

**NOTICE OF MEETING
REGULAR MEETING AGENDA**

- 1. CALL TO ORDER**
- 2. AGENDA APPROVAL**
- 3. PUBLIC COMMENT UPON MATTERS ALREADY ON THE AGENDA** *(The Public may comment on any item on the agenda with the exception of items shown under Public Hearings. The standard time limit is 3 minutes.)*
- 4. VISITORS**
- 5. RECONSIDERATION**
- 6. ADOPTION OF CONSENT AGENDA** *(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of Commissioner.)*
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- 10. NEW BUSINESS**
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- 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, SEPTEMBER 24, 2015 at 5:30pm in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer Alaska**

Session 15-03, a Regular Meeting of the Cannabis Advisory Commission was called to order by Chair Aryn Young at 5:32 p.m. on July 23, 2015 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS ROBL, HARRIS, STEAD, YOUNG, MONROE, JONES, BURGESS, LEWIS

STAFF: CITY PLANNER ABOUD
DEPUTY CITY CLERK KRAUSE

APPROVAL OF AGENDA

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

LEWIS/BURGESS - MOVED TO APPROVE THE AGENDA AS PRESENTED.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENT

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

Lindianne Sarno, city resident and future member of the commission, commented on the regulations proposed by the State of Alaska and questioned the accuracy since changes could have already been implemented. She did not want to kill the golden goose and believed that the proposed regulations were extremely onerous. Ms. Sarno wanted the City to encourage local business creation not have big business come in from outside.

Wes Schact, Fritz Creek resident, commented on the state proposed regulations against cannabis cafes or similar businesses. He has traveled around to other countries and states that have these places and believes that they should encourage these other types of businesses and festivals which also allow educational avenues.

Commissioner Harris recommended submitting their comments to the state and could provide that information to Mr. Schact if he will leave his contact information.

VISITORS

A. Holly Wells, City Attorney - Proposed State of Alaska Marijuana Regulations

Ms. Wells spoke to the commission regarding commentary from the City on two areas in the proposed state regulations. She noted that she also wanted to discuss the worksession on August 10, 2015. Ms. Wells will be providing a comprehensive memorandum on what cannabis is in a technical sense, what marijuana is in both legal and technical sense, what laws will have to be paid attention to on the local level, what laws have been passed on the state level. This document will act like a manual that the commissioners can reference. This is expected to provide the tools they need to tackle the local regulations and understand the relationship between state and federal laws.

Ms. Wells spoke about the comments needed on the regulations regarding local options regulations, this looks like the regulation is providing for a marijuana distribution center as well as a marijuana retail store operated by the municipality. This appears that the whole section was lifted from the regulations regarding alcohol in statute. The authority to create or provide for a local option which allows a damp community has been litigated before the Alaska Supreme Court. There is an entire body of law on the dangers of alcohol in the rural communities. When they did that they stated that "marijuana is not

dangerous.” They separated the two. Because of this case precedence she finds it very unlikely that a marijuana distribution center and a municipality operated distribution center can be authorized via regulation because there are constitutional implications when you exclude other businesses from an industry. Regulating alcohol was done by statute not regulation. Attorney Wells recommended that in the City of Homer’s best interest to comment that this appears to potentially exceed the scope of the Marijuana Control Board’s authority based on alcohol distribution centers being legislatively authorized by statute.

Commissioner Stead requested clarification from Attorney Wells where this is addressed in the proposed regulations on local option. Attorney Wells stepped back and provided a brief history on the statutes that established the regulations for alcohol in the state. Attorney Wells then continued by explaining how those statutes regulating alcohol were used to create the proposed regulations in 3 AAC 306.200. Local Options. She explained that these regulations provide the right to open a municipal owned and operated distribution facility and retail establishment. She expressed that it is one thing to regulate marijuana within the authority granted to municipalities and another thing to operate what is a federally unlawful enterprise. City Attorney Wells expressed concern that if the municipality wanted to actually participate in the industry this may create some vulnerability when it comes to federal laws and the Controlled Substances Act.

Commissioner Monroe questioned whether a citizen initiative could require a municipality to operate a facility. City Attorney Wells responded that there is recourse for a municipality not to perform something it cannot do. She further commented on prohibiting marijuana or one aspect of the industry such as transport.

Commissioner Harris asked if the City did have a facility if that prohibits private businesses within the city. Attorney Wells referred to the proposed regulation 3 AAC 306.260, which allows that exclusivity, she added that if the municipality wanted to do this, as their attorney she would struggle against it due to the fact that there are antitrust laws and federal laws against those actions. Commissioner Harris restated her question regarding allowing additional businesses within city limits when there is a municipal owned facility. City Attorney Wells responded that they could allow additional businesses.

City Attorney Wells requested one additional comment needed regarding the requirement of a definition of “brokerage facility”. In 3 AAC 306.095 (4) Marijuana Cultivator’s Broker License and 3 AAC 306.200 Local options (a) (2) (A) a marijuana cultivation facility or marijuana brokerage facility. It is unclear what this is, she pictures that it is an intermediary of sorts. Commissioner Monroe responded that when section four is issued it would probably address this issue in more detail and may be cover the brokerage facility.

Attorney Wells recommended still making the comment since any section that it is mentioned in they should provide the definition so it is understood clearly.

Commissioner Lewis inquired if they can limit licenses to residents only. City Attorney Wells explained that they cannot due to violating the intent of the initiative, separate state constitutional laws and regulations and the authority is not granted to the municipality. They will respect our zoning laws if a license will violate the zoning regulations.

City Attorney Wells additionally commented on the prohibition regarding distance requirements, information gathering under the licensing section, requirements for non-residents regarding licensing, she can provide a more detailed answered at the worksession.

Commissioner Burgess commented on the distance requirement for religious organizations when there are certain religious organizations that marijuana is a part of the culture and belief. City Attorney Wells responded that she believed it was political, since it is onerous and legally there is no need for a comment from the city, but politically she can see the need for wanting to comment on the issue. Commissioner Burgess requested clarification on what the Commission and or city’s role was in commenting as a municipality regarding creating clear regulations or offering comments regarding the

larger political ramifications. City Attorney Wells responded that they could respond that the City of Homer anticipates regulating the locations of facilities via zoning ordinances and objects to regulations that may conflict with or create confusion with those regulations so we recommend you remove these restrictions and allow those restrictions to be governed by the municipality.

Commissioner Burgess agreed and commented that the state will probably land themselves in many lawsuits but would prefer to keep the city away from such activity before it could happen.

City Planner Abboud asked about the Federal Standards regarding distances and City Attorney Wells stated that would be good to include within their comment.

Commissioner Stead requested clarification on Attorney Wells previous statement that the State does not contribute any hazards to marijuana consumption. City Attorney Wells replied that they obviously have evidence of harm and the hazards on the Federal level but what she was speaking about earlier was what they do have is actual case statement from the Alaska Supreme Court that marijuana is harmless, they have many case examples of the dangers of alcohol but not marijuana. Commissioner Stead then referred to section 3 AAC 306.350(e), Advertising warnings listed, he believes there is conflict and that they should comment based on what is currently in the law and what the proposed regulations contain. He stated that they should remove them or get a ruling.

City Attorney Wells responded that putting a warning label on something is different than precluding or prohibiting something. She questioned if this was reasonable to allow a municipality to heavily restrict an enterprise.

Commissioner Harris requested clarification 3 AAC 306.300 regarding the “give” portion of the section prohibits the marijuana grower from giving away their product. A discussion ensued regarding the clarification of the meaning give within the context of the proposed regulation regarding business and personal use. City Attorney will carefully review this proposed statute but believed that it does not prohibit the personal option to give away an amount up to the legal limits under the personal use statutes.

Commissioner Harris then questioned the proposed 3 AAC 306.325 Marijuana handler permit required citing the issues that would impeded a business from opening. Commissioner Lewis asked if they could submit recommendations regarding having the handler permit training online then a person could proceed on their own.

City Attorney Wells responded that they certainly could submit a recommendation but did not feel that this was the appropriate avenue. She suggested that submitting recommendations that would foster the industry and communicating those options to the Marijuana Control Board, should first be reviewed, vetted and adopted by the City, then submit those recommendations to the Control Board. She cautioned creating more stringent regulations than you would like.

Commissioner Burgess clarified that what the state codifies is not something that the city can change. The city can only submit recommendations.

City Planner Abboud asked City Attorney Wells will draft the recommendations to present for Council review at their next meeting. City Attorney Wells confirmed that if he will submit any recommendations she will include in a memorandum for Council.

A discussion ensued next on the scheduling of implementing regulations and ordinances to be in effect according to the required schedule as outlined in the initiative. City Planner Abboud expressed concern on the time that it will take to have most ordinances before the November deadline.

Commissioner Burgess echoed the concerns expressed by City Planner Abboud regarding having the necessary vetted regulations ready just in case the state does not have the regulatory framework in place for the February deadline. He wanted to pursue that path due to lengthy public process involved with placing new regulations.

City Attorney Wells was slightly confused on the November deadline since no one was going to get any license until February. She has no problem working on a parallel set of regulations, however, as an attorney, she finds it difficult because the state will preempt and the city is going to try to regulate something that is federally unlawful and until the state implements something they are flying blind. Moving forward with zoning regulations, application fees, coming up with a department to do that, etc., are okay. City Attorney Wells is confident that the State will not fail to meet that deadline. It has already been stated that if the State fails to adopt the necessary regulations will bring the DEA and Federal AG into the mix.

City Attorney Wells further added that if the municipality wanted to address the regulations that allowed under the authority granted to them but wanted them to be very clean with regard to zoning, taxation, fees, but policy setting is fairly easy to devise.

Commissioner Burgess reiterated his concerns citing his experience so far within local government and people with strong opinion wanting to impart their opinions on the matter. He agreed with the city attorney opinion that the state will have regulations in place but did not think that it would hurt being proactive and having regulatory framework in place that is not as restrictive as the state and that they should have it in place by November and they can use the templates from the State.

There was a brief disconnection from City Attorney Wells. She agreed that there was no harm however she was more focused on the February deadline and believed the November deadline was more tenuous.

Commissioner Burgess asked for a point of order on discussing the City Attorney recommendations. Deputy City Clerk Krause explained that the memorandum was an item under new business for them to discuss and make a motion to approve.

RECONSIDERATION

No items were scheduled for 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 June 25, 2015 Regular Meeting

Chair Young requested any changes to the consent agenda. She requested motion to approve the consent agenda.

STEAD/LEWIS - MOVED TO APPROVE THE CONSENT AGENDA.

There was a brief discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

STAFF REPORTS

A. Staff Report CAC 15-02 from City planner re: Follow Up Items

City Planner Abboud provided the Marijuana/Alcohol Control Board definition of “in public” in regards to the discussion at the last meeting. He also spoke with City Attorney Wells regarding the buffers and she brought up the issue regarding religious meeting places and it appears that it will be very challenging for this town including the federal buffers required for drug free zones.

City Planner Abboud responded to questions and comment from the commission regarding the definition of public, he advised that public he referred as a place where people gather, it is a business, a place of amusement.

Commissioner Burgess opined that they should better define public in ordinance since he believed the state's was nebulous, noting that it would be beneficial for the Homer police and residents to have a clear meaning and understanding of the term.

Commissioner Lewis asked about a scenario regarding renting out a facility that is public but rented out for a private event. City Planner Abboud responded that if it is a private club that would be different and would be considered a private club not open to just anyone and would probably be allowed.

Commissioner Monroe commented that there are lawsuits shaping up regarding public versus private. Commissioner Harris noted that the current definitions have expired and the Control Board intends to make these permanent but intent is not doing. She has also tried to speak with Cynthia Franklin, but has been unable to get a response.

Commissioner Jones asked if drinking in public was allowed in Homer and Commissioner Robl responded that it was legal. There are laws regarding public drunkenness but not consumption.

Commissioner Harris also advocate for defining public for Homer.

City Planner Abboud offered that there would have to be separate regulations regarding clubs.

Further discussion on smoking in public and what other communities and the public would allow or want, enacting restrictive regulations that would hamper the revenue, tourist, creation of ancillary businesses, having specific known locations for this activity would be easier to control ensued.

PUBLIC HEARINGS

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

There were no items for public hearing.

PENDING BUSINESS

A. Review and Approval of the Draft Bylaws for the Commission

Chair Young requested a motion to bring to the floor.

BURGESS/LEWIS -MOVED TO APPROVE THE DRAFT BYLAWS FOR THE CANNABIS ADVISORY COMMISSION.

There was a brief discussion on correcting typographical errors and formatting.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

A. Memorandum from City Attorney Wells re: Commission Reviews Process Schedule Recommendations

City Planner Abboud reviewed the recommendations from the City Attorney that comment should be forwarded to the Marijuana Control Board and requested any additional recommendations.

BURGESS/LEWIS - MOVED TO STRIKE 3 AAC 306.200 a (3) AND 3 AAC 306.260 IN ITS ENTIRETY. DEFINE BROKERAGE FACILITY IN THIS SECTION AND OBJECT TO STATE REGULATIONS REGARDING ZONING TO THE MUNICIPALITY AS IS CUSTOMARY AND FOLLOWED IN REGULAR PRACTICE.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

BURGESS/LEWIS - MOVED TO RECOMMEND 3 AAC 306.300 NEEDS TO EXPLICITLY EXCLUDE GIFTING, WITHOUT MONETARY COMPENSATION, BY AN INDIVIDUAL TO AN INDIVIDUAL, PER THE ORIGINAL STATUTE 17.38.20.

Discussion on giving product and as written is conflict in what is proposed versus what is already law and belief that it needs to be clear, that the intent is to prohibit retail operations from giving away product not private and it aligns with the regulations against alcohol. Further discussion, referencing additional sections in the proposed regulations which showed the relation to business, this being a drafting error, but written broadly enough its intent is business related ensued. Commissioner Burgess called for the vote.

VOTE. NO. ROBL.

VOTE. YES. HARRIS, STEAD, YOUNG, MONROE, JONES, BURGESS, LEWIS

Motion carried.

B. Staff Report CAC 15-03 from City Planner re: Comments on Marijuana Regulations Set #2
1. Marijuana Regulations Set #2

City Planner Abboud reviewed the comments and points that he noted in his memorandum and previously discussed with the City Attorney.

Commissioner Burgess commented that the commission appears to be on the same page as his comments and recommendations.

Chair Young asked a question regarding the timing of presenting this to Council. City Planner Abboud responded that he hoped the Clerk was pulling the information now to present to the City Attorney, this will be included in the City Manager's report to Council at the next meeting, Council will approve and City Manager will forward the comments to the state.

C. Memorandum from Deputy City Clerk re: Comments on Marijuana Regulations Set #1, Round 2
1. Marijuana Regulations Set #1, Round 2

MONROE/BURGESS - MOVED TO SUBMIT THE RECOMMENDATION TO STRIKE PROPOSED REGULATION 3 AAC 306.310 SUBSECTION 3, ITEM C IN THE MEMORANDUM TO COUNCIL TO FORWARD TO THE STATE.

Discussion and comments on limiting retail businesses, the financial legalities since this is still a controlled substance followed, how it is handled in Colorado and Washington.

VOTE. YES. BURGESS, JONES, MONROE, YOUNG, HARRIS

VOTE. NO. LEWIS, STEAD, ROBL.

Motion carried.

BURGESS/MONROE - MOVED TO SUBMIT A RECOMMENDATION THAT PROPOSED REGULATION 3 AAC 306.310 SUBSECTION 3, ITEM B, BE STRICKEN FROM THE DRAFT.

There was a brief discussion and clarification on the proposed regulation limiting or prohibiting a business from reducing the cost of the product to the cost of purchase and not below which basically forces the business to take a loss instead of trying to recoup any percentage of their costs.

VOTE. NO. ROBL, STEAD.

VOTE. YES. HARRIS, YOUNG, MONROE, JONES, BURGESS, LEWIS.

Motion carried.

Commissioner Harris requested assistance in making a motion to address her concern with regard to the mandatory requirement to have a marijuana handler permit prior to opening up a business.

LEWIS/HARRIS - MOVED TO SUBMIT A RECOMMENDATION THAT THE STATE HAVE AND PROVIDE THE TRAINING FOR THE MARIJUANA HANDLER PERMIT, 3 AAC 306.325, OR DO NOT REQUIRE THE PERMIT UNTIL IT IS IN PLACE AND TRAINING TO BE AVAILABLE ONLINE.

There was no further discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

D. Memorandum from Deputy City Clerk re: Joint Worksession with Mayor and Council

Chair Young brought the item to the floor for discussion. It was determined that all commissioners planned to attend the

INFORMATIONAL MATERIALS

A. 2015 Meeting Schedule and Packet Processing Deadlines

B. 2015 Commission Attendance at Council Meetings

Commissioner Stead stated that he would be unable to attend the September 14th meeting and would attend the September 28th meeting instead.

C. Medical Marijuana Code West Yellowstone, Wyoming submitted by Commissioner Etzwiler

D. Marijuana regulations Set #1 and Public Notice Form Set #1

COMMENTS OF THE AUDIENCE

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

Glenda Korn, city resident, commented on the progress that the commission is making, she is really proud of the commission and looking forward to the next meeting. She commented that it is a bit of a nightmare doing things online and trying to get things done unless you are in Anchorage since it takes such a long time to get the papers from the State.

COMMENTS OF STAFF

There were no comments from staff.

COMMENTS OF THE CHAIR

Chair Young stated she will forego comments in the interest of time.

COMMENTS OF THE COMMISSION

Commissioner Robl, Harris, Stead, Jones and Lewis had no comments.

Commissioner Monroe appreciated how the commission sticks to a schedule since the Borough meetings seem to take about four hours. Thank you.

Commissioner Burgess commented on the different perspectives presented and the professional demeanor of the commission, he would like to include in the draft schedule presented tonight a parallel for them to get ordinances and regulations drafted as they know how it will end up if they do not plan appropriately and if he needs to do some nudging let him know.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 7:32 p.m. The next regular meeting is scheduled for THURSDAY, AUGUST 27, 2015 at 5:30 p.m. in the City Hall Cowles Council Chambers.

Renee Krause, CMC, Deputy City Clerk

Approved: _____



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Staff Report CAC 15-04

TO: Cannabis Advisory Commission
THROUGH: Rick Abboud, City Planner
DATE: August 27, 2015
SUBJECT: Comments on Marijuana Regulations Set #2

Introduction

This is to guide a conversation on the regulations proposed by the Marijuana Control Board (MCB).

Considerations:

Timeline

Attached is the updated timeline the MCB proposes. While the timeline is tight, it does look as if it is a priority to adopt regulations in a timely fashion prior to the November 24, 2015 deadline for adoption of such regulations. We had asked the attorney to draft some provisions in case the state was not timely in adoption of regulations. In consideration of the expectation of the federal government for allowance of the marijuana industry, I believe we would be hard pressed to create local regulations that would meet their directives. Basically, we would have to create and fund a new regulatory department. We can ask for a legal perspective from the City Attorney.

Question and Answer Draft Set #2 and Draft Set #1, Round 2

Attached is the Q & A.

Question number 6 provides a response for the commission's concern about gifting. It is stated that the proposed regulation only applies to the licensed industry and does not prohibit gifting of individuals off of a licensed premises.

Other questions do give a perspective on the thought of the board. The MCB is planning meetings on 8/31 and 9/1 to address Set 2 regulations.

Draft Regulations Set #3

Set 3 regulations along with City Attorney memorandum is attached.

The attorney's do not have many comments, just a request for the definition of "brokerage facility". A few things that I noted were that no provision for open-air cultivation has been proposed. All cultivation will have to be in a structure with rigid walls. I am guessing that this will exclude the typical high tunnel green houses that are popular around Homer.

Another provision that I would like to see addressed is some allowance for industrial hemp. It is apparent that it has been interpreted that this application is not addressed in the referendum.

While the CAC may want to comment on the regulations, any official comments from the city would have to be those endorsed by the City Council. The Commission may wish to pass recommendations to the City Council to consider.

Please discuss any concerns you may have with the regulations and any comments you may want to recommend for the City Council to forward.

Attachments

1. Revised MJ Timeline 8-12-15
2. ABC Board Q & A Draft Set 2
3. Draft Regulations Set 3
4. Attorney Comments Set 3 draft regulations



TO: Bruce Schulte, Chair and Members of the Marijuana Control Board
FROM: Cynthia Franklin, Director, Marijuana Control Board
DATE: August 12, 2015

REVISED TIMELINE- MARIJUANA REGULATIONS AND MCB MEETING DATES

08/31/2015- Anchorage/Juneau Meeting: MCB meets on SET 2, with a focus on ARTICLE 3;

—Schulte, Springer, Emmett, and Mlynarik in Anchorage with director and staff, Jones and AAG in Juneau on video link

09/01/2015- Anchorage/Juneau Meeting: MCB meets on SET 2, with a focus on ARTICLE 7;

—Schulte, Springer, Emmett, and Mlynarik in Anchorage with director and staff, Jones and AAG in Juneau on video link

[09/10/2015- Written public comment on Set 3 \(Articles 4, 5, 6, 8 and 9\) closes](#)

09/14/2015- Kotzebue Meeting: MCB meets on SET 3, with a focus on ARTICLE 4;

—Schulte, Springer, Mlynarik and Jones present in Kotz with director, staff and AAG; Emmett on phone

09/16/2015- Anchorage Meeting: MCB meets on SET 3, with a focus on ARTICLE 5;

—Schulte, Springer, Mlynarik and Jones present in Anchorage with director, staff and AAG; Emmett on phone

09/23/2015- Anchorage/Juneau Meeting: MCB meets on SET 3, with a focus on ARTICLE 6; MCB may address issues in SET 1 and SET 2, Articles 1,2,3 and 7 as needed;

—Schulte, Emmett, and Mlynarik in Anchorage with director and staff; Springer on phone; Jones and AAG in Juneau on video link

09/24/2015- Anchorage/Juneau Meeting : MCB meets on SET 3, with a focus on ARTICLES 8-9; MCB may address issues in SET 1 and SET 2, Articles 1,2,3 and 7 as needed;

—Schulte, Emmett, and Mlynarik in Anchorage with director and staff; Springer on phone; Jones and AAG in Juneau on video link

(Board votes whether to post revised Articles 1-9 for written public comment)

[10/02/2015 or 10/05/2015- Entire set of 9 articles posted for written public comment](#)

10/15/2015- Anchorage Meeting: MCB meets to receive ORAL PUBLIC COMMENT ON ALL 9 ARTICLES;

—All 5 board members present in Anchorage with director, staff and AAG

10/16/2015- Anchorage Meeting: MCB meets to receive ORAL PUBLIC COMMENT ON ALL 9 ARTICLES;

—All 5 board members present in Anchorage with director, staff and AAG

[11/11/2015- Written public comment on all articles closes](#)

11/20/2015- Anchorage Meeting: MCB meets to review comments/vote whether to adopt all articles;

—All 5 board members present in Anchorage with director, staff and AAG

11/24/2015- Statutory deadline for adoption of all regulations.

All meetings of the MCB will be publically noticed. With the exception of the October 15 and 16 meetings in Anchorage, none of the meetings will call for oral public comment on the regulations. All times are subject to change by the board.

Alcoholic Beverage Control Board

Marijuana Regulations Public Commentary

Questions & Answers on Draft Set #2

QUESTIONS RECEIVED REGARDING SET #2 PROPOSED MARIJUANA REGULATIONS WITH ANSWERS

Questions about why regulations are strict:

- 1) The requirements for licensure seem unduly burdensome to the applicant. Are these similar to other state licensing requirements of other businesses?
- 2) How is a business supposed to operate with such restrictions?

ANSWER TO 1-2 REGARDING STRICTNESS: AS 17.38.084, passed by the Alaska legislature in HB 123, provides that the board shall establish by regulation the qualifications for licensure, including fees and factors related to the applicants experience, criminal justice history, and financial interests. The proposed regulations establishing requirements for licensure are based on similar requirements in Colorado, Washington, and requirements for liquor licensed establishments in Alaska. In places where more detailed information is required, the justification is that the activities of the establishments to be regulated are conducting activities which are illegal under federal law. Marijuana is still illegal under federal law. The Controlled Substances Act (“CSA”) makes it illegal under federal law to manufacture, distribute, or dispense marijuana.

On August 29, 2013, the U.S. Department of Justice (DOJ) published a memorandum authored by then U.S. Deputy Attorney General James Cole that described a new set of priorities for federal prosecutors operating in states which had legalized the medical or other adult use of marijuana. The memo identified eight general enforcement priorities (the “Cole Priorities”) and expressly focused the DOJ on persons or organizations whose conduct interferes with one or more of those priorities. If a business implicates one or more of these priorities, it is a “significant threat.”

The Cole Priorities. The following enforcement priorities are deemed to be of particular importance to the federal government:

- Preventing the distribution of marijuana to minors;
 - Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
 - Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;

- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

The Cole Memo “is intended solely as a guide to the exercise of investigative and prosecutorial discretion” and “does not alter in any way the Department’s authority to enforce federal law, including federal laws relating to marijuana, regardless of state law.” Marijuana is still illegal under federal law and the feds reserve the right to enforce federal law. The memo emphasizes that states allowing for marijuana activities must implement “strong and effective” regulatory systems. The memo states that “A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice.” The memo goes on to state that “In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above.” The memo specifically mentions “implementing effective measures to prevent diversion outside of the regulated system and to other state, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for.” The Cole Memo also says that “If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.”

- 3) What is the purpose for the detailed information required of an applicant by proposed 3 AAC 306.020? Is this the same or similar criteria required of applicants for alcohol related licenses? If more detailed information is required for a marijuana license than an alcohol license, what is the justification for the distinction?
- 4) We question the need for information about each family member. How could it possibly matter if a son or daughter, or for that matter a father or mother, applied for a license totally separate from the rest of their family? Further, it’s unclear to us what an “affiliate” means as described in this section.
- 5) 3 AAC 306.020(b)(2) requires disclosure of social security numbers, name, addresses, and phone numbers of not just the applicant, but the applicants’ family members and affiliates. It further states that all persons named in the application that

complies with section 2 are considered a licensee for purposes of this chapter. Therefore, this regulation as drafted means that any family member of a marijuana establishment owner, even if they do not receive any benefits from the company and are not owners of the company. What health and safety concern of the public does this protect?

6) Does the disclosure of financial interests regulation support health and public safety?

7) 3 AAC 306.020(b)(2) requires an applicant to disclose partnership agreements for partnerships and operating agreements for limited liability companies; it does not require a corporation's bylaws be disclosed. What rationale can the Board articulate that justifies requiring a partnership and LLC to disclose publically their internal governing document, which details responsibilities, voting rights, operations details, strategy for expansion and exit for investors, structure, and other extremely sensitive business strategies judgments, to the public and the state but does not require corporations to disclose the same type of governing document?

ANSWER TO 3-7 REGARDING STRICTNESS: Requirements concerning the identification of all interested parties in a license is related to the unique status of this substance. See answer to Questions 1-2 above and specifically those priorities in the Cole memo that require that state regulations clearly address prevention of revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels and prevention of state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity. The proposed regulations are modeled after the type of financial background investigations that appear to have satisfied the federal priorities in other states and which is contemplated by the Alaska legislature in AS 17.38.084 which mandates disclosure of financial interests.

8) Why would we need owner's to submit fingerprints again for renewal? The person has submitted those fingerprints previously during the original application process.

ANSWER TO 8 REGARDING STRICTNESS: 3 AAC 306.030(c) provides that the director MAY request fingerprints. This proposes that fingerprints on renewal are a discretionary decision for the director but does not require fingerprints on renewal for all renewal applications.

9) You do not regulate how much beer I can brew or how many six packs I can have in my house so why are you trying to regulate marijuana in my home?

ANSWER TO 9 REGARDING STRICTNESS: The proposed regulations are intended to regulate commercial marijuana establishments as provided by AS 17.38.090. The proposed regulations address how much marijuana can be sold by a retail marijuana store in a single transaction, not how much marijuana an Alaskan can possess in their home.

Questions about the term "license" versus the term "registration":

1) AS 17.38 authorizes a registration process for marijuana facilities. 3 AAC 306.010 et seq. establishes a licensing process. What is the difference between registration and

licensing? Why is licensing being implemented rather than the registration process authorized by AS 17.38?

2) AS 17.38 uses the word “registration” and not “license”. What is the reason for the change?

ANSWER TO 1-2 REGARDING THE TERM LICENSE: AS 17. 38.900(16) was amended by the Alaska legislature to read “registration” means registration or licensure, as determined by regulations. AS 17.38.084, passed by the Alaska legislature in HB 123, provides that the board shall establish by regulation the qualifications for licensure, including fees and factors related to the applicants experience, criminal justice history, and financial interests. Additional language in AS 17.38.084 also refers to licensure.

Questions about interaction between Marijuana and Liquor Licenses

1) The proposed regulations state that marijuana may not be sold in or adjacent to a liquor store. It seems completely arbitrary that liquor may not be sold on the same premises and marijuana, when currently, tobacco (a controlled substance) is allowed to be sold in liquor stores. Could you explain the rationale behind this proposed restriction? It seems that liquor store owners are actually more prepared and experienced to work in this new market than others. Tom Manning is on the marijuana control board and is another liquor store owner. What is his opinion on this?

2) “The board will not issue a marijuana establishment license if the licensed premises will be located immediately adjacent to a liquor license premises.” What is the reason for this? Alcohol and Tobacco are sold on the same premises, what is the issue here?

3) How does (306.010(b)) protect the safety and health of the public? What rationale supports the premise that separating two demerit goods geographically creates a protection for safety and health? How does this separation protect the public health and safety?

ANSWER TO 1-3 REGARDING LICENSE INTERACTIONS: Tom Manning is on the Alcoholic Beverage Control Board. Nothing in the proposed regulations prohibits a person who holds a liquor license from applying for a marijuana license. Alcohol is a regulated substance and has its own set of statutes and regulations in Title 4 that govern its possession, sale, barter, and manufacture. The proposed regulations for marijuana keep alcohol and liquor licensed premises separate in order to avoid creating immediate legal questions regarding how the two sets of statutes and rules will interact. Board members of either the Marijuana Control Board or the Alcoholic Beverage Control Board are ethically restrained from giving opinions on proposed regulations outside of publically noticed board meetings.

4) Is the concern that you don't want people mixing the two or is this a regulation to keep the alcohol industry from having to compete? Or is it something else? We need to know why this is a regulation. We allow alcohol establishments inside of everything from

ferries to restaurants, but let's say a restaurant or club that serves alcohol wants to open a cannabis section we can't do that because there is an alcohol license in place?

ANSWER TO 4 REGARDING LICENSE INTERACTIONS: See answer to 1-3. The four types of marijuana establishment licenses created in AS 17.38 do not encompass the type of liquor-licensed premises activities to which you refer. There are no marijuana club licenses in AS 17.38

Questions about the residency requirements:

1) Please reply why Alaska has the regulation disallowing out of state citizens to invest in Marijuana businesses in your state.

ANSWER TO 1 REGARDING RESIDENCY: Please read the answer regarding why regulations are strict at the beginning of the Q & A. AS 17.38.010(d) provides that “nothing in this Act proposes or intends to require any individual or entity to engage in any conduct that violates federal law, or exempt any individual from any requirement of federal law, or pose any obstacle to the enforcement of federal law.” The proposed residency requirement would help assure both Alaskans and the federal government that Alaska’s commercial marijuana industry is intended to be conducted in Alaska and for Alaskans and will not violate the Cole memo priority that the industry not encourage diversion of marijuana outside of the state.

Questions about fees:

1) Why are the fees set at the statutory cap? Why is renewal of a license on an annual basis, rather than a biannual basis as it is with alcohol related licenses? What are the anticipated costs associated with administering the licensing process? What is the justification for the annual, as opposed to biannual license, and the licensing fees being set at the statutory cap?

2) Does the board deem it necessary to start at the cap of \$5000? Under AS 17.38.090(a)(2) “A schedule of application, registration and renewal fees, provided, application fees shall not exceed \$5000, with this upper limit adjusted annually for inflation, unless the board determines a greater fee is necessary to carry out its responsibilities under this chapter;”

ANSWER TO 1-2 REGARDING FEES: The proposed regulation recognizes that the regulation of marijuana will be expensive. In addition to the cost of personnel to handle the licensing, enforcement, administration, and education regarding commercial marijuana licenses, the state will have to pay for the installation and upkeep of a marijuana inventory tracking system. The Alaska legislature has expressed an expectation that the Marijuana Control Board, like the Alcoholic Beverage Control Board, will be a “receipts funded agency”. This means that general funds to pay for necessary items like the marijuana inventory tracking system will not be available to the board and the costs must be covered by licensing fees. If the licensing fees cannot cover the costs of administration of the regulatory system, the system may fail. Additionally, the statutory cap on the licensing fees is

substantially lower than fees charged by other states, already limiting the resources of the agency.

Questions about limitations about what can take place in a marijuana store:

- 1) 3 AAC 306.310(c)(3)(B)(C) appears to disallow the sale of bottled water, candy bars and similar items one might purchase in an alcohol retail store. Is the purpose of this regulation to curtail marketing of marijuana or is it to limit what is sold in a retail marijuana store? What is the justification for limiting the sale of items such as candy bars and bottled water in a retail marijuana store. Alcohol retail stores have “loss leaders” that are sold below the price of purchase. Is it the intent of the regulations to prohibit “loss leaders” sales? If so what is the justification for this position?
- 2) “A licensed marijuana retail store may not offer or deliver to a consumer, as a marketing promotion or for any other reason: a consumable product other than marijuana, including cigarettes, tobacco products, alcoholic or non-alcoholic beverages or food, free or for compensation.” NO consumables? No water or coffee?
- 3) Does this 3 AAC 306.310(c)(3)(C) also exclude marijuana edibles, since it does not have the phrase “marijuana products” which would include edibles? This does not exclude other retail items for sale, such as paraphernalia, clothing or products wholly unrelated to marijuana consumption, such as cups? Does “tobacco products” include e-cigarettes and concentrated liquid nicotine, included to be used in e-cigarettes and vaporizers?
- 4) What’s the harm in allowing a marijuana retailer from selling other products and why should it be prohibited?
- 5) Please educate us as to what this means and what is the scope of this marketing prohibition and the scope of the words “or for any other reason.” Does this regulation intend to prohibit the sale of any non-marijuana infused food or beverage? What is the health and safety concern that justifies this prohibition? And can these concerns be addressed in a more narrowly crafted regulation?

ANSWER TO 1-5 REGARDING MARIJUANA STORE LIMITATIONS: The proposed regulation for marketing promotion prohibition addresses consumable products other than marijuana, so it should also say other than any marijuana product. It addresses consumable products, which would not include clothing or cups. “Tobacco products” in the proposed regulation is not defined. The proposed regulation is intended to limit what is sold in a retail marijuana store. It is based on similar regulations in other states. The proposed regulation is intended to limit the attractiveness of a retail marijuana store to minors and persons who want to buy consumable items other than marijuana and marijuana products.

- 6) The prohibited acts in 3 AAC 306.300(a) include “give” or “offer to give,” intended to apply in the context of a retail operation. However, as worded, it seems to prohibit any person from giving another person (a consumer) any marijuana without a license. Does this negate the regulation that a person can give someone else up to 1 ounce without any other item in the transaction? Or should “give” be more specifically defined here to exclude that personal transaction?

ANSWER TO 6 REGARDING MARIJUANA STORE LIMITATIONS: AS 17.38.020 provides the legal support for gifting of up to an ounce of marijuana between individuals. The proposed regulation controls what may and may not occur on licensed marijuana premises. On a licensed premises under the proposed regulation such gifting is prohibited. Nothing about the proposed regulation affects individual gifting rights off of licensed premises.

7) The regulation 3 AAC 306.310(a)(4) prohibits purchase of marijuana on the internet, and only allows the sale to occur to someone on the licensed premises. Would this also prohibit a “takeout order” option, as can happen with a restaurant for food to go? For example, a person orders and purchases (enters their credit card information) on a website, opts for picking up their order at the store, and travels to the store to receive the product. Does this require every step in the transaction to take place on the licensed premises?

ANSWER TO 7 REGARDING MARIJUANA STORE LIMITATIONS: The proposed regulation specifies that the delivery of the marijuana must take place on the licensed premise. The scenario posed by the question of placing an order in advance is not addressed by the proposed regulation. It would be a matter of interpretation by the board if the regulation was enacted and the activity occurred.

8) Is regulation 3 AAC 306.310(c) intended to be written to prohibit all activity in those 8 hours, or activity specifically related to preparation or consumption of the product?

ANSWER TO 8 REGARDING MARIJUANA STORE LIMITATIONS: The proposed regulations is written to prohibit any retail marijuana store from conducting business on or allowing any person to access the licensed premises during those hours.

9) The regulation requires restricted access to where marijuana is displayed or sold, and requires an escort and an identification badge for visitors. As written, this seems to imply that a customer to a retail establishment must be escorted, that no more than 5 visitors can be on premises, and that they need badges, in order to enter the store and browse display cases or shelves. Is this the intent of the regulation, or is it intended to cover “back room” operations or behind counters?

ANSWER TO 9 REGARDING MARIJUANA STORE LIMITATIONS: The proposed regulation is intended to cover restricted areas designated by the licensee to be for employees only. The provisions for escorted visitors allow for a scenario where a non-employee is touring the non-customer areas of a licensed premises or visiting for other business purposes.

10) Regarding the prohibition of marketing promotion for the purchase of marijuana “At a price below retail store’s acquisition cost”—what is the justification to not allow the free market to control the cost and price of marijuana? What is the health and safety

justification for requiring the owner of the retail to store to essentially take the entire loss of that whole sale purchase, then to mitigate the loss by selling the product at a lower price? GNC sells vitamins that are nearing expiration below their wholesale purchase price, should we require GNC to up the retail price and allow the product to expire, subjecting the company to an even larger loss?

ANSWER TO 10 REGARDING MARIJUANA STORE LIMITATIONS: The proposed regulations is written to reduce the possibility of marijuana price wars that amount to giving marijuana away which raises public health and safety implications and which is not permitted in alcohol sales. The remainder of the question is a comment.

11) What is the limit in 3 AAC 306.310(a)(3)?

ANSWER TO 11 REGARDING MARIJUANA STORE LIMITATIONS: Please read the section referred to: 3 AAC 306.335.

Questions about low or no THC marijuana:

1) The intent of the law is to control access to a substance that is active, flower/extract/edible. How does this apply to cannabis items that have literally no THC content? Clones/Seeds/Tissue Cultures. Do these items with virtually no active compounds require same regulation as stated.

ANSWER TO 1 REGARDING LOW THC MARIJUANA: The proposed regulations apply to marijuana as defined in AS 17.38. and as further defined in the regulations themselves. Further definitions are expected to be proposed in Set #3.

Questions about the marijuana tracking system:

1) How does the marijuana inventory tracking system (3 AAC 306.355) apply to a limited cultivation facility only dealing with seeds/clones/tissue cultures.
a. In a breeding program there will be thousands of seeds; would the law require the nearly impossible task of tracking seeds?
b. Tissue cultures, does this apply to cannabis tissue cultures, used for micropropagation techniques?

ANSWER TO 1 REGARDING TRACKING: The proposed regulations regarding the marijuana tracking system are intended to apply to marijuana and marijuana products as defined in AS 17.38 and in the regulations themselves. Further definitions are expected to be proposed in Set #3.

2) The regulation requires that licensees keep their data in a format in which “information can be shared with the board”—does this mean that the system must be compatible to provide raw data output or datasets from a licensee to the board, or that

simple reports (such as, an inventory list, monthly transactions, total sales from the past year, or other typical queries) in a PDF or printed format would suffice?

ANSWER TO 2 REGARDING TRACKING: The proposed regulations regarding the marijuana tracking system are general in nature until and unless the regulations are adopted and enacted. The complexity of the tracking system and the answers to the questions posed about details of tracking are not answered by the proposed regulations.

Questions about powers and duties of the board:

1) “The board will impose other conditions or restrictions on a license issued under this chapter when it finds that it is in the interest of the public to do so.” What does this mean exactly? Who decides what the interest of the public is?

ANSWER TO 1 REGARDING BOARD DUTIES: AS 17.38.084 defines the powers and duties of the Marijuana Control Board to control the cultivation, manufacture and sale of marijuana in the state. The imposition of conditions or restrictions on licensure is modeled after similar authority in liquor licensing and other boards in the state. The board must decide the public interest and protect public safety.

2) A licensed marijuana retail store may not sell give, distribute, or deliver, or offer to sell, give, distribute, or deliver, marijuana or any marijuana product “after the expiration date shown on the label...” Who determines the expiration date and how?

ANSWER TO 2 REGARDING BOARD DUTIES: The proposed regulations do specify the answer to this question. It is logical that the producer of the product would assign the expiration date, just as in other product manufacturing areas.

3) Given the potential risk of fire, particularly in production of concentrates and some edibles, will the board also create standards or requirements regarding fire safety?

ANSWER TO 3 REGARDING BOARD DUTIES: AS 17.38.110(b) anticipates local control governing the time, place manner and number of marijuana establishment operations. It is anticipated that Set 3 will contain additional rules relating to compliance with and approval by a local fire department prior to licensing for those licensed marijuana establishments whose activities implicate fire safety. There is a similar requirement in liquor licensing.

4) In what situation would it be appropriate for a board member to directly conduct an inspection? What safety considerations might there be for someone who is not properly trained in performing duties of a peace officer (the designation given under Title 4 for enforcement personnel)? Does the Board have intention to conduct regular inspections, or protocols in place for completing these inspections?

ANSWER TO 4 REGARDING BOARD DUTIES: In liquor licensing, inspections are performed by trained enforcement personnel. It is anticipated that the agency will set up inspections of marijuana licensed premises in a similar fashion. The proposed regulation's inclusion of a board member as a potential person to inspect marijuana licensed premises is a matter for the board to consider in whether or not to adopt the regulation as written.

Questions about specific license types other than retail marijuana store licenses:

- 1) There is no reference to a marijuana brokerage license or facility in AS 17.38. As of yet it is not defined in the proposed regulations. groups a brokerage facility in the same category as cultivation. Does the use of the word "or" mean one could have a licenses for cultivation or brokerage but not both? How is marijuana brokerage defined, and how is it authorized by AS 17.38?
- 2) Is a manufacturing facility providing an extraction service to the public? Or is it providing a product of concentrate to other marijuana establishments? Please specify.
- 3) I would like to know what a marijuana broker is.
- 4) I have a question regarding restrictions on the number of licenses held by a licensee. I am working on a business plan for a marijuana establishment. My current plan calls for cultivation and retail sales at the same location. May a licensee hold multiple licenses? May a licensee hold a cultivation AND retail license for the same location?

ANSWER TO 1-4 REGARDING SPECIFIC LICENSE TYPES: The proposed regulations do not contain a definition of the terms in the questions or answers to these questions regarding license types other than retail marijuana store licenses contained in Article 3. It is anticipated that Set #3 will contain additional definitions and the regulations regarding the remaining license types.

Questions about definitions:

- 1) A licensed marijuana retail store may not allow any person to consume marijuana or any marijuana product on the marijuana store's licensed premises; Define premise. Is it the entire store or retail area? What about a non-premise break room?

ANSWER TO 1 REGARDING DEFINITIONS: The definition of licensed premises is defined in Set #1 of the proposed regulations, which is also submitted for public comment during this time frame.

- 2) Why is the word "deliver" strictly defined as on a marijuana establishments premises? Why would delivery to the customer be limited strictly to coming to the establishment?

ANSWER TO 2 REGARDING DEFINITIONS: The proposed regulation mirrors statutes and rules regarding alcohol in Alaska (no delivery with two exceptions for weddings and champagne in a floral basket to a cruise ship) and other states where the rules require persons desiring to purchase marijuana to get themselves to a

licensed premises to purchase it there. Circumstances surrounding the sale can be controlled if the sale occurs on the licensed premises.

3) What is the specific definition of “family member” and “affiliate” here? Is this covered elsewhere? I would assume it means immediate family (spouse, parents) but is unclear here without a definition. Does affiliate mean a corporation or other business, or an individual?

ANSWER TO 3 REGARDING DEFINITIONS: The proposed regulation does not contain a definition of the terms in the questions. It is anticipated that Set #3 will contain additional definitions.

4) 3 AAC 306.010(a) uses the term “child-centered facility” and broadly defines this term to include any facility “providing services to children.” What exactly does this mean? Providing services to children can apply to a plethora of facilities. A theater that hosts child drama classes after school or during the summer would fit this definition, even if the theater’s regular business was producing plays marketed to the community as a whole, is this the type of entity the regulations are intending to protect? How about the Alaska Athletic Club? Most Alaska Athletic Club branches have a child care service where members can drop off their children to have their children supervised during their work out, does this count as a day care or child centered facility? Many of these athletic clubs are in industrial or commercially zoned areas – is it really the intent of the regulations to label an athletic club as a sensitive protected area requiring the buffer zone?

ANSWER TO 4 REGARDING DEFINITIONS: The Cole priorities, discussed in the first answer in the Q&A, specifically focus on issues relating to marijuana and minors. The Cole Memo states that the Department of Justice’s interest in preventing the distribution of marijuana to minors “would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors, when marijuana or marijuana-infused products are marketed in a manner appealing to minors, or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.” In Colorado and Washington, the buffer zone around schools is 1000 feet, and in Washington includes parks, playgrounds, and other places where minors gather. The proposed regulation recognizes that in some communities in Alaska, 1000 feet would prohibit most commercial areas as viable locations for a marijuana establishment, but attempts to meet the federal requirement of rigorous regulation even when reducing the buffer zone by 800 feet by recognizing that schools are not the only areas associated with minors.

Questions about advertising and signage:

1) Why can a marijuana establishment be located within 200ft of a school, church, etc. but the advertising sign for that business may not be located within 1000ft?

- 2) "A marijuana retail store may not place advertisement for marijuana or a marijuana product on or in a publicly owned or operated property." The Soldotna Sports Center allows consumption of alcohol on premises, ie a beer garden, allows children to attend events on the same premises, but advertisement for marijuana cannot exist on premises?
- 3) The regulation specifies a certain type of sign to be posted on the licensed premises. Will the ABC Board provide a copy of appropriate signage to licensees?
- 4) As worded, this regulation seems to prohibit more than one sign per establishment—what about a business in a strip mall, which would have a sign above its own establishment but may also have a publicly-visible sign in the strip mall's overall signage? Please clarify whether this was the intent, and whether marijuana establishments would be prohibited from including a second sign in such a display in a strip mall. Would this also preclude an establishment in an indoor mall from placing its business name in the mall directory or internal directional signage, even if it is just the business name and its location in the building?
- 5) How does the state propose a marijuana retail store comply with this provision if it is located within 1000 feet of a sensitive use area? Just not advertise? Is that fair and narrowly tailored? Additionally, if a marijuana establishment advertises in a publication, how can it ensure such a publication isn't picked up by a reader and then put down again in a dentist's office that happens to be next to a day care?
- 6) Are alcohol and Tobacco companies restricted from distributing branded materials?
- 7) Seems to me I can advertise based on recreational effects but not medicinal effects?
- 8) How can an illustration become false? Is a logo considered an illustration?
- 9) If the advertisement is not enticing to children or depicting a person under 21 consuming cannabis, then why would it matter where the placement of such advertisement is?
- 10) If a cannabis business sold tshirts to customers, would it be considered promotional? If a customer can buy a tshirt, then what is the reasoning for restricting a giveaway? How does this protect the health and safety of consumers? Additionally, let's say a cannabis business wants to run a charity event such as a running relay for cancer research. Is this considered a game or competition that promotes business? Would that business not be allowed to put their logo on sponsorship material or signage?
- 11) "A marijuana retail store may not use giveaway coupons, or distribute branded merchandise as promotional materials, or conduct promotional activities such as games or competitions to encourage sale of marijuana or marijuana products." Why can't a marijuana retail store distribute branded merchandise as promotional materials?

ANSWER TO 1-11 REGARDING ADVERTISING AND SIGNAGE: Advertising, branding, labeling and marketing or promotion of alcohol and tobacco products are mostly governed by federal regulation. Because marijuana is an illegal substance on the federal level, the federal government will not assist by providing national regulation for this aspect of the industry. Therefore, states must add regulation of these subject areas to the myriad of requirements for state regulation of marijuana necessary to attempt to prevent the federal government from shutting down the states regulatory process and prosecuting the businesses for the cultivation, distribution, sale and possession of marijuana. Colorado and Washington both have restrictions on distributing branded materials and on specific forms of advertising

related to marijuana and marijuana products, from which the proposed regulations in these areas were derived. Please read the answer regarding why regulations are strict at the beginning of the Q & A and carefully note the federal wariness of advertising and marketing of marijuana.

Questions requesting further clarifications of proposed regulations in general:

- 1) “Any visitor to the restricted access area must be escorted at all times by the licensee, an employee, or an agent of the licensee.” Escort within how many feet? 5? 10? Line of vision? Please clarify.
- 2) “The licensed premises of a marijuana establishment must have continuous video monitoring as provided in 306.725.” Who has ownership rights to video?
- 3) What are the “consulting services” referenced in subsection (B) that a licensee could provide to another?

ANSWER TO 1-3 REGARDING CLARIFICATIONS: The answer to these questions is not contained in the language of the proposed regulations. Interpretation of regulations that are enacted will be a board function.

- 4) Identification cards are specified for U.S. states, DC and Canada, and from “a federal or state agency authorized to issue identification cards.” Does this include non-U.S. citizens or foreign nationals, if they have appropriate identification showing their age?

ANSWER TO 4 REGARDING CLARIFICATIONS: Yes.

- 5) Marijuana waste is, for the purposes of the rest of the regulations, not considered marijuana, correct?

ANSWER TO 5 REGARDING CLARIFICATIONS: No. Marijuana waste is regulated by the proposed regulations.

- 6) Can we specify a health risk? Alcohol and tobacco name specific risks, e.g. lung cancer, birth defect, etc. Are there even any specific “health risks” associated with 1) casual or 2) chronic use that the board can name aside from those mentioned in a) and b)
- 7) Without any factual evidence of what excessive consumption is, how can a regulation determine what is excessive to the consumer?

ANSWER TO 6-7 REGARDING CLARIFICATIONS: There is much about marijuana consumption that is unknown due to its longtime status as a controlled substance. The timeline for establishing regulations in AS 17.38 passed by the voters does not permit the board to wait for scientific research to catch up. This is why many of the proposed regulations are based on those in Colorado and Washington; this term, like others, may be subject to the board’s interpretation as it moves forward with these regulations.

8) 3 AAC 306.015(c) needs clarification for the sentence that reads “[t]he board will issue each license for a specific location identified on the license as the licensed premises.” Does this mean that one license can license several different locations? Or is an additional license needed for each location?

ANSWER TO 8 REGARDING CLARIFICATIONS: The language of the proposed regulation is for one license for one location.

9) 3 AAC 306.020(b)(2) requires social security numbers and all other identifying information of family members of the applicant. Where is this information going to be stored? How is the state going to protect this information from falling into the hands of an identity theft? Is the state taking on insurance to protect from damage caused by identity theft to family members whose information is involuntarily disclosed to the state? Is this information going to be accessible by the public? If not, what government entities will be responsible for safe guarding the information? Certainty, it’s no secret the state is in a severe budget crunch, does it have reserved funds to handle litigation and damage claims from leakage of the required private information?

ANSWER TO 9 REGARDING CLARIFICATIONS: The state collects private information for many purposes and complies with existing policies regarding the protection and storage of private information required to be submitted for state purposes.

10) Why do I need a million dollars of insurance?

ANSWER TO 10 REGARDING CLARIFICATIONS: If the proposed regulation were enacted, you would need it because it is a requirement to receive a license. Please read the answer regarding why regulations are strict at the beginning of the Q & A.

11) It is not clear what the mechanism is for proving that the taxes have been paid to the state. Who does the certificate come from? If it is the grower, does the retailer have an obligation to verify this information with the state, etc?

ANSWER TO 11 REGARDING CLARIFICATIONS: The statute regarding the taxing of marijuana is general in nature until and unless the regulations are adopted and enacted, whether by the MCB, by the Department of Revenue, or both. The complexity of the taxing system and the answers to the questions posed about details of taxing are not answered by the proposed regulations.

12) Section 3 AAC 306.715(c) suggests that the MCB office is going to issue an ID card that includes their photo; exactly how will the MCB office do that in Craig, Kake, King Salmon, Cold Bay, etc...?

ANSWER TO 12 REGARDING CLARIFICATIONS: If the proposed regulation were enacted, an application will indicate how to submit a photo. The applicant will provide the photo, not the MCB office.

13) In Section 15 of Article 1 it mentions, "A marijuana establishment must have a right to the possession of a licensed premises at all times, and may not lease a licensed premises to another person for any reason." Will a residential lease agreement between tenant (hopeful cultivation licensee) and land/home-owner satisfy this requirement of the application process?

ANSWER TO 13 REGARDING CLARIFICATIONS: The proposed regulation provides that a marijuana licensee may not lease its licensed premises to another person, thus relinquishing its right of possession to the premises. This regulation is based on a similar restriction on alcohol licensees found in AS 04.11.450(c).

14) Is an individual applying for a cultivation license required to have an Alaska state business license prior to applying for the cultivation license?

ANSWER TO 14 REGARDING CLARIFICATIONS: Yes.

15) What about businesses that utilize a fume hood or similar device? Any type of lab setup or distillation or whatever would require cameras that can see every counter, dish, sink, work station, or whatever to provide a view of everyone's activities at all times.

ANSWER TO 15 REGARDING CLARIFICATIONS: The proposed regulation, found in 306.725(c), requires video placement that provides an unobstructed view of the regular activity without sight blockage from the type of hoods in the question.

Questions regarding regulations regarding businesses starting before rules were in place:

1) Section 3 AAC 306.010(d)(2) only applies within the first two years of the effective date of this section—why is additional leniency necessary on potential business owners (licensees) who were not complying with current law?

2) In 3 AAC 306.010(d)(2) what is illegal? The state needs to understand it has not provided clear guidance to the public as to what is legal and what is not legal and therefore cannot condemn those who had no clear notice of the state's interpretation of these grey areas. If the state cannot articulate its position on the status of the law, how can the public be held accountable for acting upon its own interpretation? And what type of license are we referring to? The regulation does not specify that it be a marijuana license, is it referring to a state issued business license?

ANSWER TO 1-2 REGARDING OPERATION PRIOR TO REGULATION ADOPTION: The proposed regulation is intended to provide some consequence with the board in the application for any business that began operating as if it had a marijuana establishment license before those licenses were available. Although the board is not in control of whether or not such a business operating illegally is

prosecuted, the proposed regulation gives the board a mechanism to determine whether a business which will not wait for the rules to be in place before beginning to operate is a good candidate to hold a license in a highly regulated industry. Definitions of terms is anticipated to be covered in Article 9, which will be in Set #3 of the proposed regulations.

Questions regarding prohibition of person with felony conviction getting license:

1) The regulations indicate that a national criminal history check will be run for applicants. A previous section indicates that a license will not be issued to someone convicted under state law. Are there federal convictions which may or may not be applicable to the application? Possession of marijuana, while a federal crime, is no longer a violation of state law. Will the board provide guidance as to which types of federal convictions are or are not relevant to whether a person can be issued a license?

ANSWER TO 1 REGARDING FELONY CONVICTIONS: AS 17.38.100(i) prohibits issuing a marijuana establishment license to a person who has been convicted of a felony within the preceding five years or who is currently on probation or parole for that felony. The statute does not distinguish between felony convictions from Alaska or elsewhere.

Questions about marijuana handler permits:

- 1) The regulation requires a marijuana handler permit holder to have it in their “immediate possession” while on the licensed premises. Has the Board also considered requiring or allowing the licensee to post a list, or a copy of each permit, in a visible place in the establishment?
- 2) In Chapter 306 Article 7 section 715 it mentions that a marijuana handler permit is required for every employee and agent of the marijuana industry and that a marijuana education course is going to facilitate this. My question for the board is how can I get approval if I were to start a marijuana handler permit education course and is there any associated costs at this time?
- 3) When will marijuana handler courses/permits be available? These are required prior to licensure too, correct?
- 4) Is there a marijuana handler permit fee?

ANSWER TO 1-4 REGARDING MARIJUANA HANDLER PERMITS: The proposed regulation provides that the board will approve marijuana handler education courses and that to be approved a course must cover the topics specified in 3 AAC 306.715(b). This requirement is similar to the requirement in Title 4 that employees of liquor licensed establishments have a card certifying that they have completed an alcohol server training course. That card is required to be in the immediate possession of the card holder while on the licensed premises. The proposed regulation does not specify whether the board will charge an organization offering a course a fee for becoming certified by the board, and does not specify the fee for an individual to obtain a permit. Courses will not begin receiving approval by the board unless and until the regulation is enacted in 2016.

**QUESTIONS NOT COVERED IN THE PROPOSED REGULATIONS IN SET #2
(not answered)**

- 1) This is regarding required transportation and lab testing of marijuana. Many Alaskan communities are not connected to the road system, like much of Southeast Alaska, including my town Juneau. How will marijuana be transported between towns if it is federally illegal to transport marijuana via airplanes?
- 2) How will testing be done if marijuana cannot be transported through the postal service or airplanes? Oregon allows marijuana to be transported on airplanes as long as the flights are within the state. Will Alaska do the same thing?
- 3) How can a cannabis business sell a product to a consumer without explaining the effects? This is a threat to the health and safety of product consumption to consumers.

**QUESTIONS THAT ARE ACTUALLY COMMENTS OR RHETORICAL QUESTIONS
THAT CANNOT BE ANSWERED BY THE PROPOSED REGULATIONS IN SET #2
(not answered)**

- 1) What is the rationale behind forcing a company to play a guessing, trial and error game with the cultivation of a controlled substance such as marijuana? What harm is there in allowing an experienced commercial cultivator to come up to Alaska and help plan the layout of the grow, point out potential unforeseen safety hazards and create a plan for minimizing those hazards, teach an Alaskan cultivator how to grow without use of chemicals and to minimize the risk of mold and other impurities in the product? Why is the state proposing a regulation that will certainly increase black market participation and ensure criminal actors involvement in the commercial state sanctioned market? By cutting off their ability to be successful in simply reaching the minimum state requirements, the state is providing the perfect opportunity for criminal actors to step in and take advantage of the opportunity to fund these business as the criminal actors will be the only start-up capital an average Alaskan will have access to under the current proposed regulations.
- 2) Since when did it become the government's job to curtail what information the public receives about a substance? Since when did the state stop trusting citizens with all the information and allowing them to make an independent informed choice and not one based on only state filtered information and propaganda?
- 3) What substantial government interest is the board seeking to implement? Does this prohibition on any and all promotional materials directly advance that substantial government interest? Does the blanket prohibition on any and all promotional activities reach no farther than necessary to accomplish the substantial government interest? If any one of these questions cannot be answered affirmatively, and articulate a substantial interest that cannot be met in a less restrictive manner, then this prohibition needs to be removed, as it is unconstitutional.

Marijuana Control Board

Marijuana Regulations Public Commentary

Questions and Answers on Draft Set #1, Round #2

The following questions were received between the posting of Set 1 for the second round of public comment and July 28, 2015. Answers to relevant questions have been provided. Questions concerning matters not contained in the regulations in Set #1 submitted for public comment are listed without answers.

QUESTIONS RELEVANT TO SET#1 WITH ANSWERS

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1. Did the law as passed provide for local option?

A: Yes. AS 17.38.110(a) provides local governments the right to “opt out” of allowing marijuana establishments to operate in their jurisdiction. The pertinent portion of the statute reads as follows:

Sec. 17.38.110. Local control.

(a) A local government may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or by a voter initiative.

2. The issue with the definition of "possess" is that it is worded in such a way that it would effectively prevent each adult over the age of 21 from exercising the right to grow 6 plants for personal use in their private residence. By having dominion or control of any plants on premises, it would NOT allow reach adult over 21 from growing their 6 plants if another adult is growing in the home. Did measure 2 state anywhere that our right to do so was contingent upon our marital status, financial status, or housing accommodations?

A: Ballot Measure 2, which is AS 17.38, provides in Sec. 17.38.020 the following:

Sec. 17.38.020. Personal use of marijuana.

Notwithstanding any other provision of law, except as otherwise provided in this chapter, the following acts, by persons 21 years of age or older, are lawful and shall not be a criminal or civil offense under Alaska law or the law of any political subdivision of Alaska or be a basis for seizure or forfeiture of assets under Alaska law: (b) Possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown;

AS 17.38 does not provide a definition of the term “possess”, but Alaska law defines the term “possess” in AS 11.81.900(49). This definition is the proposed definition for the term “possess” in AS 17.38.

"possess" means having physical possession or the exercise of dominion or control over property;

Defining the term “possess” in AS 17.38 will help the board determine whether a personal grow in AS 17.38.020 is functioning as an unlicensed commercial growing operation due to its size and scope. Keeping a bright line between personal grows and small licensed commercial grows will help achieve the stated goals outlined in the statute in AS 17.38.010(b) as follows:

(b) In the interest of the health and public safety of our citizenry, the people of the state of Alaska further find and declare that the production and sale of marijuana should be regulated so that:

(1) Individuals will have to show proof of age before purchasing marijuana;

(2) Legitimate, taxpaying business people, and not criminal actors, will conduct sales of marijuana; and

(3) Marijuana sold by regulated businesses will be labeled and subject to additional regulations to ensure that consumers are informed and protected.

If many adults in a single place combine their six plants and cultivate marijuana beyond what can be personally used by those adults, the grow will be unregulated, untaxed, unlabeled, and the goals of the voter’s initiative as stated above will not be met.

Article 4. Marijuana Cultivation Facilities.

Section

- 400. Marijuana cultivation facility license required
- 405. Standard marijuana cultivation facility: privileges and prohibited acts
- 410. Limited marijuana cultivation facility: privileges and prohibited acts
- 415. Marijuana cultivation broker facility: privileges and prohibited acts
- 420. Application for marijuana cultivation license
- 425. Health and safety requirements
- 430. Marijuana handler permit required
- 435. Restricted access area
- 440. Marijuana inventory tracking system
- 445. Production of marijuana concentrate prohibited
- 450. Standards for cultivation and preparation
- 455. Required laboratory testing
- 460. Promotional samples
- 465. Random sampling
- 470. Packaging of marijuana products
- 475. Labeling of marijuana products
- 480. Marijuana tax to be paid

3 AAC 306.400. Marijuana cultivation facility license required. (a) Except as provided under AS 17.38.020, a person may not plant, propagate, cultivate, harvest, trim, dry, cure, or package, label, and sell marijuana grown at a place under that person's control, directly or through a marijuana cultivation broker facility, to any marijuana establishment unless the

person has obtained a marijuana cultivation facility license from the board in compliance with this chapter, or is an employee or agent of a licensed marijuana cultivation facility. The board will issue the following types of marijuana cultivation facility licenses, with the privileges and subject to the prohibitions set out in sections 3 AAC 306.405 - 3 AAC 306.415:

(1) a standard marijuana cultivation facility license to a person operating a marijuana cultivation facility with 500 or more square feet under cultivation;

(2) a limited marijuana cultivation facility license to a person operating a marijuana cultivation facility with 500 or fewer square feet under cultivation; and

(3) a marijuana cultivation broker facility license for a person providing essential business functions of a limited marijuana cultivation facility, including storing marijuana, purchasing or arranging the purchase of the limited marijuana cultivation facility's marijuana crop, arranging testing and transportation of marijuana, and filing the reports and paying the marijuana excise tax required under AS 43.61.010 and AS 43.61.020.

(b) A person seeking any type of marijuana cultivation facility license as provided in (a) of this section shall

(1) submit an application for the license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.420;

(2) demonstrate to the board's satisfaction that it will operate in compliance with
(A) each applicable requirement for a marijuana cultivation facility set out in 3 AAC 306.400 - 3 AAC 306.480; and

(B) each applicable general marijuana establishment requirement set out in 3 AAC 306.700 - 3 AAC 306.760.

(c) A licensee of any marijuana cultivation facility, or an employee or agent of a

marijuana product manufacturing facility, may not have an ownership interest in, or a direct or indirect financial interest in any licensed marijuana testing facility. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.030 AS 17.38.070
AS 17.38.084 AS 17.38.090 AS 17.38.100
AS 17.38.900

3 AAC 306.405. Standard marijuana cultivation facility license: privileges and

prohibited acts. (a) A licensed standard marijuana cultivation facility is authorized to

- (1) propagate, cultivate, harvest, prepare, cure, package, store and label marijuana;
- (2) sell marijuana only to a licensed retail marijuana store, to another licensed marijuana cultivation facility, or to a licensed marijuana product manufacturing facility;
- (3) provide samples to a licensed marijuana testing lab for testing; and
- (4) store inventory on the licensed premises; any stored inventory must be secured in a restricted access area and accounted for in the marijuana cultivation facility's inventory tracking system as required under 3 AAC 306.760
- (5) transport marijuana in compliance with 3 AAC 306.745;
- (6) conduct in-house testing for the marijuana cultivation facility's own use.

(b) A licensed standard marijuana cultivation facility may also apply for a marijuana product manufacturing facility license, and a retail marijuana store license. A standard marijuana cultivation facility that obtains any other marijuana establishment license shall

- (1) conduct any product manufacturing and retail marijuana store operation in a room completely separated from the cultivation facility by a secure door; and

(2) comply with all regulations applicable to any other type of marijuana establishment license that the standard marijuana cultivation facility licensee obtains.

(c) A licensed standard marijuana cultivation facility may not

(1) sell, distribute, or transfer any marijuana or marijuana product to a consumer, with or without compensation;

(2) allow any person, including a licensee, employee, or agent, to consume marijuana or a marijuana product on the licensed premises or within 20 feet of the exterior of any building or outdoor cultivation facility on the licensed premises;

(3) treat or otherwise adulterate marijuana with any organic or nonorganic chemical or other compound to alter the color, appearance, weight, or smell of the marijuana; and

(4) except as permitted under a marijuana product manufacturing facility license, extract marijuana concentrate, using any process, at the licensed premises. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.410. Limited marijuana cultivation facility license: privileges and prohibited acts. (a) A licensed limited cultivation facility is authorized to

(1) propagate, cultivate, harvest, and prepare marijuana for sale in a marijuana cultivation facility with less than 500 square feet under cultivation;

(2) provide marijuana samples to a licensed marijuana cultivation broker facility for the purpose of negotiating a sale;

(3) sell marijuana only to a licensed marijuana cultivation broker facility with

which the limited cultivation facility has a written agreement that

(A) assigns responsibility for arranging transportation and testing by a licensed marijuana testing facility; and for other services as agreed between the parties; and

(B) requires the marijuana cultivation broker facility to file reports and pay the excise tax as required under AS 43.61.010 and AS 43.61.020 for all marijuana the broker facility purchases from the limited marijuana cultivation facility;

(4) if a written agreement as provided in paragraph (a)(3) of this section does not provide for the marijuana cultivation broker facility to provide these services:

(A) arrange for testing by a licensed marijuana testing facility; and

(B) transport marijuana to a licensed marijuana testing facility or the marijuana cultivation broker facility with which the limited marijuana cultivation facility has an agreement under (a)(3) of this section.

(b) A licensed limited marijuana cultivation facility may not

(1) do any act prohibited under 3 AAC 306.405(c);

(2) hold any other type of marijuana establishment license;

(3) sell directly to a consumer, or to any marijuana establishment that does not hold a marijuana cultivation broker facility license and

(4) sell marijuana to a marijuana cultivation broker facility without a written agreement in which the broker facility agrees to pay the excise tax required under AS 43.61.010 and AS 43.61.020. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.090	AS 17.38.100	AS 17.38.900
	AS 43.61.010	AS 43.61.020	

3 AAC 306.415. Marijuana cultivation broker facility: privileges and prohibited

acts. (a) A licensed marijuana cultivation broker facility is authorized to

- (1) purchase marijuana from any number of licensed limited marijuana cultivation facilities;
- (2) sell marijuana only to another licensed marijuana cultivation facility, a licensed retail marijuana store, or a licensed marijuana product manufacturing facility;
- (3) arrange laboratory testing of marijuana obtained from a limited cultivation facility, and provide the necessary testing samples to a licensed marijuana testing facility;
- (4) arrange transportation of marijuana to a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store; and
- (5) submit to the department of revenue the monthly statements and pay the excise tax specified under AS 43.61.010 and AS 43.61.020 on all marijuana a limited marijuana cultivation facility sells to the marijuana cultivation broker facility.

(b) A licensed marijuana cultivation broker facility may apply for a marijuana product manufacturing facility license and a retail marijuana store license. A marijuana cultivation broker facility that obtains any other marijuana establishment license shall

- (1) conduct any product manufacturing and retail marijuana store operation in a room completely separated from the cultivation broker facility by a secure door; and
- (2) comply with all regulations applicable to any other type of marijuana establishment license that the cultivation broker facility obtain

(c) A licensed marijuana cultivation broker facility may not

- (1) do any act prohibited under 3 AAC 306.405(c);
- (2) grow marijuana;

(3) extract concentrate from marijuana unless the broker facility has obtained a marijuana manufacturing facility license;

(4) sell marijuana that is not packaged and labeled in compliance with 3 AAC 306.465 - 3 AAC 306.470; or

(5) sell marijuana that has not been reported to the department of revenue with excise tax paid as required under AS 43.61.020. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900
AS 43.61.010 AS 43.61.020

3 AAC 306.420. Application for marijuana cultivation facility license. (a) An applicant for a new standard marijuana cultivation facility license shall file an application on a form the board prescribes including

(1) the information required under 3 AAC 306.020; and
(2) the proposed marijuana cultivation facility's operating plan, including, in addition to the information required under 3 AAC 306.020(c):

- (A) the size of the space intended to be under cultivation;
- (B) the growing medium to be used;
- (C) fertilizers, chemicals, gases and delivery systems, including CO2 management, to be used;
- (D) the irrigation and waste water systems to be used;
- (E) waste disposal arrangements;
- (F) odor control; and
- (G) the testing procedure and protocols the marijuana cultivation facility

will follow.

(b) An applicant for a limited marijuana cultivation facility license must submit

(1) the information required for a new marijuana establishment license set out in 3 AAC 306.020, and (a)(2) of this section.

(c) An applicant for a marijuana cultivation broker facility license must submit

(1) the information required for a new marijuana establishment license set out in 3 AAC 306.020 and

(2) in addition to the operating plan required in 3 AAC 306.020(c) a form of agreement with a limited marijuana cultivation facility that the applicant intends to use to

(A) promise to submit the monthly reports and pay the excise tax specified under AS 43.61.010 and AS 43.61.020 on all marijuana it purchases; and

(B) provide other services the marijuana cultivation broker facility offers to a limited marijuana cultivation facility. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.425. Health and safety requirements. A marijuana cultivation facility must comply with all applicable health and safety requirements set out in 3 AAC 306.730, and the additional requirements set out in this section.

(b) A marijuana cultivation facility shall ensure that any licensee, employee, or agent who is present at the marijuana cultivation facility and in contact with any marijuana

(1) wears clean clothing appropriate for the duties that person performs;

(2) wears protective apparel, such as head, face, hand and arm coverings, as

necessary to protect marijuana from contamination; and

(3) practices good sanitation and health habits. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.430. Marijuana handler permit required. A marijuana cultivation facility must ensure that

(1) each licensee, employee, or agent obtains a marijuana handler permit as provided in 3 AAC 306.715 before being licensed or employed at a marijuana cultivation facility; and

(2) each licensee, employee, or agent has that person's marijuana handler permit card in that person's immediate possession at all times when present on the marijuana cultivation facility's licensed premises. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.435. Restricted access area. (a) A marijuana cultivation facility licensee shall comply with 3 AAC 306.710 and shall conduct any operation in a restricted area as provided in this section.

(b) A licensed marijuana cultivation facility shall conduct any marijuana growing operation within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

(c) A marijuana cultivation facility shall ensure that any marijuana at the cultivation facility

(1) cannot be observed by the public from outside the cultivation facility; and
(2) does not emit an odor that is detectable by the public from outside the cultivation facility.

(d) A marijuana cultivation facility shall have full video surveillance of the licensed premises as required under 3 AAC 306.725, including any area where marijuana is grown, processed, packaged, or stored, or where marijuana waste is destroyed. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.440. Marijuana inventory tracking system. (a) A marijuana cultivation facility shall use an inventory tracking system in compliance with 3 AAC 306.760 to ensure all marijuana propagated, grown, or cultivated on the marijuana cultivation facility's premises is identified and tracked from the time the marijuana is propagated from seed, clones or cuttings, through transfer to another licensed marijuana establishment or destruction. The marijuana cultivation facility must give each plant over 8 inches tall a tracking number. When harvested, bud and flowers, clones or cuttings, or leaves and trim may be combined in batches of distinct strains, not exceeding five pounds; each harvest batch must be given a tracking number for inventory control. Clones or cuttings are limited to batches of up to 50 plants and identified by a batch tracking number.

(b) A marijuana cultivation facility shall record in its inventory control system each sale and transport of each batch, and shall generate a valid transport manifest to accompany each transported batch.

(c) A marijuana cultivation facility shall record in its inventory control system record all

marijuana used to provide a sample authorized under 3 AAC 306.460 for the purpose of negotiating sales, including

(1) the amount of each sample;

(2) the retail marijuana store or marijuana product manufacturing facility that received the sample; and

(3) the disposal of any sample returned to the marijuana cultivation facility.

(Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.445. Production of marijuana concentrate prohibited. (a) A marijuana cultivation facility may not produce or possess marijuana concentrate on its licensed premises unless the marijuana cultivation facility also has a current marijuana product manufacturing facility license. Any extraction or production of marijuana concentrate on the premises of a licensed marijuana cultivation facility shall

(1) be in a separate room that

(A) is physically separated by a secure door from any cultivation area;

and

(B) has a sign that clearly identifies the room as a marijuana concentrate production area, and warns unauthorized persons to stay out; and

(2) comply with all applicable parts of 3 AAC 306.500 - 3 AAC 306.570. (Eff.

___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.450. Standards for cultivation and preparation. A marijuana cultivation facility shall use certified scales in compliance with AS 45.75.080 and 3 AAC 306.740. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.455. Required laboratory testing. (a) Except as provided in (d) of this section, a marijuana cultivation facility shall provide samples of marijuana produced at the facility to a marijuana testing facility, and may not sell or transport any marijuana until all laboratory testing required by 3 AAC 306.645 has been completed.

(a) To comply with (a) of this section, a marijuana cultivation facility shall

(1) collect a random, homogenous sample for testing by segregating harvested marijuana into batches of individual strains of bud and flower, then selecting a random sample from each batch in an amount required by the marijuana testing facility;

(2) designate an individual responsible for collecting each sample; that individual shall

(A) prepare an affidavit showing that each sample has been randomly selected for testing;

(B) provide the affidavit to the marijuana testing facility; and

(C) maintain a copy as a business record under 3 AAC 306.755.

(3) transport the sample to the marijuana testing facility's licensed premises in compliance with 3 AAC 306.745.

(b) A marijuana cultivation facility shall segregate the entire batch from which the testing sample was selected until the marijuana testing facility reports the results from its tests.

During this period of segregation, the marijuana cultivation facility that provided the sample shall maintain the batch in a secure, cool, and dry location to prevent the marijuana from becoming contaminated or losing its efficacy. The facility that provided the sample may not sell or transport any marijuana from the segregated batch until the marijuana testing facility has completed its testing and analysis and provided those results, in writing, to the marijuana cultivation facility that provided the sample. The marijuana cultivation facility shall maintain the testing results as part of its business books and records.

(d) A limited marijuana cultivation facility may contract with a marijuana cultivation broker facility to arrange the laboratory testing required in this section and transportation of marijuana. A marijuana cultivation broker facility's contract to perform these services must be in writing and must be maintained in the limited marijuana cultivation facility's business records. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.090	AS 17.38.100	AS 17.38.900

3 AAC 306.460. Promotional samples. (a) A marijuana cultivation facility may provide a free sample of marijuana to a retail marijuana store only if packaged in a sample jar containing no more than 3 1/2 grams of marijuana and protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. A retail marijuana store that receives marijuana in a sample jar may not sell the marijuana sample to a customer; and shall either

- (1) return the marijuana sample to the cultivation facility that provided the sample; or
- (2) destroy the marijuana sample after use and document the destruction in its

marijuana inventory control system.

(b) A marijuana cultivation facility may provide a free sample of marijuana to a marijuana product manufacturing facility as follows:

(1) a sample provided for the purpose of negotiating a sale may be no more than two grams;

(2) a marijuana cultivation facility may not provide any one licensed marijuana product manufacturing facility with more than four grams of marijuana per month free of charge for the purpose of negotiating a sale. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.465. Random sampling. (a) The board or the director will from time to time require a standard or limited marijuana cultivation facility to provide samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks. The sample may be screened for pesticides and chemical residues, unsafe levels of metals, and used for other laboratory tests the director finds to be in the interests of the public. The marijuana cultivation facility shall bear all costs of testing under this subsection.

(b) When the board or the director orders random sampling under this section, the director will identify a licensed marijuana testing facility to perform the testing. The marijuana testing facility will collect the test samples; the marijuana cultivation facility shall cooperate to facilitate the collection of samples. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.470. Packaging of marijuana. (a) A licensed marijuana cultivation facility, including a cultivation broker facility, shall package its marijuana bud and flower for sale as follows:

(1) to a retail marijuana store, either

(A) in a package not exceeding one ounce for resale to consumers without additional handling by the retail marijuana store except to add the retail marijuana store's own identifying name or logo and license number; or

(B) in a wholesale package not exceeding five pounds for re - packaging by the retail marijuana store; or

(2) to a marijuana product manufacturing facility in a wholesale package not exceeding five pounds, consisting of a single strain or a mixture of strains as identified on the label.

(b) When a licensed marijuana cultivation facility packages marijuana for a retail marijuana store to sell to a consumer without re-packaging, the packaging must be designed or constructed in compliance with 16 U.S.C.1700, the Poison Prevention Packaging Act, to be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly as defined by 16 C.F.R. 1700.20. The packaging may not have any printed images, including cartoon characters, that specifically target individuals under the age of 21. In addition, the packaging must

(1) protect the product from contamination and must not impart any toxic or damaging substance to the marijuana;

(2) be four mil or greater thickness plastic, heat sealed, and with no easy-open corner, dimple or flap; marijuana product in liquid form may also be sealed using a metal crown

product;

(3) be opaque so that the product cannot be seen without opening the packaging material; and

(4) be resealable to childproof standards if the marijuana package contains multiple servings or is intended for more than a single use.

(c) Each package prepared in compliance with this section must be identified by a tracking tag or label generated for tracking by the marijuana cultivation facility's marijuana inventory control system.

(d) A marijuana cultivation facility shall prepare marijuana for transport or transfer to another marijuana establishment by

(1) placing marijuana packaged in compliance with (a) and (b) of this section within a sealed, tamper-evident shipping container;

(2) affixing a label in compliance with 3 AAC 306.470 to the shipping container; and

(3) generating a transport manifest from the marijuana cultivation facility's marijuana inventory system; the transport manifest must remain with the marijuana at all times while being transported, and a copy must be given to the licensed marijuana establishment that receives the shipment. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.475. Labeling of marijuana. (a) With each harvest batch of marijuana sold, a marijuana cultivation facility must disclose in writing

(1) each soil amendment, fertilizer, and other crop production aid applied to the

growing medium or marijuana plant included in the batch; and

(2) the name of the licensed marijuana testing facility that performed any required laboratory test and the results of each required laboratory test.

(b) A marijuana cultivation facility may not label marijuana as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act, 7 U.S.C. 6501.

(c) A marijuana cultivation facility shall affix a label containing the following information to each package of marijuana sold to another marijuana establishment.

(1) the name and license number of the marijuana cultivation facility where the marijuana was grown;

(2) the harvest batch number assigned to the marijuana in the package;

(3) the net weight of the marijuana in the package, not including weight of the shipping container, using a standard of measure compatible with the inventory tracking system; and

(4) a complete list of all pesticides, fungicides, and herbicides used in cultivation of the marijuana.

(d) If a marijuana cultivation facility transports wholesale marijuana to another marijuana establishment for sale at retail or for use in manufacturing a marijuana product, then a label must be affixed to the shipping container showing that a licensed marijuana testing facility has tested each harvest batch in the shipment as provided in 3 AAC 306.645. The label must report the test results, including the following information:

(1) a cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid

listed from every test conducted on that strain of marijuana from the same marijuana cultivation facility within the last three months;

(2) a statement listing any of the following contaminants for which the product was tested:

- (A) molds, mildew and filth;
- (B) microbials;
- (C) herbicides, pesticides, and fungicides;, and
- (D) harmful chemicals.

(e) If a marijuana cultivation facility ships wholesale marijuana from a harvest batch that has not been tested for each contaminant listed in (d)(2) of this section, the label for that batch must include a statement identifying each contaminant listed in (d)(2) of this section for which that harvest batch has not been tested. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.480. Marijuana tax to be paid. (a) A standard marijuana cultivation facility licensee shall submit monthly reports to the department of revenue and pay the excise tax required under AS 43.61.010 and AS 43.61.020.

(b) A marijuana cultivation broker facility shall submit monthly reports to the department of revenue and pay the excise tax required under AS 43.61.010 and AS 43.61.020 on all marijuana it has obtained from a limited marijuana cultivation facility. The broker shall agree to comply with this section in a written agreement with each limited marijuana cultivation facility from which it purchases marijuana, and shall provide a copy of the monthly report required under AS 43.61.020 to each limited marijuana cultivation facility from which it

purchases marijuana. If a cultivation broker facility fails to pay the required tax, the limited marijuana cultivation facility shall pay the required tax.

(c) When a marijuana cultivation facility, including a cultivation broker facility, sells or distributes any marijuana to a retail marijuana store or a marijuana product manufacturing facility, the marijuana cultivation facility or broker must provide verification of tax payment to the purchaser. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.030	AS 17.38.070
	AS 17.38.084	AS 17.38.090	AS 17.38.100
	AS 17.38.900	AS 43.61.010	AS 43.61.020

Article 5. Marijuana Product Manufacturing Facilities.

Section

- 500. Marijuana product manufacturing facility license required
- 505. Marijuana product manufacturing facility privileges
- 510. Acts prohibited at marijuana product manufacturing facility
- 515. Marijuana extraction manufacturing facility license
- 520. Application for marijuana product manufacturing facility license
- 525. Health and safety standards
- 530. Marijuana handler permit and food safety worker training
- 535. Restricted access area and storage
- 540. Marijuana inventory tracking system
- 545. Approval of concentrates and marijuana products
- 550. Production of marijuana concentrate
- 555. Required laboratory testing
- 560. Potency limits per serving and transaction
- 565. Packaging of marijuana products
- 570. Labeling of marijuana products

3 AAC 306.500. Marijuana product manufacturing facility license required.

(a) A person may not extract marijuana concentrate for sale, or formulate or manufacture any marijuana product for sale unless that person has obtained a marijuana product manufacturing facility license from the board in compliance with this chapter. The board will issue

- (1) a standard marijuana product manufacturing facility license; and

(2) a marijuana concentrate manufacturing facility license.

(b) A person seeking any type of marijuana product manufacturing facility license shall

(1) submit an application for a license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.520; and

(2) demonstrate that it will operate in compliance with

(A) 3 AAC 306.500 - 3 AAC 306.570 and
3 AAC 306-700 - 3 AAC 306.760; and

(B) all applicable public health, fire, and safety codes and ordinances of the state and the municipality in which the applicant's proposed licensed premises are located. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.505. Marijuana product manufacturing facility privileges. (a)

Except as provided in 3 AAC 306.515, a licensed marijuana product manufacturing facility is authorized to

(1) purchase marijuana from a marijuana cultivation facility including a marijuana cultivation broker facility, or from another marijuana product manufacturing facility;

(2) transport purchased marijuana from the source directly to the licensed marijuana product manufacturing facility's own licensed premises, and transport marijuana product from the licensed marijuana product manufacturing facility's licensed premises to a retail marijuana store or to another licensed marijuana product

manufacturing facility;

(3) extract marijuana concentrate in compliance with 3 AAC 306.545;

(4) manufacture, refine, process, cook, package, label, and store approved marijuana products, including

(A) marijuana concentrate; or

(B) any product intended for consumption or use on the body that is comprised of marijuana and other ingredients, including edible products, ointments, salves, patches, or tinctures;

(5) sell or distribute and deliver marijuana extract or any marijuana product only to a licensed retail marijuana store or to another licensed marijuana product manufacturing facility;

(6) provide and transport samples of marijuana concentrate or other marijuana product to a certified marijuana testing lab for testing;

(7) provide samples of marijuana extract or a marijuana product approved under 3 AAC 306.545 to a licensed retail marijuana store for the purpose of negotiating a sale; and

(8) store inventory in a restricted access area on the licensed premises as provided in 3 AAC 306.535. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.510. Acts prohibited at marijuana product manufacturing facility. (a) A licensed marijuana product manufacturing facility, including a licensed extract - only marijuana product manufacturing facility, may not

(1) sell, deliver, distribute, or transfer marijuana, marijuana concentrate or a marijuana product directly to a consumer with or without compensation;

(2) sell marijuana, marijuana concentrate, or a marijuana product that is not manufactured, packaged, and labeled in compliance with 3 AAC 306.500 – 3 AAC 306.570;

(3) manufacture or sell any product that

(A) is an adulterated food or drink;

(B) is a marijuana product containing any food that requires temperature-controlled storage to keep it safe for human consumption;

(C) closely resembles any familiar food or drink item including candy; or

(D) is packaged to look like candy, or in bright colors or with cartoon characters or other pictures or images that would appeal to children;

(4) allow any person to consume marijuana, marijuana concentrate, or a marijuana product on its licensed premises; and

(5) operate in a location that is a retail or wholesale food establishment.

(b) in this section, “closely resembles” or “looks like” means the product or its packaging has a shape, color, markings, or decorative patterns that are familiar to the public from a widely distributed branded food product, so that the marijuana product could easily be mistaken for that branded product, especially by children.

(c) A licensee of any marijuana product manufacturing facility, or an employee, or agent of a marijuana product manufacturing facility, may not have an ownership interest in, or direct or indirect financial interest in any licensed marijuana testing facility.

(d) A marijuana product manufacturing facility may not receive any marijuana from a marijuana cultivation facility or another marijuana product manufacturing facility unless it receives a transport manifest showing the source and destination of the marijuana, and all marijuana is properly identified with a tag or label generated in the licensee's tracking system.

(e) A marijuana product manufacturing facility may not purchase or receive any marijuana from a marijuana cultivation facility, or another marijuana product manufacturing facility unless it receives evidence that tax due under AS 43.61.010 has been paid. If a marijuana product manufacturing facility has marijuana on its premises without a certificate showing the excise tax imposed under AS 43.61.0101 has been paid on that marijuana, the marijuana product manufacturing facility is liable for payment of the tax. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900
AS 43.61.010

3 AAC 306.515. Marijuana extraction manufacturing facility license. A marijuana product manufacturing facility with an extraction only license has the privileges set out in 3 AAC 306.505 except that it may not

(1) manufacture, process, cook, package, label or store any marijuana product other than marijuana concentrate;

(2) sell, distribute, or deliver any marijuana product other than marijuana concentrate, to a retail marijuana store or to another marijuana product manufacturing facility; or

(3) provide and transport a sample of any marijuana product other than marijuana concentrate to a licensed marijuana testing lab for testing. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.520. Application for marijuana product manufacturing facility license. An applicant for a marijuana product manufacturing facility license shall file an application on a form the board prescribes, and provide all information required under 3 AAC 306.020 and the following:

- (1) a copy of the food safety permit required under 18 AAC 31.020(a);
- (2) a diagram of the proposed licensed premises required in 3 AAC 306.020, identifying the area where
 - (A) in-house testing, if any, will occur; and
 - (B) marijuana and any marijuana product, including marijuana concentrate, will be stored;
- (3) in the applicant's operating plan required under 3 AAC 306.020(c), a description of
 - (A) the equipment and solvents, gases, chemicals, and other compounds used to create concentrates and the processes to be used;
 - (B) each marijuana product the applicant intends to process at this location; the product description must include the color, shape, texture, ingredients and standard production procedure to be used;
 - (C) the packaging to be used for each type of product; and

(D) sample labels showing how the labeling information required in 3 AAC 306.570 will be set out. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.525. Health and safety standards. (a) A marijuana product manufacturing facility shall comply with the health and safety standards set out in 3 AAC 306.730, the Alaska Food Safety Code, 18 AAC 31, if applicable, and any local kitchen related health and safety standards for retail food establishments.

(b) In addition to inspection by the director or an employee of the board, a marijuana product manufacturing facility is subject to inspection by local safety officials, including a local fire department, building inspector, or code enforcement officer. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.530. Marijuana handler permit and food safety worker training.

(a) A marijuana product manufacturing facility shall ensure that

(1) each licensee, employee, or agent obtains a marijuana handler permit as provided in 3 AAC 306.715 before being licensed or employed at a marijuana product manufacturing facility; and keeps that card in that person's immediate possession when on the licensed premises of the marijuana product manufacturing facility.

(b) Any licensee, employee or agent who handles marijuana at a licensed marijuana product manufacturing facility shall obtain a food safety worker card in compliance with AS 18.31.330, and keep that card in that person's possession at all times

while on the licensed premises of the marijuana product manufacturing facility. (Eff.

___/___/___, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.535. Restricted access and storage areas. (a) A marijuana product manufacturing facility shall conduct any extraction or product manufacturing operation in a restricted area in compliance with 3 AAC 306.710.

(b) A marijuana product manufacturing facility shall have full video surveillance of the licensed premises as provided in 3 AAC 306.725, including any area where

- (1) marijuana concentrate is produced;
- (2) any operation involved in manufacturing any product containing marijuana occurs,
- (3) marijuana or a marijuana product is stored or stockpiled; or
- (4) marijuana waste is destroyed.

(c) Any area where marijuana or a marijuana product is stored shall be moisture and temperature controlled and protected from pests and vermin. (Eff. ___/___/___, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.540. Marijuana inventory tracking system. (a) A marijuana product manufacturing facility shall use an inventory tracking system as provided in 3 AAC 306.760 to ensure all marijuana and marijuana product in the product manufacturing facility's possession is identified and tracked from the time the marijuana

product manufacturing facility receives any marijuana or marijuana product through the sale or transfer to another licensed marijuana establishment, or disposal of the marijuana or marijuana product.

(b) When marijuana from a marijuana cultivation facility or marijuana product from another marijuana product manufacturing facility is delivered or transported to the licensed premises of a marijuana product manufacturing facility, the marijuana product manufacturing facility shall immediately enter tracking information for that marijuana or marijuana product into the inventory tracking system. A marijuana product manufacturing facility may not accept any marijuana or marijuana product that does not have a valid transport manifest generated from the inventory tracking system.

(c) A marijuana product manufacturing facility shall track received marijuana to its use in a marijuana product, and shall reconcile each transaction to its inventory tracking system at the close of business each day.

(d) A marijuana product manufacturing facility shall account for any variance in the quantity of marijuana or marijuana product the facility received and the quantity the facility sold, transferred or disposed of. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.545. Approval of concentrates and marijuana products. (a) A marijuana product manufacturing facility, including a marijuana extraction manufacturing facility, must obtain the board's approval for each product it manufactures and sells. The board will not approve any marijuana concentrate or product with THC potency equal to or greater than 76 percent.

(b) A marijuana product manufacturing facility may request the board's approval of its intended products with a new license application by including a list of those products, along with a photograph, drawing, or graphic representation of the expected appearance of the final product. the applicant's proposed standard production procedure and detailed manufacturing process for each product shall be included in the operating plan filed with its license application.

(c) When a licensed marijuana product manufacturing facility wishes to add a new product to its line of marijuana products, the marijuana product facility must submit a new product approval request to the board on a form the board prescribes, along with a fee of \$250. The board will not approve any product that is prohibited under 3 AAC 306.510(a)(3).

(d) A licensed marijuana product manufacturing facility shall keep its ingredient list and potency limits for any food product containing marijuana on file at the marijuana product manufacturing facility's licensed premises. The ingredient list and potency limits for any product manufactured at the facility shall be made available for inspection by the the director or an employee of the board (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.550. Production of marijuana concentrate. (a) Before producing any marijuana concentrate for sale, a marijuana product manufacturing facility shall develop standard operating procedures, good manufacturing practices, and a training plan for each individual employed in an extraction process.

(b) A marijuana product manufacturing facility may create marijuana concentrates

only as follows:

(1) water-based marijuana concentrate may be produced by extracting cannabinoids from marijuana by using only water, ice or dry ice;

(2) food-based marijuana concentrate may be produced by extracting cannabinoids from marijuana through the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats; infused dairy butter and oils or fats derived from natural sources may be used to prepare infused edible products, but they may not be prepared as stand-alone edible products for sale;

(3) solvent-based marijuana concentrate may be produced using the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases the board approves that exhibit low to minimal potential human health-related toxicity; approved solvents must be of at least ninety-nine percent purity and must be used

(A) in a professional grade closed loop extraction system designed to recover the solvents;

(B) in an environment with proper ventilation, and

(C) with control of all sources of ignition if a flammable atmosphere is or may be present.

(c) A marijuana product manufacturing facility using a professional grade closed loop gas extraction system must assure that

(1) every vessel is rated to a minimum of six hundred pounds per square inch;

(2) any CO₂ used is of at least ninety-nine percent purity;

(3) any person using solvents or gases to create marijuana concentrates in

the closed looped system must be fully trained on how to use the system, have direct access to applicable material safety data sheets, and handle and store the solvents and gases safely;

(4) a licensed engineer must certify that the professional grade closed loop system was commercially manufactured, is safe for its intended use, and is built to codes of recognized and generally accepted engineering practices, including those adopted by:

- (A) The American Society of Mechanical Engineers (ASME);
- (B) American National Standards Institute (ANSI);
- (C) Underwriters Laboratories (UL); or
- (D) The American Society for Testing and Materials (ASTM);

(5) any professional grade closed loop system, and other equipment and facilities used in the extraction process must be approved for their use by the local fire code official and must meet any required fire, safety, and building code requirements specified in:

- (A) National Fire Protection Association (NFPA) standards;
- (B) International Building Code (IBC);
- (C) International Fire Code (IFC); and
- (D) Other applicable standards including following all applicable

fire, safety, and building codes in processing and the handling and storage of the solvent or gas.

(d) A marijuana product manufacturing facility may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to

create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(e) A marijuana product manufacturing facility may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.090	AS 17.38.100	AS 17.38.900

3 AAC 306.555. Required laboratory testing. (a) A marijuana product manufacturing facility shall provide a sample of each marijuana product manufactured at the facility to a marijuana testing facility, and may not sell or transport any marijuana product until all laboratory testing required by 3 AAC 306.645 has been completed.

(b) To comply with (a) of this section, a marijuana product manufacturing facility shall

(1) collect a random sample for testing by selecting a product from each production lot in an amount required by the marijuana testing facility;

(2) designate an individual responsible for collecting each sample; that individual shall

(A) prepare an affidavit showing that each sample has been randomly selected for testing;

(B) provide the affidavit to the marijuana testing facility; and

(C) maintain a copy as a business record under 3 AAC 306.755,

and

(3) transport the sample to the marijuana testing facility's licensed premises in compliance with 3 AAC 306.745.

(c) A marijuana product manufacturing facility shall segregate the entire production lot from which the testing sample was selected until the marijuana testing facility reports the results from its tests. During this period of segregation, the marijuana product manufacturing facility that provided the sample shall maintain the lot in a secure, cool, and dry location to prevent the marijuana product from becoming contaminated or losing its efficacy. The facility that provided the sample may not sell or transport any marijuana product from the segregated lot until the marijuana testing facility has completed its testing and analysis and provided those results, in writing, to the marijuana product manufacturing facility that provided the sample. The marijuana product manufacturing facility shall maintain the testing results as part of its business books and records (Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.560. Potency limits per serving and transaction. (a) A marijuana product manufacturing facility may not prepare any product with potency levels exceeding the following, as tested in compliance with 3 AAC 306.6___:

(1) for a single serving of marijuana product, five milligrams active tetrahydrocannabinol (THC) or Delta 9;

(2) in a single packaged unit of marijuana product to be eaten or swallowed, not more than ten servings, or fifty milligrams of active THC or Delta 9; the

THC content must be homogenous, or evenly distributed throughout the marijuana infused product;

(3) for a single unit of marijuana concentrate maximum of one gram.

(Eff. ___/___/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.565. Packaging of marijuana products. (a) A marijuana product manufacturing facility shall observe the potency limits set out in 3 AAC 306.560 in packaging each product for resale by a retail marijuana store.

(b) A container or packaging for any marijuana product produced by a marijuana product manufacturing facility must be designed or constructed in compliance with 16 U.S.C.1700, the Poison Prevention Packaging Act, to be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly as defined by 16 C.F.R. 1700.20; and may not have any printed images, including cartoon characters, that specifically target individuals under the age of 21. In addition, the packaging must

(1) protect the product from contamination and must not impart any toxic or damaging substance to the product;

(2) must be four mil or greater thickness plastic, heat sealed and with no easy-open corner, dimple or flap; marijuana product in liquid form may also be sealed using a metal crown product;

(3) must be opaque so that the product cannot be seen without opening the packaging material; and

(4) if the marijuana package contains multiple servings or is intended for more than a single use, the packaging must be resealable to childproof standards in compliance with 16 U.S.C.1700.

(c) Each package prepared in compliance with this section must be identified by a tracking tag generated by the marijuana product manufacturing facility's marijuana inventory control system.

(d) A licensed marijuana product manufacturing facility shall prepare marijuana products for transfer to another marijuana establishment by

(1) placing marijuana packaged in compliance with (a) of this section within a sealed, tamper-evident shipping container;

(2) affixing a label in compliance with 3 AAC 306.470 to the shipping container; and

(3) generating a transport manifest from the marijuana product manufacturing facility's marijuana inventory system; the transport manifest must remain with the marijuana products at all times while being transported, and a copy must be given to the licensed marijuana establishment that receives the shipment. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.570. Labeling of marijuana products. (a) With each production lot of marijuana product sold, a marijuana product manufacturing facility must disclose in writing the name of the licensed marijuana testing facility that performed any required required test and the results of each required required test.

(b) A marijuana product may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act, 7 U.S.C.6501.

(c) A marijuana cultivation facility shall affix a label containing the following information to each package of marijuana product sold to a retail store for resale to a consumer:

(1) the name and license number of the marijuana product manufacturing facility where the marijuana product was prepared;

(2) the production lot number assigned to the product in the package;

(3) the net weight of the product in the package, not including weight of packaging, using a standard of measure compatible with the inventory tracking system.

(e) A marijuana product manufacturing facility transporting wholesale marijuana product to a retail marijuana store shall affix a label to the shipping container showing that a licensed marijuana testing facility has tested each lot of marijuana product in the shipment and giving the test results, including the following information:

(1) a cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid listed from every test conducted on that production lot from the same marijuana product manufacturing facility within the last three months;

(2) a statement listing any of the following contaminants for which the product was tested:

(A) molds, mildew and filth;

(B) microbials;

(C) herbicides, pesticides, and fungicides, and

(D) harmful chemicals.

(e) If a marijuana product manufacturing facility ships wholesale marijuana products from a lot of marijuana product that has not been tested for each contaminant listed in (d)(2) of this section, the label for that lot must include a statement identifying each contaminant listed in (d)(2) of this section for which that harvest batch has not been tested. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.090	AS 17.38.100	AS 17.38.900

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Article 6. Marijuana Testing Facilities.

Section

600. Applicability

605. Marijuana testing facility license required

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660. Failed materials, retests

665. Supplemental marijuana quality testing

670. Reporting, verification

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3 AAC 306.600. Applicability. (a) The provisions of 3 AAC 306.600 - 3 AAC 306.675 apply to any person offering any service testing, analyzing, or certifying potency, moisture content, pesticide or solvent residue, mold, mildew, bacteria, or other contaminant in marijuana or any marijuana product to any other person including a marijuana establishment or any member of the public, whether for compensation or not, as a independent or third party

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testing facility.

(b) The provisions of 3 AAC 306.600 - 3 AAC 306.675 do not apply to any licensed marijuana establishment that controls marijuana testing equipment used solely for its own in-house testing of its cultivated crop, of products produced or manufactured at its own facility, or of retail products placed or offered for sale in its marijuana retail store. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.605. Marijuana testing facility license required. (a) A person may not offer or provide any marijuana testing service or test results unless the person has obtained a marijuana testing facility license from the board in compliance with this chapter.

(b) A person seeking a marijuana testing facility license shall

(1) submit an application for a marijuana testing facility license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.615; and

(2) demonstrate to the board's satisfaction that the applicant

(A) does not hold any marijuana establishment license in Alaska other than a testing facility license, or have any financial interest in common with any person who is a licensee of a marijuana establishment in Alaska other than a testing facility license; a person who is a licensee, employee, or agent of a licensed marijuana testing facility may not hold any other marijuana establishment license in the state;

(B) will operate in compliance with 3 AAC 306.600 – 3 AAC 306.675, and 3 AAC 306.700 - 3 AAC 306.760; and

(C) meets the board's standards for approval as set out in 3 AAC 306.620

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- 3 AAC 306.625. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.610. Marijuana testing facilities: privileges and prohibitions. (a) A licensed marijuana testing facility may have any amount of marijuana and marijuana product on its premises at any given time so long as the testing facility's marijuana inventory tracking system and other records document that all marijuana and marijuana products are on the premises only for the testing purposes described in 3 AAC 306.600 – 3 AAC 3306.675.

(b) A licensed marijuana testing facility may not

- (1) have any licensee, employee, or agent that holds any type of marijuana establishment license other than a marijuana testing facility license issued under this chapter;
- (2) sell, distribute, or transfer any marijuana or marijuana product to a consumer, with or without compensation; or
- (3) allow any person to consume marijuana or marijuana product on its licensed premises. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.615. Application for marijuana testing facility license. An applicant for a new marijuana testing facility license shall file an application on a form the board prescribes, including

- (1) the information required under 3 AAC 306.020; and
- (2) the proposed marijuana testing facility's operating plan, including, in addition to the information required under 3 AAC 306.020(c), the following:

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(A) each test the marijuana testing facility will offer;

(B) the facility's standard operating procedure for each test the facility will offer; and

(C) the acceptable range of results for each test the facility will offer.

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.620. Approval of testing facility. (a) A person seeking a marijuana testing facility license must first obtain approval by the board or the board's contractor by showing competence to perform each test the licensee will offer as an independent third party testing facility, including

- (1) THC, THCA, CBD, CBDA and CBN potency;
- (2) harmful microbials including E. coli or salmonella;
- (3) residual solvents;
- (4) poisons or toxins;
- (5) harmful chemicals;
- (6) dangerous molds, mildew or filth;
- (7) pesticides.

(b) In evaluating whether a person will be approved under this section, the board or its contractor may

- (1) conduct an on-site inspection of the applicant's premises;
- (2) require the applicant to demonstrate proficiency in testing; and
- (3) examine compliance with any applicable requirement of 3 AAC 306.635 -

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3AAC 306.675, and 3 AAC 306.700 - 3AAC 306.760, including

- (A) qualifications of personnel;
- (B) standard operating procedure for each testing methodology the facility will use;
- (C) proficiency testing results;
- (D) quality control and quality assurance;
- (E) security;
- (F) chain of custody;
- (G) specimen retention;
- (H) space;
- (I) records: and
- (J) reporting of results.

(c) In this section, “approval” means the board or its contractor has examined the qualifications and procedures of the marijuana testing facility license applicant and found them generally in compliance with good laboratory practices; “approval” does not mean the board guarantees that the testing facility can or will protect the public from all potential hazards of marijuana including microbials, poisons or toxins, residual solvents or pesticides, or other contaminants.

(Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.090	AS 17.38.100	AS 17.38.900

3 AAC 306.625. Proficiency testing program. (a) When an accredited proficiency testing program becomes available in the state, the board may require an applicant for a

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marijuana testing facility license to participate successfully in a proficiency testing program within 12 months before receiving a license. The proficiency testing program must require a participating testing facility to analyze test samples using the same procedures with the same number of replicate analyses, standards, testing analysts and equipment as used for product testing. Successful participation means the positive identification of 80 percent of the target analytes that the testing facility reports, and must include quantitative results when applicable. Any false positive results reported will be considered an unsatisfactory score for the proficiency test.

(b) Before renewing the license of a marijuana testing laboratory, the board may require the facility to participate in a proficiency program with documentation of continued performance satisfactory to the board. The license of a marijuana testing facility may be limited, suspended, or revoked if the facility fails to participate and receive a passing score in a proficiency testing program.

(c) The scientific director and each testing analyst of an applicant for a marijuana testing facility license and each licensed marijuana testing facility that participated in a proficiency test shall sign a corresponding attestation statement. The scientific director must review and evaluate each proficiency test result.

(d) An applicant for a marijuana testing facility license, and a licensed marijuana testing facility participating in the proficiency testing program shall take and document remedial action when the applicant or the facility meets the standards of (a) of this section, but scores less than 100 percent in a proficiency test. "Remedial action" means the marijuana testing facility's scientific director shall, at a minimum, review all samples tested and results reported since the marijuana testing facility's last successful proficiency test. (Eff. ____/____/____, Register ____)

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Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.630. Scientific director. (a) A marijuana testing facility must employ a scientific director who must be responsible for

- (1) overseeing and directing the lab's scientific methods;
- (2) ensuring that the laboratory achieves and maintains quality standards of practice; and
- (3) supervising all staff of the laboratory.

(b) The scientific director of a marijuana testing facility must have the following qualifications:

- (1) a doctorate degree in chemical or biological sciences from an accredited college or university and have at least 2 years of post-degree laboratory experience;
- (2) a master's degree in chemical or biological sciences from an accredited college or university and have at least 4 years of post-degree laboratory experience; or
- (3) a bachelor's degree in chemical or biological sciences from an accredited college or university and have at least 6 years of post-degree laboratory experience. (Eff.

____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.635. Testing methodologies. (a) An applicant for a marijuana testing facility license and a licensed marijuana testing facility shall

- (1) use the following materials, which are hereby adopted by reference, as guidelines or references for testing methodologies:

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(A) *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, Revision 2014* published by the American Herbal Pharmacopoeia; and

(B) UNODC: Recommended methods for the identification and analysis of cannabis and cannabis products, United Nations 2009.

(2) notify the board of any alternative scientifically valid testing methodology the facility proposes to use for each laboratory test it conducts; the board may require third-party validation of any monograph, peer reviewed scientific journal article, or analytical method the marijuana testing facility proposes to follow to ensure the methodology produces comparable and accurate results.

(b) An applicant for a marijuana testing facility license and a marijuana testing facility licensee shall be familiar with, and to the extent possible, integrate into their operations the good laboratory practices as documented by the following materials, hereby adopted by reference

(1) FDA in 21 CFR 58 - Good Laboratory Practice For Nonclinical Laboratory Studies; and

(2) *OECD Principles of Good Laboratory Practice and Compliance Monitoring* published by the Organization for Economic Co-operation and Development (OECD).

(c) The board or the board's contractor may inspect the practices, procedures, and programs adopted, followed, and maintained by the applicant or the licensed marijuana testing facility; and may examine all records of the applicant or the licensed marijuana testing facility that are related to the inspection. The board may require an applicant or a licensed marijuana testing facility to have an independent third-party inspect and monitor laboratory operations to assess testing competency and the facility's compliance with its quality program. The board may require random validation of a marijuana testing facility's execution of all testing methodologies

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the facility uses. The marijuana testing facility must pay all costs of validation. (Eff. ____/____

/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

Editor's note: The *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, Revision 2014*, published by the American Herbal Pharmacopoeia may be obtained from the American Herbal Pharmacopoeia, P.O. Box 66809, Scotts Valley, California 95067, or at the Internet address <http://www.herbal-ahp.org/>

UNODC: Recommended methods for the identification and analysis of cannabis and cannabis products, United Nations 2009 is available at the internet address <https://www.unodc.org/documents/scientific/ST-NAR-40-Ebook.pdf>

21 CFR 58 - Good Laboratory Practice For Nonclinical Laboratory Studies is available at the internet address <http://www.gpo.gov/fdsys/pkg/CFR-2011-title21-vol1/pdf/CFR-2011-title21-vol1-part58.pdf>

The *OECD Principles of Good Laboratory Practice and Compliance Monitoring* published by the Organisation for Economic Co-operation and Development A copy of that publication may be obtained free of charge from the Organisation for Economic Co-operation and Development at the Internet address <http://www.oecd.org/env/ehs/testing/oecdseriesonprinciplesofgoodlaboratorypracticeglpandcompliancemonitoring.htm>

3 AAC 306.640. Standard operating procedure manual. (a) An applicant for a marijuana testing facility license and a licensed marijuana testing facility must have a written procedures manual with detailed instructions explaining how to perform each testing method the applicant or marijuana testing facility uses, and minimum standards for each test. The written procedures manual must be available to each employee of the marijuana testing facility at all times. A standard operating procedures manual must cover at least the following procedures:

- (1) sample preparation;
- (2) reagent, solution, and reference standard preparation;
- (3) instrument setup, where applicable;

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- (4) standardization of volumetric reagent solutions, as applicable;
- (5) data acquisition; and
- (6) calculation of results.

(b) The scientific director of a licensed marijuana testing facility shall approve, sign, and date each standard operating procedure, and each revision to any standard operating procedure.

(Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.645. Laboratory Testing of Marijuana and Marijuana Products. (a)

Each licensed marijuana testing facility must use the general body of required laboratory tests for marijuana plant material, any extract or concentrate of marijuana, and any edible marijuana products as listed in the tables in this section. Required tests may include potency analysis, moisture content, foreign matter inspection, microbial screening, pesticide and 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 all marijuana dried flower, plant concentrate, marijuana extracts and edible marijuana products, and is subject to the following rules:

(A) 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 provided the test is conducted in compliance with a validated method;

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

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(i) for a potency test on marijuana and marijuana concentrate, by listing for each required cannabinoid a single percentage concentration that represents an average of all samples within the test batch; alternatively, the sum of THC + THCA may be reported as total THC; the sum of CBD + 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, by listing for each cannabinoid the total number of milligrams contained within a single retail marijuana product unit for sale; and

(iii) for testing whether the THC content is homogenous, the THC content of each single serving in a multi-unit package must be reported, and must be within 20% of the manufacturer's target; for example, in a 25 mg total THC package with 5 servings, each serving must contain between 4 and 6 mg of THC;

(C) edible marijuana products will be considered 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 mg of THC within it, then the test batch is considered to have failed potency testing;

(ii) if the THC content of an edible marijuana product is not homogenous, then it is considered to have failed potency testing;

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

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Substance	Acceptable Limits Per Gram	Product to be Tested
–Shiga-toxin producing Escherichia coli (STEC)*-Bacteria	< 1 Colony Forming Unit (CFU/g)	Flower; Retail Marijuana Products; Water- and Food-Based Concentrates
Salmonella species* – Bacteria	< 1 Colony Forming Unit (CFU/g)	
Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger - Fungus	< 1 Colony Forming Unit (CFU/g)	

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

Substance	Acceptable Limits Per Gram	Product to be Tested
Butanes	< 800 Parts Per Million (PPM)	Solvent-Based Concentrates
Heptanes	< 500 Parts Per Million (PPM)	
Benzene**	< 1 Parts Per Million (PPM)	
Toluene**	< 1 Parts Per Million (PPM)	
Hexane**	< 10 Parts Per Million (PPM)	
Total Xylenes (m,p, o-xylenes)**	< 1 Parts Per Million (PPM)	
Any solvent not permitted for use pursuant to Rule R 605.	None Detected	

(Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.650. Chain of custody. A marijuana testing facility must establish an adequate chain of custody and sample requirement instructions that include

- (1) issuing instructions for the minimum sample requirements and storage requirements;
- (2) documenting the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the sample;
- (3) documenting the condition and amount of sample provided at the time the sample is received at the facility;
- (4) documenting each person handling the original samples, aliquots, and

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extracts;

(5) documenting any transfer of samples, aliquots, and extracts to another marijuana testing facility for additional testing or at the request of the marijuana cultivation facility or marijuana product manufacturer that provided the testing sample;

(6) maintaining a current list of authorized personnel and restricting entry to the facility to those authorized persons;

(7) securing the facility during non-working hours;

(8) securing short-term and long-term storage areas when not in use;

(9) using a secured area to log in and aliquot samples;

(10) ensuring samples are stored appropriately; and

(11) documenting the disposal of samples, aliquots, and extracts. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.090	AS 17.38.100	AS 17.38.900

3 AAC 306.655. Marijuana inventory tracking system. (a) A marijuana testing facility shall use an inventory tracking system as provided in 3 AAC 306.760 to ensure all marijuana transported to the marijuana testing facility's premises is identified and tracked from the time the marijuana arrives at the testing facility to the use and destruction of the marijuana in testing, or return of the sample to the marijuana establishment that provided the sample, or disposal in compliance with 3 AAC 306.735.

(b) When a marijuana testing facility completes any testing, use, or research, it shall immediately return or dispose of any sample received under this section. If a marijuana testing facility disposes of a sample received under this section, the testing facility shall document the

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disposal of the sample using its inventory control system.

(Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

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 facility 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 its marijuana inventory control 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 fails the required test. The board may approve a request to allow a batch of marijuana that fails a required test to be used to make a CO2 or solvent-based extract. After processing, the CO2 or solvent-based extract must pass all required tests.

(c) If a marijuana cultivation facility or a marijuana product manufacturing facility petitions for a re-test of marijuana or a marijuana product that failed a required test, the board may authorize a retest to validate the test results. The marijuana cultivation facility or a marijuana product manufacturing facility must pay all costs of a retest. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

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3 AAC 306.665. Supplemental marijuana quality testing. (a) The board may at any time determine that the interests of the public require random supplemental testing of marijuana or a marijuana product. When the board requires random supplemental marijuana testing, the board will direct the marijuana cultivation facility that produced the marijuana, or the marijuana product manufacturing facility that manufactured the product to submit a specified sample, batch, or packaged product to a designated marijuana testing facility. The material must be packaged in a manner that ensures the testing facility will be able to confirm that it has received and is testing the correct supplemental sample.

(b) When a marijuana testing facility receives a sample for supplemental laboratory testing under this section, the marijuana testing facility shall

- (1) perform any required laboratory test the board requests; and
- (2) report its results to the board and the facility that provided the sample.

(c) A marijuana testing facility that conducts laboratory testing under this section shall bill all costs directly to the marijuana cultivation facility or the marijuana product manufacturing facility that provided the samples for testing. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.670. Reporting, verification. (a) A marijuana testing facility must report the result of each required laboratory test directly into its marijuana inventory control system within twenty-four hours after the test is completed. A marijuana testing facility must provide the final report

- (1) to the facility that submitted the sample in a timely manner; and

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(2) to the board within 72 hours when results of tested samples exceed maximum levels of allowable contamination.

(b) A marijuana testing facility shall establish procedures to ensure that reported results are accurate, precise and scientifically valid. To ensure reported results are valid, a marijuana testing facility must include in all final reports :

- (1) the name and location of the marijuana testing facility;
- (2) the unique sample identifier assigned by the testing facility;
- (3) submitting client;
- (4) the sample identifier(s) provide by the client;
- (5) sample received date;
- (6) Chain of Custody identifier;
- (7) date of report;
- (8) type of product tested;
- (9) test results;
- (10) units of measure; and
- (11) any other information or qualifiers needed for interpretation when applicable

to the test method and results being reported, including any identified and documented discrepancy. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.090	AS 17.38.100	AS 17.38.900

3 AAC 306.675. Records retention. A marijuana testing facility shall maintain the records required under 3 AAC 306.755 for the period of time specified in that section. The books and records required under 3 AAC3-6/755(a)(1) include:

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- (1) test results;
- (2) quality control and quality assurance records;
- (3) standard operating procedures;
- (4) chain of custody records;
- (5) proficiency testing records; and
- (6) analytical data to include printouts generated by the instrumentation;
- (7) accession numbers;
- (8) specimen type;
- (9) raw data of calibration standards and curves, controls and subject results;
- (10) final and amended reports;
- (11) acceptable reference range parameters;
- (12) identity of analyst; and
- (13) date of analysis. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

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Article 8. Enforcement and Civil Penalties.

Section

800. Inspection and investigation

805. Notice of violation

810. Suspension and revocation of license

815. Suspension and revocation based on act of employee

820. Procedure for action on license suspension or revocation

825. Summary suspension to protect public health, safety, and welfare.

830. Seizure of marijuana or marijuana product

835. Hearing

840. Civil fines

845. Appeal

850. Surrender or destruction of license

3 AAC 306.800. Inspection and investigation. (a) The director, an enforcement agent or employee of the board, or a peace officer acting in an official capacity, may

(1) inspect the licensed premises of any marijuana establishment, including all marijuana and marijuana products on the premises, equipment used in cultivating, processing, testing, or storing marijuana, the marijuana establishment's inventory tracking system, business records, and computers, at any reasonable time and in a reasonable manner;

(2) issue a notice of violation; and

(3) exercise peace officer powers and take any other action the director determines is necessary, as authorized in AS 17.38.085.

(b) A licensee shall cooperate with the director, an enforcement agent or employee of the

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board, or a peace officer acting in an official capacity to enforce the laws related to marijuana, including

(1) permitting entry upon and inspection of the licensed premises; and

(2) providing access to business records at reasonable times upon request of the director, an enforcement agent or employee of the board, or a peace officer. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.085	AS 17.38.087	AS 17.38.090
	AS 17.38.100	AS 17.38.900	

3 AAC 306.805. Notices of violation. (a) The director, an enforcement agent or employee of the board, or a peace officer acting in an official capacity may issue an inspection report, an advisory report or a notice of violation before taking action to suspend or revoke a marijuana establishment license.

(b) An inspection report documents an investigator's inspection of a licensed premises. An inspection report must be prepared on a form the board prescribes and include information prescribed by statute, regulation, or the board.

(c) The director, an enforcement agent or employee of the board, or a peace officer may issue an advisory notice when an incident occurs or a defect is noted that could result in a violation of a statute, regulation or municipal ordinance. An advisory notice may result from an inspection report, but is not a basis for administrative action unless the incident or defect continues or is not corrected.

(d) The director, an enforcement agent or employee of the board, or a peace officer may issue a notice of violation when an inspection report or other credible information shows a

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marijuana establishment is in violation of marijuana laws. The notice of violation must be delivered to the marijuana establishment at its licensed premises, and to the board. The notice must describe any violation, and cite applicable statute, regulation or order of the board. A marijuana establishment that receives a notice of violation may respond to the notice orally or in writing, and may, within ten days after receiving the notice, request an opportunity to appear before the board. A notice of violation may be the basis of a proceeding to suspend or revoke a marijuana establishment's license as provided in 3 AAC 306.810.

3 AAC 306.810. Suspension and revocation of license. (a) The board will suspend or revoke a marijuana establishment license issued under this chapter when any licensee is convicted of a felony, or the board becomes aware that a licensee did not disclose a previous felony conviction.

(b) The board may suspend or revoke a license issued under this chapter, refuse to renew a license, or impose a civil fine, if the board finds that a person that holds a license for any marijuana establishment

(1) misrepresented a material fact on an application for a marijuana establishment license under AS 17.38 or a regulation in this chapter, 3 AAC 306;

(2) is following any practice or procedure that is contrary to the best interests of the public, including using any process not approved by the board for extracting or manufacturing marijuana concentrate or products, or selling or distributing any marijuana concentrate or product that has not been approved by the board;

(3) failed, within a reasonable time after receiving a notice of violation from the board or the director, to correct any defect that is the subject of the notice of violation of

(A) AS 17.38 or a regulation adopted under AS 17.38;

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(B) a condition or restriction imposed by the board; or

(C) other applicable law;

(4) knowingly allowed an employee or agent to violate AS 17.38, a condition or restriction imposed by the board, or a regulation adopted under this chapter;

(5) failed to comply with any public health, fire, or safety law or regulation in the state;

(6) used the licensed premises for any illegal purpose including illegal gambling, illegal possession or use of narcotics other than marijuana, prostitutes, or sex traffickers.

(c) A local governing body may notify the director when it obtains evidence that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition the board has imposed on the marijuana establishment. Unless the board finds that the local governing body's notice is arbitrary, capricious, and unreasonable, the director will prepare the notice and supporting evidence as an accusation against the marijuana establishment under AS 44.62.360, and conduct proceedings to resolve the matter as described under 3 AAC 306.820.

(Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.085	AS 17.38.087	AS 17.38.090
	AS 17.38.100	AS 17.38.900	

3 AAC 306.815. Suspension and revocation based on act of employee. If, in a proceeding to suspend or revoke a marijuana establishment license under AS 17.38, evidence shows that an employee or agent of a license marijuana establishment was responsible for an act that would justify suspension or revocation of the marijuana establishment's license if committed by a licensee, the board may find that licensee knowingly allowed the act if

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(1) the licensee was physically present when the violation occurred and knew or should have known the violation was occurring and took no action to stop it;

(2) the licensee failed to adequately supervise the agent or employee;

(3) the licensee failed to adequately train the agent or employee in the requirements of AS 17.38 relating to marijuana; or

(4) the licensee was reckless or careless in hiring the agent or employee.

(Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.085	AS 17.38.087	AS 17.38.090
	AS 17.38.100	AS 17.38.900	

3 AAC 306.820. Procedure for action on license suspension or revocation. A proceeding to suspend or revoke a license must be initiated by service of an accusation on the marijuana establishment in compliance with AS 44.63.360 and AS 44.62.380, and conducted in compliance with AS 44.62.330 – AS 44.62.630. Service will be made at the address of the licensed premises, or at the address of the licensee who is responsible for management and compliance with laws as listed in the marijuana establishment license application in compliance with 3 AAC 306.020(b)(5). The marijuana establishment is entitled to a hearing as provided in AS 44.62.390. (Eff. ____/____/____, Register ____)

Authority:	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.085	AS 17.38.087	AS 17.38.090
	AS 17.38.100	AS 17.38.900	

3 AAC 306.825. Summary suspension to protect public health, safety, and welfare.

(a) If the director finds that a person holding a marijuana establishment license has acted and

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appears to be continuing to act in a way that constitutes an immediate threat to the public health and safety, the director may issue an order immediately suspending the license of that person, and ordering an immediate stop to the activity that constitutes the threat to the public health and safety.

(b) If the director issues a summary suspension under this section, the director will immediately give notice to the marijuana establishment subject to the summary suspension order of the reasons for the summary suspension and of an expedited hearing before the board. Unless the marijuana establishment subject to the summary suspension order requests a delay, the hearing will be held within five days after the director gives notice of the reasons for the summary suspension and the right to a hearing. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.085 AS 17.38.087 AS 17.38.090
AS 17.38.100 AS 17.38.900

3 AAC 306.830. Seizure of marijuana or marijuana product. (a) The director, an enforcement agent or employee of the board, or a peace officer acting in an official capacity may seize marijuana or any marijuana product from a licensed marijuana establishment if the marijuana establishment has

(1) any marijuana or marijuana product not properly logged into the marijuana establishment's marijuana inventory tracking system;

(2) any adulterated marijuana food or drink product forbidden under 3 AAC 306.510; or

(3) any marijuana or marijuana product that is not properly packaged and labeled as provided in 3 AAC 306.465-470 or 3AAC 306.565-570.

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(b) If the director, an enforcement agent or employee of the board, or a peace officer acting in an official capacity seizes marijuana or a marijuana product under this section, the director will immediately give notice to the marijuana establishment from which the marijuana or marijuana product was seized of the reasons for the seizure and the right to a hearing before the board. Unless the marijuana establishment from which the marijuana or marijuana product was seized requests a delay the hearing will be held within ten days after the director gives notice of the reasons for seizure and right to a hearing. If the seizure occurs in connection with a summary suspension, the hearing will be combined with a hearing made available under 3 AAC 306.825.

(c) If the marijuana establishment from which the marijuana or marijuana product was seized does not request or participate in a hearing under this section, or if, after a hearing the board finds that seizure of the marijuana or marijuana product was justified, the marijuana or marijuana product will be destroyed by burning, crushing, or mixing with other material to make the marijuana or marijuana product unusable as provided in 3 AAC 306.735.

(d) If a seizure under this section is of marijuana plants in place in a licensed standard or limited marijuana cultivation facility, the seizure order may direct the cultivation facility to continue care of the plants until the hearing, but prohibit any transfer, sale, or other commercial activity related to the plants. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.085 AS 17.38.087 AS 17.38.090
AS 17.38.100 AS 17.38.900

3 AAC 306.835. Hearing. Except as provided in 3 AAC 306.825 or 3 AAC 306.830, any person aggrieved by an action of the director or an officer or employee of the board, may

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request a hearing in compliance with AS 44.62.390 by filing a notice of defense within 15 days after receiving a written accusation. Failure to file a notice of defense as provided in this section constitutes a waiver of the right to a hearing.

(b) The office of administrative hearings will conduct the hearing in compliance with due process, the Alaska Administrative Procedure Act, AS 44.62.330-44.62.630, and the applicable regulations adopted by the office of administrative hearings at 2 AAD 64.100-2 AAC 64.990. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.085 AS 17.38.087 AS 17.38.090
AS 17.38.100 AS 17.38.900

3 AAC 306.840. Civil fines. (a) Except as provided in (c) of this section, the board may, in addition to any other penalties imposed under this title, impose a civil fine on a marijuana establishment that the board determines has violated a provision of AS 17.38 or this chapter.

(b) In a proceeding under 3 AAC 306.810 – 3 AAX 306.830, the board may impose a civil fine upon a marijuana establishment, not to exceed the greater of

(1) an amount that is three times the monetary gain realized by the licensee as a result of the violation, as determined by the board;

(2) \$10,000 for the first violation;

(3) \$30,000 for the second violation; or

(4) \$50,000 for the third or subsequent violation.

(c) In a proceeding against a marijuana establishment, the board may impose a civil fine of \$5,000 for each illegal sale. The board may suspend all or part of the fine based on the

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circumstances of the illegal sales. In this section, "sale" means a single delivery on a single date to a single purchaser. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.085 AS 17.38.087 AS 17.38.090
AS 17.38.100 AS 17.38.900

3 AAC 306.845. Appeal. (a) An aggrieved party may appeal regarding any action of the director, or any officer or employee charged with enforcing AS 17.38 and this chapter, including any decision issued in a hearing on a suspension or revocation or seizure of marijuana under 3 AAC 306.810 - 3 AAC 306.835, or a civil fine issued under 3 AAC 306.840 to the board.

(b) A person aggrieved by a final decision of the board suspending or revoking a license under this chapter, or imposing a civil fine may appeal to the superior court under AS 44.62.560. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.085 AS 17.38.087 AS 17.38.090
AS 17.38.100 AS 17.38.900

3 AAC 306.850. Surrender or destruction of license. A license issued under this chapter must be surrendered to the director, or an agent or employee of the board on demand if the director or board so directs. A license issued under this chapter must be surrendered within 10 days after the marijuana establishment loses or vacates the licensed premises. If a license is destroyed, the marijuana establishment shall promptly notify the board. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

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AS 17.38.085

AS 17.38.087

AS 17.38.090

AS 17.38.100

AS 17.38.900

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Article 9. General Provisions.

3 AAC 306.900. Marijuana clubs prohibited. (a) A person may not maintain a place where marijuana or marijuana products are received or kept, or to which marijuana or marijuana products are brought for consumption by the public or by members of a club, association, or corporation unless the person is authorized to do so under this title.

(b) A person may not maintain, operate, or lease premises for the purpose of providing a place for consuming marijuana or marijuana products for consideration by members of the public or other persons, unless the person is authorized to do so under this title.

(c) In this section, "consideration" includes a membership fee, a cover charge, the sale of food, ice, mixers, or other drinks, or the furnishing of marijuana accessories for use in the consumption of marijuana or any marijuana product.

(d) A person violating this section is subject to a civil fine as provided in 3 AAC 306.840. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.905. Public records. Marijuana establishment applications are public records. The board may, at the request of any applicant, designate materials confidential if they

(1) contain proprietary information including trade secrets; or

(2) are required to be kept confidential by any federal or state law or regulation.

(Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

AS 40.25.110.

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3 AAC 306.910. Refusal to sell marijuana. Nothing in this chapter prohibits a licensee from refusing to sell marijuana or marijuana products to any person unless that refusal is a violation of AS 18.80.210. (Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

3 AAC 306.990. Definitions. (a) In AS 17.38,

() “assist” does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the amount allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than that other person's primary residence, a garage, shed, or other place under the other person's control;

() “deliver” means hand to a person who purchases the product on licensed premises only; “deliver” does not mean transfer or transport to a consumer off a licensed premises;

() “flowering” means a marijuana plant which has visible crystals, buds, or flowers, or for which the exposure to light is scheduled with the intent to produce crystals, buds or flowers;

() “immature” means a plant with no visible crystals, buds, or flowers, and in which the exposure to light is scheduled with the intent to prevent formation of crystals, buds or flowers;

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() “personal cultivation” does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the amount allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than that other person's primary residence, garage, shed, or similar place under the other person’s control.

() “possess” means having physical possession or control over property;

() “transport” or “transfer” means to deliver between licensed marijuana establishments as provided in 3 AAC 306.745.

(b) In this chapter, unless the context requires otherwise,

() "adulterated food or drink product" means a product that is intended to be consumed orally and that existed without marijuana in a form ready for consumption before marijuana was added by any process; an adulterated food or drink product does not include raw ingredients that are combined with marijuana in a manufacturing process;

() “agent”

(A) means a representative who is authorized to act for another;

(B) includes a contractor or subcontractor;

() “batch” or ”harvest batch” means a specifically identified quantity of plant trim, leaf and other usable product from marijuana plants that are uniform in strain, cultivated in one place and under the same conditions, using the same medium and agricultural chemicals

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including pesticides and fungicides, and harvested at the same time.

() “bud and flower” means the hairy, sticky, or crystal covered parts of mature female marijuana plants generally harvested for their high potency content;

() “clones” or “cuttings” means small starter plants less than 8 inches tall used to propagate marijuana plants;

() “compensation” means money, bartered objects or services, or anything else of value;

() “contaminant” means any of the following:

(A) harmful microbials including E. coli or salmonella;

(B) residual solvents;

(C) poisons or toxins;

(D) harmful chemicals; including pesticides;

(E) dangerous molds, mildew or filth;

() “controlling interest” means ownership or control of

(A) 50 percent or more of the ownership interest or voting shares of a corporation; or

(B) less than 50 percent if a person and family members jointly exert actual control as demonstrated by

(i) making decisions for the corporation without independent participation of other owners;

(ii) exercising day-to-day control over the corporation's affairs;

(iii) disregarding formal legal requirements;

(iv) using corporation funds for personal expenses or investments,

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or intermingling corporation finances with personal finances; or

(v) taking other actions that indicate the corporation is a mere instrumentality of the individual;

() “edible” and "edible marijuana product" means any marijuana product that is intended to be consumed orally, including any type of food or drink; an edible marijuana product does not include adulterated food or drink products;

() “extraction” or “marijuana extraction” means production of marijuana concentrate by any water-based, food-based, or solvent-based method;

() “homogenous” means a component or quality, such as THC, is spread evenly throughout the product, or can be found in equal amounts in each part of a multi-serving unit;

() “licensed,” means any marijuana establishment, that holds a current and valid license issued by the board under this chapter, including a conditional license; a marijuana establishment is not “licensed” if a license it formerly held has expired, or has been suspended or revoked;

() “licensee” means all the persons identified in 3 AAC 306.020 who must be listed in an application for a marijuana establishment license under this chapter;

() “licensed premises” means any or all designated portions of a building or structure, rooms or enclosures in the building or structure, used, controlled, or operated by a licensee in the conduct of business for which the licensee is licensed by the board at the specific address for which the license is issued;

() “lot” or “production lot” means a group of marijuana products that were prepared at the same time from the same batch of marijuana, using the same recipe or process;

() "marijuana" means all parts of the plant of the genus cannabis whether

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

() "marijuana concentrate" means resin, oil, wax, or any other substance derived from the marijuana plant by any method which isolates the THC-bearing resins of the plant;

() "marijuana cultivation facility" has the meaning given in AS 17.38; ***or alternatively*** means an entity *licensed* to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers;

() "marijuana plant" means a living organism of the genus *Cannabis* capable of absorbing water and inorganic substances through its roots, and synthesizing nutrients in its leaves by photosynthesis;

() "marijuana product" means any concentrated marijuana and marijuana product that is comprised of marijuana and any other ingredient and is intended for use or consumption including any edible product, ointment, and tincture;

() "marijuana product manufacturing facility" means an entity licensed to purchase marijuana; manufacture, prepare, and package any approved marijuana product; and sell marijuana and marijuana products to any other marijuana product manufacturing facility or marijuana retail store, but not to a consumer;

() "person" means has the meaning given in AS 01.10.060.;

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() “process” or “processing” means harvesting, curing, drying, trimming of a marijuana plant;

() "retail marijuana store" means an entity licensed to purchase marijuana from a marijuana cultivation facility, to purchase marijuana and any approved marijuana product from a marijuana product manufacturing facility, and to sell marijuana and any approved marijuana product to a consumer.

() "square feet under cultivation" means an area of the licensed premises of a standard or limited cultivation facility that is used for growing marijuana, measured on the perimeter of the marijuana crop or the canopy formed by marijuana plant branches and foliage; "square feet under cultivation" does not include hallways, equipment storage areas, or other areas within the licensed premises that are not used for growing marijuana such as an office, or a processing or storage area.

Eff. ____/____/____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.090 AS 17.38.100 AS 17.38.900

MEMORANDUM

**TO: HOMER CITY COUNCIL
CANNABIS ADVISORY COMMISSION
CITY MANAGER KATIE KOESTER**

FROM: KATHERINE S. DAVIES

**RE: PROPOSED COMMENTS REGARDING STATE OF ALASKA
MARIJUANA REGULATIONS**

CLIENT: CITY OF HOMER

FILE NO.: 506,742.222

DATE: AUGUST 18, 2015

On August 5, 2015, the Marijuana Control Board issued its third set of proposed marijuana regulations. These regulations specifically pertain to marijuana cultivation facility operations, marijuana product manufacturing facility operations, and enforcement and civil penalties.

These regulations are technical in nature as they primarily deal with the science behind marijuana growing, cultivation and extraction, as well as the introduction of the product into the stream of commerce. For example, these regulations touch on technical licensure requirements for the various types of marijuana establishments, minimal facility security system requirements, inventory tracking systems, packaging and labeling, permissible active tetrahydrocannabinol ("THC") concentrate levels, THC testing methodologies, and failed materials retest protocols.

As you can see, the third set of regulations touch on an area of the law that is beyond our legal expertise. Consequently, we would like to work with the members of the Cannabis Advisory Commission ("CAC") and draw from their knowledge base to develop comments to the newest set of proposed regulations. This can be accomplished through a CAC worksession.

Additionally, we recommend retaining Anchorage Fire Investigator Brian Balega for approximately two (2) hours to discuss the potential hazards surrounding the adoption of 3 AAC 306.550, which deal with the production of solvent-based marijuana concentrates. Mr. Balega will be able to inform the CAC on the risks associated with the production of solvent-based marijuana concentrates, as well other practical

considerations regarding public safety that the CAC and the City should contemplate during the comment period and beyond.

Below is the only comment that our firm currently has based on the third set of proposed regulations. However, we anticipate developing more comments as we move forward.

LEGALLY NECESSARY BUT POLICY-NEUTRAL COMMENTS

3 AAC 306.410; 3 AAC 306.15; 3AAC 306.455

- The term “brokerage facility” is used throughout 3 AAC 306.400; 3 AAC 306.415 specifically delineates what acts a “brokerage facility” is permitted and prohibited from doing. However, the term “brokerage facility” is never explicitly defined. Thus, a definition for that term should be included in the applicable definition sections.

KSD/KSD



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MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION
FROM: COMMISSIONER SARNO
THRU: RENEE KRAUSE, CMC, DEPUTY CITY CLERK
DATE: AUGUST 20, 2015
SUBJECT: RECOMMENDATION TO ATTEND FALL MARIJUANA CONFERENCE ANEXPO

Commissioner Sarno has submitted the following and believes it would be of interest to the Commission to attend.

The Cannabis Advisory Commission has no dedicated funding and due to the financial status of the city it is unlikely that there are funds available to pay for a commissioner(s) to attend this conference.

If the Commission believes it would be beneficial to have a representative attend this conference then it would have to be approved by motion with the understanding that the Commissioner(s) will be financially responsible for all costs involved to attend the conference, including but not limited to travel, subsistence, lodging and fees related to the conference.

A Memorandum requesting authorization to attend the Conference representing the Cannabis Advisory Commission would have to be submitted Council.

Following is information from the Conference website:

Recommendation

Discuss and make motions as determined by the Commission.

From the Publishers of Marijuana Business Daily

4th Annual Marijuana Business Conference & Expo

America's Oldest & Largest National Cannabis Tradeshow



November 11-13, 2015

Rio All Suites Hotel & Casino, Las Vegas

Need help? Call (401) 354-7555 x1

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Why Attend

Exhibitors
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& SpeakersExclusive
Add-onsClick to save \$200.00 on Your Seats
(offer ends Aug 27th)Hotel
Discounts

Fall 2015 Agenda

PRE-CONFERENCE: WEDNESDAY NOVEMBER 11, 2015

8:00-6:00pm

Registration Open

10:00-5:00pm

Marijuana Business Crash Course (additional fee)

5:00-7:00pm

Welcome Reception in the Expo Halls

DAY 1: THURSDAY NOVEMBER 12, 2015

8:00-9:30am

Networking Breakfast
in the Expo Halls

9:00-9:45am

Opening Session – State of the Industry &
Cannabusiness Forecast

George Jage, Marijuana Business Media

Chris Walsh, Marijuana Business Daily

9:45-10:30am



Keynote

Joseph Nader, Consumer Advocate &
Former Green Party Candidate for
PresidentExpo
Halls
Open

TRACKS

Track 1

Track 2

11:00-12:00pm

Investor Pitch Slam

Roundtables:
Cultivation*Limited seating available for
Main Conference Attendees
only. Participants must be

		actively working as a hands-on, full-time professional in the topic area.
12:00-2:00pm	Networking Lunch in the Expo Halls	
2:00-2:50pm	2016: What's at Stake & Next States to Legalize	Roundtables: Retail *Limited seating available for Main Conference Attendees only. Participants must be actively working as a hands-on, full-time professional in the topic area.
3:00-3:50pm	Competitive Intelligence & Insights from Comparable Industries	Roundtables: Infused Products *Limited seating available for Main Conference Attendees only. Participants must be actively working as a hands-on, full-time professional in the topic area.
4:00-5:00pm	From the Brink to the Breakthrough: Industry Pioneers Share Lessons from the Trenches	
5:00-6:30pm	Cocktails in the Expo Halls	
7:00-9:00pm	The Industry Celebration & Benefit Party! (<u>additional fee</u>)	

DAY 2: FRIDAY NOVEMBER 13, 2015

8:00-10:00am	Investor's Networking Breakfast (<u>additional fee</u>)		Networking Breakfast in the Expo Halls	Expo Halls Open
TRACKS	Track 1	Track 2	Track 3	
9:30-10:20am	Fall Banking Update: Developments, Trends & Strategies	Hot Topic – Organic Cannabis & Pesticide Use	Infused Products: Keys to Consistency & Quality Control	
10:30-11:20am	Once the Dust Settles: Retail Growth Strategies in a Maturing Market	Small-Scale Cultivation: Maximizing Space, Increasing Yields & Achieving Consistency	Edibles Safety: Risks, Legal Liabilities & Strategies	

11:30-12:15pm	What Patients & Consumers Want: Strain Trends, Product Mix & CBD vs. THC	Growing Award-Winning Strains: Tips from Cannabis Cup Champions	Hot Topic – TBD
12:00-1:30pm	Networking Lunch in the Expo Halls		
TRACKS	Track 1	Track 2	Track 3
1:30-2:20pm	Minimizing the 280E Bite, Dealing with the IRS & Preparing for an Audit	Advanced Energy Conservation & Sustainability Strategies for Cultivators	The Fight for Shelf Space: Finding & Retaining Retail Clients
2:30-3:20pm	Hot Topic – TBD	Hot Topic – TBD	Investing in Cannabis: Legal Updates & Hottest Opportunities
3:30-4:15pm	Marijuana Research & Science: Latest Developments, Data & Industry Impact	Tribal Marijuana: Emerging Opportunities & the Impacts on Established Businesses	Sealing the Deal: Negotiating with Investors

*all sessions and speakers are subject to change without notice.

Company Contacts

- Head Office Phone (401) 354-7555 x1
- [Contact Us - Swift Reply Form](#)

More Useful Links

- [Attendee Rules & Regulations](#)
- [Meet the Team](#)

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MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION

FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: AUGUST 20, 2015

SUBJECT: NEXT MEETING DELIVERABLES AND AGENDA ITEMS

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

Recommendation

Informational In Nature. No Action Required.

2015 MEETINGS
CANNABIS ADVISORY COMMISSION

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

<u>Meeting Date</u>	<u>Packet Deadline</u>
June 25, 2015	June 17 th
July 23, 2015	July 15 th
August 27, 2015	August 19 th
September 24, 2015	September 16 th
October 22, 2015	October 14 th
November 30, 2015	November 24 th
December 17, 2015	December 9 th

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

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

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

2015 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 2015 is as follows:

June 15, 29 2015	<u>Commissioner Jones</u>
July 27, 2015	<u></u>
August 10, 2015	<u>Commissioner Robl</u>
September 14, 2015	<u>Commissioner Stead</u>
October 12, 2015	<u>Commissioner Monroe</u>
November 23, 2015	<u></u>
December 14, 2015	<u></u>

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.

Municipality	Type of Government	Title of Legislation	Status
City and Borough of Juneau	Unified Home Rule	Serial No. 2014-50 An Ordinance Imposing a Limited Moratorium on the Receipt or Processing of Applications, Permits, or Pending Approvals Pertaining to Marijuana Establishments	Adopted 01/12/15
City and Borough of Juneau	Unified Home Rule	Serial No. 2014-51(c) An Ordinance Amending the Second-hand Smoke Control Code to Regulate the Use of Marijuana	Adopted 02/02/15
City and Borough of Sitka	Unified Home Rule	Ordinance No. 2015-06A An Ordinance of the City and Borough of Sitka Adding a New Title to Sitka General Code Entitled "Title 7, Marijuana Regulations" to Regulate and Tax the Use, Possession, Manufacture and Sale of Marijuana as Well as Provide Penalties for Violation as Defined in Chapter 7.30, Section 7.30.10 Entitled "Public Consumption"	Adopted 02/24/15
City and Borough of Wrangell	Unified Home Rule	Ordinance No. 896 An Ordinance of the Assembly of the City and Borough of Wrangell, Alaska Amending Title 10, Public Peace, Morals, and Welfare of the Wrangell Municipal Code to add a New Chapter 10.46 to Prohibit the Consumption of Marijuana in the Public Place, and Establishing a Penalty for Violation	Adopted 03/24/15
City and Borough of Yakutat	Home Rule Borough	Ordinance 15-584 An Ordinance Amending the Code of the City and Borough of Yakutat, Alaska by Adding a New Chapter 9.16, <u>Marijuana</u> , Defining "Public Places: for the Purpose of Prohibiting Consumption of Marijuana in Public Places and Prohibiting the Manufacture of Marijuana Consented by use of Materials or Methods Deemed Dangerous to Public Health and Safety	Introduced 02/19/05 Approved 03/05/15
City of Craig	1st Class City	Ordinance No. 663 An Ordinance Establishing a Limited Moratorium on the Receipt or Processing of Applications, Permits, or Pending Approvals Pertaining to Marijuana Establishments	Hearing Postponed until September
City of Craig	1st Class City	Ordinance No. 664 Amending Section 09.90 of the Craig Municipal Code to Prohibit the Consumption of Marijuana in a Public Place, and Establishing a Penalty for Violation	Approved 02/19/15

Municipality	Type of Government	Title of Legislation	Status
City of Dillingham	1st Class City	Ordinance 2015-04 (SUB-1) An Ordinance Amending Dillingham Municipal Code Title 8 - Health and Welfare by the Addition of a New Chapter Providing Regulation of Marijuana in the City of Dillingham, Alaska	Introduced 03/19/15 Adopted on 05/14/15
City of Dillingham	1st Class City	Ordinance 2015-05 An Ordinance Amending Dillingham Municipal Code Title 8.10 Prohibition of Smoking in Public Places, Section 8.10.010 Definitions	Introduced 03/19/15 Adopted on 05/14/15
City of Fairbanks	Home Rule City	Ordinance No. 5964 An Ordinance Amending Fairbanks General Code Chapter 46 Offenses by Adding a New Section to Prohibit the Consumption of Marijuana in a Public Place	Adopted 02/23/15
City of Fairbanks	Home Rule City	Ordinance No. 5970 An Ordinance Amending Fairbanks General Code Section 46-42 Disturbing the Peace by Adding a New Subsection Relating to Marijuana Smoke	Adopted 04/20/15
City of Fairbanks	Home Rule City	Ordinance No. 5986, As Amended, An Ordinance Enacting a Retail Sales Tax on Marijuana and Referring the Ordinance for Ratification at the General Election	Adopted 06/20/15
City of Houston	2nd Class City	Citizen Initiative Ordinance #15-12: An Initiative Ordinance of the Voters of the City of Houston Enacting Houston Code Chapter 5.10 Marijuana Regulations, Amending Title 5, Business Licenses to Prohibit the Operation of Marijuana Cultivation Facilities, Marijuana Manufacturing Facilities, Marijuana Testing Facilities, and Retail Marijuana Stores Pursuant to AS 17.38.110 Local Control, but Not Restricting Industrial Hemp as Defined Herein.	Proposition No. H-1 for the October 6, 2015 City Election
City of Kenai	Home Rule City	Ordinance No. XX-2015 An Ordinance of the Council of the City of Kenai, Alaska, Imposing a Limited Moratorium on the Operations of Marijuana Establishments and/or Businesses within the City of Kenai	Failed Introduction on 07/15/15
City of Nome	1st Class City	Ordinance No. O-15-12-07 An Ordinance Adopting Chapter 3.07 of the Nome Code of Ordinances	1st Reading 02/09/15 2nd Reading 02/23/15 Failed Enactment

Municipality	Type of Government	Title of Legislation	Status
City of Nome	1st Class City	Ordinance No. O15-08-03 An Ordinance Amending Title 3 of the Nome Code of Ordinances to Establish Chapter 3.40 Marijuana Regulation and Amending Section 1.20.040 to Establish a Penalty for Violation	1st Reading 08/10/15 2nd Reading 08/24/15
City of North Pole	Home Rule City	Ordinance 15-01 An Ordinance of the City of North Pole, Alaska to Amend Chapter 8.04 Nuisances and Add Section 8.04.005 to Prohibit the Extraction of Marijuana Oils within the City Limits	Passed 02/17/15
City of North Pole	Home Rule City	Ordinance 15-02 An Ordinance of the City of North Pole, Alaska to Amend Title 12 Streets, Sidewalks and Public Places and Adding Chapter 12.03, Marijuana Use in Public Places, to Regulate the Consumption of Marijuana in a Public Place	Passed 02/17/15
City of Palmer	Home Rule City	Citizen Initiative Ordinance No. 15-020: An Initiative Ordinance of the Voters of the City of Palmer Enacting Palmer Municipal Code Chapter 5.32 Marijuana Businesses, Prohibiting the Operation of Marijuana Cultivation Facilities, Marijuana Manufacturing Facilities, Marijuana Testing Facilities, and Retail Marijuana Stores Pursuant to AS 17.38.110 Local Control, but Not Restricting Industrial Hemp as Defined Herein.	Proposition No. P-1 for the October 6, 2015 City Election
City of Palmer	Home Rule City	Ordinance No. 15-013 An Ordinance of the Palmer Municipal Code Chapter 8.11 Prohibiting Consumption of Marijuana in a Public Place	Introduced 2/24/15 Public Hearing 3/10/15
City of Unalaska	1st Class City	Ordinance No. 2015-04 An Ordinance of the Unalaska City Council Amending the Unalaska Code of Ordinances to Create a New Chapter 11.28 for the Regulation of Marijuana Use	Adopted 02/20/15
City of Wasilla	1st Class City	Ordinance Serial No. 15-08(AM) An Ordinance of the Wasilla City Council adopting Wasilla Municipal Code, Chapter 9.40 Regulation of Marijuana, pertaining to the manufacture, transport, possession, and use of marijuana and substances deprived from marijuana.	Adopted 02/23/15

Municipality	Type of Government	Title of Legislation	Status
		Ordinance Serial No. 15-10(AM) An Ordinance of the Wasilla City Council amending Wasilla Municipal Code (WMC), in Regard to the Regulation of Marijuana, and adopting a Sunset Provision, all Pertaining to the Manufacture and Transport of Marijuana within the City Limits of Wasilla	Adopted 3/23/2015
City of Wasilla	1st Class City		
		Ordinance 2015-09 An Ordinance Amending Fairbanks North Star Borough Code Title 9 by Adding Chapter 9.17 Entitled Marijuana Regulation and Adding Definitions Pertaining to Marijuana Regulation	Adopted 02/26/15
Fairbanks North Star Borough	2nd Class Borough		
		Ordinance 2015-12 An Ordinance Amending Chapter 9.17 Entitled Marijuana Regulation and Amending 1.04.050 Regarding the Fine Schedule to Add Violations of Chapter 9.17	Adopted 03/12/15
Fairbanks North Star Borough	2nd Class Borough		
		Ordinance No. 2015-42 An Ordinance Providing for a Ballot Question to be Placed Before the Qualified Voters at the Regular Election on October 6, 2015, Asking Whether the Borough Shall Levy an Areawide 5% Tax on Sales of Marijuana and Marijuana Products	Introduced on 08/06/15 Hearing on 08/20/15
Fairbanks North Star Borough	2nd Class Borough		
		Ordinance No. 2015-42 Substitute An Ordinance Providing for a Ballot Question to be Placed Before the Qualified Voters at the Regular Election on October 6, 2015, Asking Whether the Borough Shall Levy an Areawide 8% Tax on Sales of Marijuana and Marijuana Products	Introduced on 08/06/15 Hearing on 08/20/15
Fairbanks North Star Borough	2nd Class Borough		
		Ordinance 2014-40 An Ordinance Amending KPB 3.04.030, Employee Conduct Requirements, to Address the Passage of Ballot Measure No. 2 Legalizing Marijuana, and to Reference the Use of, or Impairment by, Controlled Substances	Enacted 01/06/15
Kenai Peninsula Borough	2nd Class Borough		
		Ordinance 2015-02 An Ordinance Enacting KPB Chapter 10.14 Prohibiting the Operation of Marijuana Cultivation Facilities in the Area of the Kenai Peninsula Borough Outside of the Cities, Subject to Voter Approval	Failed 02/24/15
Kenai Peninsula Borough	2nd Class Borough		

Municipality	Type of Government	Title of Legislation	Status
Kenai Peninsula Borough	2nd Class Borough	Resolution 2015-013 A Resolution Establishing a Marijuana Task Force	Adopted 03/17/15
		Assembly MOTION: "...to not ban commercial marijuana activities at this time; to allow the regulatory process to proceed and then determine whether to make any adjustments locally"	
Ketchikan Gateway Borough	2nd Class Borough		Approved
		Resolution Serial No. 15-006 A Resolution of the Matanuska-Susitna Borough Assembly to Request Clarification from the State of Alaska on Ballot Measure 2, the Legalization of Marijuana	
Matanuska-Susitna Borough	2nd Class Borough		Adopted 01/20/15
		Resolution Serial No. 15-007 A Resolution of the Matanuska-Susitna Borough Assembly Establishing a Marijuana Advisory Committee	
Matanuska-Susitna Borough	2nd Class Borough		Adopted 01/20/15
		AO No. 2015-07 An Ordinance of the Anchorage Assembly Amending Anchorage Municipal Code Chapter 8.35 with a New Section to Prohibit the Consumption of Marijuana in a Public Place; and Amending the Minor Offense Fine Schedule at AMC Section 8.05.025A Accordingly	Amended and Approved 01/27/15 Immediate Reconsideration Failed 01/27/15
Municipality of Anchorage	Unified Home Rule		
		AO No. 2015-13 An Ordinance Amending Anchorage Municipal Code Title 8 to Prohibit the Extraction of Tetrahydrocannabinol ("THC") or Any Cannabinoid by Use of Materials or Methods Deemed Dangerous to Public Health and Safety, Unless Otherwise Permitted by Law	
Municipality of Anchorage	Unified Home Rule		Approved 02/24/15



City of Homer

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Memorandum 15-109

TO: HOMER CITY COUNCIL
FROM: MARY E. WYTHE, MAYOR
DATE: JULY 20, 2015
SUBJECT: APPOINTMENT OF LINDIANNE SARNO TO THE CANNABIS ADVISORY COMMISSION.

Lindianne Sarno is appointed to the Cannabis Advisory Commission to replace outgoing member David Etzwiler. Her term will expire May 1, 2018.

RECOMMENDATION:

Confirm the appointment of Lindianne Sarno to the Cannabis Advisory Commission.

Fiscal Note: N/A



City of Homer

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July 29, 2015

Lindianne Sarno
4297 Kachemak Drive
Homer, AK 99603

Dear Lindianne,

Congratulations! Council confirmed/approved your appointment to the Cannabis Advisory Commission during their Regular Meeting of July 27, 2015, via Memorandum 15-109.

Included is the 2014 Public Official Conflict of Interest Disclosure Statement. Please complete this document and return it to the Clerk's office. This form will be retained in the Clerk's office. It is a public document and may be requested by any member of the public. In the event the Public Official Conflict of Interest Disclosure Statement is requested by a member of the public, you will be notified of the requestor's name.

Also included is the Code of Ethics as outlined in Homer City Code 1.18. This provides important guidelines in your role as a commissioner as to conduct and conflicts of interest.

Thank you for your willingness to serve the City of Homer on the Cannabis Advisory Commission. There certainly are exciting times ahead.

Your term will expire May 1, 2018.

Cordially,

Mary E. Wythe, Mayor

Enc: Memorandum 15-109
Certificate of Appointment
2014 Public Official Conflict of Interest Disclosure Statement
Robert's Rules of Order Handbook
HCC 2.78 Cannabis Advisory Commission
HCC 1.18 Conflicts of Interest, Partiality, and Code of Ethics

Cc: Cannabis Advisory Commission

City of Homer

Homer, Alaska

Mayor's Certificate of Appointment

Greetings

Be It Known That

Lindianne Sarno

Has been appointed to

serve as

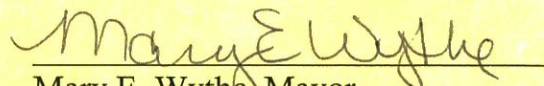
“Commissioner”

on the


“Cannabis Advisory Commission”

This appointment is made because of your dedication to the cause of good government, your contributions to your community and your willingness to serve your fellow man.

*In Witness whereof I hereunto set my hand
this 29th day of July, 2015.*


Mary E. Wythe, Mayor

Attest:


Jo Johnson, MMC, City Clerk

**CITY OF HOMER
HOMER, ALASKA**

City Clerk/
Cannabis Advisory Commission

RESOLUTION 15-068

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
ADOPTING THE BYLAWS FOR THE CANNABIS ADVISORY
COMMISSION.

WHEREAS, The Cannabis Advisory Commission (CAC) was formed by the Homer City Council on April 13, 2015 via Ordinance 15-07(A)(S)(A); and

WHEREAS, The CAC created bylaws to contain its own basic rules relating to itself as a commission and prescribe how the commission functions; and

WHEREAS, The CAC bylaws include all rules that the commission considers so important that they cannot be changed without previous notice to the members and the vote of a majority; and

WHEREAS, The bylaws were reviewed and discussed by the CAC at their May 28 and June 25, 2015 meetings and received unanimous support from the commission at their July 23, 2015 meeting.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, hereby adopts the Cannabis Advisory Commission Bylaws.

PASSED AND ADOPTED by the Homer City Council on this 10th day of August, 2015.



CITY OF HOMER

Mary E. Wythe
MARY E. WYTHE, MAYOR

ATTEST:

JQ Johnson
JQ JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A

**CANNABIS ADVISORY COMMISSION
BYLAWS**

The Cannabis Advisory Commission is established with those powers and duties as set forth in Chapter 2, Section 78, of the Homer Municipal Code.

The Commission is established to act in an advisory capacity to the City Manager and the City Council and shall serve as the local regulatory authority for purposes of AS 17.38 within the City.

The Commission's jurisdiction is limited to the area within the city boundaries except for those extra territorial interests, such as trails and city properties, subject to city jurisdiction.

The Cannabis Advisory Commission membership will consist of nine members; five members of the public, two members may be residents from outside the city limits, and preference shall be given to city resident applicants; Two Council members, one member of the Homer Advisory Planning Commission, who shall be nominated by the Mayor and confirmed by the Council, and the Chief of Police.

Members will be appointed by the Mayor for three-year terms (except to complete terms) subject to confirmation by the City Council.

There will be regular monthly meetings of the Commission and permanent records or minutes shall be kept of the proceedings. The minutes will record the vote of each member upon every question. Every decision shall be filed in the office of the City Clerk and shall be public record open to inspection.

HISTORY

The By-laws were approved by the Cannabis Advisory Commission on July 23, 2015 and by the Homer City Council on August 10, 2015, and shall be in effect and govern the procedures of the Commission.

The duties and responsibilities of the Commission are:

- A. Act in an advisory capacity to the City Manager and the City Council on regulatory issues in the city. Consideration may include existing facilities, possible future developments and recommendations on land use.
- B. Consider any specific proposal, problem or project as directed by the City Council in regards to cannabis.

BY-LAWS

- A. To abide by existing Alaska State Law, Borough Code of Ordinance, where applicable, and Homer Municipal Code.
- B. To abide by Robert's Rules of Order, current edition, in so far as this treatise is consistent with Homer Municipal Code.

REGULAR MEETINGS

1. The commission will meet on the fourth Thursday of the month at 5:30 p.m. with the exception of November the commission will meet on the last Monday and December the commission will meet on the third Thursday of the month due to the holidays.

- 39 2. Items will be added to the agenda upon request of staff, the Commission or a
40 Commissioner. Agenda deadline is the Wednesday of the week preceding the meeting date at 12:00
41 p.m.
- 42 3. Removing items from the published agenda will be by consensus of the Commission. No items
43 may be added.
- 44 4. Commissioners will give the Clerk's Office or Chair a minimum of a two week notice or as soon
45 as possible regarding their potential absence from a meeting.

46 47 **COMMITTEES**

- 48 1. The commission shall submit a request for approval to City Council to form special
49 committees. Committee membership shall include at least two Commissioners. The commission will
50 submit in memorandum form to Council the reason for establishing a committee, the task(s) assigned
51 to the committee and the expected term for the committee plus a list of persons to be appointed to
52 the committee such as Council members, department personnel, or number of public in specific
53 sectors or with special experience preferred.
- 54 2. One committee member shall be appointed as Chair and work with the City Clerk's Office to
55 create the agenda and schedule of meetings so they may be advertised in accordance with Alaska
56 State Law and Homer City Code.
- 57 3. One committee member shall be appointed and responsible for furnishing summary notes of
58 all Committee meetings to the City Clerk.
- 59 4. Committees shall meet in accordance with Commission bylaws and Robert's Rules.
- 60 5. Committees will make a progress report at all commission meetings.
- 61 6. No committee shall have other than advisory powers.
- 62 7. Per Robert's Rules and the resolution creating the committee as established by City Council
63 upon giving final report the committee is disbanded.
- 64 8. All meetings are to be conducted in City Hall where they may be recorded.

65 66 **COMMISSION MEETING PUBLIC COMMENT/TESTIMONY AND AUDIENCE COMMENT TIME LIMITS**

- 67 1. The Chair shall note for the audience's benefit that there is a three minute time limit each time
68 there is a place in the agenda for public comment/testimony or audience comments.
- 69 2. Any individual wishing to address the Commission shall adhere to a three minute time limit. It
70 is the responsibility of the Chair to announce under Public Comments, public testimony on public
71 hearing items and Audience Comments that there is a 3 minute time limit.
- 72 3. Time limits may be adjusted by the 2 minutes up or down with the concurrence of the body in
73 special circumstances only such as agenda content and public attendance.

74 75 **SPECIAL MEETINGS**

- 76 1. Called by Chair or majority of the Commission only when required to complete time sensitive
77 business of the commission, at the request of City Administration or City Council.

79 **DUTIES AND POWERS OF THE OFFICERS**

- 80 1. A Chair and Vice-Chair shall be selected annually (May meeting) from among the appointed
81 members.
- 82 2. The Chair shall preside at all meetings of the Commission, call special meetings in accordance
83 with the by-laws, sign documents of the Commission, sees that all actions and notices are properly
84 taken, and summarize the findings of the Commission for the official record.
- 85 3. The Vice-Chair shall perform all duties and be subject to all responsibilities of the Chair in
86 his/her absence, disability or disqualification of office.
- 87 4. The Vice-Chair will succeed the Chair if he/she vacates the office before the term is completed,
88 to complete the unexpired term. A new Vice-Chair shall be elected at the next regular meeting.
89

90 **MOTIONS TO RECONSIDER**

- 91 1. Notice of reconsideration shall be given to the Chair, Vice-Chair, if the Chair is unavailable, or
92 the Clerk's Office within forty-eight hours from the time the original action was taken.
- 93 2. A member of Commission who voted on the prevailing side on any issue may move to
94 reconsider the Commission's action at the same meeting or at the next regular meeting of the body
95 provided the above 48-hour notice has been given.
- 96 3. Consideration is only for the original motion to which it applies.
97

98 **CONFLICT OF INTEREST**

- 99 1. A member or the Commission shall disqualify himself/herself from participating in any official
100 action in which he/she has a substantial financial interest.
- 101 2. Should the Commission member not move to disqualify himself/herself after it has been
102 established that he/she has a substantial financial interest, the Commission may move to disqualify
103 that member by a majority vote of the body.
104

105 **QUORUM; VOTING**

- 106 1. Five Commission members shall constitute a quorum.
- 107 2. Five affirmative votes are required for the passage of a resolution or motion.
- 108 3. Voting will be by verbal vote, the order to be rotated. The final vote on each resolution or
109 motion is a recorded roll call vote.
- 110 4. The City Manager and Mayor shall serve as consulting members of the Commission but shall
111 have no vote.
112

113 **CONSENSUS**

- 114 1. The Commission may, from time to time, express its opinion or preference concerning a
115 subject brought before it for consideration. Said statement, representing the will of the body and
116 meeting of the minds of the members, may be given by the presiding officer as the consensus of the
117 body as to that subject without taking a motion and roll call vote.
118

ABSTENTIONS

1. All Commission members present shall vote unless the Commission, for special reasons, permits a member to abstain.
2. A motion to excuse a member from voting shall be made prior to the call for the question to be voted upon.
3. A member of the Commission requesting to be excused from voting may make a brief, oral statement of the reasons for the request and the question of granting permission to abstain shall be taken without further debate.
4. A member may not explain a vote, may not discuss the question while the roll call vote is being taken and may not change his/her vote thereafter.

VACANCIES

1. A Commission appointment is vacated under the following conditions and upon the declaration of vacancy by the Commission.
2. The Commission shall declare a vacancy when the person appointed:
 - A. Fails to qualify to take office within 30 days after his/her appointment;
 - B. Resigns and the resignation is accepted;
 - C. Is physically or mentally unable to perform the duties of his/her office;
 - D. Misses three consecutive regular meetings unless excused; or
 - E. Is convicted of a felony or of an offense involving a violation of his/her oath of office.

GENERAL ORDER OF BUSINESS

NAME OF BODY	DATE OF MEETING
PHYSICAL LOCATION OF MEETING	DAY OF WEEK AND TIME OF MEETING HOMER, ALASKA
	MEETING ROOM

NOTICE OF MEETING
REGULAR MEETING AGENDA

1. CALL TO ORDER
2. APPROVAL OF AGENDA
3. PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA. (3 MINUTE TIME LIMIT)
4. RECONSIDERATION
5. APPROVAL OF MINUTES or CONSENT AGENDA.
6. VISITORS (Chair set time limit not to exceed 20 minutes) (Public may not comment on the visitor or the visitor's topic until audience comments.) No action may be taken at this time.
7. STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS (Chair set time limit not to exceed 5 minutes.)
8. PUBLIC HEARING (3 MINUTE TIME LIMITS)
9. PENDING BUSINESS
10. NEW BUSINESS

11. INFORMATIONAL MATERIALS (NO ACTION MAY BE TAKEN ON THESE MATTERS, THEY MAY BE DISCUSSED ONLY).
12. COMMENTS OF THE AUDIENCE (3 MINUTE TIME LIMIT)
13. COMMENTS OF THE CITY STAFF (not required) (Staff report may be at this time in the agenda.)
14. COMMENTS OF THE COUNCILMEMBER (If one is assigned)
15. COMMENTS OF THE CHAIR
16. COMMENTS OF THE COMMISSION
17. ADJOURNMENT/NEXT REGULAR MEETING IS SCHEDULED FOR note any worksessions, special meetings, committee meetings etc. All meetings scheduled to be held in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PROCEDURE FOR CONSIDERATION OF AGENDA ITEMS

The following procedure will normally be observed pursuant to Robert's Rules:

1. A motion is made to discuss the item OR to approve the staff recommendation. The item may then be discussed, amended or voted on.
2. If there are questions of staff or an appropriate audience member, a Commissioner may request permission from the Chair to ask the question. The Chair, upon consensus approval, may grant the request.

BYLAWS AMENDED

The bylaws may be amended at any meeting of the Commission by a majority plus one vote of the members, provided that notice of said proposed amendment is given to each member in writing. The proposed amendment shall be introduced at one meeting and action shall be taken at the next commission meeting.

TELECONFERENCE MEETINGS

1. The preferred procedure for Commission meeting is that all members be physically present at the designated time and location within the City for the meeting. However, physical presence may be waived by the Chair or Commission and a member may participate in a meeting by Teleconference when it is not essential to the effective participation or the conduct of business at the meeting. A Commission member participating by teleconference shall be deemed to be present at the meeting for all purposes. In the event the Chair participates telephonically, the Vice-Chair shall run the meeting.

2. Teleconference procedures.

A. A Commission member who cannot be physically present for a regularly scheduled meeting shall notify the City Clerk Office at least five days prior to the scheduled time for the meeting of his/her intent to appear by telephonic means of communication.

B. The Clerk shall notify the Commission members three days prior to the scheduled time for the Commission meeting of Commission members intending to appear by teleconference.

199 C. The means used to facilitate a teleconference meeting of the Commission must enable
200 each Commission member appearing telephonically to clearly hear all other Commission members
201 and members of the public attending the meeting as well as be clearly heard by all other Commission
202 members and members of the public.

203 D. The Clerk shall note in the attendance record all Commission members appearing
204 telephonically.

205
206 **LEGISLATIVE HISTORY**

207 Cannabis Advisory Commission established by Ordinance 15-07(A)(S)(A)

POT REPERT

HIGHS AND LOWS IN THE WAKE OF LEGALIZATION.

By ALLEN BEST

EUFLORA OPERATES in an upscale neighborhood of Aurora, Colorado's third-largest city, selling goods that would be illegal in most other states. Customers must be 21, but no doctor's prescription is required to buy the marijuana or, more precisely, the psychoactive constituent tetrahydrocannabinol. ¶ You can buy the THC in beverages, chocolate bars, hard candies, tinctures, and balms. There's also hashish and concentrate, the latter in the form of oil, wax, and shatter, which is 70 to 90 percent THC. You "dab" this concentrate onto a hot surface to inhale the vapor. Budtenders say a little dab will do you. ¶ Unlike the "nickel" bags of the 1960s and '70s, though, the contemporary products are explained in detail and the content of THC calibrated in milligrams. Start low and go slow, signs advise shoppers. ¶ More remarkable than Euflora's goods is its location among a small sea of chain franchises on the edge of the Southlands Lifestyle Center. Euflora itself occupies a former bank building, tan and faux brick on the exterior, an American flag flying overhead. Inside, except for the former bank vault, it looks like a smartphone store.

THE PSYCHOACTIVE CONSTITUENT: TETRAHYDROCANNABINOL

Jars of cannabis sit on the tables. I stop to sniff the Pineapple Express. The adjoining tablet identifies it as a “hard-hitting Sativa that provides an energetic high that tends to last.” Scrolling down the tablet’s display, I am told I will be “happy, uplifted, energetic, euphoric and relaxed.” Side effects? No mention of murderous urges here, unlike the warnings of drug crusaders who persuaded Congress to launch the U.S. war on drugs in 1937; what I could expect from Pineapple Express was only “dry mouth and dry eyes.”

Then I start to wonder: Might a purchase of Black Bubba, Jilly Bean, or some other product discovered while researching this story be considered a business-related expense? [Editor’s note: Nice try, Allen.]

Upright nation

In fact, the U.S. government still classifies cannabis as a controlled substance, its sale or possession punishable by extended prison sentences. Federal drug

agents have left Colorado alone since 55 percent of Colorado voters approved a constitutional amendment in November 2012 to legalize the production, sale, and use of the drug.

Reflecting the federal stance, financial institutions involved in the federal banking system—virtually all of them are—steer clear of marijuana. Banks won’t loan money for start-up ventures or property purchases, nor will they accommodate checks or credit card transactions overtly identified with the cannabis trade.

Legislation has been introduced in Congress to provide a path for cannabis to enter the financial mainstream. “The federal government can’t keep an eye on business practices if they are forcing them offline and underground,” says Rep. Denny Heck (D-Wash.), cosponsor of a bill introduced in April. It may not even get a committee hearing, though, says Taylor West, deputy director of the National Cannabis Industry Association. “But we do feel the forward progress even as we fight with the process.”



TALKBACK

FROM A
PLANNING POV,
IS LEGALIZED
POT A POSITIVE
OR
A NEGATIVE?

#PlanMag

FOLLOW THE
CONVERSATION
IN FUTURE ISSUES
OF *PLANNING*



TWITTER.COM
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With 40,000 square feet of cultivation space and two stores in Denver and Aurora, Medicine Man Inc. is one of Colorado's largest marijuana dispensaries. Dubbed "the Costco of cannabis" by the media, the company grows enough pot to fully stock both retail locations.

effect in October require individual packaging of edible marijuana products in a child-resistant container that is child-resistant for multiple openings. Retailers have also gotten more careful, with trade groups stressing the start-low and go-slow approach.

Pets, too, are occasionally getting added. Mountain towns have had reports of dogs dazed after finding edibles or, in one case, a THC-infused apple that had been used as a smoking device. Cats tend to be more persnickety, say veterinarians.

Tax revenues were a guess. The state projected \$70 million for 2014 but realized \$63.4 million. Of that, \$52.6 was for recreational cannabis and the remaining \$10.8 million for medical. Of this, \$17 million was allocated to school capital construction projects, as the constitutional amendment dictated, with the balance going into the state's general treasury or returned to local governments. Many local governments also enacted sales taxes.

Kammerzell says a key lesson from Colorado is to leave plenty

of time to adopt rules. "It will be a lot harder, it will cost a lot more, and it will take a lot more time than you think it will," he says, adding that Colorado officials tell their counterparts from other states and nations to "make sure you have the financial resources to build a regulatory framework in the proper way."

Local scene

Local governments can set other rules, including locations and operating hours. In metropolitan Denver, stores close somewhere between 7 p.m. and midnight, depending on the jurisdiction. They also have the option of just saying no. Two-thirds of county governments took that route. Among municipalities, 53 allowed and 181 prohibited or had moratoria in place as of December 2014, according to *Knowledge Now*, a newsletter of the Colorado Municipal League.

"Not every city or town has the resources to support this industry, and not all of them want to support this industry," says Rachel Allen, staff attorney for the Colorado Municipal League.

Denver opened the gate widely and quickly, treating marijuana like alcohol and letting the free market determine the number of sales outlets. As of April 1, Denver had 103 of Colorado's 356 cannabis retail stores. It also had 198 of the state's 500-plus medical dispensaries, according to state Department of Revenue sources. Denver has more cannabis outlets and dispensaries than McDonald's and Starbucks stores combined.

Early on, some business leaders warned that legalization would drive off visitors. The fears appear unfounded. Still, the mountain town of Breckenridge last winter booted a cannabis dispensary off its Victorian-themed Main Street for fear of sully the town's family-friendly image. Visitors intent on securing a stash need go just a short distance to the town's "green-light district," where they can find a string of cannabis shops amid the likes of a Crossfit gym, a woodworking shop, and an auto-repair business.

Cannabis shops get plenty of business. A study conducted after the first winter of sales found that out-of-state visitors made up 90 percent of recreational sales in mountain resort communities and nearly 50 percent in metropolitan Denver.

In Aurora, elected officials steered a middle course. They waited to see the evidence from Denver and other pioneering cities before allowing up to 24 dispensaries in a slow rollout, divided evenly among the city's six council wards. Rather than delegate to any one department, city officials chose to create an interdisciplinary team from five departments. Kim Kreimeyer, a senior planner, represents the planning department.

Aurora, says Kreimeyer, required dispensaries to stay beyond 1,000 feet of a school and 500 feet of a hospital or any inpatient treatment center. Stores must be at least 300 feet from residential and open-space zones. That doesn't leave all that much space, but dispensaries can be next to one another, if they wish.

In fact, dispensaries have brightened Aurora's streetscapes. The Green Solution, a chain retailer, opened in early April in a former McDonald's that had been empty for several years. Now, the site is dressed up, and inside, it's like a well-lit jewelry store, the goods kept behind glass cases except for gift items such as a marijuana-themed clocks, jigsaw puzzles, T-shirts, and caps.

But the federal prohibition remains a sticking point along Colfax Avenue, Aurora's original main street. An overlay district spec-

ifies higher design standards, and other businesses benefit from federal community development block grant assistance to meet them. Marijuana retailers aren't eligible. "They're kind of left holding the bag, if you will, because the city applies the regulations to all applications and can't waive requirements for the cannabis businesses," says Kreimeyer.

But in one key respect, all the cannabis stores differ from liquor, shoe, or most every other store: All are required by state regulations to have maximum security.

Growing it

Grow operations are legal in Colorado. The marijuana plants are almost entirely grown inside buildings under intense lights in tightly controlled environments. In Denver, grow operations of up to 100,000 square feet are not uncommon, and there are rumors of a one-million-square-foot grow operation being planned.

The power needs are enormous. Gabriel Romero, a spokesman for Xcel Energy, the largest single supplier in Colorado, says the industry uses 150 to 200 gigawatt-hours per year of electricity.

Touring a small grow operation one night in February, I could understand why. Inside a 7,300-square-foot building on Denver's east side, half the space was devoted to round-the-clock cannabis cultivation under high-pressure sodium lights. This generates so much heat, even in mid-winter, that air conditioning must also be employed, as the plants grow best at 70 to 76 degrees, explained Bruys Henderson, our guide.

This creates a tremendous electrical demand, with a bill of up to \$15,000 per month. One of Henderson's jobs is to figure out how to reduce that demand, which he is trying to do with LED lighting.

But in some jurisdictions, smell has been a major issue. What to one person is a slightly sweet, skunky aroma of flowering cannabis plants is all skunk to someone else.

Odor has been among the issues fielded by Joan Armstrong, the director of the Pueblo County Department of Planning and Development. Located two hours south of Denver, the county has an economy based on a steel mill, retirees drawn by cheap land, and agriculture. Hot weather and plentiful sunshine allow production of chili peppers—and now cannabis. Controversy has followed. "Every hearing is a mini-forum," says Armstrong. "People are getting on their soapboxes."

But farther south, sparsely populated Huerfano County has welcomed grow operations along the Cucharas River to help restore an economy that has faltered since the last coal mines closed 60 years ago. Steven B. Channel, the county's planner and code enforcement officer, reports seven applications and two approvals as of April. The county has approved no testing operations or retail sales, however. It is leaving that to other jurisdictions.

Going legit?

After nearly a year and a half of legalization in Colorado and a year in Washington State, many questions linger. One is whether regulations and taxes have brought the former underground economy above ground. Tax rates may hinder that. Colorado consumers can pay upward of 30 percent, when all state and local taxes are included, on recreational cannabis. As a result, many state residents who were "medical" users before have remained medical patients, simply to avoid the higher tax on recreational pot.

Seattle's Staley sees a more complex calculus. "If everything—the tax issues, the regulatory burden, the locational criteria—don't work together to create a legal market, then the black market will still thrive," he says. "It's not all lined up yet in Washington State."

There are also questions about public health impacts. Reviewing existing scientific literature, Colorado's Retail Marijuana Public Health Advisory Committee in January issued a report that found the risk of motor vehicle crash doubles among drivers with recent marijuana uses, and that using alcohol and marijuana together increases the risk of a motor vehicle crash more than using either substance alone. Too, regular marijuana use by adolescents and young adults is associated with impaired learning, memory, and math and reading achievement, even 28 days after the previous use. The report also pointed to the need to fill in myriad research gaps: "More research is needed on the potential therapeutic benefits of marijuana."

In the cannabis shops I visited, there was no residual skepticism. "An overdose is called a nap," one bud-tender said with a smile. Another declared she would never use pain pills when she got older; cannabis was nature's remedy.

Tim Byers, associate dean for public health practice at the Colorado School of Public Health, points out that growers have been creating new strains that isolate cannabinoid with properties that produce beneficial neurological effects without making people high. He wants to see more research, but adds that the federal government doesn't make it easy. He describes "a bunch of hoops and various federal permits."

"We need to get marijuana to not be a schedule 1-controlled drug, and we need to get the Drug Enforcement Administration and the Food and Drug Administration to loosen up," he says.

Colorado legislators have appropriated \$9 million for "objective scientific research regarding the efficacy of marijuana and its component parts as part of medical treatment." The state Department of Public Health and Environment has budgeted \$6 million for marijuana-related education campaigns.

Do Colorado and Washington State really represent a step forward? Or do other models make more sense? We now have several laboratories to examine those questions. ■

Allen Best is based in Denver, where he edits the e-zine *Mountain Town News*. He is a frequent contributor to *Planning*.

FROM APA

"Planning for Marijuana: The Cannabis Conundrum," by Jeremy Németha and Eric Rossa, in *JAPA*, Volume 80, Issue 1, 2014.

ONLINE

Brookings Institution's 4/20 blog series: brookings.edu/blogs/fixgov/series/420.

ON A RELATED TOPIC

OREGON GETS READY By Erick Mertz

When Oregon's Measure 91 passed the public vote by a 56–44 margin in November 2014, legalizing marijuana for recreational use, it was yet another step in a national trend toward decriminalization. In March, Tom Towslee, the acting director of communications for the Oregon Liquor Control Commission, answered questions about the challenges facing state staff.

Q: How much did Oregon's proposed legalization copy Colorado's and other states'?

A: Like Oregon, Colorado had an existing medical marijuana program prior to the legalization of recreational marijuana. For that reason, it has been a much better model for us as we move forward. Officials from the OLCC have been in touch with their counterparts in Colorado and Washington to learn from their experiences and determine the best practices.

Q: How much of the existing medical marijuana legislation was carried over?

A: The ballot measure that legalized recreational marijuana in Oregon made it clear that the existing medical marijuana program would remain separate and not fall under regulation by the OLCC. Also, Oregon's medical marijuana program is largely unregulated, while the recreational marijuana program will regulate marijuana from seed to sale.

Q: Explain some of the external pressures, perhaps from counties and municipalities, to form legislation that takes their specific needs into account.

A: The voter-approved measure that legalized recreational marijuana expressly prohibited local taxes on marijuana. There are efforts by cities and counties in Oregon to lift that ban and allow for local taxation. That is something that the state legislature will need to sort out. The OLCC will begin writing rules based on the law that exists today. If the law is changed then we will adapt accordingly.

Q: Legalized possession begins this month (July 2015); license application review will start next January. How will the state planning agency use that time?

A: The OLCC will use that time in three ways. First and foremost is writing the rules necessary to implement the new law by January 4, 2016, the deadline to begin accepting applications for commercial recreational marijuana outlets and getting public input on those rules. Second will be an educational campaign before the July 1, 2015, legalization date to help Oregonians understand what is legal under the new law and what isn't. Third will be hiring the staff necessary to run the program and getting the technology up and running.

Q: How much of your planning has been affected by the public's marijuana misconceptions? Is the state looking at this as an informative opportunity?

A: Thanks in part to the existence of a medical marijuana program, Oregon has a well-established and sophisticated marijuana industry that many Oregonians are already familiar with. The biggest challenge facing the commission is to ensure that Oregonians understand what is allowed and what is not allowed under the new recreational marijuana law.

Q: The state's call for applicants to a marijuana advisory committee closed in March. How will you employ that board?

A: The Rules Advisory Committee is an integral part of the process. The committee will spend the time between now and November writing the rules necessary to implement the new law and present them to the commission for approval. What the agency learned during a public participation process that started in January with a survey of Oregonians and included 11 listening sessions throughout the state will play a key part in guiding the committee's work.

Erick Mertz is a writer originally from Portland, Oregon. His background is in case management and working to effectively operate nonprofit organizations serving persons with mental health and developmental disabilities.

