

**NOTICE OF MEETING  
REGULAR MEETING AGENDA**

- 1. CALL TO ORDER**
- 2. AGENDA APPROVAL**
- 3. PUBLIC COMMENT UPON MATTERS ALREADY ON THE AGENDA** *(The Public may comment on any item on the agenda with the exception of items shown under Public Hearings. The standard time limit is 3 minutes.)*
- 4. VISITORS**
- 5. RECONSIDERATION**
- 6. ADOPTION OF CONSENT AGENDA** *(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of Commissioner.)*
  - A. Meeting Minutes from the August 27, 2015 Regular Meeting **Page 3**
- 7. REPORTS**
  - A. Holly Wells, City Attorney (via telephonic participation)
    1. Memorandum Proposed Comments and Questions Regarding State of Alaska Marijuana Regulations **Page 11**
      - Exhibit A - Moving at a Snails Pace **Page 15**
      - Exhibit B - Three Sets of Proposed Marijuana Regulations **Page 17**
      - Exhibit C - Marijuana Control Board Public Comments, Questions & Answers **Page 149**
      - Exhibit D - Regulation of Marijuana Industry 3 AAC 306 Table of Contents **Page 181**
  - B. Staff Report - City Planner Abboud
  - C. Kenai Peninsula Borough Cannabis Commission Report - Commissioner Monroe
- 8. PUBLIC HEARING**
- 9. PENDING BUSINESS**
- 10. NEW BUSINESS**
  - A. Next Meeting Deliverables, Agenda Items **Page 191**
- 11. INFORMATIONAL MATERIALS**
  - A. 2015 Meeting Schedule and Packet Processing Deadlines **Page 193**
  - B. 2015 Commission Attendance at Council Meetings **Page 194**
  - C. Notice & Summary of Proposed Regulations Title 3 AAC **Page 195**
  - D. US Department of Justice "Cole Memorandum" **Page 199**
  - F. Memorandum to Council dated September 9, 2014 re: Recommendations on State Proposed Regulations **Page 203**
  - F. Staff Report CAC 15-01, City Planner Abboud dated June 25, 2015 **Page 207**
- 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, OCTOBER 22, 2015** at 5:30pm in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer Alaska



Session 15-04, a Regular Meeting of the Cannabis Advisory Commission was called to order by Chair Aryn Young at 5:30 p.m. on August 27, 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,  
AND SARNO

ABSENT: COMMISSIONER LEWIS (EXCUSED)

STAFF: CITY PLANNER ABBOUD  
DEPUTY CITY CLERK KRAUSE

#### **APPROVAL OF AGENDA**

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

STEAD/ROBL - 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).

#### **VISITORS**

#### **RECONSIDERATION**

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

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

#### **A. Meeting Minutes for the July 23, 2015 Regular Meeting**

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

STEAD/HARRIS - MOVED TO APPROVE THE CONSENT AGENDA.

There was a brief discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

#### **STAFF REPORTS**

#### **PUBLIC HEARINGS**

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

#### **PENDING BUSINESS**

## NEW BUSINESS

- A. Staff Report CAC 15-04 Re: Comments on Marijuana Regulations Set #2
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

Commissioner Monroe commented that he did not think there was any point in submitting comments or recommendations since they had to go before Council for approval and by that time they are past the time limits.

City Planner Abboud stated he was requested by the City Manager to make these comments or recommendations then if there was another opportunity they would have them ready on deck to submit. He then reviewed the items noting the following:

- Timeline, tight but it also lists the deadlines for comments.
- Question & Answer. The MCB did address the gifting question that they had.
- The Attorney only had one question on set 3 regarding brokerage
- Questions involving the use of industrial hemp
- There was no provision for open air cultivation and High Tunnels since they do not meet the description of rigid frame, which then lends to the need of a definition of "rigid frame"

Commissioner Sarno questioned the ability to perform or provide deliveries to person(s) seriously ill or disabled, referring to page 24, second paragraph from the bottom, in the packet. Commissioner Burgess responded that he posed the question to the City Attorney and the Medical Marijuana Laws still apply, so there is no prohibition on delivering to a person under those circumstances.

Commissioner Malone did not feel that as a city or government entity there was much for the city to respond or question in Set #3 regulations. He opined most of the items were appropriate. He next commented on section 3 AAC 306.010 and the previous discussion on the desire for setbacks and the fact that churches were included in the 200 foot distances, so at the last meeting they removed child centered facilities out of the definition and adjusted the distances to 500 feet, which still does not meet the Federal requirement around schools. This is something that they commented previously and felt that they may want to comment on the item as a whole.

Commissioner Burgess agreed that they should submit comments on Title 21 issues that they are left to the municipality to govern and oversee.

Further discussion on the change in distance for common egresses, and how limiting in some villages, etc. that would make it near impossible to have a commercial enterprise ensued.

City Planner Abboud responded to Commissioner Sarno's question regarding location for a commercial testing facility or distribution facility by stating he provided a map on possible areas according to the Federal guidelines in the first meeting packet. Commissioner Burgess tried to clarify that the main guidance from the Federal Government was to limit access to minors and has implied that it will stay off the case of States that comply with that intent. Currently the MCB is doing now is that the distance is 500 feet so the two bodies are not lined up.

Commissioner Sarno re-clarified her question was the need of the local real estate agents that are starting to field questions on where it is likely that businesses will be allowed. Commissioner Malone stated that she could find a map that may help in the June packet on the city website; he added a disclaimer that of course nothing was final.

City Planner Abboud stated that they would have to go to the Planning Commission and a Public Hearing with their recommendation to go before Council who would also have public hearings before

being law for anyone speculating and of course there are other better areas for speculation. There would certainly be no opportunity to bring that category up officially.

Commissioner Harris requested that the maps provided in the June packet be included at the next meeting.

Commissioner Burgess moved that it would be appropriate to draft a recommendation to Council that the Board consider municipal limits to Title 21 and the municipalities be allowed to choose those.

City Planner Abboud cited that the recommendations at the worksession with Council the City Attorney had written down, with the exception of the gifting since that was answered in the Questions and Answers he included in the packet.

BURGESS/HARRIS - MOVED TO INCLUDE ALL RECOMMENDATIONS PREVIOUSLY AGREED UPON WITH THE CITY ATTORNEY INCLUDING THOSE RECOMMENDATIONS REGARDING TITLE 21 MUNICIPALITY RIGHTS OVER ZONING ISSUES BE FORWARDED TO COUNCIL FOR APPROVAL AND THEN FORWARDED TO THE MARIJUANA CONTROL BOARD.

There was a brief discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commission Sarno questioned the proposed regulation 3AAC 306.900 Marijuana clubs prohibited. She feels that this will be prohibitive in creating businesses and revenue opportunity other than dispensary, brokerage or testing. She wanted to have the opportunity to allow canna-business and canna-tourism which includes a social aspect. Banning this type of business will deprive Alaskans. Commissioner Harris stated that at this time we are not getting that choice. We cannot make city regulations less than the state only stricter.

Commissioner Burgess also responded that they only action would be to submit a recommendation to Council for approval to send to the Marijuana Control Board. He additionally commented on questioning the line that states, "unless the person is authorized to do so under thus title", who is the authorizing body?

Commissioner Malone responded that anyone in the industry wishes this section to be gone however the Marijuana Control Board does not feel the Title 17 allows them explicitly, the State can, but the Board cannot. They are also not going to advocate for the clubs. This section could be stricken but until the Legislation specifically allows it, it was one of the bills that did not make it through the last session; the MCB Board will not be addressing those regulations. He provided examples regarding consumption clubs and broker since that was not a license outlined in 17.38.

Commissioner Burgess provided a side note that this was an issue that would probably be litigated in the near future.

#### B. Recommendation to Attend Fall Marijuana Conference and Expo

Commissioner Sarno commented that she felt it would be an opportunity to provide some insight and additional knowledge into the subject matter. She also realized that the city would not and is not financially able at this time to fund sending a commissioner to the conference but maybe a commissioner would be willing to pay the expense and bring back the information gained.

Commissioner Burgess commented that the question is not if the city would authorize the expenditure, but to attend the conference representing the city and the commission.

Commissioner Malone opted to see if there would be a commissioner interested in attending before submitting the recommendation to Council. He then provided an alternative conference that will be

held in Anchorage which he will have a free ticket to that event and would be willing to attend as representative of the Commission and city.

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

Commissioner Burgess stated that he would like to have the attorney recommendations and comments in the packet for the next meeting so they can respond timely with the commission comments and/or recommendations.

Commissioner Malone stated that he could provide a report at each meeting on the Borough Cannabis Commission meeting since they usually meet at least once between this commission's meetings. The commission responded in a positive manner to having a monthly report on Borough level meetings.

Commissioner Stead requested the following items for the next agenda:

- Title 6.12.010 - Speaks specifically about marijuana and the commission may want to review and make recommendations
- Title 8, Permits, Licenses and Regulations - Add regulations and permitting under there and model it after Alcohol
- Title 9, Taxation - Do they want to consider and taxation for marijuana
- Title 19, Parks, Campgrounds, and Public Places - may want to see if there are any regulations that would apply here
- Title 21, Cultivation, Limited Cultivation, Test Labs, Brokerages, and Signs - any restrictions that would apply

Commissioner Stead did not know if the commission wanted to start at the top or have City Planner Abboud bring the information to them, but he opined that there was plenty of information that they can start to look at and address, they can start at the next meeting with Title 6.

City Planner Abboud stated he will bring this up with the City Attorney and hopefully their schedule melds with their schedule so he can see what the City Attorney has in mind, Title 21 he deals with a lot so there is no problem, but maybe he can outline the subjects in here and give them to the attorney and get it back in a timely manner. This last one he did not have much time for review and the City Attorney and the attorney had not thought what else the commission wanted to do. He will try to get something out to the attorney on Friday, August 28<sup>th</sup>. He really wanted to wait to see where the State was going with the distances first because there may be a conflict and then be back at the drawing board. The commission could have discussion on several of these.

Commissioner Harris warned adding any additional restrictions on cultivation since the State has it wrapped pretty tight so far.

Commissioner Burgess added a request of recommendations from staff on taxation options, so the commission can have a general discussion on excise tax, sales tax options at the next meeting so the public can make informed decisions.

#### **INFORMATIONAL MATERIALS**

- A. 2015 Meeting Schedule and Packet Processing Deadlines
- B. 2015 Commission Attendance at Council Meetings
- C. Municipal Legislative Actions
- D. Commissioner Sarno Appointment
- E. Resolution 15-068, Cannabis Advisory Commission Bylaws
- F. Highs and Lows in the Wake of Legislation

Chair Young read the informational materials into the record and asked if there was any discussion. She welcomed Commissioner Sarno to the commission.

Commissioner Malone commented on the Legislative Actions was a summary and the full document was included in the August 17<sup>th</sup> Borough Commission's packet. There are about 80 pages in the full document. He believed it was the Municipal Clerks Association that put the document together.

Deputy City Clerk stated the all the municipalities submitted materials and the Kenai Borough Clerk's staff compiled the information. She added that the Clerks are always working in the background on important issues.

Commissioner Sarno stated she would attend the Council meeting on December 14th to provide a report on the activities of the commission.

#### **COMMENTS OF THE AUDIENCE**

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

Wes Schact, resident of Fritz Creek, commented on the indulgences of the community in cannabis, and the benefits to the community investing in cannabis, he expounded on the well regulated industry in Europe and how they keep the industry segregated and away from minors and that they should support cannatourism as well as cannabusiness.

Brenda Hays, resident, retired commercial fisherman and active realtor on the Peninsula commented on getting needed information sooner rather than later as she has had investors asking questions so they can purchase their property wisely, and now rather than later when the prices will be sky high. Investors do not want to purchase commercial properties if the zoning is prohibitive and with the rumors that they may not be able to do business in rural areas some people have some thoughts have second thoughts to purchase in Homer period. She has not been able to answer any of her clients' questions regarding ordinances or where the best place might be that they could purchase property to operate recreational and medical green enterprises. This is a huge opportunity knocking on Homer's door so please leave the light on and open the door for more jobs, more revenue and more tax income, more tourist income, open the shops and the people will follow. Homer needs to act now through this council and the City Council otherwise investors will go somewhere else. She further stated she was relaying the comment that there should be no restrictions on the licenses issued or the number of licenses here and only a few zoning conditions for these businesses. We know they have to be a certain distance from churches and schools and operated in a protected and secured environment. Both medical and recreational cultivation should be allowed in urban areas as well as rural as this gives everyone equal opportunity for employment and enterprise and the purchasing of properties. The many TV programs about Alaska have put Homer in the limelight. Are we going to turn the light on for the next Boom area or are we turning the lights off and have people buy elsewhere. There is still hope for Homer and potentially great incentives to pull our negative budgets into a positive stream of income for the years to come. Presently she is working with investors to perform medical testing of cannabis they are looking at Homer as well as other areas of the Peninsula. The testing of cannabis and the start of these labs is paramount to having safe product on our streets and could become big business to Homer especially in a lagging economy and not enough jobs to go around; the days of being the Halibut Capital of the world are soon to be over; this will be a real blow to the tourism; marijuana has always been here and will always be here, now is the time for Homer to capitalize on its legality. Please let Homer be in forefront of this industry and chart the course for the rest of the state not the other way around. Her mantra for Homer Come to Homer, Take Action for Homer and Buy in Homer.

Commissioner Burgess responded that the commission is reviewing on what the state is establishing and that deadline is the end of November so the municipality's hands are tied. Commissioner Harris recommended that Ms. Hays tell her clients to keep an eye on what the state is doing. That this commission would gladly welcome them.

Patricia Graham, long time ago that she voted for Chisholm (1972) rather than Nixon but recommended that they invite the National Institute of Health to come to Alaska and Homer, yes, Homer, and have clinical trials on cannabis and sativa, 10 years, double blind, with volunteers and her goal is to make this proposal on this intense study.

Paul Byers, non-resident, commented on the lack of education and the ignorance of the people about what is happening and there are people making rules that don't know anything about it, they are

making the rules, you need to educate yourself. He has a working knowledge of growing it being raised on a farm it was easy. With all the rules that they are doing it's going to make it ridiculous to participate and people are just going to keep it in the black market. There is a real opportunity to make some money but it's not going to happen because of all the rules and costs with the licenses and everything. He reiterated that the commissioners educate themselves regarding the inherent values of cannabis, the potential revenue, business opportunities and future of cannabis for the city.

#### **COMMENTS OF STAFF**

City Planner Abboud had no comments.

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

Chair Young echoed the sentiments of appreciation for the audience comments and encouraged them to keep attending, please spread the word to their friends to comment and talk to the commission regarding items they have on their agenda or items they don't have on their agenda.

Chair Young also encouraged the Commissioners to submit items for the agenda that they wanted to discuss. They can email her or the Clerk and they will make it happen. Thank you for a wonderful meeting.

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

Commissioner Sarno commented that she will not be at the next meeting she will try to attend telephonically. She recommended the commission read Smoke Signals, it is very dense material but she would be glad to loan the book to any of the commissioners. She believed that this is a difficult period because they are constrained by the State, they have to comment on what the State proposes, they just have to get through this period.

Commissioners Robl, Harris and Stead had no comments.

Commissioner Malone thanked the audience for their comments; he understood the frustration at what seemed the slow pace of things, it is happening quickly, just not at this table. Some of the actions taken by other Municipalities are currently in conflict with the state. There may be something more substantive at the next meeting.

Commissioner Jones thanked everyone for coming.

Commissioner Burgess stated he cannot speak for everyone on this commission but he is very interested within the confines of the State, Federal government and the Borough, very interested in expressing the will of the people, which they made very clear at the election that they would like cannabis use to be a part of our community and as a policy crafter on City Council he knows that good, straight forward policy that is accessible to the citizenry, is important; you cannot make it nebulous, or make lots of conditionals on it, it needs to be accessible and people need to be able to understand what they can or cannot do and it needs to represent their will. He thinks this Board has a pretty good group of people that will work towards that end and will make sure it is safe make sure it is accessible and it's on a good, level playing field, so keep coming and keep commenting; he understands that it is frustrating waiting for the State to get their act together, but if they want to direct their energies somewhere he recommended reading the proposed regulations and by all means offer comment he believes that the club issue needs to be commented on more, and that giving municipalities the ability to have their own zoning regulations may not seem super important necessarily, it is to us, because right now if you cannot have a cannabis business within 500 feet of a church that pretty much rules out all of downtown Homer which if you wanted a retail facility that is where he thinks you would prefer to have it, since we don't really want to stick it way out in the suburbs and from a tax standpoint he doesn't think it's a good idea to do it out in the borough because they are going to have to pay for the enforcement and it would be good to see some of that revenue as well. Thanks for coming, keep coming, tell your friends and don't forget to comment to the State.



**ADJOURN**

There being no further business to come before the Commission, the meeting adjourned at 6:38 p.m. The next regular meeting is scheduled for THURSDAY, SEPTEMBER 24, 2015 at 5:30 p.m. in the City Hall Cowles Council Chambers.

---

Renee Krause, CMC, Deputy City Clerk

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



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

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

**FROM: HOLLY C. WELLS**

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

**CLIENT: CITY OF HOMER**

**FILE NO.: 506,742.222**

**DATE: SEPTEMBER 17, 2015**

---

At the July 23, 2015 meeting held by the Cannabis Advisory Commission (“CAC”), the CAC discussed potential comments to the proposed regulations regarding marijuana. During that meeting, our firm presented several comments that provided legal clarity. In addition to these comments, CAC members proposed other comments that impacted marijuana facility operations within the City of Homer, Alaska (“City”).

Although the CAC originally discussed submitting these comments in response to the second draft of the regulations, which was pending at the time of the July meeting, a discussion with the Marijuana Control Board confirmed that a third comment period would be provided to the public in August and that a more lengthy comment period would be held on the regulations in their entirety in October of 2015. The Marijuana Control Board’s timeline, as it currently exists, is attached to this memorandum as Exhibit A for quick reference. In an effort to meet the final deadlines for comments on the State regulations, this memorandum includes our firm’s final recommended comments for review by the CAC and, ultimately, adoption by City Council. In addition to the policy-neutral and narrowly tailored comments presented within this memorandum, we encourage all CAC members to review all three sets of the regulations, which are attached to this memorandum as Exhibit B, and present any additional comments to the CAC at the September 24, 2015 meeting. Once the CAC identifies the comments it would like to recommend to Council, a resolution shall be prepared presenting such recommended comments to Council at its first meeting in

October. Additionally, our firm will present these comments orally before the Marijuana Control Board at its scheduled hearing in October on all three sets of the regulations.

In addition to CAC comments, we recommend presenting any remaining unanswered questions to the Marijuana Control Board. The CAC has more flexibility regarding the presentation of questions as such questions do not implicate the policy stance of the City as a whole and thus, arguably, do not need Council approval. If, however, CAC would prefer to pose the questions as the City rather than the CAC, the questions should be submitted to Council for approval. Attached please find Exhibit C, which is a compilation of the questions and answers posed to the Marijuana Control Board on all three sets of the regulations. Among the questions asked and answered are clarifications regarding signage restrictions imposed under the regulations and the certification process for marijuana handler permits. Further, the Board addresses questions regarding security and public safety issues surrounding commercial extraction processes. In addition to questions posed by the City, our firm has started compiling our own questions for submission to the Board that have implications for all our municipal clients. Once these questions are complete and submitted to the Board, we will of course provide the CAC with a summary of the Board's response, if any.

Although the Council approved some comments for submittal to the Marijuana Control Board on behalf of the CAC, we recommend the CAC propose its final recommended comments on all three sets of regulations via resolution and that the adopted comments be presented on behalf of the City as a whole and not just the CAC. Such comments should incorporate the CAC comments approved by Council at its September 14, 2015 meeting. That said, our firm will be working with the administration to submit the previously Council approved comments to the Marijuana Control Board in accordance with the submission requirements of the Board.

In an attempt to assist in your review of the regulations in their most recent draft and hopefully spur commentary by the CAC, a table of contents for the regulations has been created and attached to this memorandum as Exhibit D. This table of contents is very rough but can be very helpful in organizing questions and comments. Also, it demonstrates that while the final three sets of regulations have been circulated, there are still many revisions on the horizon as part of the final regulation review. For example, Article 9 only includes a few sections and does not appear to be in final form at this time. In addition, I have attached a handout that includes the eight priorities emphasized by the Federal Department of Justice. The handout is attached to this memorandum as Exhibit E. Hopefully, this handout will assist the CAC members with crafting comments and questions that preserve the priorities identified by the federal government.

I have included a start to CAC final and overarching comments but, generally speaking, the sections added primarily involve technical and operational issues and thus our comments are limited by our scope of knowledge. We will, however, be prepared to advise the CAC on crafting comments that reflect the expertise, knowledge, and insight of the CAC.

## **FINAL COMMENTS**

### **3 AAC 306.095; 3 AAC 306.200(a)(2)**

- Although the Marijuana Control Board has yet to propose 3 AAC 306.400, *et seq.*, which will, according to the table of contents, address brokerage licenses, this term is used in the above articles of the regulation. Thus, a definition for that term should be included in the applicable definition sections.

### **3 AAC 306.010**

- Given the unique nature of each Alaskan community and its topography and land use approach, the City of Homer, Alaska recommends that the regulations defer to the municipalities for restrictions on location via the zoning and planning authority granted to such municipalities. This approach will avoid unintentional contradictions between local zoning laws and the regulations. It will also permit municipalities to adopt more or less restrictive location prohibitions depending upon the needs of the municipality in question.

### **3 AAC 306.800 (NEW COMMENT)**

- The regulations make it clear that a municipality may report a violation of the regulations to the Board and the Board will investigate. However, a municipality's authority to impose additional restrictions and requirements on facilities is unclear under the regulations. May a municipality impose additional fees and requirements on the industry?

### **3 AAC 306.900 (NEW COMMENT/QUESTION)**

- The State prohibitions on private marijuana clubs is clear. What is the City's position on marijuana clubs? Does the CAC want to comment regarding the prohibition of such clubs or the City's authority permit/license/regulate such facilities?



# MOVING AT THE STATE'S PACE

## REVISED TIMELINE FOR MARIJUANA REGULATIONS AND MCB MEETING DATES

**September 10, 2015-** Written public comments on Set 3 (Articles 4, 5, 6, 8 and 9) closes.

**September 14, 2015-** Kotzebue Meeting: MCB meets on SET 3, with a focus on ARTICLE 4.

**September 16, 2015-** Anchorage Meeting: MCB meets on SET 3, with a focus on ARTICLE 5.

**September 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.

**September 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. Board votes whether to post revised Articles 1-9 for written public comment.

**October 2, 2015 OR October 5, 2015-** Entire set of 9 articles posted for written comment.

**October 15, 2015-** Anchorage Meeting: MCB meets to receive ORAL PUBLIC COMMENT ON ALL 9 ARTICLES.

**October 16, 2015-** Anchorage Meeting: MCB meets to receive ORAL PUBLIC COMMENT ON ALL 9 ARTICLES.

**November 11, 2015-** Written public comment on all articles closes.

**November 20, 2015-** Anchorage Meeting: MCB meets to review comments/vote whether to adopt all articles.

**\*November 24, 2015-** Statutory deadline for adoption of all regulations.







# **EXHIBIT B**

## **THREE SETS OF PROPOSED MARIJUANA REGULATIONS**



**Chapter 306. Regulation of Marijuana Industry.**

**Article**

1. Licensing, Fees (3 AAC 306.010-3AAC 306.95)
2. Local Options (3 AAC 306.200-3AAC 306.270)
3. Marijuana Retail Stores (3 AAC 306.300-3AAC 306.355)
4. Marijuana Cultivation and Brokerage Licenses (3 AAC 306.400-3AAC 306.\_\_\_\_)
5. Marijuana Products Manufacturing Facilities (3 AAC 306.500-3AAC 306.\_\_\_\_)
6. Marijuana Testing Facilities (3 AAC 306.600-3AAC 306.6\_\_)
7. Operating Requirements for All Marijuana Establishments (3 AAC 306.700-3AAC 306.760)
8. Enforcement, Civil Penalties (3 AAC 306.800-3AAC 306.\_\_\_\_)
9. General Provisions (3 AAC 306.900-3AAC 306.\_\_\_\_)

**Article 1. Licensing, fees.**

**Section**

05. License required
10. License restrictions
15. License conditions
20. Application for new license
25. Application procedure
30. Application for renewal of license
35. Ownership change to be reported
40. Application for transfer of a license to another person
45. Relocation of licensed premises not allowed

- 50. Criminal justice information and records
- 55. Protest by local government
- 60. Public participation
- 65. Public hearing
- 70. Procedure for action on license application
- 75. Denial of license application
- 80. Informal conference
- 85. Formal hearing
- 90. Appeals.
- 95. Fees, refund and forfeiture

**3 AAC 306.005. License required.** A marijuana establishment may not operate in the state unless it has obtained the applicable marijuana establishment license from the board. The board will issue the following marijuana establishment licenses under this chapter:

(1) a retail marijuana store license, granting authority for activities allowed under AS 17.38.070(a), and subject to the provisions of 3 AAC 306.300-3 AAC 306.355 and 3 AAC 306.700-3AAC 306.760;

(2) a marijuana cultivation facility license, as described in 3 AAC 306.4\_\_, granting authority for activities allowed under AS 17.38.070(b), and subject to the provisions of 3 AAC 306.400 -3 AAC 306.4\_\_ and 3 AAC 306.700-3AAC 306.760 ;

(3) a marijuana product manufacturing facility license, as described in 3 AAC 306.5\_\_, granting authority for activities allowed under AS 17.38.070(c), and subject to the provisions of 3 AAC 306.500-3 AAC 306.\_\_\_\_ and 3 AAC 306.700-3AAC 306.760; and

(4) a marijuana testing facility license, granting authority for activities allowed

under AS 17.38.070(d), and subject to the provisions of 3 AAC 306.600-3 AAC 306.6\_\_ and 3 AAC 306.700-3AAC 306.760. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.010. License restrictions.** (a) The board will not issue a marijuana establishment license if the licensed premises will be located within 200 feet of a child-centered facility including a school, daycare, or other facility providing services to children; a building in which religious services are regularly conducted; or a correctional facility. The distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the child-centered facility, or to the main public entrance of the building in which religious services are regularly conducted, or the correctional facility. This section does not prohibit the renewal of an existing marijuana establishment license or the transfer of an existing marijuana establishment license to another person if the licensed premises were in use before the child-centered facility, the building in which religious services are regularly conducted, or the correctional facility began use of a site within 200 feet. If an existing marijuana establishment license for premises located within 200 feet of a child-centered facility, a building in which religious services are regularly conducted, or a correctional facility is revoked, or expires, the board will not issue another marijuana establishment license for the same premises unless the school grounds, the building in which religious services are regularly conducted or the correctional facility no longer occupies the site within 200 feet.

(b) The board will not issue a marijuana establishment license if the licensed premises

will be located in or immediately adjacent to a liquor license premises.

(c) The board will not issue a marijuana establishment license when a municipality protests an application under 3 AAC 306.055 on the grounds that that the applicant’s proposed licensed premises are located in a place within the municipality where a local zoning ordinance prohibits the marijuana establishment, unless the municipality has approved a variance of the local ordinance.

(d) The board will not issue a marijuana establishment license to a person

(1) who is prohibited under AS 17.38.100(i) from receiving a marijuana establishment license because of a conviction of a felony; if the applicant is a partnership, limited liability company, or corporation, the board will not issue a license if any person named in 3 AAC 306.020(a)(1) is prohibited under AS 17.38.100(i) from obtaining a license; in this paragraph, “conviction of a felony” includes a suspended imposition of sentence;

(2) who operated a marijuana delivery service, a marijuana club, or a marijuana establishment illegally without a license within the two years before the effective date of this section, or has been found guilty of a criminal act or violation of AS 04, or a violation of AS 17.38, unless the board finds that person has diligently worked with the board to comply with all current laws relating to marijuana. (Eff. \_\_\_ / \_\_\_ / \_\_\_, Register \_\_\_)

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

**3 AAC 306.015. License conditions.** (a) The board will issue each marijuana establishment license to a specific individual, to a partnership, including a limited partnership, to a limited liability company, or to a corporation. A person other than a licensee may not have a

direct or indirect financial interest in the business for which a marijuana establishment license is issued.

(b) The board will not issue a marijuana establishment license to

- (1) an individual or a sole proprietorship unless the individual or proprietor is a resident of the state;
- (2) a partnership unless each partner is a resident of the state;
- (3) a limited liability company unless the limited liability company is qualified to do business in the state, and each member of the limited liability company is a resident of the state; or
- (4) a corporation unless the corporation is incorporated or qualified to do business in the state, and each shareholder who owns the corporation's shares is a resident of the state.

(c) The board will issue each license for a specific location identified on the license as the licensed premises. A marijuana establishment must have a right to possession of a licensed premises at all times, and may not lease a licensed premises to another person for any reason. If a marijuana establishment wishes to reduce or expand the area of the licensed premises used for a marijuana establishment, the marijuana establishment shall submit a new line drawing showing the proposed changes to the premises, and shall obtain the written approval of the board. A marijuana establishment may not relocate its licensed premises to a different place. Any new premises proposed for a marijuana establishment requires a new marijuana establishment license application.

(d) The board will impose other conditions or restrictions on a license issued under this chapter when it finds that it is in the interests of the public to do so.

(e) In this section,

(1) "direct or indirect financial interest" means a legal or equitable interest in the operation of a business licensed under this title; "direct or indirect financial interest" does not include a person's right to receive

(A) rental charges on a graduated or percentage lease-rent agreement for real estate leased to a licensee; or

(B) a consulting fee from a licensee for services that are allowed under this chapter;

(2) "resident of the state" means a person who meets the residency requirement for an Alaska permanent fund dividend in the calendar year in which that person applies for a marijuana establishment license under this chapter. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.020. Application for new license.** (a) An applicant for a new marijuana establishment license shall file an application as provided in 3 AAC 306.025, on a form the board prescribes, with the information and documents described in this section, along with the application fee and the annual license fee set out in 3 AAC 306.095, and the fingerprint cards and fees required by 3 AAC 306.050(b). The application must be initiated electronically; the completed application and fees may be filed electronically, or mailed or delivered to the director at the offices of the board.

(b) An application for a new marijuana establishment license must include:

(1) the name of the proposed licensee and any business name the licensee will



use for the proposed marijuana establishment, along with the Alaska business license and employer identification number (EIN) for the proposed marijuana establishment;

(2) the name, mailing address, phone number, and social security number of the applicant and each family member and affiliate of the applicant; unless the context indicates otherwise, all persons named in an application that complies with this section are “licensees” for all purposes in this chapter; the persons to be identified as applicants under this section include

(A) if the applicant is a partnership, including a limited partnership, the information required in this paragraph for each general partner, family member and affiliate of a general partner, and for each partner, family member and affiliate of each partner that holds any interest in the partnership;

(B) if the applicant is a limited liability company, the information required in this paragraph for the limited liability company’s registered agent, and for each member, family member, and affiliate of each member who holds any ownership interest; and

(C) if the applicant is a corporation, the information required in this paragraph for each corporate officer, family member, and affiliate of the corporate officer, and each stockholder, family member, and affiliate of a stockholder who owns any of the corporation’s stock;

(3) for each applicant that is not an individual, the applicable information as follows:

(A) for a partnership, including a limited partnership, the partnership agreement, the name of each general or managing partner, and a list of all partners with percentage of ownership of each partner;

(B) for a limited liability company, the LLC agreement, a list of all

members with percentage of ownership of each member;

(C) for a corporation, the certificate of incorporation, the name of each corporate officer, and a list of all shareholders with percentage of ownership of each shareholder;

(4) for each person listed in compliance with paragraph (2) of this subsection, a statement of financial interest on a form the board prescribes;

(5) for each applicant that is not an individual, the name of the individual listed in the application under paragraph (2) of this subsection who is responsible for

(A) management of the marijuana establishment; and

(B) compliance with all applicable laws;

(6) an electronic mail address at which the applicant agrees to receive any correspondence from the board before and after it receives a license; an applicant and a licensee must ensure that any electronic mail address provided to the board is current so that the board can contact the applicant or licensee at any time;

(7) the type of license the applicant is requesting;

(8) the address of the premises where the applicant intends to operate a marijuana establishment; and a detailed diagram of the proposed licensed premises; the diagram must show all entrances and boundaries of the premises, restricted access areas, and storage areas;

(9) the title, lease or other documentation showing the applicant's right to possession of the proposed licensed premises;

(10) an affidavit showing where and when the applicant posted notice of the application; and proof of advertising as required in 3 AAC 306.025(b); and

(11) additional information required by the board as follows:

(A) for a retail marijuana store, the information set out at 3 AAC 306.315;

(B) for a marijuana cultivation facility, the information set out at 3 AAC 306.4\_\_;

(C) for a marijuana product manufacturing facility, the information set out at 3 AAC 306.5\_\_; and

(D) for a marijuana testing facility, the information set out at 3 AAC 306.6\_\_.

(c) A marijuana establishment license application must include the applicant's operating plan, in a format the board prescribes, describing the proposed marijuana establishment's plans for

- (1) security;
- (2) inventory tracking of all marijuana and marijuana product on the premises;
- (3) employee qualification and training;
- (4) waste disposal;
- (5) transportation and delivery of marijuana and marijuana products; and
- (6) signage and advertising.

(d) An application for a marijuana establishment license must be signed by

- (1) the applicant, if the applicant is an individual;
- (2) an authorized general partner if the applicant is a partnership, including a limited partnership;

(3) the registered agent or a member of the limited liability company if the applicant is a limited liability company; or

- (4) the authorized officers of the corporation if the applicant is a corporation.

(e) Each person signing an application for a marijuana establishment license must

declare under penalty of perjury that

- (1) the application is true, correct and complete;
- (2) the applicant has read and is familiar with AS 17.38 and this chapter; and
- (3) the applicant will provide all information the board requires in support of the

application. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**Editor’s note:** Forms and instructions for filing an application for a marijuana establishment license can be obtained online at the Marijuana Control Board’s website or at the board’s office. The board’s Internet address is <http://commerce.state.ak.us/dnn/abc/Home> and its office is at 550 West 7th Ave. Suite 1600, Anchorage, AK 99501. The board’s telephone number is (907) 269-0350.

**3 AAC 306.025. Application procedure.** (a) An applicant shall initiate a new marijuana establishment license application on a form the board prescribes, using the board’s electronic system.

(b) As soon as practical after initiating a new marijuana license application, the applicant shall give notice of the application to the public by

- (1) posting a true copy of the application for 10 days at
  - (A) the location of the proposed licensed premises; and
  - (B) one other conspicuous location in the area of the proposed premises;

and

- (2) by publishing an announcement once a week for three consecutive weeks in a

newspaper of general circulation in the area, or in areas where no newspaper circulates, twice a week for three successive weeks during triple A advertising time by announcements on a radio station serving the local area where the proposed licensee seeks to operate, stating

- (A) the name of the applicant and the transferee if applicable;
- (B) the name and location of the proposed premises;
- (C) the regulation citation and type of license applied for;
- (D) that any comment or objection may be submitted to the board; and
- (E) whether the application is for a new license or transfer of an existing

license to another person; and

(3) by submitting a true copy of the application to

- (A) the local government; and
- (B) any community council in the area of the proposed licensed premises.

(c) After the applicant completes the notice requirements in subsection (b) of the section and submits all remaining application requirements listed in 3 AAC 306.020, the applicant shall pay the application and licensing fees set out in 3 AAC 306.095. The applicant shall then use the board's electronic system to inform the board that the applicant has submitted a complete application.

(d) When the board receives an application for a marijuana establishment license, the board will determine if the application is complete. Any application for a marijuana establishment license that the board receives without the application fee is incomplete.

(e) When the board receives an incomplete application, the board may, in its discretion,

- (1) return the application in its entirety; or
- (2) request the applicant to provide additional items needed to complete the

application.

(f) When the board informs an applicant that its application is incomplete as provided in (e) of this section, the applicant has 90 days from the date of the board's notice to complete the application. If an applicant fails to complete its application within 90 days after the board's notice, the applicant shall file a new application and pay a new application fee to obtain a marijuana establishment license. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.030. Application for renewal of license.** (a) On or before May 1 of each year, the director shall send notice that a marijuana establishment must file a renewal application no later than June 30 of the current year. The director shall send the notice to the marijuana establishment's electronic mailing address on file with the board. The notice will include online access to the electronic renewal application along with instructions on using and submitting the form. The marijuana establishment shall submit the completed renewal application electronically, along with the license renewal fee, to the director no later than June 30 of each year; if June 30 falls on a weekend, the deadline is extended to close of business on the first business day following June 30. Each marijuana establishment is responsible for maintaining a current electronic address on file with the board. A marijuana establishment is not excused from filing a renewal application as required in this section even if the marijuana establishment fails to receive a renewal notice from the director.

(b) A marijuana establishment's renewal application must:

(1) identify the license sought to be renewed by license number, license type,

establishment name, and premises address;

(2) provide the information required for a new license application under 3 AAC 306.020(a) except that public notice of the application is not required;

(3) report any change from the marijuana establishment's new license application or last renewal application, and pay the \$250 fee as provided in 3 AAC 306.095 for board review of any change in

(A) the name of the marijuana establishment business;

(B) the licensed premises from the last diagram submitted; and

(C) the marijuana establishment's operating plan;

(4) report, for the licensee, if an individual, or each person listed in 3 AAC 306.020 if the licensee is a corporation, partnership, or limited liability company, a list of

(A) any criminal charge on which the person has been convicted in the previous two calendar years; and

(B) any civil violation of AS 04, AS 17.38, or this chapter in the previous two calendar years; and

(5) declare under penalty of perjury that

(A) the application is true, correct and complete;

(B) the applicant has read and is familiar with AS 17.38 and this chapter;

and

(C) the applicant will provide all information the board requires in support of the renewal application.

(c) The director may require an applicant for renewal of a license under this chapter to submit fingerprints and pay fees as required by 3 AAC 306.050(b).

(d) A licensee that does not deliver a renewal application to the director by June 30 of each year is delinquent, and must pay a non-refundable \$1000 late renewal application fee with the renewal application.

(e) On or before August 15 of each year, the director shall deliver a notice of expiration to each marijuana establishment that has not filed a complete application for renewal of a license, along with any applicable affidavit and the required fee, unless the marijuana establishment has notified the director that it does not intend to seek a renewal of its license. The notice of expiration will be delivered by electronic mail to the address the marijuana establishment has provided to the board. A marijuana establishment is not excused from filing a license renewal application no later than August 31 of each year even if the marijuana establishment does not receive the notice of expiration described in this section.

(f) If a marijuana establishment fails to deliver a complete license renewal application, or fails to pay the required renewal fee and the late renewal application fee by August 31 of each year, that marijuana establishment license expires at 12:00 midnight on August 31 of that year. A holder of an expired license shall immediately return the license to the board. Any holder of an expired license that seeks authority to operate must file a complete new application under 3 AAC 306.020, and 3 AAC 306.025, along with the required fees. The board will not issue a new license for the same premises to the holder of an expired license unless the expired license holder's new application contains proof satisfactory to the board of good cause for the failure to file a license renewal application. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

- Authority:** AS 17.38.010            AS 17.38.070            AS 17.38.084
- AS 17.38.087            AS 17.38.090            AS 17.38.100
- AS 17.38.900



**3 AAC 306.035. Ownership change to be reported.** A licensed marijuana establishment must, within ten days after an ownership change as described in this section, report the change on a form prescribed by the board. An ownership change means

(1) when the licensee is a partnership, including a limited partnership, any change in the identify of the partners, or in the ownership percentages held by any partners;

(2) when the licensee is a limited liability company, any change in the identity of the members, or in the ownership percentage held by any member; or

(3) when the licensee is a corporation, any sale of corporate stock to a person not currently an owner, or any change of the percentage ownership of an existing shareholder.

(b) When any change required to be reported under this section will result in a change in controlling interest of the licensee, the licensee must file an application for transfer of license to another person under 3 AAC 306.040. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.040. Application for transfer of a license to another person.** (a) A person may not receive or transfer a marijuana establishment license or a controlling interest in a marijuana establishment license issued to a partnership, including a limited partnership, a limited liability organization, or a corporation, without applying for and receiving the written consent of the board. Transfer of a license includes a sale of all or part of the interest of an individual owner.

(b) An application for transfer of a marijuana establishment license, or of a controlling interest in a marijuana establishment license issued to a partnership, a limited liability

organization, or a corporation, must be filed in writing on a form the board prescribes, in compliance with the application procedure set out in 3 AAC 306.025. The application must name the current licensee and the proposed transferee, including all persons listed in 3 AAC 306.020 if the transferee is a partnership, limited liability company, or a corporation. The application must contain the following information:

(1) the same information about each transferee as is required of an applicant for a new license under 3 AAC 306.020;

(2) a statement, under oath, executed by the current licensee, listing all debts of the business, all taxes the business owes, current contact information for all creditors, and an affirmation that the current licensee has submitted a copy of the transfer application to all creditors; and

(3) any other information required by the board for the type of marijuana establishment license sought to be transferred.

(d) After the board receives a complete application for transfer of a license to another person, the board will, within 28 days, send written notice of the proposed transfer to each listed creditor of the current licensee, and the amount shown as owed to that creditor.

(e) A current marijuana establishment licensee must submit a license renewal application before or at the same time as an application for a transfer of a marijuana establishment license that is submitted between May 1 and June 30 of any year. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.045. Relocation of licensed premises not allowed.** A marijuana

establishment license may not be relocated to any other premises. A marijuana establishment licensee that wishes to operate a marijuana establishment at a different location shall submit a new application for any new premises, and surrender an existing license for a premises where the marijuana establishment does not intend to continue its operation. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.050. Criminal justice information and records.** (a) When filing an application for a new marijuana establishment license or transfer of a license, the applicant, including all persons listed in 3 AAC 306.020, must submit the person’s fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check.

(b) The board will submit the fingerprints to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400. The Department of Public Safety may submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The board will use the information obtained under this section to determine if an applicant is qualified for a marijuana establishment license.

(c) In this section, "criminal justice information" has the meaning given in AS 12.62.900. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.010 AS 17.38.070 AS 17.38.084  
AS 17.38.087 AS 17.38.090 AS 17.38.100

AS 17.38.900

**3 AAC 306.055. Protest by local government.** (a) A local government may protest an application for a new license, renewal of a license, or transfer of a license to another person by sending the board and the applicant a written protest and the reasons for the protest within 60 days after the board sends notice of the application. The board will not accept a protest received after the 60-day period. If a local government protests an application for a new or renewal license or for a transfer of a license to another person, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

(c) A local government may recommend that an application for a new license, renewal of a license, or transfer of a license to another person be approved subject to a condition. The board will impose a condition recommended by a local government unless the board finds the recommended condition is arbitrary, capricious, and unreasonable. If the board imposes a condition a local government recommends, the local government shall, unless the board provides otherwise, assume responsibility for monitoring compliance with the condition.

(d) If a local government determines that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition the board has imposed on the licensee, the local government may notify the board. Unless the board finds that the local government's notice is arbitrary, capricious, and unreasonable, the board will prepare the determination as an accusation against the licensee under AS 44.62.360 and conduct proceedings to resolve the matter as described under 3 AAC 306.8 \_\_. (*enforcement chapter, not yet written*) (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.010 AS 17.38.070 AS 17.38.084  
AS 17.38.087 AS 17.38.090 AS 17.38.100

## AS 17.38.900

**3 AAC 306.060. Public participation.** (a) Any person may object to an application for a new license, renewal of a license, or transfer of a license to another person by submitting a written statement of reasons for the objection to the board within 30 days after notice of the application, but no later than the deadline for objections stated in a posted or published notice of application. The objection must be served on the applicant at the street address of the licensed premises or proposed premises, or at the mailing address or electronic mail address provided in the notice of application. If the board determines to conduct a public hearing under this section, any interested person may give oral testimony at the public hearing.

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

**3 AAC 306.065. Public hearing.** (a) The board may, on its own initiative or in response to an objection or protest, hold a hearing to ascertain the reaction of the public or a local government to an application. The board will send notice of a hearing 20 days in advance of the hearing to each person that has filed an objection, to each local government that has filed a protest, to each community council in the area of the proposed premises, and to any nonprofit community organization that has requested notice. Any interested person may be heard at a hearing under this subsection. Unless the applicant and the board waive this requirement, the hearing will be held in the area for which the application is requested, or the board will arrange telephonic appearances.

**Authority:** AS 17.38.010      AS 17.38.070      AS 17.38.084  
AS 17.38.087      AS 17.38.090      AS 17.38.100

## AS 17.38.900

**3 AAC 306.070. Procedure for action on license application.** (a) The board will decide whether to grant or deny an application within 90 days after receiving the complete application. However, the decision may not be made before the time allowed for objection under 3AAC 306.060 or protest under 3 AAC 306.055 has elapsed unless the local government waives its right to protest.

(b) At least 7 days before the date set for board action on an application for a new license, renewal of a license, or transfer of a license to another person, the board will post a meeting agenda listing the matters scheduled for action at that meeting. The board may review an application for a new license, renewal of a license, or transfer of a license to another person, without additional notice to the applicant.

(c) The board will consider any written objection, protest, suggested condition, or petition, and any testimony received at a public hearing when it considers the application, and will retain the written objection, protest, or suggested condition or petition, and the hearing record as part of the board's permanent record of its review of an application. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.075. Denial of license application.** (a) After review of the application and all relevant information, the board will deny an application for a new license if the board finds that

(1) the application is not complete as required under the applicable provisions of

3 AAC 306.040-3 AAC 306.070, or contains any false statement of material fact; or

- (2) the license would violate any restriction in 3 AAC 306.010; or
- (3) the license would not be in the interest of the public;
- (4) the license would violate any restriction applicable to the particular license

under this chapter; or

(5) the license is prohibited under this chapter as a result of an ordinance or election conducted under AS 17.38.110, 3 AAC 306.200, and 3 AAC 306.230.

(b) After review of the application and all relevant information, the board will deny an application for renewal of a marijuana establishment license if the board finds

- (1) any cause listed in (a) of this section;
- (2) that the license has been revoked for any cause;
- (3) that the license has been operated in violation of a condition or restriction the

board previously imposed; or

(4) that the applicant is delinquent in the payment of taxes due in whole or in part from operation of the licensed business.

(c) After review of the application and all relevant information, the board will deny an application for transfer of license to another person if the board finds

- (1) any cause listed in (a) of this section;
- (2) that the transferor has not paid all debts or taxes arising from the operation of

the business licensed under this chapter unless the transferor gives security for the payment of the debts or taxes satisfactory to the creditor or taxing authority;

(3) that transfer of the license to another person would result in violation of the provisions of this chapter relating to identity of licensees and financing of licensees; or

(4) that the prospective transferee does not have the qualifications of an original applicant required under this chapter.

(d) If the board denies an application for a new license, renewal, or transfer, the board will, within 15 days, furnish a written notice of denial to the applicant, stating the reason for the denial in clear and concise language, and identifying any statute or regulation relevant to the denial. The notice of denial must inform the applicant of the right to an informal conference and a formal hearing as provided in 3 AAC 306.080 and 3 AAC 306.085. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.080. Informal conference.** (a) An applicant for a new license, renewal of a license, or transfer of a license that is aggrieved by an action of the board denying the application may, within 15 days after the date of the written notice of denial, request an informal conference with the director or the board. An informal conference requested under this section will be held at a time and place convenient to the parties, but not later than the next scheduled meeting of the board. An informal conference may be conducted telephonically.

(b) If the informal conference does not resolve the matter to the applicant’s satisfaction, the applicant may, within 15 days after the last day of the informal conference, seek a formal hearing under 3 AAC 306.085 by filing a notice of defense in compliance with AS 44.62.380(b). (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.010 AS 17.38.070 AS 17.38.084  
AS 17.38.087 AS 17.38.090 AS 17.38.100



## AS 17.38.900

**3 AAC 306.085. Formal hearing.** An applicant for a new license, renewal of a license, or transfer of a license that is aggrieved by an action of the board denying the application may request a formal hearing by filing a notice of defense in compliance with AS 44.62.380(b) within 15 days after the date of the written notice of the denial, or as provided in 3 AAC 306.080(b) if the applicant requested and participated in an informal conference. Failure to file a notice of defense as provided in this section constitutes a waiver of the right to a formal hearing.

(b) When an aggrieved person requests a hearing under the section, 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 17.38.087      AS 17.38.090      AS 17.38.100  
AS 17.38.900

**3 AAC 306.090. Appeals.** (a) An aggrieved applicant or licensee may appeal to the board regarding any action of an officer, employee, or agent of the board relating to the administration or enforcement of this chapter.

(b) An applicant or licensee aggrieved by a final decision of the board regarding an application for a new license, a license renewal, or a transfer of license to another person 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 17.38.087

AS 17.38.090

AS 17.38.100

AS 17.38.900

**3 AAC 306.095. Fees, refund and forfeiture.** (a) The non-refundable application fee for a new marijuana establishment license or an application to transfer a license to another person is \$1000.

(b) The non-refundable application fee for a license renewal application is \$600; in addition, a late renewal application fee is \$1000.

(c) The fee to request board approval of a change in business name, licensed premises diagram, or operating plan reported with a license renewal application is \$250.

(d) The annual license fee, to be paid with each application for a new marijuana establishment facility license and each license renewal application is

- (1) for a marijuana retailer license, \$5000;
- (2) for a limited marijuana cultivation facility license, \$1000;
- (3) for a marijuana cultivation facility license, \$5000;
- (4) for a marijuana cultivator's broker license, \$5000;
- (5) for a marijuana extract only manufacturing facility license, \$1000;
- (6) for a marijuana product manufacturing facility license, \$5000;
- (7) for a marijuana testing facility license, \$1000.

(e) If the board denies an application for a license or for renewal of a license, the board will refund the annual license fee. The board will not refund a license fee after the license has been issued.

(f) Processing fees for late renewal after failure to pay taxes are as follows:

- (1) if a licensee pays its delinquent tax after a local government protests renewal

of the license, but before the board denies license renewal, \$200;

(2) if a licensee pays its delinquent tax after appealing the board’s denial of a license renewal, but before a hearing officer is appointed to hear the applicant’s appeal, \$500;

(3) if a licensee pays its delinquent tax after appealing the board’s denial of a license renewal, but before the administrative hearing begins, \$5000; and

(4) if a licensee pays its delinquent tax after an administrative hearing that results in a hearing officer recommendation to deny the license renewal, \$10,000. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

- Authority:** AS 17.38.010      AS 17.38.070      AS 17.38.084  
AS 17.38.087      AS 17.38.090      AS 17.38.100  
AS 17.38.900

3 AAC is amended by adding a new chapter to read:

**Section**

200. Local options

210. Change of local option

220. Removal of local option

230. Procedure for local option election

240. Prohibition of importation or purchase after election

250. Effect on licenses of restriction on sale

260. Licensing after prohibition on sale except in premises operated by municipality

270. Notice of the results of a local option election

**3 AAC 306.200. Local options.** (a) If a majority of the persons voting on the question vote to approve the option, or if the assembly or city council passes an ordinance to the same effect, a municipality shall adopt a local option to prohibit

(1) the sale of marijuana and marijuana products;

(2) the operation of any marijuana establishment, including one or more of the

following license types:

(A) a marijuana cultivation facility or marijuana brokerage facility;

(B) a marijuana products manufacturing facility;

(C) a marijuana testing facility;

(D) a marijuana retail facility;

(3) the sale of marijuana and marijuana products except on premises operated by the municipality under a retail marijuana license; or

(4) the sale or importation for sale of marijuana and marijuana products.

(b) A ballot question to adopt a local option under this section must at least contain language substantially similar to: "Shall (name of municipality ) adopt a local option to prohibit (local option under (a) or (b) of this section)? (yes or no)."

(c) The ballot for an election on the options set out in (a)(2) and (b)(2) of this section must include a brief explanation of the activity that each license type on the ballot may carry out.

(d) If a municipality dissolves under AS 29.06.450(a) or (b), any marijuana establishment license issued to a municipality under 3 AAC 306.\_\_\_\_ expires when the municipality dissolves. .

(e) A municipality shall not prohibit the personal use and possession of marijuana and marijuana products as authorized by AS 17.38.020. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.090 AS 17.38.110 AS 17.38.900

**3 AAC 306.210. Change of local option.** If a majority of persons voting on the question vote to approve a local option different from one previously adopted under this section and currently in effect, or if the assembly or city council passes an ordinance to the same effect, a municipality shall change the local option to the newly approved option. A ballot question to change a local option under this section must at least contain language substantially similar to: "Shall (name of municipality ) change the local option currently in effect, that prohibits (current local option), and adopt in its place a local option to prohibit (proposed local option)? (yes or no)." (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.090 AS 17.38.110 AS 17.38.900

**3 AAC 306.220. Removal of local option.** (a) If a majority of the persons voting on the question vote to remove a local option previously adopted under this section and currently in

effect, or if the assembly or city council passes an ordinance to the same effect, that local option is repealed effective the first day of the month following certification of the results of the election. A ballot question to remove a local option under this section must at least contain language substantially similar to: "Shall (name of municipality ) remove the local option currently in effect, that prohibits (current local option), so that no local option continues in effect? (yes or no)."

(b) When issuing a license in the municipality that has removed a local option, the board will give priority to any formerly licensed applicant whose license was not renewed because of the results of the previous local option election. However, an applicant described in this subsection does not have a legal right to a license and the board is not required to approve the application. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.090 AS 17.38.110 AS 17.38.900

**3 AAC 306.230. Procedure for local option election.** (a) When the local government of a municipality receives a petition to adopt, change, or remove a local option, and the petition is signed by a number of registered voters equal to 25 percent or more of the number of votes cast at the last regular municipal election, the government shall place the issue that is the subject of the petition on a separate ballot at the next regular election, or hold a special election, The local government shall conduct the election under the election ordinance of the municipality.

(

(b) In a general law municipality, AS 29.26.110 - 29.26.160 apply to a petition under (a) of this section except that the

1an application filed under AS 29.26.110 must at least contain language

substantially similar to the questions set out under 3 AAC 306.200(c), 3 AAC 306.210, or 3 AAC 306.220 rather than language of an ordinance or resolution;

2 a petition must at least contain language substantially similar to the questions set out under 3AAC 306.200(c), 3 AAC 306.210, or 3 AAC 306.220 rather than material required under AS 29.26.120 (a)(1) and (2).

(c) Notwithstanding any other provisions of law, a municipality may not conduct an election to change to a less restrictive option under 3 AAC 306.210, or to remove a local option under 3 AAC 306.220, or pass an ordinance to the same effect, during the first 24 months after the local option was adopted or more than once in a 36-month period, except that if an original prohibition was passed by ordinance, an election as set forth in this article to change the ordinance may be conducted within the 36 month period following the passage of the ordinance

(d) Notwithstanding AS 29.26.140(a), after a petition has been certified as sufficient to meet the requirements of (a) or (b) of this section, no other petition may be filed or certified until after the question presented in the first petition has been voted on or pass an ordinance to the same effect,. Only one local option question may be presented in an election. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.090 AS 17.38.110 AS 17.38.900

**3 AAC 306.240. Prohibition of importation or purchase after election.** (a) If a majority of the voters vote to prohibit the importation for sale of marijuana and marijuana products under 3 AAC 306.200(a)(4) or (b)(3), or if the assembly or city council passes an ordinance to the same effect, a person, beginning on the first day of the month following certification of the results of the election, may not knowingly send, transport, or bring marijuana or marijuana products for sale into the municipality Such prohibition shall not apply to transport

of marijuana and marijuana products through the boundaries of the municipality by a marijuana establishment whose premises are licensed by the board outside the municipality when such transport is documented by an official manifest authorized by 3 AAC 306. \_\_\_\_.

(b) A person who resides in a municipality that has adopted a local option under 3 AAC 306.200(a) or (b) may not purchase in the municipality marijuana or marijuana products from another person who has sent, transported, or brought marijuana or marijuana products into the municipality for sale in violation of the local option Such prohibition shall not apply to transport of marijuana and marijuana products through the boundaries of the municipality by a marijuana establishment whose premises are licensed by the board outside the municipality when such transport is documented by an official manifest authorized by 3 AAC 306. \_\_\_\_.

(c) In this section,

(1) "bring" means to carry or convey or to attempt or solicit to carry or convey;

(2) "send" means to cause to be taken or distributed or to attempt or solicit to cause to be taken or distributed, and includes use of the United States Postal Service;

(3) "transport" means to ship by any method, and includes delivering or transferring or attempting or soliciting to deliver or transfer marijuana or marijuana products to be shipped to, delivered to, or left or held for pickup by any person. (Eff. \_\_\_/\_\_\_/\_\_\_,

Register \_\_\_\_\_)

**Authority:** AS 17.38.090 AS 17.38.110 AS 17.38.900

**3 AAC 306.250. Effect on licenses of restriction on sale.** If a majority of the voters vote under 3 AAC 306.200(a) or (b) to prohibit sale of marijuana and marijuana products or the operation of marijuana establishments, or if the assembly or city council passes an ordinance to



the same effect, the board may not issue, renew, or transfer between persons or locations a license for a marijuana establishment with premises located within the boundary of the municipality or in the unincorporated area within ten miles of the boundaries of the municipality, A license for a marijuana establishment within the boundary of the municipality or in the unincorporated area within ten miles of the boundary of the municipality, is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this section, by payment of a prorated portion of the annual license fee. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.090 AS 17.38.110 AS 17.38.900

**3 AAC 306.260. Licensing after prohibition on sale except in premises operated by municipality.** (a) If a majority of the voters vote under 3 AAC 306.200(a)(3) to prohibit sale of marijuana and marijuana products except by the municipality, or operation of marijuana establishments except marijuana establishments operated by the municipality, or if the assembly or city council passes an ordinance to the same effect, the board may not issue, renew, or transfer a marijuana establishment license in any other person’s name within the boundaries of a municipality and in unincorporated areas within ten miles of the boundaries of the municipality. A license in effect is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the annual license fee.

(b) If a majority of the voters approve the sale of marijuana and marijuana products by the municipality, or the operation of a marijuana establishment by the municipality, the municipality’s local government shall apply for a license to operate the type of marijuana

establishment listed on the ballot and approved by a majority of the voters. The municipality shall operate the marijuana establishment subject to the conditions and fees applicable to the applicable type of license. Nothing in this section precludes a municipality from applying to be a licensee under other provisions of this title. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.090 AS 17.38.110 AS 17.38.900

**3 AAC 306.270. Notice of the results of a local option election.** (a) If a majority of the voters vote to adopt, change, or remove a local option under 3 AAC 306.200-3 AAC 306.220 or if the assembly or city council passes an ordinance to the same effect,:

(1) the clerk of the municipality shall notify the board of the results of the election or of the passage of the ordinance immediately after the results of the election are certified or the ordinance is formally adopted;

(2) the municipality shall post public notice of the prohibition in a central location in the municipality before the date the prohibition becomes effective; and

(3) the board shall immediately notify the Department of Law and the Department of Public Safety of the results of the election. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.090 AS 17.38.110 AS 17.38.900

**Article 3. Marijuana Retail Stores.**

**Section**

- 300. Marijuana retail store license required
- 305. Marijuana retail store privileges
- 310. Acts prohibited at marijuana retail store
- 315. Application for marijuana retail store license
- 320. Restricted access area at marijuana retail store
- 325. Marijuana handler permit required
- 330. Identification requirement to prevent sale to person under the age of 21
- 335. Limit on quantity sold
- 340. Health and safety requirements for marijuana retail store
- 345. Testing required for marijuana sold at retail store
- 350. Restriction on the advertising of marijuana and marijuana products
- 355. Marijuana inventory tracking system

**3 AAC 306.300. Marijuana retail store license required.** A person may not sell, give, distribute, or deliver, or offer to sell, give, distribute, or deliver marijuana or any marijuana product to a consumer unless the person has obtained a marijuana retail store license from the board in compliance with this chapter, or is an employee or agent of a licensed marijuana retail store operating in compliance with this chapter. A person seeking a marijuana retail store license must

(1) submit an application for a marijuana retail store license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.320;

(2) operate in compliance with the provisions of 3 AAC 306.300-3 AAC

306.355; and

(3) operate in compliance with the provisions of 3 AAC 306-700-3 AAC

306.760. Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

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

**3 AAC 306.305. Marijuana retail store privileges.** (a) A licensed marijuana retail store is authorized to carry out the activities listed in AS 17.38.070)(a). In AS 17.38.070)(a),

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

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

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

(b) A licensed marijuana retail store is authorized to

(1) sell marijuana purchased from a licensed marijuana cultivation facility, packaged and labeled as required under 3 AAC 306.4 \_\_, in an amount not exceeding the limits set out in 3 AAC 306.335 a day, to an individual on the licensed premises for consumption off the premises;

(2) sell a marijuana product purchased from a licensed marijuana product manufacturing facility, packaged and labeled as required under 3 AAC 306.4 \_\_, in an amount not exceeding the limits set out in 3 AAC 306.335, to an individual on the licensed premises for consumption off the premises;

(3) store marijuana and marijuana products in a restricted area on the licensed premises subject to the requirements of 3 AAC 306.720 and 3 AAC 306.725.

(c) This section does not prohibit a licensed retail store from refusing to sell marijuana or marijuana product to any customer. Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.310. Acts prohibited at marijuana retail store.** (a) 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

- (1) to any person under the age of 21;
- (2) that is not labeled and packaged as required in 3 AAC 306.4\_\_ or 3 AAC 306.5\_\_;
- (3) in a quantity exceeding the limit set out in 3 AAC 306.335;
- (4) over the internet; a licensed marijuana retail store may only sell marijuana or marijuana product to a consumer who is physically present on the licensed premises;
- (5) after the expiration date shown on the label of the marijuana or marijuana product.

(c) A licensed marijuana retail store may not

- (1) conduct any business on, or allow any person to access, the marijuana retail store’s licensed premises between the hours of 12 midnight and 8:00 a.m. each day;
- (2) allow any person to consume marijuana or any marijuana product on the marijuana retail store’s licensed premises;

(3) offer or deliver to a consumer, as a marketing promotion or for any other reason:

(A) free marijuana or marijuana product, including a sample;

(B) marijuana or marijuana product at a price below the marijuana retail store's acquisition cost; or

(C) a consumable product other than marijuana, including cigarettes, tobacco products, alcoholic or non-alcoholic beverages or food, free or for compensation.

(d) A marijuana retail store may not purchase any marijuana or marijuana product for resale without a certificate showing the tax due under AS 43.61.010 has been paid to the state.

Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

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

**3 AAC 306.315. Application for marijuana retail store license.** An applicant for a new marijuana retail store license shall file an application on a form the board prescribes including

(1) the information required under 3 AAC 306.020, including the applicant's operating plan required under 3 AAC 306.020(c); and

(2) an addition to the applicant's operating plan showing how marijuana and marijuana products at the retail store are to be displayed and sold. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.070 AS 17.38.084  
AS 17.38.087 AS 17.38.090 AS 17.38.100

AS 17.38.900

**3 AAC 306.320. Restricted access area at marijuana retail store.** (a) Each entry to a marijuana retail store must be posted with a sign that says “No one under 21 years of age allowed.” The sign must be not less than 12 inches long and 12 inches wide, with letters at least one half inch in height in high contrast to the background of the sign.

(b) An area of a marijuana retail store’s licensed premises where marijuana or any marijuana product is stocked for sale, or dispensed for sale is a restricted access area. The marijuana retail store must post signs, require identification, and escort visitors in compliance with 3 AAC 306.710. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.325. Marijuana handler permit required.** A marijuana retail store 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 retail store; and

(2) each licensee, employee, or agent has that person’s marijuana handler permit card in that person’s immediate possession when on the licensed premises of the marijuana retail store. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.330. Identification requirement to prevent sale to person under the age**

**of 21.** (a) A licensed marijuana retail store shall refuse to sell marijuana or a marijuana product to any person who does not produce a form of valid identification showing that person is 21 years of age or older.

(b) A valid form of identification includes:

(1) an unexpired, unaltered passport;

(2) an unexpired, unaltered driver's license; instruction permit, or identification card of any state or territory of the United States, the District of Columbia, or any jurisdiction of Canada;

(3) an identification card issued by a federal or state agency authorized to issue a driver's license or identification card. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.335. Limit on quantity sold.** (a) A licensed marijuana retail store shall not sell more than the following quantity of marijuana or marijuana product in a single transaction:

(1) one ounce of usable marijuana;

(2) sixteen ounces of marijuana-infused product in solid form;

(3) seven grams of marijuana-infused extract for inhalation, or

(4) seventy-two ounces of marijuana-infused product in liquid form. (Eff.

\_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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



**3 AAC 306.340. Health and safety requirements for marijuana retail store.** A marijuana retail store must comply with applicable health and safety requirements set out in 3 AAC 306.730. Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

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

**3 AAC 306.345. Testing required for marijuana sold at retail store.** (a) A marijuana retail store may not sell, give, distribute, or deliver, or offer to sell, give, distribute, or deliver, marijuana or any marijuana product until all quality assurance testing required in 3 AAC 306.6\_\_ has been completed, and labels required in 3 AAC 306.4\_\_ or 3AAC 306.5\_\_ are affixed. Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

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

**3 AAC 306.350. Restriction on the advertising of marijuana and marijuana products.** (a) A marijuana retail store may have one sign identifying the store by the marijuana retail store 's business name that is visible to the general public from the public right of way. The sign may be in placed in the store's window or attached to the outside of the licensed premises. The size of the sign may not exceed sixteen hundred square inches.

(b) An advertisement for marijuana or marijuana product may not contain any statement, or illustration that

- (1) is false or misleading;
- (2) promotes excessive consumption;

(3) represents that the use of marijuana has curative or therapeutic effects;

(4) depicts a person under the age of 21 consuming marijuana; or

(5) includes an object or character, including a toy, a cartoon character, or any other depiction designed to be appealing to children or other persons under legal age, promoting consumption of marijuana.

(c) A marijuana retail store may not place an advertisement for marijuana or a marijuana product

(1) within one thousand feet of the perimeter of any child-centered facility, including a school, daycare or other facility providing services to children, a playground or recreation center, a public park, a library, or a game arcade that is open to persons under the age of 21;

(2) on or in a public transit vehicle or public transit shelter; or

(3) on or in a publicly owned or operated property.

(d) 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.

(e) All advertising for marijuana or any marijuana product must contain the following warnings:

(a) "This product has intoxicating effects and may be habit forming;"

(b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug;"

(c) "There may be health risks associated with consumption of this product;" and

(d) "For use only by adults twenty-one and older. Keep out of the reach of

children." Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

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

**3 AAC 306.355. Marijuana inventory tracking system.** (a) A marijuana retail store shall use an inventory tracking system as provided in 3 AAC 306.760 to ensure all marijuana and marijuana product in the store’s possession is identified and tracked from the time the marijuana retail store receives any batch of marijuana or lot of marijuana product through the sale, transfer to another licensed marijuana establishment, or disposal of the batch of marijuana or lot of marijuana product.

(b) When any marijuana from a marijuana cultivation facility or marijuana product from a marijuana product manufacturing facility is delivered or transported to the licensed premises of a marijuana retail store, the store marijuana retail store shall immediately enter identification information for that batch of marijuana or lot of marijuana product into the inventory tracking system. A marijuana retail store 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 retail store shall reconcile each transaction from the store’s point of sale system and current inventory to its inventory tracking system at the close of business each day.

(d) A marijuana retail store shall account for any variance in the quantity of marijuana or marijuana product the store received and the quantity the store sold, transferred or disposed of.

(Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.070 AS 17.38.084  
AS 17.38.087 AS 17.38.090 AS 17.38.100

AS 17.38.900

**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 \_\_\_)

<b>Authority:</b>	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 \_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.090	AS 17.38.100	AS 17.38.900

7/30/2015

**Article 6. Marijuana Testing Facilities.**

**Section**

- 600. Applicability
- 605. Marijuana testing facility license required
- 610. Marijuana testing facilities: privileges and prohibitions
- 615. Application for marijuana testing facility license
- 620. Approval of testing facility
- 625. Proficiency testing program
- 630. Scientific director
- 635. Testing methodologies
- 640. Standard operating procedure manual
- 645. Laboratory testing of marijuana and marijuana products
- 650. Chain of custody
- 655. Marijuana inventory tracking system
- 660. Failed materials, retests
- 665. Supplemental marijuana quality testing
- 670. Reporting, verification
- 675. Records retention

**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

7/30/2015  
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

7/30/2015

- 3 AAC 306.625. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

<b>Authority:</b>	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 \_\_\_\_\_)

<b>Authority:</b>	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:

7/30/2015

(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.

<b>Authority:</b>	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 -

7/30/2015

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

7/30/2015

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 \_\_\_)

7/30/2015

<b>Authority:</b>	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 \_\_\_)

<b>Authority:</b>	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:



7/30/2015

(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

7/30/2015

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-vol11/pdf/CFR-2011-title21-vol11-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;

7/30/2015

- (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:

7/30/2015

(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:

7/30/2015

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

7/30/2015  
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 \_\_\_\_)

<b>Authority:</b>	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

7/30/2015

disposal of the sample using its inventory control system.

(Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

<b>Authority:</b>	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 \_\_\_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.090	AS 17.38.100	AS 17.38.900

7/30/2015

**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



7/30/2015

(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:

7/30/2015

- (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 \_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.090	AS 17.38.100	AS 17.38.900

**Article 7. Operating Requirements for All Marijuana Establishments.**

**Section**

- 700. Licensed premises, alteration
- 705. Inspection of licensed premises
- 710. Restricted access areas
- 715. Marijuana handler permit
- 720. Security alarm systems and lock standards
- 725. Video surveillance
- 730. Health and safety standards
- 735. Waste disposal
- 740. Certified scales
- 745. Transportation
- 750. Insurance
- 755. Business records
- 760. Marijuana inventory tracking system

**3 AAC 306.700. Licensed premises, alteration.** (a) A marijuana establishment license will be issued for a specific licensed premises, which is a place clearly designated in a license application and described by a line drawing submitted with the license application. A licensed premises must

- (1) have adequate space for its approved operations, including growing, manufacturing, processing, packaging, or storing marijuana or marijuana products; and
- (2) be located and constructed to facilitate cleaning, maintenance and proper operation.

(b) A marijuana establishment’s license must be posted in a conspicuous place within the licensed premises.

(c) A licensee may not change or modify the licensed premises without the written approval of the board. A licensee seeking to change or modify the licensed premises shall pay the fees set out in 3 AAC 306.360 and submit a request for approval of the change on a form prescribed by the board, along with

- (1) a drawing showing the proposed change;
- (2) evidence that the proposed change conforms to any local restrictions; and
- (3) evidence that the licensee has obtained any applicable local building permit.

(Eff. \_\_\_ / \_\_\_ / \_\_\_\_, Register \_\_\_\_\_)

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

**3 AAC 306.705. Inspection of licensed premises.** (a) A marijuana establishment or an applicant for a marijuana establishment license under this chapter shall, upon request, make the licensed premises or the proposed licensed premises, including any place for storage, available for inspection by an officer charged with the enforcement of this chapter. An officer charged with enforcement of this chapter include a member of the board and the director or an employee of the director. The board may also specifically request an inspection of licensed premises or proposed licensed premises by a local fire protection agency or any other state agency with health and safety responsibilities.

(b) Inspection under this section includes inspection of the premises, facilities, qualifications of personnel, methods of operation, business and financial records, marijuana

inventory tracking system, policies and purposes of any marijuana establishment and of any applicant for a marijuana establishment license. (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 306.710. Restricted access areas.** (a) A marijuana establishment shall restrict access to any part of the licensed premises where marijuana or a marijuana product is grown, processed, tested, stored, displayed, or sold.

(b) Except as provided in 3 AAC 306.320 for a marijuana retail store, each entrance to a restricted access area must be marked by a sign that says “Restricted access area. Visitors must be escorted.” A marijuana establishment shall limit the number of visitors to not more than five visitors for each licensee, employee, or agent of the licensee who is actively engaged in supervising those visitors.

(c) In a restricted access area, the licensee, any employee, and any agent shall wear a current identification badge bearing the person’s photograph. A person under the age of 21 may not enter any restricted access area. Any visitor to the restricted area must

(1) show identification as required in 3 AAC 306.330 to prove that person is not under the age of 21;

(2) obtain a visitor identification badge before entering the restricted access area; and

(3) be escorted at all times by the licensee, an employee, or an agent of the licensee. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.087

AS 17.38.090

AS 17.38.100

AS 17.38.900

**3 AAC 306.715. Marijuana handler permit.** (a) A marijuana establishment and each licensee, employee or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or a marijuana product, or who checks the identification of a patron or visitor, shall obtain a marijuana handler permit from the board before being licensed or beginning employment at a marijuana establishment.

(b) To obtain a marijuana handler permit, a person shall complete a marijuana handler permit education course approved by the board, pass a written test demonstrating an understanding of the course subject, and obtain a certificate of course completion from the course provider. An approved marijuana handler permit education course must cover at least the following topics:

- (1) AS 17.37, AS 17.38, and this chapter;
- (2) the effects of marijuana consumption;
- (3) how to identify a person impaired by consumption of marijuana;
- (3) how to determine valid identification;
- (4) how to intervene to prevent unlawful marijuana consumption; and
- (5) the penalty for an unlawful act by a licensee, an employee or an agent of a marijuana establishment.

(c) To obtain a marijuana handler permit, a person who has completed the marijuana handler permit course required under (a) of this section shall present the course completion certificate, along with a person of interest report obtained from the Department of Public Safety, to the director. The director shall issue a marijuana handler permit card valid for three years

from the date of issue. A person may renew a card issued under this section by passing a written test demonstrating an understanding of the course subjects.

(d) A licensee, employee, or agent of a marijuana establishment shall keep the marijuana handler permit card described in (c) of this section on the licensed premises during working hours.

(e) The board will review an approved marijuana handler permit education course at least once every three years, and may rescind approval of the course if the board finds that the education course contents are insufficient or inaccurate. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.720. Security systems and lock standards.** (a) Each licensee, employee, or agent of a marijuana establishment shall display an identification badge issued by the licensed employer at all times when on the marijuana establishment’s licensed premises.

- (b) The licensed premises of a marijuana establishment must have
  - (1) exterior lighting to facilitate surveillance;
  - (2) a security alarm system on all exterior doors and windows; and
  - (3) continuous video monitoring as provided in 3 AAC 306.725.

(c) A marijuana establishment shall have policies and procedures that

- (1) are designed to prevent diversion of marijuana or marijuana product;
- (2) prevent loitering;
- (3) describe the use of any additional security devices, such as motion detectors, pressure switches, and duress, panic, or hold-up alarms to enhance security of its licensed

premises; and

(4) describe the actions to be taken by a licensee, employee, or agent of the marijuana establishment when any automatic or electronic notification system alerts any local law enforcement agency of an unauthorized breach of security.

(d) A marijuana establishment must use commercial grade, non-residential door locks on all exterior entry points to the licensed premises. Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.725. Video surveillance.** (a) A marijuana establishment shall install and maintain a video surveillance and camera recording system as provided in this section. The video system must cover

- (1) each restricted access area and each entrance to a restricted access area within the licensed premises;
- (2) each entrance to the exterior of the licensed premises;
- (3) each point-of-sale (POS) area.

(b) At any marijuana establishment, any video camera must be placed in a way that produces a clear view adequate to identify any individual inside the licensed premises, or within 20 feet of each entrance to the licensed premises. Both the interior and the exterior of each entrance to the facility must be recorded by a video camera.

(c) Any area where marijuana is grown, cured, or manufactured, or marijuana waste is destroyed, must have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height which will provide a clear, unobstructed view of the regular



activity without a sight blockage from lighting hoods, fixtures, or other equipment, allowing for the clear and certain identification of any person and activity in the area at all times.

(d) Surveillance recording equipment and video surveillance records must be housed in a locked and secure area or in a lock box, cabinet, closet or other secure area that is accessible only to a marijuana establishment licensee or authorized employee, and to law enforcement personnel including an agent of the board. A marijuana establishment may use an offsite monitoring service and offsite storage of video surveillance records as long as security requirements at the offsite facility are at least as strict as onsite security requirements as described in this section.

(e) Each surveillance recording must be preserved for a minimum of 40 days, in a format that can be easily accessed for viewing. All recorded images must clearly and accurately display the time and date, and must be archived in a format that does not permit alteration of the recorded image, so that the images can readily be authenticated. After 40 days, a marijuana establishment may erase video recordings, unless the licensee knows or should know of any pending criminal, civil, or administrative investigation for which the video recording may contain relevant information. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

<b>Authority:</b>	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 306.730. Health and safety standards.** (a) A marijuana establishment is subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present.

(b) A marijuana establishment shall take all reasonable measures and precautions to ensure that

(1) any person who has an illness, an open sore or infected wound, or other potential source of infection may not come in contact with marijuana or a marijuana product while the illness or source of infection persists;

(2) the licensed premises have

(A) adequate and readily accessible toilet facilities that are maintained in good repair and sanitary condition; and

(B) convenient hand-washing facilities with running water at a suitable temperature; the marijuana establishment shall require employees to wash or sanitize their hands, and must provide effective hand-cleaning, sanitizing preparations, and drying devices;

(3) each person working in direct contact with marijuana or a marijuana product shall conform to good hygienic practices while on duty, including

(A) maintaining adequate personal cleanliness; and

(B) washing hands thoroughly in an adequate hand-washing area before starting work, after using toilet facilities, and at any other time when the person's hands may have become soiled or contaminated;

(4) litter, waste, and rubbish are properly removed; the waste disposal equipment must be maintained and adequate to

(A) avoid contaminating any area where marijuana or any marijuana product is stored, displayed, or sold; and

(B) prevent causing odors or attracting pests;

(5) floors, walls, and ceilings must be constructed to allow adequate cleaning, and must be kept clean and in good repair;

(6) adequate lighting is installed in any area where marijuana or a marijuana

product is stored, displayed, or sold, and where any equipment or utensil is cleaned;

(7) screening or other protection adequately protects against the entry of pests;

(8) any building, fixture, and other facility is maintained in sanitary condition;

(9) any toxic cleaning compound, sanitizing agent, and pesticide chemical must be identified and stored in a safe manner to protect against contamination of marijuana or marijuana product and in compliance with any applicable local, state, or federal law;

(10) adequate sanitation principles are used in any receiving, inspecting, transporting, and storing of marijuana or marijuana product; and

(11) any marijuana or marijuana product must be held in a manner that prevents the growth of bacteria, microbes, or other undesirable microorganisms.

(c) A marijuana establishment shall ensure that any marijuana or marijuana product that has been stored beyond its usable life, or was stored improperly, is not salvaged and returned to the marketplace; in this section, “stored improperly” means being exposed to extremes in temperature, humidity, smoke, fumes, pressure, or radiation due to a natural disaster, fire, accident, or equipment failure.

(d) If a marijuana establishment does not have reliable information about the age or storage conditions of marijuana or a marijuana product in its possession, the marijuana establishment may salvage the marijuana only if:

(1) a licensed marijuana testing facility determines from quality assurance tests that the marijuana or marijuana product meets all applicable standards of moisture, potency, and contaminants;

(2) inspection of the premises where a disaster or accident occurred shows that the marijuana or marijuana product stored there was not adversely affected by the disaster or

accident; and

(3) the marijuana establishment maintains a record of the salvaged marijuana or marijuana product in its marijuana inventory tracking system, including the name, lot number and final disposition. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.735. Waste disposal.** (a) A marijuana establishment shall store, manage, and dispose of any solid or liquid waste, including wastewater generated during marijuana cultivation production, processing, testing, or retail sales, in compliance with applicable federal, state, and local laws and regulations.

(b) Marijuana waste must be rendered unusable for any purpose for which it was grown or produced before it leaves a marijuana establishment. Marijuana waste includes:

- (1) marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent;
- (2) solid marijuana sample plant waste in the possession of a marijuana testing facility; and
- (3) other waste as determined by the board.

(c) A marijuana establishment must

- (1) give the board at least 3 days notice in the marijuana inventory tracking system required under 3 AAC 306.760 before making the waste unusable and disposing of it; and
- (2) keep a record of the final destination of marijuana waste made unusable.

(d) Marijuana plant waste must be made unusable by grinding the marijuana plant waste

and mixing it with at least an equal amount of other compostable or non-compostable materials.

A marijuana establishment may use other methods to make marijuana waste unusable if the board approves the method in advance. Material that may be mixed with the marijuana waste includes

(1) compostable materials including food waste, yard waste, vegetable based grease or oils, or other wastes approved by the board when the mixed material can be used as compost feedstock or in another organic waste method such as an anaerobic digester with approval of the applicable local health department; or

(2) non-compostable materials including paper waste, cardboard waste, plastic waste, oil, or other wastes approved by the board when the mixed material may be delivered to a permitted solid waste facility, incinerator, or other facility with approval of the applicable local health department. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.740. Certified scales.** A marijuana establishment shall have on its licensed premises at least one scale certified in accordance with measurement standards established in AS 45.75.010- AS 45.75.400, the Alaska Weights and Measures Act. A marijuana establishment shall

(1) maintain documentation of the certified scale; and

(2) upon request by an agent or employee of the board, provide a copy of documentation of the certified scale to the board for review. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.010 AS 17.38.070 AS 17.38.084

AS 17.38.087

AS 17.38.090

AS 17.38.100

AS 17.38.900

**3 AAC 306.745. Transportation.** (a) A licensed marijuana establishment shall transport marijuana as follows:

(1) a marijuana cultivation facility may transport marijuana to a marijuana cultivator's broker, another marijuana cultivation facility, a marijuana product manufacturing facility, a marijuana testing facility, or a marijuana retail store;

(2) a marijuana broker may transport marijuana to the broker's own storage area, a marijuana product manufacturing facility, a marijuana testing facility, or a marijuana retail store;

(3) a marijuana product manufacturing facility may transport a marijuana product to another marijuana product manufacturing facility, a marijuana testing facility, or a marijuana retail store;

(4) a marijuana testing facility may transport marijuana or a marijuana product to the facility from which it received the marijuana or another marijuana testing facility; and

(5) a marijuana retail store may transport marijuana or a marijuana product to another marijuana retail store.

(b) A marijuana establishment from which a shipment of marijuana or marijuana product originates is responsible for preparing, packaging, and securing the marijuana or marijuana product during shipment, for recording the transfer in the marijuana inventory tracking system, and for preparing the transport manifest. Any individual transporting marijuana in compliance with this section shall have a marijuana handler permit required under 3 AAC 306.715.

(c) When any marijuana or marijuana product is transported, the marijuana establishment

that originates the transport shall use the marijuana tracking system to record the type, amount and weight of marijuana or marijuana product being transported, the name of the transporter, the time of departure and expected delivery, and the make, model and license plate number of the transporting vehicle. A complete printed transport manifest on a form prescribed by the board must be kept with the marijuana or marijuana product at all times.

(d) During transport, any marijuana or marijuana product must be in a sealed package or container in a locked, safe and secure storage compartment that is fastened to the inside compartment of the vehicle transporting the marijuana or marijuana product. The sealed package may not be opened during transport. Any vehicle transporting marijuana or marijuana product must travel directly from the shipping marijuana establishment to the receiving marijuana establishment, and must not make any unnecessary stops in between except to deliver or pick up marijuana or marijuana product at any other licensed marijuana establishment.

(e) When a marijuana establishment receives marijuana or a marijuana product transported in compliance with this section, the recipient of the shipment shall use the marijuana inventory tracking system to report the type, amount, and weight of marijuana or marijuana product received. The licensed recipient shall refuse to accept any shipment of marijuana or marijuana product that is not accompanied by the transport manifest.

(f) A marijuana establishment must keep records of all marijuana or marijuana product shipped from or received at that marijuana establishment for a minimum of three years. (Eff.

\_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

- Authority:** AS 17.38.010                      AS 17.38.070                      AS 17.38.084  
AS 17.38.087                      AS 17.38.090                      AS 17.38.100  
AS 17.38.900

**3 AAC 306.750. Insurance.** (a) A marijuana establishment shall at all times maintain commercial general liability insurance coverage, and if necessary, commercial umbrella and excess insurance, to protect any consumer from bodily injury and property damage arising from activities of the marijuana establishment, including any negligent or intentional act or omission of its licensee, employee, or agent. An insurance policy obtained to meet the requirement of this section, including any general liability, umbrella, and excess insurance policy, must provide aggregate coverage of not less than one million dollars.

(b) The insurance required in this section must be obtained from an insurance company authorized to do business in the state, and in compliance with all applicable provisions of AS 21.

(c) A marijuana establishment shall furnish a certificate of insurance satisfactory to the board with a new marijuana license application, a license renewal application, and at any time upon request of the board. The board may deny, suspend or revoke the marijuana establishment license of any marijuana establishment that fails to provide proof of the insurance coverage required under this section. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.755. Business records.** (a) A marijuana establishment shall maintain, in a format that is readily understood by a reasonably prudent business person, the following information:

(1) all books and records necessary to fully account for the business transactions conducted under its license for the current year and three preceding calendar years; records for the last six months must be maintained on the marijuana establishment's licensed premises;



older records may be archived on or off premises;

(2) a current employee list setting out the full name and marijuana handler permit number of each licensee, employee, and agent who works at the marijuana establishment;

(3) the business contact information for vendors that maintain video surveillance systems and security alarm systems for the licensed premises;

(4) records related to advertising and marketing;

(5) a current diagram of the licensed premises including each restricted access area;

(6) a log recording the name, and date and time of entry of each visitor permitted in a restricted access area;

(7) all records normally retained for tax purposes;

(8) accurate and comprehensive inventory tracking records that account for all marijuana inventory activity from seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a consumer, to another marijuana establishment, or destroyed; and

(9) transportation records for marijuana and marijuana product as required under 3 AAC 306.745(e).

(b) A marijuana establishment shall provide any record required to be kept on the licensed premises to an employee of the board upon request. Any record kept off premises must be provided to the board's employees within three business days after a request for the record.

(c) A marijuana establishment is required to exercise due diligence in preserving and maintaining all required records. Loss of records and data, including electronically maintained records, will not be considered an excuse for a violation of this rule. Failure to retain records required under this section may be interpreted by the board as a license violation affecting public

safety. (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 306.760. Marijuana inventory tracking system. (a)**

A marijuana establishment shall use an inventory tracking system capable of sharing information with the system implemented by the board to ensure all marijuana cultivated and sold in the state, and each marijuana product processed and sold in the state, is identified and tracked from the time the marijuana is propagated from seed or cutting, through transfer to another licensed marijuana establishment, or use in manufacturing a product, to a completed sale of marijuana or marijuana product, or disposal of the batch or lot of marijuana or marijuana product.

(b) All marijuana delivered to a marijuana establishment must be weighed on a scale certified in compliance with 3 AAC 306.740. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_)

(Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_)

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

8/5/2015

**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

8/5/2015

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

8/5/2015

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;

8/5/2015

(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 \_\_\_)

<b>Authority:</b>	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

8/5/2015

(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 \_\_\_)

<b>Authority:</b>	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 \_\_\_)

<b>Authority:</b>	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

8/5/2015

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.



8/5/2015

(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

8/5/2015

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 \_\_\_)

<b>Authority:</b>	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

8/5/2015

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

Register \_\_\_\_\_, \_\_\_\_\_ 2015

COMMERCE, COMMUNITY, AND EC. DEV.

8/5/2015

AS 17.38.085

AS 17.38.087

AS 17.38.090

AS 17.38.100

AS 17.38.900

8/5/2015

**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.

8/5/2015

**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;

8/5/2015

( ) "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

8/5/2015

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,



8/5/2015

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

8/5/2015

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.;

8/5/2015

( ) "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 \_\_\_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.070	AS 17.38.084
	AS 17.38.090	AS 17.38.100	AS 17.38.900





# **EXHIBIT C**

## **MARIJUANA CONTROL BOARD PUBLIC COMMENTS QUESTIONS AND ANSWERS**



# MARIJUANA CONTROL BOARD

---

## MARIJUANA REGULATIONS PUBLIC COMMENTS

---

### Questions and Answers on Draft Set #1 received through June 10th, 2015

The following questions were received during the public comment process. Answers to relevant questions received at least 10 days prior to the end of the comment period 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**

1. I spoke to Cynthia Franklin about two weeks ago on the regulations under development at that time and she told me that the local option for municipal ordinance would have to be done by each municipality within a Borough, and not by the Borough for the entire area. The proposed regulations do not clearly point this out or at least it is unclear to me. Is that the intent of these regulations?

**A: If a municipality within a borough opts out, the opt-out applies to the municipality. If a Borough opts out, the local option only applies to the areas within the Borough but outside of city limits. The intent of the regulations is for marijuana local option to operate in a similar manner to alcohol local option. This is how borough and municipality interaction in local option is applied in Title 4.**

2. How does the section in the proposed regulations on procedure for local option election (AAC 306.230) relate to an application for a petition under AS 29.26.110 for example, if a petition requests that the Borough for example, enact an ordinance to ban marijuana businesses.

**A: The procedure in AS 29.26.110 is a general procedure. Once specific regulations are passed relating to marijuana local option elections, the more specific procedures must be used for that type of election.**

3. A second question relates to zoning powers and impact on Marijuana businesses, would the Borough be able to ban businesses simply through the passage of a zoning ordinance that prohibits the uses in most, if not all zoning classifications.

**A: AS 17. 38.110 grants local governments local control over marijuana establishments. This certainly could include zoning restrictions.**

4. Under 3 AAC 306. Prohibition of importation or purchase after election may not knowingly send, transport, or bring marijuana or marijuana products into the municipality or established village. How far does this reach? Would it halt someone from transporting marijuana or marijuana products to be sold or tested from Anchorage through Kenai to Homer, If Kenai or Soldotna decides to place a prohibition on Marijuana?

**A: The current language of the proposed regulation does not clearly exempt such transport through a local option area. Your question has formed the basis of a proposed revision to the language.**

5. Could I be considered growing your plants for you if you grow them on my land or in my grow box or foil tent?

**A: Yes, because they are in your actual control, or possession.**

6. Why did you add a persons "person's residence"? To the end of the line growing marijuana plants for another person in a place other than that other person's residence;

**A: The definitions concerning personal growing privileges are intended to clarify that an unlicensed marijuana cultivation business created from combining multiple personal grows is not permitted.**

7. Voters, or an ordinance passed by a city council or assembly, may "prohibit the importation **for sale** of marijuana and marijuana products..." Later in the same sentence in 3 AAC 306.240(a) it continues that "...a person...may not knowingly send, transport , or bring marijuana or marijuana products into the municipality or established village." The words "for sale" have disappeared from that part of the sentence. Does this mean "personal use" is banned also in that municipality or village?

**A: The personal possession rights contained in AS 17.38.020 cannot be invalidated by the local option rules according to the language in that section, "Notwithstanding any other provision of law . . ." However, the language of the proposed regulations could be**



**revised to more clearly reflect that the rules are not intended to affect the rights afforded by AS 17.38.020.**

8. I have a question related to proposed rule 3 AAC 306.250. It states that for those municipalities that opt out, the area that would be included in the ban extends into the unincorporated area within 10 miles of the boundary of the municipality. I am curious if there is a comparable rule or statutory provisions for alcohol regulations. I do not see a similar provision in the relevant statutes or in the rules. If you happen to know if there is one, I would appreciate your assistance by letting me know.

**A: The 10 mile rule is modelled after the amended rule for boundaries in Senate Bill 99, the proposed revisions to Title 4. The amendments propose to expand the boundary from 5 to 10 miles wherever a 5 mile boundary is present in the local option rules of Title 4.**

**QUESTIONS NOT RELEVANT TO SET #1 (not answered)**

1. Is there a legal limit for THC blood content as there is on blood alcohol content, like above a 0.08 and you get a DUI for alcohol but what will there be for marijuana?

2. Is there a sure way to test for impairment on the spot?

3. What if the person smoked that day and drove later on in the day when they are not high anymore, will the blood THC levels reflect that the person is not under the influence anymore?

4. Will there be a separate ticket for smoking and driving, a DUI and the repercussions of a DUI seem too harsh to apply to a person who has only smoked a little and is okay to drive.

5. As the regulations undergo processing, I understand that people may possess and use the substance in their household. However, does this pertain to apartment complexes as well?

6. If so, since the tenant of one apartment may partake in the recreation use of it, are there regulations for this, as it may negatively affect their other neighbors (i.e. fumes/smell, nausea from the fumes/smell, allergies, under age children in other households, etc.)?

7. Are there any current or up-coming regulations to situations such as these? If so, what are they? If not, what will they be?

8. Will there be any kinds of regulations for any (small or large) apartment complexes as it may affect all neighboring tenants?

9. The term "one ounce" is vague and arbitrary. Does this include stems, seeds and other parts of the plant that are normally not consumed? What about the weight of the container?

10. Is there something in writing making it a crime if someone of legal age distributes to a minor?

11. I had heard earlier that Felons would not be able to get license to sell. I would like that to be changed to only with drug related felonies. Most felons have a hard enough time to get work in this state esp. since juvenal records are kept listed. I think that is appalling and most states do not do this. who do we contact to lobby for this?

12. The Marijuana Control Board, currently being formed, is being set in place to handle these kinds of issues and any others that arise, right?

13. Does the Board feel a licensed marijuana cultivation facility should be allowed to operated in a person's home in a residential zone, or will it be mandatory to operate out of a commercial area?

14. Does the Board feel it will be necessary to not allow a single business, corporation, or person to hold both a marijuana cultivation license and a marijuana retail license, in order to prevent a monopoly on the market?

---

## 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

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.**

**QUESTIONS SUBMITTED FOR SET #1 BUT NOT RELEVANT TO SET #1 (not answered)**

1. How would I go about applying for a license to sell marijuana?
- 

**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.

---

## Questions & Answers on Draft Set #3

### QUESTIONS RECEIVED REGARDING SET #3 (ARTICLES 4,5,6,8 &9) OF PROPOSED MARIJUANA REGULATIONS WITH ANSWERS

#### QUESTIONS ABOUT CULTIVATION FACILITIES RULES (ARTICLE 4):

1. If the cultivation facility licensee lives in a separate building but still in the same lot as the cultivation facility would that be in violation of regulation?

**A: Nothing in Article 4 addresses where a person holding a cultivation facility license resides.**

2. Why can't a small limited cultivator hold any other license? It is conceivable to see a small limited cultivator wanting to hold a manufacturing license. What is the issue?

**A: The small cultivation facility license rules were developed for small growers who only want to grow and who are willing to use a broker to complete the business pieces of cultivation licensing regulations. Stacking any other type of license on a limited cultivation license is inconsistent with that model.**

3. 306.420(c)(2) requires a broker to submit a form of agreement with a limited cultivation facility before the broker has even obtained a broker license. So, a hopeful broker should make an illegal agreement to do business before they have obtained licensing?

**A: None of the regulations are intended to require illegal agreements.**

4. 306.435(c)(2) requires that the public cannot detect an odor outside of the facility. Within how many feet? What if the wind blows?

**A: Enforcement of regulatory provisions such as this one will be fact-dependent. The board will be the ultimate arbiter of whether an odor issue must be addressed by a licensee.**

5. Please further define "full video surveillance" as referenced in 306.435(d).

**A: Please read 306.725 which describes the video surveillance required by 306.345(d), and which is referenced therein.**

6. 306.440 What Tracking System will be prescribed?

**A: The tracking system is generally described in 306.760. No specific software or vendor has yet been identified.**

7. 306.430 Many operations will be diversified where some of the employees may be janitors or housekeeping etc., why on earth would we require these folks to be permitted?

**A: All employees of any marijuana establishment are required to hold marijuana handler permits per 306.715. The requirement of a marijuana handler permit was discussed by the board at its meeting reviewing that section of the regulations with public comments thereon.**

8. What is the intent or purpose to have rigid walls on a greenhouse/high tunnel?



**A: To ensure control over and security of the marijuana crop.**

9. In 410(a)(1) when you say "under cultivation".. does this also include plants being propagated?, like clones.. etc. as part of a square footage calculation?

**A: Please review the definition of “square feet under cultivation” in Article 9.**

10. In dealing with the Limited Marijuana Cultivation Facility License; a dedicated area of 500'sq is required. Can 2 separate permit holders maintain 2 separate dedicated areas of 500'sq in one property?

**A: Nothing in Article 4 prohibits the concept of two separate licensees maintaining two separate licensed premises being co-located on one larger piece property, so long as each licensee has the title, lease or other documentation showing the licensee’s right to possession to that licensee’s licensed premises as required in Article 1 (306.020(b)(9)).**

#### **QUESTIONS ABOUT PRODUCTION FACILITIES RULES (ARTICLE 5):**

1. Why is the THC cap for concentrates set at 76% THC?
2. Why is THC being limited to only 76% in 306.545(c)?
3. In 3 AAC 306.545 We request clarification on how the board established the 76 percent THC potency cap for products and why that number was chosen in order to make an appropriate and accurate public comment.

**ANSWER to 1 and 2 above: Please read AS 4.16.110, “Sale of certain alcoholic beverages prohibited.” The determination of the legislature in Title 4 that alcoholic beverages above 76% alcohol by volume are too strong to be safely regulated is taken as instructive in the draft regulations.**

4. Extraction equipment is very low pressure, why the 600lb/sq, inch requirement in 306.550(c)(1)?

**A: This language was taken from other states’ rules regarding extraction equipment. Staff is in the process of researching this issue for the board.**

5. Another concern relates to home-based hash oil extraction which uses butane or other potentially explosive methods. The regulations appear to address commercial hash oil extraction. Will the regulations address personal hash oil extraction methods or is it anticipated that additional state legislation will be necessary to address personal hash oil extraction in order to protect the public health, safety, and welfare?

**A: The regulations pertain only to rules around commercial extraction in licensed marijuana product manufacturing facilities.**

6. 306.565(b) Who is to define whether a cartoon character is targeting someone under the age of 21? Who defines what the difference between advertising to an adult's inner child and a child is?

**A: Enforcement of regulatory provisions such as this one will be fact-dependent. The board will be the ultimate arbiter of whether an illustration appears to be targeting someone under the age of 21.**

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

1. Marijuana testing facilities would each need to employ a “scientific director” who has both academic and post-degree laboratory experience in chemical and biological sciences. Will the State require a 4 year BS degree to operate a certified laboratory?

**A: The proposed regulations require a scientific director in order to be granted a testing facility license. The requirements for the background of the scientific director are outlined in the regulation referenced in the question (306. 630)**

2. 306.605(a) does not allow any person to provide testing or results without a license. What about personal grow testing with personal testing equipment?

**A: The requirement for a marijuana testing facility license applies only to a person (including individual, partnership or corporation) “offering any service [testing marijuana or marijuana products] to any other person including a marijuana establishment or any member of the public, whether for compensation or not, as an independent or third-party testing facility” 306.600(a). This would not appear to apply in the scenario described in the question.**

#### **QUESTIONS ABOUT PUBLIC CONSUMPTION OF MARIJUANA:**

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

**A: AS 17.38.040 prohibits the consumption of marijuana in public places. “In public” was defined by the board in a regulation that was made permanent this year and includes any place to which the public or a substantial portion of the public has access. The proposed regulation in Article 9 prohibits the creation of**

**clubs that would invite the public in to consume marijuana but charge a membership fee, admission fee or cover charge for admission. AS 17.38 does not provide legal authority for the Marijuana Control Board to create a license type permitting consumption of marijuana in a place which is open to the public.**

**GENERAL QUESTIONS:**

1. Does property used for cultivation have to be zoned for commercial or can it be residential?

**A: Zoning is the province of local governments and is not addressed in this set of regulations.**

2. Does the permit holder need to own the property or can it be leased?

**A: The question of a licensee's right to possession of the property on which its licensed premises are located is in Article 1, 306.020(b)(9).**

3. How many permits can one person hold?

**A: The answer to this question depends on the type of licenses being discussed. Generally, the regulations permit "stacking" of licenses other than testing facility licenses and limited cultivation facility licenses.**

**QUESTIONS NOT COVERED IN THE PROPOSED REGULATIONS IN SET #3 (not answered)**

1. What is state of Alaska doing to ensure Alaskans are given the opportunity to purchase marijuana products in rural communities?

2. Will an unorganized borough be allowed to regulate marijuana and if so how many permits right be given to an island such as Prince of Wales.

3. What will the marijuana business look like when it is first implemented? Will licenses be staggered given that it will be necessary to cultivate marijuana prior to manufacturing or selling it? Where will the initial 8 inch plants referenced in 3 AAC 306.440 come from?

4. In order to reduce the burden on state officials why not allow monthly statements and payment of excise tax quarterly, similar to alcohol and tobacco business tax collection that currently takes place?

5. I'm a land owner with 7 acre wising to operate a 2500 sq ft grow am I going to be able to do it??

**QUESTIONS THAT ARE ACTUALLY COMMENTS OR RHETORICAL QUESTIONS THAT CANNOT BE ANSWERED BY THE PROPOSED REGULATIONS IN SET #3 (not answered)**

1. Is it necessary for every potential business owner to submit the growing medium? Fertilizers and chemicals? Every batch will be tested, they will either pass or fail testing and inspection. Irrigation and waste water system? Waste disposal arrangements? Odor control? These are things we will all need to comply with, why must we decide and tell the board every single detail? The testing procedure and protocols?
2. 306.520(3) is requiring once again a massive amount of trivial information. Why is this so detailed?
3. What other industry applying for a license or permit in this state requires an operating/business plan be submitted? This is not the function of this board to determine whether or not an applicant has a operating/business plan that will be evaluated based on what criteria?
4. 306.435(d) What about the farmer who has 20 acres? How on earth would anyone expect to have every single foot under surveillance?
5. We fought long and hard to secure clean indoor air; including a fight to the Alaska Supreme Court to decide that “private” clubs are public places. But the state is considering rolling back that decision, to accommodate marijuana entrepreneurs who want to make a lot of money off pot-smoking tourists. Is this good governance? Compromising hard fought-for laws to accommodate capitalism at the expense of the public health and safety in our community?
6. I did NOT vote to create a marijuana tourism industry in Alaska. I know that the marijuana entrepreneurs stand to make a lot of money, but just like tobacco and alcohol, who is going to be stuck paying for the public health impact; financially and emotionally?



# **EXHIBIT D**

## **REGULATION OF MARIJUANA INDUSTRY**

### **3 AAC 306**

#### **TABLE OF CONTENTS**



## Chapter 306.

### Regulation of Marijuana Industry

- Article 1. Licensing, Fees (3 AAC 306.010 - 3AAC 306.95)(Set 2)
- Article 2. Local Options (3 AAC 306.200 - 3AAC 306.270)(Set 1)
- Article 3. Marijuana Retail Stores (3 AAC 306.300 - 3AAC 306.355)
- Article 4. Marijuana Cultivation and Brokerage Licenses (3 AAC 306.400 - 3AAC 306.\_\_\_\_)
- Article 5. Marijuana Products Manufacturing Facilities (3 AAC 306.500 - 3AAC 306.\_\_\_\_)
- Article 6. Marijuana Testing Facilities (3 AAC 306.600 - 3AAC 306.\_\_\_\_)
- Article 7. Operating Requirements for All Marijuana Establishments (3 AAC 306.700 - 3AAC 306.760)
- Article 8. Enforcement, Civil Penalties (3 AAC 306.800 - 3AAC 306.\_\_\_\_)
- Article 9. General Provisions (3 AAC 306.900 - 3AAC 306.\_\_\_\_)

#### **ARTICLE 1: LICENSING, FEES: 3 AAC 306.100 Licensing, Fees (Set 2)**

- 05. License required
- 10. License restrictions
- 15. License conditions
- 20. Application for new license
- 25. Application procedure
- 30. Application for renewal of license
- 35. Ownership change to be reported
- 40. Application for transfer of a license to another person
- 45. Relocation of licensed premises not allowed Register , 2015 COMMERCE, COMMUNITY, AND EC. DEV. 2
- 50. Criminal justice information and records

- 55. Protest by local government
- 60. Public participation
- 65. Public hearing
- 70. Procedure for action on license application
- 75. Denial of license application
- 80. Informal conference
- 85. Formal hearing
- 90. Appeals
- 95. Fees, refund and forfeiture

**ARTICLE 2: LOCAL OPTIONS; 3 AAC 306.200 Local Options (Set 1)**

- 200. Local options
- 210. Change of local option
- 220. Removal of local option
- 230. Procedure for local option election
- 240. Prohibition of importation or purchase after election
- 250. Effect on licenses of restriction on sale
- 260. Licensing after prohibition on sale except in premises operated by municipality
- 270. Notice of the results of a local option election

**ARTICLE 3. MARIJUANA RETAIL STORES; 3 AAC 306.300 (SET 2)**

- 300. Marijuana retail store license required
- 305. Marijuana retail store privileges
- 310. Acts prohibited at marijuana retail store
- 315. Application for marijuana retail store license



- 320. Restricted access area at marijuana retail store
- 325. Marijuana handler permit required
- 330. Identification requirement to prevent sale to person under the age of 21
- 335. Limit on quantity sold
- 340. Health and safety requirements for marijuana retail store
- 345. Testing required for marijuana sold at retail store
- 350. Restriction on the advertising of marijuana and marijuana products
- 355. Marijuana inventory tracking system

**ARTICLE 4. MARIJUANA CULTIVATION FACILITIES: 3 AAC 306.400 (SET 3)**

- 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

**ARTICLE 5. MARIJUANA PRODUCT MANUFACTURING FACILITIES: 3 AAC 306.500 (SET 3)**

- 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

**ARTICLE 6. MARIJUANA TESTING FACILITIES; 3 AAC 306.600 (SET 3)**

- 600. Applicability
- 605. Marijuana testing facility license required
- 610. Marijuana testing facilities: privileges and prohibitions
- 615. Application for marijuana testing facility license

- 620. Approval of testing facility
- 625. Proficiency testing program
- 630. Scientific director
- 635. Testing methodologies
- 640. Standard operating procedure manual
- 645. Laboratory testing of marijuana and marijuana products
- 650. Chain of custody
- 655. Marijuana inventory tracking system
- 660. Failed materials, retests
- 665. Supplemental marijuana quality testing
- 670. Reporting, verification
- 675. Records retention

**ARTICLE 7 Operating Requirements for All Marijuana Establishments; 3 AAC 306.700 (SET 2)**

- 700. Licensed premises, alteration
- 705. Inspection of licensed premises
- 710. Restricted access areas
- 715. Marijuana handler permit
- 720. Security alarm systems and lock standards
- 725. Video surveillance
- 730. Health and safety standards
- 735. Waste disposal
- 740. Certified scales
- 745. Transportation
- 750. Insurance

- 755. Business records
- 760. Marijuana inventory tracking system

**Article 8. Enforcement and Civil Penalties; 3 AAC 306.800**

- 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

**ARTICLE 9. GENERAL PROVISIONS: 3 AAC 306.900 (PLEASE NOTE THIS TITLE IS STILL INCOMPLETE)**

- 900. Marijuana Clubs Prohibited (Set 3)
- 905. Public Records (Set 3)
- 910. Refusal to Sell Marijuana (Set 3)
- 990. Definitions (Set 1)

# EIGHT IS ENOUGH?

The United States Department of Justice, Office of Deputy Attorney General, has identified eight priorities that every municipality should adopt when regulating marijuana. These eight priorities are:

1. PREVENTING THE DISTRIBUTION OF MARIJUANA TO MINORS
2. PREVENTING REVENUE FROM THE SALE OF MARIJUANA FROM GOING TO CRIMINAL ENTERPRISES, GANGS, AND CARTELS
3. PREVENTING THE DIVERSION OF MARIJUANA FROM STATES WHERE IT IS LEGAL UNDER STATE LAW IN SOME FORM TO OTHER STATES
4. PREVENTING STATE-AUTHORIZED MARIJUANA ACTIVITY FROM BEING USED AS A COVER OR PRETEXT FOR THE TRAFFICKING OF OTHER ILLEGAL DRUGS OR OTHER ILLEGAL ACTIVITY
5. PREVENTING VIOLENCE AND THE USE OF FIREARMS IN THE CULTIVATE AND DISTRIBUTION OF MARIJUANA
6. PREVENTING DRUGGED DRIVING AND THE EXACERBATION OF OTHER ADVERSE PUBLIC HEALTH CONSEQUENCES ASSOCIATED WITH MARIJUANA USE
7. PREVENTING THE GROWING OF MARIJUANA ON PUBLIC LANDS AND THE ATTENDANT PUBLIC SAFETY AND ENVIRONMENTAL DANGERS POSED BY MARIJUANA PRODUCTION ON PUBLIC LANDS
8. PREVENTING MARIJUANA POSSESSION OR USE ON FEDERAL PROPERTY





# City of Homer

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

Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-3130

(f) 907-235-3143

## MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION

FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: SEPTEMBER 17, 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.

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

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

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

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

**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	_____
August 10, 2015	<u>Commissioner Robl</u>
September 14, 2015	<u>Commissioner Stead</u>
October 12, 2015	<u>Commissioner Monroe</u>
November 23, 2015	_____
December 14, 2015	<u>Commissioner Sarno</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.

NOTICE OF PROPOSED REGULATIONS  
REGARDING MARIJUANA AND CULTIVATION FACILITIES, PRODUCT  
MANUFACTURING FACILITIES, TESTING FACILITIES,  
ENFORCEMENT AND GENERAL PROVISIONS  
MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to adopt regulations to implement the marijuana law which was voted on as Ballot Measure 2 in November, 2014. These proposed regulations relate to cultivation facilities, product manufacturing facilities, testing facilities, enforcement provisions and general provisions including definitions.

The Marijuana Control Board proposes to adopt regulations in Title 3 of the Alaska Administrative Code, dealing with cultivation facilities, product manufacturing facilities, testing facilities, enforcement provisions and general provisions and definitions, including the following:

- (1) Article 4 – Marijuana Cultivation Facilities regulations are proposed as follows:

The regulations consist of a series of provisions establishing when a marijuana cultivation facility license is required, types of marijuana cultivation facility licenses including standard marijuana cultivation facilities, limited marijuana cultivation facilities, and marijuana cultivation broker facilities, setting forth privileges and prohibited acts for each type of marijuana cultivation facility, rules regarding applications for marijuana cultivation facility licenses, health and safety requirements for marijuana cultivation facilities, requirements for marijuana handlers permits related to marijuana cultivation facilities, restricted access areas in marijuana cultivation facilities, standards for cultivation and preparation of marijuana in cultivation facilities, required laboratory testing for marijuana cultivation facilities, rules regarding promotional samples for marijuana cultivation facilities, rules regarding the packing of marijuana products, rules regarding the labeling of marijuana products and rules regarding the marijuana tax to be paid by marijuana cultivation facilities.

- (2) Article 5- Marijuana Product Manufacturing Facilities regulations are proposed as follows:

The regulations consist of a series of provisions establishing when a marijuana product manufacturing facility license is required, marijuana product manufacturing facility privileges, acts prohibited at a marijuana product manufacturing facility, rules for a marijuana extraction manufacturing facility license, application for a marijuana product manufacturing facility license, health and safety standards for a marijuana product manufacturing facility, restricted access area and storage at a marijuana product manufacturing facility, when a marijuana handler permit and food safety worker training is required, rules regarding a marijuana inventory tracking system, rules regarding approval of concentrates and marijuana products, rules regarding production of marijuana concentrate, required laboratory testing for a marijuana product manufacturing facility, rules regarding potency limits per serving and transaction, rules regarding packaging of marijuana products, and rules regarding labeling of marijuana products.

- (3) Article 6- Marijuana Testing Facility regulations are proposed as follows:

The regulations consist of a series of provisions establishing when a marijuana testing facility license is required, marijuana testing facility privileges, acts prohibited at a marijuana testing facility, application for a marijuana testing facility license, approval of a marijuana testing facility, rules regarding a proficiency testing program for a marijuana testing facility, rules regarding a scientific director, testing methodologies, a standard operating procedure manual, laboratory testing of marijuana and marijuana products, and a chain of custody, rules regarding a marijuana inventory tracking system, rules regarding failed material and retests, rules regarding supplemental marijuana quality testing, rules regarding reporting and verification and rules regarding records retention by a marijuana testing facility.

- (4) Article 8- Enforcement and Civil Penalties regulations are proposed as follows:

The regulations consist of a series of provisions establishing rules regarding inspection and investigation, notice of violations, suspension and revocation of licenses, suspension and revocation based on an act of an employee, procedure for action on license suspension or revocation, summary suspension to protect public health, safety and welfare, seizure of marijuana or marijuana product, rules regarding hearings, rules regarding civil fines, rules regarding rights of appeal, and rules regarding surrender or destruction of licenses.

- (5) Article 9- General Provisions regulations are proposed as follows:

The regulations consist of a series of provisions establishing general provisions including prohibition of marijuana clubs, rules regarding public records, rules regarding refusal to sell marijuana, and definitions for the following terms: assist, deliver, flowering, immature, personal cultivation, possess, transport or transfer, adulterated food or drink product, agent, batch or harvest batch, bud and flower, clones or cuttings, compensation, contaminant, controlling interest, edible and edible marijuana product, extraction or marijuana extraction, homogenous, licensed, licensee, licensed premises, lot or production lot, marijuana, marijuana concentrate, marijuana cultivation facility, marijuana plant, marijuana product, marijuana product manufacturing facility, person, process or processing, retail marijuana store, and square feet under cultivation.

You may comment on the proposed regulations, including the potential costs to private persons of complying with the proposed regulations, by submitting written comments to John Calder, Marijuana Control Board at 550 W. 7<sup>th</sup> Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at [john.calder@alaska.gov](mailto:john.calder@alaska.gov). Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. Please indicate the article and section number to which each comment refers, if applicable. Please indicate in the subject line that you are commenting on Draft Set #3. The comments must be received no later than 4:30 p.m. on September 10, 2015.

You may submit written questions relevant to the proposed regulations to John Calder by email and physical address. Please do not submit questions through the Alaska Online Public Notice System. The questions must be received at least 10 days before the end of the public comment period, by August 31 at 4:30 p.m. The Marijuana Control Board will aggregate its response to substantially similar questions and make the questions and response available on the Marijuana Control Board website. The Marijuana Control Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact John Calder at (907) 269-0350 no later than August 31, 2015 to ensure that any necessary accommodations can be provided.

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


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

**Statutory Authority:** AS 17.38.090

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

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

DATE: August 11, 2015



---

Cynthia A. Franklin, Director  
Marijuana Control Board





The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole   
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important 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.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.<sup>1</sup>

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

---

<sup>1</sup> These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department'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 to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.



must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

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. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, 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. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. 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.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman  
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch  
United States Attorney  
Eastern District of New York  
Chair, Attorney General's Advisory Committee

Michele M. Leonhart  
Administrator  
Drug Enforcement Administration

H. Marshall Jarrett  
Director  
Executive Office for United States Attorneys

Ronald T. Hosko  
Assistant Director  
Criminal Investigative Division  
Federal Bureau of Investigation



# City of Homer

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

## Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-3130

(f) 907-235-3143

## MEMORANDUM

TO: MAYOR WYTHE AND CITY COUNCIL

FROM: CANNABIS ADVISORY COMMISSION

DATE: SEPTEMBER 9, 2015

SUBJECT: RECOMMENDATIONS ON STATE PROPOSED REGULATIONS REGARDING CANNABIS

---

The Cannabis Advisory Commission (CAC) has been reviewing the proposed regulations submitted for comment by the State of Alaska Marijuana Control Board. Following are recommendations from the regular meetings on July 23, 2015 and August 27, 2015 that the Commission would like the Council to approve for submittal to the Marijuana Control Board. Excerpts from the corresponding minutes have been attached for reference.

### Recommendations:

- STRIKE 3 AAC 306.200 a (3) AND 3 AAC 306.260 IN ITS ENTIRETY
- DEFINE BROKERAGE FACILITY
- IN 3 AAC 306.300 EXPLICITLY EXCLUDE GIFTING, WITHOUT MONETARY COMPENSATION, BY AN INDIVIDUAL TO AN INDIVIDUAL, PER THE ORIGINAL STATUTE 17.38.20.
- OBJECT TO STATE REGULATIONS REGARDING ZONING LEAVETO THE MUNICIPALITY AS IS CUSTOMARY AND FOLLOWED IN REGULAR PRACTICE
- STRIKE PROPOSED REGULATION 3 AAC 306.310 SUBSECTION 3, ITEM C

### Policy Related Recommendations

- 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.

Excerpt from the Minutes of the Regular Meetings on August 27th and July 23, 2015:

August 27, 2015:

*BURGESS/HARRIS - MOVED TO INCLUDE ALL RECOMMENDATIONS PREVIOUSLY AGREED UPON WITH THE CITY ATTORNEY INCLUDING THOSE RECOMMENDATIONS REGARDING TITLE 21 MUNICIPALITY RIGHTS OVER ZONING ISSUES BE FORWARDED TO COUNCIL FOR APPROVAL AND THEN FORWARDED TO THE MARIJUANA CONTROL BOARD.*

*There was a brief discussion.*

*VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.*

*Motion carried.*

July 23, 2015:

*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.*

*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.*





# City of Homer

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

## Planning

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-3106

(f) 907-235-3118

### Staff Report CAC 15-01

TO: Cannabis Advisory Commission  
THROUGH: Rick Abboud, City Planner  
DATE: June 25, 2015  
SUBJECT: Local Control

---

**Introduction:** According to the initiative there are several aspects of the industry that may be regulated by a municipality. My goal is to identify these activities and set the stage for recommending future regulation.

#### Analysis:

The State has responsibility to make regulations regarding several aspects of marijuana spelled out in the Rulemaking section of AS 17.38.090. Local governments may act upon Local Control per AS 17.38.110. At this meeting, I hope to formulate a recommendation for Planning Commission review that will be forwarded to the City Council for adoption in an ordinance.

#### Requested action

1. Make recommendation to the Planning Commission on appropriate zoning for marijuana related activities; cultivation, manufacturing, testing, and retail.
2. Discuss and make recommendation on the intensity of activities, such as limiting the number of local licenses and or a minimum distance between activities.
3. Consider appropriate areas of exclusions.

Our responsibilities

#### Local Control, AS 17.38.110

- a. Local government may prohibit cultivation, manufacturing, testing and/or retail marijuana activities by ordinance or voter initiative.
  - This is zoning issue and intimately related with (b.) below. I will assume that we will not propose any prohibitions.
- b. Local government may (without conflict to the initiative) regulate time, place, manner, and number of marijuana establishment operations. They may also establish civil penalties for violation of these regulations.

- This is zoning. We will need to talk about provisions that will be recommended to the Planning Commission in order to get it to the Council for adoption. I am including a map of protected areas from which to start. We may add additional protected.
- c. Local government may designate an authority for processing applications should this be necessary from failure of the state to do so.
  - This I will review with the City Attorney. I assume that a task force separate from the CAC will be formed to do this. I am marking the rest of the item with “task force” so that we may categorize the activity. We may just want to prepare recommendations for the task force to consider.
- d. Local government may establish procedures for issuance, suspension, and revocation issued by the local government.
  - Task force
- e. Local government may establish a schedule of annual operating, registration, and application fees.
  - Task force
- f. Local government may act on applications not acted upon by the state within the timeframes of the initiative, 90 days without response or for those applications not issued after 15 months after effective date of the act.
  - Task force
- g. If the state does not adopt regulations application may be sent to the local government for action.
  - Task force

The rest of the section deals with administrative procedures for acting upon application mentioned above.

In light of the above local control, the federal government has several expectations in regards to the states that adopt a regulated marijuana industry. The number one concern for us is protection of minors. What this means in a regulatory environment is distances from places that minor frequent and ensuring that they are not able to access product in the activities that are proposed (cultivation, manufacturing, testing, and sale).



I plan to give a presentation to familiarize everyone with the issues surrounding the rights forwarded by the initiative. I have included the text of the initiative to review the exact regulation, so far. Included is the Environmental Risks and Opportunities in Cannabis Cultivation paper which provides a useful cited academic perspective on cultivation. I do realize that this leads down a path where our local regulations have not gone or are likely to do so, that said it does provide a wealth of information and somethings that we can consider when we have our conversations. Finally, I have included permitting material for the City of Seattle.

**Regulations expectations for the state.** When we discuss our local control, we need to keep in mind the expected regulation from the state per AS 17.38.090 (attachment). Some items are more related to zoning aspects of the activities such as security requirements and “reasonable restrictions on advertising and display of marijuana and marijuana products”.

I will check with the City Attorney in regards to the City’s responsibility and report back next meeting.

**Action**

Propose recommendations for zoning requirements.

**Zoning District Groupings**

<b>Residential</b>	<b>Commercial</b>	<b>Industrial</b>	<b>Special</b>
Rural residential	Central business	East End Mixed	Bridge Creek
Urban residential	Town center	General commercial 2	Marine Commercial
Residential office	Gateway		Marine Industrial
	General commercial 1		

**Current allowance for marijuana related activities**

Cultivation

<b>Residential</b>	<b>Commercial</b>	<b>Industrial</b>	<b>Special</b>
Rural residential (permitted) only	Greenhouses –CBD, TCD(COnditional Use) only	EEMUD (permitted) only	Conditional Permit Bridge Creek only

## Manufacturing

<b>Residential</b>	<b>Commercial</b>	<b>Industrial</b>	<b>Special</b>
Not allowed	CBD (Conditional - light) only	EEMUD (permitted) only	Not allowed

## Testing

<b>Residential</b>	<b>Commercial</b>	<b>Industrial</b>	<b>Special</b>
Not allowed	Not allowed	Allowed	Not allowed

## Retail

<b>Residential</b>	<b>Commercial</b>	<b>Industrial</b>	<b>Special</b>
Not allowed	Allowed	Allowed	Not allowed

## Staff Recommendation

### A. Zoning districts

I would suggest a few changes which can be forwarded for a recommendation to the Planning Commission with a motion. A motion can be made to on each of the items, especially if modifications are suggested.

1. Eliminate cultivation in rural residential
  - This activity is not one that is seen as compatible with residential activities.
  - Residential uses are clearly favored in the district.
  - The district supports many families with children.
  - Many parts of the district are closer to urban standards which makes this activity even more incompatible.
2. If not eliminating cultivation in rural residential
  - Make it a conditional use.
  - Make special conditions for CUP consideration.
    - o Minimum lot size
    - o Minimum setback
    - o Security
    - o Screening
3. Allow unlimited manufacturing in General Commercial 2.
4. Allow testing in General Commercial 1.

## **B. Intensity**

Consider if you would like to forward anything beyond being subject to state regulations. I would assume that the state may not have any restriction on the number of licenses that are available. If there are limits we are bound to them, unless we propose to be more restrictive.

1. Should activities have a designated spacing between them (individually or collectively) to avoid undue concentration? 1000, or 500 feet, or something else?
2. Should facilities be limited to a specific amount citywide?

## **C. Exclusions**

1. Are the proposed areas of exclusion adequate (per presentation page 38, "*What FNSB is Proposing for Buffers*")? 1000ft – k-12, playgrounds; 500ft – post-secondary; 100 – youth center. The proposed area is the minimum recommended. Should they be extended or should other activities/uses be considered?

**Next meeting** – review of rule-making tasks to be brought before the CAC

### **Attachments**

1. Initiative text
2. Environmental Risks and Opportunities in Cannabis Cultivation
3. Seattle Permits, Tip 134
4. Fairbanks North Star Borough Town Hall Presentation
5. Map - City Wide Draft Commercial Marijuana Areas
6. Map – Draft Commercial Marijuana Areas





