 2016, but legislation allowing existing medical marijuana facilities to sell to all adults was approved in July 2015 in the hopes of stamping out the black market.<sup>32</sup> Marijuana possession also became legal in July 2015.

## Oregon Has Switched From a Type-of-Product Tax to a 17 Percent Excise Tax

Measure 91 specified a harvest tax to be imposed on growers: \$35 per ounce of marijuana flowers, \$10 per ounce of leaves, and \$5 per immature plant. The tax revenue would be distributed 40 percent to schools, 20 percent to mental health alcoholism and drug services, 15 percent to the state police, 10 percent to cities, 10 percent to counties, and 5 percent to the Oregon Health Authority.

Concerned over the practical enforceability of such a tax system, legislators instead have replaced it with a 17 percent tax on the retail price of recreational marijuana, to take effect when the retail regulatory regime of the Oregon Liquor Control Commission (OLCC) is set up later in 2016. Localities will be able to impose an additional 3 percent tax. In the meantime, the Department of Revenue has been collecting a temporary 25 percent tax since January 1, 2016; sales prior to that date were untaxed.

<sup>30</sup> See Brian Bardwell, *Washington Approves Nation's First State-Tribal Marijuana Compact*, STATE TAX NOTES (SEP. 18, 2015).

<sup>31</sup> See Ballotpedia, *Oregon Legalized Marijuana Initiative, Measure 91 (2014)*, [https://ballotpedia.org/Oregon\\_Legalized\\_Marijuana\\_Initiative\\_Measure\\_91\\_\(2014\)](https://ballotpedia.org/Oregon_Legalized_Marijuana_Initiative_Measure_91_(2014)). A previous initiative to sell marijuana through state-operated stores was rejected in 2012, 47 percent to 53 percent. See Ballotpedia, *Oregon Cannabis Tax Act Initiative, Measure 80 (2012)*, [https://ballotpedia.org/Oregon\\_Cannabis\\_Tax\\_Act\\_Initiative\\_Measure\\_80\\_\(2012\)](https://ballotpedia.org/Oregon_Cannabis_Tax_Act_Initiative_Measure_80_(2012)).

<sup>32</sup> See Shelby Sebens, *Oregon governor OKs early sales of recreational-use marijuana*, REUTERS (Jul. 29, 2015), <http://www.reuters.com/article/us-usa-marijuana-oregon-idUSKCN0Q404520150730>.

Dispensaries can keep 2 percent of tax collections to compensate them for the cost of collecting and remitting revenue for the state. The use of a sales-based tax is considered politically risky in Oregon, as the state does not have a sales tax and politicians tend to be leery of proposals resembling sales taxes.<sup>33</sup>

In January 2016, Oregon collected \$3.48 million in taxes on \$14 million in recreational marijuana sales, three times official revenue projections.<sup>34</sup> Only 253 of 309 licensed dispensaries made tax payments; while some may not be selling recreational marijuana, some may not have known of their obligation to collect taxes. If so, future revenue could reach around \$60 million per year, even with the lower tax rate.

## Alaska

Retail marijuana sales in Alaska are expected to begin in late 2016, after voters approved Ballot Measure 2 legalizing marijuana in November 2014 (53 percent to 47 percent).<sup>35</sup> The Marijuana Control Board, set up in May 2015, adopted regulations effective February 21, 2016 relating to marijuana packaging, store locations, distribution, edibles, and social clubs. The license application period began February 24, 2016, and a marijuana inventory tracking system is scheduled to launch on May 23, 2016.<sup>36</sup>

Ballot Measure 2 set a \$50 per ounce tax on marijuana, paid by the marijuana cultivator when marijuana is transferred to a retail store or product marketing facility. At current going prices of \$250 per ounce in Anchorage, this would be a 20 percent effective tax rate.<sup>37</sup> (However, legislators have explored alternative taxation options.) The state Department of Revenue estimated state tax revenue between \$5.1 million and \$19.2 million per year, with regulatory and enforcement costs between \$3.7 million and \$7 million.<sup>38</sup>

33 See, e.g., Jeff Mapes, *Marijuana sales tax approved -- with some nervousness -- in Oregon House*, THE OREGONIAN (Jun. 25, 2015), [http://www.oregonlive.com/mapes/index.ssf/2015/06/marijuana\\_sales\\_tax\\_approved\\_.html](http://www.oregonlive.com/mapes/index.ssf/2015/06/marijuana_sales_tax_approved_.html).

34 See Bryan Darling, *Oregon collects three times expected amount of recreational marijuana taxes in first month*, Eugene Register-Guard (Mar. 18, 2016), <http://registerguard.com/rg/news/local/34174852-75/first-month-of-oregon-recreational-marijuana-taxes-nets-3.48-million.csp>.

35 See Ballotpedia, *Alaska Marijuana Legalization, Ballot Measure 2 (2014)*, [https://ballotpedia.org/Alaska\\_Marijuana\\_Legalization,\\_Ballot\\_Measure\\_2\\_\(2014\)](https://ballotpedia.org/Alaska_Marijuana_Legalization,_Ballot_Measure_2_(2014)). Alaska had previously rejected a legalization initiative in 2004. See Ballotpedia, *Alaska Legalize Marijuana Initiative, Measure 2 (2004)*, [https://ballotpedia.org/Alaska\\_Legalize\\_Marijuana\\_Initiative,\\_Measure\\_2\\_\(2004\)](https://ballotpedia.org/Alaska_Legalize_Marijuana_Initiative,_Measure_2_(2004)).

36 Alaska Alcohol & Marijuana Control Office, *FAQs*, <https://www.commerce.alaska.gov/web/amco/MarijuanaInitiativeFAQs.aspx>.

37 Data for the Price of Weed in Anchorage, <http://www.priceofweed.com/prices/United-States/Alaska.html>.

38 See Laurel Andrews, *The state weighs in: How much money will marijuana bring to Alaska?*, ALASKA DISPATCH NEWS, (Jul. 7, 2015), <http://www.adn.com/article/20150707/state-weighs-how-much-money-will-marijuana-bring-alaska>.

# 12 District of Columbia

Marijuana legalization became effective in the District of Columbia on February 26, 2015, after voters approved Initiative 71 in November 2014 (70 percent to 30 percent).<sup>39</sup> However, Maryland Congressman Andy Harris (R), an opponent of marijuana legalization, inserted a provision into a federal budget bill prohibiting the District of Columbia from using federal or local funds to “enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance.”<sup>40</sup> Consequently, while the initiative making marijuana legal has gone into effect, the District is prohibited from establishing any taxation, regulation, or sales structure.

One version of a bill considered by the D.C. Council would have set a 15 percent sales tax on marijuana, generating perhaps \$20 million per year.<sup>41</sup>

## Other States

**Vermont** Gov. Peter Shumlin (D) called for the state to legalize and tax marijuana in his 2016 State of the State address, urging a tax rate that is “low enough to wipe out the black market and get rid of the illegal drug dealers.”<sup>42</sup> Pending legislation, approved by the Vermont Senate and pending in the Vermont House, would impose a 25 percent tax based on the sales price of the product, and take effect July 1, 2016.<sup>43</sup>

**Ohio** Issue 3, which would have granted ten monopoly licenses to grow and sell marijuana to retailers, with marijuana production facilities paying a 15 percent gross receipts tax and marijuana retailers paying a 5 percent gross receipts tax, was rejected in November 2015 by a vote of 36 percent to 64 percent.<sup>44</sup> The monopoly (or technically, oligopoly) structure of the proposal generated substantial opposition even from marijuana legalization proponents.

**Nevada** voters in November 2016 will consider Question 2, which would legalize marijuana and impose a 15 percent excise tax on the wholesale price of marijuana, plus the state sales tax, with revenue dedicated to K-12 education. Nevada previously rejected legalization proposals in 2006 by a vote of 44 percent to 56 percent, and in 2002 by a vote of 39 percent to 61 percent.<sup>45</sup>

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39 See Ballotpedia, Washington D.C. Marijuana Legalization, Initiative 71 (November 2014), [https://ballotpedia.org/Washington\\_D.C.\\_Marijuana\\_Legalization\\_Initiative\\_71\\_\(November\\_2014\)](https://ballotpedia.org/Washington_D.C._Marijuana_Legalization_Initiative_71_(November_2014)).

40 P.L. 113-235, sec. 809, the Consolidated and Further Continuing Appropriations Act, 2015 (Dec. 16, 2014) (the “Cromnibus”).

41 See Mike DeBonis, *Legal marijuana could be \$130 million a year business in D.C., study finds*, Washington Post (Oct. 30, 2014), [https://www.washingtonpost.com/local/dc-politics/legal-marijuana-could-be-a-130-million-a-year-business-in-dc-officials-find/2014/10/30/d6f80a52-603d-11e4-9f3a-7e28799e0549\\_story.html](https://www.washingtonpost.com/local/dc-politics/legal-marijuana-could-be-a-130-million-a-year-business-in-dc-officials-find/2014/10/30/d6f80a52-603d-11e4-9f3a-7e28799e0549_story.html).

42 Neil Downing, *Vermont Governor Proposes to Legalize, Tax Recreational Marijuana*, STATE TAX NOTES (JAN. 11, 2016).

43 S. 241 (Vt. 2016). See also Brian Bardwell, *Marijuana Legalization Advances in Vermont, Hits Roadblock in Massachusetts*, STATE TAX NOTES (Apr. 18, 2016), <http://www.taxnotes.com/state-tax-today/excise-taxes/marijuana-legalization-advances-vermont-hits-roadblock-massachusetts/2016/04/18/18459616>.

44 See Ballotpedia, *Ohio Marijuana Legalization Initiative, Issue 3 (2015)*, [https://ballotpedia.org/Ohio\\_Marijuana\\_Legalization\\_Initiative\\_Issue\\_3\\_\(2015\)](https://ballotpedia.org/Ohio_Marijuana_Legalization_Initiative_Issue_3_(2015)).

45 See Ballotpedia, *Nevada Marijuana Initiative, Question 7 (2006)*, [https://ballotpedia.org/Nevada\\_Marijuana\\_Initiative\\_Question\\_7\\_\(2006\)](https://ballotpedia.org/Nevada_Marijuana_Initiative_Question_7_(2006)); Ballotpedia, *Nevada Decriminalization of Marijuana Amendment, Question 9 (2002)*, [https://ballotpedia.org/Nevada\\_Decriminalization\\_of\\_Marijuana\\_Amendment\\_Question\\_9\\_\(2002\)](https://ballotpedia.org/Nevada_Decriminalization_of_Marijuana_Amendment_Question_9_(2002)).



Ballot initiatives are circulating for signatures for the November 2016 election in nine states:<sup>46</sup>

- **Arizona:** Proposed initiatives legalize marijuana and impose an excise tax ranging from 10 percent to 15 percent. State Rep. Mark Cardenas (D) has proposed a legislative alternative.
- **Arkansas:** A proposed initiative legalizes marijuana and imposes an excise tax of 5 percent.
- **California:** Proposed initiatives legalize marijuana and impose an excise tax ranging from 5 percent to 15 percent. California previously rejected legalization ballot initiatives, in 2010 by a vote of 46 percent to 54 percent, and in 1972 by a vote of 33 percent to 67 percent.<sup>47</sup>
- **Maine:** A proposed initiative legalizes marijuana and imposes an excise tax of 10 percent, with the legislature having discretion to adjust the tax rate after 2022.
- **Massachusetts:** A proposed initiative legalizes marijuana and imposes an excise tax of 3.75 percent, with cities and towns permitted to impose an additional 2 percent tax. A study conducted by the Special Senate Committee on Marijuana, chaired by state Sen. Jason Lewis (D), estimated tax revenue of \$50 million to \$60 million.<sup>48</sup>
- **Michigan:** One proposed initiative legalizes marijuana and specifies that it shall be subject to no tax, fines, or regulations. Another proposed initiative imposes an excise tax of 10 percent, with 40 percent of proceeds dedicated to transportation, 40 percent to education, and 20 percent to localities.
- **Missouri:** Proposed initiatives legalize marijuana and impose an excise tax ranging from 25 percent to 75 percent.
- **Montana:** A proposed initiative legalizes marijuana and imposes an excise tax of 20 percent.
- **North Dakota:** A proposed initiative legalizes marijuana and authorizes an excise tax of no more than 20 percent.

In the following table, we estimated the potential tax revenue for each state based on sales per capita observed so far in Colorado and Washington. If every state imposed a retail marijuana tax, total collections could range from \$5.3 billion at a 15 percent rate to \$8.8 billion at a 25 percent rate. Lower tax rates may capture more of the gray and black market than Colorado and Washington have to date, and state revenues in that circumstance could reach as much as \$18 billion.<sup>49</sup>

<sup>46</sup> See Ballotpedia, Marijuana on the ballot, [https://ballotpedia.org/Marijuana\\_on\\_the\\_ballot](https://ballotpedia.org/Marijuana_on_the_ballot).

<sup>47</sup> See Ballotpedia, California Proposition 19, the Marijuana Legalization Initiative (2010), [https://ballotpedia.org/California\\_Proposition\\_19\\_the\\_Marijuana\\_Legalization\\_Initiative\\_\(2010\)](https://ballotpedia.org/California_Proposition_19_the_Marijuana_Legalization_Initiative_(2010)); Ballotpedia, California Marijuana Legalization, Proposition 19 (1972), [https://ballotpedia.org/California\\_Marijuana\\_Legalization\\_Proposition\\_19\\_\(1972\)](https://ballotpedia.org/California_Marijuana_Legalization_Proposition_19_(1972)).

<sup>48</sup> See Adam Vaccaro, *Senators say marijuana legalization is not a pot of gold*, Boston.com (Mar. 8, 2016), <https://www.boston.com/news/local-news/2016/03/08/senators-say-marijuana-legalization-is-not-a-pot-of-gold>.

<sup>49</sup> See W. Gavin Ekins & Joseph Henchman, *Marijuana Legalization and Taxes: Federal Revenue Impact*, Tax Foundation Fiscal Fact (Apr. 20, 2016).

**Table 2.**  
**Potential Recreational Marijuana Tax Revenue by State,**  
**Based on Colorado and Washington Demand**

State	15% tax	20% tax	25% tax
Alabama	\$80	\$107	\$134
Alaska	\$12	\$16	\$20
Arizona	\$113	\$150	\$188
Arkansas	\$49	\$66	\$82
California	\$646	\$861	\$1,076
Colorado	\$90	\$120	\$150
Connecticut	\$59	\$79	\$99
Delaware	\$16	\$21	\$26
District of Columbia	\$11	\$15	\$18
Florida	\$334	\$446	\$557
Georgia	\$169	\$225	\$281
Hawaii	\$24	\$31	\$39
Idaho	\$27	\$36	\$46
Illinois	\$212	\$283	\$354
Indiana	\$109	\$146	\$182
Iowa	\$52	\$69	\$86
Kansas	\$48	\$64	\$80
Kentucky	\$73	\$97	\$122
Louisiana	\$77	\$103	\$128
Maine	\$22	\$29	\$37
Maryland	\$99	\$132	\$165
Massachusetts	\$112	\$149	\$187
Michigan	\$164	\$218	\$273
Minnesota	\$91	\$121	\$151
Mississippi	\$49	\$66	\$82
Missouri	\$100	\$134	\$167
Montana	\$17	\$23	\$28
Nebraska	\$31	\$42	\$52
Nevada	\$48	\$64	\$79
New Hampshire	\$22	\$29	\$37
New Jersey	\$148	\$197	\$246
New Mexico	\$34	\$46	\$57
New York	\$327	\$436	\$544
North Carolina	\$166	\$221	\$276
North Dakota	\$12	\$17	\$21
Ohio	\$192	\$255	\$319
Oklahoma	\$65	\$86	\$108
Oregon	\$66	\$89	\$111
Pennsylvania	\$211	\$282	\$352
Rhode Island	\$17	\$23	\$29
South Carolina	\$81	\$108	\$135
South Dakota	\$14	\$19	\$24
Tennessee	\$109	\$145	\$182
Texas	\$453	\$604	\$755
Utah	\$49	\$66	\$82
Vermont	\$10	\$14	\$17
Virginia	\$138	\$184	\$231
Washington	\$118	\$158	\$197
West Virginia	\$30	\$41	\$51
Wisconsin	\$95	\$127	\$159
Wyoming	\$10	\$13	\$16
All States	\$5,304	\$7,071	\$8,839

Note: millions of dollars

Federal law remains an obstacle to these state efforts in two major ways. First, marijuana remains on Schedule I of the Controlled Substances Act, the category reserved for dangerous drugs with a high potential for abuse and no accepted medical use. Because federal law trumps state law, those selling and possessing marijuana would get no protection from state legalization as long as those activities violate federal law.<sup>50</sup> In August 2013, however, the Deputy Attorney General issued guidance to U.S. attorneys (federal prosecutors) to focus marijuana enforcement efforts on criminal trafficking, use by minors, and activities on federal land; a second memo in 2014 added financial crimes such as money laundering.<sup>51</sup> Beginning with its Fiscal Year 2015 appropriations law, Congress has now prohibited the Justice Department from interfering with state laws implementing medical marijuana.<sup>52</sup> However, the continued status of marijuana as illegal under federal law has resulted in state-authorized marijuana retailers encountering difficulty accessing banking services, mailing customers, and securing and enforcing lease agreements.<sup>53</sup>

Tax law is the second major federal obstacle to state efforts to construct a legal marijuana industry. 26 U.S.C. § 280E singles out legal marijuana retailers for a significantly higher income tax burden relative to other types of legal businesses. All businesses, including illegal businesses, are required to pay income tax on the difference between their revenue and their expenses.<sup>54</sup> Section 280E was enacted in 1982 to deny the deduction of business expenses to those selling drugs on Schedules I and II of the Controlled Substances Act. While intended to punish drug dealer kingpins from deducting expenses like guns and yachts used in smuggling operations, the IRS applies it to state-authorized marijuana retailers, punishing taxpayers trying to comply with the law and creating a competitive advantage for the very drug dealer kingpins that Section 280E was enacted to penalize.

50 Constitutional challenges to the federal government's power to prohibit sale or possession of illegal drugs have not succeeded. See *United States v. Oakland Marijuana Buyers Cooperative*, 532 U.S. 483 (2001) (rejecting medical necessity defense against federal marijuana laws); *Gonzales v. Raich*, 545 U.S. 1 (2005) (upholding federal prohibition of non-sold intrastate marijuana as within the Constitution's interstate commerce clause; 6-3 decision). See also *United States v. Doremus*, 249 U.S. 86 (1919) (upholding the Harrison Narcotics Act's banning of heroin sales as validly incidental to the taxing power; 5-4 decision); *Linder v. United States*, 268 U.S. 5 (1925) (questioning the constitutional scope of the Harrison Narcotic Act but not invalidating it); *Casey v. United States* (1928) (upholding the use of the Harrison Narcotic Act to criminalize possession of drugs notwithstanding any evidence relating to tax stamps or payment of revenue; 5-4 decision); *Nigro v. United States* (1928) (upholding the Harrison Narcotic Act's narrowing of legal distribution of narcotics designed to prohibit the products as a valid exercise of the taxing power; 6-3 decision); *Leary v. United States*, 395 U.S. 6 (1969) (striking down the Marihuana Tax Act of 1937 as necessarily violating the Fifth Amendment right against self-incrimination; Congress responded by enacting direct regulation of dangerous drugs through the Comprehensive Drug Abuse Prevention and Control Act of 1970, which includes the Controlled Substances Act of 1970).

51 See Office of the Deputy Attorney General, "Guidance Regarding Marijuana Enforcement," Aug. 29, 2013; Office of the Deputy Attorney General, "Guidance Regarding Marijuana Related Financial Crimes," Feb. 14, 2014.

52 Consolidated and Further Continuing Appropriations Act, 2015, P.L. 113-235, section 538, 128 Stat. 2217 (Dec. 16, 2014); extended in full by Continuing Appropriations Act, 2016, P.L. 114-53, 129 Stat. 505 (Sep. 30, 2015).

53 See, e.g., Jacob Sullum, "The Federal Ban on Medical Marijuana Was Not Lifted," REASON MAGAZINE (Jan. 4, 2016), <http://reason.com/archives/2016/01/04/the-federal-ban-on-medical-marijuana-was>; Jacob Sullum, "Colorado Settlement Suggests RICO Nuisance Suits Will Hinder Legal Pot Industry," REASON MAGAZINE (Dec. 31, 2015), <https://reason.com/blog/2015/12/31/settlement-suggests-rico-nuisance-suits>; Jacob Sullum, "Marijuana Ads are 'Nonmailable,' but That Doesn't Mean You Can't Mail Them," REASON MAGAZINE (Dec. 18, 2015), <https://reason.com/blog/2015/12/18/marijuana-ads-are-nonmailable-but-that-d>; Jacob Sullum, "Cannabis Cash Conundrum, Continued," REASON MAGAZINE (Sep. 22, 2014), <http://reason.com/archives/2014/09/22/cannabis-cash-conundrum-continued>.

54 Senator John Sharp Williams of Mississippi, who managed the floor debate in favor of the 1913 federal income tax law, opposed amendments to limit business deductions only for "lawful" and "legitimate" businesses: "The object of this bill is to tax a man's net income; that is to say, what he has at the end of the year after deducting from his receipts his expenditures or losses. It is not to reform men's moral characters; that is not the object of the bill at all." See also *United States v. Sullivan*, 274 U.S. 259 (1927) ("We see no reason [...] why the fact that a business is unlawful should exempt it from paying the taxes that, if lawful, it would have to pay."); *Commissioner v. Tellier*, 383 U.S. 687 (1966) ("We start with the proposition that the federal income tax is a tax on net income, not a sanction against wrongdoing[...] Income from a criminal enterprise is taxed at a rate no higher and no lower than income from more conventional sources.")

# 16 Conclusion

At an August 2015 session at the annual summit of the National Conference of State Legislatures, a roomful of state legislators from all over the country listened to the experiences of Colorado and Washington legislators. When asked what they would do differently if they were to do it all over again, the Colorado and Washington legislators said they would have preferred to enact legalization by legislation rather than by ballot initiative, due to the difficulty of changing inflexible language approved by voters. The audience was also polled as to the likelihood of voters legalizing marijuana in their state; almost to a person, attendees said that was likely to happen.

The experience of the states that have already legalized marijuana should prove instructive to the states that follow. Five key lessons should be kept in mind:

- **The marijuana tax rate should not be so high as to prevent elimination of the black market.** Colorado, Washington, and Oregon have all taken steps to reduce their marijuana tax rates, with Alaska considering it. Colorado concluded with strong evidence that its 30 percent tax rate did not sufficiently reduce the black market, and more recent ballot initiative proposals all over the country propose rates between 10 and 25 percent.
- **Tax rates on final retail sales have proven the most workable form of taxation.** Other forms of taxation have been proposed, such as taxing marijuana flowers at a certain dollar amount, taxing at the processor or producer level rather than the retail level, or taxing products by their level of THC. Driving factors have included the difficulties with practical implementation of these ideas, the danger of double-taxing some businesses if vertically integrated businesses get a tax benefit, and the favorable federal tax treatment for excise taxes as opposed to business taxes.
- **Be conscious of the medical marijuana market.** Medical marijuana is usually more loosely regulated and less taxed than recreational marijuana. In Washington, moving non-medical sales to the retail market has proven difficult given the enormous differentials in tax rates and regulatory structure, and officials there wish the two systems had been tackled simultaneously.
- **Be cautious with revenue estimates.** While the revenue can be in the tens or even hundreds of millions of dollars, it takes a lead time to develop. Estimating the size of an illegal market is difficult, as is estimating how many consumers will switch to the legal market when it is available. Revenues started out slowly in Colorado and Washington, both as consumers became familiar with the new system and after state and local authorities spent time and money setting up new frameworks and regulatory infrastructure.
- **Resolve health, agricultural, zoning, local enforcement, and criminal penalty issues.** These important issues have generally been unaddressed in ballot initiatives and left for resolution in the implementation process.

## Alaska Marijuana News

# The state weighs in: How much money will marijuana bring to Alaska?

 Author: **Laurel Andrews**  Updated: July 7  Published July 7, 2015

Alaska stands to make between \$5.1 million and \$19.2 million in tax revenue from commercial marijuana in 2016, according to a preliminary estimate by the Alaska Department of Revenue.

An estimate dated Jan. 2 looks at possible revenues that it calls "very uncertain." The tax division had to estimate both how much marijuana is consumed in Alaska every year and what proportion of consumers will switch to marijuana from the legal retail market, said Ken Alper, Department of Revenue tax division director.

"To a certain extent you're shooting in the dark here," Alper said.

Marijuana will be taxed at \$50 an ounce, according to Alaska's initiative, which was voted into law in November. Leading into the election, how much revenue Alaska stood to gain **was anybody's guess**. Former Gov. Parnell's administration declined to publicly release a revenue estimate, although the state did **produce a cost estimate** of \$3.7 million to \$7 million to set up a regulatory and enforcement system.

Meanwhile, other entities took a stab at revenue estimates, which varied widely. The "Big Marijuana. Big Mistake. Vote No on 2" campaign against marijuana legalization estimated the state would collect \$5.1 million in tax revenue, while the Alaska Cannabis Institute, which held marijuana business seminars in Alaska, produced its own estimate of \$20.4 million. The



Marijuana Policy Group **estimated** potential tax revenue of \$56 million.

The tax division's January estimate doesn't include potential sales to tourists or any additional sales or excise taxes that might be levied by local governments.

There are large uncertainties in these numbers. One difficulty, Alper said, is how the state estimates the number of marijuana consumers -- a number based on a 2009-10 National Survey on Drug Use and Health.

Polling data creates uncertainty, Alper said. Marijuana is a "historically illegal product, and a stranger is calling you on the phone and asking if you use it," Alper said. That scenario leads to a "certain amount of underreporting," he said.

The largest variable, though, is what percentage of marijuana consumers will transition to the retail market, and the large range reflects that uncertainty, Alper said. The state is estimating that 30 percent to 80 percent of marijuana-consuming Alaskans will switch to the retail market.

The tax and regulatory structure Alaska is **in the process of creating** will be the biggest factor in determining who switches from the black market and personal grows to legal retail, Alper said. How difficult will it be to acquire a license? How stringent will zoning regulations be? These factors will influence that switchover rate, he said.

Alper noted tax revenues in **Washington** have come in higher than estimated, so that may bode well for Alaska's own revenue. Alper also noted a key difference between Colorado and Washington and Alaska: Alaska does not have a medical marijuana industry separate from its commercial industry. Thus, per capita, Alaska may see a somewhat higher percentage of consumers switching to a retail market, Alper said.



### **State's math behind the estimate**

Alaska has 519,514 legally eligible marijuana consumers aged 21 and older.

The 2009-10 National Survey on Drug Use and Health estimates 37 percent of 21- to-25-year-olds (19,258 Alaskans) used marijuana in the past year, and 25 percent used in the past month. Of people 26 and older, 14 percent (65,445 Alaskans) used marijuana in the past year, and 10 percent in the past month, according to the survey.

Those numbers represent the low estimate. The state added 20 percent to those numbers to make up for possible underreporting and determined its upper estimate.

That means 84,703 to 101,644 Alaskans aged 21 and older are estimated to have used marijuana within the past year.

The state then estimated a person 21 to 25 years of age will consume an average of 3.4 ounces per year, and a person 26 years and older will consume 3.7 ounces per year.

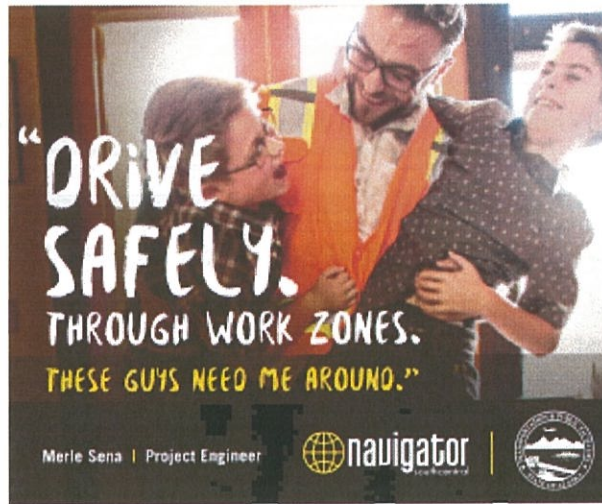
That brings the state to an estimate of 307,624 to 369,148 ounces of marijuana consumed in Alaska in a given year.

The state also contends 310 to 1,240 medical marijuana users will switch to the legal market, producing a "small effect on overall tax outcomes," and adds another 1,147 to 4,588 ounces consumed every year.

Next, the state estimated changes in the quantity consumed due to price changes. That range has been "left significantly wide to show many possible outcome adjustments," the state says, and is estimated between 35,798 and 115,986 ounces per year.

The percentage of people who will switch to the legal retail market is 30 to 80 percent of marijuana users, the state estimates.

With that, the state ends up with a retail market consumption of 101,800 ounces to 383,520 ounces per year. Multiply that by \$50, Alaska's per-ounce taxation rate, and the state arrives at its \$5.1 million to \$19.2 million tax revenue conclusion.



**About the Author**

**Laurel Andrews**

Laurel was born in Bethel and grew up playing in the woods in Fairbanks. She has worked as a reporter since June 2012.





## Lessons on Legalizing and Taxing Marijuana from the Colorado and Washington Experience

Joseph Henschman  
Vice President, Legal & State Projects, Tax Foundation

Hearing on Sections 6-9 of B20-466, the Marijuana Legalization & Regulation Act of 2013  
Before the Joint Hearing of the  
Committee on Business, Consumer and Regulatory Affairs and  
Committee on Finance and Revenue

October 30, 2014

### Chairman Orange, Chairman Evans, and members of the Committee:

I appreciate the opportunity to testify today on proposed legislation that would legalize and tax marijuana in the District of Columbia. While the current draft of the legislation would impose a 6 percent tax on medical marijuana and a 15 percent tax on all other marijuana products, in addition to license fees ranging from \$2,000 (retailer) to \$6,000 (producer), it is my understanding that final tax and fee amounts are still under consideration.

I have attached a Tax Foundation report I recently authored, *Taxing Marijuana: The Washington and Colorado Experience*. This report summarizes those two states' experience with legalizing and taxing marijuana to date. Our study relied on revenue projections issued prior to legalization, actual revenue collections reported by the relevant state agencies, and discussions with legislative and administrative officials to relate their experience so far. As a non-partisan 501(c)(3) organization, we take no position on the proposed legislation, but we hope that the material we provide will be helpful in the Committee's consideration of the issue.

While legalization in both states is still new (Colorado legal sales began January 1, 2014, and Washington legal sales began June 1, 2014), both states have encountered similar challenges.

- **Both states had pre-existing medical marijuana programs and thus had to determine whether to wrap these programs into the larger retail scheme, or continue a separate existence which in turn required differentiating its purpose and administrative apparatus.** Colorado and Washington both have chosen to continue their separate medical marijuana programs, with the only tax imposed being the retail sales tax on all other goods and products. Both states apply this tax even to edibles and liquids that normally would be exempt from sales tax as grocery or food item, which required special legislation in Washington.
- **Both states limited the quantities of marijuana products that consumers may purchase.** Colorado, for instance, limits purchases by residents to one ounce of any kind of marijuana (non-residents can purchase up to one-quarter of an ounce), while Washington limits adults to one ounce of "bud" (the flowering part of the plant), 16

ounces of edible solids, 72 ounces of edible liquids, or 7 grams of concentrates or lotions.

- **Both states revised criminal laws** to ban public consumption, driving under the influence, and taking marijuana outside the jurisdiction. Out-of-state visitors are permitted to purchase marijuana, and make up an estimated 44 percent of Colorado sales. Additionally, regulations were adopted to address health and safety requirements for marijuana retailers and the use of marijuana by employees of marijuana retailers. Washington has also capped the number of retail locations, which required an administrative apparatus to award licenses on a lottery basis.
- **Both states had to determine the tax rate on retail marijuana**, and opted for very high taxes on a percentage basis. Marijuana taxes must be structured differently than other excise taxes because marijuana exists in a number of different forms: it can be smoked, eaten, drank, or applied to the skin. This affects purchase amount restrictions.
  - Colorado's approximately 29 percent tax on retail marijuana is about equivalent to the fairly punitive tax on tobacco products, almost four times the tax on liquor, and four times the sales tax on ordinary goods and services.
  - Washington's approximately 44 percent tax on retail marijuana is about half the cigarette tax rate, four times the beer tax rate, and five times the sales tax on ordinary goods and services.
  - Alaska's Measure 2 (on the November 4 ballot) would impose an approximately 21 percent tax, and Oregon's Measure 91 (also on the November 4 ballot) would impose an approximately 15 percent tax). Both states have no state sales tax on the purchase of general goods and services.

Both states have seen revenue collections underperform significantly compared with estimates prior to legal sales beginning, as our report details. Colorado expected \$70 million per year and is only collecting about \$30 million per year. Washington was less definite on its revenue expectation, with an official estimate of between zero and \$1.9 billion over five years. Officials currently estimate approximately \$122 million to \$168 million per year, but tax receipts in the first month of sales totaled only \$1 million.

Why have revenues fallen short? There are a number of possible explanations.

- **The programs are new and take time to gear up.** Washington, in particular, has awarded only a small number of its retail licenses so far.
- **The retail industry is capital-starved due to legal uncertainty relating to continued federal prohibition.** With marijuana still against federal law, the nascent industry consists mostly of small operations that operate on a cash basis. Large companies and banks are more risk-averse and have not entered the market to compete or make loans to marijuana businesses.
- **The limitations on per-individual purchases and interstate shipment have reduced sales.** Colorado estimates that 44 percent of its retail market are tourist purchases, suggesting an enormous untapped potential market for being one of the first states to legalize that is hobbled by the purchase and transport restrictions. However, these restrictions are important to neighboring states that have not legalized marijuana and to avoid direct conflict with federal drug laws.

- **The tax rates are too high, relative to both medical marijuana taxes and the black market.** Colorado revenue officials expected that most purchasers of medical marijuana would switch to retail marijuana, and this did not happen. Medical marijuana in both states is subject to only state and local sales taxes, many times lower than the taxes on retail marijuana. Colorado estimates that the black market continues to supply 6 percent of marijuana demand, which suggests that the combined tax rate of 29 percent is too high.

Public finance theory says that the purpose of excise taxes is to address externalities; that is, a special tax on a particular product should exist only to compensate society for net costs imposed by its use. If such net costs cannot be identified, the proper excise tax rate should be zero, with the product subject only to the ordinary sales and use tax.

Marijuana has been prohibited for a long time and there is great dispute over whether the costs of legalization outweigh its benefits, and if so, by how much. Colorado and Washington did not undertake such an analysis, instead implicitly picking high tax rates so as to generate a windfall. Since marijuana is generally a discretionary purchase and a large black market infrastructure presently exists, these punitively high tax rates failed to eliminate the black market or generate the expected revenue. This should be a vital lesson for the District of Columbia and other jurisdictions considering legalizing and taxing marijuana.

Our report is attached to my written statement. I thank you for the opportunity to present to you today.

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# Taxing Marijuana: The Washington and Colorado Experience

By Joseph Henchman  
Vice President, Legal & State Projects

## Key Findings

- Because marijuana can be purchased as a cigarette, an edible, a liquid, or vapor, all with a wide variety of concentrations, a specific excise tax is untenable.
- Colorado collects tax revenue from marijuana sales through a 15 percent excise based tax on the average wholesale market rate; a 10 percent state tax on retail marijuana sales; a state sales tax of 2.9 percent; varied local sales taxes; and local marijuana taxes such as a 3.5 percent tax in Denver.
- Washington State collects tax revenue from marijuana sales through a 25 percent tax on producer sales to processors; a 25 percent tax on processor sales to retailers; a 25 percent tax on retailer sales to customers; a state Business & Occupation (B&O) gross receipts tax; a state sales tax of 6.5 percent; and varied local sales taxes. The total effective tax rate to be about 44 percent.
- Tax collections in Colorado have fallen short of projected revenue estimates, whereas collections in Washington have fallen within the wide range of project revenue estimates.
- Colorado's marijuana revenue shortfall is due to incorrect projections about the switch from lower-taxed medical marijuana to higher-taxed retail marijuana by consumers.
- States with possible upcoming ballot initiatives should take note of effective and ineffective methods of taxing marijuana as the issue is likely to expand.

In November 2012, voters in Colorado and Washington State approved legal retail sales of marijuana, with Colorado sales starting January 1, 2014 and Washington sales starting June 1, 2014. The ballot initiatives passed by strong margins (Colorado Amendment 64 passed 55 percent to 45 percent; Washington Initiative 502 passed 56 percent to 44 percent). Retail sales would be separate from each state's preexisting medical marijuana programs.

Creating a legal structure out of whole cloth has been challenging. In both states, sales are for adults age 21 or over, it remains illegal to use in public and to drive under the influence, and taking marijuana outside the state is illegal. (Neighboring states are still impacted, however.<sup>1</sup>) In Washington, adults can purchase up to one ounce of "bud" (the flowering part of the plant), 16 ounces of edible solids, 72 ounces of edible liquids, or 7 grams of concentrates or lotions. In Colorado, residents can purchase up to one ounce of any kind of marijuana product and non-residents can purchase up to a quarter of an ounce. Sellers must be licensed and must meet health and safety requirements, employers can still ban use by employees, and Washington capped the number of retail locations. The product is still against federal law, which in turn keeps the nascent industry on a cash basis and may lead to punitive federal tax treatment.<sup>2</sup>

Taxing marijuana presents unique challenges, because the product takes so many different forms. Excise taxes on other products are historically imposed at a specific amount regardless of the retail price. Examples include the federal gasoline tax of 18.4 cents per gallon and the federal cigarette tax of \$1.0066 per pack. Because marijuana can be purchased as a cigarette, an edible, a liquid, or vapor, all with a wide variety of concentrations, a specific excise tax is untenable.

## Colorado

Colorado's marijuana tax is structured as a 15 percent excise tax on the "average market rate" of wholesale marijuana, plus a 10 percent state tax on retail marijuana sales, plus the state sales tax of 2.9 percent, plus local sales taxes, plus local marijuana taxes such as a 3.5 percent tax in Denver.<sup>3</sup> When these taxes are added up, in Denver for example, a \$30 eighth of pot (1/8 oz.) will have about \$8.59 in taxes tacked onto it, or about a 29

1 See, e.g., Trevor Hughes, *In tiny Nebraska towns, a flood of Colorado marijuana*, USA TODAY, June 11, 2014, <http://www.usatoday.com/story/news/nation/2014/06/11/colorado-marijuana-exports/9964707/>; Harriet Baskas, *Marijuana at airports: Colo., Wash. adjust to new law*, USA TODAY, June 20, 2014, <http://www.usatoday.com/story/travel/flights/2014/06/18/marijuana-colorado-washington-tsa-airports/10681759/>; Matt Ferner, *Keep Your Legal Weed in Colorado, Say Cops in Neighboring States*, HUFFINGTON POST, May 28, 2014, [http://www.huffingtonpost.com/2014/05/28/colorado-marijuana\\_n\\_5405422.html](http://www.huffingtonpost.com/2014/05/28/colorado-marijuana_n_5405422.html);

2 See, e.g., Joseph Henchman, *Tax Code Disallows Business Deductions for Marijuana Sales*, TAX FOUNDATION TAX POLICY BLOG, FEB. 6, 2014, <http://taxfoundation.org/blog/tax-code-disallows-business-deductions-marijuana-sales>; Tyler Dennis & Scott Eastman, *IRS Penalties Force Colorado Marijuana Retailers to Face Higher Tax Burdens*, TAX FOUNDATION TAX POLICY BLOG, July 11, 2014, <http://taxfoundation.org/blog/irs-penalties-force-colorado-marijuana-retailers-face-higher-tax-burdens>.

3 See Colorado Department of Revenue, *Information for Cultivators*, <http://www.colorado.gov/cs/Satellite/Revenue/REXX/1251649610680>; Jeremy P. Meyer, *Denver Voters Backing 3.5 Percent Tax on Pot*, DENVER POST, Nov. 5, 2013, [http://www.denverpost.com/breakingnews/cj\\_24461037/denver-voters-weigh-3-5-percent-marijuana-tax](http://www.denverpost.com/breakingnews/cj_24461037/denver-voters-weigh-3-5-percent-marijuana-tax).

percent overall tax rate.<sup>4</sup> (By comparison, the equivalent tax on cigarettes is about 31 percent and on beer only about 8 percent.<sup>5</sup>)

Six months of legal retail marijuana sales have generated \$21.8 million in tax revenue plus another \$10.1 million in taxes on medical marijuana in that time period (see Table 1).<sup>6</sup> For the new fiscal year that began July 1, 2014, state analysts project \$30.6 million in revenue.<sup>7</sup> These amounts have fallen short of earlier estimates. During the initiative campaign, voters were told marijuana excise taxes would boost revenues by \$70 million per year, with the first \$40 million each year dedicated to school construction and leaving \$30 million for enforcement and general state funds.<sup>8</sup> As early as April 2013, the nonprofit research group Colorado Futures Center prophetically warned that actual revenue would be unlikely to even meet that \$40 million need each year, leaving nothing for enforcement costs.<sup>9</sup>

State officials are investigating the causes for the revenue shortfall. Retailers were slow to open, impacting revenue collections. State economists say they were wrong in assuming that retail marijuana would cannibalize medical marijuana sales, which have actually remained steady.<sup>10</sup> The Department of Revenue suggests that tax differentials are a key reason, because medical marijuana purchases are subject only to state and local sales taxes (after paying a \$15 registration fee), a tax rate one-third of that imposed on retail marijuana.<sup>11</sup> Visitors holding an out-of-state identification card have been responsible for 44 percent of retail sales.<sup>12</sup> The analysis found a disconnect between legal supply (77 metric tons) and surveyed demand (130 metric tons), estimating that the gray market (home growing and caregivers) is supplying approximately 46 metric tons and the black market is supplying approximately 7 metric tons (6 percent of total demand).<sup>13</sup>

4 See, e.g., Global Index Price for Marijuana, *Colorado, United States*, <http://www.priceofweed.com/prices/United-States/Colorado.html>; John Ingold, *Colorado Voters Approve New Taxes on Recreational Marijuana*, DENVER POST, Nov. 5, 2013, [http://www.denverpost.com/breakingnews/ci\\_24462839/colorado-voters-approve-new-taxes-recreational-marijuana](http://www.denverpost.com/breakingnews/ci_24462839/colorado-voters-approve-new-taxes-recreational-marijuana).

5 Cigarette tax calculations derived from Campaign for Tobacco-Free Kids, *State Excise and Sales Taxes Per Pack of Cigarettes* (June 20, 2014), <http://www.tobaccofreekids.org/research/factsheets/pdf/0202.pdf>.

6 See Colorado Department of Revenue, *Colorado Marijuana Tax Data*, <http://www.colorado.gov/cs/Satellite/Revenue-Main/XRM/1251633259746>.

7 See Colorado Legislative Council Staff, Economics Section, *Focus Colorado: Economic and Revenue Forecast* (June 20, 2014) at 29-30, [http://www.leg.state.co.us/lcs/econforecast.nsf/vwFile/1406/\\$File/14JuneForecast.pdf#page=29](http://www.leg.state.co.us/lcs/econforecast.nsf/vwFile/1406/$File/14JuneForecast.pdf#page=29).

8 See Joseph Henchman, *Colorado Begins Legal Marijuana Sales, Collecting Marijuana Tax*, TAX FOUNDATION TAX POLICY BLOG, Jan. 1, 2014, <http://taxfoundation.org/blog/colorado-begins-legal-marijuana-sales-collecting-marijuana-tax>.

9 See Colorado Futures Center, Charles Brown & Phyllis Resnick, *The Fiscal Impact of Amendment 64 on State Revenues* (Apr. 24, 2013), <https://webcom.colostate.edu/coloradofutures/files/2013/04/CFC-Amendment-64-Study-final2.pdf>.

10 See, e.g., John Ingold, *Colorado Lawmaker Seeks Marijuana Tax Review Amid Disappointing Sales*, DENVER POST, Aug. 13, 2014, [http://www.denverpost.com/news/ci\\_26323416/amid-disappointing-sales-colorado-lawmaker-seeks-marijuana-tax](http://www.denverpost.com/news/ci_26323416/amid-disappointing-sales-colorado-lawmaker-seeks-marijuana-tax).

11 See Colorado Department of Revenue, *Market Size and Demand for Marijuana in Colorado* (July 2014), <http://goo.gl/yM5T3i>.

12 See *id.*

13 See, e.g., Matt Ferner, *Colorado's Black Market Is More Complicated Than It Looks*, HUFFINGTON POST, Aug. 13, 2014, [http://www.huffingtonpost.com/2014/08/13/colorado-marijuana-black-market\\_n\\_5669302.html](http://www.huffingtonpost.com/2014/08/13/colorado-marijuana-black-market_n_5669302.html).

Table 1. Colorado Tax and License Collections from Marijuana Sales, 2014 (\$ thousands)

	Jan	Feb	Mar	Apr	May	Jun	Total
15% Wholesale Tax	195	339	609	734	1,135	969	3,983
10% Retail Tax	1,401	1,434	1,898	2,217	2,070	2,473	11,496
2.9% Sales Tax							
Medical	913	1,022	999	919	927	830	5,612
Retail	416	438	569	639	642	700	3,406
Licenses							
Medical	496	754	794	622	867	1,040	4,573
Retail	96	103	108	139	72	507	2,932
Total	3,519	4,092	4,980	5,273	5,715	6,522	32,002

Note: Retail license total includes \$1.9 million in startup revenue collected prior to January. Totals may not sum due to rounding.

Source: Colorado Department of Revenue.

## Washington

Washington State imposes a 25 percent tax on producer sales to processors, another 25 percent tax on processor sales to retailers, and a further 25 percent tax on retailer sales to customers, plus the state Business & Occupation (B&O) gross receipts tax, plus the state sales tax of 6.5 percent, plus local sales taxes. Moody's calculated the total effective tax rate to be about 44 percent.<sup>14</sup> By comparison, Washington taxes cigarettes at about 104 percent and beer at about 11 percent (recently cut from 16 percent).<sup>15</sup>

The first month of legalization resulted in \$3.8 million in sales and about \$1 million in tax revenue. The Washington State Liquor Control Board, in charge of the program, estimates two-year marijuana tax revenue for the 2015-17 biennium will be \$122,459,893; for the 2017-19 biennium it will be \$336,898,396. Voters were told legalization could bring in as much as \$1.9 billion over five years; Sharon Foster of Washington State Liquor Control Board notes that many people took that as the revenue estimate. So while actual collections are within the wide range suggested to voters, they will likely be on the lower end.

## Other Jurisdictions

Other jurisdictions are considering joining Colorado and Washington in votes on November 4 of this year. Alaska voters will decide Measure 2, which legalizes marijuana and imposes a \$50 per ounce wholesale tax (equivalent to about a 21 percent tax).<sup>16</sup> Oregon voters will decide Measure 91, which legalizes marijuana and imposes a \$35 per

14 See Niraj Chokshi, *Moody's: Washington might not see the marijuana tax windfall previously projected*, WASHINGTON POST, JULY 22, 2014, <http://www.washingtonpost.com/blogs/govbeat/wp/2014/07/22/moodys-washington-might-not-see-the-marijuana-tax-windfall-previously-projected/>.

15 Cigarette tax calculations derived from Campaign for Tobacco-Free Kids, *State Excise and Sales Taxes Per Pack of Cigarettes* (June 20, 2014), <http://www.tobaccofreekids.org/research/factsheets/pdf/0202.pdf>; *Washington state House Democrats drop beer tax, other revenue proposals*, ASSOCIATED PRESS, Apr. 23, 2013, [http://www.oregonlive.com/politics/index.ssf/2013/04/washington\\_state\\_house\\_democra.html](http://www.oregonlive.com/politics/index.ssf/2013/04/washington_state_house_democra.html).

16 See Ballotpedia, *Alaska Marijuana Legalization, Ballot Measure 2 (2014)*, [http://ballotpedia.org/Alaska\\_Marijuana\\_Legalization\\_Ballot\\_Measure\\_2\\_\(2014\)](http://ballotpedia.org/Alaska_Marijuana_Legalization_Ballot_Measure_2_(2014)).



ounce wholesale tax (equivalent to about a 15 percent tax).<sup>17</sup> The District of Columbia will decide Initiative 71, which legalizes possession of small amounts of marijuana, and the D.C. Council is considering a separate regulation and tax bill.<sup>18</sup>

These proposals are likely just the beginning. Joe Brenzy of the Nevada Cannabis Industry Association told legislators at the Council of State Governments annual meeting that proponents are pushing ballot initiatives in the near future for Arizona, California, Maine, Massachusetts, Minnesota, and Nevada, and legislative efforts in Delaware, Hawaii, Maryland, New Hampshire, Rhode Island, Texas, and Vermont. Brenzy also predicted the end of federal marijuana prohibition by 2020, based on how long it took alcohol prohibition to end in the 1930s. When asked by a legislator why marijuana proponents are going around legislators, Brenzy said they have been given no choice. He expressed eagerness to work with legislators, but in states where a majority of people support legalization and legislators won't consider it, proponents have the resources to go straight to voters and will do so. He said 25 states will have legal retail marijuana sales within 5 years, which can be interpreted as either a prediction or a goal.

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<sup>17</sup> See Ballotpedia, *Oregon Legalized Marijuana Initiative, Measure 91 (2014)*, [http://ballotpedia.org/Oregon\\_Legalized\\_Marijuana\\_Initiative,\\_Measure\\_91\\_\(2014\)](http://ballotpedia.org/Oregon_Legalized_Marijuana_Initiative,_Measure_91_(2014)).

<sup>18</sup> See Ballotpedia, *Washington D.C. Marijuana Legalization, Initiative 71 (November 2014)*, [http://ballotpedia.org/Washington\\_D.C.\\_Marijuana\\_Legalization,\\_Initiative\\_71\\_\(November\\_2014\)](http://ballotpedia.org/Washington_D.C._Marijuana_Legalization,_Initiative_71_(November_2014)); Drug Policy Alliance, *Marijuana Initiative Qualifies for Washington, D.C. November Ballot*, Aug. 6, 2014, <https://www.drugpolicy.org/news/2014/08/marijuana-initiative-qualifies-washington-dc-november-ballot>.





## Sales 93

# Sales Tax on Marijuana

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### GENERAL INFORMATION

All sales of medical marijuana, medical marijuana products, retail marijuana, and retail marijuana products are subject to sales tax.

- Medical marijuana is subject to the 2.9% state sales tax and any local sales taxes.
- Retail marijuana is subject to the 2.9% state sales tax, any local sales taxes and an additional 10% state sales tax. If a city or county imposes a specific tax on retail marijuana, that tax should be reported and remitted directly to that city or county.

For additional information, visit the Colorado Taxation Division Web site, [www.TaxColorado.com](http://www.TaxColorado.com). Click on "Other Taxes" at the top of the page. Then click on "Marijuana Tax Information." Retail marijuana and retail marijuana infused products are also subject to excise tax. For information on retail marijuana excise tax see FYI Excise 23.

### SALES TAX LICENSE REQUIREMENTS

A sales tax license is required for medical marijuana sales and a sales tax license is required for retail marijuana sales. If a business sells both medical and retail marijuana, a sales tax license for each type of marijuana (medical and retail) is required, even if sold at the same location.

### FILING REQUIREMENTS

Retail marijuana and retail marijuana-infused products are reported electronically each month on the Retail Sales Tax Return **and** also reported electronically each month on the Retail Marijuana Sales Tax Return. The Sales Tax Return and Retail Marijuana Sales Tax Return are filed on Revenue Online at [www.Colorado.gov/RevenueOnline](http://www.Colorado.gov/RevenueOnline).

- The 2.9% state tax and local sales taxes for retail marijuana and accessories are filed on the Retail Sales Tax Return.
- The 10% additional state sales tax for retail marijuana and retail marijuana-infused products is filed on the Retail Marijuana Sales Tax Return. **Only retail marijuana and retail marijuana-infused products should be included on the Retail Marijuana Sales Tax Return.** Both returns should be filed under the Colorado Account Number that matches the sales tax license for retail marijuana.
- Medical marijuana, medical marijuana-infused products and accessories are reported on the Retail Sales Tax Return. This return includes the 2.9% state sales tax plus any local sales taxes. The sales tax for medical marijuana sales and accessories should be filed under the Colorado Account Number that matches with the sales tax license for medical marijuana. Sales tax for medical marijuana can also be filed electronically through Revenue Online.
- **The applicable sales tax return(s) must be filed even if no sales were made or if no tax is due for the period. Returns with "zero" tax must be filed to avoid nonfiler notices and penalty assessments.**

### PENALTY AND INTEREST

Vendors who neglect or refuse to file sales tax returns or who fail to pay the sales tax by the due date will be assessed a penalty. Interest is also due on missing and late payments of sales tax.

### EXEMPTIONS

There are no sales tax exemptions for retail marijuana. Retail marijuana stores may sell retail marijuana for resale to other retail marijuana stores without incurring or collecting the sales tax. The store selling the retail marijuana shall verify the store they are selling has a valid state sales tax license.

Medical marijuana is exempt from state sales tax for patients that are issued a registry card that has a tax-exempt status notation from the Colorado Department of Public Health and Environment (CDPHE). A person qualifies for the tax-exempt status if, depending on the number of people in the patient's family, their income is below a certain level. The tax-exempt patient must provide the tax-exempt registry card to the retailer at the time of purchase in order to be exempt from sales tax.

### CREDITS/REFUNDS

If credit exceeds tax due, a Claim for Refund (DR 0137) must be submitted to request a refund.

### RECORDKEEPING REQUIREMENT

Colorado law requires that every retail marijuana cultivation facility keep at each licensed place of business complete and accurate records for that place of business for at least three years after filing.

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FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.





# City of Homer

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

## Planning

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### Staff Report CAC 16-12

TO: Cannabis Advisory Commission  
FROM: Rick Abboud, City Planner  
DATE: July 28, 2016  
SUBJECT: Recreational vs. Medical taxation

#### Introduction

Last meeting of the CAC, I was asked to look into the option to treat recreational use marijuana different than medical and senior use for taxation considerations.

#### Analysis

After looking through articles on the subject of marijuana taxation, I can begin to identify some reoccurring themes. Much of the information did not go heavily in depth into the medical issues vs recreation in regards to taxation, but did have much to consider about taxes in general.

#### Medical Marijuana (Item 9A)

In Alaska, one might consider medical marijuana when someone has obtained a medical marijuana card. We have to assume that all card holders are responsible medical users and thus should not be taxed additionally for their medical use. I believe that some sort of log would be required, but I have a question about whether HIPPA applies here, probably not because it is not a 'prescription'. *Issues with Taxing Marijuana at the State Level, Richard Phillips, May, 2015, p.5*, suggests that, "...a huge part of the recreational marijuana tax base could disappear as individuals are incentivized to falsely claim a medical need to get the discount."

The included papers mention how difficult it has been to administer the two different systems. If we are to do this as a city, we would want to simplify it. We would want to make a simple process for all involved and not introduce opportunity for litigation. A large difference between Washington and Colorado programs in relation to Alaska is that the medical marijuana is completely separated from recreational marijuana. I do not believe that we would be interested in devising some sort of medical only system. This would leave us to allow any dispensary the option to sell medical marijuana.

My conclusion at this point is that we would want to do legal research and consider if there is any issues with a point of sale selling to both medical and recreational users, since I have not found anyone doing so.

### **Senior Exemptions (Item 9A)**

This could be pretty straight forward, present a valid id. We may want to log these exemptions for audit purposes. A more in-depth discussion might be in order for consideration of equitable distribution of taxes. Providing a tax benefit for the elderly to recreate with marijuana seems a bit uneven.

### **General Taxation Issues (Item 9B)**

While researching taxation, I am finding more concerns with our ability to administer an additional excise tax that considerately reaches all the forms of marijuana retail items. Additionally, the cost to produce a taxation ordinance that addresses the various unique issues will be in the tens of thousands of dollars.

“Tax rates on final retail sales are the most workable form of taxation” (Tax Foundation Special Report, No. 231, May 2016). The same report shows that Washington is able to apply a percentage excise tax on retail marijuana sales, where we have been informed that Alaska law will not allow this practice. So we are left with an excise tax that must be based on something other than final retail sale price.

We have seen the Houston ordinance and it was noticed that the proposed language of the ordinance was a tax at the point of cultivation. The commission has thought that a retail tax would be the best source of revenue. Retail seems to be the most likely license to be sought in the city, but we have no proposals as of yet. Other than Houston, we are seeing municipal sales taxes proposed by other communities in Alaska, which seem untenable in Homer if the borough does not adopt an additional tax.

When comparing laws that are in effect or proposed, I find that an excise tax gets quite complicated when trying to tax something other than the transfer of raw product. The Commission had suggested a rate of tax per weight of product. There are a few issues with this. 1. Weight is not really good even distribution of value. Generally (and especially in the recreational market), THC is more aligned with value. So the higher value product will have a lower effective tax rate when taxed in this per-unit way and it may encourage producers to lower the tax rates by producing the highest value THC product. Measuring THC has been cited as unreliable (*Issues with Taxing Marijuana at the State Level, Richard Phillips, May, 2015*). 2. Products other than leaf/bud type of marijuana would need another taxing scheme for the retail level. So far, I believe we may not have a manufacturing license proposed in the peninsula. This would mean that edibles would be shipped from Anchorage or somewhere else. Now we need to figure a measure other than sale price or product weight upon which to base a tax.

A cost/benefit analysis may be in order. If we are left with working out the details of an excise tax for which we have no working examples. In consideration of Alaska law, we can easily expect to spend \$20K getting it researched and worked out. Additionally, there will be a cost to administer and enforce our new law. This comes at a time of great fiscal stress. Unless we are able to get a considerate return on our effort, I would not recommend seeking additional tax beyond the sales taxes.

Realistic revenue estimation is a difficult task, but maybe we could consider the scale that might be necessary to support our effort. I am going to make some 'hopefully' not so wild assumptions. At the May meeting, it was suggested that a 3% tax be added. I will base my estimate on the assumption that we are able to come up with some form of tax that has an effective rate of 3%. Some estimates I have seen say that perhaps between 25% and 30% or more of Alaskans partake. For my purposes, I am only going to consider that everyone using is smoking, so that I don't have to figure out how all the other products might work. It was mentioned at the last meeting that one ounce in Homer now sells for \$300. I know that an ounce is 28 grams and when I was in Denver and Seattle some time ago, it was selling for \$25-\$30/gram but I have read that it has come down in price. That would press the price to over \$700/ounce, which I think might be closer to the entire cost including taxes. But, who is going to pay \$700 when you can get it for \$300? So we need to be closer to \$300, say \$400. 3% of \$400 is \$12.

We already have some potential retail competition just outside of town, so we may lose some market share. 25% of the nearby 10K people is 2500 users. We lose some market down the road and may serve 2000 (if they all choose to use the legal market) plus some portion of the tourists who have not already been supplied. The hardest part is to determine likely usage habits which, I will not guess. In order to make the \$20K, that it might take to enact an ordinance, would require 1667 ounces to be sold or nearly an ounce for the approximate 2000 users. Seems like it may work to collect \$20,000 or so annually. But, because we have no experience and no valid measures of just how much product is really used, it is really hard to say with any certainty.

What we do know is that the revenue is likely to start out slow and then pick up. Not enough time has passed to gage when it will level off or figure the true growth potential. Other estimates seem to be very low to start and then increase, but these are figures from states that are located adjacent to other states of with significant population. There are just so many variables!!

I could use the states estimates found in the Alaska Daily News, July 7, 2015. Again, the article stresses that it "was anybody's guess". I believe that I was in the ballpark for the amount of

users compared to the article, but the article went on to define a few variables that I did not address. They predicted that between 30 and 80 percent of users would convert to the legal market and that they used an average of 3.4 to 3.7 ounces a year. This information is only somewhat useful. The spread of 30 to 80 percent represents a nearly 300% variance. Working with these numbers we would predict between \$25,560 and \$67,200 in additional revenue at an effective tax rate of 3% of sales price.  $((.3*2000=600)(600*3.55=2130oz))$  or  $((.8*2000=1600)(1600*3.55=5600oz))$ .  $2130*(400*.03)=\$25560$  and  $5600*(400*.03)=\$67200$ . Academically, I see these numbers as outside of any reliability that that could be reasonable valid. That said, I would have to predict that the lowest number is likely more accurate in the short term and would rise in time. And, of course, this doesn't even consider how the products other than bud might contribute.



# **Issues with Taxing Marijuana at the State Level**

**Richard Phillips**

**May 2015**

**The Institute on Taxation & Economic Policy**

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## **About The Institute on Taxation & Economic Policy**

The Institute on Taxation and Economic Policy (ITEP) is a non-profit, non-partisan research organization that works on federal, state, and local tax policy issues. ITEP’s mission is to ensure that elected officials, the media, and the general public have access to accurate, timely, and straightforward information that allows them to understand the effects of current and proposed tax policies. ITEP’s work focuses particularly on issues of tax fairness and sustainability.

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# INTRODUCTION

Since 1996, when California voters enacted the nation's first medical marijuana law, twenty-two states and the District of Columbia have followed suit with laws allowing production and use of marijuana for medicinal purposes.<sup>1</sup> In 2014, Colorado and Washington took legalization efforts one step further by implementing systems that allow regulated production and retail sale of marijuana. Oregon, Alaska and the District of Columbia are currently creating their own legalization regimes after the passage of ballot initiatives legalizing marijuana in each jurisdiction last November.<sup>2</sup> Given the current political momentum, more states may consider marijuana legalization in the future.

While much of the debate around marijuana legalization rightly focuses on health and criminal justice effects, legalization also has revenue implications for state and local governments that choose to tax newly legal purchases of marijuana. This report examines issues surrounding the design and implementation of taxes on marijuana at the state and local level.

## WHY TAX MARIJUANA?

Forty-five states levy general sales taxes which, in theory, should apply broadly to most or all retail transactions. Until recently, however, the illegal and unregulated nature of marijuana has resulted in it being sold entirely outside of state sales tax structures. Twenty states have laws requiring illegal marijuana sellers to purchase and place tax stamps on their marijuana, but virtually no one buys the stamps since selling marijuana is illegal even with the stamps attached.<sup>3</sup>

Now that an increasing number of states are legalizing medical and retail marijuana, the de facto sales tax exemption enjoyed by marijuana is becoming somewhat less common. Eleven states with legalized medical marijuana apply their sales taxes to the product, and the only two states with functioning, legal markets for retail marijuana (Colorado and Washington) each apply their general sales taxes to marijuana as well.<sup>4</sup> Bringing marijuana out of the black market allows state and local governments to include the product in their sales tax bases in the same manner as most other goods and services.

But appropriate marijuana tax policy could go beyond simply adjusting existing sales tax bases to include the product. Another potential reason to tax marijuana is to mitigate the negative impact of its use by both discouraging its consumption and raising revenue that can be used to offset its social costs.<sup>5</sup> In other words, the tax treatment of legalized marijuana could be similar to that of tobacco and alcohol, both of which face significant excise taxes at the federal, state and local levels.

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<sup>1</sup> Marijuana Policy Project, *Key Aspects of State and D.C. Medical Marijuana Laws*, <http://www.mpp.org/assets/pdfs/library/Medical-Marijuana-Grid.pdf>

<sup>2</sup> Ballotpedia, *Marijuana on the Ballot*, [http://ballotpedia.org/Marijuana\\_on\\_the\\_ballot#tab=By\\_year](http://ballotpedia.org/Marijuana_on_the_ballot#tab=By_year)

<sup>3</sup> NORML, *Marijuana Tax Stamp*, <http://norml.org/component/zoo/category/marijuana-tax-stamp-laws-and-penalties>

<sup>4</sup> Marijuana Policy Project, *Medical Marijuana Dispensary Laws: Fees and Taxes*, <http://www.mpp.org/assets/pdfs/library/FeesAndTaxes.pdf>

<sup>5</sup> Institute on Taxation and Economic Policy, *The ITEP Guide to Fair State and Local Taxes*, [http://www.itep.org/state\\_reports/guide2011.php](http://www.itep.org/state_reports/guide2011.php)

# DESIGNING A STATE TAX ON MARIJUANA

Expanding state and local sales tax bases to include marijuana should be straightforward in most cases: the general sales tax rate can simply be applied to the total cost of the marijuana, or marijuana-containing product, being sold (medical marijuana is a possible exception, discussed below). In contrast, designing the ideal excise tax is more challenging as it requires striking a balance between taxing the product heavily enough to offset its social costs, and not taxing it so heavily so as to result in widespread tax evasion and black market marijuana sales.

Current Approaches to Taxing Retail Marijuana Sales			
State	Excise Tax	Sales/Other Taxes	Earmarked Excise Tax Revenue
<b>Alaska</b>	\$50 per ounce of marijuana sold at the wholesale level; the Department of Revenue has the power to set a lower rate on certain parts of the marijuana plant.	No statewide sales tax; Localities will have the option of applying local sales taxes (0-7.5%)	Not earmarked
<b>Colorado</b>	15% tax on average market sale rate + 10% retail sales tax + optional local marijuana sales tax	2.9% state sales tax + local sales taxes (0-7.5%)	First \$40 million from 15% excise tax will be dedicated to the Public School Capital Construction Assistance Fund; 10% retail sales tax dedicated to implementation and enforcement cost of marijuana industry
<b>Oregon</b>	\$35 per ounce of marijuana sold at the wholesale level. Marijuana leaves are taxed at \$10 per ounce and immature marijuana plants are taxed at \$5 per plant. All adjusted for inflation.	None applied	40% to Common School Fund; 20% for mental health/alcohol/drug services; 15% for state police; 20% for local law enforcement; 5% to Oregon Health Authority
<b>Washington</b>	25% excise tax on the sales price from the producer to a processor + 25% excise tax on the sales price from the processor to the retailer + 25% excise tax on the sales price from the customer	6.5% state sales tax + local sales taxes (0.5-3.1%) + Business & Occupation (B&O) gross receipts tax (0.484%)	\$240,000 for program evaluation; \$1,250,000 to the Liquor Control Board for administration; the remainder will be distributed as follows: 15% will go toward implementing and maintaining programs and practices aimed at preventing or reducing substance abuse among young people; 10% to create, implement, operate, and manage a marijuana education and public health program; 0.6% to the University of Washington; 0.4% to Washington State University to research the short and long term effects of marijuana use; 50% to the state basic health plan trust account; 5% to provide health and dental care; 0.3% to fund grants to building bridges programs. The remainder to the general fund.

Source: Marijuana Policy Project and state revenue offices

## Per-Unit Taxation

Typically, excise taxes are applied on a per-unit basis,<sup>6</sup> rather than as a percentage of the final sale price of the product. For example, cigarettes are currently taxed at \$1.01 per pack<sup>7</sup> at the federal level and \$1.54 per pack<sup>8</sup> on average at the state level.

Alaska<sup>9</sup> and Oregon are poised to implement a similar approach in the context of marijuana with new excise taxes of \$50 and \$35 per ounce, respectively. This design is in agreement with model legislation<sup>10</sup> proposed by the Marijuana Policy Project (MPP). Unlike Alaska, Oregon has adopted the MPP's sensible recommendation to index the tax rate to inflation (at least partially)—meaning that the per-ounce tax rate will gradually rise over time to prevent its real value from being diluted in the face of inflation.

The main advantage of a per-unit tax is that the amount of revenue raised should be fairly stable—especially in the face of the significant drop in marijuana prices that is predicted to follow legalization (see “Legalization’s Effect on Marijuana Prices,” page 10).

One potential disadvantage of a per-unit tax on marijuana is that it does not take into account the potency of the marijuana being cultivated. Taxing marijuana by its weight does not accurately account for its impact, which experts argue is primarily driven by the drug’s THC content.<sup>11</sup> A flat, weight-based marijuana tax may inadvertently incentivize producers to cultivate stronger marijuana because it would have a higher sale price, yet still only be subject to the same per-unit tax as lower potency marijuana.

Some experts have proposed that a per-unit excise tax would work more effectively if it was applied to the amount of the intoxicating component contained within a given unit of marijuana, rather than simply the marijuana’s weight.<sup>12</sup> This approach would mirror the current treatment of alcohol at the federal level, where wine and liquor generally are taxed at a higher rate than beer due to their higher alcohol content.<sup>13</sup> For now, however, the technology for measuring THC and other intoxicating agents is not reliable enough to put this kind of system into place.<sup>14</sup>

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<sup>6</sup> Institute on Taxation and Economic Policy, *How Sales and Excise Taxes Work*, [http://itep.org/itep\\_reports/2011/07/how-sales-and-excise-taxes-work.php](http://itep.org/itep_reports/2011/07/how-sales-and-excise-taxes-work.php)

<sup>7</sup> Alcohol and Tobacco Tax and Trade Bureau of the U.S. Department of Treasury, *Tax and Fee Rates*, [http://www.ttb.gov/tax\\_audit/atftaxes.shtml](http://www.ttb.gov/tax_audit/atftaxes.shtml)

<sup>8</sup> Campaign for Tobacco-Free Kids, *State Cigarette Excise Tax Rates & Rankings*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0097.pdf>

<sup>9</sup> Campaign to Regulate Marijuana Like Alcohol in Alaska, *Full Initiative Text*, <http://regulatemarijuanainalaska.org/full-initiative-text/>

<sup>10</sup> Marijuana Policy Project, *Model State Bill to Replace Prohibition with Regulation*, <http://www.mpp.org/reports/mpps-model-state-bill-to.html>

<sup>11</sup> Caulkins, J., Hawken, A., Kilmer, B., & Kleiman, M. (2012). What If Marijuana Were Treated Like Alcohol. In *Marijuana legalization: What everyone needs to know*. New York City: Oxford University Press.

<sup>12</sup> Hawken, A., Kilmer, B., Kleiman, M., Pfrommer, K., Pruess, J., Shaw, T., & Caulkins, J. (n.d.). High Tax States: Options for Gleaning Revenue from Legal Cannabis. *Oregon Law Review*, 91(4), 1041-1068. <http://www.countthecosts.org/sites/default/Options-for-cannabis-revenue.pdf>

<sup>13</sup> Alcohol and Tobacco Tax and Trade Bureau of the U.S. Department of Treasury, *Tax and Fee Rates*, [http://www.ttb.gov/tax\\_audit/atftaxes.shtml](http://www.ttb.gov/tax_audit/atftaxes.shtml)

<sup>14</sup> Pat Oglesby, *Taxing marijuana potency*, <http://newrevenue.org/2014/02/17/taxing-marijuana-potency-rose-habib/>

## Value-Based Taxation

The only two states that have fully implemented an excise tax on the retail sale of marijuana have opted not for a per-unit tax, but rather for a value-based tax applied at multiple levels of production and sale. Washington, for instance, applies a 25 percent tax on the sale of marijuana from producers to processors, on the sale of marijuana from processors to retailers, and again on retail sales (all on top of the applicable sales and gross receipts taxes).<sup>15</sup> Colorado subjects marijuana to a 15 percent excise tax on the sale from the producer to the retailer and another 10 percent excise tax on the final sales price, in addition to applying existing state and local sales taxes to the purchase of retail marijuana.<sup>16</sup>

The major advantage of a value-based approach is that the tax will automatically adjust to the size of the consumption base to which it applies. In other words, a value-based tax will capture the same percentage of overall spending on marijuana, even as the price of the drug increases or decreases. The potential disadvantage of this from a revenue-raising perspective is that a drop in marijuana prices would dramatically erode the revenue that a value-based tax can raise.

Unlike per-unit excise taxes, a value-based tax on marijuana has the benefit of being more closely linked to the potency of the product being sold. Stronger, more intoxicating marijuana will generally be taxed more heavily under a value-based tax since stronger marijuana is typically more expensive than weaker strains.

One problem with a value-based tax, when it is applied at the wholesale level, is that it has proven difficult to apply to a vertically integrated marijuana industry. In Colorado, marijuana retailers were initially required to cultivate at least 70 percent of the marijuana that they sell. This requirement made it very difficult for tax authorities to determine the wholesale price of marijuana since most marijuana in the vertically integrated industry was being “sold” within the same firm. This difficulty forced regulators to adopt a de facto weight-based system wherein marijuana “sold” at the wholesale level was subject to a tax based on an estimated average per-unit price of marijuana.<sup>17</sup>

## Tax Rates Over Time

After a state decides whether its marijuana excise tax should be based on the value of the product, or merely its weight, the next step is to decide on the appropriate level at which to set the tax rate. Among the biggest hurdles faced by regulators in Colorado and Washington in creating their legal marijuana markets is the continuing competition from the marijuana black market.<sup>18</sup> From the outset, marijuana prices on the legal markets have typically been much higher than black market marijuana prices. This creates a strong disincentive against consumers shifting their purchases to the legal market, particularly since most marijuana consumers grew accustomed to shopping in the black market during prior years in which it was the only option available.

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<sup>15</sup> Washington State Liquor Control Board, *FAQs on I-502*, [http://lcb.wa.gov/marijuana/faqs\\_i-502#Financial](http://lcb.wa.gov/marijuana/faqs_i-502#Financial)

<sup>16</sup> Colorado Department of Revenue, *Marijuana Taxes | Quick Answers*, <https://www.colorado.gov/pacific/tax/marijuana-taxes-quick-answers>

<sup>17</sup> Pat Oglesby, *Colorado's Crazy Marijuana Wholesale Tax Base*. Center for New Revenue. [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2351399](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2351399)

<sup>18</sup> Gene Johnson, *Legalizing Marijuana In Washington And Colorado Hasn't Gotten Rid Of The Black Market*. Associated Press. <http://www.businessinsider.com/legal-marijuana-in-washington-and-colorado-hasnt-gotten-rid-of-the-black-market-2015-1>



## HOW SHOULD MEDICAL MARIJUANA BE TAXED?

Determining the proper tax treatment of marijuana is complicated by the fact that the drug can be used for either recreational or medicinal purposes. While recreational marijuana use is typically thought of as producing negative externalities, marijuana used for medicinal purposes likely is not. This perception of marijuana as medicine plays a large role in its use; a Pew Research poll found that 53 percent of marijuana users say that they use it exclusively or partially for medical reasons.

Nearly every state in the country exempts prescription drugs from its general sales tax, but very few states exempt non-prescription drugs. At present, medical marijuana is best classified as a non-prescription drug since its lack of approval by the Food and Drug Administration (FDA) means that doctors can only recommend that their patients use marijuana—not formally prescribe it. This suggests that, barring FDA approval, most state sales taxes should apply to medical marijuana, as is the case today.

Turning to excise taxes, designating the substance as a medicine suggests that, when used correctly, medical marijuana may confer health benefits on individuals using it. From that perspective, there seems to be little reason to apply a stand-alone excise tax to marijuana. Excise taxes on marijuana are generally thought of as a tool for discouraging the drug's use or funding programs that can offset its negative societal effects—neither of which seems necessary in the case of medical marijuana.

But this distinction could be hard to implement. While there are good reasons for states to tax marijuana used for medical purposes differently than marijuana used for recreational purposes, Colorado's experience reveals that this disparate treatment can lead to significant tax base erosion. Lower taxes on medical marijuana in Colorado have incentivized consumers to seek out doctors' recommendations to purchase marijuana at a discount compared to the regular marijuana market. If the standard for doctors recommending marijuana in a given state is not restrictive, then a huge part of the recreational marijuana tax base could disappear as individuals are incentivized to falsely claim a medical need to get the discount.

One approach that states could take to help shut down the black market is to phase-in the implementation of marijuana taxes gradually as the legal market gets fully up and running. This is the same approach that was taken when federal regulators ended alcohol prohibition in the 1930s.<sup>19</sup>

But while high marijuana prices may be the bigger problem for regulators in the short-term, very low prices could prove to be the more important issue in the long-term. As the legal marijuana market develops and growers begin to refine their techniques, the price of marijuana could drop significantly and spur an increase in consumption (see “Legalization's Effect on Marijuana Consumption,” on page 9). Considering that one of the potential goals of levying an excise tax is to discourage the consumption of a product, states could consider setting up their marijuana excise tax so that it creates a price floor. For example, if the pretax price of retail marijuana falls to \$60 per ounce but state lawmakers want to ensure that marijuana is never cheaper than \$100 an ounce, the state could require that the total tax collected at the cash register be the greater of the statutory tax rate, or the tax rate needed to raise the final price to \$100 (\$40 in this case).

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<sup>19</sup> Rand Corporation, *Considering Marijuana Legalization: Insights for Vermont and Other Jurisdictions*. p. 89. [http://www.rand.org/pubs/research\\_reports/RR864.html](http://www.rand.org/pubs/research_reports/RR864.html)



## ***Earmarking Marijuana Tax Revenue***

Proponents of marijuana legalization often advocate for earmarking some portion of future marijuana tax revenue to pay for specific public services such as education. For example, the first \$40 million each year generated by Colorado's excise tax has been earmarked for school construction.<sup>20</sup> Similarly, the Marijuana Policy Project's model legislation calls for 30 percent of marijuana tax revenues to be distributed to state departments of education.<sup>21</sup>

While earmarking marijuana funds to popular spending initiatives may make political sense, it is not necessarily effective budget policy. One inherent problem with earmarking is that state revenue is typically fungible between different spending areas. Lawmakers can shift other revenues away from the earmarked fund, leaving the overall amount of money spent on that area unchanged.<sup>22</sup>

Additionally, earmarking excise tax revenue can be counterproductive if it creates a substantial incentive for lawmakers to promote the activity that the tax was initially intended to discourage. For example, North Carolina lawmakers approved a doubling of the state lottery's advertising budget in hopes of encouraging more of their residents to gamble, thereby generating more revenue to help pay for teacher raises.<sup>23</sup>

While most marijuana tax earmarking proposals are made for political reasons, there is a case to be made for directing some revenues toward programs that offset negative externalities created by marijuana consumption. These could include, for instance, treatment programs and state drug public education programs. Excise taxes could also potentially be directed toward the enforcement and oversight of marijuana production, though much of this is already funded through licensing fees on marijuana producers and sellers.<sup>24</sup>

## **HOW MUCH REVENUE WOULD MARIJUANA LEGALIZATION GENERATE FOR STATES**

### ***Being Realistic About Marijuana Revenue***

Exactly how much revenue could state marijuana taxes raise? This question is difficult to answer because no countries or states have legalized and taxed marijuana for a sustained period of time. In addition, the illegality of marijuana under federal law (and in most states) makes it difficult to collect data on current marijuana consumption, meaning that estimates of even basic data points needed to produce an accurate revenue estimate,

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<sup>20</sup> Colorado Department of State, *Amendment 64: Use and Regulation of Marijuana*, <http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application/pdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251834064719&ssbinary=true>

<sup>21</sup> Marijuana Policy Project, *Model State Bill to Replace Prohibition with Regulation*, <http://www.mpp.org/reports/mpps-model-state-bill-to.html>

<sup>22</sup> Institute on Taxation and Economic Policy, *Uncertain Benefits, Hidden Costs: The Perils of State-Sponsored Gambling*, [http://itep.org/itep\\_reports/2011/10/uncertain-benefits-hidden-costs-the-perils-of-state-sponsored-gambling.php](http://itep.org/itep_reports/2011/10/uncertain-benefits-hidden-costs-the-perils-of-state-sponsored-gambling.php)

<sup>23</sup> J. Andrew Curliss, *NC House budget relies on higher lottery revenues, even with ad restrictions*. The News & Observer. <http://www.newsobserver.com/2014/06/11/3929116/house-budget-relies-on-increased.html>

<sup>24</sup> Marijuana Policy Project, *Medical Marijuana Dispensary Laws: Fees and Taxes*, <http://www.mpp.org/assets/pdfs/library/FeesAndTaxes.pdf>

like the amount of marijuana consumed or the average price of marijuana in different regions, are not known with certainty.

### **Current Marijuana Revenue Raised**

Given the novelty of marijuana legalization, Colorado and Washington's monthly marijuana revenue reports have been extensively covered by the media in the hope of gleaning any new information on the tax revenue that marijuana sales will generate today and in the future. In the case of Colorado, the latest data from the state's Department of Revenue show that Colorado collected \$63.4 million in excise and state sales taxes (not including local sales taxes) on retail and medical marijuana during 2014, which constitutes about half a percent of total revenue collection in the state.<sup>25</sup> Although revenue collected was lower than expected at the outset, the amount of revenue collected each month increased substantially from January through December as marijuana sales have ramped up, with the monthly revenue collection going from \$2.9 million in January to \$7.3 million in December.

For its part, Washington has collected \$16 million in state level excise taxes (not including state and local sales taxes or the Business and Occupation Tax) on marijuana from the beginning of July through the end of December 2014.<sup>26</sup> Washington's lower tax collections in its first few month of legalization were driven by a shortage<sup>27</sup> of legally grown marijuana at dispensaries due to the lengthy amount of time it took the state to implement a regulatory system from scratch. In contrast, Colorado was quicker in getting its regulatory system in place by building on its existing medical marijuana dispensary system.<sup>28</sup>

### **Considering a Ballpark Revenue Estimate**

Given the highly unpredictable nature of marijuana legalization across a multitude of factors (many of which are discussed below), any estimates of the amount of revenue that marijuana taxes could raise should be viewed as ballpark figures rather than precise forecasts. That being said, a recent study by Divya Raghavan estimated that applying existing sales taxes and a 15 percent excise tax on marijuana in each state would generate just under \$3.1 billion in state tax revenue on an annual basis.<sup>29</sup> Similarly, a recent study by the non-partisan Congressional Research Service estimated that a \$50 per ounce state level excise tax could raise about \$6.8 billion in tax revenue per year.<sup>30</sup>

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<sup>25</sup> Colorado Department of Revenue, *Colorado Marijuana Tax Data*, <https://www.colorado.gov/pacific/revenue/colorado-marijuana-tax-data>

<sup>26</sup> Washington State Liquor Control Board, *Marijuana Daily Sales Activity*, [http://www.liq.wa.gov/publications/Marijuana/sales\\_activity/2015-01-20-MJ-Daily-Sales-Activity.xlsx](http://www.liq.wa.gov/publications/Marijuana/sales_activity/2015-01-20-MJ-Daily-Sales-Activity.xlsx)

<sup>27</sup> Trevor Hughes, *Marijuana legal, but scarce in Washington*. USA Today. <http://www.wtsp.com/story/news/2014/09/26/marijuana-washington/16304287/>

<sup>28</sup> Peter Robison, *Price of Legal Pot Plunges 40% in Washington as Shortages Ease*. Bloomberg. <http://www.bloomberg.com/news/articles/2015-01-07/price-of-legal-pot-plunges-40-in-washington-as-shortages-ease>

<sup>29</sup> Divya Raghavan, *Cannabis Cash: How Much Money Could Your State Make From Marijuana Legalization?* Nerdwallet. <http://www.nerdwallet.com/blog/cities/economics/how-much-money-states-make-marijuana-legalization/>

<sup>30</sup> Jane G. Gravelle and Sean Lowry, *Federal Proposals to Tax Marijuana: An Economic Analysis*. <http://fas.org/sgp/crs/misc/R43785.pdf>

To give some context, the \$3.1 to \$6.8 billion range of revenue from marijuana taxes puts this tax in the same revenue ballpark as the \$6.5 billion<sup>31</sup> raised by state and local alcohol taxes, but well below the \$17.6 billion<sup>32</sup> raised by state and local cigarette taxes each year.

The remainder of this section will consider a variety of factors that could substantially increase or decrease the level of revenue raised by marijuana taxes.

## **FACTORS THAT COULD NEGATIVELY IMPACT MARIJUANA REVENUE**

### ***Federal Intervention***

For states that are considering legalizing and taxing marijuana, one significant obstacle to accurately forecasting the potential revenue gain is that the production and consumption of marijuana is illegal under federal law.

While federal enforcement of marijuana laws appear to have softened in recent years, it has done so only in limited ways. An August 2013 memorandum issued by the Obama Administration implied that federal prosecutors should not prioritize cases against marijuana consumption and production that are in clear compliance with state law.<sup>33</sup> Moreover, Congress passed a provision in an omnibus spending bill at the end of 2014 preventing the Department of Justice (DOJ) from using its funds over the next year to prevent states from implementing medical marijuana laws.<sup>34</sup>

The problem for state governments looking forward is that the limits on DOJ's activities will expire in less than a year, and the Obama Administration or any future administration could reverse course at any time and begin shutting down state-sanctioned marijuana production facilities and retail outlets. While it is unlikely that the federal government would shut down all state sanctioned marijuana sales, stepped up federal enforcement could have a significant impact on the amount of revenue that states can raise.

In addition, opponents of marijuana legalization have and will likely continue to issue legal challenges against the states with legalized marijuana in hopes of shutting down licensed marijuana sellers. For example, the governments of Oklahoma and Nebraska recently filed suit against Colorado in federal court arguing that the state's marijuana program should be shut down because it is in irreconcilable conflict with federal law.<sup>35</sup>

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<sup>31</sup> Tax Policy Center, *State and Local Alcoholic Beverage Tax Revenue, Selected Years 1977-2012*. <http://www.taxpolicycenter.org/taxfacts/displayafact.cfm?Docid=399>

<sup>32</sup> Tax Policy Center, *State and Local Tobacco Tax Revenue, Selected Years 1977-2012*. <http://www.taxpolicycenter.org/taxfacts/displayafact.cfm?Docid=403>

<sup>33</sup> Congressional Research Service, *State Legalization of Recreational Marijuana: Selected Legal Issues*, <http://fas.org/sgp/crs/misc/R43034.pdf>

<sup>34</sup> Peter Robison, *Congress quietly ends federal government's ban on medical marijuana*. Los Angeles Times. <http://www.latimes.com/nation/la-na-medical-pot-20141216-story.html>

<sup>35</sup> Jack Healy, *Nebraska and Oklahoma Sue Colorado Over Marijuana Law*. New York Times. <http://www.nytimes.com/2014/12/19/us/politics/nebraska-and-oklahoma-sue-colorado-over-marijuana-law.html>

One area where fear of federal enforcement is already having a substantial impact is on the banking industry, which has almost universally refused to take money generated from marijuana sales.<sup>36</sup> The result of this has been to force marijuana dispensaries to operate almost exclusively in cash, which can create significant problems for tax enforcement and make the dispensaries targets for robbery. To deal with this problem, Colorado regulators have set up video surveillance systems in hopes of keeping track of the cash (and marijuana) flow, but it is unlikely this will completely resolve the issue.<sup>37</sup> Federal intervention via the passage of legislation in Congress like the proposed “Marijuana Businesses Access to Banking Act,”<sup>38</sup> which would open up banking to the marijuana industry, could have a significant impact on the financial standing of the marijuana industry and tax enforcement in the states.

### **Legalization’s Effect on Marijuana Prices**

Legalization of large-scale marijuana production techniques could, in the long-term, lead to a drop in marijuana wholesale prices by an estimated 100-fold. For example, a producer of marijuana today sells a pound of marijuana for around \$2,000, but with mass production techniques the cost of a pound go down to \$20 for low-grade marijuana.<sup>39</sup> If this occurs, revenues collected from any sales or excise tax tied to the price of marijuana will quickly plummet as well.

In the short term, it is hard to tell how quickly prices will drop given the difficulties associated with creating functional and legal marijuana markets. In Colorado for instance, media reports indicate that legal marijuana’s after-tax price is still above the price of black market marijuana, but that the legal price is expected to drop next year as production ramps up.<sup>40</sup> Similarly, prices have dropped steadily in Washington.<sup>41</sup>

The extent of the drop in marijuana prices would be determined in large part by the extent to which state regulations limit the scale of marijuana production. Even so, the Rand Corporation estimates that prices could still drop by 90 percent through the use of legal small-scale indoor farming.<sup>42</sup>

Some advocates of marijuana legalization have argued that falling marijuana prices could be a boon to marijuana tax revenues if the excise tax rate is increased in such a way that marijuana prices essentially stay the same and the government collects the difference. The extent to which state and local governments can actually capture this difference

<sup>36</sup> Jeffrey Stinson, *States Find You Can’t Take Legal Marijuana Money to the Bank*. Stateline. <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2015/1/5/states-find-you-cant-take-legal-marijuana-money-to-the-bank>

<sup>37</sup> John Hudak, *Colorado’s Rollout of Legal Marijuana Is Succeeding*. Brookings. <http://www.brookings.edu/~media/research/files/papers/2014/07/colorado%20marijuana%20legalization%20succeeding/cepmmjcov2.pdf>

<sup>38</sup> Congress.gov, *H.R.2652 - Marijuana Businesses Access to Banking Act of 2013*. <https://www.congress.gov/bill/113th-congress/house-bill/2652>

<sup>39</sup> Caulkins, J., Hawken, A., Kilmer, B., & Kleiman, M. (2012). *What If Marijuana Were Treated Like Alcohol*. In *Marijuana legalization: What everyone needs to know*. New York City: Oxford University Press.

<sup>40</sup> Jacob Sullum, *This Is What Legalizing Marijuana Did to the Black Market in Colorado* Reason. <http://reason.com/archives/2014/10/30/the-lingering-black-market>.

<sup>41</sup> Bush, Evan, *Average price of legal pot drops to about \$12 a gram*. *The Seattle Times*. <http://www.seattletimes.com/seattle-news/marijuana/average-price-of-legal-pot-drops-to-about-12-a-gram/>

<sup>42</sup> Kilmer, B., Caulkins, J., Pacula R.L., MacCoun, R.J., & Reuter, P.H.. *Altered State?: Assessing How Marijuana Legalization in California Could Influence Marijuana Consumption and Public Budgets*. Rand Corporation. [http://www.rand.org/content/dam/rand/pubs/occasional\\_papers/2010/RAND\\_OP315.pdf](http://www.rand.org/content/dam/rand/pubs/occasional_papers/2010/RAND_OP315.pdf)

is limited by the incentive for tax evasion that will be created if the tax becomes a very large component of the final sales price, especially if nearby states choose not to substantially increase their excise taxes.<sup>43</sup>

## MARIJUANA TAX REVENUE OVER TIME

Estimating the potential revenue yield of marijuana legalization is particularly difficult because that yield is likely to vary substantially over time.

For starters, Colorado and Washington State's experiences show that any revenue gain is likely to be slow in coming to fruition. The first legal retail sale of marijuana in Colorado did not occur until over a year after the state legalized the drug, and in Washington State the delay was over eighteen months. Even after legal sales commenced, revenues were lower than expected in the first few months as a result of regulatory issues and the lingering presence of an untaxed black market.

After these initial hurdles are overcome, however, there is reason to believe that marijuana revenues could increase substantially. This is in part because there are relatively few states right now with legal marijuana markets, and thus early adopters of legalization may enjoy some draw as marijuana tourism destinations.

In the long-run, however, the tourism draw of marijuana is likely to wear off if more states set up regulated markets for the drug. Moreover if cost-cutting, large scale farming techniques are eventually implemented, the price of marijuana could drop significantly and thus the revenues collected from any tax based on the price of marijuana will decline as well.

Accurately forecasting the revenue yield of marijuana taxes therefore requires careful thought not just about the short-term effects of setting up a regulated system, but also about the long-term trajectory of marijuana prices and demand.

### ***Tax Evasion***

With any tax, there is always some level of tax evasion that will occur depending on the ease of enforcement and the size of the incentive to evade the tax. Given the lack of experience with taxing marijuana, there is no way to predict the exact degree of excise tax evasion that will occur, though given most marijuana consumers' familiarity with the black market, there is reason to believe that the potential for evasion is fairly high. Moreover, the high level of cigarette excise tax evasion provides a warning to lawmakers that large enough excise taxes can result in a significant, unregulated and untaxed black market.<sup>44</sup> In any case, state lawmakers should be careful to create a robust enforcement regime in order to limit opportunities for tax evasion.

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<sup>43</sup> Caulkins, J., Hawken, A., Kilmer, B., & Kleiman, M. (2012). *Marijuana legalization: What everyone needs to know*. New York City: Oxford University Press

<sup>44</sup> Jonathan P. Caulkins, Eric Morris, & Rhajiv Ratnatunga, *Smuggling and Excise Tax Evasion for Legalized Marijuana*. Rand Corporation. [http://www.rand.org/content/dam/rand/pubs/working\\_papers/2010/RAND\\_WR766.pdf](http://www.rand.org/content/dam/rand/pubs/working_papers/2010/RAND_WR766.pdf)



## ***Treatment of Homegrown Marijuana***

The ability for individuals to grow their own marijuana on a small scale could have a significant impact on the size of the retail marijuana market. Alaska, Colorado and the District of Columbia each allow individuals to grow up to six marijuana plants per person for non-medical purposes.<sup>45</sup> On July 1, Oregon will allow individuals to grow up to four plants. Of the states where marijuana is allowed for retail sale, only Washington does not allow individuals to grow their own marijuana for non-medical purposes.<sup>46</sup>

It is unclear what portion of the marijuana market will be taken by homegrown marijuana, but if it turns out to be significant it could have a negative impact on the amount of revenue collected since it goes untaxed.

## ***Substitution for Alcohol***

Another potential revenue impact of marijuana legalization is the extent to which it would decrease revenue raised by alcohol excise taxes. There is some evidence that marijuana consumption functions as a substitute to alcohol consumption, which means that the revenue raised by alcohol excise taxes could potentially decrease if marijuana is legalized and people begin to consume more marijuana and less alcohol as a result.<sup>47</sup>

# **FACTORS THAT COULD POSITIVELY IMPACT MARIJUANA REVENUE**

## ***Legalization's Effect on Marijuana Consumption***

Adding another layer of complexity to the fiscal outlook, there is no consensus on the long-term effect of marijuana legalization on the overall amount of marijuana consumption. The Cato Institute argues that marijuana consumption would remain roughly the same if marijuana is legalized.<sup>48</sup> The Rand Corporation estimates that total marijuana consumption could triple in the long term, but that any estimate on consumption trends is ultimately little more than an educated guess given the lack of historical evidence on this point.

Nonetheless, if it turns out that a substantial increase in marijuana consumption follows from legalization, it is clear that the result would be a larger tax base from which to raise marijuana tax revenues.

## ***Marijuana Tourism***

Because so few states have legalized retail marijuana, those states that do are likely to see a significant amount of

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<sup>45</sup> State of Colorado, Marijuana Retailers & Home Growers. <https://www.colorado.gov/pacific/marijuanainfodenver/marijuana-retailers-home-growers>. Ballotpedia, *Marijuana on the Ballot*, [http://ballotpedia.org/Marijuana\\_on\\_the\\_ballot#tab=By\\_year](http://ballotpedia.org/Marijuana_on_the_ballot#tab=By_year)

<sup>46</sup> Washington State Liquor Control Board, *FAQs on I-502*. [http://lcb.wa.gov/marijuana/faqs\\_i-502#Licenses](http://lcb.wa.gov/marijuana/faqs_i-502#Licenses)

<sup>47</sup> D. Mark Anderson and Daniel I. Rees, *Medical Marijuana Laws, Traffic Fatalities, and Alcohol Consumption*. IZA DP No. 6112. <http://ftp.iza.org/dp6112.pdf>

<sup>48</sup> Jeffrey Miron and Katherine Waldo, *The Budgetary Impact of Ending Drug Prohibition*. Cato Institute. <http://www.cato.org/publications/white-paper/budgetary-impact-ending-drug-prohibition>

consumption by out-of-state individuals looking to participate in the state's legal regime. In fact, a study prepared for the Colorado Department of Revenue found that about 44 percent of metro area and 90 percent of mountain community sales of retail marijuana in Colorado were to out-of-state visitors.<sup>49</sup> Rather than being just a small portion of marijuana sales, Colorado's experience so far indicates that marijuana sales to tourists could potentially constitute a significant portion of marijuana sales and thus tax revenues. In addition, a study of potential marijuana legalization in Vermont estimated that most sales would likely be to tourists, especially given that seven times as many marijuana users live within fifty miles of the state as compared to the amount of current users within the state.<sup>50</sup>

To be clear, the tax implications of marijuana tourism extend beyond just the impact on marijuana tax revenues. If people are coming into the state specifically because marijuana is legal, the result could be higher revenues from sales of hotel rooms, rental cars, gasoline, restaurant meals, and other items purchased by tourists.

But tourist-driven marijuana revenues may prove to be short-lived if more states legalize retail marijuana sales. Gambling provides a cautionary tale; as more states have legalized gambling, the tourist flow has slowed and the incidence of gambling taxes has shifted away from tourists and toward state residents.<sup>51</sup>

Atlantic City is a case in point, where four of the city's twelve casinos closed last year and the city's finances are in such disarray that Governor Chris Christie chose to appoint an emergency manager.<sup>52</sup> While it is unlikely that any state will become as dependent on its marijuana industry as Atlantic City is on its gambling industry, it is important that lawmakers recognize that tourist-driven marijuana tax dollars are likely to follow a similar pattern.

### ***Legalization's Impact on Income Tax Revenues***

On top of the revenues that could be raised from direct sales and excise taxes on marijuana, legalization could also affect income tax revenue collections. While the income being earned today from illegal marijuana production and sales is generally going unreported, that would change substantially under a system in which producers and sellers are treated as legitimate, regulated businesses.

Additionally, given that as much as half of all marijuana consumed in the United States is imported,<sup>53</sup> income earned from marijuana production in the United States is likely to increase since legalization will result in more of the product being grown within the country's borders.

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<sup>49</sup> The Marijuana Policy Group, *Market Size and Demand for Marijuana in Colorado*. <https://www.colorado.gov/pacific/sites/default/files/Market%20Size%20and%20Demand%20Study,%20July%2009,%202014%5B1%5D.pdf>

<sup>50</sup> Rand Corporation, *Considering Marijuana Legalization: Insights for Vermont and Other Jurisdictions*. p. 89. [http://www.rand.org/pubs/research\\_reports/RR864.html](http://www.rand.org/pubs/research_reports/RR864.html)

<sup>51</sup> Institute on Taxation and Economic Policy, *Uncertain Benefits, Hidden Costs: The Perils of State-Sponsored Gambling*. [http://itep.org/itep\\_reports/2011/10/uncertain-benefits-hidden-costs-the-perils-of-state-sponsored-gambling.php](http://itep.org/itep_reports/2011/10/uncertain-benefits-hidden-costs-the-perils-of-state-sponsored-gambling.php)

<sup>52</sup> Patrick McGeehan, *Christie Uses Executive Order to Appoint an Emergency Manager in Atlantic City*. New York Times. <http://www.nytimes.com/2015/01/23/nyregion/christie-uses-executive-order-to-appoint-an-emergency-manager-in-atlantic-city.html>

<sup>53</sup> Library of Congress, *Marijuana Availability in the United State and Its Associated Territories*. <http://www.loc.gov/rr/frd/pdf-files/MarAvail.pdf>

As long as marijuana remains illegal under federal law, the tax implications of marijuana related income is guaranteed to remain complicated. One major issue arises from the fact that Section 280E of the Internal Revenue Code denies businesses the ability to deduct many normal business expenses if the businesses are “trafficking in controlled substances.” Without the ability to deduct these normal expenses, state-sanctioned marijuana businesses have faced income tax rates as high as 75 percent.<sup>54</sup> Given these high rates, some federal policymakers have proposed<sup>55</sup> exempting state-sanctioned marijuana businesses from 280E, but it is unclear if and when such legislation will pass.

## CONCLUSION

There are a variety of goals lawmakers might seek to accomplish in taxing marijuana. The policy choices outlined in this paper will help determine how effectively tax laws achieve these goals.

Once the decision to legalize marijuana has been made, lawmakers should think carefully about the variety of approaches available for taxing the drug, and should pay close attention to the growing body of evidence emerging from those states in the beginning stages of regulating and taxing marijuana.

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<sup>54</sup> Marielys Rosado Barreras, IRC § 280E — An Albatross For Marijuana Industry. Law 360. <http://www.law360.com/articles/519253/irc-280e-an-albatross-for-marijuana-industry>

<sup>55</sup> Congress.gov, *H.R.636 - America's Small Business Tax Relief Act of 2015*. <https://www.congress.gov/bill/114th-congress/house-bill/636>





## City of Homer

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

### Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-3106

(f) 907-235-3118

EXCERPTED FROM CITY PLANNER REPORT FOR  
EASE OF USE IN ADDRESSING AGENDA ITEMS

### **Zoning (item 10A)**

We have recently addressed zoning at the Planning Commission and City Council. Conditions have not changed and we have gained no experience with the industry. I do not see any recommendations changing at this time. All proposed zoning changes must be reviewed by the Planning Commission prior to consideration by the Council. Members of the City Council, Planning Commission, City Manager, City Planner, or a petition bearing the signatures, and the printed names and addresses, of not less than 50 qualified City voters may initiate a code amendment.

At this time, since we have recently considered this subject, I would recommend a petition be presented for initiation of a zoning amendment (with hesitation, for fear of doing the same thing over again and expecting a different result).

### **Next (Item 10B)**

I have talked with the Attorney about what might be the best item to next address. We believe that application review process needs to be established. The role of my office, the CAC, and the City Council all need to be defined, so that applicants can know what to expect. I also believe that we need to set a fee commensurate with the amount of effort it would take the City to process an application. I will confer with legal for guidance for the next meeting.

### **Staff Recommendation**

I am hoping to have the City Attorney available for questions. It would be efficient for me to try and deal with the concerns you have before the meeting. If you know you have something you want to ask the Attorney, please pass it along to me and I can provide it to the Attorney, so that she might be better prepared for the meeting. Be prepared to suggest a plan to move forward.





# City of Homer

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

Office of the City Clerk

491 East Pioneer Avenue  
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[clerk@cityofhomer-ak.gov](mailto: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: JULY 21, 2016

SUBJECT: PROPOSED AMENDMENTS TO STATE MARIJUANA REGULATIONS CONCERNING  
MARIJUANA TESTING FACILITIES, NOTICES FOR MARIJUANA RETAIL STORES AND  
ONSITE CONSUMPTION AND PRODUCTS IN MARIJUANA RETAIL STORES

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Please see the following proposed amendments to the state regulations:

3 AAC 306.645 Marijuana Testing Facility – Amending the maximum amount of THC acceptable for packaged edible retail marijuana products and amending the maximum amount of residual solvents and metals allowed in marijuana products.

3 AAC 306.660 Marijuana Testing Facility – Amending failed materials and retests requirements giving the Director of the Marijuana Control Board the authority to approve requests related to failed marijuana tests and to authorize retests of failed marijuana tests.

3 AAC 306.365 Marijuana Retail Store

(a) Notice Requirements – Amend to add the required notices to be posted in a retail establishment.

(b) Onsite Consumption Endorsement -

(4) Disposal - Amend to remove of consumed marijuana and add or child resistant packaging of unconsumed marijuana

(d) delete the word “only” “and”

(g) Removal from premises – Delete the word “not” and amend to read “provided packaging is resealed for removal from premises by the consumer” after the word section

3 AAC 306.700 Marijuana Handler Permit

Regulations establishing disqualifying criminal history, requiring criminal justice reports for applicants

3 AAC 306.831 Suspensions or Revocation of a Marijuana Handler Permit

Criteria established for suspending or revoking a permit

#### RECOMMENDATION

Please review proposed amendments to the State regulations and make recommendation to submit comments or recommendation to Council to Approve and forward to the Marijuana Control Board.

Chapter 306. Marijuana Control Board

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

**3 AAC 306.645. Laboratory testing of marijuana and marijuana products.** (a) A marijuana testing facility shall use the general body of required laboratory tests as set out in this section for marijuana plant material, an extract or concentrate of marijuana, and an edible marijuana products. Required tests may include potency analysis, moisture content, foreign matter inspection, microbial screening, pesticide, other chemical residue, and metals screening, and residual solvents levels. A marijuana testing facility shall establish a schedule of fees and sample size required for each test it offers.

(b) The tests required for each marijuana type or marijuana product, are as follows:

(1) potency testing is required on marijuana bud and flower, marijuana concentrate, and a marijuana product, as follows:

(A) the required cannabinoid potency test must at least determine the concentration of THC, THCA, CBD, CBDA and CBN cannabinoids; a marijuana testing facility may test and report results for any additional cannabinoid if the test is conducted in compliance with a validated method;

(B) a marijuana testing facility shall report potency test results as follows:

(i) for a potency test on marijuana and marijuana concentrate, marijuana testing facility shall list for each required cannabinoid a single percentage concentration that represents an average of all samples within the test batch; alternatively, the sum of THC and THCA may be reported as total THC;

the sum of CBD and CBDA may be reported as total CBD;

(ii) for a potency test on a marijuana product, whether conducted on each individual production lot or using process validation, marijuana testing facility shall list for each cannabinoid the total number of milligrams contained within a single retail marijuana product unit for sale;

(iii) for testing whether the THC content is homogenous, the marijuana testing facility shall report the THC content of each single serving in a multi-unit package; the reported content must be within 20 percent of the manufacturer's target; for example, in a 25 milligrams total THC package with five servings, each serving must contain between four and six milligrams of THC;

(C) the marijuana testing facility shall determine an edible marijuana product to have failed potency testing if

(i) an individually packaged edible retail marijuana product contained within a test lot is determined to have more than [50] **60** milligrams of THC within it; or

(ii) the THC content of an edible marijuana product is not homogenous;

(2) microbial testing for the listed substances on the listed marijuana products is required as follows:

<b>Substance</b>	<b>Acceptable Limits Per Gram</b>	<b>Product to be Tested</b>
– <i>Shiga</i> -toxin producing <i>Escherichia coli</i> (STEC)- Bacteria	less than 1 colony forming unit (CFU/g)	flower; retail marijuana Products; water- and food-based concentrates
<i>Salmonella</i> species – bacteria	less than 1 colony forming unit (CFU/g)	
<i>Aspergillus fumigatus</i> , <i>Aspergillus flavus</i> , <i>Aspergillus niger</i> - fungus	less than 1 colony forming unit (CFU/g)	

(3) testing for the listed residual solvents and metals on the listed marijuana products is required as follows:

<b>Substance</b>	<b>Acceptable Limits Per Gram</b>	<b>Product to be Tested</b>
Butanes	less than 800 parts per million (PPM)	solvent-based concentrates
Heptanes	less than 500 parts per million (PPM)	
Benzene	less than [.025] <u>1</u> parts per million (PPM)	
Toluene	less than 1 parts per million (PPM)	
Hexane	less than 10 parts per million (PPM)	
Total Xylenes (meta-xylenes, para-xylenes, or ortho-xylenes)	less than 1 parts per million (PPM)	

**3 AAC 306.660. Failed materials, retests.** (a) If a sample tested by a marijuana testing facility does not pass the required tests based on the standards set out in 3 AAC 306.645, the marijuana establishment that provided the sample shall

(1) dispose of the entire harvest batch or production lot from which the sample was taken; and

(2) document the disposal of the sample using the marijuana establishment’s marijuana inventory tracking system.

(b) If a sample of marijuana fails a required test, any marijuana plant trim, leaf, and other usable material from the same plants automatically fail the required test. The board **or Director** may approve a request to allow a batch of marijuana that fails a required test to be used to make a carbon dioxide or solvent-based extract. After processing, the carbon dioxide or solvent-based extract must pass all required tests.

(c) If a marijuana cultivation facility or a marijuana product manufacturing facility petitions for a retest of marijuana or a marijuana product that failed a required test, the board **or** **Director** may authorize a retest to validate the test results. The marijuana cultivation facility or a marijuana product manufacturing facility shall pay all costs of a retest.



Chapter 306. Marijuana Control Board

(New Section)

**3 AAC 306.365. Required consumer notices for retail marijuana stores**

(a) A retail marijuana store must post, in a conspicuous location visible to customers, the following notices:

(1) “Consumption of marijuana in public is prohibited by law.”

(2) “Transportation or carriage of marijuana or marijuana products on Alaska waterways, including cruise ships, or by air carrier is prohibited by federal law.”

(3) “Transportation or shipment of marijuana or marijuana products outside the state of Alaska is prohibited by federal law.”

(b) Notification signs required under (a) of this section must be at least 11 inches by 14 inches in size. Lettering must be at least one-half inch in height and in contrasting colors.

Chapter 306. Marijuana Control Board

(New Section)

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Chapter 306. Marijuana Control Board

Words in **boldface and underlined** indicate language to be added

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

**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 CONSUMED MARIJUANA] **or child resistant packaging 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(f)(5) – 3 AAC 306.365(f)(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, **provided packaging is resealed for removal from the premises by the consumer.**

(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.

3AAC 306.700

(f) The board will not issue a marijuana handler permit to a person that

(1) has been convicted of a felony and either

(A) less than five years have elapsed from the time of the person's conviction; or

(B) the person is currently on probation or parole for that felony.

(2) has been found guilty of

(A) selling alcohol without a license in violation of AS 04.11.010; or

(B) selling alcohol to a minor in violation of AS 04.16.051 or AS 04.16.052; or

(C) a misdemeanor crime involving a controlled substance, violence against a person, use of a weapon, or dishonesty within the preceding five years

(3) has, within two years before submitting an application, been convicted of a class A misdemeanor relating to selling, furnishing, or distributing marijuana.

(g) When filing an application for a marijuana handler permit the applicant, must submit the person's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information.

(1) The director shall submit the fingerprints to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62. The board will use the information obtained under this section to determine if an applicant is qualified for a marijuana handler permit.

(2) In this section, "criminal justice information" has the meaning given in AS 12.62.900.

**3 AAC 306.831. Suspension or revocation of marijuana handler permit.** (a) The board will suspend or revoke a marijuana handler permit issued under this chapter if any licensee is convicted of a felony listed in 3AAC 306.700 (f)(1)(A) and (B) or of a crime listed in 3 AAC 306.700(f)(2) and (3) or if the board becomes aware that a permit applicant did not disclose a previous felony conviction or a conviction of a crime listed in 3 AAC 306.700(f)(1)(A) and (B).

(b) The board may suspend or revoke a permit issued under this chapter, refuse to renew a permit, or impose a civil fine if the board finds that a permit applicant misrepresented a material fact on an application for a marijuana handler permit, or an affidavit, report, or signed statement under AS 17.38 or this chapter.



NOTICE OF PROPOSED REGULATIONS  
REGARDING MARIJUANA HANDLER PERMIT REQUIREMENTS  
MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to adopt regulations to amend 3 AAC 306.700 and 3 AAC 306.831. These proposed regulations relate to requirements for marijuana handler permits and suspension and revocation of marijuana handler permits.

The Marijuana Control Board proposes to adopt regulations in Title 3 of the Alaska Administrative Code, dealing with the requirements for marijuana handler permits and suspension and revocation of marijuana handler permits including the following:

- (1) 3 AAC 306.700 – Marijuana Handler Permit regulations are proposed as follows:

The regulations consist of a series of provisions establishing disqualifying criminal history for applicants for a marijuana handler permit and requiring criminal justice reports for applicants for a marijuana handler permit.

- (2) 3 AAC 306.831 – Suspension or revocation of marijuana handler permit regulations are proposed as follows:

The regulations consist of a series of provisions establishing criteria for suspension or revocation of marijuana handler permits.

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 Joe Samaniego, Marijuana Control Board at 550 W. 7<sup>th</sup> Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at [joe.samaniego@alaska.gov](mailto:joe.samaniego@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 marijuana handler permit requirements. The comments must be received no later than 4:30 p.m. on Aug 8, 2016.**

You may submit written questions relevant to the proposed regulations to Joe Samaniego 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 July 29, 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 Joe Samaniego at (907) 269-0350 no later than July 20, 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 Joe Smaniego at 550 W. 7<sup>th</sup> Ste 1600, Anchorage, AK 99501.

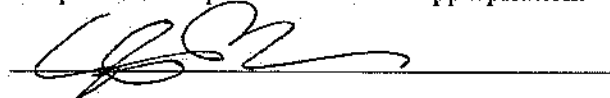
After the public comment period ends, the Marijuana Control Board will either adopt the proposed regulations or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **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: June 29, 2016



Cynthia A. Franklin, Director  
Marijuana Control Board

**From:** PSUMInfo (CED sponsored) <psuminfo@alaska.gov>  
**Sent:** Wednesday, July 13, 2016 11:37 AM  
**To:** PSUMInfo (CED sponsored)  
**Subject:** Notice of proposed regulations regarding marijuana testing facilities; retail store notices; onsite consumption  
**Attachments:** DRAFT REGS Testing Standards and Tolerances.pdf; DRAFT REGS Retail Store Notices.pdf; DRAFT REGS Retail Store Notices.pdf; DRAFTRegulationPartDeuxOnsiteConsumption.pdf

The Marijuana Control Board proposes to adopt regulations in Title 3 of the Alaska Administrative Code, dealing with

- **Standards and requirements for marijuana testing facilities**

3 AAC 306.645 – Marijuana testing facility requirement amendments are proposed: The regulations consist of a series of provisions adjusting the maximum amount of THC acceptable for an individually packaged edible retail marijuana product and adjusting the maximum amount of residual solvents and metals allowed in marijuana products.

3 AAC 306.660 – Failed materials and retests requirement amendments are proposed: The regulations consist of a series of provisions giving the Director of the Marijuana Control Board the authority to approve requests related to failed marijuana tests and to authorize retests of failed marijuana tests.

  - The proposed regulations changes are available as an [attachment](#) on the [online public notice](#), on the [Alcohol & Marijuana Control Office website](#), and are attached here for your convenience.
  - When commenting on these proposed regulations, *please indicate in the subject line that you are commenting on marijuana testing facility requirements.*
- **Requirements for notices at marijuana retail stores**

3 AAC 306.365 – Marijuana retail store notice requirement amendments are proposed: The regulations consist of a series of provisions establishing specific notices to customers about the legalities of marijuana be conspicuously posted in the marijuana retail store.

  - The proposed regulations changes are available as an [attachment](#) on the [online public notice](#), on the [Alcohol & Marijuana Control Office website](#), and are attached here for your convenience.
  - When commenting on these proposed regulations, *please indicate in the subject line that you are commenting on retail marijuana store notice requirements.*
- **Onsite consumption of marijuana and marijuana products in licensed marijuana retail stores**

3 AAC 306.365 – Onsite consumption endorsement regulation amendments are proposed: 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.

- The proposed regulations changes are available as an [attachment](#) on the [online public notice](#), on the [Alcohol & Marijuana Control Office website](#), and are attached here for your convenience.
- When commenting on these proposed regulations, *please indicate in the subject line that you are commenting on the onsite consumption endorsement (round 2).*

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 Joe Samaniego, Marijuana Control Board at 550 W. 7th Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at [joe.samaniego@alaska.gov](mailto:joe.samaniego@alaska.gov). *Please indicate in the subject line whether you are commenting on the testing facility requirements, retail store notice requirements, or onsite consumption endorsement (round 2).* Comments may also be submitted through the [Alaska Online Public Notice System](#), by accessing the appropriate notice on the system and using the "leave a comment" link. Please indicate the article and section number to which each comment refers. **Comments must be received no later than 4:30 p.m. on August 21, 2016.**

You may submit written questions relevant to the proposed regulations to Joe Samaniego by [email](#) or physical address. Please do not submit questions through the Alaska Online Public Notice System. Questions must be received at least 10 days before the end of the public comment period, by August 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 [Alcohol & Marijuana Control Office 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 Joe Samaniego at (907) 269-0350 no later than August 11, 2016 to ensure that any necessary accommodations can be provided.

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 7<sup>th</sup> Ave, Suite 1600  
Anchorage, Alaska 99501  
(907) 269-0350  
[commerce.alaska.gov/web/amco](http://commerce.alaska.gov/web/amco)  
[marijuana@alaska.gov](mailto:marijuana@alaska.gov)

*You are receiving this email because you registered to be notified by the State of Alaska when [marijuana initiative FAQs](#) are updated and when the public comment periods on the proposed regulations are scheduled.* Please note that a reply to this message will not be considered as public comment.



## Memorandum

TO: City of Homer Boards and Commissions  
FROM: Jenny Carroll, Special Projects & Communications Coordinator  
THROUGH: Katie Koester, City Manager  
DATE: June 20, 2016  
SUBJECT: City of Homer 2017-2022 Capital Improvement Plan

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The purpose of this memo is to provide information on the 2017-2022 City of Homer Capital Improvement Plan (CIP) and solicit input and recommendations from most of the City's advisory bodies. The CIP is a six-year document describing capital projects which have been determined to be community priorities.

Each year, the City of Homer updates its CIP. The update process involves circulating a draft CIP to City Departments for project updates and soliciting new project proposals from the Departments and the public. The update is then presented to City advisory commissions to collect input on and recommendations for City of Homer capital priorities.

Recommendations are then compiled and forwarded to City Council for consideration and public hearing before finalizing the CIP list, selecting projects for Homer's Legislative Request and final CIP adoption.

The Legislative Request represents the City's top five priority projects that will be the focus of efforts to obtain state and/or federal funding in the coming year. Typically, the City would advocate for at least partial funding of these projects to be included in the State's capital budget. While this year's State capital budget was not funded due to Alaska's fiscal situation, setting community priorities still merits our attention. It helps focus attention on community needs and communicates community priorities to other potential funding sources.

To assist your Commission in the CIP review process, I have also included the following materials:

- 1) A draft 2017-2022 CIP. While some of the narratives for Legislative Priority Projects and Mid-Range Projects have been improved, significant project description updates/changes and new staff recommendations are highlighted in red comments for your convenience.
- 2) Everything You Always Wanted to Know About the City of Homer Capital Improvement Plan; and
- 3) A list of newly proposed projects for the CIP. (These projects were proposed by department heads, area non-profits and/or Commissions.)

Please take the time to make the following recommendations:

- 1) Two projects the Commission would like to see on the Legislative Request (either from the draft CIP, including the Legislative Request from last year, or the proposed new projects);
- 2) Any new projects the Commission would like to propose; and/or
- 3) Feedback on any of the projects whether it be a simple project update to communicate to staff or a change in project scope to recommend to Council.

Please note that while City Council approved allocation of General Funds for the Fire Station Upgrade project, staff included the Fire Station Upgrade as a proposed new project. Grant funds may be available to cover some portions of the project. Inclusion in the CIP would aid in that process.

Thank you for your time and participation in this important planning process. I look forward to hearing back from you and incorporating your recommendations.

**EVERYTHING YOU ALWAYS WANTED TO KNOW ABOUT THE CITY OF HOMER  
CAPITAL IMPROVEMENT PLAN**

**Q: What is a CIP?**

**A:** CIP stands for Capital Improvement Plan. It is a multi-year document that lays out community priorities for capital projects, including (for each one) a project description, rationale for why it's needed (benefits to the community), description of progress to date (money raised, plans drawn up, etc.), and estimated total cost. For City of Homer projects, additional information is provided on the timeline for completion.

**NOTE:** A Capital Improvement Plan is not a funding request. From the City's standpoint, it is a plan. From the standpoint of a non-profit organization, it is a mechanism to raise awareness of a needed project and increase chances of funding from various sources. Nominating a project for inclusion in the CIP should not be thought of as a request for City funding.

**Q: What is a capital project?**

**A:** A capital project is a major, non-recurring budget item that results in a fixed asset (like a building, road, parcel of land, or major piece of equipment) with a useful life of at least two years. Designing and building a new library is a capital project. Planning and implementing an after-school reading program is not a capital project. Most of the projects in the City of Homer CIP are City projects, but some are community projects spearheaded by a non-profit organization (e.g., Pratt Museum) or state or federal agency (e.g., Alaska DOT). City of Homer CIP projects must have an estimated cost of at least \$50,000. Those from non-profit organizations must have an estimated cost of at least \$25,000.

**Q: Newspaper articles often refer to the CIP as a "wish list." Is that accurate? If so, what's the point of writing up a "wish list"?**

**A:** That's not entirely accurate. The CIP is presented in sections –City projects on the legislative priority list, mid-range projects (projects that *may* be undertaken in the next six years) and long-range projects. This allows the CIP to be somewhat of a forward thinking "wish list" and an actual plan, at least for City projects.

There are several reasons to maintain a CIP even when it seems like little progress is being made in accomplishing projects, and even in years like this when there is little to no State Capital Appropriation's budget. or 1) It helps focus attention on community needs. 2) It helps groups raise money for projects if the sponsor can say that the project has been identified as a community priority in the CIP. 3) Typically a project must be included in the CIP to be eligible for a state legislative appropriation.

**Q: What is the process for developing the Capital Improvement Plan?**

**A:** CIP development is a multi-step process that starts around May of each year and ends in November.

Step 1 is to develop the schedule. The schedule must be approved by the City Council.

Step 2 is to publicize the CIP process and invite project nominations from community organizations.

Step 3 is to send a copy of the current CIP to all the City department heads and the City Manager and ask for recommendations for new projects, projects that should be deleted, or changes to existing projects.

Step 4 is to make sure that all the City advisory bodies have a chance to weigh in. They are encouraged to name their “top 5” projects, and that information is passed on to the City Council. They can also suggest new projects, changes to existing projects, or any other recommendations related to the CIP.

During this time, I will start working on a new draft CIP, to be constantly updated throughout the process. NOTE: The document is a DRAFT until it is approved by the City Council. Proposed new projects are kept separate until they are approved by Council.

The City Council typically holds a work session to discuss the CIP and also a public hearing at a regular City Council meeting. Members of the public are encouraged to attend and testify. The City Council will view the CIP as a whole and will also work to identify legislative priorities (a subset of the CIP) for special attention during the coming year.

Step 5 is to finalize the CIP as per City Council approval, and make 30 bound copies. These should be ready to distribute before the end of November. The CIP is also put on the City website.

**Q: Are the “legislative priorities” the same as the CIP?**

**A:** No, they are a subset of the CIP. The full CIP might contain 50 projects. All of them have been approved by the City Council and can be considered community priorities. However, the City Council also develops a “short list” of projects on which the City will focus particular attention during the upcoming legislative session. (The goal is to get at least partial funding for a project included in the state capital budget.) The “short list” and the “legislative priorities list” are the same thing.

The state budget process begins with a proposed budget submitted by the Governor in December. The legislature takes the Governor’s budget and works it over starting in mid-January. The House and Senate must both agree on a budget before it is finally passed in mid-April. (NOTE: The “operating budget” is different than the “capital budget.”)

In the past, the City’s “short list” may have had 10-15 projects on it. Last year, the list numbered five. They were the Public Safety Building, East Boat Harbor, Harbor Sheet Pile Loading Dock, Fire Department Equipment Upgrades and Storm Water Master Plan. Given the State of Alaska’s current budget shortfalls, the City will likely reduce the number of projects on the “short list.”

An attempt is made to include some less expensive projects along with big expensive ones. Most if not all of the projects on the short list will be City of Homer projects (e.g., for roads, harbor improvements, water and sewer upgrades, etc.) Project descriptions are put in special “packets” tailored specifically to legislators and state commissioners. Typically, the Mayor and one or two City Council members will make one or more trips to Juneau to advocate for funding for these projects. Other groups (e.g., hospital, college, non-profit representatives) also lobby for their favorite CIP projects.



**Q: Does the City seek federal funding for CIP projects also?**

**A:** Yes. All three members of the Alaska congressional delegation require local governments and other groups to submit funding requests in February of each year. Typically the City of Homer will select 3-6 projects for which we seek federal funding. In recent years, the City has received partial funding for Deep Water Dock expansion and for the proposed East Boat Harbor. With the moratorium on federal “earmarks” in early 2011, chances of receiving federal funding for a project have diminished substantially.

The City can (and does) apply for grants to fund capital projects, but those funders almost always require the City to cover some of the costs with local funds.

**Q: What advice do you have for a community member who wants to see a particular project included in the CIP?**

**A:** • Keep in mind that if a proposal comes from one of the following, it is automatically forwarded to the City Council for consideration: 1) A City department head, 2) a City advisory body, 3) the Mayor or individual City Council member, 4) a non-profit organization or state/federal government agency. If you can sell your idea to one or more of those, and that person or group gives it to me, I will draft a project description to take to the City Council. NOTE: Ask for a Project Nomination Form to use for this purpose.

- Take advantage of opportunities to express support for one or more projects anytime the CIP is on a Council meeting agenda. If you testify earlier in the process, Council members will have more time to consider what you say before making their final decisions. The CIP will be on the Council agenda at least three times: For introduction, public hearing, and final vote. Check with the Clerk’s Office regarding the dates. You can also communicate with City Council members individually.

Further advice: If you are seeking funding for your project through the state legislature, talk to our local state representative (currently Paul Seaton) about that process.

**Q: Once a project is approved for inclusion in the CIP, what can I do to make sure it doesn’t just languish there?**

**A:** • Keep your eyes on the prize. If you are with a community group or advisory body, develop a long-range plan and base your CIP request on that plan. Limit your request to one or two items and then keep your attention and energies focused on that goal.

- Be realistic in your expectations. Many projects require multiple sources of funding over a period of years. Project success starts with a vision, then a well-developed funding plan followed by focused implementation of that plan.





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**PROPOSED NEW PROJECT - DRAFT**





## City of Homer Radio Communication System Upgrades

**Project Description & Benefit:** The City's radio communication system is a complex, high-tech, multi-component communication infrastructure that serves the daily needs of the Homer Police, Fire, Port & Harbor and Public Works Departments and is critical for effective emergency response to natural disasters and man-made incidents. Communication system technology has changed tremendously during the last thirty years of the digital age. They are now completely digital, can carry encrypted data in addition to voice communications and must comply with FCC bandwidth requirements. Homer's entire system is aging and must be replaced soon to keep up with technological advances.

**The Public Safety Radio System** consists of central dispatch consoles, five repeaters (two each for fire and police and one for joint use, strategically located at two different sites and elevations), and several Motorola subscription handheld and mobile communication units. The system provides (1) full radio coverage across Homer and outlying communities despite geographically diverse terrain, (2) redundancy in the event a natural or manmade disaster renders one site inoperable, (3) interoperability with all local, borough and state agencies utilizing the ALMR system allowing easy communication with almost any Alaska-based unit during both everyday incidents and large multi-agency response events and (4) Moto-Bridge to electronically connect disparate radios to ensure quality communications with agencies who do not share a common channel with Homer.

However, Motorola will be ending anti-virus protection and software update support for the repeaters and dispatch consoles in 2018. As a result, ALMR will be replacing all of their repeaters and dispatch consoles in 2018. Homer's repeaters and dispatch consoles are identical equipment. If we do not upgrade when ALMR does, Homer will slowly begin to lose communication features before completely losing functionality within three to five years. Additionally, Motorola will cease part replacement support for these components and all the subscription communication devices starting in 2018. A critical parts failure in dispatch or in the repeaters could possibly shut Homer's public safety communication system down. Finally, Public Safety subscription units operate within a specifically licensed bandwidth. FCC is in the process of implementing another round of narrowing bandwidth requirements. The entire system will have to be upgraded to comply with new FCC regulations that will phase in starting in 2020, with full compliance required by 2022.

**Port & Harbor and Public Works Radio Systems** are of a simpler design -- they need only a basic level of interoperability to communicate with dispatch, police and fire and do not transmit data or need encryption. They will, however, have to meet the new FCC bandwidth requirements in 2022, so all of these radios will have to be replaced. Port & Harbor has one base radio, 7 mobile and 7 portable radios and may need to add a repeater to their system to improve system coverage. Public Works has one base unit, one repeater, 11 portable and 22 mobile radios and a Trimble UHF data radio system for infrastructure locates. Their need for portables is likely to increase as high as 18 to meet new safety requirements with confined space policy changes. It is unknown if the Trimble UHF system will be impacted by FCC's new narrow banding requirements.

**Plans and Progress:** Homer's Police Department applied for FY16 Homeland Security grants to begin public safety radio system replacement. The requests would help replace Public Safety dispatch consoles and repeaters. Regardless of grant application outcome, considerable city funds will be needed to replace the entire radio communication system by 2022.

**Total Project Cost:** \$1,100,000 - \$1,300,000

Public Safety repeaters and placement on new Spit communication tower: \$175,031

Public Safety dispatch consoles and associated equipment: \$296,000

Public Safety radios: \$558,987

Port & Harbor radios and possible repeater: \$40,000 - \$70,000

Public Works radios: \$100,000-\$120,000 system

Public Works data radio system: \$50,000-\$80,000



## Fire Department Rescue 1 Remount

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**Project Description & Benefit:** Homer Volunteer Fire Department’s Rescue 1 vehicle is a 1999 Saulsbury Rescue Truck made up of a 20’ stainless steel rescue body mounted on a commercial Freightliner chassis. This apparatus carries a wide assortment of light and heavy equipment necessary for specialized rescue operations such as hydraulic cutters and spreaders (like the Jaws of Life), high and low pressure pressure air lift bags, confined space rescue equipment and an assortment of hand tools to aid in the extrication of entrapped victims. Additionally, the apparatus is equipped with a dual-agent firefighting package that can extinguish small fires in vehicles or prevent them from occurring during rescue operations.

Rescue 1 also carries two additional support systems critical to personnel safety and operations: a breathing air cascade system for on-scene filling of firefighters air bottles and operating air powered equipment and tools, and a 9,000 watt telescoping light tower used to provide scene lighting.

This project will replace Rescue 1’s aging and underpowered chassis with a new chassis with a larger motor, making it more capable of navigating the 7-9% road grades within our jurisdiction.

**Total Project Cost:** \$150,000

**Priority Level:**

**Schedule:** 2017

PROPOSED NEW PROJECT - DRAFT



## Fire Station Improvements

**Project Description & Benefit:** Built nearly 40 years ago from a pre-existing garage structure, Homer's Fire Station is in need of upgrades to address immediate health threats to our public servants, space constraints that limit response capabilities and maintenance issues necessary for continued building use and productivity for another 10 to 15 years.

The Fire Station does not have a ventilation system to protect staff and volunteer responders from vehicle exhaust which is known to contain potential carcinogens, carbon monoxide and other harmful gasses that contribute to respiratory illness. Currently emissions exposure is mitigated by opening windows and bay doors to passively dilute and remove fumes – an inefficient and costly method (especially in the winter) which still leaves personnel exposed. Installing a vehicle exhaust removal system is a critical upgrade.

Homer's emergency call volume and variety has grown with the population. So has the Fire Department's response capabilities. Unfortunately, the Fire Station has not kept pace over time creating cramped work areas, storage challenges and an insufficient number of bunkrooms (two) for volunteers during overnight duty. Raising the eastern roof line to mirror the building's western roofline would expand the second floor by 1,000 square feet to accommodate additional bunk rooms, storage and office space.

Ongoing building maintenance is required to ensure safe, functional operations and preserve the value of the asset. The following corrective maintenance projects will help extend the Fire Station's life and usefulness another 10 years:

- Replace all floor coverings. With the exception of one office space, flooring dates back to original 1980 construction. It is extremely worn and, in places, a tripping/slipping hazard.
- Repaint the station's exterior and interior walls. This was last done in 1995. Bays additionally require specialized epoxy paint and resistant products to protect against damage from heavy equipment use.
- Replace slab flooring in Bays 2 and 3, including leveling sunken subsurface areas, strengthening it to sustain the heavier weight of current apparatus without cracking, and replacing undersized floor drains which consistently clog and trap rot-producing moisture within the building.
- Improve drainage behind the Fire Station to direct water away from building. Proper drainage extends the life of the building and lowers long-term maintenance costs by preventing seasonal heaving and sinking which cracks the Bays' floors and approach aprons and misaligns the Bays' automatic garage door tracks. With drainage system in place, complete paving behind the building and fix apron pavement cracks and 3-4" heaves at the entrance to the Bays.
- Remodel the Fire Station's kitchen. Emergency response here depends upon a vibrant and committed volunteer corps who routinely risk their lives in service to the community. The kitchen is the social center for volunteer responders, hosting up to 25 at eight community-building meals in conjunction with trainings and up to 15 during emergency events. The kitchen will also serve City employees in case of a major disaster (the Fire Station is the designated disaster destination for City personnel). Except for new appliances purchased in 1995, the kitchen has been untouched and is inefficient. Cabinets and drawers are falling apart, and the design is obsolete for what is essentially a small commercial kitchen.

**Plans & Progress:** A new Fire Station was originally proposed as part of a new, combined Public Safety Complex. However, a \$30 million cost estimate led to a scaled-back police-station-only design that reserves part of the adjacent HERC site for future co-location of a new fire hall. Upgrades were proposed to extend the existing Fire Hall's functional life. City Council approved transfer of \$80,000 in design funds from the combined Public Safety Building project to the Fire Station Upgrade project, and approved \$1 million from general funds for construction. The architectural, engineer and construction management team working on the Public Safety Building will continue as General Manager-Contractor for the Fire Station upgrade project.

**Total Project Cost:** \$900,000

**Schedule:** 2017

**Priority Level:**

**Need to update Total Project Cost based on new design**



## Large Vessel Haulout Repair Facility

PROPOSED NEW PROJECT - DRAFT

**Project Description & Benefit:** The Large Vessel Haulout Repair Facility will consist of a haul out/launch ramp and improvements to the upland portion of Lot TR 1A (east of the Nick Dudiak Fishing Lagoon). The site has accommodated approximately six to eight vessels (depending on size) with ample workspace. Upland improvements including a large vessel wash down pad (which can also be used by recreational/sport boats), lighting, electrical pedestals and a drainage/water management system will facilitate local, efficient and environmentally sound vessel repairs.

Because of the lack of facilities, large vessels currently have to travel to perform repairs which could otherwise be completed here in Homer. The project is a response to requests from vessel owners/managers seeking safe moorage and uplands haulout area for large shallow draft vessels. Availability of a haul out/repair facility in Homer benefits the local fleet of larger vessels, the local marine trades businesses and the City of Homer. The Large Vessel Repair Facility will operate year round. Vessel owners may arrange with contractors for required services, or perform the work themselves.

**Plans & Progress:** A Large Vessel Haulout Task Force was formed in 2014. Initially, the Task Force analyzed two potential sites for the facility and determined that developing the repair facility on the uplands of lot TR-1-A is more feasible than developing it on the old chip pad. Project development is being carried out in three phases. Phase 1 included pre-development activities such as site selection and completion of management plans and policies. To date the Task Force has completed Best Management Practices, vessel owner use agreements, and venter use agreements for the Large Vessel Repair facility. Staff have completed a Stormwater Pollution Prevention Plan (SWPPP) with the Alaska Department of Environmental Conservation for a portion of lot TR-1-A.

Phase 2 involves completing the design for the haul out ramp and upland support facilities such as the wash down pad and drainage/water management system according to the prevention plan (SWPPP) and electrical fixtures. Phase 3 is construction.

**Total Project Cost:** \$600,000

**Schedule:**

**2016:** Phase 1 - Pre-Development (completed as part of Barge Mooring Facility preliminary planning & design work)

**2017:** Phase 2 - Design/Engineering/Permitting: \$105,000

**2019:** Phase 3 - Construction: \$495,000



The Time Bandit hauled out in Spring of 2016 for repairs on Homer Spit Lot TR 1 A next to Pier One Theatre.





## Kachemak Ski Club Ohlson Mt. Rope Tow Motor House Relocation

PROPOSED NEW PROJECT - DRAFT

**Project Description & Benefit:** This project will provide safety improvements to an historic public recreation treasure on the Kenai Peninsula--the Ohlson Mountain ski facility. Local fishermen and homesteaders originally founded KSC in 1948 (making it perhaps the oldest operational nonprofit in the Homer area) to get families out of the house during the slow winter months and meet school requirements for physical education. Since then, KSC has provided thousands of lower Kenai Peninsula youths, adults and families with affordable downhill skiing (and more recently snowboarding) opportunities every Sunday (weather permitting) through its 800 foot long rope tow. It is also used by school programs and offers ski and snow board lessons. In addition to the rope row, the facility includes samll lodge/warming hut and outhouse facilities. This historic facility promotes sports education and fitness in the community, and the all-volunteer, non-profit KSC has effiecntly utilized countless hours of volunteer labor and a variety of grants to maintain and imporve the area. Without this support the ski area would be unable to operate. The ski area is the only facility offering downhill skiing and snowboarding opportunities in Southcentral Alaska other than Alyeska resort in Girdwood and is proud of its 100% safety record.

The ski area has weathered decades of harsh weather conditions; in the past ten years most of the infrastructure has been refurbished and improved. However, the mounting structure and foundation of the Rope Tow's top station, which supports the engine, bullwheel and weight of the rope in motion is very old and after 52 years of service is showing some structural weaknesses. In conjunction with replacing the top station's foundation, an enormous safety and ergonomic improvment will be realized by reloating the top station southward. KSC has always struggled to keep the top of the towpath and rope tow unloading area smooth, safe and efficient dut to 1) the steep grade of the hill's apex in relation to the unload area and safety gate; 2) the steep angle of the rope at the apex and 3) a minimum distance between the unload area and the safety gate guarding skiers from entanglement in the bullwheel.

KSC proposes to solve all these problems in one operaton: building a new top station foundation 30 feet to the south, relocating the motor higher and further back, protecting the new foundation and motor with a 6' x 12' weatherproof hut and associated grade work. This project extends the life of this historic and well-used recreation area for the next 50 years, significantly improves user safety by more than doubling the existing time and distance an operator and potential victim have in averting an entanglement situation, and greatly improves the rope angle for rider comfort and safety.

**Plans and Progress:** Scope of work, project design and detailed cost estimates have been prepared. Commitment of fifty hours of volunteer labor from Board members (valued at \$10/hour) has been secured to help accomplish this maintenance and safety upgrade.

**Total Project Cost:** \$25,435  
Foundation (materials, labor & equipment): \$9,160  
Motor Relocation (tear down, inspection, cleaning and relocation): \$3,400  
Motor Hut Construction (includes materials & volunteer labor): \$2,775  
Extend Power Supply to New Location: \$6,000  
Excavator and Grade Work: \$4,100

**Schedule:**

Planning & Design: 2016  
Preconstruction completed by: July 2017  
Construction completed by: Jan 2018



Ohlson Moutain Rope Tow's top station, which supports the engine, bullwheel and weight of the rope in motion, is in need of foundation repair.



## Homer Medical Clinic Expansion

---

**Project Description and Benefit:** The Kenai Peninsula Borough owns and provides for the operation of the South Peninsula Hospital. South Peninsula Hospital, Inc. (SPH Inc.) manages the operations of the facilities through a Sub Lease and Operating Agreement with the Borough and the City of Homer. The Hospital is run on a nonprofit basis in order to ensure the continued availability of medical services to the area. The Homer Medical Center falls under this umbrella, and is located near the hospital's main campus.

Homer Medical Center provides a central location for family practice, OB/GYN, midwifery and other primary care services. They have outgrown their current space, multiple physicians are sharing office space; storage is an ongoing problem as well as challenges with patient flow. With the limited number of exam rooms the facility is not able to function at the current level of demand, let alone the expected growth based on an aging population. This project is intended to improve patient as well as service provider satisfaction, while allowing the facility to function at a more optimum capacity, and will support the clinic's goal to become a certified Patient Centered Medical Home, which is the preferred model of primary care.

The existing Medical Center is a roughly 5,000 sq. ft. wood framed structure and while it is 30 years old, it has been maintained relatively well. Homer Medical Center is comprised of 27 nurses and clerical personnel, six physicians and two midlevel providers. Only two of the physicians are full time. There are four or five family practice providers on any given day using the main clinic. The clinic is open six days a week until 5pm, with extended hours on Tuesday and Thursday evenings. The current patient load is 65 to 70 patients per day.

**Plans and Progress:** The plan is to expand the facility east and south on the existing lot, adding a total of 5,700 square footage to accommodate additional exam rooms, waiting area and office space. In addition to expanded space, renovations and site improvements will also be done, such as expanded parking. The expansion and improvements will eliminate the need to rent the building across the street, currently rented for the purposes of the clinic's business office. Architectural schematics are nearly complete. Bond funding is being requested by the Borough by vote of the service area, but no change in the mil rate is expected.

**Total Project Cost:** The estimated cost of the proposed addition is \$2,800,000 - \$3,000,000. This includes final project design, project management and administrative costs.

**Schedule:** Fall 2016 - Summer 2017.



Homer Medical Clinic

PROPOSED NEW PROJECT - DRAFT



## South Peninsula Hospital Operating Room HVAC Replacement

**Project Description & Benefit:** The Kenai Peninsula Borough owns and provides for the operation of the South Peninsula Hospital. South Peninsula Hospital, Inc. (SPH Inc.) manages the operations of the facilities through a Sub Lease and Operating Agreement with the Borough and the City of Homer. The Hospital is run on a nonprofit basis in order to ensure the continued availability of medical services to the area.

The heating, ventilation and air conditioning (“HVAC”) units for South Peninsula Hospital’s operating rooms were installed in 1974. Currently, air handling unit AC-2 and the rooftop air cooled condensing unit associated with it are past their expected useful life and the entire system no longer provides sufficient control of room temperature and humidity levels required for hospital operating rooms under FGI Guidelines for Design and Construction of Hospitals and Outpatient Facilities. The existing HVAC system is also not well equipped to provide for proper operating room pressure control to meet FGI criteria.

Air conditioning alters the properties of air (temperature, humidity and sterile filtration) to more favorable conditions for keeping the hospital hygienic and to facilitate treatment of disease. Proper ventilation and filtration in the operating room are the most important means of reducing contamination and preserving the correct pressure relationships between functional areas. Maintaining the required level of relative humidity is essential to control the growth of microorganisms, prevent electrostatic discharge and is important to the shelf life of sterile supplies and maintenance of electro-medical devices. Temperatures also need to be adequately controlled given the heat produced by operating room lighting, equipment and staff.

**Plans and Progress:** Recommendation for long-term system replacement is to first provide new rooftop air handling unit(s) to serve the operating rooms and related spaces. Ultimately, a complete replacement of the HVAC systems serving the operating rooms is necessary for proper humidity and temperature control, air exchange rates, and room pressurization for the operating room environment. This system configuration will serve the entire surgery department and will be determined under a subsequent design phase. Modifications to HVAC systems serving the spaces adjacent and related to the operating rooms may also be warranted.

**Total Project Cost:** The estimated cost of the proposed project is \$1,800,000. This includes project management and administrative costs.

**Schedule:** 2017-2018



PROPOSED NEW PROJECT - DRAFT





**FY17 CIP DRAFT**

# **City of Homer Capital Improvement Plan 2017-2022**



To be updated

The Sesok and Surfbird in the Uplands

Infrastructure for a haulout to facilitate boat work on large vessels is on the 2017-2022 City of Homer CIP.

City of Homer  
491 E. Pioneer Avenue  
Homer, Alaska 99603  
907-235-8121







# City of Homer

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

## Office of the City Manager

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**To be updated**

September 14, 2014

To The Honorable Mayor and Homer City Council:

This document presents the City of Homer 2016 through 2021 Capital Improvement Plan. The CIP provides information on capital projects identified as priorities for the Homer community. Descriptions of City projects include cost and schedule information and a designation of Priority Level 1 (highest), 2, or 3. Projects to be undertaken by the State of Alaska and other non-City organizations are included in the CIP in separate sections. An overview of the financial assumptions can be found in the Appendix.

The projects included in the City of Homer's 2016-2021 CIP were compiled with input from the public, area-wide agencies, and City staff, as well as various advisory commissions serving the City of Homer.

It is the City of Homer's intent to update the CIP annually to ensure the long-range capital improvement planning stays current, as well as to determine annual legislative priorities and assist with budget development. Your assistance in the effort is much appreciated.

Sincerely,

Katie Koester  
City Manager

**INTRODUCTION PAGES - DRAFT**







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INTRODUCTION PAGES - DRAFT



## **Funded Projects from 2016-2021 CIP List**

**Updated with funded project information.**

The City of Homer is pleased to note that full funding for the following projects have been identified or procured:

- East to West Transportation Corridor- Waddell Way corridor construction is complete.
- Water Storage/Distribution Improvements - Phase 1 is complete.
- Homer Intersection Improvements - Pioneer Avenue and Main Street is complete.
- Sterling Highway Erosion Response MP 150-157 is complete.
- Homer Senior Citizens, Inc. - Natural Gas Conversion
- Bridge Creek Watershed Acquisition - purchased 40-acre tax foreclosure parcel in the Bridge Creek Watershed Protection District.

**INTRODUCTION PAGES - DRAFT**



## Introduction: The Capital Improvement Program

---

A capital improvement plan (CIP) is a long-term guide for capital project expenditures. The CIP includes a list of capital projects a community envisions for the future, and a plan that integrates timing of expenditures with the City's annual budget. The program identifies ways a project will benefit the community, indicates the priorities assigned to different projects, and presents a target construction schedule.

A carefully prepared capital improvement plan has many uses. It can assist a community to:

- Anticipate community needs in advance, before needs become critical.
- Rank capital improvement needs in order to ensure the most important projects are given consideration for funding before less critical projects.
- Plan for maintenance and operating costs so expenses are budgeted in advance to help avoid projects that the community cannot afford.
- Provide a written description and justification for projects submitted for state funding so the legislature, governor and appropriate agencies have the information necessary to make decisions about funding capital projects.
- Provide the basis for capital projects as part of the annual budget.

A capital improvement project is one that warrants special attention in the municipal budget. Normally, public funds are not expended if the project is not listed in the CIP. A capital expenditure should be a major, nonrecurring budget item that results in a fixed asset with an anticipated life of at least two years. Projects eligible for inclusion in the City of Homer CIP have a lower cost limit of \$50,000 for City projects and \$25,000 for those proposed by non-profit organizations. Projects proposed by non-profit organizations and other non-City groups may be included in the CIP with City Council approval, but such inclusion does not indicate that the City intends to provide funding for the project.

The municipality's capital improvement plan is prepared in accordance with a planning schedule, usually adopted by City Council at the onset of the CIP process. A copy of the City of Homer CIP schedule appears in the appendix of this document.

The number of years over which capital projects are scheduled is called the capital programming period. The City of Homer's capital programming period coincides with the State's, which is a six year period. The CIP is updated annually, due to some of the projects being funded and completed within the year.

A capital improvement plan is not complete without public input. The public should be involved throughout the CIP process, including the nomination and adoption stages of the process. The City of Homer solicits input from City advisory bodies, advertises for public input during the CIP public hearing, and invites the public to participate throughout the entire process.

The City's capital improvement program integrates the City's annual budget with planning for larger projects that meet community goals. Though the CIP is a product of the City Council, the administration provides important technical support and ideas with suggestions from the public incorporated through the entire process.

**Determining project priorities:** City of Homer CIP projects are assigned a priority level of 1, 2, or 3, with 1 being the highest priority. To determine priority, the Council considers such questions as:

- Will the project correct a problem that poses a clear danger to human health and safety?
- Will the project significantly enhance City revenues or prevent significant financial loss?
- Is the project widely supported within the community?
- Has the project already been partially funded?
- Is it likely that the project will be funded only if it is identified as being of highest priority?
- Has the project been in the CIP for a long time?
- Is the project specifically recommended in other City of Homer long-range plans?
- Is the project strongly supported by one or more City advisory bodies?

Once the overall CIP list is finalized, the City Council names a subset of projects that will be the focus of efforts to obtain state and/or federal funding in the coming year. The overall CIP and the legislative priority list are approved by resolution.

## Integration of the CIP with Comprehensive Plan Goals

Each project listed in the CIP document has been evaluated for consistency with the City's goals as outlined in the Comprehensive Plan. The following goals were taken into account in project evaluation:

**Land Use:** Guide the amount and location of Homer's growth to increase the supply and diversity of housing, protect important environmental resources and community character, reduce sprawl by encouraging infill, make efficient use of infrastructure, support a healthy local economy, and help reduce global impacts including limiting greenhouse gas emissions.

**Transportation:** Address future transportation needs while considering land use, economics and aesthetics, while increasing community connectivity for vehicles, pedestrians and cyclists.

**Public Service & Facilities:** Provide public services and facilities that meet current needs while planning for the future. Develop strategies to work with community partners that provide beneficial community services outside of the scope of City government.

**Parks, Recreation & Culture:** Encourage a wide range of health-promoting recreation services and facilities, provide ready access to open space, parks, and recreation, and take pride in supporting the arts.

**Economic Vitality:** Promote strength and continued growth of Homer's economic industries including marine trades, commercial fishing, tourism, education, arts, and culture. Preserve quality of life while supporting the creation of more year-round living wage jobs.

**Energy:** Promote energy conservation, wise use of environmental resources, and development of renewable energy through the actions of local government as well as the private sector.

**Homer Spit:** Manage the land and other resources of the Spit to accommodate its natural processes, while allowing fishing, tourism, other marine-related development, and open space/recreational uses.

**Town Center:** Create a community focal point to provide for business development, instill a greater sense of pride in the downtown area, enhance mobility for all forms of transportation, and contribute to a higher quality of life.

**FY17 CIP DRAFT**

# **City of Homer State Legislative Request FY2018 Capital Budget**



The Homer Harbor is a major economic power for the City of Homer. The addition of the Harbor Sheet Pile Loading Dock will grow our capacity to service barges, landing craft and fishing vessels in various capacities, stimulating economies and creating additional jobs.

**City of Homer  
491 E. Pioneer Avenue  
Homer, Alaska 99603  
907-235-8121**



## Legislative Request FY2018

To be updated after review process

### City of Homer FY2018 State Legislative Priorities list approved by the Homer City Council via Resolution 16-???

1. Public Safety Building - \$1,267,000
2. East Boat Harbor - \$9,232,200
3. Harbor Sheet Pile Loading Dock- \$955,000
4. Fire Department Equipment Upgrades -\$1,012,500
5. Storm Water Master Plan - \$306,000

FY17 CIP DRAFT





# 1. Public Safety Building, Phase 1

**Updated. New Police Station Phase 1; new Fire Station Phase 2.**

**Existing Fire Station upgrade included under proposed projects**

FY17 CIP DRAFT

**Project Description & Benefit:** Homer’s Police and Fire Department services are vital to the safety and health of our community. Adequate and safe working environments show respect for the public servants who provide these services, and at the same time, reduce vulnerability to emergencies and risk. A new public safety facility is needed to address safety and operational deficiencies in Homer’s aging public safety facilities. Phase I of this facility will construct a new Police Station at the corner of the Sterling Highway and Pioneer Avenue (the site of the former Homer Junior High and current HERC building) and will address the following high risk design inadequacies and operational deficiencies in the current Police Station:

- no separation or protection between staff work areas and prisoner through traffic - prisoners have to pass by dispatch staff coming and going; the public service counter window is not secure either;
- a common air handling system which exposes personnel to airborne pathogen risks;
- lack of crisis cell for special needs prisoners, or a proper juvenile holding area;
- escape attempt issues due to building layout;
- lack of storage area for police evidence, equipment, and vehicles;
- lack of space for expanding and poor conditions for supporting modern electronic and communication systems causing premature equipment failure;
- flooding and water damage during heavy rains.
- Fully renovating the current Police Station so it complies with modern, energy efficient standards is cost-prohibitive compared with new construction. Moreover, site limits at its present location would not allow the Police Station facility to expand to accommodate current police duties and storage needs, much less allowing for growth as the community grows.

**Plans & Progress:** A Public Safety Building Review Committee formed in 2013 to oversee design and construction of a joint Public Safety Building which would have served both the Homer Police Department and the Fire Department. The City Council hired a design firm and general contractor/construction management team to see the project through construction. However, cost projections for the co-located Public Safety building led City Council to propose phasing the project in, starting first with construction of a new Homer Police Station and later proceeding with the addition of a new Fire Station. (It was determined that renovations to the current Fire Station should allow it to operate another ten years; \$80,000 of 2016’s Public Safety Building design funds were re-directed toward designing Fire Station upgrades). The Public Safety Building site and architectural design ensures ability to eventually incorporate a new, co-located Fire Station and realize operational cost efficiencies.

City Council passed Ordinance 16-30(S-2)A authorizing the City to issue general obligation bonds of \$12,000,000 to finance the acquisition and construction of the new Police Station, Phase I of the Public Safety Building project. The bond question (and a 1% seasonal increase in sales tax to pay the debt service) will go before voters for a decision at the 2016 regular city election in October.

**Total Project Cost:** \$32,148,000

**2014-2016 Design:** \$1,874,000

**2014 (to 16% Design, funding secured):** \$300,000

**2015 (to 35% Design):** \$275,000

**2016 (to 100% Design):** \$1,219,000

**2016 (Site Preparation):** \$2,251,000

**2016-2017 (Construction):** \$23,431,000

**2017 (Contingency/Inspection/Admin):** \$4,592,00

**FY2017 State Request for Design:** \$1,267,000

**(City of Homer 35% Match:** \$655,000)

**Plans & Progress updated.**

**2016 Design cost and construction cost information not updated. Preliminary concept design work will be complete by fall. This information will be updated upon approval of new concept design.**

**Photo of Police Station concept design to be added.**



## 2. Homer Large Vessel Harbor

Updated according to new concept design. Name changed from East Boat Harbor to be more descriptive. Schedule detail is eliminated due to size of project.

FY17 CIP DRAFT

**Project Description & Benefit:** This project will construct a new harbor ranging in size from 11 to 15 acres. It would enhance harbor capabilities by:

- Accommodating large commercial vessels (fishing vessels, workboats, landing craft, tugs, barges, etc.) outside the small boat harbor. Currently, large vessels are moored at System 4 and System 5 transient floats. Due to shortage of moorage space at the floats, large vessels are rafted two and three abreast constricting passage lanes, creating traffic congestion and overstressing the floats;
- Enabling Homer to accommodate and moor an additional 40 to 60 large commercial vessels that potentially would use Homer Harbor as a home port, but which have in the past been turned away due to lack of space;
- Providing moorage that meets the US Coast Guard's long-term mooring needs. Currently, the USCGC *Hickory* moors at the Pioneer Dock which provides inadequate protection from northeasterly storm surges and an inadequate security zone. The large vessel harbor will be built to provide protected and secure moorage suitable to accommodate the USCG's new line of 154-foot Sentinal-class fast response cutters which will be replacing the 1980's era Island-class 110-foot patrol boats.

Homer's Port and Harbor is centrally located in the Gulf of Alaska and is the gateway port to Cook Inlet, and the port of refuge for large vessels transiting Cook Inlet. The large vessel harbor will provide a regional facility to serve and support marine industry needs, and provide a place of refuge for Gulf of Alaska, Cook Inlet, and Kennedy Entrance marine traffic in event of severe weather or machinery malfunctions.

The proposed new harbor basin will be dredged to minus 22 feet Mean Lower Low Water (MLLW) to meet USCGC *Hickory's* draft requirements and accommodate large commercial vessels so they will not touch bottom on the lowest tides of the year (minus 5.6 feet). The new basin will provide the security zone and private moorings for the U.S. Coast Guard vessels at one side and will accommodate the large, deep draft commercial vessels on the other side.

**Plans & Progress:** The Army Corps of Engineers completed a reconnaissance study in 2004 that indicated Federal interest in having a new harbor in Homer; at that time, though, subsequent analysis found that the cost/benefit ratio was too low for the Corps to recommend the project. Since initiating conceptual design work for the Port & Harbor's Deep Water Dock/Cruise Ship Expansion project, however, customer interviews indicate that the need for industrial moorage has only increased since the reconnaissance study was conducted. The City of Homer has requested a technical report from the Corps and established a study team to complete a concept design for the purpose of building support for the large vessel harbor and seeking funding sources.

**Total Project Cost:** \$115,725,000  
**Design and Permitting:** \$10,258,000  
**Breakwater Construction and Dredging:** \$90,275,000  
**Inner Harbor Improvements:** \$23,700,000  
**FY2017 State Request:** \$9,232,200  
 (City of Homer 10% Match: \$1,025,800)



This large vessel harbor design adds a new basin with its own entrance adjacent to the existing Small Boat Harbor. It provides secure, larger-sized moorage compatible with the USCG's new line of fast response cutters .



### 3. Harbor Sheet Pile Loading Dock

**Staff recommendation: per Bryan and Carey, wrap project up at 35%, redirect remaining project funds & remove from CIP.**

FY17 CIP DRAFT

**Project Description & Benefit:** This project will construct a sheet pile loading pier between the existing barge ramp and the fuel dock on the east side of the Small Boat Harbor. It is estimated that the dock will be 225 feet long and dredged to -17 feet. This dock would be used to transfer heavy loads by crane onto barges and landing crafts. During peak fishing time it can be used for delivering fish when the Fish Dock is at capacity. It would also serve as mooring for large shallow-draft vessels that are now mooring on the System 5 float. The project will stimulate the shipping and freight sectors of the local economy, creating jobs and providing revenues for Port & Harbor operations. A sheet pile loading dock is a cost effective way to increase docking facilities available at the Homer Port and Harbor.

**Plans and Progress:** This project was first identified as a need when the State of Alaska transferred ownership of the harbor to the City of Homer in 1999. Material from dredging of the harbor will be used to back fill the dock, saving the project the cost of fill. The Alaska State Legislature awarded \$350,000 in FY2015 which funds 100% of design and just shy of 20% of construction. Design for the sheet pile loading dock is currently underway.

**Total Project Cost:** \$1,450,000

2015 (Design Funding Secured): \$145,000

2016 (Construction): \$1,100,000

Funding Secured: \$205,000

**FY2017 State Request: \$955,000**

(City of Homer 15% Match: \$145,000)

Was P&H Commission # 1 priority last year.  
Received \$350,00 in FY15 State Capital Budget.  
Completed 35% engineering design work at a cost of \$109, 009.

The engineer' 35% construction cost estimate came in at \$5 million, significantly above initial projection. Cost to construct is one of the main reasons staff recommends stopping work on this project in this location. Another reason has to do with our continued work on the large vessel harbor project and our long term goals of moving all the coastal freight business into the new facility and out of the small boat harbor. The Large Vessel Harbor's concept design includes a commercial grade cargo loading ramp and dock; design work completed thus far for the sheet pile dock will be employed in that aspect of the Large Vessel Harbor project.

Given the Sheet Pile Loading Dock's high cost relative to the small coastal freight business the Sheet Pile Dock would serve and the dock's comparatively small moorage capacity, it is more strategic to invest capital in the Barge Mooring Facility which will pay off more quickly through increased harbor mooring revenues. The Barge Mooring Facility will allow 150' class landing craft that currently overwinter on System 5 to move to the Barge Mooring Facility, freeing up System 5 for other vessels (tenders, etc.) that are turned away due to lack of space--potentially doubling harbor moorage revenues. Additional demand for barge mooring is reported for barges from Western Alaska. Historically, in Homer, when harbor space is added or freed up, it fills up with new customers.

The barge mooring facility would also support (as well as serve as a draw to) the large vessel repair facility proposed as an upland improvement to the area directly above the Barge Mooring Facility.

P&H asks to wrap the Sheet Pile Loading Dock project up at the 35% design phase and redirect remaining project money to finish Phase 1 of the Barge Mooring Facility at the Pier One Theatre beach.



Sheet Pile Bulkhead Location





## 4. Fire Department Fleet Management

FY17 CIP DRAFT

**Project Description & Benefit:** The Homer Volunteer Fire Department is in need of a number of vehicle upgrades to be able to safely and efficiently protect the lives and property of Homer residents.

**Quint (Ladder Truck):** Adding an aerial truck to HVFD’s fleet will greatly enhance the City of Homer’s firefighting capability. Over time, as Homer’s population has grown, so has the size and complexity of its buildings. West Homer Elementary School, the Islands and Ocean Visitor Center, Kevin Bell Ice Arena, and South Peninsula Hospital Expansion are examples of large footprint, two story plus buildings where fighting fire from the ground or from ground ladders (the tallest of HVFD’s is only 35’) is no longer safe or practical. These locations require the use of elevated hose streams to fight fire effectively. Currently, HVFD is only able to provide elevated hose streams from ground ladders, which severely limits the application of water and endangers the lives of firefighters. Aerial apparatus allow for application of water to the interior of a building without placing firefighters in immediate danger. They also allow for the rescue of people trapped in upper stories or on rooftops by fire or other incidents that impede the use of interior stairways. In addition to increasing firefighting capability to protect large public buildings, an aerial truck will potentially lower insurance rates for the community.

**Brush/Wildland Firefighting Truck:** The Department’s existing brush truck is a Ford F-350 that was converted to a brush unit in-house in 1990 by adding a manufactured tank, portable pump and a home-built tool storage compartment. The existing truck is severely deficient due to age-related wear and lack of capacity to handle the weight of fire fighting equipment. A new Ford F-450/550 4x4 with wildland pump unit, tank, and tool compartments will provide critical and reliable service. In addition to fighting wildfires, the truck provides fire protection to areas inaccessible with traditional large fire apparatus due to poor road conditions during winter and break-up.

**Harbor Fire Cart Replacement:** Fire Cart Replacement: The Homer Port & Harbor is outfitted with seven motorized fire carts uniquely capable of responding to vessel fires located on the harbor’s float system. These full-response fire apparatus are custom-made mini mobile fire engines capable of delivering AFFF foam to two attack lines at the same time. Because of Alaska’s special conditions (harsh weather, extreme tides and the size of vessels) there are no pre-made, off-the-shelf fire apparatus that fully meets Homer’s Port & Harbor response needs. On multiple occasions they have saved vessels and prevented the costly spread of fire in the small boat harbor. Unfortunately, the fire carts are over 20 years old. Many are failing due to the harsh marine environment and age, despite regular monthly and annual maintenance. This project would purchase the components necessary to refurbish and upgrade the seven fire carts, extending their functional life another twenty years.

**Plans and Progress:** Port & Harbor maintenance personnel constructed a prototype for a refurbished model two years ago. It passed operational tests conducted by the Homer Volunteer Fire Department and is currently in use at the Port & Harbor. Port and Harbor maintenance personnel will refurbish seven motorized fire cart apparatus utilizing both newly acquired components and old components that can be salvaged from the existing fire carts.

- Total Project Cost:** \$1,355,000
- Quint Ladder Truck: \$1,000,000
- Brush/Wildland Firefighting Truck: \$150,000
- Harbor Fire Cart Replacement: \$205,000

**State Request FY2017: \$1,219,500**  
(City of Homer 10% Match: \$135,500)



A ladder truck like the one shown here will increase firefighting capability, firefighter safety and potentially reduce insurance rates for homeowners.





## 5. Storm Water Master Plan

---

FY17 CIP DRAFT

**Project Description & Benefit:** The City of Homer has an outdated storm water master plan. The current plan was prepared in the 1980's, projecting only basin runoff flows. The existing storm drainage system is expanding and a comprehensive storm water plan is needed to more effectively plan and construct storm water infrastructure, including sedimentation/detention facilities, snow storage and water quality improvements.

A new master plan will outline how the City can:

- Identify current and future storm runoff flows from individual drainage basins within the community.
- Identify infrastructure needed to effectively collect, transmit, treat, and discharge surface water runoff to Kachemak Bay.
- Provide a staged approach to constructing needed infrastructure to serve an expanding/developing community
- Establish pipe sizing, detention basin volumes, and cost estimates.
- Mitigate storm water runoff through the use of a wide variety of gray and green infrastructure practices and technologies that improve the quality and reduce the quantity of runoff discharging directly to receiving waters.
- Develop public education programs targeting specific stream degradation from storm water runoff.
- Provide storm water management systems and practices including collection, storage, conveyance and treatment structures that are components of a comprehensive plan to preserve or restore natural/stable in-stream hydrology.
- Identify projects that incorporate green infrastructure to manage, treat or reduce storm water discharges and urban non-point source runoff to the critical wildlife habitat of Kachemak Bay.

**Total Project Cost:** \$340,000

**State Request FY2017: \$306,000**

(City of Homer 10% Match: \$34,000)



A master plan is needed to address storm water management issues.





## Mid-Range Projects

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### Part 2: Mid-Range Projects

- **Local Roads .....9**
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## Local Roads

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- **East to West Transportation Corridor .....10**
- **Heath Street - Pioneer to Anderson .....11**
- **Land Acquisition for New Roads .....12**

**FY 2017 - DRAFT Document**





# East to West Transportation Corridor

Updated to show Waddell Way portion completed.

FY 2017 - DRAFT Document

**Project Description & Benefit:** Currently the only way for drivers to get through town is via Pioneer Avenue or the Sterling Highway. Extending Bartlett Street, acquiring and upgrading Waddell Way and putting a road through Town Center provides an alternate east - west route for traffic, easing congestion and allowing drivers to more quickly and efficiently get to their desired destination. This project fulfills a major objective of the City of Homer's 2005 Transportation Plan.

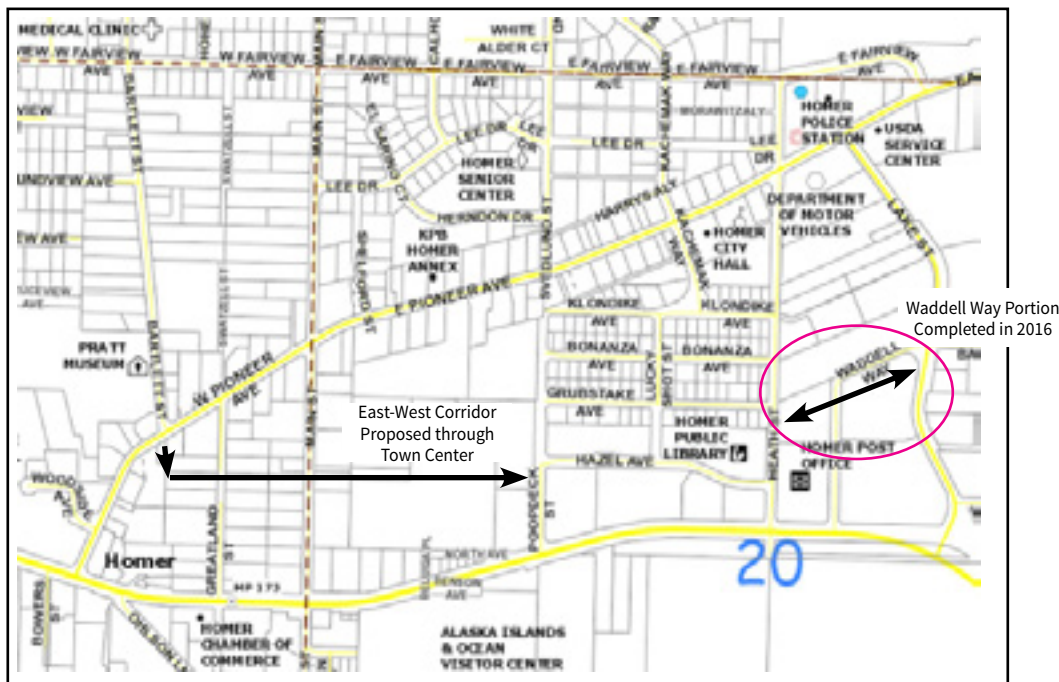
Building a road through Town Center, 30 acres of undeveloped land in the heart of Homer is the first step in opening up this prime real estate. The Homer Comprehensive Plan, Town Center Development Plan and Comprehensive Economic Development Strategy all call for careful development of Town Center. The roads will be built to urban road standards and include such amenities as sidewalks, storm drains, and street lighting. Development on newly opened lots will help grow Homer's downtown business sector.

**Plans & Progress:** The City has purchased a lot for the Bartlett Street extension. The first leg of the east to west transportation corridor, Waddell Way, was completed in 2016. The City dedicates a percentage of sales tax to the Homer Area Roads and Trails (HART) fund for road improvement projects and has pledged over \$2.1 million from the fund as a match for this project.

**Total Project Cost:** \$7,659,000  
2018 (Land Acquisition): \$1,250,000  
2019 (Design): \$543,000  
2020 (Construction): \$5,866,000  
2017 (Inspection & Contingency): \$1,086,000

**State Request FY2019: \$5,312,500**  
(City of Homer 25% Match: \$2,346,400)

**Priority Level:** 1



Map showing proposed extension of Bartlett Street and proposed east-west street through Town Center.



## Heath Street Extension: Pioneer to Anderson

FY 2017 - DRAFT Document

**Project Description & Benefit:** This project provides for the design and construction of a road connection from East End Road to Anderson Street. The project will address concerns raised by Alaska Department of Transportation and Public Facilities (ADOT&PF) regarding the Heath Street/Pioneer and Lake Street/Pioneer intersections and will provide access from East End Road past Homer High School to a developing residential area north of the high school. The City of Homer will work with ADOT&PF engineers to determine the best route (extension of Heath Street vs. extension of Lake Street) to provide safer and more effective circulation, improve emergency access to and from the high school, provide for pedestrian access from the high school to a hillside trail system, and reduce congestion at existing intersections.

**Plans & Progress:** The improvement is recommended in the 2005 Homer Area Transportation Plan and would implement recommendations of the 2005 Homer Intersections Planning Study (ADOT&PF). The City of Homer has committed to funding 50% of the project with Homer Area Roads and Trails (HART) funds.

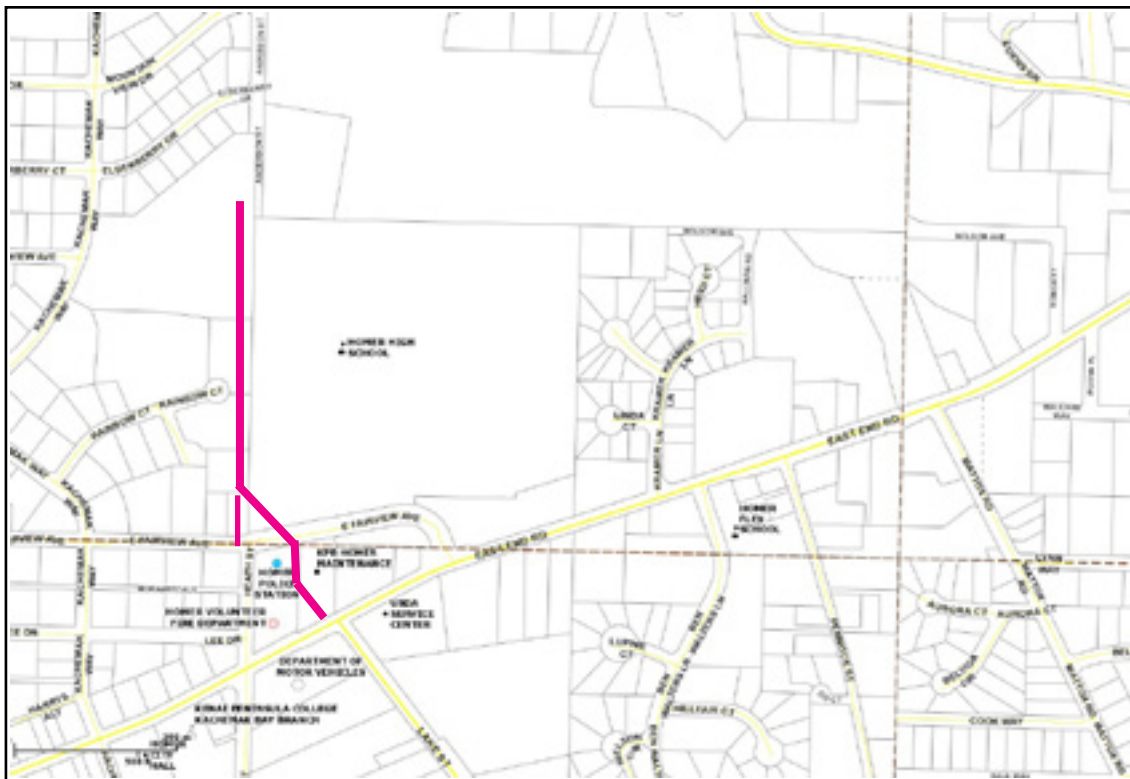
**Total Project Cost:** \$4,500,000

**Schedule:**

2018 (Design): \$500,000

2020 (Construction): \$4,000,000

**Priority Level:** 3



Connecting East End Road to Anderson Street improves emergency access to and from the high school and reduces congestion at existing intersections.



## Land Acquisition for New Roads

FY 2017 - DRAFT Document

**Project Description & Benefit:** This project will help meet current and future transportation needs by acquiring specific land parcels and rights of way to extend three local roads. It will improve traffic flow in Homer by providing alternate connections between different sectors of town.

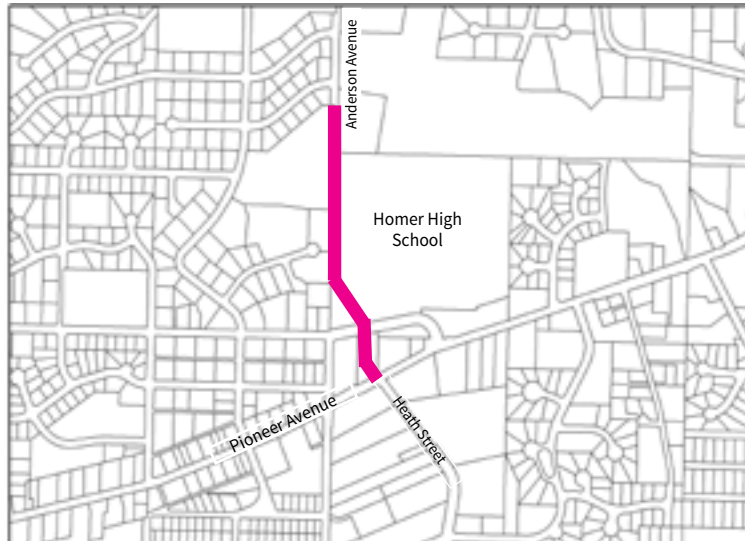
- **Lake/Heath Street to Anderson Avenue**
- **Poopdeck Street extension north to Pioneer Avenue**
- **Early Spring Street extension north to East End Road**

**Plans & Progress:** All three road projects are recommended in the 2005 Homer Area Transportation Plan.

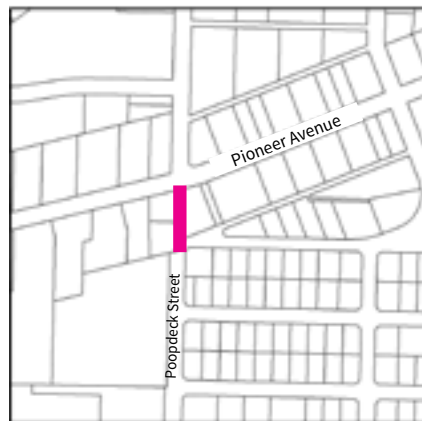
**Total Project Cost:** \$2,200,000

**Schedule:** 2017-2019

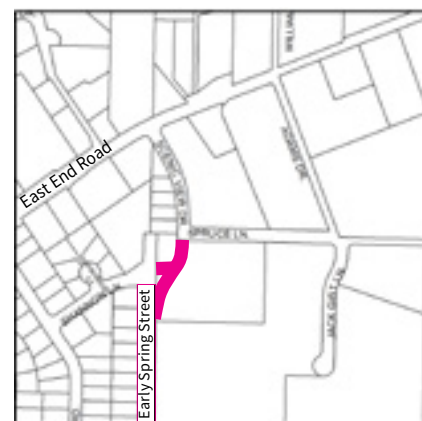
**Priority Level:** 1



Heath Street to Anderson Avenue.



Poopdeck Street to Pioneer Avenue.



Early Spring Street to East End Road.





## **Parks and Recreation**

Updated. Removed Rogers Loop Trailhead Land Acquisition.  
Listed in this P&R Table of Contents last year, but no project  
description included.

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- **Multi-Use Community Center .....14**
- **Ben Walters Park Improvements, Phase 2 .....15**
- **Jack Gist Park Improvements, Phase 2 .....16**
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**FY 2017 - DRAFT Document**





## Multi- Use Community Center

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**Project Description & Benefit:** This project would be the first phase in designing and constructing a Multi-Use Community Center to adequately serve the social, recreation, cultural, and educational needs of the Homer community. Years of growing numbers of requests to Parks and Recreation for access to indoor facilities highlights the need for this project. The 2015 City of Homer Parks, Art, Recreation and Culture (PARC) Needs Assessment validated this perceived need. Incorporating an extensive public input process, the PARC Needs Assessment reflects the community's high priority on community access to public recreational and educational spaces and identifies a community center as a significant future investment for the community.

The community center is currently broadly envisioned as a comprehensive multi-generational facility that offers something for people of all ages. Public input identified a general-purpose gymnasium and a multi-purpose space for safe walking/running, dance, martial arts, performing arts, community events and dedicated space for youth as priority features. In addition to social, health and quality of life benefits, a multi-use center provides considerable opportunity for positive economic impact to the community. Direct impacts include new revenues from admission and rental fees generated by hosting regional or statewide conferences, weddings and/or other private rentals. Participants and spectators visiting Homer for these events will also indirectly benefit the community through their use of restaurants, retail shops, lodging, transportation and other hospitality industry services. This facility would draw additional year round programs and events to Homer, contribute to the local economy by attracting additional visitors and businesses, and would be an incentive for families to relocate to Homer.

The PARC Needs Assessment included a statistically valid survey question asking the community's interest for constructing and funding an \$18 million facility. 30% of respondents agreed with the statement that this facility is a priority in the next five years; an additional 27% placed it as a priority in the next five to ten years. The success of this project requires sound capital and ongoing operations funding.

**Plans & Progress:** The first step is to complete a reconnaissance or a preliminary research of the size and type of facility, develop conceptual floor plans and site plans, estimate total construction cost and ongoing operational funding mechanisms.

**Total Project Cost:** \$500,000

**Priority Level:** 2

**Schedule:** 2018



The City of Unalaska's Community Center is the hub of community activities. Centrally located, the Community Center is widely used by both residents and visitors. It has everything from a cardio and weight room to music and art areas.





## Ben Walters Park Improvements, Phase 2

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FY 2017 - DRAFT Document

**Project Description & Benefit:** Ben Walters Park comprises 2.5 acres on the shore of Beluga Lake, near the intersection of Lake Street and the Sterling Highway. With its central location, proximity to McDonalds restaurant, and access to the lake for winter and summer recreation, it is one of Homer’s most frequently visited parks. Phase 2 will enlarge the parking area and renovate the picnic shelter that has become worn with heavy use over the years.

**Plans & Progress:** Phase 1 of the park improvement project, replacing the dock, was completed in 2009. Since then the Kachemak Bay Rotary Club has adopted the park under the City of Homer’s Adopt-a-Park Program. They have made improvements such as painting the restrooms, installing a bench, resetting the posts and tending flower beds in the summer months.

**Total Project Cost:** \$250,000

**Schedule:** 2017

**Priority Level:** 2



Improvements are needed at Ben Walters Park including enlarging the parking lot and renovating the shelter.





## Jack Gist Park Improvements, Phase 2

FY 2017 - DRAFT Document

**Project Description & Benefit:** Jack Gist Park has been in development since 1998 on 12.4 acres of land donated to the City of Homer by a private landowner. As originally envisioned by the Jack Gist Recreational Park Association, this parcel has been developed primarily for softball fields. It also features a disc golf course.

The proposed project will complete Phase 2 by improving drainage around the upper ball field, constructing a concession stand/equipment storage building adjacent to the softball fields, and developing an irrigation system utilizing a stream on the property in conjunction with a cistern. Phase 3 will provide potable water (water main extension), construct a plumbed restroom, and acquire land for soccer fields.

**Plans & Progress:** Phase 1 of this project was completed in 2011 after a five year period of incremental improvements. In 2005-2006, a road was constructed to Jack Gist Park from East End Road, a 70-space gravel parking area was created, and three softball fields were constructed including fencing, dugouts, and backstops. In 2008, bleachers were installed at all three softball fields. In 2009, three infields were resurfaced. In 2010, with volunteer help, topsoil was spread and seeded on two of the three fields and the parking area was improved and expanded. 2011 saw improvements to the third ball field: drainage improvements on the outside perimeter (right and left field lines), imported material to improve the infield and topsoil and seeding to improve the outfield.

**Total Project Cost:** \$160,000

**Drainage:** \$50,000

**Concession Stand and Equipment Storage:** \$75,000

**Irrigation System:** \$35,000

**Schedule:** 2015

**Priority Level:** 2



One of the new softball fields at Jack Gist Park



## Karen Hornaday Park Improvements, Phase 2

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**Project Description & Benefit:** Homer’s popular Karen Hornaday Park encompasses baseball fields, a day use/ picnic area, a playground, a campground, and a creek on almost 40 acres. It is also used to host community events such as the Highland Games and KBBI’s Concert on the Lawn. The Karen Hornaday Park Master Plan, updated and approved in 2009, sets forth goals and objectives to be accomplished over a 10-year period.

Phase 2 consists of parking lot improvements, moving the road, a trail along Woodard Creek, and a restroom. The road to access the park runs between the park and the parking lot, causing kids to have to cross in front of traffic to get to the park’s attractions. The master plan proposes moving the road to the east and placing the improved gravel parking lots in between the road and the park. Woodard creek is one of the jewels of Karen Hornaday Park but gets little attention because there is no convenient way to access it. A trail along the creek would allow people to enjoy the city’s only creek. One of the most common complaints of the park is the old restroom with crumbling cement and a leaking roof. A new restroom is in great demand from the parents, children and picnickers that frequent the park.

**Plans & Progress:** The Alaska Legislature appropriated \$250,000 for park improvements in FY 2011. This money together with City funds and fundraising by HoPP, an independent group organized to make playground improvements, helped complete Phase 1 (drainage improvements, ballfield improvements, new playground, new day use area and northern parking lot improvements). The City received a Land and Water Conservation Fund (LWCF) grant for campground improvements and the development of a new day use area between the two ball fields which was completed in 2014. The City spent \$25,000 on preliminary engineering for moving the road, one of the goals of Phase 2.



Karen Hornaday Park was a construction site for one week during the Summer of 2012 when the community came together to build a state of the art playground.

FY 2017 - DRAFT Document



## Mariner Park Restroom

**Staff recommendation per Julie & Carey: remove project from CIP  
Too costly in wetlands; not feasible as currently conceived.**

FY 2017 - DRAFT Document

**Project Description & Benefit:** As one of Homer's most popular recreation areas, Mariner Park attracts campers, beach walkers, kiteflyers, Spit Trail users, birders, people with dogs, and others who come to enjoy the views and open-air recreation opportunities. This project will accomplish the most pressing need at Mariner Park: the construction of a plumbed restroom to better meet the needs of campers and beach walkers during the busy summer months.

**Plans & Progress:** Mariner Park is in a flood plain and any structure built there will require unique design to address flooding issues.

**Total Project Cost:** \$330,000

**Schedule:** 2016

**Priority Level:** 2



The portable restrooms at Mariner Park campground get heavy use during the summer season.



## Baycrest Overlook Gateway Project

FY 2017 - DRAFT Document

**Project Description & Benefit:** When you drive to Homer on the Sterling Highway, it is hard to resist pulling over at the Baycrest Hill Overlook, even if you have been there before. The overlook (constructed in the 1990’s by visionaries at Alaska Department of Transportation and Public Facilities during a Sterling Highway reconstruction) has become the primary entrance to Homer. The first experience of that Baycrest view is cited by many residents as the primary reason for deciding to settle in Homer.

Baycrest Overlook is one of the major sites in Homer’s Gateway Project, which entails enhancing visitor and resident experiences at the entrances to Homer. The other gateways are the Homer Airport and the Homer Port. Goals for improving the overlook gateway include welcoming residents and visitors in a comfortable setting without detracting from the view, instilling stewardship and inspiring visitors to learn about the diversity of Kachemak Bay and other potential experiences awaiting those just arriving in Homer or returning home.

Gateway improvements include overlook parking lot paving, landscaping, benches and picnic tables to enhance the visitor experience and comfort. Updated interpretive signage will tell the story of Homer and the surrounding communities and highlight the phenomenal natural resources of Kachemak Bay. Improvements to the overlook will welcome everyone, orient visitors to the natural landscape and community and help encourage commerce. Benches and picnic tables allow travelers a comfortable place to linger, rest and enjoy the spectacular setting.

**Plans & Progress:** The first Gateway Project began in 2009 when a collaborative effort (involving the City of Homer, Alaska State Parks, National Park Service, Kachemak Research Reserve and U.S. Fish and Wildlife Service) created a beautiful diorama in Homer’s airport terminal highlighting the wealth of public and private lands available to everyone who comes to Kachemak Bay.

This group plus the Alaska Department of Fish and Game, Alaska Department of Transportation, Pratt Museum, Homer Chamber of Commerce, Kachemak Bay Conservation Society and Homer Garden Club are working on the Baycrest Overlook Gateway Project. The State and the City of Homer spent \$6,000 in 2013 to produce the Baycrest Overlook Interpretive Plan. The Plan included public comment meetings, design, development and locations for welcome and interpretive signage; it was officially adopted by Homer City Council in 2013. In 2016, Homer’s Chamber of Commerce will be placing a welcome informational kiosk featuring brochures of Chamber-member businesses.

The project will consist of three phases:

Interpretive signage, benches and picnic areas

Enhanced landscaping

New restrooms and paving upgrades.

**Total Project Cost:** \$262,000

2013 (Preliminary Design): \$6,000

2017 (Construction): \$256,000

Signage/Benches: \$50,000

Landscaping: \$25,000;

Restrooms and Paving: \$181,000

**Priority Level:** 3



Baycrest Overlook is very often the first stop and introduction to Homer for many visitors. Interpretive signs need revamping to address the local area. The most prominent interpretive feature informs visitors about an obscure historic gold exploration expedition gone wrong on the Kenai Peninsula.





## Bayview Park Restoration

FY 2017 - DRAFT Document

**Project Description & Benefit:** Bayview Park is a small, relatively quiet fenced neighborhood park at the top of Main Street. The goal of this project is to improve the accessibility and safety of the Park and its playground elements with a focus on making the park more user-friendly to young children (infant-toddler-preschool age) and for children and parents/caregivers with disabilities or mobility issues.

Over the last five years, thanks to a dedicated group of volunteers comprising the Playspaces Work Group of Homer’s Early Childhood Coalition, some improvements (adding additional play features such as an embankment slide, log steps, an alder fort and boulders) have been started at the park. Homer’s Early Childhood Coalition continues to adopt this little park and works to complete elements included in the Park’s Master Plan. In 2014, they completed an ADA accessible pathway and made temporary repairs to the perimeter fence. They are currently working to replace the fence, add new play equipment and extend accessible pathway to all play features.

- **Summer 2017:** Replace existing white picket fence with a wood frame-chain link fence to improve the stability and durability of the fence (current fence is in constant need of repair). Parents and caregivers appreciate having a fence as it provides a level of safety for young children around the busy roads and ditches surrounding the park.
- **Summer 2018-19:** Upgrade ground cover to playground standards, replace jungle gym, add additional swing port, and extend ADA trail to new elements as needed. The goal is to provide new playground elements that are designed for younger/toddler age and to have some accessible for children with disabilities.

**Plans & Progress:** In 2011 Homer Early Childhood Coalition raised money and funded a new slide and boulders that were installed by the City of Homer. Several parents built and installed stepping logs and 2 small “bridges”. In 2013 Homer Early Childhood Coalition coordinated with Corvus Design to meet with local families and children for project ideas and create a master plan with cost estimates. \$5,347.76 was raised to pay for design costs and install new play elements. ADA parking and access trail improvements were completed in 2014 utilizing in-kind donations of equipment and labor and additional \$5,118 in fundraising dollars.

Homer Early Childhood Coalition Playspaces Work Group have developed a fundraising plan to raise additional funds through grant writing, community donations and in-kind donations of supplies, equipment, and labor. The group meets regularly to discuss design plans and fundraising.

**Total Project Cost:** \$189,974

**Priority Level:** 2



Though charming, the white picket fence that surrounds Bayview Park is in need of constant repair. A more practical chain length fence is needed to keep young children out of roads and ditches.



## Homer Spit Trailhead Restroom

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**Project Description & Benefit:** The parking lot at the intersection of the Ocean Drive bike path and Homer Spit Trail gets heavy use year round. The Spit trail is a popular spot for biking, running, walking, and roller blading. Parents bring their young children to ride bikes because the trail is relatively flat and has few dangerous intersections. A restroom would be heavily used by recreators and commuters using both trails.

**Total Project Cost:** \$295,000

**Priority Level:** 3



The parking lot at the Spit trail head full of cars on a sunny day.

FY 2017 - DRAFT Document



## Port and Harbor

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**FY 2017 - DRAFT Document**







# Deep Water/Cruise Ship Dock Expansion, Phase 1

Updated plans & progress; updated design graphic.

FY 2017 - DRAFT Document

**Project Description & Benefit:** Upgrades to the Deep Water/Cruise Ship Dock are necessary to provide a facility that can accommodate multiple industry groups and provide the greatest economic benefit to the area. A feasibility study of expanding and strengthening the dock (with later phases including a terminal building and other upland improvements) is nearing completion. Expansion increases the Port & Harbor’s capability to support regional resource development initiatives with moorage and a staging area for freight service to the Lake and Peninsula Borough (via the Williamsport-Pile Bay Road) and to potential future Cook Inlet region resource development projects. There is current demand for modifications to the existing dock to accommodate long-term moorage of large resource development vessels such as timber, mining and oil and gas barges, and as designed, the dock will be able to handle icebreakers, of particular importance given Alaska’s strategic arctic location.

The facility will boost cargo capability. The City has a 30-acre industrial site at the base of the dock which can support freight transfer operations and serve as a staging area for shipping to and from the Alaska Peninsula, the Aleutians, and Bristol Bay. Handling containerized freight delivery to the Kenai Peninsula would reduce the cost of delivering materials and supplies to much of the Peninsula. The dock expansion will also enhance cruise ship-based tourism in Homer by providing moorage at the dock for two ships (a cruise ship and a smaller ship) at the same time, reducing scheduling conflicts.

Finally, improvements to the dock will fulfill a contingency planning requirement under Homeland Security provisions. The Port of Anchorage, through which 90% of the cargo for the Alaska Railbelt areas and the Kenai Peninsula passes, is vulnerable. If the Port of Anchorage were to be shut down and/or incapacitated for any reason, Homer’s port would become even more important as an unloading, staging, and trans-shipping port.

**Plans & Progress:** In 2005 the City of Homer spent \$550,000 for cathodic protection of the existing dock and conceptual design of an expanded dock. \$2 million in federal transportation earmark funds were appropriated in FY 2006 to prepare preliminary design and conduct further economic analysis. The Alaska Legislature appropriated an additional \$1 million for FY 2011. The Homer City Council has authorized the sale of \$2 million in bonds to help fund the construction of this project. Currently the City is working with R&M consulting to complete design and feasibility. To date the team completed an extensive conditions survey of the existing infrastructure, bottom condition survey, soils core drilling, and a very detailed tide/current profile for the dock. A nearly completed feasibility study of dock improvement/uplands land use options helped identify the best option for expansion to improve freight and cargo handling capabilities. The team also completed some uplands improvements that benefit cargo movement and storage on land close to the deep water dock: paving outer dock truck bypass road, removing the old wooden fence around the concrete storage yard and replacing it with a chain link fence, stormwater runoff handling, lighting and security cameras.

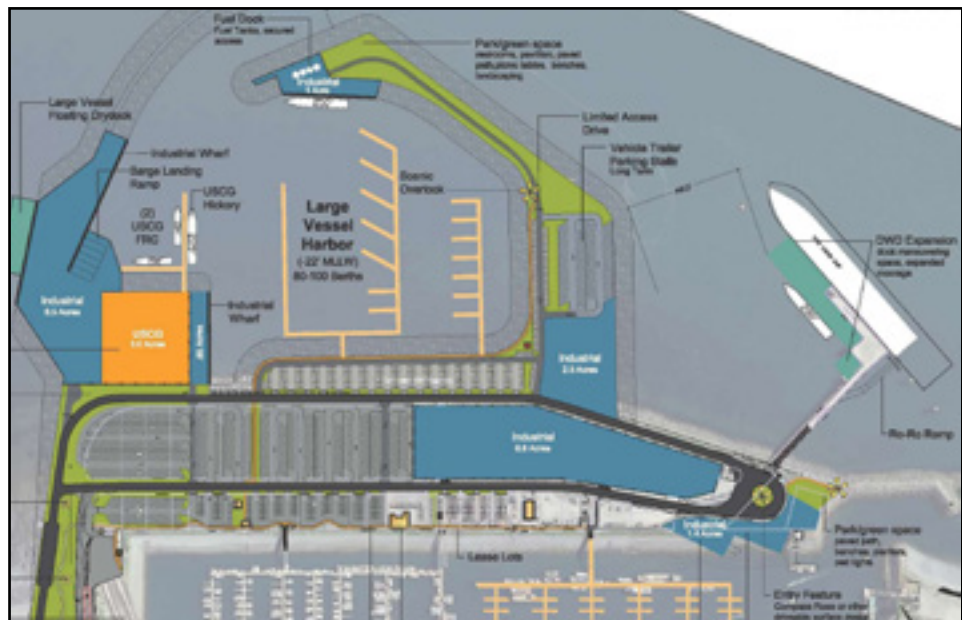
**Total Project Cost:** \$35,000,000

**Feasibility:** \$1,250,000  
(Completed September 2016)

**Design:** \$1,750,000

**Construction:** \$32,000,000

Priority: 1



Deep Water Dock Expansion (white dock on right of diagram) proposed design.



## Barge Mooring Facility, Phase I

FY 2017 - DRAFT Document

**Project Description & Benefit:** Constructing a barge mooring facility will meet the growing freight needs of existing Homer businesses and attract additional large vessel business. The mooring facility, proposed along the beachfront of Lot TR 1A (between the Nick Dudiak Fishing Lagoon and Freight Dock Road on the west side of the harbor) could accommodate up to four, 70' x 250' barges located side-by-side. The barges would be moored in the tidal zone, with the bow end pulled tight to the beach. The barges would typically be moored at high tide with the intent that a portion of the barge would be 'dry' as the tide recedes.

Phase I of the mooring facility will include dead-man anchors along the beach, dolphins (constructed of driven piles) extending out into the water perpendicular to the beach, and mooring points (bouys or dolphins) astern of the barges. The facility would also feature a ramp that would enable barges to be hauled out onto dry ground above the high tide line to facilitate maintenance and minor repairs. The ramp would be set at a slope of 5 degrees. A dead-man anchoring system would be provided to allow the barge operators to winch the barge up and down the ramp. Phase II will install electrical pedestals delivering 440v electrical power to each mooring location.

This proposed improvement will increase the Port & Harbor's moorage capacity by providing secure moorings for vessels that cannot currently be accommodated within the harbor's basin due to lack of space. The Port and Harbor report demand for this mooring facility; creating winter storage supplies a valuable service to our marine industry and creates the opportunity for additional harbor moorage revenue by being able to move landing craft off the harbor's float system. It would also support (as well as serve as a draw) to the large vessel repair facility proposed as an upland improvement to the area directly above the Barge Mooring Facility.

**Plans & Progress:** The Barge Mooring Facility is being developed in two phases. Phase I will include the haul out ramp and barge mooring stations. Phase II will include electrical service pedestals for each station. Phase I Design/Engineering/Permitting/Geotechnical for Phase I is currently underway. Staff are working with Nelson Engineering to complete design work for the facility.

**Total Project Cost:** \$1,958,976

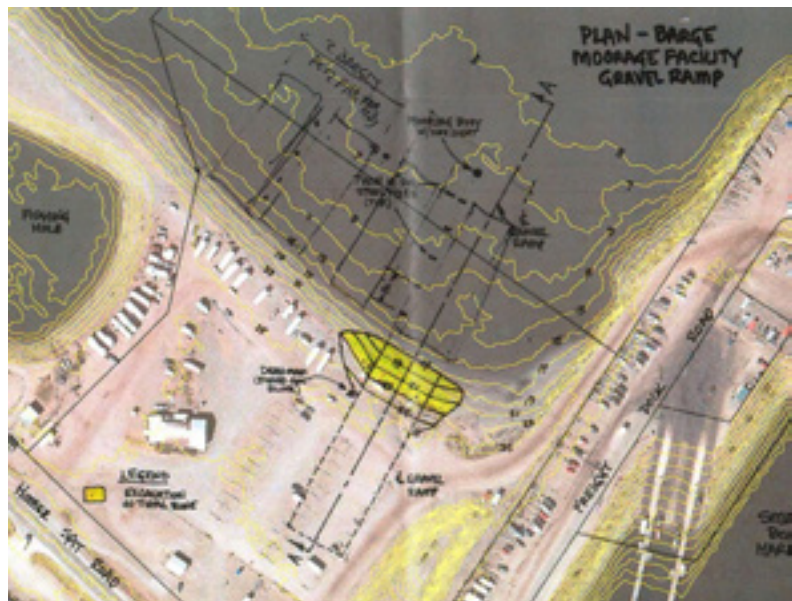
**Schedule:**

**2016-2017:** Phase 1 - Design/Engineering/Permitting/Geotechnical: \$108,976

**2017:** Phase I Construction: \$1,250,000

**2018:** Phase II - Construction: \$600,000

**Priority Level:** 2



Concept design for Barge Mooring Facility



## Homer Spit Dredged Material Beneficial Use Project

**Staff recommendation: per Bryan & Carey remove this project from CIP.**

**Project Description & Benefit:** The Army Corps of Engineers' best management practices for dredging operations on the Homer Spit includes beneficial uses of dredged materials. The Corps will utilize material dredged from the entrance of the Small Boat Harbor and the Pioneer Dock berth to replenish eroded material along the beaches. Beach replenishment points are proposed on the west side of the Spit at Mariner Park and on the east side of the Spit just north of the Fishing Lagoon.

This project proposes further beneficial uses: creating additional parking on the Spit and build up projects of existing properties. Dredged material would be used to create a parking pad between the boardwalks across from Ramp 3 and to improve the Mariner Park parking lot. The additional parking will be a welcome improvement as it is often hard to find parking during peak summer months on the Spit. Armor rock will be installed across from Ramp 3 to protect against erosion.

Dredged material will be placed on the beaches as part of the Army Corps of Engineers' dredging/disposal operations. Hauling costs to Mariner Park will be supplemented by Harbor Funds and the City of Homer will spread, cap and place riprap along the beach where fill is placed near or in the tidal zone. A Corps permit will be needed to accomplish this work.

**Total Project Cost:** \$688,000

**Schedule:**

**2017:** Design and Inspection: \$50,000

**2018:** Spread available material in upland parking pad areas: \$10,000

**2018-2019:** \$628,000

(Compact material: 20,000; Instal riprap: \$350,000; Gravel cap: \$95,000; Paving: \$100,000 Contingency \$63,000)

**Priority Level:** 2

**Using dredged material to expand Spit parking is a stand alone project (p. 30); beach replenishment does not need to be a CIP project.**



The Homer Spit has been shaped over the years by nature as well as human intervention. (2008 NOAA photo)

FY 2017 - DRAFT Document





## Ice Plant Upgrade

**Updated. Moved old compressor replacement to Phase II.**

**Backup refrigeration unit proposed as Phase I upgrade.**

**Project Description & Benefit:** The ice plant at the Fish Dock is a critical component of the overall Port and Harbor enterprise, providing more than 3,500 tons of flake ice each year to preserve the quality of more than 20 million pounds of salmon, halibut, sablefish, and pacific cod landed at the Port of Homer. Having been built in 1983, the ice plant compressors do not operate as efficiently as new state-of-the-art high efficiency refrigeration compressors. The long-term upgrade for the Ice Plant is to replace six of the seven old compressors within the ice plant with new, more highly efficient ones. This would increase the plant's efficiency and reduce operating costs.

Presently, though, the facility's refrigeration components are running smoothly and are not in need of a costly major overhaul. A smaller, more feasible Phase I upgrade consists of adding a refrigeration unit back by the cold storage room so that the Ice Plant can remain operational year round. This would help the fisherman and also keep some revenue coming in during the winter shut down.

**Total Project Cost:** \$5??,000 **Cost will be updated when estimate is in for backup refrigeration unit.**

**Schedule:**

**2017:** Purchase/install new back-up refrigeration unit: \$??,000

**2020:** Purchase new/replace old compressors: \$500,000

**Priority:** 1



Four of the Ice Plant's aging compressors are shown here.

FY 2017 - DRAFT Document



## System 4 Vessel Mooring Float System

**Project Description & Benefit:** System 4 is made up mostly of floats that were relocated from the original harbor construction in 1964. In the 2002 Transfer of Responsibility Agreement (TORA) project, System 4 was completed by moving the old floats into place. Within two years it was filled to maximum capacity. System 4 floats are over 20 years beyond their engineered life expectancy and are showing their age. This project can be done in phases.

**Plans & Progress:** Phase 1 floats HH, JJ, and headwalk float AA between those floats were replaced in fall of 2014. Power and water was extended from ramp 7 to JJ and HH as part of the same project. A new landing float was installed for Ramp 7 in the Spring of 2014. Phase 2 floats CC, DD, EE ,GG will be replaced next.

**Total Project Cost:** \$5,600,000

**Schedule:**

2016 Design: \$600,000

2017-2020 Construction: \$5,000,000

**Priority Level:** 2

JC: revise photos;  
add detail from  
floats CC, DD, EE  
and/or GG.



FY 2017 - DRAFT Document



## Truck Loading Facility Upgrades at Fish Dock

FY 2017 - DRAFT Document

**Project Description & Benefit:** Approximately 22 million pounds of fish are landed at the Homer Fish Dock each year and loaded onto trucks. The resulting truck, fork lift, and human traffic creates considerable congestion as fish buyers jockey for space to set up portable loading ramps. Lack of adequate drainage in the area creates further problems as the vehicles must maneuver in soft and often muddy conditions.

This project will construct a loading dock to facilitate the loading of fish onto trucks. In addition, it will provide for paving of Lot 12-B and other improvements to address the drainage problems that impact the area.

**Total Project Cost:** \$300,000

**Schedule:** 2018

**Priority:** 1



Currently at the Fish Dock, fish buyers have to contend with a muddy lot and lack of a loading dock to facilitate the transfer of fish to trucks.



## Ramp 8 Restroom

**Updated to indicate outhouse has been removed from location .**

**Project Description & Benefit:** Ramp 8 serves System 5, the large vessel mooring system. Previously, restroom facilities for Ramp 8 consisted of an outhouse capable of occupying only two people at a time. This outdated restroom brought many complaints to the Harbormaster's office. Sanitary restroom facilities are expected in modern, competitive harbors along with potable water and adequate shore power. The Ramp 8 outhouse was removed in 2015. A new public restroom in this location is needed to serve the crew members of large vessels when they come to port.

**Plans & Progress:** Design costs for this project would be minimal as the City has standard public restroom plans engineered that can be easily modified for this location.

**Total Project Cost:** \$295,000

**Schedule:** 2017

**Priority Level:** 3



Ramp 8 sees heavy use from crews of large vessels moored in System 5. Since this outhouse was removed in 2015, crews walk 1.5 blocks to use the nearest restroom facility.

FY 2017 - DRAFT Document





## Seafarers Memorial Parking Expansion

FY 2017 - DRAFT Document

**Project Description & Benefit:** This project would use materials from dredging the harbor to build up a parking lot between Seafarers Memorial and the east end of the nearby boardwalk complex. The additional parking will be a welcome improvement as it is often hard to find parking during peak summer months on this section of the Spit. The project has the added benefit of replenishing the beaches on the east side of the Spit and protecting infrastructure from erosion. The material will be placed on the beaches as part of the Army Corps of Engineers' dredging/disposal operations. Funding is needed to supplement hauling costs, compact material, cap with gravel and pave the lot. A Corps permit will be needed to accomplish this work.

**Plans & Progress:** The City has appropriated \$15,000 for the Homer Area Roads and Trails (HART) fund for preliminary engineering design and permitting. 95% of engineering design work was completed in 2015. The dredged materials are scheduled to be placed in the lot in 2017. A phased approach to construction will be used.

**Total Project Cost:** \$635,000

**Schedule:**

**2016:** Design and Permitting at 95% complete: \$8,000

**2017:** Dredged Material Placement by Corps: In kind

**2018:** Install Drainage,riprap protection, paving/stripping and all parking lot delineation: \$627,000

**Priority Level:** 1



This project would fill in, level and pave the grassy area pictured above between the Seafarer's Memorial and the nearby boardwalk.





## Boat House Pavilion and Plaza on the Homer Spit

**Updated. Further updates will be made if design/fundraising changes**

FY 2017 - DRAFT Document

**Project Description & Benefit:** The Homer Spit is one of our community’s greatest treasures. It serves as an economic hub for maritime and retail activities, provides unsurpassed recreational opportunities, contains important habitat for fish and wildlife, and serves as a gateway to countless visitors. Recent improvements to the Spit, including an expanded trail, new docks, public art, and new restrooms, have added tangibly to the quality of life and the visitor experience in Homer. The completion of a new Harbormaster’s Office provided a unique opportunity to build off the excitement and momentum of recent Homer Spit improvements to redevelop the vacant old Harbormaster Office site and surrounding land.

The old Harbormaster’s Office sat near the top of Harbor Ramps 1-3, an area of the Spit that teems with pedestrians, vehicles, retail shops, restaurants, commercial fishing activities, charter boat and tour operations, and constant visitors to the public restrooms. This project will redevelop the site to increase pedestrian safety, calm traffic, improve dilapidated restrooms and add a new resource to the Spit: a public pavilion—called the “Boat House.” The Boat House, a maritime pavilion, would be a community gathering space, destination for visitors, and attractive reference point on the Spit. It would be a resource for boat owners, harbor users, charter boat operations, cruise ship passengers, Spit trail users, and anyone else on the Spit. The Boat House would provide a needed public space to get out of the weather, be a staging area for people and gear, offer a scenic view of the Harbor, and be a striking monument to Homer’s rich maritime traditions and ways of life.

This project aligns with two important goals laid out in the 2011 Spit Comprehensive Plan. Initially, it addresses the need for a gathering space, “attractive shelter,” and “central plaza.” Additionally, the project facilitates the plan’s long term goal of over slope development around the Harbor. An attractive pavilion and plaza will help catalyze development of additional retail facilities on the Spit, particularly through over slope development around the busiest area of the Harbor. By keeping people longer on the Spit, it would boost economic activity. The City of Homer, as owner of Lot 28 has agreed to own, operate and maintain the Boat House Pavilion upon approval of all aspects of the project from design and planning to permitting, site development and construction. Ongoing costs would be kept at a minimum through careful design, highly durable building materials, and low maintenance landscaping.

**Plans & Progress:** This project will be carried out in phases. Phase I involves design, fundraising, Boat House Pavilion and pedestrian plaza construction. Phase II is landscaping and remodel of existing restrooms. Phase III is overslope development. A volunteer Boat House Committee comprised of a maritime business owner, former co-coordinators of the Homer Playground Project (HoPP), and others have spearheaded design, public outreach and fundraising. To date the Boat House Committee has produced preliminary site and building designs (through pro bono services provided by architectural and design firms Corvus and ECI respectively), secured \$135,000 in cash donations, \$67,00 in-kind donations for Phase I and a fiscal agent, the Homer Foundation. The City of Homer has requested \$25,000 in construction funds from the Rasmuson Foundation through its Tier 1 grant program.

**Project Cost:** \$277,000

**Priority Level:** 2

**Schedule:** Phase I: 2016-17



Preliminary design proposal for The Boat House Pavilion. Situated on the northwest corner of the parking lot between Ramp 2 and the Salty Dawg on the Spit, the Pavilion features a 20’ x 45’ Boat House, a covered, maritime-themed public gathering space.





## Public Safety

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- **South Peninsula Fire Arms Training Facility.....33**

**FY 2017 - DRAFT Document**





## South Peninsula Fire Arms Training Facility

Staff recommends removing this project, per Chief Robl, Carey.

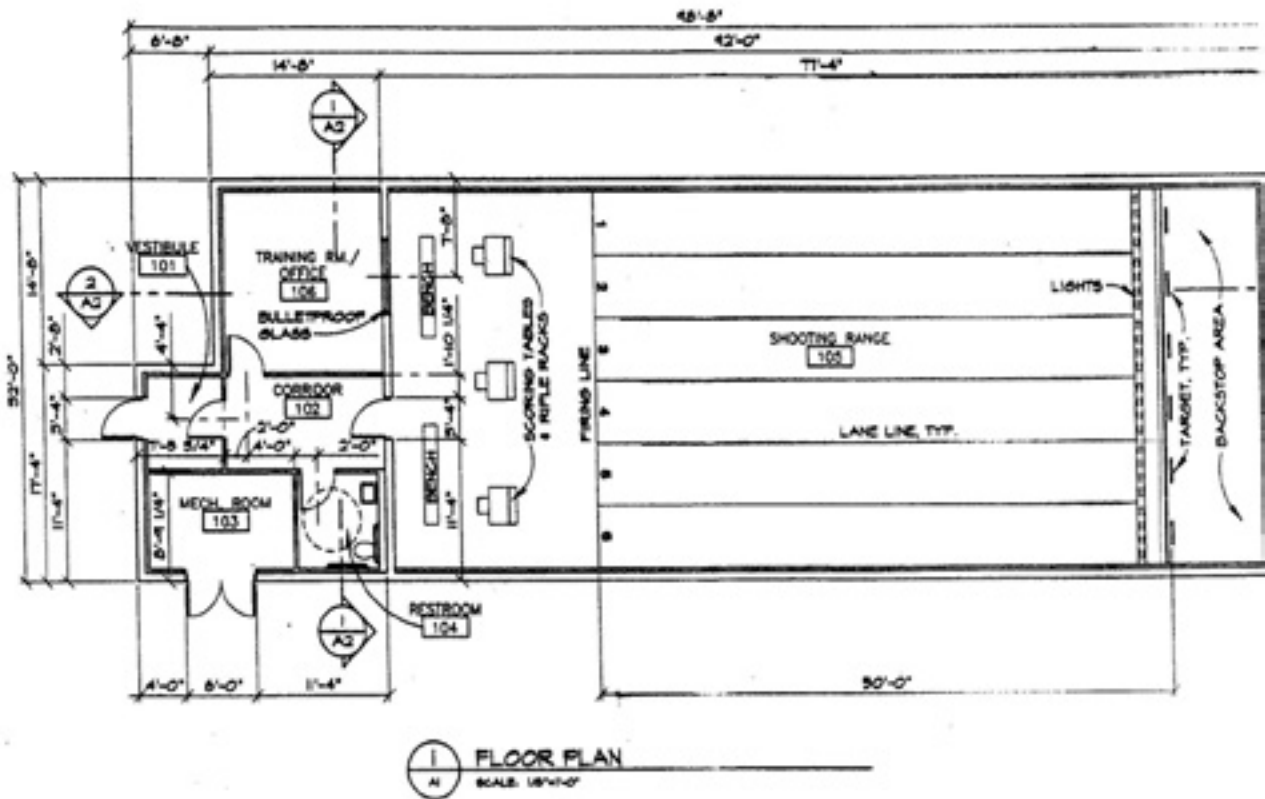
**Project Description & Benefit:** This project will construct a multi-agency training facility for law enforcement on the lower Kenai Peninsula. Beneficiaries will include the Homer Police Department, local units of the Alaska State Troopers, Alaska State Parks, and various federal law enforcement agencies. Properly managed, the facility could also be used by local gun clubs and sporting groups. The facility, which will include a modern indoor shooting range, will provide a proper and safe environment for firearms training. It will enable local law enforcement personnel to conduct training at any time of day, year-round, regardless of weather.

**Total Project Cost:** \$1,500,000

**Schedule:** 2017

**Priority Level:** 2

Firearms training facility is incorporated into new Public Safety building design.



FY 2017 - DRAFT Document





## Public Works Projects

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- **Water Storage/Distribution Improvements .....35**

**FY 2017 - DRAFT Document**







## Water Storage/Distribution Improvements, Phase 2

Updated to indicate completion of Phase 1.

**Project Description & Benefit:** This project will design and construct improvements that will increase water storage capabilities, improve water system distribution, drinking water quality/public health, and treatment plant and water transmission effectiveness. Improvements are designed to be completed in multiple phases as community need dictates.

- **Phase 1:** Installation of 4,500 linear feet of water main extension on Kachemak Drive and 2,600 linear feet of distribution main across Shellfish Avenue, connecting isolated sections of town with a new pressure reducing vault (PRV) was funded and will be completed in 2016.
- **Phase 2:** Installation of an underground water storage tank and 2,000 linear feet of water main between the new tank and the water system.
- **Phase 3:** Replacement of 3 PRVs on the East Trunk and installation of micro turbines generating power to the grid, abandonment of an existing functionally obsolete steel water tank and replacement of adjacent PRV station, and slip-lining of old cast iron water main on the Homer Spit.

**Plans & Progress:** The need for this project has been documented in the Homer Water & Sewer Master Plan (2006). The design has been completed through a \$884,000 Special Appropriation Project grant the City received from the Environmental Protection Agency. The Department of Environmental Conservation recommended funding phase 1 through the Municipal Matching Grant program which is reflected in The States FY16 capital budget approved by the Governor.

**Total Project Cost:** \$9,828,934

2014 (Design, Completed): \$900,000

2016 Phase 1 Construction (Funded, Completed): \$2,828,934

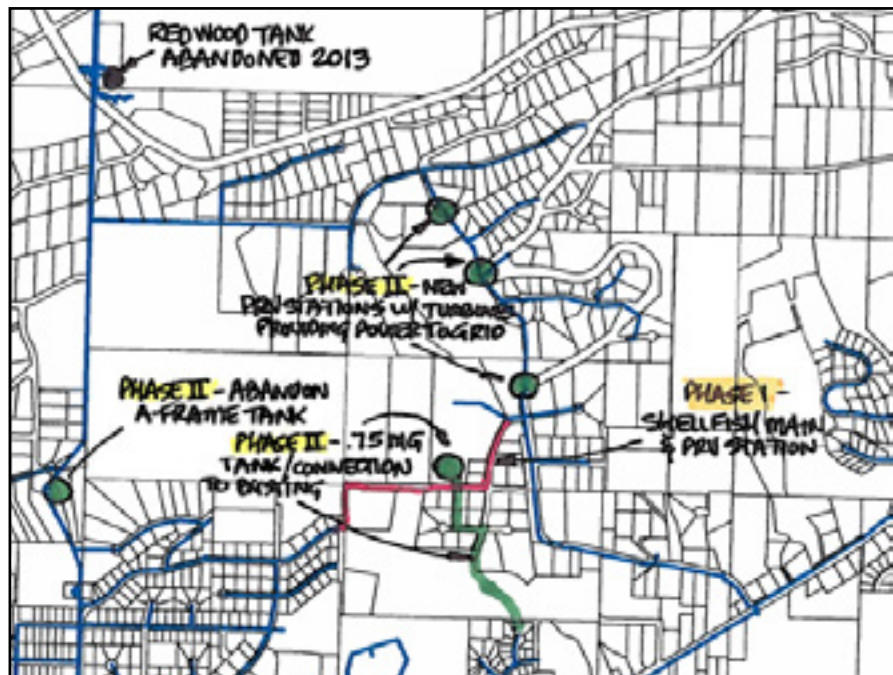
2019 Phase 2 Construction: \$3,900,000

2020 Phase 3 Construction: \$2,200,000

**FY2016 State Request for Phase 1: \$1,980,254**

(City of Homer 30% Match: \$848,680)

**Priority Level: 1**



Phase 1, Shellfish Subdivision Main and PRV Station (indicated by red line) was completed in 2016. Phase 2 (green line) consists of installing an underground water storage tank and 2,000 linear feet of water main to increase water storage and distribution capabilities.

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## State Projects

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The City of Homer supports the following state projects which, if completed, will bring significant benefits to Homer residents.

### Transportation projects within City limits:

- **Homer Intersection Improvements.....37**
- **Kachemak Drive Rehabilitation/Pathway.....38**
- **Main Street Reconstruction/Intersection .....39**

### Transportation projects outside City limits:

- ***Sterling Highway Realignment MP 150-157***  
AK DOT&PF completed erosion control project MP 150-157. Moved to completed projects list.
- **Sterling Highway Reconstruction,  
Anchor Point to Baycrest Hill .....40**

### Non-transportation projects:

- **Alaska Maritime Academy.....41**

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## Homer Intersection Improvements

Updated to indicate completion of Pioneer Ave/Main Street 4-way stop.

**Project Description & Benefit:** This project implements recommendations of the 2005 Homer Intersections Planning Study commissioned by the Alaska Department of Transportation and Public Facilities. The study analyzed the needs of twelve intersections according to traffic forecasts, intersection safety records, pedestrian concerns and intersection options. The benefit of the improvements will be to enhance traffic safety and quality of driving and pedestrian experiences for residents and visitors, particularly as the community continues to grow.

The study noted that for intersections identified as needing control measures, either roundabouts or traffic signals will function well; however, the Alaska Department of Transportation and Public Facilities supports the development of modern roundabouts at these locations “because of the good operational performance of roundabouts, superior safety performance, and reduced maintenance.”

Problem intersections and recommended improvements are as follows:

Sterling Highway and Pioneer Ave. - Roundabout or traffic signal;

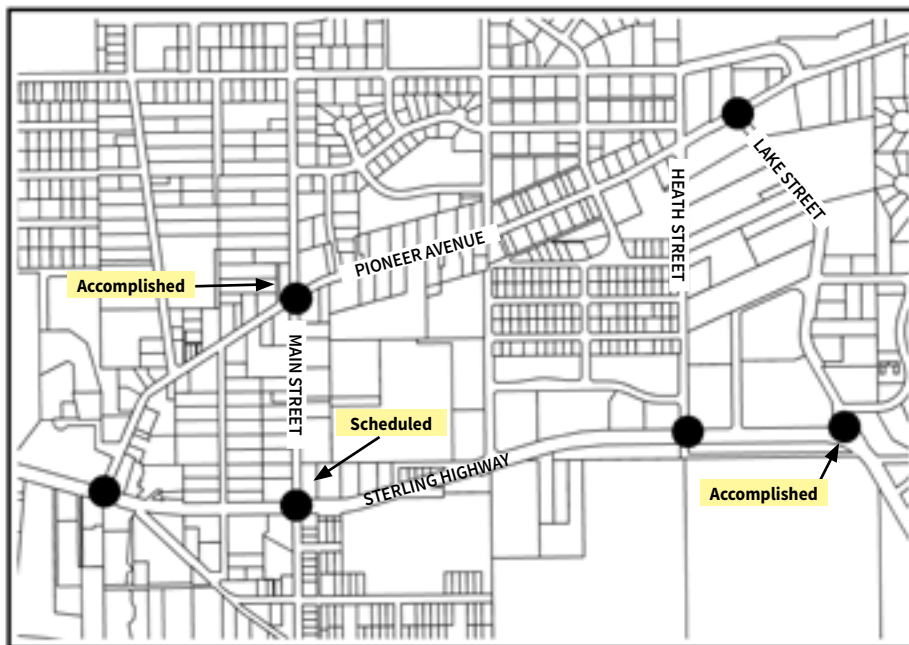
Sterling Highway and Main Street - Roundabout or traffic signal;

Sterling Highway and Heath Street - Roundabout or traffic signal;

Pioneer Avenue and Main Street - Roundabout or traffic signal;

Pioneer Ave. and Lake Street/East End Road - Roundabout or traffic signal.

**Plans & Progress:** State of Alaska DOT/PF obtained \$2.8 million to make safety improvements to Main Street Intersections. Traffic control at the Pioneer Avenue and Main Street intersection was accomplished in 2016 by installing a four-way stop and flashing overhead beacon. State of Alaska DOT/PF will be moving forward in 2017 to complete improvements at the Main Street intersection by installing a traffic signal at the Main Street and Sterling Highway intersection.



Alaska DOT/PF has recommended roundabouts or traffic signals at six central Homer intersections, to be accomplished as soon as possible. A traffic signal was installed at the Lake Street/Sterling intersection in 2005 and a four way stop at the Main Street/Pioneer Avenue intersection was installed in 2016.

FY 2017 - DRAFT Document



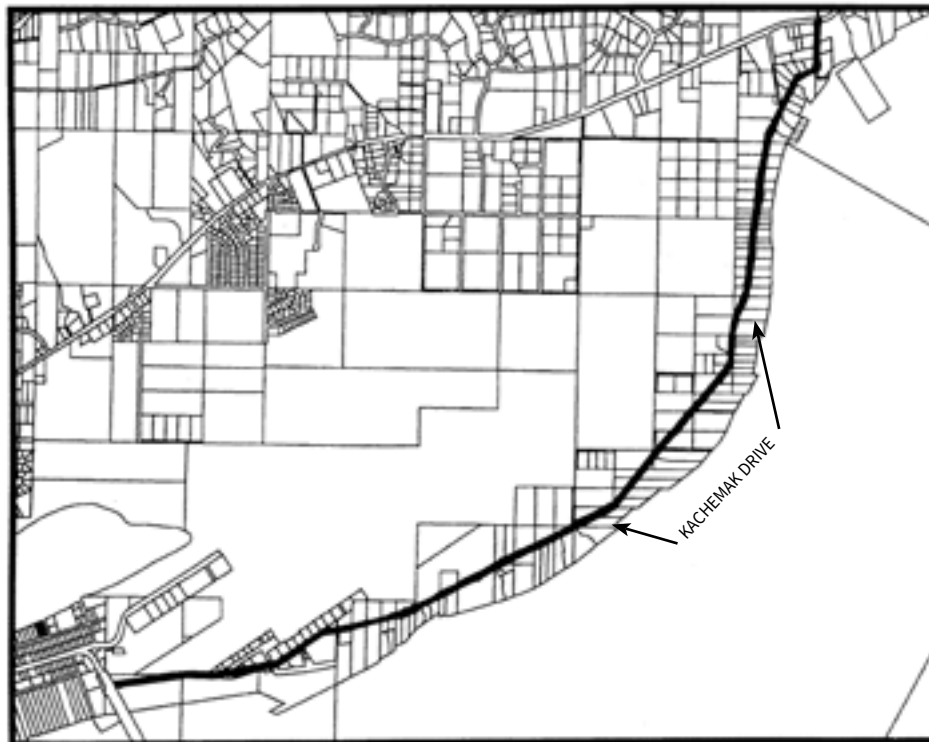
## Kachemak Drive Rehabilitation/Pathway

FY 2017 - DRAFT Document

**Project Description & Benefit:** Kachemak Drive connects Homer Harbor with Homer’s industrial boat yards, serves drivers as a connector from the Homer Spit to East End Road, has a residential community, and serves as an alternate route to the airport. Truck, boat trailer, residential and commuter traffic are often heavy, with an approximate daily traffic of 1,500 vehicles. The road needs rehabilitation including raising the embankment, resurfacing, widening the road, and drainage improvements.

Bicyclists, pedestrians and occasional moms with strollers use Kachemak Drive to connect to the Spit, Ocean Drive, and East End Road bike paths. Kachemak Drive has narrow to non-existent shoulders, forcing cyclists to the left of the fog line. Motorists typically slow down behind bicyclists, wait until there is no oncoming traffic, then pass by crossing the center line. This procedure is dangerous to motorists and cyclists, especially on the hill leading up from the base of the Spit to the airport, where visibility is low. Bicycle traffic has increased in the past couple of years due to the advent of wide-tire winter bicycles and Homer’s increasing popularity as a bicycle friendly town. Construction of a separated pathway along East End Road will increase recreational and commuter bicycle and pedestrian traffic on Kachemak Drive and will improve driver, bicycle, and pedestrian safety. Because of the significant right-of-way acquisition involved, this project will likely take several years to complete.

**Plans & Progress:** The Kachemak Drive Path Committee has worked with the City of Homer Advisory Parks and Recreation Commission and Transportation Advisory Committee to explore potential alternatives. The City performed preliminary engineering in 2012 on a portion of the trail and found significant grade and easement challenges to the project.



Project location for Kachemak Drive pathway.





## Main Street Reconstruction

FY 2017 - DRAFT Document

**Project Description & Benefit:** This project will provide curb and gutter, sidewalks, storm drainage, and paving for Main Street from Pioneer Avenue to Bunnell Street.

Homer’s Main Street is a primary north-south corridor running from Bayview Avenue (near the hospital) to Ohlson Lane (near Bishop’s Beach). In the process, it connects Homer’s primary downtown street, Pioneer Avenue, with the Sterling Highway and provides the most direct access to the Old Town district. It also provides the western border to Homer’s undeveloped Town Center district.

Despite its proximity to the hospital, businesses and residential neighborhoods, Main Street has no sidewalks, making pedestrian travel unpleasant and hazardous. Sidewalks on this busy street will enhance the quality of life for residents and visitors alike and provide economic benefits to local businesses and the community as a whole.

**Plans & Progress:** Main Street is a City street from Pioneer Avenue northward, and a State street from Pioneer Avenue south. The Homer Non-Motorized Transportation and Trail Plan, adopted by the City Council in 2004, calls for construction of sidewalks on both sides of Main Street to provide a safe means for pedestrians to travel between Old Town and Pioneer Avenue, and stresses that this should be regarded as a “near term improvement” to be accomplished in the next two years. The Homer City Council passed Resolution 06-70 in June 2006 requesting that Alaska Department of Transportation and Public Facilities (DOT/PF) “rebuild and upgrade Main Street from Pioneer Avenue to Bunnell Avenue as soon as possible in exchange for the City assuming ultimate ownership, maintenance, and operations responsibility.”

State of Alaska DOT/PF has obtained \$2.8 million to make safety improvements to Main Street Intersections. In 2016, they installed a four-way stop and flashing overhead beacon at the Pioneer and Main Street intersection. They will be moving ahead with the preferred alternative of installing a traffic signal at the Sterling Highway and Main Street intersection (2017). However, much work remains to be done to improve and reconstruct of the entire section of Main Street from Pioneer Avenue to Bunnell Street.



A mother pushes a stroller along Main Street between the Sterling Highway and Bunnell Street, while another pedestrian walks on the other side of the road.



## **Sterling Highway Reconstruction Anchor Point to Baycrest Hill**

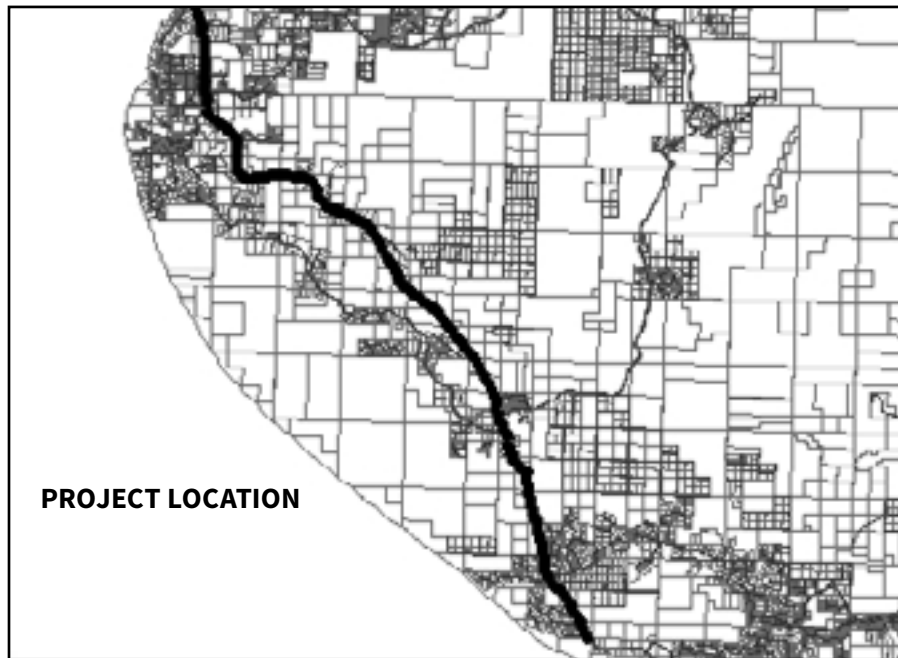
FY 2017 - DRAFT Document

**Project Description & Benefit:** This project will reconstruct 12 miles of the Sterling Highway between Anchor Point (MP 157) and the top of Baycrest Hill in Homer (MP 169) to address severe safety issues resulting from curves, hills and blind spots on the existing road. The project has been identified as a high priority of the Kenai Peninsula Borough.

Many major side road intersections, gravel hauling operations, and school bus stops contribute to dangerous conditions on the 12-mile section of highway, which has been the scene of several serious accidents, many with fatalities, over the past several years. Continued population growth has led to more subdivisions with intersecting roads and more traffic on the highway, exacerbating the problem. School buses must stop in some locations with blind corners and hills.

The project calls for construction of an improved two-lane highway paralleling the alignment of the existing highway. The reconstructed highway will be designed to allow two additional lanes to be added at a future date.

**Plans & Progress:** The Sterling Highway MP 157-169 Rehabilitation project is included in the 2012-2015 Alaska Statewide Transportation Improvement Program (STIP). Two and a half million dollars was included in the FY2013 capital budget for design and right of way phases of this project. Total costs are expected to exceed \$36 million; consequently, the project may be constructed in phases. Preliminary engineering and environmental assessment services began in the summer of 2014, with design, permitting and right-of-way acquisition scheduled to begin in 2016.







## Alaska Maritime Academy

**Staff recommendation per Bryan, Julie & Carey remove this project from CIP.**

**Project Description & Benefit:** This project will establish an accredited maritime academy providing quality post-secondary education primarily focused on marine related programs for developing career-oriented skills relating to engineering, ship operations, marine science, maritime management, and small vessel design and operation. The academy would provide both classroom and hands-on training, taking advantage of Homer's existing marine trades industry cluster and opportunities for time onboard vessels in port and at sea.

The Federal Maritime Administration provides training vessels and other support to state maritime academies. Currently there are six academies in the U.S.; none in Alaska. Alaska Statute Sec. 44.99.006 specifies that the Governor may enter into an agreement with the Federal Maritime Administration to provide for an Alaska Maritime Academy.

**Plans And Progress:** The Homer City Council approved Resolution 10-22(A) requesting that Alaska's Governor select Homer as the site of an Alaska Maritime Academy and specifying that a citizens task force be established to facilitate the effort to develop a maritime academy here. A maritime academy is also included as a potential economic development opportunity in the City of Homer Comprehensive Economic Development Strategy.



Maritime academies utilize both classroom and hands-on training. The training ship for the Great Lakes Maritime Academy in Traverse City, Michigan is shown in the background of this photo.

**Two west coast maritime academies already exist: WA and CA. Not sure there's enough demand for another. If so, it would be a Federal project sponsored through UAA system; Homer would compete with Juneau and Seward (with a technical school infrastructure already in place) to be host location. Fiscal environment makes this project highly unlikely. Homer already addressing maritime trades much more feasibly through continuing education program through KPC.**

FY 2017 - DRAFT Document





## Projects Submitted by Other Organizations

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The City of Homer supports the following projects for which local non-profit organizations are seeking funding and recognizes them as being of significant value to the Homer community:

- **Haven House:**  
Safety/Security Improvements .....43
- **Homer Council on the Arts:**  
Re-configuration and Facility Upgrade.....44
- **Homer Hockey Association:**  
Kevin Bell Ice Arena Acquisition.....45
- **Homer Senior Citizens Inc.:**  
Alzheimer’s Unit .....46
- ~~**Homer Senior Citizens Inc. Natural Gas Conversion**~~  
Natural Gas Conversion completed and moved to completed projects list.
- **Kachemak Shellfish Growers Association:**  
Kachemak Shellfish Hatchery .....47
- **Pratt Museum:**  
New Facility and Site Redesign.....48
- ~~**South Peninsula Hospital:**~~  
~~Site Evaluation & Planning for Hillside Reinforcement~~49  
SPH requests removing this project in favor of two higher priority projects included in Proposed Project packet.

FY 2017 - DRAFT Document





## Haven House Safety/Security Improvements

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**Project Description & Benefit:** Haven House provides protection through emergency shelter and program services to adults and children who are victims of domestic violence, sexual assault and child abuse. Domestic violence and sexual assault offenders are among the most dangerous type of violent offender and such shelters warrant a high degree of security systems, equipment, and technology. Haven House is requesting \$25,000 to improve the security of the facility through upgrading existing surveillance equipment, adding additional, much-needed surveillance equipment, upgrading existing security system, improving communications between all offices in the building, as well as instant communication to law enforcement, and improving equipment that contributes to security, such as doors, windows, locking systems, and fence. According to feedback collected on surveys from Haven House shelter employees and clients, as well as security challenges we have faced in the past, there is a need to provide improvements to our security systems currently in place. This will protect Haven House clients, staff, and community members and provide a much-needed public safety function for the entire southern Kenai Peninsula communities.

**Plans & Progress:** In July of 2014 Haven House completed Phase 1 of security improvements, the addition of a secured arctic entry, which provided a layer of security at our main entrance. The first part of Phase 2, completed winter 2015, included adding the security doors to the arctic entry. Additionally, funds from the Rasmuson Foundation and the State of Alaska will help complete the remaining Phase 2 items which includes security cameras and surveillance systems, replacing aging windows, and fortifying the existing yard fence, but only at one specific location. We estimate completion of Phase 2 some time in fall of 2016. Haven House is seeking further funding for a Phase 3 to completely secure our yard and property perimeter to ensure staff and client safety and confidentiality.

**Total Project Cost:** \$25,000

**Schedule:** 2017-2018



FY 2017 - DRAFT Document



## Homer Council on the Arts Facility Upgrade & Reconfiguration

Updated plans & progress and added Phase 2 placement of a yurt.

FY 2017 - DRAFT Document

**Project Description & Benefit:** Guided by the conviction that the arts are for everyone, Homer Council on the Arts (HCOA) provides opportunities for all people in our community to experience and participate in the arts. HCOA provides arts education, arts advocacy, creative opportunities and a place for Homer’s residents, regardless of income, to participate in and experience the arts.

Recognizing the limits of HCOA’s 56-year old, former office space facility, HCOA has taken steps to determine how the building can better serve the needs of Homer’s art community and better support HCOA’s mission. These steps included a comprehensive energy audit in 2012 and participation in the Foraker Group Pre-Development Program. Combined, these two planning processes assessed HCOA’s and the community’s programmatic needs (as determined in Homer’s Parks, Art, Recreation and Culture (PARC) Needs Assessment) and created feasible, appropriately scaled remodel options to accommodate those needs through building improvements.

The following phased facility upgrade plan was chosen to make HCOA’s facility more efficient and affordable to operate, fill a documented community need for affordable community program, dance, and medium-sized performance space, and improve the overall accessibility, flexibility, longevity and aesthetics of the existing building.

**Plans & Progress:** HCOA recently refinanced its mortgage to initiate Phase One Energy Efficiency and Maintenance Improvements. To date, HCOA has converted the main building to natural gas, repaired and replaced windows and doors, and improved lighting efficiency in the gallery space. HCOA has gathered interested community and board members, and others to serve on a Facility Improvement Committee. Continuing plans are as follows:

- Replace the roof and paint the existing building, completing Phase One of the plan in Fall/Winter 2016;
- Secure funding from individuals, foundations, and government agencies to complete Phase Two of the project: construct a yurt on back of the property to provide community dance and performance art space. 2016-2017;
- Begin fundraising, complete plans and construct Phase Three: interior reconfiguration and renovation of the existing facility. 2017-2018.

**Total Project Cost:** \$500,000



HCOA’s site plan showing location of yurt which will provide community dance and small performance art space.





## Homer Hockey Association Kevin Bell Ice Arena Acquisition

**Project Description & Benefit:** The Kevin Bell Arena was constructed in 2005, with initial funding from grants associated with the Kenai Peninsula hosting the 2006 Arctic Winter Games combined with a loan from English Bay Corporation/Homer Spit Properties. Since opening its doors, the Homer Hockey Association (HHA) has operated the rink within a yearly budget of \$300,000, which covered both operating and capital acquisition expenses. In September 2015, though, HHA had to begin paying the principal on its loan which increased the monthly payments significantly. In order to purchase the building and the land, HHA needs to obtain \$2.74 million dollars.

HHA's mission is to cultivate on-ice recreation of all kinds, for all ages, on the Lower Kenai Peninsula. Homer Hockey Association is accomplishing this mission. One of the few non-profit, volunteer-run ice rinks in the U.S., HHA has done an outstanding job accomplishing its mission. Volunteers contribute an estimated 14,000 volunteer hours annually, representing a huge commitment of time and effort by our community. Over the years, programs have been expanded to include activities for all: figure skating, hockey for adults and children, broomball, and a curling program. The Kevin Bell Arena hosts up to 800 users a week during the winter. These efforts earned HHA the 2012 Alaska Recreation & Parks Association Outstanding Organization award.

The Kevin Bell Ice Arena hosts many tournaments and events that bring commerce to the City of Homer, especially important during the winter when tourism is low. In the 2015-16 season, HHA hosted seven separate adult and youth tournaments with a combined total of 150 games. These tournaments and jamborees brought over 1,160 out-of-town players to Homer, accompanied by family and fans that contributed an estimated \$646,187 to the local economy through lodging, transportation, dining and merchandise purchases. It is estimated that half came from the Pee Wee "C" State Tournament where the Homer team were champions.

**Plans & Progress:** HHA ran a grass roots campaign in the 2014-15 season to educate and solicit ideas to secure the future of the Kevin Bell Arena. During this endeavor, we have gotten resolutions from the City of Homer and the Kenai Peninsula Borough and circulated a petition to solicit support and inform Kenai Peninsula residents as well as ice sports supporters everywhere of our situation.

HHA conducted TILT Don't Let the Rink Sink, a crowdfunding campaign in January 2015 which raised \$25,000 to help pay for the increase in principal payments for 2016. HHA also received a one-time line item of \$14,000 from the City of Homer to go toward the principal of the loan.

HHA continues to rely on revenue from fundraising, grants, and sponsorships to meet its budget. This past season, HHA sponsored a dessert auction, golf tournament, garage sale, Ash Cup silent auction, a Skate-a-Thon, and concessions, earning a total of \$18,241. An annual raffle (mandatory for all HHA members) earned \$26,407 for the 2015-16 season. Grants and sponsorships totaled \$46,694.

Homer Hockey Association has been in contact with state and federal legislators about the rink's financial situation and has requested help in identifying possible funding sources.

**Total Project Cost:** \$2,740,000

**Schedule:** 2017-2018



Homer's Pee Wee Tier II State Champions. Last year, the Kevin Bell Arena hosted seven ice sports tournaments, bringing over 1,160 out-of-town players to Homer.



## Homer Senior Citizens Inc. Alzheimer's Unit

FY 2017 - DRAFT Document

**Project Description & Benefit:** Seniors are the fastest growing population for the State of Alaska. Homer is projected as the second city in the State which will see the most significant growth in this demographic. Homer Senior Citizens (HSC) operates a 40 bed assisted living facility. We have sent four seniors from our community due to Alzheimer’s disease in the past four years. Losing one senior a year is unacceptable as it tears away the fabric of our community. All of the seniors have families remaining in the Homer community.

In order to maintain the health of a senior, a full continuum of care is required. Maintaining physical, mental and social capacity supports the dignity of our most vulnerable adults. An Alzheimer’s Unit has been a strategic priority for the HSC’s Board of Directors to keep our seniors home in the community.

The Alzheimer’s Unit will include fifteen beds and 24/7 nursing care. Additionally, it will include a memory care unit to help maintain residents’ existing cognitive capacity. Specific features of the facility (therapy pool and activities room) will be open to all seniors 55 years of age and older. The activities room will be Phase 2 of the project and will incorporate low-impact exercise equipment to maintain seniors’ physical capacity. This also opens up the possibility to contract with South Peninsula Hospital for use of the therapy pool for other age groups, benefiting the entire population of Homer.

Operating funds will be secured from “fees for service;” room and board; billing for Physical Therapy in both the therapy pool and the exercise program in the activities room (once Phase 2 has been completed) and fees for contracted use of therapy equipment and the pool. Projected five year profit will be approximately \$1,508,600. This does not include contractual arrangements with third party vendors.

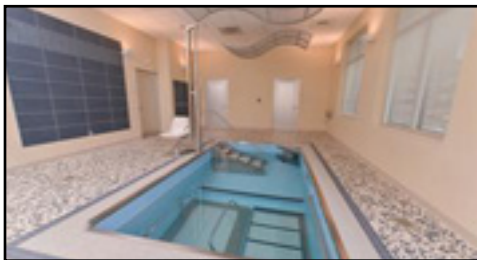
**Plans & Progress:** Currently HSC staff is completing the State of Alaska Certificate of Need. Design work continues; HSC has met with HydroWorx to incorporate the Therapy Pool with the Alzheimer’s Unit.

HSC is in the initial stages of fundraising for the Alzheimer’s Unit. Three foundations that fund this type of project have been identified. One of the priorities for scoring in these grant programs is City of Homer support through Capital Improvement Plan designation. HSC will be holding many fundraising events to secure the match for foundation grants. Fundraising activities include hosting “Backing out of Time” Alzheimer’s documentary at the Homer Theatre and a Wine/Beer Tasting event at the Beluga Lake Lodge in September of 2016. HSC also recently held a matching campaign which secured \$40,000 in seed money for the Alzheimer’s Unit.

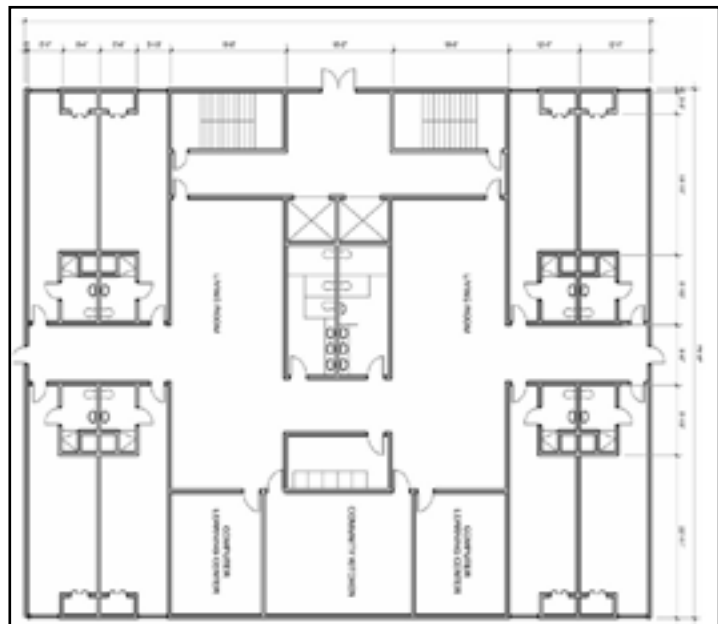
**Total Project Cost:** \$3,000,000

**Funding Received to date:** \$40,735.50

**Schedule:** 2017



Example of a HydroWorx Therapy Pool Room .







## Kachemak Shellfish Growers Association Kachemak Shellfish Hatchery

Contact made, but no update provided.

FY 2017 - DRAFT Document

**Project Description and Benefit:** For over twenty years Kachemak Shellfish Mariculture Association (KSMA), a 501-c5 organization, has worked to fulfill its primary mission of assisting shellfish growers in Kachemak Bay to establish an economically sustainable oyster industry. Today through its partnership with the Kachemak Shellfish Growers Cooperative (KSGC), a co-op formed to market and distribute mussels and oysters, there are 14 farms in the Bay and a sorting, marketing and shipping facility on the Homer Spit supplying shellfish and mariculture related goods to local restaurants, residents and tourists while shipping oysters all over Alaska and the nation.

Five years ago the industry identified an oyster seed shortage affecting the shellfish industry on the entire Pacific Coast. Local leaders developed a small proof of concept experiential oyster hatchery/setting facility at the KSGC building to address this issue. Over the past three years, on a thin budget, with the assistance of industry professionals, and with the support of the State of Alaska, the co-op raised over 7.5 million oyster seed. KSMA supports this highly technical hatchery and laboratory with two employees who oversee the 24-hour a day, five-month process culturing oysters and propagating algae (oyster food) in conjunction with their other duties. Please note that this should not be understated; others have invested more with lesser success. Some experts gave this experimental nursery only a 10% chance of success. However, thanks to the nutrient rich waters of Kachemak Bay and the dedication and expertise of staff the oysters thrived at the Homer Spit facility and into the upweller (a nursery for the young oysters) in Halibut Cove. With the commitment of KSMA's employees and the Bays farmers this proof of concept is ready to mature to the next step—a fourth year of production and expanding the hatchery to a financially sustainable operation through the scale of production. By supplying oyster seed to shellfish farmers throughout the state of Alaska, it will reduce cost to farms and the impact of seed shortage.

Over the past three years KSMA produced 7.5 million seed and has purchased or developed much of the expertise and equipment necessary for the hatchery expansion including technician training, the expensive salt water well, and algae production. However a larger lab, and storm damage prevention are needed to mature the proof of concept to a production facility supporting the greater Bay and its residents. The Kachemak Mariculture building on the Spit needs professional engineering, design, and planning to transition its available space from an experimental, small hatchery to the next phase of a permanent hatchery enabling KSMA to commercially produce oyster seed.

The benefit of a thriving oyster farming industry in Homer is huge. Oyster production in Kachemak Bay is currently in its 22nd year. Oysters have become a sparkling year-round addition to the seafood options available to residents and tourists in Homer. Every cooler of oysters delivered to the dock represents approximately \$150 to the grower. By the time the end user receives those oysters, the economic ripple effect becomes approximately \$725. Oysters clearly benefit the community and economy.

A local hatchery and nursery can also provide a great learning lab for high school and university students, who currently have to travel to the hatchery in Seward for their studies. (The Seward hatchery hatches opilio crab; however the waters of Resurrection Bay are less conducive to oyster seed.) A course in mariculture could easily be developed in conjunction with aspects of oyster seed development, culturing and marketing.

**Plans and Progress:** The design and expansion of the shellfish hatchery is in process. Successful seed will be sold first to growers in Kachemak Bay. Excess seed will be sold to other farmers in the state who are eager for a reliable supplier.

KSMA's Hatchery consultant has many designs from hatcheries where he has assisted. Final design for the Homer Spit Facility would occur in conjunction with permitting.

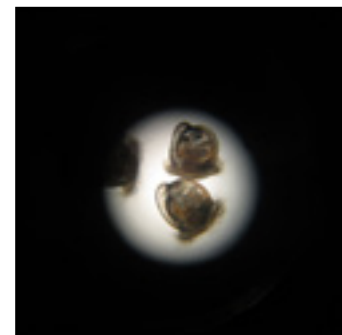
**Total Project Cost:** \$400,000

**Preconstruction:** \$75,000

**Funding Secured:** \$50,000

**Construction:** \$325,000

**Schedule:** 2017



Microscopic view of two tiny oysters.



## Pratt Museum New Facility and Site Redesign

FY 2017 - DRAFT Document

**Project Description & Benefit:** The national award-winning Pratt Museum preserves the stories of the Kachemak Bay region and provides a gathering place for people to learn and to be inspired by this region and its place in the world. The Pratt's exhibits, education programs, and collections seek to foster self-reflection and dialogue among the Museum's community and visitors. Each year, the Pratt serves up to 25,000 visitors, with more than 4,000 young and adult learners participating in its programs. The Pratt is consistently viewed as one of Alaska's most important cultural institutions and as a leader among small community museums across the country.

The Pratt Museum's existing 10,500 square foot building is more than 47 years old, and the building's galleries, public meeting, and education spaces do not meet the Museum's or the community's needs. The Pratt is working on a project to better serve this community and visitors long into the future, through the construction of a new facility and redesign of the Pratt's 10+ acres. Benefits of this project will include: 1) improved education programs and exhibits; 2) creation of a community learning space to promote education and community dialogue; 3) an expanded trail system; 4) the ability to serve larger visitor and school groups; 5) greater representation at the Museum of the region's diverse cultural groups; 6) the ability to properly care for growing collections, including community archives and stories; and 7) full disability accessibility.

**Plans & Progress:** Nearly a decade of thorough organizational evaluation, professional assessment, and community dialogue led the Pratt Museum Board of Directors and staff to the decision to embark on an ambitious capital project. A fundraising feasibility study was conducted in 2009 in tandem with the development of draft architectural and site concepts. Additionally, a McDowell Group economic impact analysis found that the Museum generates substantial economic activity in the region. The following critical steps have laid the groundwork for the successful completion of this project:

- The Pratt has gathered diverse community and stakeholder input through public meetings, surveys, and other means to guide the Planning and Design Phases;
- With leadership from the Patrons of the Pratt Society and generous individual donors, 10+ acres of urban green space have been acquired in the heart of Homer, which the Museum owns debt-free;
- Participation in the Rasmuson Foundation's prestigious "Pre-Development Program," provided the Pratt with more than \$70,000 of in-kind planning services to start the project;
- Phase II community input planning and research continues for Master Exhibit Plan permanent exhibit renovations to be installed in the new building;
- The Museum has secured \$3.4 million (36% of the project total) in cash, grants, and pledges with an additional third of the project budget identified from major funders who will contribute when later funding benchmarks have been reached;
- An upgrade and expansion of the trail system, the first part of the project, was completed in 2012, schematic designs are complete, the design development phase was completed in 2015, construction documents are underway in 2016, site development is planned for 2016-17 and construction dates for the new building are to be determined.

**Total Project Cost:** \$9,500,000  
**Preconstruction:** \$1,000,000  
**Construction:** \$8,500,000

\$3,400,000 raised to date  
 (FY17 State Request: \$1,650,000)

**Schedule:**

**Planning:** 2010

**Design & Construction Documents:** 2015-2016

**Site Construction:** 2016-2017



Architectural rendering of the new Pratt Museum facility.



## **South Peninsula Hospital Site Evaluation & Planning for Hillside Reinforcement**

**South Peninsula Hospital requests this project be removed from CIP.**

**Plans and Progress:** South Peninsula Hospital sits on a very steep hillside, with all parking lots and outbuildings being terraced down from the main hospital building. Both the lot the hospital sits on and the lot behind it continue with a very steep elevation incline. The buffer is only 12 feet behind the building cut into the hillside before the terrain continues with the steep incline for as far as 300 yards. The remaining hillside has thick vegetation and is not utilized or developed in any way at this time.

The facility has had numerous additions and structural work completed in the last 10 years which may have impacted and affected the stability of the hillside. The hillside runs continuous from the entrance of parking the entire length of the building and beyond. No part of the main hospital building is out of the risk zone for damages from hillside erosion and sloughing.

A site evaluation is necessary to establish the current condition of the hillside, and make any recommendations to secure it from further erosion and sloughing. Such evaluation would include a survey, soils testing, geologic hazard assessment and mitigation report, landslide evaluation, earthquake assessment, and recommendations for options to minimize risk to the facility. The recommended options would include cost estimates.

**Plans and Progress:** The estimated cost of such a study, evaluation, and report is \$100,000. This could include work by the Army Corps of Engineers, and/or a private engineering firm.

**Total Project Cost:** \$100,000

**Schedule:** 2016

**Two new proposed projects are higher priority.**



**FY 2017 - DRAFT Document**





## Capital Improvement Long-Range Projects

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FY 2017 - DRAFT Document

The following projects have been identified as long-range capital needs but have not been included in the Capital Improvement Plan because it is not anticipated that they will be undertaken within the six-year period covered by the CIP. As existing CIP projects are funded or as other circumstances change, projects in the long-range list may be moved to the six-year CIP.

### Local Roads

**Fairview Avenue – Main Street to East End Road:** This project provides for the design and construction of Fairview Avenue from Main Street to East End Road. The road is approximately 3,000 linear feet and the project will include paving, water and sewer mains, stub-outs, storm drains, and a sidewalk or trail. The project extends from the intersection of Main Street to the Homer High School, and finally to East End Road, and will provide an alternative to Pioneer Avenue for collector street access east/west across town. This roadway would benefit the entire community by reducing congestion on Pioneer Avenue, the major through-town road, and would provide a second means of access to the high school. It would also allow for development of areas not currently serviced by municipal water and sewer.

This improvement is recommended by the 2005 Homer Area Transportation Plan. Necessary right of way has already been dedicated by the Kenai Peninsula Borough across the High School property.

**Cost:** \$1.75 million      **Priority Level** 3

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**Fairview Avenue – Main Street to West Hill Road:** This project provides for the design and construction of Fairview Avenue from Main Street to West Hill Road. The road is approximately 4,200 linear feet and the project will include paving, water and sewer mains, stub-outs, storm drains, and a sidewalk or trail. In conjunction with the Fairview to East End Road project, this project will benefit the entire community by providing an alternative to Pioneer Avenue for collector street access east/west across town, thereby reducing congestion on Pioneer Avenue and developing alternative access for emergency vehicle response. The need for the road extension has increased markedly with the development of three major residential subdivisions in the area.

This improvement is recommended in the 2005 Homer Area Transportation Plan.

**Cost:** \$3 million      **Priority Level** 3

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### Parks And Recreation

**Beach Access from Main:** This project will provide residents and visitors with coastal viewing stations and access to the beach at the southern end of Main Street, utilizing City-owned land. The project will enhance connectivity in Homer's developing trails and park system, providing additional access so that beachgoers can walk onto the beach at one point and off at another, on a loop through Old Town, Town Center, etc. For those not physically able to walk all the way to the beach, platforms near the roads will provide nice views and benches on which to relax. Interpretive signage could provide information on Homer history, beach formation, and other topics.

The Main Street beach access point is envisioned to have a small parking area, a viewing platform with a bench, and stairs with landings.

**Cost:** \$250,000      **Priority Level** 3

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## Capital Improvement Long-Range Projects

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FY 2017 - DRAFT Document

**East Trunk/Beluga Lake Trail System:** This project will create two connecting trails:

- The Beluga Lake Trail will partially encircle Beluga Lake with a raised platform trail that includes a wildlife observation site. The trail will connect neighborhoods and business districts on the north and south sides of the lake.
- The East Trunk Trail will provide a wide gravel pathway from Ben Walters Park east along the City sewer easement, along the north side of Beluga Lake (connecting with the Beluga Lake Trail), and eventually reaching East End Road near Kachemak City.

The completed trail system will connect Paul Banks Elementary School, the Meadowood Subdivision, and other subdivisions and residential areas to Ben Walters Park. It will additionally provide hiking, biking, and wildlife viewing opportunities around Beluga Lake. In addition, it will provide an important non-motorized transportation route.

The Beluga Lake Trail, a trail connection to Paul Banks Elementary School and East End Road are included in the 2004 City of Homer Non-Motorized Transportation and Trail Plan.

**Cost:** Beluga Lake Trail—\$1.5 M      East Trunk Trail—\$2 M      Priority Level 3

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**Horizon Loop Trail, Phase 1:** The Homer Horizon Loop Trail is proposed as a four to five mile route that would run clockwise from Karen Hornaday Park up around the top of Woodard Creek Canyon, traverse the bluff eastward, and then drop down to Homer High School. The parking lots of Karen Hornaday Park and Homer High School would provide trailhead parking. Those wishing to complete the loop will easily be able to walk from the high school to Karen Hornaday Park or vice versa via Fairview Avenue. A later stage of trail development will connect the Horizon Loop Trail with the Homestead Trail at Bridge Creek Reservoir.

**Cost:** Staff Time      Priority Level 3

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**Jack Gist Park Improvements, Phases 3:** Jack Gist Park has been in development since 1998 on 12.4 acres of land donated to the City of Homer by a private landowner. As originally envisioned by the Jack Gist Recreational Park Association, this parcel was developed primarily for softball fields. The long-term goal is to acquire adjacent properties that will provide space for soccer fields. Phase 3 development will construct a plumbed restroom at the park and develop soccer fields.

**Cost:** \$400,000      Priority Level 3

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**Karen Hornaday Park Improvements, Phase 3:** Phase 3 park improvements will include building a concession stand, shed, landscaping, signage, and revegetating Woodard Creek.

**Cost:** \$860,000      Priority Level 2

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**Mariner Park Improvements:** This project will provide significant improvements to Mariner Park as called for in the park's master plan: Construct a bike trail from the "Lighthouse Village" to Mariner Park (\$325,000); Construct a pavilion, additional campsites, and interpretive kiosk (\$150,000); and improve the appearance of the park with landscaping (\$75,000).

**Total:** \$500,000      Priority Level 3

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**Public Restrooms – Homer Spit:** With increased activity on the Homer Spit, the need for restroom facilities has also increased. The restroom at Ramp 2 is in poor condition and needs to be replaced.

**Cost:** \$295,000      Priority Level: 2

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## Capital Improvement Long-Range Projects

FY 2017 - DRAFT Document

### PUBLIC PROJECTS

**Homer Conference Center:** Homer is a popular visitor destination and the visitor industry is a critical component of the local economy. However, millions more dollars might be spent in Homer if a meeting facility large enough to attract conferences with several hundred participants was available. Currently, Homer has no facility capable of providing meeting space for groups of more than 180 people.

Homer's reputation as an arts community will help attract meetings and audiences if a facility exists to accommodate and showcase these events. The conference center, featuring banquet/ballroom space and flexible meeting space, will fill this need. If the facility is located in Homer's developing Town Center, other area businesses would also benefit from the increased number of visitors attending meetings at the conference center.

A conference center will increase Homer's ability to compete with other communities in that important niche of the visitor industry, and will also provide a venue for meetings and cultural events hosted by local organizations, such as the Kachemak Bay Writers Conference and Shorebird Festival events.

In partnership with the Homer Chamber of Commerce, the City of Homer commissioned a conference center feasibility study completed in summer 2005. The study predicts moderate demand from outside groups for a conference center in Homer. The Conference Center Feasibility Study Steering Committee made a formal recommendation that the City support efforts to encourage the construction of a conference center in Homer's Town Center. In August 2005, the Homer City Council passed Resolution 05-86(A) which recommends further consideration and authorizes the City Manager to pursue ideas and discussions that will increase the likelihood of a conference center being built in Homer.

**Cost:** \$5 million                      Priority Level 3

**Public Works Complex:** The City of Homer Public Works complex on the Sterling Highway was constructed in phases from 1974-1986 (except for the recently completed large equipment storage shed). In 1980, Homer's population was 2,209. Since that time, the population has grown more than 150%, with a corresponding increase in roads, water/sewer lines, and other construction activity that requires employee and equipment time. The existing facility is no longer adequate to meet these needs and the problem will become more acute with continued growth.

A new Public Works complex will include the following:

- Increased office space to provide adequate room for employee work areas, files, supplies, and equipment storage
- Adequate space for Parks Division and Engineering staff and equipment
- A waiting area for the public, contractors, etc.
- A conference room that doesn't double as the employee break room
- A break room with adequate seating, storage, and locker space
- A laundry room
- A garage for the motor pool large enough to accommodate more than one or two projects at a time
- Improvements in ventilation throughout the facility and wiring for computer technology

**Cost:** Design—\$500,000              Construction—\$4,500,000              Priority Level 2

**Homer Greenhouse:** Homer's growth in population and area, the importance of tourism to the local economy, and increased community requests for beautification illustrate the need for a new greenhouse capable of producing 100,000 plants annually. In addition to spring planting, the greenhouse can be used to grow hanging baskets for the Central Business District; poinsettias, etc. for the winter holiday season; and shrubs and trees for revegetation and park improvements. The greenhouse could also serve as a community resource for meetings, weddings, winter visits, etc.

**Staff recommend removing this project; proposed locatin (HERC) may be redeveloped for Public Safety building.**

**Cost:** \$400,000                      Priority Level 3



## Capital Improvement Long-Range Projects

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**Public Market Design and Financing Plan:** This project will facilitate implementation of a recommendation in the City's Comprehensive Economic Development Strategy discussed in both the "Agriculture" and "Downtown Vitalization" sections. It is also consistent with the goals of the Homer Town Center Development Plan and the Climate Action Plan. Specifically, the project will provide a permanent, weather-protected venue for the Homer Farmers Market in Town Center. The project will kick off development in the Town Center district, providing immediate benefits to downtown Homer and serving as a catalyst for further development.

**Staff recommend removing this project until further work on Town Center; farmer's market currently established**

**Cost:** \$60,000

Priority Level 3

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### UTILITIES

**Spit Water Line – Phase 4:** The existing Homer Spit water line is 40 years old and is constructed of 10-inch cast iron. In recent years it has experienced an increasing number of leaks due to corrosion. The condition has been aggravated by development on the Spit resulting in increased load from fill material on an already strained system. Phase 4 of this project consists of slip lining approximately 1,500 linear feet of water main to the end of the Spit. Slip lining the Homer Spit waterline, versus replacing, will reduce cost while ensuring an uninterrupted water supply for public health, fire/life safety needs, and expanding economic activities on the Spit. The City received a grant for the EPA for design of the project which was completed in fall of 2014.

**Cost:** \$400,000

Priority Level 3

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**Bridge Creek Watershed Acquisition:** Currently, the Bridge Creek watershed is the sole source of water for Homer. To protect the watershed from development that could threaten the water supply and to ensure the availability of land for possible future expansion of water treatment operations within the watershed, the City seeks to acquire additional acreage and/or utilize conservation easements to restrict development that is incompatible with clean water.

**Cost:** \$1,000,000

Priority Level 3

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**Alternative Water Source:** Currently Homer's sole water source is the Bridge Creek Reservoir. Population growth within the City, increased demands for city water from residents outside City limits, increasing numbers of tourists and summer residents, and climate change that has reduced surface water availability are all factors in the need for a new water source to augment the existing reservoir.

**Cost:** \$16,750,000

Priority Level 3

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**West Hill Water Transmission Main and Water Storage Tank:** Currently, water from the Skyline treatment plant is delivered to Homer via two transmission mains. One main (12-inch) is located along East Hill Road and delivers water to the east side of town. The other (8-inch) runs directly down to the center of town. A third transmission main is needed to deliver water to the west side of town, provide water to the upper West Hill area, and provide backup support to the two existing transmission mains. A new water storage facility is also needed to meet the demands of a rapidly growing community.

The addition of a third water transmission main has been identified in comprehensive water planning documents for over 20 years.

**Cost:** Design—\$500,000

Construction—\$4.5 M

Priority Level 2

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FY 2017 - DRAFT Document





## Capital Improvement Long-Range Projects

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FY 2017 - DRAFT Document

### STATE PROJECTS

**Ocean Drive Reconstruction with Turn Lane:** Ocean Drive, which is a segment of the Sterling Highway (a State road) connecting Lake Street with the Homer Spit Road, sees a great deal of traffic, particularly in the summer, and has become a source of concern for drivers, bicyclists, pedestrians, and tour bus operators. This project will improve traffic flow on Ocean Drive and reduce risks to drivers, bicyclists, and pedestrians by creating a center turn lane, providing well-marked crosswalks, and constructing a separated bike path. The project will also enhance the appearance of the Ocean Drive corridor by moving utilities underground and providing some landscaping and other amenities.

Currently, a bicycle lane runs on the south side of Ocean Drive. However, it is common for cars and trucks to use the bicycle lane to get around vehicles which have stopped in the east-bound traffic lane in order to make a left turn. Some frustrated drivers swing around at fairly high speeds, presenting a significant risk to bicyclists and pedestrians who may be using the bike lane. In recent years, the Homer Farmers Market has become a popular attraction on the south side of Ocean Drive during the summer season, contributing to traffic congestion in the area. In addition, Homer is seeing more cruise ship activity which also translates into more traffic on Ocean Drive. All of these factors have led to increased risk of accidents.





## **Capital Improvement Appendices**

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- **CIP Development Schedule**
- **Resolution 16-XXX**
- **City of Homer Financing Assumptions**





## Capital Improvement Appendices

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**CITY OF HOMER  
2017-2022 CAPITAL IMPROVEMENT PLANNING PROCESS  
FY 2018 LEGISLATIVE REQUEST DEVELOPMENT SCHEDULE**

ACTION	TIME FRAME
City Council approval of schedule	April 25, 2016
Solicit new/revised project information from City Departments, local agencies and non-profits	April 26
Input for new draft requested by	May 27
Prepare and distribute draft CIP to City advisory groups for review and input:	Meeting dates:
Economic Development Commission	June 14, July 12
Parks and Recreation Commission	June 16
Port and Harbor Commission	June 22, July 27
Planning Commission	June 15, July 20
Cannabis Advisory Commission	June 23, July 28
Library Advisory Board	August 2
Administrative review and compilation	August 22- August 26
City Council worksession to review proposed projects	August 29
Introduction of Resolution on CIP/Legislative Request	September 12
Public Hearing on CIP/Legislative Request	September 26
Adoption of Resolution by City Council	October 10
Administration forwards requests for Governor’s Budget	October 12
Administrative Compilation of CIP	Through end of October
Distribution of CIP and State Legislative Request	October 2016 & January 2017
Compilation/distribution of Federal Request	February 2017





## Capital Improvement Appendices

Replace with current resolution.

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**CITY OF HOMER  
HOMER, ALASKA**

Mayor/City Council

**RESOLUTION 15-084(A)**

A RESOLUTION OF THE HOMER CITY COUNCIL ADOPTING THE  
2016-2021 CAPITAL IMPROVEMENT PLAN AND ESTABLISHING  
CAPITAL PROJECT LEGISLATIVE PRIORITIES FOR FISCAL YEAR  
2017.

WHEREAS, Duly published hearings were held on September 14 and October 12, 2015 in order to obtain public comments on capital improvement projects and legislative priorities; and

WHEREAS, The Council received comments from all of the Commissions and held a Worksession on August 24, 2015; and

WHEREAS, It is the intent of the City Council to provide the Governor, the State Legislature, State agencies, the Alaska Congressional Delegation, and other potential funding sources with adequate information regarding the City's capital project funding needs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Homer, Alaska, that the "City of Homer Capital Improvement Plan 2016-2021" is hereby adopted as the official 6-year capital improvement plan for the City of Homer.

BE IT FURTHER RESOLVED that the following capital improvement projects are identified as priorities for the FY 2017 State Legislative Request:

1. Public Safety Building
2. East Boat Harbor
3. Harbor Sheet Pile Loading Dock
4. Fire Department Fleet Management
5. Storm Water Master Plan

BE IT FURTHER RESOLVED that projects for the FY 2017 Federal Legislative Request will be:

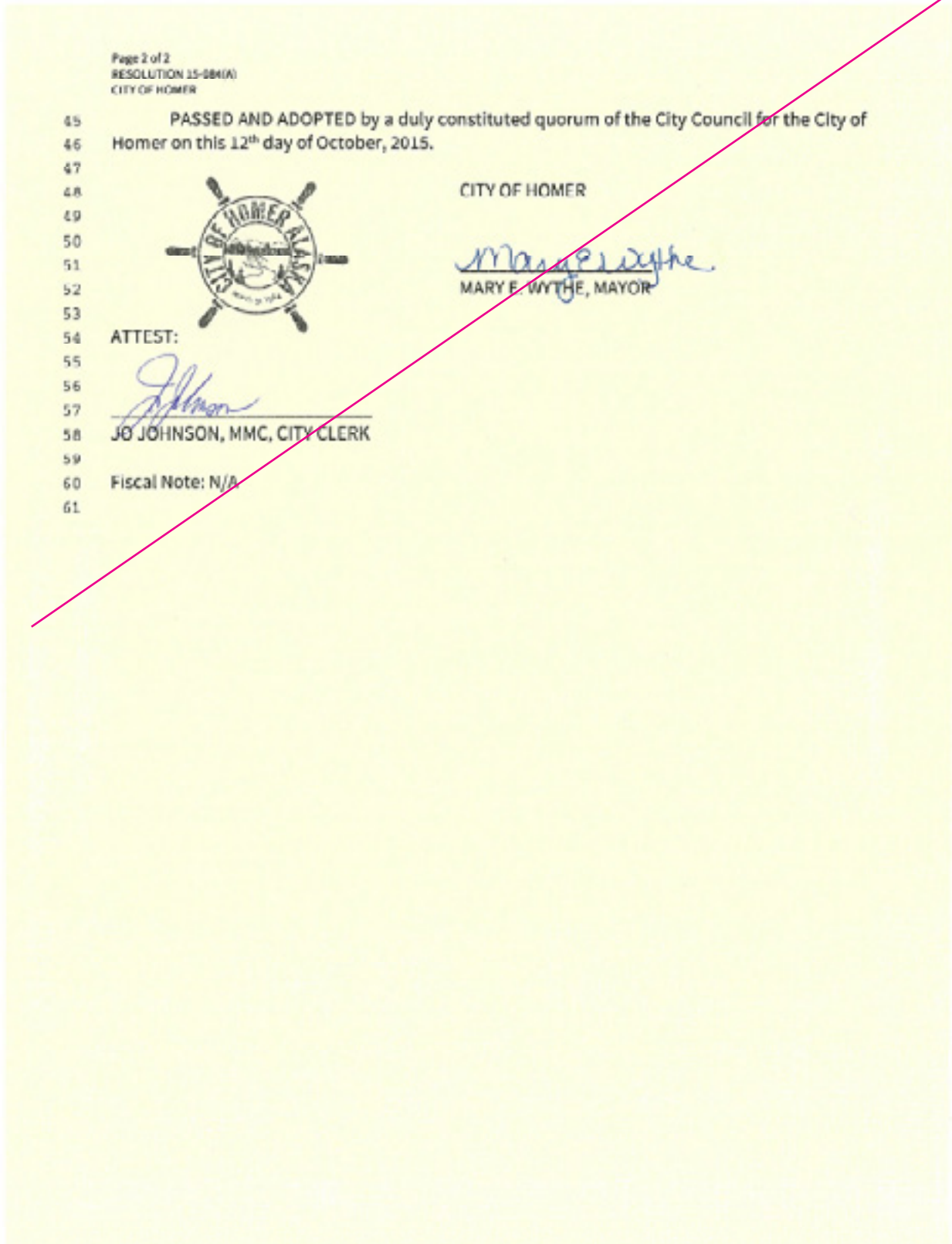
1. Public Safety Building
2. East Boat Harbor

BE IT FINALLY RESOLVED that the City Manager is hereby instructed to advise the appropriate State and Federal representatives and personnel of the City's FY 2017 capital project priorities and take appropriate steps to provide necessary background information.



## Capital Improvement Appendices

replace with current resolution.







## Capital Improvement Appendices

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### City of Homer Financing Assumptions: Capital Improvement Program

Implementation of the City of Homer Capital Improvement Plan requires utilization of various financing mechanisms. Financing mechanisms available to the City of Homer include:

- Federal grants or loans
- State grants or loans
- General obligation bonds
- Limited obligation bonds
- Revenue bonds
- Special assessment bonds
- Bank loans
- Pay as you go
- Private sector development agreements
- Property owner contributions
- Lease or lease–purchase agreements

The use of any of the financing mechanisms listed above must be based upon the financial capability of the City as well as the specific capital improvement project. In this regard, financing the CIP should take into consideration the following assumptions:

1. The six-mill property tax limitation precludes utilizing General Fund operating revenue to fund major capital improvements. Available revenue should be utilized to fund operation and maintenance activities.
2. The operating revenue of enterprise funds (Port & Harbor, Water & Sewer) will be limited and as such, currently only fund operation and maintenance activities.
3. The utilization of Federal and State grants will continue to be significant funding mechanisms. Grants will be pursued whenever possible.
4. The 1½ percent sales tax approved by voters of Homer for debt service and CIP projects is dedicated at ¾ percent to sewer treatment plant debt retirement, with the remaining balance to be used in water and sewer system improvement projects, and ¾ percent to the Homer Accelerated Roads and Trails (HART) Program.
5. The HART Program will require property owner contributions of \$30 per front foot for road reconstruction, with an additional \$17 per front foot for paving.
6. The Accelerated Water and Sewer Program will require substantial property owner contributions through improvement districts/assessment funding, set currently at 75 percent.
7. The private sector will be encouraged to finance, construct, and operate certain nonessential capital improvements (e.g., overslope development).
8. The utilization of bonds will be determined on a project-by-project basis.
9. The lease and/or lease–purchase of capital improvements will be determined on a project-by-project basis.





# City of Homer

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

Office of the City Clerk

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Homer, Alaska 99603

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

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(f) 907-235-3143

## MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION

FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: JULY 22, 2016

SUBJECT: NEXT MEETING AGENDA ITEMS AND INFORMATION REQUESTED

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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

Staff recommendation is to start developing the application process and procedures and any fees that would be associated with that process.



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

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

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

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

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

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

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

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

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

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

January 11, 25 2016	_____	_____ Alt. Lewis or Reynolds _____
February 8, 22 2016	<u>Sarno</u> _____	_____ Alt. Lewis or Reynolds _____
March 14, 28 2016	<u>Stead</u> _____	_____ Alt. Lewis or Reynolds _____
April 11, 25 2016	_____	_____
May 9, 23 2016	<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.



