

**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 November 30, 2015 Regular Meeting **Page 3**
- 7. REPORTS**
  - A. Kenai Peninsula Borough Cannabis Commission Report - Commissioner Monroe
  - B. Memorandum from City Attorney Wells dated December 9, 2015 **Page 11**
    1. Amendments Proposed by the MCB members & Staff..... pg 13
    2. Redlined Final Marijuana Regulations.....pg 57
    3. Legalness of Marijuana .....pg 312
    4. Nitty Gritty on Marijuana Regulations....pg 314
- 8. PUBLIC HEARING**
- 9. PENDING BUSINESS**
  - A. Cannabis Sales Taxes and Excise Taxes
  - B. Cannabis Zoning & Regulations - Staff Report CAC 15-08 from City Planner Abboud
    1. Draft Ordinance 16-XX....pg 320 **Page 316**
    2. Zoning Maps....pg 338
    3. News Articles ....pg 340
- 10. NEW BUSINESS**
  - A. Memorandum on THC Extraction **Page 348**
    1. Proposed Ordinance 16-XX
  - B. Allowing Marijuana Social Clubs in Homer **Page 354**
    1. Memorandum from City Attorney Wells
  - C. Next Meeting Deliverables, Agenda Items **Page 364**
- 11. INFORMATIONAL MATERIALS**
  - A. 2016 Meeting Schedule and Packet Processing Deadlines **Page 366**
  - B. 2016 Commission Attendance at Council Meetings **Page 367**
  - C. Resolution 15-105, 2016 Regular Meeting Schedule of Advisory Bodies **Page 368**
  - D. Memorandum from the CAC re: Approving the 2016 Regular Meeting Schedule **Page 373**
  - E. Final Proposed Marijuana Regulations dated 12/01/15 **Page 374**
- 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, JANUARY 28, 2016 at 5:30pm in the COWLES COUNCIL CHAMBERS located at City Hall 491 E. Pioneer Avenue, Homer Alaska**



Session 15-07, a Regular Meeting of the Cannabis Advisory Commission was called to order by Chair Aryn Young at 5:32 p.m. on November 30, 2015 in the Conference Room located Upstairs at City Hall 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS HARRIS, STEAD, SARNO, REYNOLDS, LEWIS

ABSENT: COMMISSIONER ROBL AND JONES, (EXCUSED); MONROE (NON-EXCUSED)

STAFF: CITY PLANNER ABBODD  
DEPUTY CITY CLERK KRAUSE

### **APPROVAL OF AGENDA**

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

LEWIS/REYNOLDS - MOVED TO APPROVE AS PRESENTED.

There was no discussion.

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

### **PUBLIC COMMENT**

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

Wes Schact, Fritz Creek resident, commented on the regulations/actions of other states and countries and advocated for supporting Eco-Tourism aspects of the industry. He noted that this industry was more regulated than the alcohol industry. This industry is renewal and would diversify the economy.

### **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 October 22, 2015 Regular Meeting

Chair Young requested a motion to approve the Consent Agenda.

LEWIS/HARRIS - MOVED TO ADOPT THE CONSENT AGENDA.

There was no discussion.

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

### **REPORTS**

A. Report to the Commission - City Planner Abboud

City Planner Abboud provided a brief summary of his recent State Planners Conference in Anchorage and the regulations that other communities have implemented. He noted that Juneau has implemented all zoning through Conditional Use Permits. There was concern on the responsibility passed down to local authorities.

The enforcement is only civil fines, there are no classes of crimes. With regard to the buffer zones there are conflicts within the statutes and with the Federal laws.

Senator Ellis has come up with a Hemp Bill and he was curious to see that document.

In the packet there is information from the City Attorney regarding a presentation provided at the conference. City Planner Abboud provided a synopsis on the presentation. He did note that edibles are not to look like familiar candies, etc.

City Planner Abboud noted that there was a snafu on the second hearing at the Planning Commission level so if the Commission does not make any additional changes at the meeting this week then it can go before Council. Otherwise, the second hearing will be at the January 6, 2016 Planning Commission meeting.

He further commented on the changes to use at the retail outlets by the MCB. He stated that this may make it less palatable by neighboring residents. His concern is the reaction of the users and upon imbibing of the product may require some place to "chill."

Commissioner Lewis questioned parking requirements and City Planner Abboud responded that it was based on square footage. Commissioner Harris offered having no parking or limited parking.

Discussion evolved on the outcome of controlling consumption within the retail setting and a preference to have a place that people can enjoy the product and also have food and drink. This type of setup would be the same level of enforcement as a bar. You drink and drive it is the responsibility of the driver to limit their intake. The concern was the new user. Commissioner Harris recited actual accounts of impaired drivers but did not think that parking should be allowed on premise, that any amount of walking would be beneficial and preferred. Further comments on the zoning requirements for retail establishments and consumption was entertained and comparison to established bars and package stores.

City Planner Abboud brought up the issue of waiting for a decision by the Borough as it would be preferred to carry on the same as currently being conducted with property taxes and sales taxes, etc. If the Borough does not take up the issue then the city will have to establish city code regarding the taxes and collection thereof, which theoretically should not be too onerous. The regulations will be submitted and it is assumed that the state will take the full time allotted for approval and issuance of licenses. It was noted by the commission that it would lose the whole season next year.

The commission briefly discussed the reasons limiting operations to small cultivation in the Bridge Creek Watershed Protection District was to meet the impervious coverage limitations for the district.

Commissioner Harris provided comment on the Federal officials went to places in Colorado and pulled permits based on proximity to schools, that the distance is based on "as the crow flies". A brief discussion ensued regarding buffer zones for the state and city and how that affects Homer zoning. Commissioner Harris referred to page 73 in the packet regarding the measuring of distances. There was question on whether it was facility or property line. Further comments on what determines religious institutions, and services regularly held. City Planner Abboud asked who interprets the regulations and he did not receive a very clear answer.

City Planner Abboud spoke about licensing and the recommendation from City Attorney Wells was to limit the number since she was greatly concerned with the litigious end of establishing regulations regarding licenses. He noted that a commissioner requested this to be on the next Planning agenda so they will discuss this topic. He stated that the Planning Commission expressed concern with the number of businesses in the city and wanted to limit the number of licenses issued and the hours of operation.

Commissioner Lewis responded that he believed that businesses will make it or they will not. City Planner Abboud agreed that it would more than likely be self-correcting.

Commissioner Stead added that the Planning Commission was trying to figure how to limit the number of licenses issued in order to limit the number of different types of businesses similar to how the number of establishments dealing with alcohol are limited. This was done by law for the State of

Alaska, not administratively. The Planning Commission would like to know if there is any desire or interest in limiting licenses.

Deputy City Clerk called for a point of order at this time noting that this item was later on the agenda.

**B. Kenai Peninsula Borough Cannabis Task Force Report - Commissioner Monroe**

Commissioner Monroe was not present to provide a report.

**C. Report from City Attorney Wells - Memorandum Regarding Comments to Marijuana Control Board**

City Planner Abboud provided a summary of the City Attorney's report included in the packet.

**PUBLIC HEARINGS**

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

There were no items scheduled for public hearing.

**PENDING BUSINESS**

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

Chair Young read the title into the record. She requested any additional input from the City Planner.

Commissioner Harris felt that they should recommend implanting an excise tax in case the borough doesn't and believed that Kenai and Soldotna will be higher so she proposed 3%. There is no knowledge on what or if the Borough would be implementing anything. Discussion included the following points:

- taxing it too high to push it back to the black market
- waiting on the Borough actions
- adding excise taxes to the sales
- knowing options available to the city
- how it would be applied and who would collect it

City Planner Abboud will try to have more relevant information for the December meeting regarding taxation.

**B. Cannabis Zoning & Licensing**

1. Staff Report PL 15-80, Zoning for Cannabis, 2nd Public Hearing
2. Draft Ordinance 15-XX
3. Staff Report PL 15-84, Marijuana Licensing

Chair Young read the title into the record and opened discussion. Commissioner Harris inquired if the Planning Commission makes the regulations or just recommendations. City Planner Abboud responded that the Planning Commission submits recommendations for Council to adopt.

Commissioner Harris then referenced page 90 in the packet, Planning Commission's October 21, 2015 regular meeting minute. The Commission considered options presented for limited cultivation in the Rural Residential District. A motion was carried regarding the requiring of Conditional Use Permits (CUP) for Limited Cultivation in the Rural Residential District. Commissioner Harris would like to submit a recommendation countering or amending this proposed recommendation. City Planner Abboud interjected that the Planning Commission allowed outright limited cultivation in lots over 40,000 sf. and that it could be allowed by CUP for lots 20,000-39,999 sf in rural residential districts.

**HARRIS/REYNOLDS - MOVED TO RECOMMEND THAT OUTRIGHT PERMITTING OF LIMITED CULTIVATIONS IN RURAL RESIDENTIAL ON LOTS 20,000 SF OR LARGER; REQUIRE TREE/SHRUBBERY PLANTING IN ADDITION**

TO THE STATE REQUIRED 6" FOOT FENCING; A 20' SETBACK AROUND ALL PERIMETERS AND NO EMPLOYEES AFTER 7:00 P.M

Discussion ensued regarding the recommendations of the Planning Commission to require CUP's on lots 20,000-39,999 sf. The commissioners discussed the pros and cons on allowing limited cultivation in the rural residential districts outright and the benefits to requiring a conditional use permit.

VOTE. NO. STEAD, LEWIS, REYNOLDS, YOUNG, SARNO  
VOTE. YES. HARRIS.

Motion failed.

HARRIS/SARNO - MOVED TO RECOMMEND CUP'S ON LOTS UNDER 20,000 SF AS LONG AS IT FOLLOWS THE STATE REGULATIONS, INCLUDES 20 FT SETBACK AND INCLUDES THE TREE/SHUBBERY PLANTINGS ALONG THE 6' FENCELINE.

There was a brief discussion on allowing limited cultivation in the residential districts as long as the property owner can follow all the rules, plus setting time limits for employees curtails traffic along those streets.

VOTE. YES. HARRIS, SARNO.

VOTE. NO. YOUNG, REYNOLDS, LEWIS, STEAD.

Motion failed.

Chair Young asked for additional discussion on zoning. There was none.

Commissioner Stead questioned page 52-53 in the packet, the draft ordinance lines 520-524, the distance for the buffer zones should reflect just feet, not square feet. He then questioned if a marijuana cultivation facility could not be described as a commercial greenhouse, referencing page 37, line 69-70 and page 36, line 50-51. City Planner Abboud responded that according to the proposed State regulations, no. There was a brief discussion on differentiating between commercial greenhouse operations and commercial marijuana grow operations and if they needed to provide clarifications.

HARRIS/ LEWIS - MOVED TO RECOMMEND NOT LIMITING THE NUMBER OF ANY LICENSES ISSUED.

Discussion centered on the request at the Planning Commission level on restricting the number of establishments for retail sales. City Planner Abboud noted that he stated they could limit the number in districts or not at all. Points were made that the City follows the State regulations regarding alcohol, jumping in ahead of time may not be in the best interests of the city, perception of not that many businesses to begin with, the thinking of the Planning Commission was it was easier to loosen up restrictions than tighten. The Planning Commission was thinking of limiting to 3 licenses and being very restrictive. Further comment was made that if an arbitrary limit was set on licenses that would limit seasonal businesses and severely limit the potential for revenue for the City and State. It was pointed out that it would not be good to see multiple businesses fail either. Commissioner Young inquired if they decide to limit the number of licenses how would they determine who gets those licenses? City Planner Abboud responded that is where the possibly of lawsuits comes up. Discussion evolved into the sticky mess that would be created by limiting the number of licenses and using the system that is currently employed with alcohol on a first come first serve based service. Commissioner Harris presented argument on the available areas within the city limits for retail businesses due to the buffer requirements and that limiting licenses would only result in the city reaping the repercussion. It was also pointed out that the city can enforce stricter regulations, that the state regulations and cost of starting a cannabis business was intensive and Council would not support restricting the number of licenses.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

HARRIS/REYNOLDS - MOVED TO RECOMMEND THAT THE ADVISORY PLANNING COMMISSION CONSIDER AREAS WHERE CANNABIS CLUBS OR SIMILAR ENTERPRISES COULD BE ESTABLISHED.

Discussion on laws surrounding the act of consumption in facilities and the cost of litigating those actions since the “club” is not selling the cannabis. Discussion included: not addressing the issue since clubs are not included in the regulations; zoning regulations if the private club falls within those boundaries such as schools, etc. Private clubs will be very selective in location; a person could go to one business to purchase and then walk through another door, pay their fee and consume the product; Regulating something that the State was not addressing; possible liability issues with retail and consumption; zoning for something that technically does not exist and therefore cannot be regulated; possible loopholes getting a license and allowing the consumption; the state has introduced regulations to allow consumption and the city should take a wait and see approach.

VOTE. NO. STEAD, LEWIS, REYNOLDS, YOUNG, SARNO, HARRIS.

motion failed

### **NEW BUSINESS**

A. Memorandum from the City Clerk Re: 2016 Meeting Schedule

Chair Young read the title into the record. She then asked if there were any changes.

LEWIS/SARNO - MOVED TO APPROVE THE 2016 REGULAR MEETING SCHEDULE AS PRESENTED.

There was a brief discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Appointment of A New Council Member to the Commission

The commissioners welcome Councilmember Reynolds to the commission.

C. Next Meeting Deliverables, Agenda Items

City Planner Abboud reiterated that he will try to have more information at the next commission meeting on taxation from the City Attorney however, he did note that there was a short turn around period from this meeting.

Commissioner Sarno requested Social Clubs for discussion be on the next meeting agenda.

### **INFORMATIONAL MATERIALS**

A. 2016 Meeting Schedule and Packet Processing Deadlines

B. 2016 Commission Attendance at Council Meetings

Commissioners Lewis and Reynolds volunteered to step up and report when other commissioners were unable to attend.

Commissioner Sarno volunteered for February

Commissioner Stead volunteered for March 14th

Commissioner Lewis stated that the minutes of the Commission can be submitted also.

C. Question and Answers on Articles 1-9, Updated November 10, 2015

D. Excerpt from the Advisory Planning Commission Minutes for October 21, 2015

Commissioner Sarno inquired why there was restrictions in the Town Center since they do not know what town center will be used for in the future.

E. Excerpt from the Advisory Planning Commission Minutes for November 4, 2015

F. Raven's Call Looks at Marijuana Laws, Mat-Su Gazette, October-November 2015 Issue

G. Alaska Dispatch News Articles Re: Clubs and Public Smoking

### **COMMENTS OF THE AUDIENCE**

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

Wes Schact, Fritz Creek, thanked them for having this meeting, they are getting somewhere and hopefully they will have more public participation in the future. He commented that over the years he has noticed more people wanting to remove cannabis from a Schedule 1 drug which is the main thing holding it back nationwide, state wide and city wide; next he then commented on the having permits, then finding someone qualified who has been practicing compared to some idiot in a trailer that has been involved in the business for a year or so.

Anders Gustafson, resident, recommended exercising caution to determine how the city is going to participate in this industry which Homer has a very small market share considering the enormity of the state. He requested giving the industry the best possible start and understands regulation is necessary and expects that it will be a long and tedious process.

Commissioner Sarno read a statement from Lori Franco who was unable to attend due to work, a clinical scientist for over 25 years and plans to open a licensed cannabis testing facility in Homer, commented that the zoning that has been proposed is workable. She wants to open this testing facility because she has seen many patients who would have benefitted from using this drug but were afraid to because of the stigma attached to it.

### **COMMENTS OF STAFF**

Deputy City Clerk Krause commented that it was a very good meeting, very lively. Do not forget to vote tomorrow.

City Planner Abboud stated he will keep working at it.

### **COMMENTS OF THE CHAIR**

Chair Young echoed the sentiments that it was a very lively meeting.

### **COMMENTS OF THE COMMISSION**

Commissioner Reynolds commented that she appreciated Mr. Burgess for the foresight in creating this commission, she thanked the City Planner for providing all the information contained in the packet and appreciated the article Raven's Call, it was very interesting. She asked about speaking to the Economic Development Commission regarding the industry.

Commissioner Lewis had no comments.

Commissioner Stead appreciated the comments and was sorry this commission did not agree with the Planning Commission but that is not a problem and it was still good. He did not think that they had to agree on every issue before the two groups and that was okay.

Commissioner Harris commented that it was a great meeting and believed that in the future they would have to visit the private public for profit club and that the commission needs to remain as open as possible and try to get as many businesses to open in Homer as possible since they will just open right down the road and the city will lose any revenue that that would bring to the city.



Commissioner Sarno welcomed Commissioner Reynolds and then stated that the Cannabis Coalition will be attending the next Planning Commission so the debate will continue and its all in good heart and faith. She thanked the City Planner for all his research and work he is doing to provide the information for the commission.

**ADJOURN**

There being no further business to come before the Commission, the meeting adjourned at 7:36 p.m. The next regular meeting is scheduled for THURSDAY, DECEMBER 17, 2015 at 5:30 p.m. in the City Hall Cowles Council Chambers located at 491 E Pioneer Avenue, Homer, Alaska.

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Renee Krause, CMC, Deputy City Clerk

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



## **MEMORANDUM**

**TO: CANNABIS ADVISORY COMMISSION  
RICK ABBODD**

**FROM: HOLLY WELLS**

**RE: INTRODUCTION TO FINALIZED MARIJUANA REGULATIONS  
ADOPTED BY THE MARIJUANA CONTROL BOARD**

**CLIENT: CITY OF HOMER, ALASKA**

**FILE NO.: 506742-222**

**DATE: DECEMBER 9, 2015**

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This memorandum is intended to provide additional information on several different areas of interest currently facing the Cannabis Advisory Commission (“CAC”).

### **Final Marijuana Control Board Regulations Update**

On December 1, 2015, the Marijuana Control Board (“MCB”) adopted Chapter 306 of the Alaska Administrative Code. In so doing, the MCB made several substantial changes to the regulations that require attention by the CAC. I have included several documents in your packet that should assist the CAC in identifying the amendments to the regulations and understanding the rationale behind the amendments proposed and adopted by the MCB members. These documents include: 1) the final adopted regulations; 2) amendments proposed by the MCB members and the rationale behind their proposals. Perhaps most telling, are staff recommended amendments, which are included in the MCB member proposals as most of staff’s recommendations were adopted and thus the rationale expressed is helpful in applying and interpreting the regulations.

I am in the process of preparing a memorandum that provides an itemization of the regulatory revisions but shortly before the deadline for submitting packet materials I received the document from the MCB including the rationale behind the proposed amendments that is attached to this memorandum. As a result, I intend to incorporate the additional information into what will be a much more useful document for the CAC moving forward.

### **Legality of Marijuana**

As communities attempt to draft regulations, many municipal entities struggle with the current criminal prohibition on marijuana and its continued classification as a controlled substance and implementation of the MCB regulations. In an effort to assist in clarifying

changes in the laws regulating marijuana, I have included a chart providing a quick reference to laws that have changed, and those that remain in effect. Of course, this is subject to change as the legislature reconsiders criminal penalties and prohibitions in light of the initiative.

### **Public Health and Safety**

While the CAC is carefully considering all aspects of public health and safety and the marijuana industry's impact on health and safety matters, we highly recommend that the risks associated with the extraction of THC or other cannabinoids using processes that pose fire hazards. To this end, the CAC packet includes an ordinance amending the Homer City Code to prohibit such extraction. While this ordinance will undoubtedly need further input and discussion before recommendations can be made to the City Council, it is important to initiate these discussions.

**AMENDMENTS  
TO  
MARIJUANA REGULATIONS  
PROPOSED BY  
MARIJUANA CONTROL  
BOARD MEMBERS**

## Amendments to 3 AAC 306

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### MyInarik's Amendments:

#### #1- Eliminate Cultivation Broker Licenses

**Strike 3 AAC 306.415. Marijuana cultivation broker facility: privileges and prohibited acts and references to this facility found in:**

**3 AAC 306.100(d)(4)**

**3 AAC 306.400(a) and (a)(3)**

**3 AAC 306.410(a)(2), (a)(3), (a)(3)(B), (a)(4), (a)(4)(B), (b)(4), and (b)(5)**

**3 AAC 306.420(c)**

**3 AAC 306.455(d)**

**3 AAC 306.470(a)**

**3 AAC 306.480(b)**

**3 AAC 306.505(a)(1)**

**3 AAC 306.750(a)(1) and (a)(2)**

#### Rationale:

I believe the board was overstepping its authority in creating this new license type. Although it is listed under a cultivation facility it doesn't actually perform any of the basic cultivation activities. The intent behind this appears to be to allow smaller cultivation operations to function and to bring the "black market" operators into legal compliance. I do believe it was within the board's power to create the limited cultivation license at a reduced fee. This model is still viable and, based on a good deal of public comment, does not need a broker to facilitate sales. Although noble, it is not the Board's responsibility to draft regulations to bring a hereto illegal operator into a legal environment. Without the broker there is still the opportunity for a small illegal operator to turn legit. I do not see broad public support for the broker license either.

**Amend 3 AAC 306.350. Identification requirement to prevent sale to person under 21.** (a) A licensed retail marijuana store shall refuse to sell marijuana or a marijuana product to any person who does not produce a form of valid **photo** identification showing that person is 21 years of age or older.

#### Rationale:

The word "photo" was added to ensure the identity of the person making the purchase. Some of the forms of ID listed in "(b)" of this section may not require a photo. An example of this would be an Alaska off-highway driver's license which does not require a photo.

## #2- Revise retail store prohibitions

**3 AAC 306.310 Acts prohibited at retail marijuana store.** (a) A licensed retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or any marijuana product

(1) to any person under the age of 21;

~~(1)(2)~~ to any person that is under the influence of an alcoholic beverage, inhalant, or controlled substance.

~~(2)(3)~~ that is not labeled and packaged as required in 3 AAC 306.345, and in 3 AAC 306.470 and 3 AAC 306.475 or 3 AAC 306.565 and 3 AAC 306.570;

~~(3)(4)~~ in a quantity exceeding the limit set out in 3 AAC 306.355;

~~(4)(5)~~ over the internet; a licensed retail marijuana store may only sell marijuana or marijuana product to a consumer who is physically present on the licensed premises;

~~(5)(6)~~ after the expiration date shown on the label of the marijuana or marijuana product.

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Adds selling to persons under the influence and rennumbers.

### Rationale:

This should be added for obvious public safety concerns. It would bring more accountability to a retailer. I believe this was an oversight not to have been added earlier. It also would bring it more in line with AS 04.16.030.

## #3- Amend labeling requirements

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

(1) ~~(1)~~ each soil amendment, fertilizer, and other crop production aid applied to the growing medium or marijuana plant included in the batch, ~~including any pesticide, herbicide, or fungicide that was used~~

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Include tracked change.

### Rationale:

This gives a more complete picture of what is in the marijuana which is both useful to the retailer and consumer.

## #4- Revise seizure provisions

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

or any marijuana product from a licensed or previously 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(a)(4); or

(3) ~~(3)~~ any marijuana or marijuana product that is not properly packaged and labeled as provided in 3 AAC 306.465 and 3 AAC 306.470 or 3 AAC 306.565 and 3 AAC 306.570.

(4) not renewed its license per the requirements set forth in 3 AAC 306.035

Add tracked changes.

Rationale:

There is certain to be times that a business does not renew and there is still marijuana or marijuana product that is on site. The only other option to a civil seizure under this chapter is to charge the licensee with criminal possession with intent to distribute.

#### #4- Require GPS coordinates

**3 AAC 306.020. Application for new license. (b)** (8) the address of the premises to include GPS coordinates 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;

Rationale:

This is especially important for cultivation facilities that are outdoors and off the grid. This will facilitate finding the locations in areas where street numbering is lacking.

#### #5 Clarify kitchen provisions

**3 AAC 306.510 (a) (5)** ~~operate in a location that is a retail or wholesale food establishment.~~

Operate at a location that processes, packages, stores, distributes, offers for sale, or serves food for human consumption that does not contain marijuana or marijuana concentrate as an ingredient.

Rationale:

This needs to be more clearly defined.

#### #6 Clarify testing program

**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 marijuana testing facility license to participate successfully in a proficiency testing program within 12 months before

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receiving a license. The proficiency testing program must require an applicant for a marijuana testing facility license or a participating licensed marijuana testing facility to analyze test samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment that will be used for product testing. Successful participation means the positive identification of 100 percent of the target analytes that the testing facility reports, and must include successful quantitative results minimally 80 percent of the time, when applicable.~~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.

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Rationale:

There needs to be a higher standard.

#### #7- Clarify operating manual for testing facilities

**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; for each matrix that will be tested.
- (2) reagent, solution, and reference standard preparation;
- (3) instrument setup, where applicable;
- (4) standardization of volumetric reagent solutions, as applicable;
- (5) data acquisition; and
- (6) calculation of results.
- (7) Identification criteria
- (8) QC frequency
- (9) QC acceptance criteria
- (10) Corrective action protocol

Rationale:

A more complete set of procedures.

#### #8 Clarify testing standards

**3 AAC 306.645. Laboratory Testing of Marijuana and Marijuana Products (b)** (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**	< <u>4-.025</u> 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

Rationale:

Bring Benzene in line with what the State uses for soil samples.  
Remove reference to CO 605 rule.

**#9 Clarify waste disposal**

**3 AAC 306.655. Marijuana inventory tracking system.** ~~(b) When a marijuana testing facility completes any testing, use, or research, it shall immediately 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 disposal of the sample using its inventory control system.~~

Rationale:

This section should be deleted because it is in conflict with requiring three day's notice before disposal in 3 AAC 306.740 (c) (1) and compliance should be gained through the tracking in (a) of this section.

**#10 Clarify definitions**

**3 AAC 306.990. Definitions. (b) (20)** "in-house testing"

(A) means laboratory testing as provided in 3 AAC 306.635;

(B) does not include consumption of any marijuana or marijuana product on the licensed premises;

~~(C) does not meet the requirements of 3 AAC 306.645~~

Rationale:

So as not to confuse this with required testing under 3 AAC 306.645

**3 AAC 306.990. Definitions (b) (28)** "Marijuana Infused Product" means a product that contains marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused product" does not include useable marijuana.

Add this definition after "Marijuana Product" and renumber the following defined terms.

Rationale:

This is not a common term and therefore should be defined.

#### #11 Add to license restrictions

**3 AAC 306.010. License restrictions.** (c) (2) has been found guilty of  
(A) selling alcohol without a license in violation of AS 04.11.010; or  
(B) selling alcohol to a minor in violation of AS 04.16.051 or AS 04.16.052; or  
(C) a misdemeanor crime involving controlled substances, violence against a person, a weapon, or dishonesty within the proceeding five years.

Rationale:

This is a good way to insure that these regulations will be followed.

**3 AAC 306.010. License restrictions.** (a) The board will not issue a marijuana establishment license if the licensed premises will be located within 1000 feet of a school, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility.

Rationale:

This makes it consistent with the 3AAC 306.360 (c) (1). It is just as or more important that the actual establishment be this far from the sensitive areas as the signage.

#### #12 Shorten operating hours at retail stores

**3 AAC 306.310. Acts prohibited at retail marijuana store.** (b) A licensed retail marijuana store may not

- (1) conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises between the hours of 10:00 a.m. and 11:00 p.m. each day;

Rationale:

This is more in line with regular business hours. This is an industry that we should move slowly with and not allow such liberal hours.

#### #13- Add to labeling requirements

Labeling in sections **3 AAC 306.345 (b) (2) (A-E)**

**.475 (a) (1-5)**

**.570 (c) (4) (A-E)**

"Marijuana has intoxicating effects and may be habit forming and addictive;"

"Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"

"There are health risks associated with consumption of marijuana;"

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

"Marijuana should not be used by women who are pregnant or breast feeding

Rationale:

The language needs to be strengthened based on research in the New England Journal of Medicine and other places.

#### **#14 Add provisions to reasons for suspension and revocation**

**3 AAC 306.810. Suspension or revocation of license.** (a) The board will suspend or revoke a marijuana establishment license issued under this chapter if any licensee is convicted of a felony or a crime listed in 3 AAC 306.010 (c) (2), or if the board becomes aware that a licensee did not disclose a previous felony conviction or a conviction of a crime listed in 3 AAC 306.010 (c) (2) .

#### **Rationale:**

If these crimes prevent a person from getting a license than they certainly should be added as those that would cause a suspension or revocation.

## Emmett's Amendment #1

AAC 306.015 Licensing 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, to a corporation, or to a local government. 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, **unless information required by the board, such as, but not limited to, that persons name and address is provided in the license application.**

(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 at least **seventy-five percent (75%) of the partners or ownership** interest are held by residents of the state.

(3) a limited liability company, unless the LLC is qualified to do business in the state and at **least seventy five percent (75%) of the members and ownership interest are held by residents of the state.**

(4) a corporation, unless the corporation is qualified to do business in the state and at **least seventy five percent (75%) of the shareholders and ownership interest are held by residents of the state.**

Add subsection (f):

(f) **Any partner or ownership of the proposed marijuana establishment and not a resident of the state must agree to provide any and all information requested by the Marijuana Control Board, including name, address, date of birth, complete set of fingerprints and written permission to authorize the State to forward the fingerprints to the Marijuana Control Board for submission to the Federal Bureau of Investigation for its report. Cost of such report shall be paid for by on behalf of the marijuana establishment.**

JONE'S AMENDMENT:

The amendment I would offer is to add back in the following:

Language was taken out earlier and this would add it back but leaving out the issue of "adjacent".

*[It would look like this, but perhaps the numbering would be different since the numbering was changed when the board removed the provision on August 11-CF]*

306.010(b)

(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.

AMENDMENTS BROUGHT FORWARD BY VIRGINIA/HARRIET/STAFF

Proposed amendments to Oct 1, 2015 draft regulations (November 15, 2015)

1. p. 4. 3 AAC 306.010(c)(3) replace language of paragraph 3 in Oct 1 draft with the following:

(3) has been convicted of a class A misdemeanor within two years of submitting an application, relating to selling, furnishing, or distributing marijuana or operating an establishment where marijuana is consumed contrary to state law.

2. p. 7. 3 AAC 306 .020(b)(1) Remove EIN

3. p. 3 AAC 306.230. Procedure for local option elections. Replace this entire section with the following language.:

When it receives a petition to adopt, change, or remove a local option under 3 AAC 306,200 3 AAC 306.220, the local government shall conduct the election in compliance with the initiative process under the local government's election ordinances and regulations and the applicable provisions of AS 29.

4. Remove tax payment provisions in the following paragraphs or subsections because tax isn't due until a month after marijuana is sold.

3 AAC 306.310(c)

3 AAC 306.405(c)(6)

3 AAC 306.415(c)(5)

3 AAC 306.480(c)

3 AAC 306.510(d)

5. p. 16. 3 AAC 306.035(g) Delete last sentence of (g) which reads:

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 application contains proof satisfactory to the board of good cause for the failure to file a license renewal application,.

6. p. 22. 3 AAC 306.070. Shorten the last sentence of this section to specify the statutory due process requirement instead of additional details.

The director will send notice of a hearing **under this section as provided in AS 44.62.** [NOT LATER THAN 20 DAYS BEFORE THE HEARING DATE 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 BOARD WILL HOLD THE HEARING IN THE AREA WHERE THE PROPOSED LICENSED PREMISES ARE LOCATED, OR WILL ARRANGE FOR TELEPHONIC APPEARANCE. ]

7. p. 36 3 AAC 306.305(4) with approval of the board, (to be developed in a later regs project) p. \_\_\_\_\_Retail license endorsement. See Bruce's amendment.

8. p. 37. 310(3)(B) add "marijuana product" so this section would read:

(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; or

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

9. p. 42 3 AAC 306.355(a)(1) replace undefined term "usable" marijuana with the following:

(1) one ounce of marijuana bud and flower

10. Remove references to federal regulations in

3 AAC 306.470(d),

3 AAC 306.475(c) and

3 AAC 306.570.

11. p. 68. 3 AAC 306.510(a)(5) add language as follows:

(5) operate in a location that is a retail or wholesale food establishment that is subject to the requirements of

(A) AS 17.20 and 18 AAC 31(Alaska food Code); and

(B) any food safety ordinances and regulations of a Municipality with authority delegated under AS 17.20.072 and 18 AAC 31.945.

12. p. 69. 3 AAC 306.520(1) Add the following language



An applicant for a marijuana product manufacturing facility license, including a marijuana concentrate manufacturing facility, must file an application on a form the board prescribes, and provide the information required under 3 AAC 306.020 and the following:

(1) a copy of a food safety permit if required under 18 AAC 31.020 **from the Department of Environmental Conservation or a municipality with authority delegated under AS 17.20.072 and 18 AAC 31.945;**

13. p. 89. 3 AAC 306.635(b). Revise as follows:

(b) An applicant for a marijuana testing facility license and the holder of a marijuana testing facility license must **observe good laboratory practices.** [BE FAMILIAR WITH, AND TO THE EXTENT POSSIBLE, INTEGRATE INTO THE FACILITY'S OPERATIONS THE GOOD LABORATORY PRACTICES SET OUT IN THE FOLLOWING MATERIALS, HEREBY ADOPTED BY REFERENCE

(1) 21 C.F.R. 58, AS REVISED AS OF DEC. 22, 1978; AND

(2) *PRINCIPLES OF GOOD LABORATORY PRACTICE AND COMPLIANCE MONITORING* PUBLISHED BY THE ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD), AS REVISED AS OF 1999. ]

14. p. 132. Definition of "in public"

3 AAC 304.990 is repealed and readopted to read:

3 AAC 306.990(a)

(6) "in public"

(A) means in a place to which the public or a substantial group of persons has access;

(B) except as provided in (C) of this paragraph, includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence;

(C) does not include an area on the premises of a licensed marijuana retail store designated for on-site consumption under 3 AAC 306.305. (Eff. 2/24/2015, Register 213; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.040 AS 17.38.090

Editor's note: The definition of "in public" set out in 3 AAC 306.990 was originally adopted as an emergency regulation with the designation 3 AAC 304.990(b) , and with an effective date of February 24, 2015. The emergency regulation appears as 3 AAC 304.990(b) in Register 213 (April 2015) and Register 214 (July 2015). When the emergency regulation appeared as a permanent regulation in Register 215 (October 2015), the regulations attorney in accordance with AS 44.62.125 (b)(6) reassigned the provision to 3 AAC 306.990. The history of 3 AAC 306.990 reflects the effective date of the Alcoholic Beverage Control Board's emergency adoption of the definition of "in public."

Schulte's Proposed amendments by article

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1) Offset distances for licensed businesses

Section 306.010

2) Limited out-of-state investment

Section 306.015

3) Onsite consumption endorsement

Section 306.305 / 306.310

4) Sale of non-cannabis merchandise

Section 306.310 (b)(3)(B)

5) Marijuana Handler Card in possession

Section 306.320 / 306.425 / 306.530

6) Marijuana Handler Card requirement and process

Section 306.320 / 306.425 / 306.530 / 306.700

7) Limits on quantity of edible products

Section 306.345 / 306.355

8) Distribution of branded merchandise

Section 306.360 (d)

9) Clarification of advertising restrictions

Section 306.360

10) Clarification of marketing restriction

Section 306.360

11) Allow brokers greater latitude to transact with different businesses

Section 306.400

12) Make Broker optional for limited cultivators

Section 306.410 (A) (3)

13) Testing requirements – Alternate means and methods

Section 306.455 / 306.550

14) Comprehensive packaging policy

Section 306.345 / 306.470 / 306.565 / 306.570

15) Allow manufacturing in existing retail & wholesale food locations

Section 306.510 (a) (5) / 306.545

16) Allow for sale of refrigerated products

Section 306.510

17) Revise 76% potency limit on extracts

Section 306.525 (a) (1)

18) Single serving potency limit

Section 306.560 (a)(1)

19) Single serving potency limit (medical card holder)

Section 306.560

20) Clarification of test failure parameters

Section 306.645

21) Remove prohibition on Marijuana Clubs

Section 306.900

Resolutions

1) Support for different tax on trim and flower

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Amendment #: B-1 – Revision to offset distance from other facilities

Description: Revision to required offset distance for licensed marijuana businesses

Introduction: Current draft requirements call for a minimum 500-foot separation between any marijuana business and a school, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility.

Public feedback indicates that in some communities, a 500-foot blanket offset could have the effect of barring all marijuana businesses from the community.

The boards' decision to require a 500-foot separation from schools is supported by Alaska criminal statutes which define a 500-foot drug-free zone around schools.

However, there is no such statute to support a 500-foot setback from a building in which religious services are regularly conducted nor are churches mentioned in the Cole Memo. At least one community, Fairbanks, has adopted a local offset from churches of only 100 feet.

This amendment would reduce the offset requirement from buildings in which religious services are conducted to 200 feet. This amendment preserves the 500-foot offset from schools, recreation or youth center, or correctional facilities.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-1 – Revision to offset distance from other facilities

Amended text:

**3 AAC 306.010. License restrictions.** (a) The board will not issue a marijuana establishment license if

the licensed premises will be located within 500 feet of a school, a recreation or youth center, **or a correctional facility, or within 200 feet of** 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 school, recreation or youth center, or 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 school, recreation or youth center, or the correctional facility began use of a site within 500 feet, or the building in which religious services are regularly conducted,[OR THE CORRECTIONAL FACILITY] began use of a site within **200** [500] feet.

If an existing marijuana establishment license for premises located within 500 feet of a school, a recreation or youth center, [A BUILDING IN WHICH RELIGIOUS SERVICES ARE REGULARLY CONDUCTED], or a correctional facility, **or within 200 feet of a building in which religious services are regularly**

**conducted** is revoked, or expires, the board will not issue another marijuana establishment license for the same premises unless the school, the recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility no longer occupies the site within 500 feet.

(b) The board will not issue a marijuana establishment license when a local government protests an application under 3 AAC 306.060 on the grounds [THAT] that the applicant's proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the marijuana establishment, unless the local government has approved a variance from the local ordinance.

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

- (1) 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(b)(2) 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) has been found guilty of
  - (A) selling alcohol without a license in violation of AS 04.11.010; or
  - (B) selling alcohol to a minor in violation of AS 04.16.051 or AS 04.16.052; or
- (3) operated a marijuana delivery service, a marijuana club, or a marijuana establishment illegally without a license issued under this chapter, or otherwise violated AS 17.38, during the two years before the date the person files the application, unless the board finds that person has diligently worked with the board to comply with all current laws and regulations relating to marijuana.

Amendment #: B-2 – Allowing for limited outside investment

Description: Allowing for limited outside investments

Introduction: Current draft regulations require 100% Alaska-based controlling interest in any marijuana business.

Public feedback suggests a desire for at least limited out-of-state investment so that licensed businesses can pursue investment funds that might not be available within Alaska.

This amendment seeks to expand the list of potential investment sources while maintaining the ability to conduct thorough background checks on outside investors.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-2 – Allowing for limited outside investment

Amended text:

**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, to a corporation, or to a local government. 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 **seventy-five percent (75%) of the partners or ownership interest are held by residents of the state.** [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 **at least seventy-five percent (75%) of the members and ownership interest are held by residents of the state.** [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 **at least seventy-five (75%) of the shareholders and ownership interest are held by residents of the state.** [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 its licensed premises at all

times, and may not lease its 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 must submit a new line drawing showing the proposed changes to the premises, and must obtain the board's written approval. A marijuana establishment may not relocate its licensed premises to a different place. A marijuana establishment that proposes to operate in any new premises must apply for a new marijuana establishment license.

(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) a legal or equitable interest in the operation of a business licensed under this chapter;

(B) does not include a person's right to receive

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

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

#### Amendment #: B-2 – Allowing for limited outside investment

(2) "resident of the state" means a person who meets the residency requirement under AS 43.23 for a permanent fund dividend in the calendar year in which that person applies for a marijuana establishment license under this chapter.

**(f) Any partner or ownership of the proposed marijuana establishment and not a resident of the state must agree to provide any and all information requested by the Marijuana Control Board, including name, address, date of birth, complete set of fingerprints and written permission authorizing the State to forward them to the Federal Bureau of Investigation for its report.**

#### Amendment #: B-3 – Onsite Consumption Endorsement

Description: Revision to allow optional onsite consumption endorsement for retail licensees

Introduction: Current draft requirements prohibit onsite consumption of marijuana. There has been extensive feedback from the public and from local governments that the MCB make allowances for some sort of licensed facility.

This amendment seeks to create an optional license endorsement for licensed Retail Marijuana Stores that would allow onsite consumption in designated areas of the licensed premises. The amendment includes conforming changes to Article 9 "Definitions".

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

#### Amendment #: B-3 – Onsite Consumption Endorsement

Amended text:

**3 AAC 306.305. Retail marijuana store privileges.** (a) A licensed retail marijuana store is authorized to

(1) sell marijuana purchased from a licensed marijuana cultivation facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.470, and 3 AAC 306.475 in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises for

consumption off the licensed premises;

(2) sell a marijuana product purchased from a licensed marijuana product manufacturing facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.565, and 3 AAC 306.570, in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises. [FOR CONSUMPTION OFF THE LICENSED PREMISES];

(3) store marijuana and marijuana products on the licensed premises in a manner consistent with 3 AAC 306.710 – 3 AAC 306.720.

**(4) with prior approval of the board, permit consumption of marijuana and marijuana products purchased on the licensed premises, in a designated area on the licensed premises.**

(b) This section does not prohibit a licensed retail store from refusing to sell marijuana or marijuana product to any consumer.

#### Amendment #: B-3 – Onsite Consumption Endorsement

**3 AAC 306.310. Acts prohibited at retail marijuana store.** (a) A licensed retail marijuana store may not sell, give, distribute, 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 306.345, and in 3 AAC 306.470 and 3 AAC 306.475 or 3 AAC 306.565 and 3 AAC 306.570;

(3) in a quantity exceeding the limit set out in 3 AAC 306.355;

(4) over the internet; a licensed retail marijuana 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.

(b) A licensed retail marijuana store may not

(1) conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises between the hours of 5:00 a.m. and 8:00 a.m. each day;

(2) allow any person to consume marijuana or any marijuana product on the retail marijuana store's licensed premises **except as provided in 3 AAC 306.305(a)(4)**;

(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; or

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

(c) A retail marijuana 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.

#### Amendment #: B-3 – Onsite Consumption Endorsement

**3 AAC 306.990. Definitions.** (a) In AS 17.38 and this chapter, "in public"

(A) means in a place to which the public or a substantial group of persons has access [AND INCLUDES HIGHWAYS, TRANSPORTATION FACILITIES, SCHOOLS, PLACES OF AMUSEMENT OR BUSINESS, PARKS, PLAYGROUNDS, PRISONS, AND HALLWAYS, LOBBIES, AND OTHER PORTIONS OF APARTMENT HOUSES AND HOTELS NOT CONSTITUTING ROOMS OR APARTMENTS DESIGNED FOR ACTUAL RESIDENCE];

**(B) except as provided in (C) of this paragraph, includes highways, transportation facilities,**

**schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence;**

**(C) does not include an area on the premises of a licensed marijuana retail store designated for on-site consumption under 3 AAC 306.305.**

Amendment #: B-4 – Sale of non-cannabis products

**Description:** Allowing for the sale of non-cannabis products on licensed premises

**Introduction:** Draft regulations prohibit the sale of any consumable product other than marijuana. The rationale was that customers or inspectors might be unable to distinguish between infused and noninfused products or that individuals under the age of 21 might be confused as to the content of a product in the store.

Sections of these regulations require that all marijuana and marijuana-infused products be labelled with their THC or CBD potency and with several other warnings on the label. Thus, it should be clear which products are infused and which are not. Other sections stipulate that persons must be 21 or older to enter a licensed premise, thus it seems unlikely that anyone under the age of 21 would be in a position to view the products or to be confused by non-infused products. Additional restrictions stipulate that licensees may not adulterate products – by infusing familiar products with THC, further ensuring a distinction between infused and non-infused products.

Prohibiting licensees from selling non-cannabis products in order to supplement their revenue would pose an unreasonable restriction on commerce while gaining little in the way of public safety or welfare. Current federal tax codes make it extremely difficult for licensees to deduct costs associated with their business. Allowing them to sell other goods could help them moderate the negative effects of those tax codes.

This amendment seeks to remove this obstacle to commerce and allow licensed businesses to sell additional products just as alcohol stores, tobacco stores and others are able to. This amendment preserves the prohibition on the sale of alcoholic beverages on licensed premises.

**Note:**

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-4 – Sale of non-cannabis products

**Amended text:**

**3 AAC 306.310. Acts prohibited at retail marijuana store.** (a) A licensed retail marijuana store may not sell, give, distribute, 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 306.345, and in 3 AAC 306.470 and 3 AAC 306.475 or 3 AAC 306.565 and 3 AAC 306.570;

(3) in a quantity exceeding the limit set out in 3 AAC 306.355;

(4) over the internet; a licensed retail marijuana 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.

(b) A licensed retail marijuana store may not

(1) conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises between the hours of 5:00 a.m. and 8:00 a.m. each day;

(2) allow any person to consume marijuana or any marijuana product on the retail marijuana 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; or
- (B) [A CONSUMABLE PRODUCT OTHER THAN MARIJUANA, INCLUDING CIGARETTES, TOBACCO PRODUCTS,] alcoholic [OR NON ALCOHOLIC] beverages, [OR FOOD,] free or for compensation.
- (c) A retail marijuana 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.

#### Amendment #: B-5 – Marijuana Handler Card in Possession

Description: Allowing for marijuana handler card to be on-file on the licensed premises.

Introduction: Draft regulations require that individuals have their marijuana handlers card on their person when on the licensed premises.

While this requirement seems reasonable on the surface, it could have the effect of causing someone to miss a days' work merely because their handlers card was misplaced, lost or damaged. It could also lead to wasted time and confusion when inspectors are onsite and have to verify credentials with their office.

Similar requirements for Alcohol businesses allow a copy of the credentials to be kept onsite for reference (3 AAC 304.465).

This amendment seeks to allow licensees to keep a copy of each employees' card on-file, on the licensed premises for review upon request.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

#### Amendment #: B-5 – Marijuana Handler Card in Possession

Amended text:

**3 AAC 306.320. Marijuana handler permit required.** A retail marijuana store shall ensure that

(1) each licensee, employee, or agent obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed or employed at a retail marijuana store; and

(2) each licensee, employee, or agent has that person's marijuana handler permit card in that person's immediate possession, **or a valid copy on file on the premises**, when on the licensed premises of the retail marijuana store.

**3 AAC 306.425. Marijuana handler permit required.** A marijuana cultivation facility must ensure that each licensee, employee, or agent

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana cultivation facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession **or a valid copy on file on the premises**, at all times while on the marijuana cultivation facility's licensed premises.

**3 AAC 306.530. Marijuana handler permit and food safety worker training.** (a) A marijuana product manufacturing facility shall ensure that each licensee, employee, or agent

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana product manufacturing facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession **, or a valid copy on file on the premises**, at all times while on the marijuana product manufacturing facility's licensed premises.

(b) A licensee, employee, or agent of a licensed marijuana product manufacturing facility who handles marijuana at the 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.

#### Amendment #: B-6 – Marijuana Handler Card requirements and process

Description: Amends regulations to require marijuana handlers cards only for employees and agents who are handling marijuana on licensed premises.

Introduction: Draft regulations require a marijuana handlers card for every licensee, employee and agent. However, it's likely that some licensees will not actually be part of daily operations on the licensed premises and therefore would not need the training required to obtain the handlers card.

This amendment seeks to amend the regulations so that only licensees, employees and agents who have business on the licensed premises are required to obtain a marijuana handlers card. It further removes the requirement that an applicant provide a criminal justice report along with the application.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

#### Amendment #: B-6 – Marijuana Handler Card requirements and process

Amended text:

**3 AAC 306.320. Marijuana handler permit required.** A retail marijuana store shall ensure that

(1) each licensee, employee, or agent **who is required or permitted to be physically present on the licensed premises at any time** obtains a marijuana handler permit as provided in 3

AAC 306.700 before being licensed or employed at a retail marijuana 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 retail marijuana store.

**3 AAC 306.425. Marijuana handler permit required.** A marijuana cultivation facility must ensure that each licensee, employee, or agent **who is required or permitted to be physically present on the licensed premises at any time**

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana cultivation facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession at all times while on the marijuana cultivation facility's licensed premises.

**3 AAC 306.530. Marijuana handler permit and food safety worker training.** (a) A marijuana product manufacturing facility shall ensure that each licensee, employee, or agent **who is required or permitted to be physically present on the licensed premises at any time**

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana product manufacturing facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession at all times while on the marijuana product manufacturing facility's licensed premises.

(b) A licensee, employee, or agent of a licensed marijuana product manufacturing facility who handles marijuana at the 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.

Amendment #: B-6 – Marijuana Handler Card requirements and process

**3 AAC 306.700. 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 consumer 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 material, 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 consumption of marijuana and marijuana products;
- (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 described under (b) of this section shall present the course completion certificate[, ALONG WITH A REPORT OF CRIMINAL JUSTICE INFORMATION OBTAINED FROM THE DEPARTMENT OF PUBLIC SAFETY UNDER AS 12.62.160] 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 in that person's immediate possession when on the licensed premises of the retail marijuana store.

(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.

Amendment #: B-07 – Revise limits on sale of edible products

Description: Revises the limits on edible products that may be sold in a retail store

Introduction: Draft regulations place limits on the quantity of edible products that may be sold in a retail store. While this strategy makes some sense, the actual values stated are open to challenge. This amendment seeks to apply a more rigorous methodology to the setting of these limits.

One place to start is with the voter initiative itself which places a limit of 1-ounce of marijuana in personal possession. If we assume a 20% THC potency of high-grade flower, that equates to approximately 5,600mg THC which is an amount perfectly legal to have in ones' possession. If we take that as a baseline and compare it to infused products, one can see a broad disparity between total weight and the amount of THC contained within.

3.5oz (100g) Chocolate bar → 50-100mg THC

1g Lozenges → 5-10mg THC

11.5 fluid oz Infused beverage → 10-100mg THG

16 oz bread loaf → 50-100mg THC

Rather than apply limits based on the weight of the finished product(s). It makes more sense to

limit a retail transaction to the total amount of THC contained in all products.

This amendment seeks to bring a more rational basis to limits on retail sales by limiting the total quantity of THC in all products rather than attempting to interpolate equivalent values in numerous, different products.

Public feedback was uniformly in support of changing these limits

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-07 – Revise limits on sale of edible products

Amended text:

**3 AAC 306.345. Packaging and labeling.** (a) A retail marijuana store shall assure that

(1) any marijuana sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475, except that 3 AAC 306.470(b)(2) does not apply to the packaging of wholesale flower and bud sold by weight to a consumer; and

(2) any marijuana product sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.565 and 3 AAC 306.570, except that 3 AAC 306.565(b)(2) does not apply to the packaging of wholesale marijuana products that are not edible marijuana products.

(b) In addition to labeling requirements provided in (a) of this section, a retail marijuana store shall affix a label to each package of marijuana or marijuana product that

(1) identifies the marijuana retail store selling the marijuana product by name or distinctive logo and marijuana establishment license number; and

(2) contains the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming;"

(B) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"

(C) "There may be health risks associated with consumption of marijuana;" and

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

(E) "Marijuana should not be used by women who are pregnant or breast feeding."

**(3) States the total estimated amount of THC contained in the labelled product**

**3 AAC 306.355. Limit on quantity sold.** (a) A licensed retail marijuana 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].

**(3) Marijuana or marijuana products containing more than 5600 milligrams of THC**

Amendment #: B-8 – Sale of branded merchandise

Description: Allowing for the distribution of branded merchandise

Introduction: Draft regulations prohibit the distribution of branded-merchandise for marketing purposes. In any successful consumer business one key to success lies in establishing a unique identity in the marketplace. Branded merchandise does that.

Branded merchandise in the alcohol industry is fairly common and has not been shown to be counter to public welfare.

Banning of branded merchandise offers little in the way of public welfare and places an unnecessary restriction to commerce on licensed businesses.

This amendment seeks to remove the prohibition on branded merchandise.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-8 – Sale of branded merchandise

Amended text:

**3 AAC 306.360. Restriction on advertising of marijuana and marijuana products.** (a) A retail marijuana store may have no more than three signs, visible to the general public from the public right of way, that identify the store by its business name. A sign may be placed in the store's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4800 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 appeal to a child or other person under the age of 21, that promotes consumption of marijuana.

(c) A retail marijuana store may not place an advertisement for marijuana or a marijuana product, except as provided in (a) of this section,

- (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;
- (4) within 1000 feet of a substance or treatment facility; or
- (5) on a college campus.

(d) A retail marijuana 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:

- (1) "Marijuana has intoxicating effects and may be habit forming;"
- (2) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"
- (3) "There may be health risks associated with consumption of marijuana;" and
- (4) "For use only by adults twenty-one and older. Keep out of the reach of children"
- (5) "Marijuana should not be used by women who are pregnant or breast feeding."

Amendment #: B-9 – Clarification of marketing restriction

Description: Clarify allowable distance of marketing from schools

Introduction: Draft regulations include a 500-foot offset between a marijuana business and a school but 1,000-feet of separation for any form of marketing or signage. This would effectively require that a retail store could not post anything in their own windows even if they were more

than the minimum 500 feet from a school but less than 1,000 feet.

This amendment seeks to bring the advertising restriction into line with the 500-foot drug-free zone and to revise the terminology for offset distances to match what is used elsewhere in the regulations.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-9 – Clarification of marketing restriction

Amended text:

**3 AAC 306.360. Restriction on advertising of marijuana and marijuana products.** (a) A retail marijuana store may have no more than three signs, visible to the general public from the public right of way, that identify the store by its business name. A sign may be placed in the store's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4800 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 appeal to a child or other person under the age of 21, that promotes consumption of marijuana.

(c) A retail marijuana store may not place an advertisement for marijuana or a marijuana product, except as provided in (a) of this section,

(1) within [ONE THOUSAND] **five hundred** feet of the perimeter of **a school, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility.** [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;

(4) within [ONE THOUSAND] **five hundred** feet of a substance [OR] **abuse** treatment facility; or

(5) on a college campus.

(d) A retail marijuana 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:

- (1) "Marijuana has intoxicating effects and may be habit forming;"
- (2) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"
- (3) "There may be health risks associated with consumption of marijuana;" and
- (4) "For use only by adults twenty-one and older. Keep out of the reach of children"
- (5) "Marijuana should not be used by women who are pregnant or breast feeding."

Amendment #: B-10 – Clarification of advertising requirements

Description: Clarification of requirements for print, radio, or television advertising

Introduction: Draft regulations require the same five warnings for advertising as are required for warning labels on marijuana products. Those warning labels are intended to educate an individual who has purchased or is about to purchase a marijuana product. Advertising is distinctly different in that it is primarily intended to make the public aware that a retail establishment exists and where it is located.

It appears that the text for this section was mistakenly copied from the section that addresses labelling of retail marijuana products.

This amendment seeks to correct an apparent drafting error and bring advertising guidelines in line with other regulated substances by requiring the most important public-safety warnings that a non-customer would need to know without imposing burdensome requirements on licensed businesses.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-10 – Clarification of advertising requirements

Amended text:

**3 AAC 306.360. Restriction on advertising of marijuana and marijuana products.** (a) A retail marijuana store may have no more than three signs, visible to the general public from the public right of way, that identify the store by its business name. A sign may be placed in the store's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4800 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 appeal to a child or other person under the age of 21, that promotes consumption of marijuana.

(c) A retail marijuana store may not place an advertisement for marijuana or a marijuana product, except as provided in (a) of this section,

- (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;
- (4) within 1000 feet of a substance or treatment facility; or
- (5) on a college campus.

(d) A retail marijuana 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:

- (1) "For adult use only, twenty-one and older."[MARIJUANA HAS INTOXICATING EFFECTS AND MAY BE HABIT FORMING;"]
- (2) "**Do not operate a vehicle or machinery after consuming marijuana.**"[MARIJUANA CAN IMPAIR CONCENTRATION, COORDINATION, AND JUDGMENT. DO NOT OPERATE A VEHICLE OR MACHINERY UNDER ITS INFLUENCE;"]
- (3) "THERE MAY BE HEALTH RISKS ASSOCIATED WITH CONSUMPTION OF MARIJUANA;" AND
- (4) "FOR USE ONLY BY ADULTS TWENTY-ONE AND OLDER. KEEP OUT OF THE REACH OF CHILDREN"
- (5) "MARIJUANA SHOULD NOT BE USED BY WOMEN WHO ARE PREGNANT OR BREAST FEEDING."]

Amendment #: B-11 – Allow Brokers greater latitude

Description: Allow Marijuana Brokers to transact with a broader range of licensees.

Introduction: Draft regulations limit business interaction of a Marijuana Broker to purchasing from a limited cultivator and selling to a retail store.

There has been significant public input asking that the role of the broker be less restricted and to allow such a business to purchase from any type of cultivator and to sell to any processor or retail store.

This amendment seeks to broaden the allowable interaction of the Marijuana Broker license while preserving the requirements for testing and payment of tax.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-11 – Allow Brokers greater latitude

Amended text:

**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, or 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 acting for 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;
  - (2) a limited marijuana cultivation facility license to a person operating a marijuana cultivation facility with fewer than 500 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 a [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 must

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

306.420; and

(2) demonstrate to the board's satisfaction that it will operate in compliance with

(A) each applicable provision of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

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

Amendment #: B-11 – Allow Brokers greater latitude

**3 AAC 306.405. Standard marijuana cultivation facility: 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, **to a marijuana broker**, or to a licensed marijuana product manufacturing facility;

(3) provide samples to a licensed marijuana testing lab for testing;

(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 306.730;

(5) transport marijuana in compliance with 3 AAC 306.750;

(6) conduct in-house testing for the marijuana cultivation facility's own use;

(7) provide marijuana samples to a licensed retail marijuana store, **a marijuana broker**, or marijuana product manufacturing facility for the purpose of negotiating a sale.

(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 or retail marijuana store operation in a room completely separated from the cultivation facility by a secure door when co-located; and

(2) comply with each provision of this chapter that applies 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 odor of the marijuana;

(4) except as permitted under a marijuana product manufacturing facility license, extract marijuana concentrate, using any process described in 3AAC 306.555, at the licensed premises;

(5) sell marijuana that is not packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475; or

(6) sell marijuana that has not been reported to the Department of Revenue with excise tax paid as required under AS 43.61.010 and AS 43.61.020.



Amendment #: B-11 – Allow Brokers greater latitude

**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 a licensed retail marijuana store, to another licensed marijuana cultivation facility, or to 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 the marijuana cultivation broker facility purchases from a [LIMITED] marijuana cultivation 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 each provision of this chapter that applies to any other type of marijuana establishment license that the cultivation broker facility has obtained.
- (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 306.470 and 3 AAC 306.475; or
  - (5) sell marijuana that has not been reported to the Department of Revenue with excise tax paid as required under AS 43.61.010 and AS 43.61.020.

Amendment #: B-12 – Make Brokers optional for a Limited Cultivator

Description: Allow Limited Cultivators to transact with a broader range of licensees.

Introduction: Draft regulations limit business interaction of a Limited Cultivator to selling only through a Marijuana Broker.

There has been significant public input asking that the Limited Cultivator have the option of selling directly to a marijuana processing facility or marijuana retail store.

This amendment seeks to broaden the options available to a Limited Cultivator by allowing them to sell their harvest to other licensed businesses. This amendment does not preclude a Limited Cultivator from transacting with a broker, nor does it remove the requirement that tax be paid on their crop.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-12 – Make Brokers optional for a Limited Cultivator

Amended text:

**3 AAC 306.410. Limited marijuana cultivation facility: 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 fewer than 500 square feet under cultivation;
- (2) provide marijuana samples to a licensed marijuana cultivation broker facility, **marijuana processing facility, or marijuana retail store** for the purpose of negotiating a sale;
- (3) sell marijuana only to a licensed marijuana cultivation broker facility, **marijuana processing facility, or marijuana retail store** with which the limited cultivation facility has a written agreement that

(A) assigns responsibility for

- (i) arranging transportation and testing by a licensed marijuana testing facility; and for

**(ii) filing of reports and payment of the excise tax as required under AS 43.61.010 and AS 43.61.020 for all marijuana that the limited marijuana cultivator sells; and**

**(iii) [(II)] 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 MARIJUANA CULTIVATION 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, **marijuana processing facility, or marijuana retail store** to provide these services:

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

(B) transport marijuana to a licensed marijuana testing facility, **marijuana processing facility, [OR THE] marijuana cultivation broker facility, or marijuana retail store** 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,

**[(4) SELL TO ANY MARIJUANA ESTABLISHMENT EXCEPT THROUGH A MARIJUANA CULTIVATION BROKER FACILITY; AND]**

(5) sell marijuana to **another marijuana licensee** [A MARIJUANA CULTIVATION BROKER FACILITY] without a written agreement [IN WHICH THE MARIJUANA CULTIVATION BROKER FACILITY AGREES TO] establishing responsibility for filing of each report and payment of excise tax [FILE EACH REPORT AND PAY THE EXCISE TAX] required under AS 43.61.010 and AS 43.61.020.

Amendment #: B-13 – Alternate testing methods.

**Description:** Allow for alternate testing methods.

**Introduction:** Draft regulations identify several specific tests that must be performed on marijuana and marijuana products. While it is appropriate and in the interest of public welfare to require such tests, there exists a set of conditions that make it practically impossible for some potential licensees to meet the requirement.

First, federal prohibition on the transport of marijuana, even within a state where it is legal makes it impossible for a licensee to regularly, and legally transport samples to a testing lab in another community.

Second, because of the relatively small market to be served and the cost of setting up a fullscale lab, it is possible that only one or two labs will be established within the state. One would expect that such labs will be located in larger communities with access to the road system in order to have a viable customer base. Thus Alaska’s rural communities, often accessible only by air will be effectively blocked from participating in a regulated marijuana industry.

In addition, testing equipment of all types tends to evolve as needs change. The testing of DNA samples which required considerable facilities and time just ten years ago, can now be reliably accomplished through the use of much smaller and cheaper equipment.

This amendment seeks to create an option for alternative methods of compliance, available only when no testing lab is accessible to community.

**Note:**

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-13 – Alternate testing methods.

**Amended text:**

**3 AAC 306.455. Required laboratory testing.** (a) Except as provided in (d) of this section, a marijuana cultivation facility shall provide a sample of each harvest batch 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.

(b) 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 a signed statement showing that each sample has been randomly selected for testing;

(B) provide the signed statement 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 306.750.

(c) 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 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 to the marijuana testing facility. 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.

**(e) When geographic location and transportation limitations make it unfeasible for a cultivation facility to transport testing samples to a lab, an applicant for licensure may propose alternative means of testing to meet the requirements of this code.**

Amendment #: B-13 – Alternate testing methods.

**3 AAC 306.550. Required laboratory testing.** (a) A marijuana product manufacturing facility shall provide a sample of each marijuana product manufactured at the facility to a licensed 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 a signed statement showing that each sample has been randomly selected for testing;

(B) provide the signed statement 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 in compliance with 3 AAC 306.750.

(c) After collecting and transporting a sample for testing, 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 production lot in a secure, cool, and dry location to prevent the marijuana product from becoming contaminated or losing its efficacy. The marijuana product manufacturing facility 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 records.

**(e) When geographic location and transportation limitations make it unfeasible for a manufacturing facility to transport testing samples to a lab, an applicant for licensure may propose alternative means of testing to meet the requirements of this code.**

Amendment #: B-14 – Comprehensive Packaging Policy

**Description:** Establish and articulate a comprehensive packaging policy

**Introduction:** Draft regulations identify multiple levels of packaging that strive to make every single retail item child-resistant at all times and all places but do not establish a clear strategy. The matter of child-safety cannot be over-stressed however, current regulations lack a specific strategy for achieving this in a practical manner.

This amendment seeks to define / strengthen a clear strategy for labelling and packaging as follows:

- Packages and products on display within a retail store may be transparent to allow

inspection by consumers

- All products / packages must be labelled per regulations
- Products already contained within opaque, child-resistant packaging need not be placed in another container. Products in transparent or non-child resistant packaging must be place in an exit package.
- All products must be in a child-resistant, re-sealable, opaque package upon exiting the retail store.

This amendment does not diminish or remove the requirement for child-resistant packaging as a customer leaves a retail store. Rather, it establishes a specific boundary beyond which the license holder can no longer control what a customer does with the products.

Regulations stipulate numerous warnings related to child safety and if a customer keeps their products in their child-resistant exit packaging then they will maintain that level of protection. However, as with guns, prescription drugs, alcohol, toxic cleaners and fuels, the individual is ultimately responsible for ensuring a safe home environment for their children and no amount of regulation can change that fact.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-14 – Comprehensive Packaging Policy

Amended text:

**3 AAC 306.345. Packaging and labeling.** (a) A retail marijuana store shall assure that

(1) any marijuana sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475, except that 3 AAC 306.470(b)(2) does not apply to the packaging of wholesale flower and bud sold by weight to a consumer; and

(2) any marijuana product sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.565 and 3 AAC 306.570, except that 3 AAC 306.565(b)(2) does not apply to the packaging of wholesale marijuana products that are not edible marijuana products.

**(3) All marijuana products must be packaged in opaque, re-sealable, child-resistant packaging upon exiting the retail premises. Exit packaging must be designed or constructed in compliance with 16 C.F.R. 1700.01 – 1700.20, as amended Dec.30, 1983 to**

**be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly**

(b) In addition to labeling requirements provided in (a) of this section, a retail marijuana store shall affix a label to each package of marijuana or marijuana product that

(1) identifies the marijuana retail store selling the marijuana product by name or distinctive logo and marijuana establishment license number; and

(2) contains the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming;"

(B) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"

(C) "There may be health risks associated with consumption of marijuana;" and

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

(E) "Marijuana should not be used by women who are pregnant or breast feeding."

**(3) States the total estimated amount of THC contained in the labelled product**

Amendment #: B-14 – Comprehensive Packaging Policy

**3 AAC 306.470. Packaging of marijuana.** (a) A licensed marijuana cultivation facility, including a marijuana 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 C.F.R. 1700.01 – 1700.20, AS AMENDED DEC.30, 1983 TO BE SIGNIFICANTLY DIFFICULT FOR CHILDREN UNDER FIVE YEARS OF AGE TO OPEN; BUT NOT NORMALLY DIFFICULT FOR ADULTS TO USE PROPERLY. 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;

(3) BE OPAQUE SO THAT THE PRODUCT CANNOT BE SEEN WITHOUT OPENING THE PACKAGING MATERIAL.]

(c) Each package prepared in compliance with this section must be identified by a tracking 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) - (c) of this section within a sealed, tamper-evident shipping container;

(2) affixing a label in compliance with 3 AAC 306.475 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.

Amendment #: B-14 – Comprehensive Packaging Policy

**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 edible marijuana product produced by a marijuana product manufacturing facility [MUST BE DESIGNED OR CONSTRUCTED IN COMPLIANCE WITH 16 C.F.R. 1700.01 – 1700.20, AS AMENDED DEC. 30, 1983 TO BE SIGNIFICANTLY DIFFICULT FOR CHILDREN UNDER FIVE YEARS OF AGE TO OPEN; BUT NOT NORMALLY DIFFICULT FOR ADULTS TO USE PROPERLY. THE CONTAINER OR 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 not impart any toxic or damaging substance to the product;

[(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;

(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 C.F.R. 1700.01 – 1700.20, AS AMENDED DEC. 30, 198; AND]

(5) if the marijuana product contains multiple servings, the product itself must have markings or demarcations clearly delineating each serving of the product. For liquid marijuana products with multiple servings the packaging must indicate the number and size of individual servings.

(c) A licensed marijuana product manufacturing facility may transfer marijuana products that are not edible marijuana products to another licensed facility in wholesale packages not to exceed 5 pounds.

(d) Each packaged marijuana product must be identified by a tracking label generated by the marijuana product manufacturing facility's marijuana inventory control system.

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

(1) placing marijuana products within a sealed, tamper-evident shipping container;

(2) affixing a label that complies with 3 AAC 306.570(d) 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.

Amendment #: B-15 – Allow manufacturing in existing retail & wholesale food locations

Description: Allowing manufacturing in existing retail and wholesale food locations.

Introduction: Current draft regulations stipulate that kitchen facilities used for any other purpose (such as existing commercial kitchens that are no longer in regular, daily use or kitchens available for time-sharing or lease) may not be used to produce marijuana products. The rationale behind this was fear of cross-contamination from infused products to non-infused products.

Public feedback is overwhelmingly in support of being allowed to use existing kitchens to produce infused products.

The board has received oral and written testimony in support of dual-use kitchens. The arguments offered in support included:

1) Operators of commercial kitchens are well-versed in segregating not just fish and meats, which can produce bacteria if handled improperly but also such potentially toxic foods as shellfish and peanut oil. Procedures are well-established for handling such foods safely. It is worth pointing out that THC and CBD even in greater than trace amounts have never been shown to be toxic in the way that a simple peanut sauce can be.

2) Marijuana Processors are required under this code to hold a Food Handlers Permit so they will be familiar with the procedures necessary to maintain a sanitary kitchen.

3) Breweries around the state routinely handle different beverages without cross contamination.

4) There are numerous, commercial-grade kitchens around the state available for use. To require that a licensee build a new, dedicated kitchen to serve a fledgling industry would impose a significant financial obstacle.

This amendment seeks to allow and encourage the use of existing commercial facilities by removing the prohibition on their use to produce marijuana products.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-15 – Allow manufacturing in existing retail & wholesale food locations

Amended text:

**3 AAC 306.510. Acts prohibited at marijuana product manufacturing facility.** (a) A licensed marijuana product manufacturing facility, including a licensed marijuana concentrate 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) allow any person, including a licensee, employee, or agent, to consume marijuana, marijuana concentrate, or a marijuana product on its licensed premises;

(4) 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; and

[(5) OPERATE IN A LOCATION THAT IS A RETAIL OR WHOLESALE FOOD ESTABLISHMENT.]

(b) In this section, “closely resemble” or “look 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 marijuana product manufacturing facility may not accept any marijuana from a marijuana cultivation facility or another marijuana product manufacturing facility unless

(1) all marijuana in the shipment is properly identified with a label generated in the marijuana inventory tracking system of the licensed marijuana establishment that provided the marijuana; and

(2) a valid transport manifest showing the source and destination of the marijuana is attached to the shipment.

(d) 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 43.61.010 has been paid on that marijuana, the marijuana product manufacturing facility is liable for payment of the tax.

Amendment #: B-16 – Allow for refrigerated products

[Description:](#) Removes the prohibition on products that require refrigeration

[Introduction:](#) Draft regulations prohibit the sale of any marijuana products that require refrigeration. The stated reason for this prohibition was that products could spoil and if



consumers became ill from spoiled dairy or other infused products, it might reflect poorly on the marijuana industry in general.

This is a valid concern however, portions of these regulations also require a Food Handlers permit for the production and sale of such products. The training required for such a permit includes guidance on handling perishable foods and foods that require refrigeration. Any restaurant or retail store selling food faces the same challenges of keeping food fresh and safe yet most are able to follow good practices and keep food fresh until it's expiration date when it must then be discarded.

Public feedback was uniformly in opposition to this prohibition.

This amendment seeks to remove the prohibition on the production and sale of products that require refrigeration.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-16 – Allow for refrigerated products

Amended text:

**3 AAC 306.510. Acts prohibited at marijuana product manufacturing facility.** (a) A licensed marijuana product manufacturing facility, including a licensed marijuana concentrate 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) allow any person, including a licensee, employee, or agent, to consume marijuana, marijuana concentrate, or a marijuana product on its licensed premises;

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

(b) In this section, “closely resemble” or “look 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 marijuana product manufacturing facility may not accept any marijuana from a marijuana cultivation facility or another marijuana product manufacturing facility unless

(1) all marijuana in the shipment is properly identified with a label generated in the marijuana

inventory tracking system of the licensed marijuana establishment that provided the marijuana; and

(2) a valid transport manifest showing the source and destination of the marijuana is attached to the shipment.

(d) 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 43.61.010 has been paid on that marijuana, the marijuana product manufacturing facility is liable for payment of the tax.

#### Amendment #: B-17 – Remove cap on concentrates purity

**Description:** Removes the cap on concentrate potency

**Introduction:** Draft regulations impose a limit of 76% purity on marijuana concentrates.

The intent was to limit the potency available to retail consumers. The value chosen was derived directly from alcohol regulations which limit alcohol potency to 151-proof (76% alcohol). There are several fundamental problems with this strategy:

This is an example of trying to regulate marijuana \*as\* alcohol rather than \*like\* alcohol. The substances are tremendously different. Whereas alcohol is known to be fatally toxic in sufficient quantity and strength there is no credible data to suggest that marijuana could be. Thus, to simply copy the limit imposed on alcohol is a flawed strategy.

If one were to accept that any limit were even necessary then a more-objective metric might be used to establish that number:

Much has been made of the dangers of using butane to extract hash-oil (BHO). Most people agree that the practice is potentially dangerous and the argument has been made that the most effective way to discourage the practice would be to allow a better-quality, cheaper product to be sold in regulated retail stores. The question then becomes – “What level of quality should we allow in stores?”. Public testimony indicates that home-extraction can range in quality from 50% purity to roughly 85% purity. If one wanted to ensure that a better product was available in retail stores then a rational number would likely be 85%-90%. A professional lab, using highpressure

equipment and trained personnel can produce potency of 80%-95%.

If we accept that discouraging home-extraction BHO is an appropriate goal and that a retail product of 85%-90% purity might achieve that goal but that professionally-produced products are only slightly greater purity (80%-95%) then one must ask “Why create an artificial limit at all and what would be achieved in doing so?”

Requiring producers to adulterate their own products to reduce their potency down to an artificially-derived value would achieve little public benefit and could perpetuate the use of butane at home in uncontrolled settings with the associated dangers.

Public input – oral and written - is overwhelmingly in opposition to a cap on potency.

This amendment seeks to remove this cap and allow retail stores to sell a quality product.

**Note:**

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

#### Amendment #: B-17 – Remove cap on concentrates purity

**Amended text:**

**3 AAC 306.525. Approval of concentrates and marijuana products.** (a) A marijuana product manufacturing facility, including a marijuana concentrate manufacturing facility, must obtain the board’s approval for each product it will manufacture for sale or transfer to another licensed marijuana establishment. The board will not approve

[(1) ANY MARIJUANA CONCENTRATE OR PRODUCT INTENDED FOR SALE DIRECTLY TO A CONSUMER IF THE CONCENTRATE OR PRODUCT WILL HAVE THC POTENCY EQUAL TO OR GREATER THAN 76 PERCENT; OR ]

(2) any product that is prohibited under 3 AAC 306.510(a)(4).

(b) An applicant for a marijuana product manufacturing facility license may request the board's approval of its intended products with a new license application by including, in its operating plan

(1) a photograph, drawing, or graphic representation of the expected appearance of each final product; and

(2) the proposed standard production procedure and detailed manufacturing process for each product.

(c) A licensed marijuana product manufacturing facility may at any time submit a new product approval request to the board on a form the board prescribes along with a fee of \$250.

(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 must be made available for inspection on request by the director, or an employee or agent of the board.

Amendment #: B-18 – Single-serving potency limit

**Description:** Establishes a maximum single-serving potency limit of 10mg of THC

**Introduction:** Draft regulations limit single-serving potency to 5mg of THC with a maximum limit of 50mg in a single package. The rationale offered was that this limit would make Alaska regulations stricter than other states.

Each of the other states that have legalized cannabis for recreational use have established 10mg THC as a reasonable maximum potency for public safety. Colorado considered both 20mg and 10mg as possible limits before settling on the more conservative value of 10mg.

Public input on this issue has been overwhelmingly in support of a 10mg limit.

It should be noted that any limitations placed on regulated businesses will likely be exploited by non-regulated participants in the industry thus any perceived safety benefit could have the unintended consequence of promoting unregulated products instead.

This amendment seeks to establish a safe, reasonable single-serving potency limit in line with a developing multi-state consensus and consistent with the interests of public welfare. This amendment also clarifies, by changing the title of the section, that the limit is on single servings and individual packages, not on a specific transaction which could include multiple products.

**Note:**

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-18 – Single-serving potency limit

**Amended text:**

**3 AAC 306.560. Potency limits per serving and package [TRANSACTION] for edible marijuana products.**

(a) A marijuana product manufacturing facility may not prepare any product

with potency levels exceeding the following, as tested in compliance with 3 AAC 306.645:

(1) for a single serving of marijuana product, [FIVE] **ten** 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] **one hundred** milligrams of active THC or Delta 9; the THC content must be homogenous, or evenly distributed throughout the marijuana infused product.

Amendment #: B-19 – Single-serving potency limit for medical-card holders

**Description:** Establishes a maximum single-serving potency limit of 25mg of THC for medical-card holders.

**Introduction:** Draft regulations apply a single-serving THC limit to products intended for sale to the general public. While such a limit makes sense for the general public it fails to address the needs of individuals – many with debilitating medical conditions – who consume marijuana products for medicinal or therapeutic purposes. Those individuals typically have a much higher tolerance to THC such that the lower limit suitable for the general public would offer little benefit.

It's pertinent to point out that while Alaska as had medical marijuana laws on the books for many years, consumers who held medical marijuana cards have been unable to purchase such products for lack of any retail infrastructure. These consumers include veterans, individuals battling cancer, and others with severe neurological conditions.

This amendment seeks to establish a reasonable single-serving potency limit for sale only to persons with a valid medical marijuana card issued by Alaska or another state which has a formal medical marijuana program. This amendment further stipulates that these higherpotency

products must be individually packaged and labelled appropriately.

**Note:**

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-19 – Single-serving potency limit for medical-card holders

**Amended text:**

**3 AAC 306.560. Potency limits per serving and transaction for edible marijuana products.** (a) A marijuana product manufacturing facility may not prepare any product with potency levels exceeding the following, as tested in compliance with 3 AAC 306.645:

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

**(2) for a single serving of marijuana product, to be sold only to holders of a medical marijuana card, twenty five milligrams active tetrahydrocannabinol (THC) or Delta 9;**

(3) in a single packaged unit of marijuana product to be [EATEN OR SWALLOWED] **ingested**, 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.

**(4) in a single packaged unit of marijuana product to be ingested, for sale to medical marijuana card holders, not more than one serving, or twenty five milligrams of active**

**THC or Delta 9; the THC content must be homogenous, or evenly distributed throughout the marijuana infused product.**

Amendment #: B-20 – Testing failure tolerances

**Description:** Clarifies tolerances for testing and allowable test range

**Introduction:** Draft regulations specify a testing tolerance (+/- 20%) for measuring homogeneity of a product or a single serving, and a different tolerance of 0% for total THC content.

Testing of any type must have appropriate test tolerances, particularly when measuring small quantities of admixtures in a much larger batch of inert material.

This amendment seeks to establish a consistent testing tolerance of +/- 20% for distribution of THC and CBD in a product and total THC / CBD in a serving or package.

**Note:**

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-20 – Testing failure tolerances

**Amended text:**

**3 AAC 306.645. Laboratory Testing of Marijuana and Marijuana Products.** (a) A 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, other chemical residue, and metals screening, and residual solvents levels. A marijuana testing facility shall establish a schedule of fees and sample size required for each test it offers.

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

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

(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 **contain 20% greater or less than the stated or labelled amount of THC** [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:

Amendment #: B-21 – Remove prohibition of marijuana clubs

Description: Revision to remove explicit prohibition of marijuana clubs

Introduction: Current draft requirements explicitly prohibit marijuana clubs.

There has been significant feedback, some from qualified legal observers to suggest that this prohibition is legally questionable.

This amendment seeks to resolve legal ambiguity by removing the entire section prohibiting marijuana clubs. This amendment is not intended to sanction, endorse, or promote social clubs or other unlicensed venues where consumption is the model but merely to resolve an apparent legal contradiction.

Note:

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

Words [CAPITALIZED AND BRACKETED] indicate language being deleted

Amendment #: B-21 – Remove prohibition of marijuana clubs

Amended text:

**[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.]

Delete entire section

Renumber subsequent sections.

Resolution 2015-11-01

Whereas Ballot Measure 2 specified a fifty-dollar (\$50) per ounce excise tax on marijuana to be paid to the State of Alaska;

Whereas Ballot Measure 2 included provisions (43.61.010) for a lesser tax on certain parts of the marijuana plant stating: "The Department may establish a rate lower than \$50 per ounce for certain parts of the marijuana plant"; and

Whereas the lower-grade byproduct or "Trim" that is produced during harvest and processing has a significantly lower value; now, therefore, be it

*Resolved*, that the Marijuana Control Board:

1) Recommends that the Alaska Department of Revenue exercise its option to tax different parts of the cannabis plant at different levels by establishing a tax rate for lower-grade byproduct or "trim" at a level equal to 20% of the tax rate for marijuana.





REDLINE  
COMPARING  
FINAL MARIJUANA  
REGULATIONS  
WITH  
PREVIOUS DRAFT REGULATIONS  
(Created 12/09/15)

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

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

<b>Article</b>	<b>beginning page</b>
1. Licensing, Fees (3 AAC 306.005 - 3AAC 306.100)	1
2. Local Options (3 AAC 306.200 - 3AAC 306.260)	28
3. Retail Marijuana Stores (3 AAC 306.300 - 3AAC 306.360)	34
4. Marijuana Cultivation Facilities (3 AAC 306.400 - 3AAC 306.480)	44
5. Marijuana Product Manufacturing Facilities (3 AAC 306.500 - 3AAC 306.570)	63
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**Article 1. Licensing, Fees.**

**Section**

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**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 306.360 and 3 AAC 306.700 - 3AAC 306.755;

(2) a marijuana cultivation facility license, as described in 3 AAC 306.405 – 3 AAC 306.415~~415~~410, granting authority for activities allowed under AS 17.38.070(b), and subject to the provisions of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3AAC 306.755;

(3) a marijuana product manufacturing facility license, as described in 3 AAC

306.505 and 3 AAC 306.515, granting authority for activities allowed under AS 17.38.070(c), and subject to the provisions of 3 AAC 306.500 - 3 AAC 306.570 and 3 AAC 306.700 – 3 AAC 306.755; 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 306.675 and 3 AAC 306.700 - 3 AAC 306.755. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.010. License restrictions.** (a) The board will not issue a marijuana establishment license if the licensed premises will be located within 500 feet of a school grounds, a recreation or youth center, 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 school, recreation or youth center, or 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 school, recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility began use of a site within 500 feet. If an existing marijuana establishment license for premises located within 500 feet of a school, a recreation or youth center, 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, the recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility no longer occupies the site within 500 feet.

(b) The board will not issue a marijuana establishment license if the licensed premises will be located in a liquor license premises.

(c) The board will not issue a marijuana establishment license when a local government protests an application under 3 AAC 306.060 on the grounds that that the applicant's proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the marijuana establishment, unless the local government has approved a variance from the local ordinance.

~~(e)~~ The board will not issue a marijuana establishment license to a person that

(1) 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(b)(2) 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) has been found guilty of

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

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

or AS 04.16.052; or

~~AS 04.16.052; or~~

~~(3) operated a marijuana delivery service, a marijuana club, or a marijuana establishment illegally without a license issued under this chapter, or otherwise violated~~

~~AS 17.38, during the~~ (C) a misdemeanor crime involving a

controlled substance, violence against a person, use of a weapon, or dishonesty within the  
preceding five years

(3) has, within two years before ~~the date the person files the~~submitting an  
application, ~~unless the board finds that person has diligently worked with the board~~  
~~to comply with all current laws and regulations~~been convicted of a

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

      )

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

**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, to a corporation, or to a local government. 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 its licensed



premises at all times, and may not lease its licensed premises to another person for any reason. ~~If~~

~~If a marijuana establishment wishes to reduce or expand the area of the licensed premises used for~~

a marijuana establishment wishes to reduce or expand the area of the licensed premises used for

a marijuana establishment, the marijuana establishment must submit a new line drawing showing

the proposed changes to the premises, and must obtain the board's written approval. A

marijuana establishment may not relocate its licensed premises to a different place. ~~A~~

~~marijuana establishment that proposes to operate in any~~ without obtaining a license for the

new premises ~~must apply for a new marijuana establishment license.~~

(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) a legal or equitable interest in the operation of a business licensed under this chapter;

(B) does not include a person's right to receive

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

(ii) 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 under AS 43.23 for a 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 17.38.087 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900  
AS 17.38.084

**3 AAC 306.020. Application for new license.** (a) An applicant for a new marijuana-establishment license ~~must file an application as provided in 3 AAC 306.025, on a form the~~

establishment license must 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 306.100, and the fingerprint cards and fees required by 3 AAC 306.055(a). The application must be initiated electronically; the completed application and fees may be filed electronically, or mailed or delivered to the director at the office of the board.

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

(1) the name of the applicant and any business name the applicant will use for the proposed marijuana establishment, along with the applicant's state business license number issued under AS 43.70 ~~and the federal employer identification number (EIN) for the proposed marijuana establishment;~~

(2) the name, mailing address, telephone number, and social security number of each proposed licensee and each affiliate of each proposed licensee; unless the context indicates otherwise, "licensee" means each individual named in an application that complies with this section; an individual to be identified as a "licensee" under this section includes

(A) if the applicant is an individual or a sole proprietor, the individual or sole proprietor;

(B) if the applicant is a partnership, including a limited partnership, each partner holding any interest in the partnership;

(C) if the applicant is a limited liability company, ~~the limited liability company's registered agent, and~~ each member holding any ownership interest; and

(D) if the applicant is a corporation, each owner of any of the corporation's stock

(E) if the applicant is a local government, an authorized official of the

local government.

(3) for each applicant that is not an individual, the applicable ~~document~~documents and 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 limited liability company agreement, and a list of all members with the 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;

(D) for a local government, a resolution of the governing body approving the application and designating an official responsible for the proposed marijuana establishment.

(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 licensee or designated government official 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~~state 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 to include GPS coordinates 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 required under 3 AAC 306.315;

(B) for a marijuana cultivation facility, the information required under 3 AAC 306.420;

(C) for a marijuana product manufacturing facility, the information required under 3 AAC 306.520; and

(D) for a marijuana testing facility, the information required under 3 AAC 306.615.

(c) A marijuana establishment license application must include the applicant's operating plan, in a format the board prescribes, describing, to the board's satisfaction, 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~~(3) a member who owns at least 10 percent of the limited liability company if the applicant is a limited liability company;

- (4) the authorized officers of the corporation if the applicant is a corporation; or
- (5) a designated official if the applicant is a local government.

(e) Each person signing an application for a marijuana establishment license must declare under penalty of unsworn falsification 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 17.38.087 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900  
AS 17.38.084

**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 [www.commerce.alaska.gov/web/abc/](http://www.commerce.alaska.gov/web/abc/)~~



~~Register~~, ~~2016~~  
~~10/1/2015~~

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board's office. The board's Internet address is [www.commerce.alaska.gov/web/abc/](http://www.commerce.alaska.gov/web/abc/)

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 copy of the application, on the form the board prescribes, 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) publishing an announcement once a week for three consecutive weeks in a newspaper of general circulation in the area; in an area where no newspaper circulates, by announcements on a radio station serving the local area where the proposed licensee seeks to operate twice a week for three successive weeks during triple A advertising time; the newspaper or radio notice must state

(A) the name of the applicant;

(B) the name and location of the proposed premises;

(C) the type of license applied for along with a citation to a provision of this chapter authorizing that type of license; and

(D) a statement that any comment or objection may be submitted to the board; and

- (3) submitting a copy of the application on the form the board prescribes 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 (b) of this section and submits each remaining application requirement listed in 3 AAC 306.020, the applicant shall pay the application and licensing fees set out in 3 AAC 306.100. The applicant must then use the board's electronic system to inform the board that the applicant has submitted a complete application.

(d) When the director receives an application for a marijuana establishment license, the director shall determine if the application is complete. Any application for a marijuana establishment license that the director receives without the application fee is incomplete. If the director determines the application is complete, the director shall immediately give written notice to

(1) the applicant;

(2) the local government ~~in the area in which~~with jurisdiction over the applicant's proposed licensed premises ~~are located~~;

(3) the community council if the proposed licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(e) If an application for a marijuana establishment license is incomplete, the director shall notify the applicant by email at the address provided by the applicant, and will either

(1) return an incomplete application in its entirety; or

- (2) request the applicant to provide additional, identified items needed to

\_complete the application.

(f) When the director informs an applicant that its application is incomplete as provided in (e) of this section, the applicant must complete the application not later than 90 days after the date of the director's notice. If an applicant fails to complete its application during the 90 day period after the director'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 17.38.087 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900  
AS 17.38.084

**3 AAC 306.030. Petition for license in area with no local government.** (a) The board will not approve a new license in an area outside, but within 50 miles of, the boundary of a local government unless the board receives a petition to issue the license signed by a majority of the permanent residents residing within one mile of the proposed premises.

(b) The board will not approve a new license in an area that is 50 miles or more from the boundary of a local government unless the board receives a petition to issue the license containing the signatures of two-thirds of the permanent residents residing within a radius of five miles of the United States post office station nearest to the proposed licensed premises. If there is no United States post office station within a radius of five miles of the proposed licensed premises, the petition must be signed by two-thirds of the permanent residents residing within a five mile radius of the proposed licensed premises.

(c) A petition authorized by this section must be on a form the board prescribes. The applicant must obtain the required signatures within the 90 day period immediately before-  
~~submitting the petition to the board. A signature may not be added to or removed from the~~

submitting the petition to the board. A signature may not be added to or removed from the  
petition after the board has approved the application.

(d) In this section, "permanent resident" means a person 21 years of age or older who has established a permanent place of abode. A person may be a permanent resident of only one place. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.035. 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 not 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 a hyperlink for the marijuana establishment to access the electronic renewal application by means of the internet, along with instructions on using and submitting the form. The marijuana establishment must 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 Saturday or Sunday, the deadline is extended to 4:30 p.m. on the first business day following June 30. A marijuana establishment must maintain a current electronic mailing address on file with the director. 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;~~

establishment name, and premises address;

(2) provide the information required for a new license application under 3 AAC 306.020(b)(1)-(9);

(3) report any change from the marijuana establishment's new license application or last renewal application, and pay the fee as provided in 3 AAC 306.100 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;

(D) any new product a licensed marijuana product manufacturing facility wishes to produce;

(4) report, for each licensee listed in 3 AAC 306.020(b)(2),

(A) any criminal charge on which that licensee 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 unsworn falsification 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) If the director determines that the renewal application is complete, the director shall ~~immediately give written notice of a renewal application to~~



give written notice of a renewal application to

- (1) the applicant;
  - (2) the local government in the area in which the applicant's proposed licensed premises are located;
  - (3) the community council if the proposed licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and
  - (4) any nonprofit community organization that has requested notification in writing.
- (d) 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 306.055(a).
- (e) A licensee that does not deliver a renewal application to the director on or before June 30 of each year is delinquent, and must pay a non-refundable \$1,000 late renewal application fee with the renewal application.
- (f) 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 director shall deliver the notice of expiration to the electronic mail address the marijuana establishment has provided to the director. A marijuana establishment is not excused from filing a license renewal application not later than August 31 of each year even ~~it~~<sup>if</sup> the marijuana establishment does not receive the notice of expiration described in this section.
- (g) 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 on or before 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 17.38.087 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900  
AS 17.38.084

**3 AAC 306.040. Ownership change to be reported.** (a) A licensed marijuana establishment shall, not later than 10 days after an ownership change as described in this section, report the change on a form prescribed by the board. In this section, an ownership change means (1) if the licensee is a partnership, including a limited partnership,

any change in the identity of the partners, or in the ownership percentages held by any partners;

(2) if 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) if 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) If any change required to be reported under this section will result in a change in controlling interest of the marijuana establishment license, the marijuana establishment must file an application for transfer of license to another person under 3 AAC 306.045. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.087 AS 17.38.100

~~Register~~, ~~2016~~

~~10/1/2015~~

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[Final Adopted Regulations as of 12/1/2015](#)

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

**3 AAC 306.045. 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 company, a corporation or a local government, 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 company, a corporation or a local government, 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 holder of the marijuana establishment license and the proposed transferee, including all persons listed in 3 AAC 306.020 if the transferee is a partnership, limited liability company, a corporation, or a local government. 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 holder of the marijuana establishment license, listing all debts of the business, all taxes the business owes, current contact information for each creditor, and an affirmation that the current holder of the marijuana establishment license 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.

~~establishment license sought to be transferred.~~

(c) When the board receives a complete application for transfer of a license to another person, the director shall immediately send written notice of the proposed transfer to

(1) each listed creditor of the current holder of the marijuana establishment license, along with the amount shown as owed to that creditor;

(2) the local government in the area in which the licensed premises are located;

(3) the community council if the licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(d) A current holder of a marijuana establishment license 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 after April 30 and before July 1. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

**3 AAC 306.050. Relocation of licensed premises not allowed.** A marijuana establishment license may not be relocated to any other premises. A holder of a marijuana establishment license that wishes to operate a marijuana establishment at a different location must submit a new application for any new premises, and must surrender an existing license for any premises where the marijuana establishment does not intend to continue its operation. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

~~Register~~, ~~2016~~

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~~Authority:~~ ~~AS 17.38.010~~ ~~AS 17.38.087~~ ~~AS 17.38.100~~

~~AS 17.38.070~~ ~~AS 17.38.090~~ ~~AS 17.38.900~~

~~AS 17.38.084~~

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

**3 AAC 306.055. Criminal justice information and records.** (a) When filing an application for a new marijuana establishment license or transfer of a license, the applicant, including each individual listed in 3 AAC 306.020(b)(2), 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 director shall 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 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 17.38.087 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900  
AS 17.38.084

**3 AAC 306.060. Protest by local government.** (a) Not later than 60 days after the director sends notice of an application for a new marijuana establishment license, renewal of a marijuana establishment license, or transfer of a marijuana establishment license to another person, a local government may protest the application by sending the director and the applicant a written protest and the reasons for the protest. The director may not accept a protest received after the 60-day period. If a local government protests an application for a new or renewal license or for a transfer of a license to another person, the board will deny the application unless



~~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.

(b) A local government may recommend that the board approve an application for a new license, renewal of a license, or transfer of a license to another person subject to a condition.

The board will impose a condition a local government recommends 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 assume responsibility for monitoring compliance with the condition unless the board provides otherwise.

(c) 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 director finds that the local government's notice is arbitrary, capricious, and unreasonable, the director will prepare the determination as an accusation against the licensee under AS 44.62.360 and conduct proceedings to resolve the matter as provided under 3 AAC 306.820. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.065. Public participation.** A 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 and the applicant not later than 30 days after notice of the application, but no later than the deadline for objections stated in a posted or published notice of the application. The objection must be sent to the applicant 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, an interested person may give oral testimony at

~~to conduct a public hearing under this section, an interested person may give oral testimony at the public hearing. (Eff. \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_\_, Register \_\_\_\_\_)~~

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

**3 AAC 306.070. Hearing on public protest.** 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 director will send notice of a hearing not later than 20 days before the hearing date 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 board will hold the hearing in the area where the proposed licensed premises are located, or will arrange for telephonic appearances. (Eff. \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_,~~

~~Register \_\_\_\_\_)~~ The director will send notice of a hearing under this section as provided in AS 44.62. (Eff. \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_, Register \_\_\_\_\_) ~~Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100~~

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

**3 AAC 306.075. Procedure for action on license application.** (a) The board will decide whether to grant or deny an application not later than 90 days after receiving the complete application. However, the board will not grant or deny the application before

(1) the time allowed for a protest under 3 AAC 306.060, unless the local government waives its right to protest; or

(2) the time allowed for an objection under 3 AAC 306.065 has elapsed.

(b) Not later than 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 director 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 hearing on public protest held under 3 AAC 306.070 when it considers the application. The director will retain the written objection, protest, or suggested condition or petition, and the hearing record as part of the permanent record of the board's review of an application. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.080. Denial of license application.** (a) After review of the application, including the applicant's proposed operating plan 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 306.020 - 3 AAC 306.055, 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 violate any restriction applicable to the particular license type authorized under this chapter;

(4) 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, or 3 AAC 306.230;

(5) the board finds that the operating plan does not adequately demonstrate that the applicant will comply with applicable provisions of this chapter; or

(6) the license would not be in the ~~interest~~best interests of the public.

(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 of a license, or transfer of a license to another person, the board will, not later than 15 days after the board meeting at

which the application was denied, furnish a written statement of issues to the applicant, explaining the reason for the denial in clear and concise language, and identifying any statute or regulation on which the denial is based. The notice of denial will inform the applicant of the right to an informal conference under 3 AAC 306.085, and to a formal hearing under 3 AAC 306.090. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.087 AS 17.38.100



AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

**3 AAC 306.085. Informal conference.** (a) An applicant for a new license, renewal of a license, or transfer of a license to another person that is aggrieved by an action of the board denying the application may, no later than 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 must be held at a time and place convenient to the applicant and the board, 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, request a formal hearing under 3 AAC 306.090 by filing a notice of defense in compliance with AS 44.62.380(b).  
(Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010

AS 17.38.087

AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

**3 AAC 306.090. 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 within 15 days after the date of the written notice of the denial, or as provided in 3 AAC 306.085(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 [board may](#)

request the Office of Administrative Hearings ~~will~~to conduct the hearing in compliance with due process, the Alaska Administrative Procedure Act, AS 44.62.330 – AS 44.62.630, and the applicable regulations adopted by the Office of Administrative Hearings at 2 AAC 64.100 - 2 ~~adopted by the Office of Administrative Hearings at 2 AAC 64.100 – 2~~ AAC 64.990. (Eff. \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_\_, Register \_\_\_\_\_)

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

**3 AAC 306.095. Appeals.** (a) An aggrieved applicant or marijuana establishment license holder may appeal to the board regarding any action of the director, or an employee or agent of the board regarding an application for a new license, a license renewal, or a transfer of license to another person.

(b) An applicant or marijuana establishment license holder 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 17.38.087 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

**3 AAC 306.100. Fees, refund.** (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; if a renewal application is late as provided under 3 AAC 306.035(e), an additional [non-refundable](#) late renewal application fee is \$1000.

(c) The nonrefundable fee to request board approval of a change in a licensed marijuana establishment's business name, licensed premises diagram, operating plan, or proposed new marijuana product is \$250; a change fee does not apply to an application for transfer of a license to another person.

(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~~extract only manufacturing facility license, \$1000; (5) for a marijuana product manufacturing facility license, \$5000;
- ~~(5) for a marijuana extract only manufacturing facility license, \$1000;-~~
- ~~(6) for a marijuana product manufacturing facility license, \$5000;~~
- ~~(7)~~(6) for a marijuana testing facility license,

\$1000. (e) The fee for a marijuana handler permit card is \$50.

(f) 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.

(g) 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 17.38.087 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900  
AS 17.38.084

## **Article 2. Local Options.**

### **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. 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 a local government's assembly or city council passes an ordinance to the same effect, the local government shall adopt a local option to prohibit

(1) the [sale or importation for](#) sale of marijuana and any marijuana product;

(2) the operation of any marijuana establishment, including one or more of the following license types:

(A) a retail marijuana store;

(B) a marijuana cultivation facility;



(C) a marijuana product manufacturing facility; or

(D) a marijuana testing facility~~;~~.

~~(3) the sale or importation for sale of marijuana and any marijuana product.~~ (b) A

ballot question to adopt a local option under this section must at least contain language

substantially similar to: "Shall (name of local government) adopt a local option to prohibit

(local option under (a) of this section)? (yes or no)."

~~prohibit (local option under (a) of this section)? (yes or no)."~~

(c) The ballot for an election on the options set out in (a)(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 local government dissolves under AS 29.06.450, any marijuana establishment license issued to that local government expires when the local government dissolves.

(e) A local government may not prohibit the personal use and possession of marijuana and marijuana products as authorized under AS 17.38.020.

(f) Nothing in 3 AAC 306.200 – 3 AAC 306.260 precludes a local government from applying for a marijuana establishment license under other provisions of this chapter. (Eff.

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

**Authority:** AS 17.38.020 AS 17.38.100 AS 17.38.900

AS 17.38.090

AS 17.38.110

**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 local government's assembly or city council passes an ordinance to the same effect, the local government 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 local government) 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 17.38.020 AS 17.38.100 AS 17.38.900  
AS 17.38.090 AS 17.38.110

**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 a local government's assembly or city council passes an ordinance to the same effect, that local option is repealed effective the first day of the month after the election is certified. A ballot question to remove a local option under this section must at least contain language substantially similar to: "Shall (name of local government) 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 within the boundaries of a local government 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 \_\_\_\_)

~~to approve the application. (Eff. \_\_\_\_\_, Register \_\_\_\_\_)~~

**Authority:** AS 17.38.020 AS 17.38.100 AS 17.38.900

AS 17.38.090 AS 17.38.110

**3 AAC 306.230. Procedure for local option election.** ~~(a) When a local government~~it 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 under 3 AAC 306.200 or more of the number of votes cast at the last regular municipal election~~3 AAC 306.220, the local 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 in compliance with its election ordinance.~~

~~(b) In a general law local government, AS 29.26.110—AS 29.26.160 apply to a petition under (a) of this section except that~~

~~(1) an application filed under AS 29.26.110 must at least contain language substantially similar to the questions set out under 3 AAC 306.200(b), 3 AAC 306.210, or 3 AAC 306.220(a) rather than language of an ordinance or resolution;~~  
the initiative process under the local government's election ordinances and regulations  
~~(2) a petition must at least contain language substantially similar to the questions set out under 3 AAC 306.200(b), 3 AAC 306.210, or 3 AAC 306.220(a) rather than material required under AS 29.26.120(a)(1) and (2).~~

~~(c) Notwithstanding any other~~the applicable provisions of law, a local government 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

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~~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 the local government has passed an ordinance to the same effect. Only one local option question may be presented in an election.~~ AS 29. (Eff.     /    /    , Register     )

    /    /    , Register     ) **Authority:** ~~AS~~  
~~17.38.020 — AS 17.38.100 — AS 17.38.900~~

~~AS 17.38.090 — AS 17.38.110~~

**Authority:**    [AS 17.38.020](#)                      [AS 17.38.100](#)                      [AS 17.38.900](#)

[AS 17.38.090](#)                      [AS 17.38.110](#)

**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 any marijuana product under 3 AAC 306.200(a)(3), or if the local government's assembly or city council passes an ordinance to the same effect, a person, beginning on the first day of the month after the results of the election are certified, may not knowingly bring, send, or transport marijuana or marijuana products for sale into the area within the boundary of the local government.

(b) A person who resides within the boundary of a local government that has adopted a local option under 3 AAC 306.200(a) may not purchase marijuana or a marijuana product from another person that has brought, sent, or transported marijuana or a marijuana product into the local government for sale in violation of the local option.

(c) Notwithstanding (a) or (b) of this section, a licensed marijuana establishment may transport marijuana or any marijuana product through the boundaries of a local government that has prohibited importation or purchase of marijuana if the marijuana or marijuana product is shipped with an attached transport manifest created in compliance with 3 AAC 306.750 and documenting that the shipment originates and terminates in a place that does not prohibit importation and purchase of marijuana or a marijuana product.

(d) 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 or

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 17.38.020 AS 17.38.100 AS 17.38.900  
AS 17.38.090 AS 17.38.110

**3 AAC 306.250. Effect on licenses of restriction on sale.** If a majority of the voters vote under 3 AAC 306.200(a) 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 to another person, a license for a marijuana establishment with premises located within the boundary of the local government or in the unincorporated area within ten miles of the boundaries of the local government. A license for a marijuana establishment within the boundary of the local government or in the unincorporated area within ten miles of the boundary of the local government is void 90 days after the results of the election are certified. A license that expires during the 90 days after the certification of a local option election 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 17.38.020 AS 17.38.100 AS 17.38.900  
AS 17.38.090 AS 17.38.110

**3 AAC 306.260. 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 local government 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 local government shall post public notice of the prohibition in a central location within the boundary of the local government 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 17.38.020 AS 17.38.100 AS 17.38.900  
AS 17.38.090 AS 17.38.110

### **Article 3. Retail Marijuana Stores.**

#### **Section**

- 300. Retail marijuana store license required
- 305. Retail marijuana store privileges
- 310. Acts prohibited at retail marijuana store
- 315. Application for retail marijuana store license
- 320. Marijuana handler permit required
- 325. Access restricted at marijuana retail store
- 330. Marijuana inventory tracking system

| 335. Health and safety requirements

| 340. Testing required for marijuana and marijuana products

| 345. Packaging and labeling

| 350. Identification requirement to prevent sale to person under 21

| 355. Limit on quantity sold

## 360. Restriction on advertising of marijuana and marijuana products

**3 AAC 306.300. Retail marijuana store license required.** (a) Except as permitted under AS 17.38.020, a person may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver marijuana or any marijuana product to a consumer unless the person has obtained a retail marijuana store license from the board in compliance with this chapter, or is an employee or agent acting for a licensed retail marijuana store operating in compliance with this chapter. A person seeking a retail marijuana store license must

(1) submit an application for a retail marijuana store license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.315; and

(2) demonstrate, to the board's satisfaction, that the applicant will operate in compliance with

(A) each applicable provision of 3 AAC 306.300 - 3 AAC 306.360 and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises ~~are~~is located.

(b) A licensee of any retail marijuana store, or an employee or agent of a retail marijuana store, may not have an ownership interest in, or a direct or indirect financial interest in any licensed marijuana testing facility. (Eff. \_\_\_\_ / \_\_\_\_ / \_\_\_\_, Register \_\_\_\_)

~~licensed marijuana testing facility. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)~~

**Authority:** AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

**3 AAC 306.305. Retail marijuana store privileges.** (a) A licensed retail marijuana-

store is authorized to

(1) sell marijuana purchased from a licensed marijuana cultivation facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.470, and 3 AAC 306.475 in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises for consumption off the licensed premises;

(2) sell a marijuana product purchased from a licensed marijuana product manufacturing facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.565, and 3 AAC 306.570, in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises for consumption off the licensed premises;

(3) store marijuana and marijuana products on the licensed premises in a manner consistent with 3 AAC 306.710 – 3 AAC 306.720;

(4) with prior approval of the board, permit consumption of marijuana or a marijuana product purchased on the licensed premises, in a designated area on the licensed premises.

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

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

**3 AAC 306.310. Acts prohibited at retail marijuana store.** (a) A licensed retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or any marijuana product

~~marijuana or any marijuana product~~

(1) to any person under the age of 21;



(2)

~~(2)~~ to any person that is under the influence of an alcoholic beverage, inhalant, or controlled substance;

(3) that is not labeled and packaged as required in 3 AAC 306.345, and in 3 AAC 306.470 and 3 AAC 306.475 or 3 AAC 306.565 and 3 AAC 306.570;

~~(34)~~ in a quantity exceeding the limit set out in 3 AAC 306.355;

~~(45)~~ over the internet; a licensed retail marijuana store may only sell marijuana or marijuana product to a consumer who is physically present on the licensed premises;

~~(56)~~ after the expiration date shown on the label of the marijuana or marijuana product.

(b) A licensed retail marijuana store may not

(1) conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises between the hours of 5:00 a.m. and 8:00 a.m. each day;

(2) allow any person to consume marijuana or any marijuana product on the retail marijuana store's licensed premises, except as provided in paragraph (a)(4) of 3 AAC 306.305;

(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; or

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

~~(c) A retail marijuana 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 17.38.087

AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

**3 AAC 306.315. Application for retail marijuana store license.** A person seeking a  
new retail marijuana store license must submit an application on a form the board prescribes-

including the 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) in the operating plan required under 3 AAC 306.020(c), a description of the

way marijuana and marijuana products at the retail store will be displayed and sold. (Eff.

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

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

**3 AAC 306.320. Marijuana handler permit required.** A retail marijuana store shall ensure that

(1) each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed or employed at a retail marijuana store; and

(2) each licensee, employee, or agent has that person's marijuana handler permit card in that person's immediate possession, or a valid copy on file on the premises, at all times when on the licensed premises of the retail marijuana store. (Eff. ~~\_\_\_\_/\_\_\_\_/\_\_\_\_~~, \_\_\_\_\_/

\_\_\_\_\_/\_\_\_\_\_, Register ~~\_\_\_\_\_~~ \_\_\_\_\_) **Authority:** AS 17.38.010

AS 17.38.087 AS 17.38.100

~~**Authority:** AS 17.38.010 AS 17.38.087 AS 17.38.100~~

AS 17.38.070 AS 17.38.090 AS 17.38.900  
AS 17.38.084

**3 AAC 306.325. Access restricted at retail marijuana store.** (a) A person under the age of 21 may not enter a retail marijuana store.

~~age of 21 may not enter a retail marijuana store.~~

(b) Each entry to a retail marijuana 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.~~

wide, with letters at least one half inch in height in high contrast to the background of the sign.

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

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

**3 AAC 306.330. Marijuana inventory tracking system.** (a) A retail marijuana store  
shall use an inventory tracking system as provided in 3 AAC 306.730 to ensure all marijuana and  
marijuana product in the store's possession is identified and tracked from the time the retail  
marijuana 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 retail marijuana store, the retail marijuana store shall immediately enter identification  
information for that batch of marijuana or lot of marijuana product into the retail marijuana  
store's inventory tracking system. A retail marijuana store may not accept any marijuana or  
marijuana product that does not have a valid transport manifest generated from the inventory\_  
tracking system of the marijuana establishment that originated the delivery.

~~tracking system of the marijuana establishment that originated the delivery.~~

(c) A retail marijuana 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 retail marijuana 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 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

**3 AAC 306.335. Health and safety requirements.** A retail marijuana store must comply with each applicable health and safety requirement set out in 3 AAC 306.735. (Eff.

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

**Authority:** AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

**3 AAC 306.340. Testing required for marijuana and marijuana products.** (a) A retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or any marijuana product until all laboratory testing required under 3 AAC 306.645 has been completed, and the label required under 3 AAC 306.475 or 3 AAC 306.570 is affixed. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

**3 AAC 306.345. Packaging and labeling.** (a) A retail marijuana store shall assure that

(1) any marijuana sold on its licensed premises is packaged and labeled in

compliance with 3 AAC 306.470 and 3 AAC 306.475, except that 3 AAC 306.470(b)(2) does not-

~~apply to the packaging of wholesale flower and bud sold by weight to a consumer; and~~



apply to the packaging of wholesale flower and bud sold by weight to a consumer; and

(2) any marijuana product sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.565 and 3 AAC 306.570, except that 3 AAC 306.565(b)(2) does not apply to the packaging of wholesale marijuana products that are not edible marijuana products;

(3) any marijuana or marijuana product sold at a retail marijuana store must be packaged in opaque, re-sealable, child-resistant packaging when the purchaser leaves the retail premises; the packaging must be designed or constructed to be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly.

(b) In addition to labeling requirements provided in (a) of this section, a retail marijuana store shall affix a label to each package of marijuana or marijuana product that

(1) identifies the marijuana retail store selling the marijuana product by name or distinctive logo and marijuana establishment license number; and

~~(2)~~ states the total estimated amount of THC in the labeled product, and

(3) contains the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming and addictive;"

(B) "Marijuana impairs concentration, coordination, and judgment. Do not;

~~(B) "Marijuana can impair concentration, coordination, and judgment. Do not~~ operate a vehicle or machinery under its influence;"

(C) "There ~~may be~~ are health risks associated with consumption of marijuana;" ~~and~~

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

(E) "Marijuana should not be used by women who are pregnant or breast feeding;" ~~and~~ (Eff. 2 / 1 / 2016, Register 2016)

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| ~~Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100~~

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~~AS 17.38.070~~ ~~AS 17.38.090~~ ~~AS 17.38.900~~  
~~AS 17.38.084~~

**Authority:** [AS 17.38.010](#) [AS 17.38.087](#) [AS 17.38.100](#)  
[AS 17.38.070](#) [AS 17.38.090](#) [AS 17.38.900](#)  
[AS 17.38.084](#)

**3 AAC 306.350. Identification requirement to prevent sale to person under 21.** (a) A licensed retail marijuana store shall refuse to sell marijuana or a marijuana product to any person who does not produce a form of valid [photo](#) 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 a province 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 17.38.087](#) [AS 17.38.100](#)  
[AS 17.38.070](#) [AS 17.38.090](#) [AS 17.38.900](#)  
[AS 17.38.084](#)

**3 AAC 306.355. Limit on quantity sold.** (a) A licensed retail marijuana store shall not sell more than the following quantity of marijuana or marijuana product in a single transaction:

- (1) one ounce of ~~usable~~[useable](#) marijuana;
- (2) ~~sixteen ounces of marijuana infused product in solid form;~~ (3) seven grams of marijuana ~~infused extract~~ [concentrate](#) for inhalation, or  
~~(4) seventy-two ounces of~~  
[\(3\) marijuana or marijuana-infused product in liquid form. products containing more than 5600 Milligrams of](#)  
[THC.](#) (Eff.

**Authority:** [AS 17.38.010](#) [AS 17.38.087](#) [AS 17.38.100](#)

[AS 17.38.070](#) [AS 17.38.090](#) [AS 17.38.900](#)

[AS 17.38.084](#)

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

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

**3 AAC 306.360. Restriction on advertising of marijuana and marijuana products.**

(a) A retail marijuana store may have no more than three signs, visible to the general public from the public right of way, that identify the store by its business name. A sign may be placed in the store's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4800 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 appeal to a child or other person under the age of 21, that promotes consumption of marijuana.

(c) A retail marijuana store may not place an advertisement for marijuana or a marijuana product, except as provided in (a) of this section,

(1) within one thousand feet of the perimeter of any child-centered facility, including a school, ~~daycare~~childcare facility 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;
- (4) within 1000 feet of a substance abuse or treatment facility; or
- (5) on a ~~college~~-campus for post-secondary education.

(d) A retail marijuana 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:

(~~1~~A) "Marijuana has intoxicating effects and may be habit forming;"

(~~2~~ and addictive;) (B) "Marijuana ~~can impair~~ impairs concentration, coordination, and judgment. Do not-

operate a vehicle or machinery under its influence;"

(~~3~~

(C) "There ~~may be~~ are health risks associated with consumption of marijuana;" ~~and~~

(~~4~~D) "For use only by adults twenty-one and older. Keep out of the reach of children"; and

(~~5~~E) "Marijuana should not be used by women who are pregnant or breast-feeding."

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

<b>Authority:</b>	AS 17.38.010	AS 17.38.087	AS 17.38.100
	AS 17.38.070	AS 17.38.090	AS 17.38.900
	AS 17.38.084		

#### Article 4. Marijuana Cultivation Facilities.

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[Final Adopted Regulations as of 12/1/2015](#)

**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 facility license
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- 455. Required laboratory testing
- 460. Samples
- 465. Random sampling
- 470. Packaging of marijuana
- 475. Labeling of marijuana
- 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, or label, marijuana grown at a place under that person's control, or 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 acting for 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:~~

and subject to the prohibitions set out in sections 3 AAC 306.405 - 3 AAC 306.410:

(1) a standard marijuana cultivation facility license;

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

~~(3) (b) A person seeking a marijuana cultivation broker facility license for a person providing essential business functions of a standard or 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 must

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

(2) demonstrate to the board's satisfaction that it will operate in compliance with

(A) each applicable provision of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(c) A licensee of any marijuana cultivation facility, or an employee or agent of a marijuana cultivation facility, may not have an ownership interest in, or a direct or indirect

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financial interest in any licensed marijuana testing facility. (Eff. \_\_\_\_ / \_\_\_\_ / \_\_\_\_, Register \_\_\_\_).

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

~~financial interest in any licensed marijuana testing facility. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)~~

~~Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100~~

AS 17.38.030

AS 17.38.090

AS 17.38.900

AS 17.38.070

**3 AAC 306.405. Standard marijuana cultivation facility: 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;

(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 306.730;

(5) transport marijuana in compliance with 3 AAC 306.750;

(6) conduct in-house testing for the marijuana cultivation facility's own use;

(7) provide marijuana samples to a licensed retail marijuana store or marijuana  
product manufacturing facility for the purpose of negotiating a sale.

(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 or retail marijuana store operation in a  
room completely separated from the cultivation facility by a secure door when co-located; and

(2) comply with each provision of this chapter that applies to any other type of

~~(2) comply with each provision of this chapter that applies 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 odor of the marijuana;

(4) except as permitted under a marijuana product manufacturing facility license, extract marijuana concentrate, using any process described in 3AAC 306.555, at the licensed premises;

(5) sell marijuana that is not packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475; ~~or.~~ (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

~~(6) sell marijuana that has not been reported to the Department of Revenue with excise tax paid as required under AS 43.61.010 and AS 43.61.020. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)~~

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

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

(1) ~~propagate, cultivate, harvest,~~ has the privileges set out in 3 AAC 305.405(a) and prepare marijuana for sale in a marijuana



~~cultivation facility with~~(b). except that it must have fewer than 500 square feet under cultivation; and

(2) ~~provide marijuana samples~~ is subject 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~~

~~(i) arranging transportation and testing by a licensed marijuana testing facility; and for~~

~~(ii) 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 marijuana cultivation broker facility purchases from the limited marijuana cultivation facility;~~

(4) ~~if a written agreement as provided~~each prohibition set out 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;~~

~~(4) sell to any marijuana establishment except through a marijuana cultivation broker facility; and~~

~~(5) sell marijuana to a marijuana cultivation broker facility without a written agreement in which the marijuana cultivation broker facility agrees to file each report and pay~~

~~the excise tax required under AS 43.61.010 and AS 43.61.020.)~~ (Eff. ~~\_\_\_/\_\_\_/\_\_\_~~  
~~\_\_\_/\_\_\_~~, Register ~~\_\_\_\_\_~~)

~~\_\_\_\_\_~~

~~Authority: AS 17.38.010 AS 17.38.090 AS 43.61.010~~

~~AS 17.38.070 AS 17.38.100 AS 43.61.020~~

~~AS 17.38.084 AS 17.38.900~~

~~**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 a licensed retail marijuana store, to another licensed marijuana cultivation facility, or to 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 the marijuana cultivation broker facility purchases from a limited marijuana cultivation 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 each provision of this chapter that applies to any other type of marijuana establishment license that the cultivation broker facility has obtained.~~

~~(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 306.470 and 3 AAC 306.475; or~~

~~(5) sell marijuana that has not been reported to the Department of Revenue with excise tax paid as required under AS 43.61.010 and AS 43.61.020.~~

**Authority:** [AS 17.38.010](#) [AS 17.38.090](#) [AS 43.61.010](#)

[AS 17.38.070](#) [AS 17.38.100](#) [AS 43.61.020](#)

[AS 17.38.084](#) [AS 17.38.900](#)

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

~~\_\_\_\_\_)~~

~~**Authority:** [AS 17.38.010](#) [AS 17.38.090](#) [AS 43.61.010](#)~~

~~[AS 17.38.070](#) [AS 17.38.100](#) [AS 43.61.020](#)~~

~~[AS 17.38.084](#) [AS 17.38.900](#)~~

**3 AAC 306.420. Application for marijuana cultivation facility license.** (a) An applicant for a new standard marijuana cultivation facility license or a new limited marijuana-

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~~cultivation facility shall file an application on a form the board prescribes, including~~

cultivation facility 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 the information required for a new marijuana establishment license set out in 3 AAC 306.020, and

(a)(2) of this section. (Eff. \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, Register \_\_\_\_\_)

~~(e) An applicant for a marijuana cultivation broker facility license must~~  
~~(1) submit the information required for a new marijuana establishment license under 3 AAC 306.020;~~  
~~(2) agree 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~~  
~~(3) provide other services the marijuana cultivation broker facility offers to a limited marijuana cultivation facility. (Eff. \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, Register \_\_\_\_\_)~~

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

**Editor's note:** The form for an application for a marijuana cultivation ~~facility license or a marijuana cultivation broker~~ facility license is available online as provided in the editor's note under 3 AAC 306.020.

**3 AAC 306.425. Marijuana handler permit required.** A marijuana cultivation facility must ensure that each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before-

being present or employed at the marijuana cultivation facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana cultivation facility's licensed premises. (Eff.       /      /       /        /       , Register        )

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.430. Restricted access area.** (a) A marijuana cultivation facility shall conduct any operation in a restricted area in compliance with 3 AAC 306.710 and this section.

(b) A 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. Where not prohibited by local government, outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscuring wall or fence at least six feet high.

(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 except as allowed by a local government conditional use permit process.



~~cultivation facility except as allowed by a local government conditional use permit process.~~

(d) A marijuana cultivation facility shall have full video surveillance of the

licensed

premises as required under 3 AAC 306.720, 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 17.38.084~~ ~~AS 17.38.100~~

~~AS 17.38.070~~ ~~AS 17.38.090~~ ~~AS 17.38.900~~

**Authority:**    [AS 17.38.010](#)                      [AS 17.38.084](#)                      [AS 17.38.100](#)  
                         [AS 17.38.070](#)                      [AS 17.38.090](#)                      [AS 17.38.900](#)

**3 AAC 306.435. Marijuana inventory tracking system.** (a) A marijuana cultivation facility shall use an inventory tracking system in compliance with 3 AAC 306.730 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 through transfer to another licensed marijuana establishment or destruction. The marijuana cultivation facility must assign a tracking number to each plant over 8 inches tall. When harvested, bud and flowers, clones or cuttings, or leaves and trim may be combined in harvest batches of distinct strains, not exceeding five pounds; each harvest batch must be given an inventory tracking number. Clones or cuttings must be limited to 50 or fewer plants and identified by a batch tracking number.

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

(c) A marijuana cultivation facility shall record in its marijuana inventory tracking system 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 expired or outdated promotional sample returned to the marijuana cultivation facility. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

**3 AAC 306.440. Health and safety requirements.** (a) A marijuana cultivation facility must comply with all applicable health and safety requirements set out in 3 AAC 306.735, 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 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.445. Standards for cultivation and preparation.** A marijuana cultivation facility shall use certified scales in compliance with AS 45.75.080 and 3 AAC 306.745. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.450. Production of marijuana concentrate prohibited.** A marijuana cultivation facility may not produce or possess marijuana concentrate that was extracted using any process described in 3 AAC 306.455 on its licensed premises unless the marijuana cultivation facility also has a marijuana product manufacturing facility license. Any extraction or production of marijuana concentrate on the premises of a licensed marijuana cultivation-

facility must

(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 provisions of 3 AAC 306.500 - 3 AAC 306.570.

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

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 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 a sample of each harvest batch 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.

(b) 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 a signed statement showing that each sample has been  
randomly selected for testing;

(B) provide the signed statement 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 306.750.

(c) 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 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.~~ When geographic location and transportation of marijuana limitations make it unfeasible for a manufacturing facility to transport testing samples to the marijuana lab, an applicant for licensure may propose alternative means of testing facility. ~~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.~~ meet the requirements of this code. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_,

Register \_\_\_\_)

**Authority:** AS 17.38.010

AS 17.38.084

AS 17.38.100



AS 17.38.070

AS 17.38.090

AS 17.38.900

**3 AAC 306.460. Samples.** (a) A marijuana cultivation facility may provide a free sample of marijuana to a retail marijuana store 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.

(b) A marijuana cultivation facility may provide a free sample of marijuana to a retail-

marijuana store or marijuana product manufacturing facility as follows:

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

(2) a marijuana cultivation facility may not provide any one licensed retail marijuana store or marijuana product manufacturing facility with more than one ounce of marijuana per month free of charge for the purpose of negotiating a sale.

(c) A retail marijuana store that receives a marijuana sample 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. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 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 17.38.084 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.470. Packaging of marijuana.** (a) A licensed marijuana cultivation facility, ~~including a marijuana 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 C.F.R. 1700.01—1700.20, as amended Dec.30, 1983 to be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly.~~ 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~~

21. ~~(4)~~ In addition, the packaging must 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;~~

~~(3) be opaque so that the product cannot be seen without opening the packaging material.~~

(c) Each package prepared in compliance with this section must be identified by a tracking 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) - (c) of this section within a sealed, tamper-evident shipping container;

(2) affixing a label in compliance with 3 AAC 306.475 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 17.38.084 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.475. Labeling of marijuana.** (a) When a licensed marijuana cultivation facility packages marijuana for a retail marijuana store to sell to a consumer without re-packaging, the marijuana cultivation facility shall affix a label to each package of marijuana or marijuana product that contains the following statements:

(~~1~~A) "Marijuana has intoxicating effects and may be habit forming;"

(~~2~~ and addictive;" (B) "Marijuana ~~can impair~~ impairs concentration, coordination, and judgment. Do not-

operate a vehicle or machinery under its influence;"

(~~3~~

(C) "There ~~may be~~ are health risks associated with consumption of marijuana;" and

(~~4~~D) "For use only by adults twenty-one and older. Keep out of the reach of children"

(E) "Marijuana should not be used by women who are pregnant or breast

(~~5~~) "~~Marijuana should not be used by women who are pregnant or breast~~

feeding.”-

(b) 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, including any pesticide, herbicide, or fungicide that was used; and

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

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



~~Foods Production Act of 1990).~~

(d) 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.

(e) 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 the results of microbial testing required by 3 AAC 306.645(b)(2);

(3) a statement listing the results of residual solvent testing required by 3 AAC

306.645(b)(3), if applicable;

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

(A) molds, mildew and filth, in addition to the testing required by 3 AAC

306.645(b)(2);

(B) herbicides, pesticides, and fungicides; and

(C) harmful chemicals.

(f) If a marijuana cultivation facility ships wholesale marijuana from a harvest batch that has not been tested for each contaminant listed in (e)(4) of this section, the label for that batch must include a statement identifying each contaminant listed in (e)(4) of this section for which that harvest batch has not been tested. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.480. Marijuana tax to be paid.** -(a) A [marijuana cultivation establishment](#), [including a](#) standard marijuana cultivation facility [and a limited marijuana cultivation 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 sold, or provided as a sample to any marijuana establishment.

~~(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, including any sample provided to any other marijuana establishment. 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 marijuana 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 marijuana cultivation broker facility, sells or distributes any marijuana to a retail marijuana store or a marijuana product manufacturing facility, the marijuana cultivation facility or marijuana cultivation broker must provide verification of tax payment to the purchaser. (Eff. \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)~~

<b>Authority:</b>	AS 17.38.010	AS 17.38.084	AS 17.38.900
	AS 17.38.030	AS 17.38.090	AS 43.61.010
	AS 17.38.070	AS 17.38.100	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 concentrate manufacturing facility license

520. Application for marijuana product manufacturing facility license

525. Approval of concentrates and marijuana products

530. Marijuana handler permit and food safety worker training

535. Restricted access and storage areas

540. Marijuana inventory tracking system

545. Health and safety standards

550. Required laboratory testing

555. Production of marijuana concentrate

560. Potency limits per serving and transaction for edible marijuana products

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, or is an employee or agent acting for a licensed marijuana product manufacturing facility. 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 must

- (1) submit an application for a marijuana product manufacturing facility 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 to the board's satisfaction that it will operate in compliance with

(A) each applicable provision of 3 AAC 306.500 - 3 AAC 306.570 and 3 AAC 306-700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(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  
a direct or indirect financial interest in any licensed marijuana testing facility. (Eff. \_\_\_\_/\_\_\_\_  
/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100



AS 17.38.070

AS 17.38.090

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, including a marijuana concentrate 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) extract marijuana concentrate in compliance with 3 AAC 306.555;

(3) manufacture, refine, process, cook, package, label, and store marijuana products approved under 3 AAC 306.525, 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;

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

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

(6) provide a sample of marijuana concentrate or a marijuana product approved under 3 AAC 306.525 to a licensed retail marijuana store for the purpose of negotiating a sale;

(7) store inventory in a restricted access area on the licensed premises as  
provided in 3 AAC 306.535; and

(8) transport marijuana in compliance with 3 AAC 306.750; or

(9) conduct in-house testing for the marijuana product manufacturing facility's-

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

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100  
AS 17.38.070 AS 17.38.090 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 marijuana concentrate 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) allow any person, including a licensee, employee, or agent, to consume marijuana, marijuana concentrate, or a marijuana product on its licensed premises;

(4) 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; ~~and~~.

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

(b) In this section, “closely resemble” or “look 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~~reasonably be mistaken for that branded product, especially by children.

(c) A marijuana product manufacturing facility may not accept any marijuana from a marijuana cultivation facility or another marijuana product manufacturing facility unless

(1) all marijuana in the shipment is properly identified with a label generated in the marijuana inventory tracking system of the ~~licensed marijuana establishment~~facility that provided the marijuana; and

(2) a valid transport manifest showing the source and destination of the marijuana is attached to the shipment. Eff. \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, Register \_\_\_\_\_)

~~(d) 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 43.61.010 has been paid on that marijuana, the marijuana product manufacturing facility is liable for payment of the tax. Authority: AS 17.38.010 AS 17.38.090 AS 17.38.900~~  
~~(Eff. \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, Register \_\_\_\_\_) Authority: AS 17.38.010 AS 17.38.090 AS 17.38.900~~  
AS 17.38.070 AS 17.38.100 AS 43.61.010

AS 17.38.084

**3 AAC 306.515. Marijuana concentrate manufacturing facility license.** A licensed marijuana concentrate manufacturing facility has the privileges set out in 3 AAC 306.505, except that it may not

~~that it may not~~

(1) manufacture, refine, 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;

(3) provide and transport a sample of any marijuana product other than marijuana concentrate to a licensed marijuana testing lab for testing; or

(4) provide samples of any product other than marijuana concentrate to a licensed retail marijuana store for purposes of negotiating a sale. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.520. Application for marijuana product manufacturing facility license.**

An applicant for a marijuana product manufacturing facility license, including a marijuana concentrate manufacturing facility, must file an application on a form the board prescribes, and-  
~~provide the information required under 3 AAC 306.020 and the following:~~

provide the information required under 3 AAC 306.020 and the following:

(1) a copy of a food safety permit if required under 18 AAC 31.020; from the Department of Environmental Conservation or a municipality with authority delegated under AS 17.20.072 and 18 AAC 31.945;

(2) a diagram of the proposed licensed premises required in 3 AAC 306.020(b), 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 and the additional information required for product approval in 3 AAC 306.525;

(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; and

(E) the applicant's plan for disposal of waste. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** ~~AS 17.38.010~~ ~~AS 17.38.084~~ ~~AS 17.38.100~~

~~AS 17.38.070~~ ~~AS 17.38.090~~ ~~AS 17.38.900~~



**Editor's note:** The form for an application for a marijuana product manufacturing facility license or a marijuana concentrate manufacturing license is available online as provided in the editor's note under 3 AAC 306.020.

**3 AAC 306.525. Approval of concentrates and marijuana products.** (a) A marijuana product manufacturing facility, including a marijuana concentrate manufacturing facility, must obtain the board's approval for each product it will manufacture for sale or transfer to another licensed marijuana establishment. The board will not approve any product that is prohibited under 3 AAC 306.510(a)(4).

~~(1) any marijuana concentrate or product intended for sale directly to a consumer if the concentrate or product will have THC potency equal to or greater than 76 percent; or~~

~~(2) any product that is prohibited under 3 AAC 306.510(a)(4).~~

(b) An applicant for a marijuana product manufacturing facility license may request the

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

board's approval of its intended products with a new license application by including,  
in its operating plan

(1) a photograph, drawing, or graphic representation of the expected appearance  
of each final product; and

(2) the proposed standard production procedure and detailed manufacturing  
process for each product.

(c) A licensed marijuana product manufacturing facility may at any time submit a new  
product approval request to the board on a form the board prescribes along with a fee of \$250.

(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 must be made available for inspection on request by the  
director, or an employee or agent of the board. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

~~**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100~~

**Authority:** ~~AS 17.38.010~~ ~~AS 17.38.084~~ ~~AS 17.38.100~~

**3 AAC 306.530. Marijuana handler permit and food safety worker training.** (a) A

marijuana product manufacturing facility including a licensed marijuana concentrate manufacturer facility shall ensure that each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana product manufacturing facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana product manufacturing facility's licensed premises.

(b) A licensee, employee, or agent of a licensed marijuana product manufacturing

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

\_\_\_\_\_ facility who handles marijuana at the 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 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 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 306.720, 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 must be moisture  
and temperature controlled and protected from pests and vermin. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_,

Register

\_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.540. Marijuana inventory tracking system.** (a) A marijuana product  
manufacturing facility shall use a marijuana inventory tracking system as provided in 3

AAC

306.730 to ensure that the marijuana product manufacturing facility identifies and tracks any marijuana or marijuana product from the time the marijuana or marijuana product is received, through

(1) use of the marijuana or marijuana product in manufacturing any other marijuana product;

(2) sale or transfer of the marijuana or marijuana product originally received, or any marijuana product manufactured at that marijuana product manufacturing facility to another licensed marijuana establishment; and

(3) disposal of any expired or outdated marijuana or marijuana product that is not sold or transferred to another licensed marijuana establishment.

(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 marijuana inventory tracking system of the licensed marijuana establishment that supplies the marijuana or marijuana product.

(c) A marijuana product manufacturing facility shall track any received marijuana or marijuana product 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 \_\_\_\_)

~~sold, transferred, or disposed of. (Eff. \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_)~~

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

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

**3 AAC 306.545. Health and safety standards.** (a) A marijuana product manufacturing facility shall comply with the health and safety standards set out in 3 AAC 306.735, 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 or agent 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. \_\_\_\_\_ / \_\_\_\_\_)

~~including a local fire department, building inspector, or code enforcement officer.~~



~~(Eff. \_\_\_\_\_)~~

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

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.550. Required laboratory testing.** (a) A marijuana product manufacturing facility shall provide a sample of each marijuana product manufactured at the facility to a licensed 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 a signed statement showing that each sample has been randomly selected for testing;

~~randomly selected for testing;~~

(B) provide the signed statement 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 in compliance with  
3 AAC 306.750.

(c) After collecting and transporting a sample for testing, 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 production lot in a secure, cool, and dry location to prevent the marijuana-

product from becoming contaminated or losing its efficacy. The marijuana product manufacturing facility 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 records. ~~(Eff. \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)~~

(e) When geographic location and transportation limitations make it unfeasible for a manufacturing facility to transport testing samples to a lab, an applicant for licensure may propose alternative means of testing to meet the requirements of this code. (Eff. \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

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

**3 AAC 306.555. 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, a safety plan, 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:

~~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 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 ensure that

(1) every vessel is used in compliance with the manufacturer's stated pressure ratings;

(2) any CO<sub>2</sub> used is of at least ninety-nine percent purity;

(3) any person using a solvent or gas to extract marijuana concentrate 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 solvent and gas safely;

(4) a licensed engineer has certified 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;

(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 applicable fire, safety, and building code requirements.

(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, 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 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.560. Potency limits per serving and transaction for edible marijuana products.** (a) A marijuana product manufacturing facility may not prepare any product with potency levels exceeding the following, as tested in compliance with 3 AAC 306.645:

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

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 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 edible marijuana product produced by a marijuana product manufacturing facility ~~must be designed or constructed in compliance with 16 C.F.R.~~

~~1700.01—1700.20, as amended Dec. 30, 1983 to be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly. The container or 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 not impart any toxic or damaging substance to the product;

~~(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;~~

~~(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 C.F.R. 1700.01—1700.20, as amended Dec. 30, 198; and~~

~~(5)~~(2) if the marijuana product contains multiple servings, the product itself must have markings or demarcations clearly delineating each serving of the product. For liquid marijuana products with multiple servings the packaging must indicate the number and size of individual servings.

(c) A licensed marijuana product manufacturing facility may transfer marijuana products that are not edible marijuana products to another licensed facility in wholesale packages not to exceed 5 pounds.

(d) Each packaged marijuana product must be identified by a tracking label generated by the marijuana product manufacturing facility's marijuana inventory control system.

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

(1) placing marijuana products within a sealed, tamper-evident shipping container;

(2) affixing a label that complies with 3 AAC 306.570(d) 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 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 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 test and the results of each required test.

(b) A marijuana product may not be labeled as organic ~~unless permitted by the United States Department of Agriculture in compliance with 7 U.S.C. 6501 (Organic Foods Production Act of 1990).~~

(c) A marijuana product manufacturing 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;

(4) a label containing the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming and addictive;"

(B) "Marijuana impairs concentration, coordination, and judgment. Do not;"

~~(B) "Marijuana can impair concentration, coordination, and judgment. Do not~~ operate a vehicle or machinery under its influence;"

(C) "There ~~may be~~<sup>are</sup> health risks associated with consumption of marijuana;" and

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

children"

(E) “Marijuana should not be used by women who are pregnant or breast feeding.”

~~(E) “Marijuana should not be used by women who are pregnant or breast feeding.”~~

(d) A marijuana product manufacturing facility transporting 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 the results of microbial testing required by 3 AAC 306.645(b)(2);

(3) a statement listing the results of residual solvent testing required by 3 AAC 306.645(b)(3), if applicable;

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

(A) molds, mildew and filth, in addition to the testing required by 3 AAC 306.645(b)(2);

(B) herbicides, pesticides, and fungicides, and

(C) harmful chemicals.

(e) If a marijuana product manufacturing facility ships wholesale marijuana product from a production lot of marijuana product that has not been tested for each contaminant listed in

(d)(4) of this section, the label for that lot must include a statement identifying each contaminant

listed in (d)(4) of this section for which that lot has not been tested. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_,

Register \_\_\_\_)

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

## **Article 6. Marijuana Testing Facilities.**

### **Section**

600. Applicability

605. Marijuana testing facility license required

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**3 AAC 306.600. Applicability.** (a) The provisions of 3 AAC 306.600 - 3 AAC

306.675 apply to any person offering any service testing, analyzing, or certifying potency, moisture content, pesticide or solvent residue, mold, mildew, bacteria, or other contaminant in marijuana or any marijuana product to any other person including a marijuana establishment or any member of the public, whether for compensation or not, as a independent or third party 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 own 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 17.38.084 AS 17.38.100  
AS 17.38.070 AS 17.38.090 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, or is an employee or agent acting for a licensed marijuana testing facility.

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

(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

**3 AAC 306.600. Applicability.** (a) The provisions of 3 AAC 306.600 - 3 AAC

(2) demonstrate to the board's satisfaction that the applicant will operate in  
compliance with

(A) each applicable provision of 3 AAC 306.600 – 3 AAC 306.675, and

**3 AAC 306.600 - Applicability.** (a) The provisions of 3 AAC 306.600 - 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(C) does not hold any marijuana establishment license in ~~Alaska~~this state 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~~this state other than a testing facility license; and

(D) meets the board's standards for approval as set out in 3 AAC 306.620 - 3 AAC 306.625.

(c) A licensee of any marijuana testing facility, or an employee or agent of a licensed marijuana testing facility may not have an ownership interest in, or a direct or indirect financial interest in any other licensed marijuana establishment. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 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 provided that 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 who holds any type of marijuana establishment license other than a marijuana testing facility license issued under this chapter;

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

(3) allow any person to consume marijuana or marijuana product on its licensed premises. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.615. Application for marijuana testing facility license.** An applicant for a new marijuana testing facility license must 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:

(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.

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

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.620. Approval of testing facility. (a)** A person seeking a marijuana testing-

facility license must first obtain the approval of 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 tests to identify

- (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 has shown competence in testing under this section, the board or the board's 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 306.630 -

3AAC 306.675, and 3 AAC 306.700 - 3AAC 306.755, 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;~~



(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, pesticides, or other contaminants. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 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 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 an applicant for a marijuana testing facility license or a participating licensed marijuana testing facility to analyze test samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment that will be 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 facility, the board may require the-

facility to participate in a proficiency testing 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](#).

~~proficiency testing program.~~

(c) The scientific director and each testing analyst of an applicant for a marijuana testing facility license and a 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 after the date of the marijuana testing facility’s last successful proficiency test. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

~~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.

\_\_\_/\_\_\_/\_\_\_ ~~2~~ Register \_\_\_)

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

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

(B) United Nations Office on Drugs and Crime: Recommended methods for the identification and analysis of cannabis and cannabis products: Manual for use by national drug analysis laboratories (2009).

(2) notify the board of any alternative scientifically valid testing methodology the facility proposes to use for any 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~~

[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 the holder of a marijuana

testing facility license must ~~be familiar with, and to the extent possible, integrate into the facility's operations the~~ observe good laboratory practices ~~set out in the following materials, hereby adopted by reference~~

~~(1) 21 C.F.R. 58, as revised as of Dec. 22, 1978; and~~

~~(2) Principles of Good Laboratory Practice and Compliance Monitoring published by the Organization for Economic Co-operation and Development (OECD), as revised as of 1999.~~

(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 the facility uses. The marijuana testing facility must pay all costs of validation. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**Editor's note:** *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/>

United Nations Office on Drugs and Crime: Recommended methods for the identification and analysis of cannabis and cannabis products: Manual for use by national drug analysis laboratories (2009).is available at the internet address <https://www.unodc.org/documents/scientific/ST-NAR-40-Ebook.pdf>



|        *OECD Principles of Good Laboratory Practice and Compliance Monitoring* published  
by the Organisation for Economic Co-operation and Development as revised as of 1997 is  
available at the internet address

|        **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;  
for each matrix that will be tested;
- (2) reagent, solution, and reference standard preparation;
- (3) instrument setup, where applicable;
- (4) standardization of volumetric reagent solutions, as applicable;
- (5) data acquisition; and
- (6) calculation of results-;
- (7) identification criteria;
- (8) quality control frequency;
- (9) quality control acceptance criteria; and
- (10) corrective action protocol.

(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 \_\_\_)

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

**3 AAC 306.645. Laboratory Testing of Marijuana and Marijuana Products.** (a) A 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, other chemical residue, and metals screening, and residual solvents levels. A marijuana testing facility shall establish a schedule of fees and sample size required for each test it offers.

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

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

(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~~

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:

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**	< <del>4.025</del> 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)	
<del>Any solvent not permitted for</del>	<del>None Detected</del>	

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

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100  
AS 17.38.070 AS 17.38.090 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 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 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	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 306.730 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 disposal in compliance with 3 AAC 306.740. (Eff. \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, Register \_\_\_\_\_)

~~(b) When a marijuana testing facility completes any testing, use, or research, it shall immediately 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 disposal of the sample using its inventory control system. (Eff. \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_, Register \_\_\_\_\_)~~

~~Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100~~

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

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

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

(2) document the disposal of the sample using its marijuana inventory control system.

(b) If a sample of marijuana fails a required test, any marijuana plant trim, leaf, and other usable material from the same plants automatically fails the required test. The board may approve a request to allow a batch of marijuana that fails a required test to be used to make a CO2 or solvent-based extract. After processing, the CO2 or solvent-based extract must pass all required tests.

| (c) If a marijuana cultivation facility or a marijuana product manufacturing facility

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

\_\_\_\_\_, ~~Register →~~

~~Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100~~

[Register \\_\\_\\_\\_\\_](#) )

**Authority:**    [AS 17.38.010](#)                      [AS 17.38.084](#)                      [AS 17.38.100](#)

[AS 17.38.070](#)                      [AS 17.38.090](#)                      [AS 17.38.900](#)

~~[AS 17.38.070](#)                      [AS 17.38.090](#)                      [AS 17.38.900](#)~~

**3 AAC 306.665. Supplemental marijuana quality testing.** (a) The board or director may at any time determine that the interests of the public require random supplemental testing of marijuana or a marijuana product. When the board or director requires random supplemental marijuana testing, the board or director 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 or director 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 17.38.084                      AS 17.38.100

AS 17.38.070

AS 17.38.090

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

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

(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) the marijuana establishment or other person that submitted the testing sample;

(4) the sample identifier provided by the person that submitted the testing sample;

(5) the date the facility received the sample;

(6) the chain of custody identifier;

(7) the date of report;

(8) the type of product tested;

(9) the test results;

(10) the units of measure; and

(11) any other information or qualifiers needed for interpretation of the test method and the results being reported, including any identified and documented discrepancy.

(c) A marijuana testing facility may amend a final report for clerical purposes except that test results may not be amended. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

~~Authority: AS 17.38.010~~



**Authority:** [AS 17.38.010](#) [AS 17.38.084](#) [AS 17.38.100](#)

[AS 17.38.070](#) [AS 17.38.090](#) [AS 17.38.900](#)

~~AS 17.38.084~~ ~~AS 17.38.100~~

~~AS 17.38.070~~ ~~AS 17.38.090~~ ~~AS 17.38.900~~

**3 AAC 306.675. Records retention.** A marijuana testing facility shall maintain the business records required under 3 AAC 306.755 for the period of time specified in that section.

The books and records required under 3 AAC 306.755(a)(1) include:

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

~~Authority:~~ ~~AS 17.38.010~~ ~~AS 17.38.084~~ ~~AS 17.38.100~~

	<del>AS 17.38.070</del>	<del>AS 17.38.090</del>	<del>AS 17.38.900</del>
<b><u>Authority:</u></b>	<a href="#"><u>AS 17.38.010</u></a>	<a href="#"><u>AS 17.38.084</u></a>	<a href="#"><u>AS 17.38.100</u></a>
	<a href="#"><u>AS 17.38.070</u></a>	<a href="#"><u>AS 17.38.090</u></a>	<a href="#"><u>AS 17.38.900</u></a>

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

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

**3 AAC 306.700. 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 consumer 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 material, 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 consumption of marijuana and marijuana products;

(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.~~

(5) .

(c) To obtain a marijuana handler permit, a person who has completed the marijuana handler permit course described under (b) of this section shall present the course completion certificate, ~~along with a report of criminal justice information obtained from the Department of Public Safety under AS 12.62.160 to the director.~~ 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 in that person's immediate possession when on the licensed premises of the retail marijuana store.

(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 17.38.087 AS 17.38.100

AS 17.38.070            AS 17.38.090            AS  
17.38.900

AS 17.38.084

**3 AAC 306.705. 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. The 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 holder of a marijuana establishment license may not alter the functional floor plan or reduce or expand the area of the licensed premises without first obtaining the director's written approval. A marijuana establishment license holder seeking to change or modify the licensed premises shall submit a request for approval of the change on a form prescribed by the board, along with

(1) the fee prescribed in 3 AAC 306.100;

(2) a drawing showing the proposed change;

(3) evidence that the proposed change conforms to any local restrictions; and

(4) evidence that the licensee has obtained any applicable local building permit.

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

**Authority:** AS 17.38.010

AS 17.38.087

AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

**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, or stocked.

(b) Except as provided in 3 AAC 306.325 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, any licensee, employee, and agent of the marijuana establishment 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 306.350 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 a licensee, or an employee or an agent of the marijuana establishment. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.715. Security alarm systems and lock standards.** (a) Each licensee, employee, or agent of a marijuana establishment shall display an identification badge issued by the marijuana establishment 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 306.720.

(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 device, such as a motion detector,

pressure switch, and duress, panic, or hold-up alarm 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 a 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 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

**3 AAC 306.720. 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 a marijuana establishment, a required 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 where 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, in order to allow 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 \_\_\_\_)

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

<b><u>Authority:</u></b>	<a href="#"><u>AS 17.38.010</u></a>	<a href="#"><u>AS 17.38.085</u></a>	<a href="#"><u>AS 17.38.100</u></a>
	<a href="#"><u>AS 17.38.070</u></a>	<a href="#"><u>AS 17.38.087</u></a>	<a href="#"><u>AS 17.38.900</u></a>
	<a href="#"><u>AS 17.38.084</u></a>	<a href="#"><u>AS 17.38.090</u></a>	

**3 AAC 306.725. 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 the director, an employee or agent of the board, or an officer charged with the enforcement of this chapter. The board or the director may also request a local fire protection agency or any other state agency with health and safety responsibilities to inspect licensed premises or proposed licensed premises.

(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 \_\_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.085	AS 17.38.100
	AS 17.38.070	AS 17.38.087	AS 17.38.900
	AS 17.38.084	AS 17.38.090	

**3 AAC 306.730. Marijuana inventory tracking system.** (a) A marijuana establishment shall use a marijuana inventory tracking system capable of sharing information with the system the board implements 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 harvest batch of marijuana or production lot of marijuana product.



product, or disposal of the harvest batch of marijuana or production lot of marijuana product.

(b) All marijuana delivered to a marijuana establishment must be weighed on a scale-  
certified in compliance with 3 AAC 306.745. (Eff. / \_\_\_\_ / \_\_\_\_\_, Register \_

\_\_\_\_\_)

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

**Authority:** ~~AS 17.38.010~~ \_\_\_\_\_ ~~AS 17.38.087~~ \_\_\_\_\_ ~~AS~~  
17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

**3 AAC 306.735. 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

~~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 testing 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 17.38.087](#) [AS 17.38.100](#)

[AS 17.38.070](#) [AS 17.38.090](#) [AS 17.38.900](#)

**Authority:** ~~AS 17.38.010~~ ~~AS 17.38.087~~ ~~AS 17.38.100~~

~~AS 17.38.070~~ ~~AS 17.38.090~~ ~~AS 17.38.900~~

~~AS 17.38.084~~

[AS 17.38.084](#)

**3 AAC 306.740. 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 shall

(1) give the board at least 3 days notice in the marijuana inventory tracking system required under 3 AAC 306.730 before making the waste unusable and disposing of it; except that the director may authorize immediate disposal on an emergency basis; 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](#)

~~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 any applicable local government entity; 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 any applicable local government entity.

(e) When marijuana or a marijuana product is found by, or surrendered to, a law enforcement officer including an airport security officer, the officer may dispose of the marijuana or marijuana product as provided in this section or by any method that is allowed under any applicable local ordinance. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.745. Standardized scales.** A marijuana establishment shall use certified scales in compliance with AS 45.75.080, the Alaska Weights and Measures Act. A marijuana establishment shall

- (1) maintain registration and inspection reports of certified scales; and
- (2) upon request by the board or the director, provide a copy of the registration and inspection reports of the certified scales to the board or the director for review. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

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

**3 AAC 306.750. 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)~~(2) 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)~~(3) 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)~~(4) 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 306.700.

(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 in 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 as required under 3 AAC 306.755.

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

<b>Authority:</b>	AS 17.38.010	AS 17.38.087	AS 17.38.100
	AS 17.38.070	AS 17.38.090	AS 17.38.900

AS 17.38.084

**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 each business transaction 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 306.750(f).

(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 \_\_\_\_)

~~safety.~~ **Authority:** AS 17.38.010 AS 17.38.085 AS 17.38.100



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

**Authority:** AS 17.38.~~010~~070 AS 17.38.~~085~~087 AS  
17 38 100000  
AS 17.38.~~070~~084 AS 17.38.~~087~~090 ~~AS 17.38.900~~  
~~AS 17.38.084~~ ~~AS 17.38.090~~

## Article 8. Enforcement and Civil Penalties.

### Section

- 800. Inspection and investigation
- 805. Report or notice of violation
- 810. Suspension or revocation of license
- 815. Suspension or revocation based on act of employee
- 820. Procedure for action on license suspension or revocation
- 825. Summary suspension to protect public health, safety, or 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, an employee of the board, or a peace officer acting in an official capacity, may

(1) inspect the licensed premises of any marijuana establishment, including any marijuana and marijuana product 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 report or notice as provided in 3 AAC 306.805; and

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

(b) A marijuana establishment, and any licensee, employee, or agent in charge shall cooperate with the director, an enforcement agent, an employee of the 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 when requested by the director, an enforcement agent, an employee of the board, or a peace officer. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.085 AS 17.38.100

AS 17.38.070 AS 17.38.087 AS 17.38.900

AS 17.38.084 AS 17.38.090

**3 AAC 306.805. Report or notice of violation.** (a) The director, an enforcement agent, an 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 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, an 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, an employee of the board, or a peace officer may issue a notice of violation when an inspection report or other credible information shows a marijuana establishment is in violation of AS 17.38, this chapter, or other law relating to marijuana. 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 the 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 under 3 AAC 306.810. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.085	AS 17.38.100
	AS 17.38.070	AS 17.38.087	AS 17.38.900
	AS 17.38.084	AS 17.38.090	

**3 AAC 306.810. Suspension or revocation of license.** (a) The board will suspend or revoke a marijuana establishment license issued under this chapter if any licensee is convicted of a felony, or [a crime listed in 3 AAC 306.010 \(c\) \(2\) or \(3\), or](#) if the board becomes aware that a licensee did not disclose a previous felony conviction: ~~or a conviction of a crime listed in 3 AAC 306.010(c)(2) or (3).~~

(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 licensee for any marijuana establishment

(1) misrepresented a material fact on an application for a marijuana establishment license, or an affidavit, report, or signed statement under AS 17.38 or this chapter; or

(2) is following any practice or procedure that is contrary to the best interests of the public, including

(A) using any process not approved by the board for extracting or manufacturing marijuana concentrate or products; or

(B) 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 director, to correct any defect that is the subject of the notice of violation of

(A) AS 17.38 or this chapter;

(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, this chapter, or a condition or restriction imposed by the board;

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

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

(c) A local government may notify the director if 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 government'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. \_\_\_\_ / \_\_\_\_)  
~~and conduct proceedings to resolve the matter as described under 3 AAC 306.820.—~~



~~(Eff.~~

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

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

**3 AAC 306.815. Suspension or revocation based on act of employee.** If, in a proceeding to suspend or revoke a marijuana establishment license under 3 AAC 306.810 and 3 AAC 306.820, evidence shows that an employee or agent of a licensed 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

(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 and this chapter relating to marijuana; or

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

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

**Authority:** AS 17.38.010 AS 17.38.085 AS 17.38.100

AS 17.38.070 AS 17.38.087 AS 17.38.900

AS 17.38.084 AS 17.38.090

**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 44.62.360 and AS 44.62.380, and conducted in-

compliance with AS 44.62.330 – AS 44.62.630. The accusation must be served 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 under AS 44.62.390. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

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

(a) If the director finds that a person holding a marijuana establishment license has acted and appears to be continuing to act in a way that constitutes an immediate threat to the public health, safety or welfare, 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, safety, or welfare.

(b) When the director issues a summary suspension under this section, the director shall

\_\_\_\_\_ immediately give the marijuana establishment subject to the summary suspension order notice of the reasons for the summary suspension, and of the time and place for 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 scheduled hearing. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.085 AS 17.38.100  
AS 17.38.070 AS 17.38.087 AS 17.38.900

AS 17.38.084

AS 17.38.090

**3 AAC 306.830. Seizure of marijuana or marijuana product.** (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may seize marijuana or any marijuana product from a licensed [or previously 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(a)(4); or

(3) any marijuana or marijuana product that is not properly packaged and labeled as provided in 3 AAC 306.465 and 3 AAC 306.470 or 3 AAC 306.565 and 3 AAC 306.570;

[\(4\) not renewed its license as required under 3 AAC 306.035.](#)

(b) If the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, seizes marijuana or a marijuana product under this section, the director shall update the marijuana inventory control tracking system to reflect the seizure and ensure that the seized items are stored in a reasonable manner. The director shall immediately

\_\_\_\_\_ give the marijuana establishment from which the marijuana or marijuana product was seized notice of the reasons for the seizure and the time and place of 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 the scheduled hearing. If the seizure occurs in connection with a summary suspension under 3 AAC 306.825, the hearing will be combined with a hearing on the summary suspension.

(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 306.740.

(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 17.38.085 AS 17.38.100

AS 17.38.070 AS 17.38.087 AS 17.38.900

AS 17.38.084 AS 17.38.090

**3 AAC 306.835. Hearing.** (a) Except as provided in 3 AAC 306.825 or 3 AAC 306.830, any person aggrieved by an action of the director, an enforcement agent, or an employee of the board, may 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.](#)

~~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 – AS 44.62.630, and the applicable regulations adopted by the Office of Administrative Hearings at 2 AAC 64.100 -

2 AAC 64.990. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.085 AS 17.38.100

AS 17.38.070 AS 17.38.087 AS 17.38.900



AS 17.38.084

AS 17.38.090

**3 AAC 306.840. Civil fines.** (a) The board may, in addition to any other penalties imposed under this title, impose a civil fine on a marijuana establishment, licensee, or person 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 AAC 306.830, the board may impose a civil fine, not to exceed the greater of

(1) an amount that is three times the monetary gain realized by the marijuana establishment, licensee, or person 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. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.085 AS 17.38.100

AS 17.38.070 AS 17.38.087 AS 17.38.900

AS 17.38.084 AS 17.38.090

**3 AAC 306.845. Appeal.** (a) An aggrieved party may appeal to the board regarding any

action of the director, an enforcement agent, or an employee of the board charged with enforcing AS 17.38 or this chapter, including suspending or revoking a license, seizing marijuana or a marijuana product, or imposing a civil fine.

(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 17.38.085 AS 17.38.100

~~AS 17.38.070 AS 17.38.087 AS 17.38.900~~

~~AS 17.38.084 AS 17.38.090~~

[AS 17.38.070](#)

[AS 17.38.087](#)

[AS 17.38.900](#)

[AS 17.38.084](#)

[AS 17.38.090](#)

**3 AAC 306.850. Surrender or destruction of license.** A license issued under this chapter must be surrendered to the director, an enforcement agent, or an employee of the board on demand if the director or board so orders. 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 \_\_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.085	AS 17.38.100
	AS 17.38.070	AS 17.38.087	AS 17.38.900
	AS 17.38.084	AS 17.38.090	

## Article 9. General Provisions.

### Section

~~900. Marijuana clubs prohibited~~

905. Public records

910. Refusal to sell marijuana

915. Exercise of authority

920. Death of licensee

990. Definitions

**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 17.38.084 AS 17.38.100~~

~~AS 17.38.070 AS 17.38.090 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 \_\_\_\_).~~

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

**Authority:** ~~AS 17.38.010~~ ~~AS 17.38.090~~ ~~AS 17.38.900~~

~~AS 17.38.070~~ ~~AS 17.38.100~~ ~~AS 40.25.110~~

~~AS 17.38.084~~

**Authority:** AS 17.38.010 AS 17.38.090 AS 17.38.900

AS 17.38.070 AS 17.38.100 AS 40.25.110

AS 17.38.084

**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 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.915. Exercise of authority.** Until a marijuana establishment surrenders its license to the board, and so long as business is conducted under the license on the licensed premises, the person holding the license, whether an individual, a partnership, a limited liability company, a corporation, or a local government, is responsible and liable for the conduct of the business. Any individual exercising actual authority over the conduct of business on the licensed premises must be the holder of the marijuana establishment license, or an agent or employee of that person unless the board has approved a transfer of the license to a different person. (Eff. \_\_\_\_ / \_\_\_\_ / \_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.920. Death of licensee.** (a) If an individual who is the sole licensee of a marijuana establishment dies, the marijuana establishment shall cease operation. A personal representative appointed by the superior court for the estate of the deceased licensee may submit

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to the director a written request to reopen the business, along with a copy of the court order-

~~appointing the personal representative. If the licensed marijuana establishment is in good~~

appointing the personal representative. If the licensed marijuana establishment is in good

standing, and the personal representative is not a person prohibited from holding a marijuana establishment by AS 17.38.100(i), the director shall grant permission to the personal representative to operate the business on the licensed premises subject to (b) of this section. In this section, "good standing" means the marijuana establishment

(1) has a valid current license;

(2) has paid all fees due under this chapter, and all local taxes due; and

(3) has no unresolved suspension or revocation proceedings against it.

(b) A personal representative authorized to operate a marijuana establishment under (a) of this section must submit an application for a transfer of ownership to another person in compliance with 3 AAC 306.045 within 90 days after obtaining the director's approval to operate. The board may extend the time allowed in this section for another 90 days if the personal representative requests the additional time.

(c) This section does not authorize the transfer of a marijuana establishment license unless the board approves the personal representative's application for transfer of license to another person. (Eff. \_\_/\_\_/\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 ACC 306.990 is repealed and readopted to read:

**3 AAC 306.990. Definitions.** (a) In AS 17.38 and this chapter,

(1) "affiliate" means a person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, a partnership, limited liability company, or corporation subject to this chapter;

(2) “assisting” does not include

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



~~the amount allowed in AS 17.38.020;~~

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

(C) growing marijuana plants for another person in a place other than

(i) that other person's primary residence; or

(ii) a garage, shed, or similar place under the other person's

control;

(3) "delivering"

(A) means handing to a person who purchases the product on licensed premises only;

(B) does not include transferring or transporting to a consumer off licensed premises;

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

(5) "immature" means a marijuana 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;

(6) "in public"

(A) means in a place to which the public or a substantial group of people has access;

(B) except as provided in (C) of this paragraph, includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence;

(C) does not include an area on the premises of a licensed marijuana retail store designated for on-site consumption under 3 AAC 306.305.

(7) “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 number allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than

(i) that other person's primary residence; or

(ii) a garage, shed, or similar place under the other person's

control;

(78) "possess" means having physical possession or control over

property; (89) "registration" means "licensure," or "license;"

(910) "transport" or "transfer" means to deliver between licensed

marijuana establishments as provided in 3 AAC 306.750.

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

(1) "adulterated food or drink product"

(A ) 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;

(B) does not include raw ingredients that are combined with marijuana in a manufacturing process;

(2) “agent”

(A) means a representative who is authorized to act for a licensee, the board, or the director;

(B) includes a contractor or subcontractor;

(3) “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 including pesticides and fungicides, and harvested at the same time;

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

(5) “business day” means a day other than a Saturday, Sunday, or a state holiday;

(6) “CBN” means cannabinol;

(7) “CBD” means cannabidiol;

(8) “CBDA” means CBD Acid;

(9) “clones” or “cuttings” means small starter plants

(A) shorter than eight inches tall; and

(B) used to propagate marijuana plants;

(10) “compensation”

(A) means money, bartered objects or services, or anything else of value, whether given as payment or voluntarily as a donation, when accepted by a person who-

gives, distributes, or delivers marijuana to another;

(B) includes a cover charge, a delivery charge, and a packaging charge;

(11) “concentrate” or “marijuana concentrate” means resin, oil, wax, or any other substance produced by extracting or isolating cannabinoids, THC, or other components from a marijuana plant or from materials harvested from a marijuana plant;

(12) “consumer”

(A) means an individual who purchases and uses marijuana or a marijuana product; and

(B) does not include any marijuana establishment that re-sells marijuana or incorporates marijuana into a manufactured product;

(13) “contaminant” means one or more of the following:

(A) harmful microbials, including *Escherichia coli* (*E. coli*). or *Salmonella* species;

(B) residual solvents;

(C) poisons or toxins;

(D) harmful chemicals, including pesticides;

(E) dangerous molds, mildew, or filth;

(14) “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,  
or intermingling corporation finances with personal finances; or

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

(15) "distribute" means spread out or pass out among several or many members  
of a group;

(16) "edible" and "edible marijuana product"

(A) means a marijuana product that is intended to be consumed orally,  
[whether as food or drink;](#)



~~whether as food or drink;~~

(B) does not include an adulterated food or drink product;

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

(18) “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;

(19) “individual” means a natural person;

(20) “in-house testing”

(A) means laboratory testing as provided in 3 AAC 306.635;

(B) does not include consumption of any marijuana or marijuana product on the licensed premises;

~~(20)~~ (C) does not meet the requirements of 3 AAC 306.645;

(21) "licensed"

(A) means holding a current and valid license that the board has issued under this chapter;

(B) does not include holding a formerly valid license that has expired or that the board has suspended or revoked;

(~~21~~22) "licensee" means each individual identified in 3 AAC 306.020 who must be listed in an application for a marijuana establishment license under this chapter;

(~~22~~23) "licensed premises" means any or all designated portions of a building or structure, or rooms or enclosures in the building or structure, at the specific address for which a marijuana establishment license is issued, and used, controlled, or operated by the marijuana establishment to carry out the business for which it is licensed;

~~(23)~~(24) “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;

~~(24)~~(25) "marijuana" has the meaning given in AS 17.38.900;

~~(25)~~(26) "marijuana cultivation facility" has the meaning given in AS

17.38.900; ) (27) “marijuana infused product”

(A) means a product that contains marijuana or marijuana concentrate and is intended for human use;

(B) does not include bud and flower marijuana;

(28)

~~(26)~~ “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;

~~(27) "marijuana product" has the meaning given in AS 17.38.900;~~

(29) "marijuana product" has the meaning given in AS 17.38.900;

(30) "marijuana product manufacturing facility" has the meaning given in AS 17.38.900;

(31) "peace officer" has the meaning given in AS 01.10.060;

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

(33) "process" or "processing" means harvesting, curing, drying, trimming of a

~~(28) "marijuana product manufacturing facility" has the meaning given in AS 17.38.900;~~

~~(29) "peace officer" has the meaning given in AS 01.10.060;~~

~~(30) "person" has the meaning given in AS 01.10.060;~~

~~(31) "process" or "processing" means harvesting, curing, drying, trimming of a marijuana plant;~~  
~~(32)~~

(34) "propagate" means to cause a marijuana plant to grow by planting clones or cuttings, and nurturing them into viable plants up to 8 inches in height;

~~(33)~~(35) "recreation or youth center" means a building, structure, athletic playing field, or playground

(A) run or created by a local government or the state to provide athletic, recreational, or leisure activities for minors; or

(B) operated by a public or private organization licensed to provide shelter, training, or guidance for ~~minors~~persons under 21 years of age;

~~(34)~~(36) "retail marijuana store" has the meaning given in AS 17.38.900;

~~(35)~~ (37) "square feet under cultivation"

(A) means an area of the licensed premises of a standard or limited marijuana cultivation facility that is used for growing marijuana, measured from the perimeter of the floor or growing space for marijuana;

(B) does not include a processing or storage area, an equipment storage area, an office, a hallway, or another area, if that area is not used for growing marijuana;

~~(36)~~ (38) "THC" means *tetrahydrocannabinol*, the main psychoactive substance found-

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in marijuana;  
(37)

(39) “THCA” means THC Acid;

(38)(40) “transaction” means one single occurrence in which marijuana or a  
marijuana product not exceeding the limits set out in 3 AAC 306.355 is passed from a licensed  
marijuana establishment to another person. Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_ 2/24

/2015, Register \_\_\_\_\_);  
amended \_\_\_\_\_/  
/\_\_\_\_, 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



## “LEGAL-NESS” OF MARIJUANA UNDER ALASKA STATE LAW

Activity	Before Ballot Measure 2	After Ballot Measure 2
Public Consumption	Illegal <i>- Penalty: B Misdemeanor</i>	Illegal <i>- Penalty: Noncriminal violation; Max \$100 fine</i>
DUI- Marijuana	Illegal	Illegal
Simple Possession – Up to One Ounce (Non-Plant)	Illegal	Legal for adults over the age of 21
Simple Possession – More than One Ounces	Illegal <i>-Adults over 18 may possess up to four ounces of marijuana in the privacy of the home for personal use under Ravin v. State.</i>	Illegal <i>*Adults over 21 may possess all of the marijuana produced by lawfully-possessed marijuana plants on the premises where the plants were grown.</i>
Simple Possession – More than Four Ounces	Illegal	Illegal
Simple Possession – Up to Six Plants	Illegal <i>*The Alaska Medical Marijuana Law permits registered users to possess up to six marijuana plants (three of which may be flowering).</i>	Legal <i>-Only three plants may be flowering at any time</i>
Simple Possession – 25 or More Plants	Illegal	Illegal
Manufacture, Delivery, Possession with Intent to Manufacture or Deliver <i>[Excluding marijuana establishments licensed under AS 17.38]</i> Any amount	Illegal	Illegal <i>*Adults over 21 may transfer up to 1 ounce of marijuana (and up to six plants) to another person over 21 without remuneration. AS 17.38.020(c)</i>
Personal Home Grow	Legal	Legal  <i>*BM2 and the Alaska Medical Marijuana Law permit possession of up to six marijuana plants (three of which may be flowering)</i> <i>*Failure to comply with the statutory requirements for personal grow operations is punishable by a fine of up to \$750.</i>





## The Nitty Gritty on Marijuana Regulations

### Age Limit

- 21 and older.

### Personal Possession, Cultivation, and Purchase Limits

- **Possession:** Up to one ounce of marijuana in public and all marijuana produced by personal cultivation in the same location where cultivation occurred.
- **Home Cultivation:** Six marijuana plants (three flowering).
- **Purchase:** Up to one ounce.

### Business Allowed and Restrictions on Numbers of Each

- Marijuana cultivation facilities (growers), product manufacturing facilities, testing facilities, and retail stores.
- There are no statewide restrictions on the number of licenses issued per business type, but localities may restrict their number or ban them entirely.

### Licensing Timeline

- November 24, 2015- Statutory deadline for adoption of all regulations.
- February 24, 2016 – Marijuana Control Board must start accepting applications and must act on them within 90 days of receipt of application. If the board has not adopted regulations, applications may be submitted directly to local regulatory authorities.
- March 26, 2016 – Tentative effective date of regulations; effective date will be 30 days after the Lt. Governor's Office files the approved regulations.
- May 24, 2016 – Initial marijuana industry licenses expected to be awarded.

### Oversight Agency

- The Marijuana Control Board has regulatory authority.

## **Tracking and Security**

- Marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities must use an inventory tracking system to ensure that all marijuana products in its possession are identified and tracked.
- Specific security and video systems must be installed, and the businesses must abide by specific alarm and lock standards.

## **Testing and Labeling**

- Certain analytical tests (including testing THC potency) must be performed on marijuana and the various marijuana products.

## **Tax Rate**

- Every marijuana cultivation facility shall pay an excise tax at the rate of \$50 per ounce, or proportionate part thereof, on marijuana that is sold or transferred from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility.

## **Local Role**

- AS 17.38 provides for local option elections that permit a community in Alaska to opt out of manufacture and sales of marijuana. Communities will continue to be bound by authority regarding individual constitutional privacy rights as set forth by the Supreme Court in *Ravin v. Alaska*.



# 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 15-08

TO: Cannabis Advisory Commission  
FROM: Rick Abboud, City Planner  
DATE: December 17, 2015  
SUBJECT: Update

---

**Introduction:** After some input from the City Attorney, the Planning Commission made some changes to their zoning recommendations. The Planning Commission meeting was very long and the Commission decided to adjourn at 10:30 pm and did not finish discussion on the ordinance. I expect some further changes at the next meeting on January 6<sup>th</sup>.

**What are others doing?** Interestingly I have received calls/emails from Soldotna and Ketchikan asking how we are handling marijuana regulations. Now both of those communities have proposed a two year moratorium and a ban respectively. It is stated that Soldotna is waiting to see the experiences of others with the industry.

Anchorage has proposed regulations that restrict cultivation and manufacturing to industrial areas while retail would be restricted to commercial areas only. All types of commercial establishments would be banned in residential areas.

The City and Borough of Juneau is proposing an additional 3% tax on the sale of marijuana. They are also creating a licensing process that seems to overlap with that of the state. All marijuana related business would be required to obtain a Conditional Use Permit prior to operation.

**Items for Planning Commission:** At the next meeting, I will suggest reviewing the allowance for manufacturing in the commercial district for the consideration of removing the conditional use permit requirement. This would make the regulations more consistent. I will also recommend applying a 1000 foot buffer around the college in light of what I found in federal law 21 USC 860:

#### (a) Penalty

Any person who violates [section 841\(a\)\(1\) of this title](#) or [section 856 of this title](#) by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or

secondary school or a **public or private college, junior college, or university**, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, is (except as provided in subsection (b) of this section) subject to (1) twice the maximum punishment authorized by [section 841\(b\) of this title](#); and (2) at least twice any term of supervised release authorized by [section 841\(b\) of this title](#) for a first offense. A fine up to twice that authorized by [section 841\(b\) of this title](#) may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by [section 841\(b\) of this title](#), a person shall be sentenced under this subsection to a term of imprisonment of not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

You may also notice the provision for “playground” in the code. Below is the federal definition. It is defined as “containing three or more apparatus.

(e) Definitions For the purposes of this section—

(1)

The term “playground” means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

(2)

The term “youth center” means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

(3)

The term “video arcade facility” means any facility, legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

(4)

The term “swimming pool” includes any parking lot appurtenant thereto.

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

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

**Staff Recommendation:** Review and make any suggestions that you may wish to forward to the City Attorney for the next meeting.

**Attachments:**

1. Draft ordinance 12.9.15
2. Proposed zoning maps (2)
3. News articles



CITY OF HOMER  
HOMER, ALASKA

Planning Commission

ORDINANCE 16-XX

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 21.18, CENTRAL BUSINESS DISTRICT; HOMER CITY CODE 21.24, GENERAL COMMERCIAL 1; HOMER CITY CODE 21.26, GENERAL COMMERCIAL 2; HOMER CITY CODE 21.27, EAST END MIXED USE; HOMER CITY CODE 21.28, MARINE COMMERCIAL; HOMER CITY CODE 21.40 TO IDENTIFY THE ZONING DISTRICTS PERMITTING MARIJUANA FACILITIES AND ADOPTING CHAPTER 21.62 ENTITLED "MARIJUANA FACILITIES" REGARDING GENERAL LAND USE REQUIREMENTS FOR MARIJUANA CULTIVATION, MANUFACTURING, RETAIL, AND TESTING FACILITIES

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

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

THE CITY OF HOMER ORDAINS:

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

Section 21.18.020 Permitted uses and structures.

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

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



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

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

cc. Rooming house, bed and breakfast and hostel;

dd. Auto repair and auto and trailer sales or rental areas, but only on Main Street from Pioneer Avenue to the Sterling Highway, excluding lots with frontage on Pioneer Avenue or the Sterling Highway, subject to the following additional requirements: Vehicles awaiting repair or service, inoperable vehicles, vehicles for parts, and vehicles awaiting customer pickup shall be parked indoors or inside a fenced enclosure so as to be concealed from view, on all sides. The fence shall be a minimum height of eight feet and constructed to prohibit visibility of anything inside of the enclosure. The portion of any vehicle exceeding eight feet in height may be visible outside of the fence. Vehicle parts (usable or unusable), vehicle service supplies, and any other debris created in the repair or servicing of vehicles shall also be stored indoors or inside the fenced enclosure out of view of the public;

ee. Farmers' market;

ff. Dormitory;

gg. Financial institutions;

hh. As an accessory use, one small wind energy system per lot having a rated capacity not exceeding 10 kilowatts;

ii. One detached dwelling unit, excluding mobile homes, as an accessory building to a principal single-family dwelling on a lot.

**jj. Marijuana testing facility as defined by state law.**

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#### Section 21.18.030 Conditional uses and structures.

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The following uses may be permitted in the Central Business District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

---

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

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

Section 21.24.020 Permitted uses and structures.

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

---

a. Air charter operations and floatplane tie-up facilities;

b. General business offices and professional offices;

c. Dwelling units located in buildings primarily devoted to business uses;

d. Auto repair;

e. Auto and trailer sales or rental areas;

f. Auto fueling stations and drive-in car washes;

g. Building supply and equipment sales and rentals;

h. Restaurants, including drive-in restaurants, clubs and drinking establishments;

i. Garden supplies and greenhouses;

j. Heavy equipment and truck sales, rentals, service and repair;

k. Hotels and motels;

l. Lumberyards;

m. Boat and marine equipment sales, rentals, service and repair;

n. Mortuaries;

o. Open air businesses;

p. Parking lots and parking garages, in accordance with Chapter 21.55 HCC;

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

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

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

ii. Rooming house and bed and breakfast;

jj. Dormitory;

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

**ll. Marijuana testing retail facilities, cultivation facilities as defined by state law.**

Section 21.24.030 Conditional uses and structures.

The following uses may be permitted in the General Commercial 1 District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

a. Campgrounds;

b. Crematoriums;

c. Multiple-family dwelling;

d. Public utility facility or structure;

e. Mobile home parks;

f. Planned unit developments;

g. Townhouses;

h. Pipelines and railroads;

i. Shelter for the homeless, provided any lot used for such shelter does not abut an RO, RR, or UR zoning district;

j. More than one building containing a permitted principal use on a lot;

k. Day care facilities; provided, however, that outdoor play areas must be fenced;

l. Other uses approved pursuant to HCC 21.04.020;

m. Indoor recreational facilities;

n. Outdoor recreational facilities

**o. Marijuana manufacturing facilities as defined by state law.**

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

Section 21.26.020 Permitted uses and structures.

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

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

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

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

d. Research and development laboratories;

e. Trade, skills or industrial schools;

f. Publishing, printing and bookbinding facilities;

g. Auto, trailer, truck, recreational vehicle and heavy equipment sales, rentals, service and repair, excluding storage of vehicles or equipment that is inoperable or in need of repair;



- 239 h. Storage and distribution services and facilities, including truck  
240 terminals, warehouses and storage buildings and yards, contractors'  
241 establishments, lumberyards and sales, or similar uses;
- 242 i. Airports and air charter operations;
- 243 j. Underground bulk petroleum storage;
- 244 k. Cold storage facilities;
- 245 l. Parking lots and parking garages, in accordance with  
246 Chapter 21.55 HCC;
- 247 m. Mobile commercial structures;
- 248 n. Accessory uses to the uses permitted in the GC2 district that are clearly  
249 subordinate to the main use of the lot or building, such as wharves, docks,  
250 restaurant or cafeteria facilities for employees; or caretaker  
251 or dormitory residence if situated on a portion of the principal lot;  
252 provided, that separate permits shall not be issued for the construction of  
253 any type of accessory building prior to that of the main building;
- 254 o. Taxi operation;
- 255 p. Mobile food services;
- 256 q. Itinerant merchants, provided all activities shall be limited  
257 to uses permitted outright under this zoning district;
- 258 r. Recreational vehicle parks, provided they shall conform to the standards  
259 in Chapter 21.54 HCC;
- 260 s. Hotels and motels;
- 261 t. Dormitory;
- 262 u. As an accessory use, one small wind energy system per lot;
- 263 v. Open air business.

**w. Marijuana testing, retail facilities, cultivation facilities as defined  
by law.**

Section 21.26.030 Conditional uses and structures.

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The following uses may be permitted in the General Commercial 2  
District when authorized by conditional use permit issued in accordance with  
Chapter 21.71 HCC:

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- a. Mobile home parks;
- b. Construction camps;
- c. Extractive enterprises, including the mining, quarrying and crushing of gravel, sand and other earth products and batch plants for asphalt or concrete;
- d. Bulk petroleum product storage above ground;
- e. Planned unit developments, excluding residential uses;
- f. Campgrounds;
- g. Junk yard;
- h. Kennels;
- i. Public utility facilities and structures;
- j. Pipelines and railroads;
- k. Impound yards;
- l. Shelter for the homeless, provided any lot used for such shelter does not abut an urban, rural or office residential zoning district;
- m. More than one building containing a permitted principal use on a lot;
- n. Day care facilities; provided, however, that outdoor play areas must be fenced;

o. Group care homes and assisted living homes;

p. Other uses approved pursuant to HCC 21.04.020;

q. Indoor recreational facilities;

r. Outdoor recreational facilities.

**s. Marijuana manufacturing facilities as defined by state law.**

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

Section 21.27.020 Permitted uses and structures.

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

a. Offices for tourism-related charter and tour businesses, such as fishing, flightseeing, day excursions and boat charters and tours;

b. Marine equipment sales, rentals, service, repair and storage;

c. Retail stores limited to the sale of seafood products, sporting goods, curios, and arts and crafts;

d. Business offices for water-dependent and water-related activities such as fish brokers, off-shore oil and gas service companies, and stevedores;

e. Customary accessory uses that are clearly subordinate to the main use of the lot or building such as piers or wharves; provided, that separate permits shall not be issued for the construction of an accessory structure prior to that of the main structure;

f. Mobile food services;

g. Itinerant merchants, provided all activities shall be limited to uses permitted outright under this zoning district;

h. Recreational vehicle parks, provided they shall conform to the standards in Chapter 21.54 HCC;

i. Restaurants;

j. Cold storage facilities;

k. Campgrounds;

l. Manufacturing, processing, cooking, and packing of seafood products;

m. Parks;

n. Boat launching or moorage facilities, marinas;

o. Caretaker, business owner or employee housing as an accessory use to a primary use, and limited to no more than 50 percent of the floor area of a building and for use by an occupant for more than 30 consecutive days;

p. Lodging as an accessory use, limited to no more than 50 percent of the floor area of a building;

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

**r. Marijuana testing, retail, and cultivation facilities as defined by state law.**

Section 21.27.030 Conditional uses and structures.

The following conditional uses may be permitted in the East End Mixed Use District when authorized by conditional use permit issued in accordance with Chapter 21.71 HCC:

a. Construction camps;

b. Extractive enterprises, including crushing of gravel, sand and other earth products and batch plants for asphalt or concrete;

c. Auto fueling stations;

d. Bulk petroleum product storage;

e. Planned unit developments;

f. Junk yard;

g. Kennels;

h. Public utility facilities and structures;

i. Impound yards;

- j. Indoor recreational facilities;
- k. Outdoor recreational facilities;
- l. Other uses approved pursuant to HCC 21.04.020.

**m. Marijuana manufacturing facilities as defined by state law**

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

Section 21.28.030 Conditional uses and structures

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

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

Section 9. Chapter 21.62 is hereby enacted as follows:

**Chapter 21.62**

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

**Sections:**

**21.62.010 Scope.**

**21.62.020 Intent**

**21.62.030 Definitions**

**21.62.040 Pre-application conference.**

**21.62.050 Costs**

**21.62.060 Safety and Security Plan**

**21.62.070 Buffers.**

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

**21.62.010 Scope**

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

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

**21.62.020 Intent**

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

- 1. The distribution of marijuana to minors;**
- 2. Revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;**
- 3. The diversion of marijuana from states where it is legal under state law in some form to other states where it is unlawful;**
- 4. State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;**
- 5. Violence and the use of firearms in the cultivation and distribution of marijuana;**
- 6. Drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;**
- 7. The growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public land;**  
**and**

8. Marijuana possession or use on federal property.

21.62.030 Definitions [Reserved.]

21.62.040 Pre-application Conference.

21.57.050 Costs.

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

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

21.62.060 Safety and Security Plan

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

21.62.070 Buffers

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

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

1. <u>Schools</u>	<u>1000 feet</u>
2. <u>Churches</u>	<u>500 feet</u>
3. <u>Jail</u>	<u>500 feet</u>
4. <u>Youth/rec. center</u>	<u>500 feet</u>
5. <u>Library</u>	<u>200 feet</u>

c) Marijuana facilities abutting the Jack Gist Municipal Park, Karen Hornaday Municipal Park, Bayview Municipal Park, or Ben Walters Municipal Park must have 200 feet or more buffers measured from the boundary of the park.

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

- a) **All marijuana facilities in all districts shall comply with Section 21.59.030 of this title.**
- b) **An application for a conditional use permit under this chapter shall not be approved if the location of the facility violates the regulatory intent in Section 21.62.020.**

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

Section 9. This ordinance is of a permanent and general character and shall be included in the City code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this  
\_\_\_\_\_ day of \_\_\_\_\_ 2015.

CITY OF HOMER

\_\_\_\_\_  
BETH WYTHER, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:

Reviewed and approved as to form:

\_\_\_\_\_  
Kate Koester, City Manager

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

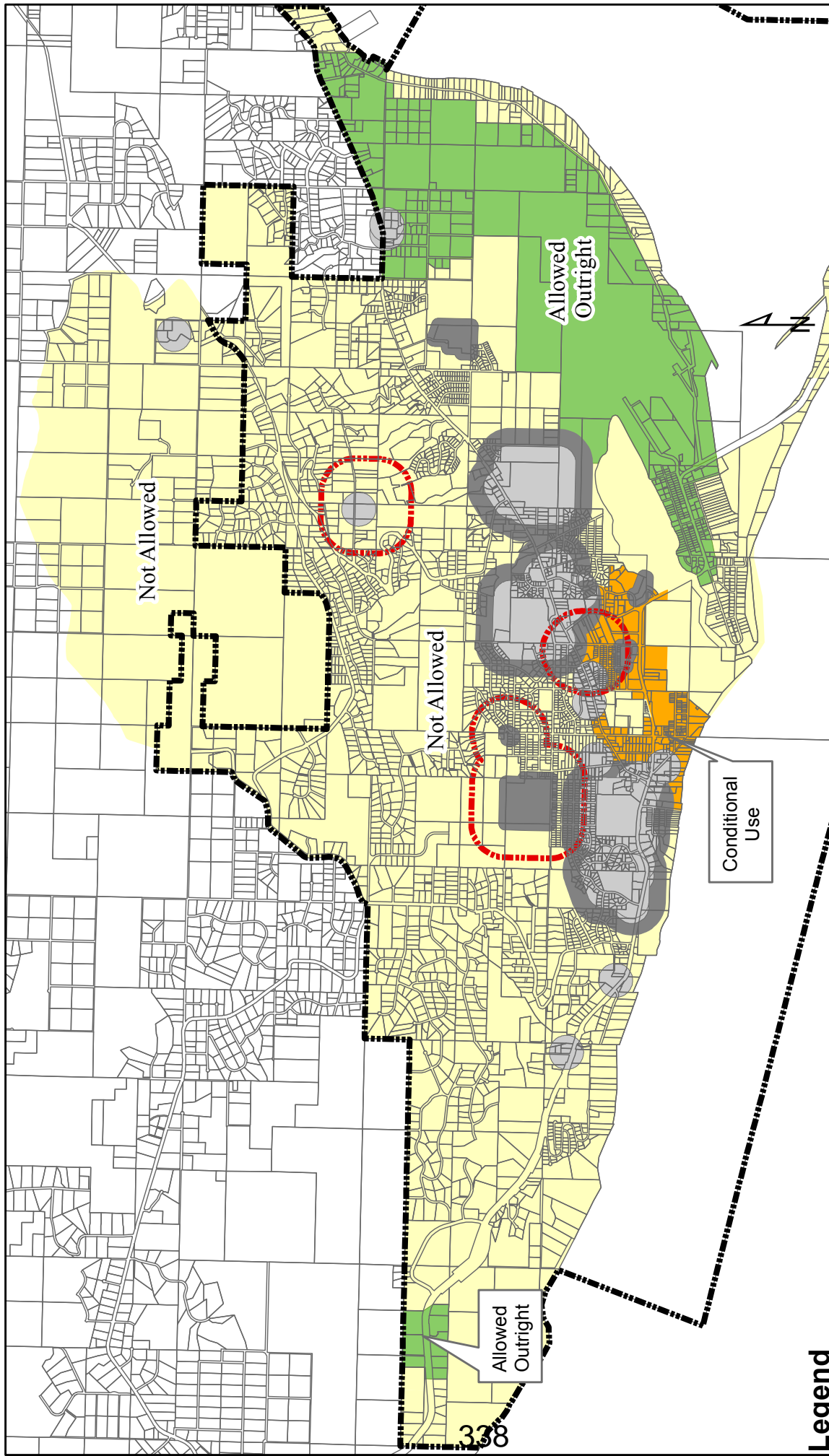
Date: \_\_\_\_\_





# Commercial Cannabis Cultivation Map CAC 12/10/2015

Questions? Contact City Planner Rick Abboud, 235-3106



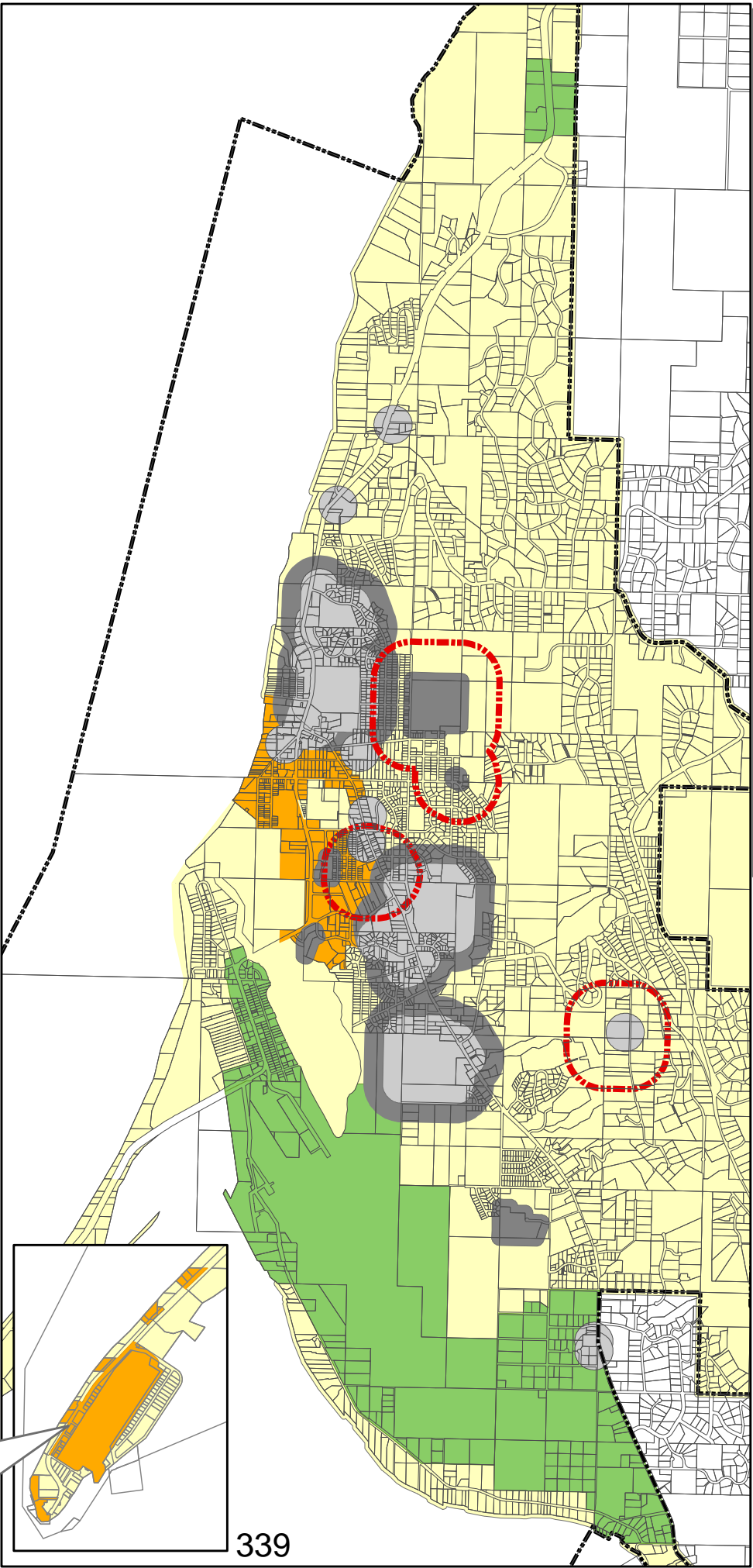
## Legend

- College 1000 ft Federal Buffer
- Playground 1000 ft Federal Buffer
- City Limits
- State Buffers
- Additional City Buffers
- Cultivation**
  - Permitted
  - CUP
  - No Commercial Cannabis Businesses

Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries for schools and youth/rec centers. All distances are measured by the shortest pedestrian route.

**December 10th, CAC**  
**2016 Commercial Cannabis Retail and Manufacturing Map.**  
**Testing is allowed outright in the green areas, and in downtown Homer.**

**Questions? Contact City Planner Rick Abboud**



## Legend

City Limits

Playground 1000 ft Federal Buffer

College 1000 ft Federal Buffer

State Buffers

Additional City Buffers

## Commercial Cannabis Activities

Retail by Conditional Use Permit

Retail allowed outright, Manufacturing by CUP

No Commercial Cannabis Businesses

0 0.25 0.5 1 1.5 Miles



Retail Only the Spiti -  
no testing or manufacturing

339

Proposed state regulations call for buffers to be measured between the public entrance of the cannabis business, and the public entrances of churches and jails. Distances for schools and youth/rec centers are measured from the boundaries to the front door of the cannabis business. All distances are measured by the shortest pedestrian route.

# Soldotna puts moratorium on commercial marijuana

**Posted:** December 9, 2015 - 9:14pm

By [Rashah McChesney](#)

Peninsula Clarion

While the city of Soldotna is now a local regulatory authority — allowing it to profit from the commercial production, testing and sale of marijuana — no businesses will be selling, growing or testing marijuana in Soldotna for the next two years.

The Soldotna City Council on Wednesday voted to put a moratorium on allowing marijuana businesses to open in the city after more than an hour of testimony from the public.

Opponents of the measure said the council members were reacting out of fear and ignorance about the ongoing cultivation, sale and consumption of marijuana already happening within city limits.

“The law allows it, the market desires it, so why would this body prohibit ... the best answer I can come up with is fear. Fear that regulating sale is somehow a personal endorsement,” said council member Keith Baxter.

Baxter and council member Meggean Bos-Marquez were the only two members of the city council to vote against the moratorium. It was introduced by council member Regina Daniels who said she wanted to halt the spread of commercial marijuana business within city limits out of a sense of responsibility.

“This is a moratorium that was written by our city attorney and what it will do is ban the sales and cultivation of marijuana in the city limits for two years which I think is important, to give us time to be responsible .... as a government, to see how this plays out within the state and within other municipalities and we can learn from them on how to move forward,” Daniels said after she introduced her ordinance.

Marc Thieler testified to the council that he’d been involved with the issue “on the philosophical level,” for about three years as he worked to end the prohibition on marijuana.

“From the beginning, it was clear that this wasn’t a matter of facts and data and decorum ... what I’ve seen across the board is a battle of ideology rather than fairness,” he said.

Thieler questioned why council members who chose to fight against allowing commercial marijuana businesses would not also fight against alcohol and tobacco and other “poisons,” available for community members to buy within city limits.

“We pretend that one poison is better than another,” he said. “It’s hypocrisy and the illusion of being fair ... it’s a battle of ideology and it’s a battle of cherry picking liberty.”

Proponents of the moratorium said the city should wait to see how the state, borough and surrounding cities regulate commercial marijuana before establishing its own set of rules.

“I don’t see any reason for us to jump on the band wagon,” said council member Linda Murphy. “I just don’t think we’re ready for it in town at this time.”

Reach Rashah McChesney at [rashah.mcchesney@peninsulaclarion.com](mailto:rashah.mcchesney@peninsulaclarion.com) or follow her on Twitter @litmuslens.

## Ketchikan bans pot shops

Associated Press  
December 5, 2015

KETCHIKAN — Retail marijuana shops will not be allowed to open within Ketchikan city limits.

Thursday's 5-2 vote came after public comment and a 20-minute discussion, the Ketchikan Daily News reported.

Councilman Dick Coose voted in favor of the measure. He said residents can still grow and share their own marijuana if they are at least 21 years old but the city does not need to make the substance readily available by allowing shops.

"I recognize the voters did it to themselves," he said. "Well, sometimes, the voters don't always get it right, and this is one of them. I think it's wrong, because there's too many dangers out there. If the people are going to smoke it, they've got that opportunity."

Officials also expressed concern over state regulations and questioned the expectations for government revenue from taxing marijuana.

Council members Judy Zenge and KJ Harris dissented. Unlike with home growers who share their marijuana crops, Zenge said, consumers know what they're getting from regulated retailers.

"We tell people (that) if they want to effect change, you need to vote, so they did," she said. "And so, I don't think we get to pick and choose. They voted; let's do it."

Harris said prohibiting pot shops means a loss of potential tax revenue.

"It's OK for us to sell all the booze in the world and sell all the jewelry in the world ... but a new product just scares the hell out of us," Harris said.

# Proposed Anchorage law limits where, when pot businesses can open

[Devin Kelly](#)

November 18, 2015

Newly proposed Anchorage marijuana laws would restrict commercial grow and manufacturing operations to industrial areas and keep retail businesses away from community centers and homeless shelters.

The proposed regulations were released Wednesday at an Anchorage Assembly committee meeting. The regulations set up a special land-use permit for commercial marijuana establishments, which include large-scale grow operations, manufacturing, retail sales and testing facilities.

As the state Marijuana Control Board nears the adoption of statewide regulations, towns and cities are left to shape local rules for cannabis production, sales and consumption. In Anchorage, city officials have spent months examining issues in six categories: licensing; land use; criminal law; public health and marijuana edibles; policies for city employees; and taxation.

The proposed land-use regulations are the first significant document to emerge since voters approved the recreational use of marijuana a year ago. One of the more controversial elements is likely to be proposed limitations on where marijuana businesses can be. Commercial grow and manufacturing operations can only be in industrial areas under the proposal drafted by city planning officials.

Retail sales, meanwhile, would be restricted to commercial properties. All types of commercial marijuana establishments would be banned entirely from residential areas under the proposal, including backyard greenhouses.

City planners are also proposing to expand and modify the state's list of venues that require a 500-foot distance from a marijuana establishment. The following are proposed, in addition to schools, jails, churches and neighborhood recreation centers:

- Community centers
- Homeless shelters
- Parks
- Therapy centers for those with disabilities
- Halfway houses

Several marijuana business owners attended Wednesday's Assembly committee meeting and there were mixed reactions. Theresa Collins, owner of the Anchorage cannabis social club Pot Luck Events, said the proposal seems like a "really good start" for local marijuana land-use regulations.



But she said she expected businesses to be concerned about the proposal to limit production operations to industrial areas.

Jessica Jansen of the Anchorage-based Cannafarm Co-op, a collective of growers, said the regulations effectively bar the use of commercial greenhouses that are not on industrial land.

“If you’re allowed to grow lettuce, you should be allowed to grow marijuana,” Jansen said.

Jansen also said she’s concerned about the availability of vacant industrial land, though city planners have said that they expect marijuana operations to occupy existing industrial space.

Elsewhere in the proposed regulations, city planners aim to introduce regulations that tackle marijuana-related odors. One line in the city regulations requires premises to be ventilated so the marijuana odor “cannot be detected by a person with a normal sense of smell” at the property lot line, which McConnell said was drawn from regulations in Boulder, Colorado.

The regulations would also require retail marijuana businesses to close between midnight and 8 a.m., and retail operators applying for a permit would need to develop something called a “neighborhood responsibility plan.”

The plan would demonstrate how the business will “fulfill its responsibilities to be a good neighbor, including neighborhood outreach, methods for future communication, and dispute resolution,” the proposed regulations say.

On Wednesday, the members of the Assembly’s Community and Economic Development Committee agreed to forward the draft regulations to community councils and to the city’s Planning and Zoning Commission. There was generally positive feedback; Assembly member Amy Demboski, the chair of the committee, said she wanted to see more detail in sections on security and fire suppression.

The city clerk office is still finishing regulations that deal with licensing marijuana businesses. Meanwhile, the state regulations have also yet to be finished. But Assembly members said Wednesday they were comfortable with their draft, and didn’t expect significant changes at the state level that would affect Anchorage’s proposal. There was also a sense of timing: Feb. 24 marks the start of the 90-day window in which the first applications will be processed to meet the ballot initiative’s May deadline for initial licensing decisions.

At the current pace, the land-use regulations will be before the Assembly in mid-January.

Contact [Devin Kelly](#) at [dkelly@alaskadispatch.com](mailto:dkelly@alaskadispatch.com) or on [Twitter](#)

# Committee asks for special sales tax for pot

**Posted:** November 15, 2015 - 12:03am

By [SAM DeGRAVE](#)

JUNEAU EMPIRE

If the city's Marijuana Committee has its way, there will be a pot-related proposition on Juneau's municipal election ballots in October.

At their meeting Thursday, committee members decided to recommend the Assembly seek an additional 3 percent tax on marijuana sales on top of Juneau's regular 5 percent sales tax. Any additional sales tax requires public approval, so this matter will appear on the ballots next fall if the Assembly heeds the Marijuana Committee's recommendation.

If the Assembly supports the recommendation — and if voters do, too — marijuana sales would carry an 8 percent sales tax, which is exactly the way the city taxes alcohol sales. And this is exactly what committee member Debbie White was going for when she moved to recommend that the Assembly place the matter on the next regular election ballot.

"I know we can't go to an 8 percent tax, like we do with alcohol, without putting it to a vote," White said while explaining her motion. "So why not set it at 5 percent, and put it to a vote later?"

Late last month, when the committee began discussing how it would handle marijuana taxation, White and several other committee members argued that supporters of Ballot Measure 2, which legalized marijuana last year, wanted marijuana to be regulated like alcohol.

"The people who voted for this said treat marijuana like alcohol," White said at the Oct. 22 Marijuana Committee meeting. "We have an 8 percent tax on alcohol, and I'm comfortable with that."

Though the committee tabled the tax discussion before any motions were made, it moved relatively quickly through the discussion Thursday, and White's motion was supported by a 5–2 vote.

Committee member Mike Satre was one of two to vote against the motion. The other was committee and Assembly member Maria Gladziszewski. Satre argued that the city should keep the tax as simple as possible since the Alaska Marijuana Control Board has not released its final regulations for the marijuana industry.

"Simplicity breeds compliance," he said.



City Attorney Amy Mead said that putting the additional 3 percent sales tax to a vote is doable, but she cautioned the committee that basing the marijuana sales tax off of the city's alcohol sales tax could be problematic. Juneau, she said, is one of only three municipalities in the state that imposes an additional sales tax on alcohol. This is because a state statute prohibits doing so.

Juneau was already imposing the additional sales tax when the statute was passed, so it was grandfathered in.

"We could not, for example, increase our sales tax rate on alcohol because we would lose our grandfather status," Mead said.

This statute will not impact the Marijuana Committee's recommendation because it is specific to alcohol. No state statute currently dictates how cities can tax marijuana sales, but the Legislature could enact such a statute, Mead said.

The ballot initiative that legalized marijuana in Alaska imposed a \$50 per ounce excise tax on the "sale or transfer of marijuana from a cultivation facility to a retail store or marijuana product manufacturing facility."

## **Fairbanks zoning ordinance for marijuana businesses approved**

- Amanda Bohman abohman@newsminer.com
- Oct 23, 2015

FAIRBANKS - The Fairbanks North Star Borough Assembly adopted the first major legislation dealing with the marijuana industry in the borough on Thursday.

Ordinance 2015-41 outlines where pot dispensaries, grow operations and other cannabis businesses will be allowed to open.

The assembly shaped an ordinance sponsored by Borough Mayor Luke Hopkins, making it more restrictive in urban areas and less restrictive in outlying neighborhoods.

At about midnight, the much-anticipated legislation passed in a 7-1 vote with Assemblywoman Diane Hutchison voting no.

In crafting his measure, Hopkins sent staff to Colorado to learn about the cannabis industry, convened a task force and held multiple public meetings.

Hutchison said the assembly went too far afield of the mayor's well-vetted recommendations.

The assembly made it harder for a marijuana business to open in the cities by adding to the list of places to have buffer zones, keeping pot businesses away.

But the panel made it easier to open a cannabis operation outside of the urban area by lifting a restriction that would have required a public hearing before a marijuana store could open in a general use zone.

Most of the borough, particularly outside of the cities, is zoned as general use. The other zones where marijuana businesses will be allowed are commercial, industrial and agricultural.

*Contact staff writer Amanda Bohman at 459-7587. Follow her on Twitter: @FDNMborough.*



## **MEMORANDUM**

***COPY- EXCERPT FROM ORIGINAL***

**TO: CANNABIS ADVISORY COMMISSION  
RICK ABBODD**

**FROM: HOLLY WELLS**

**RE: INTRODUCTION TO FINALIZED MARIJUANA REGULATIONS  
ADOPTED BY THE MARIJUANA CONTROL BOARD**

**CLIENT: CITY OF HOMER, ALASKA**

**FILE NO.: 506742-222**

**DATE: DECEMBER 9, 2015**

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This memorandum is intended to provide additional information on several different areas of interest currently facing the Cannabis Advisory Commission ("CAC").

### **Public Health and Safety**

While the CAC is carefully considering all aspects of public health and safety and the marijuana industry's impact on health and safety matters, we highly recommend that the risks associated with the extraction of THC or other cannabinoids using processes that pose fire hazards. To this end, the CAC packet includes an ordinance amending the Homer City Code to prohibit such extraction. While this ordinance will undoubtedly need further input and discussion before recommendations can be made to the City Council, it is important to initiate these discussions.



CITY OF HOMER  
HOMER, ALASKA

City Manager

ORDINANCE 15-\_\_\_\_

AN ORDINANCE OF THE HOMER CITY COUNCIL AMENDING  
TITLE 5 TO ADD A NEW CHAPTER 5.44 TO PROHIBIT THE  
EXTRACTION OF TETRAHYDROCANNABINOL ("THC") OR ANY  
CANNABINOID BY USE OF MATERIALS OR METHODS DEEMED  
DANGEROUS TO PUBLIC HEALTH AND SAFETY, UNLESS  
OTHERWISE PERMITTED BY LAW.

WHEREAS, in 2014, Alaska voters approved a ballot measure legalizing personal recreational marijuana use and possession of marijuana and marijuana paraphernalia; and

WHEREAS, other jurisdictions that have legalized marijuana have experienced an increase in fires and explosions related to certain methods of manufacturing marijuana products, including the use of highly flammable materials and methods to extract THC oil from the marijuana plant, resulting in significant personal injury, death and property damage; and

WHEREAS, the City of Homer is dedicated to drafting regulations to protect the public health and safety against known and unreasonable risks of certain manufacturing processes of a legalized marijuana industry.

THE CITY OF HOMER ORDAINS:

Section 1. Homer Municipal Code is hereby amended by adding a new chapter 5.44 Prohibited Acts Regarding Marijuana, as follows:

Chapter 5.44 Prohibited Acts Regarding Marijuana.

5.44.010 Certain manufacturing processes prohibited.

A. It shall be unlawful for any person to:

1. manufacture a marijuana concentrate, hashish, or hash oil by use of solvents containing compressed flammable gases or through use of a solvent-based extraction method using a substance other than vegetable glycerin, unless the person is validly licensed and permitted in accordance with statute, regulation, or ordinance.

B. Definitions. For purposes of this section:

1. *"manufacture"* means the preparation, compounding, conversion, or processing of marijuana, hashish, or hash oil, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the marijuana, hashish, or hash oil, or labeling or relabeling of its container. It includes the organizing or supervising of the manufacturing process. It does not include the legally authorized planting, growing, cultivating, or harvesting of a plant.

2. *"marijuana concentrate"* means any product which, through manufacture, contains tetrahydrocannabinol (THC). Common names and types of product include "shatter", butane or CO<sub>2</sub> hash oil, "ring pots", butter, hash, hashish, keif, oil, or wax.

C. Seizure.

1. Any marijuana as defined in AS 17.38.900, equipment, material, product, package or container possessed, used or intended to be used, or produced in violation of this section may be seized and held as evidence to be used in any future proceeding and may be disposed of as appropriate after their use for evidentiary purposes is no longer required, including in accordance with chapter 18.30 of this code.

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

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

ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this \_\_\_\_ day of \_\_\_\_\_ 2015.

CITY OF HOMER

\_\_\_\_\_  
MARY E. WYTHE, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, MMC, CITY CLERK

87  
88  
89 AYES:  
90 NOES:  
91 ABSTAIN:  
92 ABSENT:  
93  
94 First Reading:  
95 Public Hearing:  
96 Second Reading:  
97 Effective Date:  
98  
99  
100 Reviewed and approved as to form:  
101  
102 \_\_\_\_\_  
103 Mary K. Koester, City Manager  
104  
105 Date: \_\_\_\_\_  
106

\_\_\_\_\_  
Thomas F. Klinkner, City Attorney  
  
Date: \_\_\_\_\_





## **MEMORANDUM**

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

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

**RE: CONSIDERATIONS FOR MARIJUANA SOCIAL CLUBS**

**CLIENT: CITY OF HOMER, ALASKA**

**FILE NO.: 506,742.222**

**DATE: DECEMBER 9, 2015**

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

### **Background:**

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

### **Social Clubs:**

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

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

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

#### Considerations:

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

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

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

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

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

#### Conclusion:

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

Please call with any questions.

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Cannabis North

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

Laurel Andrews | November 20, 2015

Email

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

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

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

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

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

The amendment passed 3-2.

**Update 4 p.m. Friday:**

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

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

The amendment failed 3-2.

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

A broker cultivation license was removed from proposed regulations.

Under a previous draft version of the regulations, a license would have allowed for brokers to procure marijuana from small growers and then sell the marijuana to retailers. The license was seen as a way to help small black market growers transition to the legal market.

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

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

**Update 2 p.m. Friday:**

Marijuana can be packaged in such a way as to allow consumers to see the product before they purchase it in a retail store, the board voted Friday.



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

Loren Holmes / ADN

A previous version of the regulations had specified that marijuana must be packaged in opaque plastic.

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

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

The amendment passed 3-2.

**Update 1:30 p.m. Friday:**

The board voted to remove a cap on THC limits for marijuana concentrates.

A prior draft version had capped THC at 76 percent, a calculation derived from the limit placed on spirits; board member Bruce Schulte argued that the cap was taking the idea of regulating marijuana like alcohol too literally.

The amendment passed 3-2.

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

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

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

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

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

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

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

Audience members clapped after the vote.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Original story:**

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

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

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

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

Local laws banning indoor smoking would remain in effect.

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

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

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

**RELATED:**

Alaska board OKs marijuana use in retail pot shops

ABC Board approves liquor stores in Bethel

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

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# First Fairbanks pot club opens downtown

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



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

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

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

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

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



room to smoke.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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





## City of Homer

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

## Office of the City Clerk

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# MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION

FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: DECEMBER 11, 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.

Please note that the November meeting will be conducted in the upstairs meeting room due to a Special Election being conducted the following day.

Recommendation

Informational In Nature. No Action Required.



**2015/2016 MEETINGS**  
**CANNABIS ADVISORY COMMISSION**

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

<b><u>Meeting Date</u></b>	<b><u>Packet Deadline</u></b>
December 17, 2015	December 9 <sup>th</sup>
January 28, 2016	January 20, 2016
February 25, 2016	February 17, 2016
March 24, 2016	March 16, 2016
April 28, 2016	April 20, 2016
May 26, 2016	May 18, 2016
June 23, 2016	June 15, 2016
July 28, 2016	July 20, 2016
August 25, 2016	August 17, 2016
September 22, 2016	September 14, 2016
October 27, 2016	October 19, 2016
November 29, 2016 (Tuesday)	November 18, 2016
December 15, 2016	December 8, 2016

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

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

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

**2016 HOMER CITY COUNCIL MEETINGS**  
**CANNABIS ADVISORY COMMISSION ATTENDANCE**

It is the goals of the Commission to have a member speak regularly to the City Council at council meetings. There is a special place on the council's agenda specifically for this. After Council approves the consent agenda and any scheduled visitors it is then time for staff reports, commission reports and borough reports. That is when you would stand and be recognized by the Mayor to approach and give a brief report on what the Commission is currently addressing, projects, events, etc. **A commissioner is scheduled to speak and has a choice at which council meeting they will attend. It is only required to attend one meeting during the month that you are assigned.** However, if your schedule permits please feel free to attend both meetings. Remember you cannot be heard if you do not speak.

The following Meeting Dates for City Council for 2016 is as follows:

The following Meeting Dates for City Council for 2016 is as follows:

January 11, 25 2016	_____	_____ Alt. Lewis or Reynolds
February 8, 22 2016	Sarno	_____ Alt. Lewis or Reynolds
March 14, 28 2016	Stead	_____ Alt. Lewis or Reynolds
April 11, 25 2016	_____	_____
May 9, 23 2016	_____	_____
June 13, 27 2016	_____	_____
July 25 2016	_____	_____
August 8, 22 2016	_____	_____
September 12, 26 2016	_____	_____
October 10, 24 2016	_____	_____
November 28 2016	_____	_____
December 12, 2016	_____	_____

Please review and if you will be unable to make the meeting you are tentatively scheduled for please Notify the Chair who may contact another commissioner or attend the meeting.

**CITY OF HOMER  
HOMER, ALASKA**

City Clerk

**RESOLUTION 15-105**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
ESTABLISHING THE 2016 REGULAR MEETING SCHEDULE FOR  
THE CITY COUNCIL, ECONOMIC DEVELOPMENT ADVISORY  
COMMISSION, LIBRARY ADVISORY BOARD, PARKS AND  
RECREATION ADVISORY COMMISSION, ADVISORY PLANNING  
COMMISSION, PORT AND HARBOR ADVISORY COMMISSION,  
CANNABIS ADVISORY COMMISSION, PERMANENT FUND  
COMMITTEE, AND PUBLIC ARTS COMMITTEE.

WHEREAS, Pursuant to Homer City Code Section 1.14.020, the City Council annually sets the schedule for regular and some special meetings, noting the dates, times and places of the City Council, Advisory Commissions, the Library Advisory Board, and standing committee meetings; and

WHEREAS, The public is informed of such meetings through notices located at the City Clerk's Office, Clerk's Calendar on KBBI, the City Clerk's Website, and postings at the Public Library; and

WHEREAS, HCC 1.14.020 - 040 states that meetings may be advertised in a local paper of general circulation at least three days before the date of the meeting and that special meetings should be advertised in the same manner or may be broadcast by local radio at least twice a day for three consecutive days or two consecutive days before the day of the meeting plus the day of the meeting; and

WHEREAS, HCC 1.14.010 notes that the notice of meetings applies to the City Council and all commissions, boards, committees, subcommittees, task forces and any sub-unit of the foregoing public bodies of the City, whether meeting in a formal or informal meeting; that the failure to give the notice provided for under this chapter does not invalidate or otherwise affect any action or decision of a public body of the City; however, this sentence does not change the consequences of failing to give the minimum notice required under State Statute; that notice will ordinarily be given by the City Clerk; and that the presiding officer or the person or persons calling a meeting are responsible for notifying the City Clerk of meetings in sufficient time for the Clerk to publish notice in a newspaper of general circulation in the City; and

WHEREAS, This Resolution does not preclude additional meetings such as emergency meetings, special meetings, worksessions, and the like; and



WHEREAS, Council adopted Resolution 06-144 on October 9, 2006 establishing the Regular Meeting site for all bodies to be the City Hall Cowles Council Chambers.

NOW, THEREFORE, BE IT RESOLVED by the Homer City Council, that the 2016 meeting schedule is established for the City Council, Economic Development Advisory Commission, Library Advisory Board, Parks and Recreation Advisory Commission, Advisory Planning Commission, Port and Harbor Advisory Commission, Permanent Fund Committee, and Public Arts Committee of the City of Homer, Alaska, as follows:

Holidays - City Offices closed:

January 1*, New Year's Day, Friday	February 15*, Presidents' Day, the third Monday	March 28*, Seward's Day, last Monday	May 30*, Memorial Day, last Monday	July 4*, Independence Day, Monday	September 5*, Labor Day, first Monday
October 18*, Alaska Day, Tuesday	November 11*, Veterans Day, Friday	November 24* Thanksgiving Day, Thursday	November 25*, Friday, the day after Thanksgiving	December 26**, Christmas, Monday	

\*Indicates holidays - City offices closed.

\*\*If on a Sunday, the following Monday is observed as the legal holiday; if on a Saturday, the preceding Friday is observed as the legal holiday pursuant to the City of Homer Personnel Rules and Regulations.

CITY COUNCIL (CC)

January 11, 25	February 8, 22	March 14, 28	April 11, 25	May 9, 23	June 13, 27
July 11**, 25	August 8, 22	September 12, 26	October 4 Election	October 10, 24, for Oath of Office 17*	Canvass Board October 7 or 10
November 1 Runoff Election	November 14**, 28	December 12****	December 19**** if needed		

City Council's Regular Committee of the Whole Meetings at 5:00 p.m. to no later than 5:50 p.m. prior to every Regular Meeting which are held the second and fourth Monday of each month at 6:00 p.m. \*\*\*The City Council traditionally reschedules regular meetings that fall on holidays or High School Graduation days, for the following Tuesday. Council will not conduct a First Regular Meeting in July.

AML Annual Conference Week is tentatively scheduled for November 14 – 18, 2016.

\*Tuesday meeting due to Memorial Day/Alaska Day.

\*\*There will be no First Regular Meeting in July or November.

\*\*\*\* The City Council traditionally cancels the last regular meeting in December and holds the first regular meeting and one to two Special Meetings as needed. Generally the second Special Meeting the third week of December, will not be held.

#### ECONOMIC DEVELOPMENT ADVISORY COMMISSION (EDC)

January 12	February 9	March 8	April 12	May 10	June 14
July 12	August 9	September 13	October 11	November 8	December 13

Economic Development Advisory Commission Regular Meetings are held on the second Tuesday of each Month at 6:00 p.m.

#### LIBRARY ADVISORY BOARD (LAB)

February 2	March 1	April 5	May 3	August 2
		October 4	November 1	December 6

Library Advisory Board Regular Meetings are held on the first Tuesday of the months of February, March, April, May, August, October, November, and December at 5:30 p.m.

#### PARKS AND RECREATION ADVISORY COMMISSION (P/R)

January 21*	February 18	March 17	April 21
May 19	June 16		August 18
September 15	October 20	November 17	

Parks and Recreation Advisory Commission Regular Meetings are held on the third Thursday of each month at 5:30 p.m. with the exception of January, July, and December. \*January meeting added by the Commission.

#### PLANNING COMMISSION (P/C)

January 6, 20	February 3, 17	March 2, 16	April 6, 20	May 4, 18	June 1, 15
July 20**	August 3, 17	September 7, 21	October 5, 19	November 2**	December 7**

Advisory Planning Commission Regular Meetings are held on the first and third Wednesday of each month at 6:30 p.m. \*\*There will be no First Regular Meeting in July or Second Regular Meetings in November and December.

96 PORT AND HARBOR ADVISORY COMMISSION (P/H)

January 27	February 24	March 23	April 27	May 25	June 22
July 27	August 24	September 28	October 26		December 7

97

98 Port and Harbor Advisory Commission Regular Meetings are held on the fourth Wednesday of  
99 each month at 5:00 p.m., with the exception of May, June, July and August meetings that are  
100 held at 6:00 p.m. The Regular Meeting for November is cancelled and the December meeting  
101 is scheduled for the first Wednesday of the month.

102

103 CANNABIS ADVISORY COMMISSION (CAC)

January 28	February 25	March 24	April 28	May 26	June 23
July 28	August 25	September 22	October 27	November 29	December 15

104

105 Cannabis Advisory Commission Regular Meetings are held on the fourth Thursday of each  
106 month at 5:30 p.m. The Regular Meeting in the month of November is scheduled for the last  
107 Tuesday of the month and the Regular Meeting in December is scheduled for the third  
108 Thursday of the month.

109

110 PERMANENT FUND COMMITTEE (PFC)

February 11	May 12	August 11	November 10
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111

112 Permanent Fund Committee Regular Meetings are held quarterly on the second Thursday of  
113 the months of February, May, August, and November at 5:15 p.m.

114

115 PUBLIC ARTS COMMITTEE (PAC)

February 11	May 12	August 11	November 10
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116

117 Public Arts Committee Regular Meetings are held quarterly on the second Thursday of the  
118 months of February, May, August, and November at 5:00 p.m.

119

120 PASSED AND ADOPTED by the Homer City Council this 7<sup>th</sup> day of December, 2015.

121

122

CITY OF HOMER

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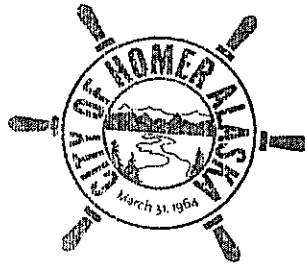
126

  
MARY E. WYTHE, MAYOR


127

128

129



ATTEST:

  
JO JOHNSON, MMC, CITY CLERK

Fiscal Impact: Advertizing of meetings in regular weekly meeting ad and advertising of any additional meetings.



## City of Homer

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

## Office of the City Clerk

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### Memorandum

TO: MAYOR WYTHE AND CITY COUNCIL  
FROM: CANNABIS ADVISORY COMMISSION  
THRU: RENEE KRAUSE, CMC, DEPUTY CITY CLERK  
DATE: NOVEMBER 30, 2015  
SUBJECT: 2016 MEETING SCHEDULE

---

The Cannabis Advisory Commission met on November 30, 2015 and reviewed the 2016 Regular Meeting schedule under New Business.

The commissioners discussed the proposed schedule and made the following motion approving the regular meeting schedule:

LEWIS/SARNO – MOVED TO APPROVE THE 2016 REGULAR MEETING SCHEDULE AS PRESENTED.

There was a brief discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

# FINAL MARIJUANA REGULATIONS

(Adopted 12/01/15)

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

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

<b>Article</b>	<b>beginning page</b>
1. Licensing, Fees (3 AAC 306.005 - 3AAC 306.100)	1
2. Local Options (3 AAC 306.200 - 3AAC 306.260)	28
3. Retail Marijuana Stores (3 AAC 306.300 - 3AAC 306.360)	34
4. Marijuana Cultivation Facilities (3 AAC 306.400 - 3AAC 306.480)	44
5. Marijuana Product Manufacturing Facilities (3 AAC 306.500 - 3AAC 306.570)	63
6. Marijuana Testing Facilities (3 AAC 306.600 - 3AAC 306.675)	80
7. Operating Requirements for All Marijuana Establishments (3 AAC 306.700 - 3AAC 306.755)	97
8. Enforcement, Civil Penalties (3 AAC 306.800 - 3AAC 306.850)	112
9. General Provisions (3 AAC 306.905 - 3AAC 306.990)	122

**Article 1. Licensing, Fees.**

**Section**

- 05. License required
- 10. License restrictions
- 15. License conditions
- 20. Application for new license
- 25. Application procedure
- 30. Petition for license in area with no local government
- 35. Application for renewal of license

- 40. Ownership change to be reported
- 45. Application for transfer of a license to another person
- 50. Relocation of licensed premises not allowed
- 55. Criminal justice information and records
- 60. Protest by local government
- 65. Public participation
- 70. Hearing on public protest
- 75. Procedure for action on license application
- 80. Denial of license application
- 85. Informal conference
- 90. Formal hearing
- 95. Appeals
- 100. Fees, refund

**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 306.360 and 3 AAC 306.700 - 3AAC 306.755;

(2) a marijuana cultivation facility license, as described in 3 AAC 306.405 – 3 AAC 306.410, granting authority for activities allowed under AS 17.38.070(b), and subject to the provisions of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3AAC 306.755;

(3) a marijuana product manufacturing facility license, as described in 3 AAC



306.505 and 3 AAC 306.515, granting authority for activities allowed under AS 17.38.070(c), and subject to the provisions of 3 AAC 306.500 - 3 AAC 306.570 and 3 AAC 306.700 – 3 AAC 306.755; 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 306.675 and 3 AAC 306.700 - 3 AAC 306.755. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.010. License restrictions.** (a) The board will not issue a marijuana establishment license if the licensed premises will be located within 500 feet of a school grounds, a recreation or youth center, 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 school, recreation or youth center, or 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 school, recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility began use of a site within 500 feet. If an existing marijuana establishment license for premises located within 500 feet of a school, a recreation or youth center, 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, the recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility no longer occupies the site within 500 feet.

(b) The board will not issue a marijuana establishment license if the licensed premises will be located in a liquor license premises.

(c) The board will not issue a marijuana establishment license when a local government protests an application under 3 AAC 306.060 on the grounds that that the applicant's proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the marijuana establishment, unless the local government has approved a variance from the local ordinance.

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

(1) 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(b)(2) 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) has been found guilty of

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

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

or AS 04.16.052; or

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

(3) has, within two years before submitting an application, been convicted of a

class A misdemeanor relating to selling, furnishing, or distributing marijuana or operating an establishment where marijuana is consumed contrary to state law.. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**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, to a corporation, or to a local government. 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 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 its licensed premises at all times, and may not lease its 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 must submit a new line drawing showing the proposed changes to the premises, and must obtain the board's written approval. A marijuana establishment may not relocate its licensed premises to a different place without obtaining a license for the new premises.

(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) a legal or equitable interest in the operation of a business licensed under this chapter;

(B) does not include a person's right to receive

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

(ii) 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 under AS 43.23 for a 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 17.38.087      AS 17.38.100  
AS 17.38.070      AS 17.38.090      AS 17.38.900  
AS 17.38.084

**3 AAC 306.020. Application for new license.** (a) An applicant for a new marijuana

establishment license must 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 306.100, and the fingerprint cards and fees required by 3 AAC 306.055(a). The application must be initiated electronically; the completed application and fees may be filed electronically, or mailed or delivered to the director at the office of the board.

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

(1) the name of the applicant and any business name the applicant will use for the proposed marijuana establishment, along with the applicant's state business license number issued under AS 43.70;

(2) the name, mailing address, telephone number, and social security number of each proposed licensee and each affiliate of each proposed licensee; unless the context indicates otherwise, "licensee" means each individual named in an application that complies with this section; an individual to be identified as a "licensee" under this section includes

(A) if the applicant is an individual or a sole proprietor, the individual or sole proprietor;

(B) if the applicant is a partnership, including a limited partnership, each partner holding any interest in the partnership;

(C) if the applicant is a limited liability company, each member holding any ownership interest; and

(D) if the applicant is a corporation, each owner of any of the corporation's stock

(E) if the applicant is a local government, an authorized official of the

local government.

(3) for each applicant that is not an individual, the applicable documents and 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 limited liability company agreement, and a list of all members with the 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;

(D) for a local government, a resolution of the governing body approving the application and designating an official responsible for the proposed marijuana establishment.

(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 licensee or designated government official listed in the application under paragraph (2) of this subsection who is responsible for

(A) management of the marijuana establishment; and

(B) compliance with state 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 to include GPS coordinates 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 required under 3 AAC 306.315;

(B) for a marijuana cultivation facility, the information required under 3 AAC 306.420;

(C) for a marijuana product manufacturing facility, the information required under 3 AAC 306.520; and

(D) for a marijuana testing facility, the information required under 3 AAC 306.615.

(c) A marijuana establishment license application must include the applicant's operating plan, in a format the board prescribes, describing, to the board's satisfaction, 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) a member who owns at least 10 percent of the limited liability company if the applicant is a limited liability company;
  - (4) the authorized officers of the corporation if the applicant is a corporation; or
  - (5) a designated official if the applicant is a local government.
- (e) Each person signing an application for a marijuana establishment license must declare under penalty of unsworn falsification 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 17.38.087      AS 17.38.100  
AS 17.38.070      AS 17.38.090      AS 17.38.900  
AS 17.38.084

**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 [www.commerce.alaska.gov/web/abc/](http://www.commerce.alaska.gov/web/abc/) 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 copy of the application, on the form the board prescribes, 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) publishing an announcement once a week for three consecutive weeks in a newspaper of general circulation in the area; in an area where no newspaper circulates, by announcements on a radio station serving the local area where the proposed licensee seeks to operate twice a week for three successive weeks during triple A advertising time; the newspaper or radio notice must state

(A) the name of the applicant;

(B) the name and location of the proposed premises;

(C) the type of license applied for along with a citation to a provision of this chapter authorizing that type of license; and

(D) a statement that any comment or objection may be submitted to the board; and

(3) submitting a copy of the application on the form the board prescribes 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 (b) of this section and submits each remaining application requirement listed in 3 AAC 306.020, the applicant shall pay the application and licensing fees set out in 3 AAC 306.100. The applicant must then use the board's electronic system to inform the board that the applicant has submitted a complete application.

(d) When the director receives an application for a marijuana establishment license, the director shall determine if the application is complete. Any application for a marijuana establishment license that the director receives without the application fee is incomplete. If the director determines the application is complete, the director shall immediately give written notice to

(1) the applicant;

(2) the local government with jurisdiction over the applicant's proposed licensed premises;

(3) the community council if the proposed licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(e) If an application for a marijuana establishment license is incomplete, the director shall notify the applicant by email at the address provided by the applicant, and will either

(1) return an incomplete application in its entirety; or

(2) request the applicant to provide additional, identified items needed to complete the application.

(f) When the director informs an applicant that its application is incomplete as provided in (e) of this section, the applicant must complete the application not later than 90 days after the date of the director's notice. If an applicant fails to complete its application during the 90 day period after the director'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 17.38.087                      AS 17.38.100  
AS 17.38.070                      AS 17.38.090                      AS 17.38.900  
AS 17.38.084

**3 AAC 306.030. Petition for license in area with no local government.** (a) The board will not approve a new license in an area outside, but within 50 miles of, the boundary of a local government unless the board receives a petition to issue the license signed by a majority of the permanent residents residing within one mile of the proposed premises.

(b) The board will not approve a new license in an area that is 50 miles or more from the boundary of a local government unless the board receives a petition to issue the license containing the signatures of two-thirds of the permanent residents residing within a radius of five miles of the United States post office station nearest to the proposed licensed premises. If there is no United States post office station within a radius of five miles of the proposed licensed premises, the petition must be signed by two-thirds of the permanent residents residing within a five mile radius of the proposed licensed premises.

(c) A petition authorized by this section must be on a form the board prescribes. The applicant must obtain the required signatures within the 90 day period immediately before

submitting the petition to the board. A signature may not be added to or removed from the petition after the board has approved the application.

(d) In this section, "permanent resident" means a person 21 years of age or older who has established a permanent place of abode. A person may be a permanent resident of only one place. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.035. 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 not 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 a hyperlink for the marijuana establishment to access the electronic renewal application by means of the internet, along with instructions on using and submitting the form. The marijuana establishment must 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 Saturday or Sunday, the deadline is extended to 4:30 p.m. on the first business day following June 30. A marijuana establishment must maintain a current electronic mailing address on file with the director. 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(b)(1)-(9);

(3) report any change from the marijuana establishment's new license application or last renewal application, and pay the fee as provided in 3 AAC 306.100 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;

(D) any new product a licensed marijuana product manufacturing facility wishes to produce;

(4) report, for each licensee listed in 3 AAC 306.020(b)(2),

(A) any criminal charge on which that licensee 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 unsworn falsification 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) If the director determines that the renewal application is complete, the director shall

give written notice of a renewal application to

- (1) the applicant;
- (2) the local government in the area in which the applicant's proposed licensed premises are located;
- (3) the community council if the proposed licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and
- (4) any nonprofit community organization that has requested notification in writing.

(d) 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 306.055(a).

(e) A licensee that does not deliver a renewal application to the director on or before June 30 of each year is delinquent, and must pay a non-refundable \$1,000 late renewal application fee with the renewal application.

(f) 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 director shall deliver the notice of expiration to the electronic mail address the marijuana establishment has provided to the director. A marijuana establishment is not excused from filing a license renewal application not later than August 31 of each year even if the marijuana establishment does not receive the notice of expiration described in this section.

(g) 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 on or before 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. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.040. Ownership change to be reported.** (a) A licensed marijuana establishment shall, not later than 10 days after an ownership change as described in this section, report the change on a form prescribed by the board. In this section, an ownership change means

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

(2) if 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) if 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) If any change required to be reported under this section will result in a change in controlling interest of the marijuana establishment license, the marijuana establishment must file an application for transfer of license to another person under 3 AAC 306.045. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

AS 17.38.084

**3 AAC 306.045. 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 company, a corporation or a local government, 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 company, a corporation or a local government, 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 holder of the marijuana establishment license and the proposed transferee, including all persons listed in 3 AAC 306.020 if the transferee is a partnership, limited liability company, a corporation, or a local government. 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 holder of the marijuana establishment license, listing all debts of the business, all taxes the business owes, current contact information for each creditor, and an affirmation that the current holder of the marijuana establishment license 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.



(c) When the board receives a complete application for transfer of a license to another person, the director shall immediately send written notice of the proposed transfer to

(1) each listed creditor of the current holder of the marijuana establishment license, along with the amount shown as owed to that creditor;

(2) the local government in the area in which the licensed premises are located;

(3) the community council if the licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(d) A current holder of a marijuana establishment license 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 after April 30 and before July 1. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.050. Relocation of licensed premises not allowed.** A marijuana establishment license may not be relocated to any other premises. A holder of a marijuana establishment license that wishes to operate a marijuana establishment at a different location must submit a new application for any new premises, and must surrender an existing license for any premises where the marijuana establishment does not intend to continue its operation. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010      AS 17.38.087      AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

**3 AAC 306.055. Criminal justice information and records.** (a) When filing an application for a new marijuana establishment license or transfer of a license, the applicant, including each individual listed in 3 AAC 306.020(b)(2), 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 director shall 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 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 17.38.087

AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

**3 AAC 306.060. Protest by local government.** (a) Not later than 60 days after the director sends notice of an application for a new marijuana establishment license, renewal of a marijuana establishment license, or transfer of a marijuana establishment license to another person, a local government may protest the application by sending the director and the applicant a written protest and the reasons for the protest. The director may not accept a protest received after the 60-day period. If a local government protests an application for a new or renewal 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.

(b) A local government may recommend that the board approve an application for a new license, renewal of a license, or transfer of a license to another person subject to a condition. The board will impose a condition a local government recommends 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 assume responsibility for monitoring compliance with the condition unless the board provides otherwise.

(c) 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 director finds that the local government's notice is arbitrary, capricious, and unreasonable, the director will prepare the determination as an accusation against the licensee under AS 44.62.360 and conduct proceedings to resolve the matter as provided under 3 AAC 306.820. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.065. Public participation.** A 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 and the applicant not later than 30 days after notice of the application, but no later than the deadline for objections stated in a posted or published notice of the application. The objection must be sent to the applicant 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, an interested person may give oral testimony at

the public hearing. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.070. Hearing on public protest.** 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 director will send notice of a hearing under this section as provided in AS 44.62. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.075. Procedure for action on license application.** (a) The board will decide whether to grant or deny an application not later than 90 days after receiving the complete application. However, the board will not grant or deny the application before

(1) the time allowed for a protest under 3 AAC 306.060, unless the local government waives its right to protest; or

(2) the time allowed for an objection under 3 AAC 306.065 has elapsed.

(b) Not later than 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 director 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 hearing on public protest held under 3 AAC 306.070 when it considers the application. The director will retain the written objection, protest, or suggested condition or petition, and the hearing record as part of the permanent record of the board's review of an application. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.080. Denial of license application.** (a) After review of the application, including the applicant's proposed operating plan 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 306.020 - 3 AAC 306.055, 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 violate any restriction applicable to the particular license type authorized under this chapter;
- (4) 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, or 3 AAC 306.230;
- (5) the board finds that the operating plan does not adequately demonstrate that the applicant will comply with applicable provisions of this chapter; or
- (6) the license would not be in the best interests of the public.

(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 of a license, or transfer of a license to another person, the board will, not later than 15 days after the board meeting at which the application was denied, furnish a written statement of issues to the applicant, explaining the reason for the denial in clear and concise language, and identifying any statute or regulation on which the denial is based. The notice of denial will inform the applicant of the right to an informal conference under 3 AAC 306.085, and to a formal hearing under 3 AAC 306.090. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

**3 AAC 306.085. Informal conference.** (a) An applicant for a new license, renewal of a license, or transfer of a license to another person that is aggrieved by an action of the board denying the application may, no later than 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 must be held at a time and place convenient to the applicant and the board, 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, request a formal hearing under 3 AAC 306.090 by filing a notice of defense in compliance with AS 44.62.380(b). (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010

AS 17.38.087

AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

AS 17.38.084

**3 AAC 306.090. 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 within 15 days after the date of the written notice of the denial, or as provided in 3 AAC 306.085(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 board may

request the Office of Administrative Hearings to conduct the hearing in compliance with due process, the Alaska Administrative Procedure Act, AS 44.62.330 – AS 44.62.630, and the applicable regulations adopted by the Office of Administrative Hearings at 2 AAC 64.100 - 2 AAC 64.990. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.095. Appeals.** (a) An aggrieved applicant or marijuana establishment license holder may appeal to the board regarding any action of the director, or an employee or agent of the board regarding an application for a new license, a license renewal, or a transfer of license to another person.

(b) An applicant or marijuana establishment license holder 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 17.38.087 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900  
AS 17.38.084

**3 AAC 306.100. Fees, refund.** (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; if a renewal application is late as provided under 3 AAC 306.035(e), an additional non-refundable late renewal application fee is \$1000.



(c) The nonrefundable fee to request board approval of a change in a licensed marijuana establishment's business name, licensed premises diagram, operating plan, or proposed new marijuana product is \$250; a change fee does not apply to an application for transfer of a license to another person.

(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 extract only manufacturing facility license, \$1000;
- (5) for a marijuana product manufacturing facility license, \$5000;
- (6) for a marijuana testing facility license, \$1000.

(e) The fee for a marijuana handler permit card is \$50.

(f) 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.

(g) 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 17.38.087 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900  
AS 17.38.084

## **Article 2. Local Options.**

### **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. 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 a local government's assembly or city council passes an ordinance to the same effect, the local government shall adopt a local option to prohibit

(1) the sale or importation for sale of marijuana and any marijuana product;  
(2) the operation of any marijuana establishment, including one or more of the following license types:

- (A) a retail marijuana store;
- (B) a marijuana cultivation facility;

- (C) a marijuana product manufacturing facility; or
- (D) a marijuana testing facility.

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

(c) The ballot for an election on the options set out in (a)(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 local government dissolves under AS 29.06.450, any marijuana establishment license issued to that local government expires when the local government dissolves.

(e) A local government may not prohibit the personal use and possession of marijuana and marijuana products as authorized under AS 17.38.020.

(f) Nothing in 3 AAC 306.200 – 3 AAC 306.260 precludes a local government from applying for a marijuana establishment license under other provisions of this chapter. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.020 AS 17.38.100 AS 17.38.900  
AS 17.38.090 AS 17.38.110

**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 local government's assembly or city council passes an ordinance to the same effect, the local government 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 local government) 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 17.38.020 AS 17.38.100 AS 17.38.900  
AS 17.38.090 AS 17.38.110

**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 a local government's assembly or city council passes an ordinance to the same effect, that local option is repealed effective the first day of the month after the election is certified. A ballot question to remove a local option under this section must at least contain language substantially similar to: "Shall (name of local government) 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 within the boundaries of a local government 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 17.38.020 AS 17.38.100 AS 17.38.900  
AS 17.38.090 AS 17.38.110

**3 AAC 306.230. Procedure for local option election.** When it receives a petition to adopt, change, or remove a local option under 3 AAC 306.200 or 3 AAC 306.220, the local government shall conduct the election in compliance with the initiative process under the local government's election ordinances and regulations and the applicable provisions of AS 29. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.020                      AS 17.38.100                      AS 17.38.900  
AS 17.38.090                      AS 17.38.110

**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 any marijuana product under 3 AAC 306.200(a)(3), or if the local government's assembly or city council passes an ordinance to the same effect, a person, beginning on the first day of the month after the results of the election are certified, may not knowingly bring, send, or transport marijuana or marijuana products for sale into the area within the boundary of the local government.

(b) A person who resides within the boundary of a local government that has adopted a local option under 3 AAC 306.200(a) may not purchase marijuana or a marijuana product from another person that has brought, sent, or transported marijuana or a marijuana product into the local government for sale in violation of the local option.

(c) Notwithstanding (a) or (b) of this section, a licensed marijuana establishment may transport marijuana or any marijuana product through the boundaries of a local government that has prohibited importation or purchase of marijuana if the marijuana or marijuana product is shipped with an attached transport manifest created in compliance with 3 AAC 306.750 and documenting that the shipment originates and terminates in a place that does not prohibit importation and purchase of marijuana or a marijuana product.

(d) 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 or 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 17.38.020 AS 17.38.100 AS 17.38.900  
AS 17.38.090 AS 17.38.110

**3 AAC 306.250. Effect on licenses of restriction on sale.** If a majority of the voters vote under 3 AAC 306.200(a) 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 to another person, a license for a marijuana establishment with premises located within the boundary of the local government or in the unincorporated area within ten miles of the boundaries of the local government. A license for a marijuana establishment within the boundary of the local government or in the unincorporated area within ten miles of the boundary of the local government is void 90 days after the results of the election are certified. A license that expires during the 90 days after the certification of a local option election 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 17.38.020 AS 17.38.100 AS 17.38.900  
AS 17.38.090 AS 17.38.110

**3 AAC 306.260. 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 local government 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 local government shall post public notice of the prohibition in a central location within the boundary of the local government 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 17.38.020 AS 17.38.100 AS 17.38.900  
AS 17.38.090 AS 17.38.110

### **Article 3. Retail Marijuana Stores.**

#### **Section**

- 300. Retail marijuana store license required
- 305. Retail marijuana store privileges
- 310. Acts prohibited at retail marijuana store
- 315. Application for retail marijuana store license
- 320. Marijuana handler permit required
- 325. Access restricted at marijuana retail store
- 330. Marijuana inventory tracking system
- 335. Health and safety requirements
- 340. Testing required for marijuana and marijuana products
- 345. Packaging and labeling
- 350. Identification requirement to prevent sale to person under 21
- 355. Limit on quantity sold

360. Restriction on advertising of marijuana and marijuana products

**3 AAC 306.300. Retail marijuana store license required.** (a) Except as permitted under AS 17.38.020, a person may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver marijuana or any marijuana product to a consumer unless the person has obtained a retail marijuana store license from the board in compliance with this chapter, or is an employee or agent acting for a licensed retail marijuana store operating in compliance with this chapter. A person seeking a retail marijuana store license must

(1) submit an application for a retail marijuana store license on a form the board prescribes, including the information set out at 3 AAC 306.020 and 3 AAC 306.315; and

(2) demonstrate, to the board's satisfaction, that the applicant will operate in compliance with

(A) each applicable provision of 3 AAC 306.300 - 3 AAC 306.360 and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises is located.

(b) A licensee of any retail marijuana store, or an employee or agent of a retail marijuana store, 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 17.38.087 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900  
AS 17.38.084

**3 AAC 306.305. Retail marijuana store privileges.** (a) A licensed retail marijuana



store is authorized to

(1) sell marijuana purchased from a licensed marijuana cultivation facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.470, and 3 AAC 306.475 in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises for consumption off the licensed premises;

(2) sell a marijuana product purchased from a licensed marijuana product manufacturing facility, packaged and labeled as required under 3 AAC 306.345, 3 AAC 306.565, and 3 AAC 306.570, in an amount not exceeding the limit set out in 3 AAC 306.355, to an individual on the licensed premises for consumption off the licensed premises;

(3) store marijuana and marijuana products on the licensed premises in a manner consistent with 3 AAC 306.710 – 3 AAC 306.720;

(4) with prior approval of the board, permit consumption of marijuana or a marijuana product purchased on the licensed premises, in a designated area on the licensed premises.

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

**Authority:** AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

**3 AAC 306.310. Acts prohibited at retail marijuana store.** (a) A licensed retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or any marijuana product

(1) to any person under the age of 21;

(2) to any person that is under the influence of an alcoholic beverage, inhalant, or controlled substance;

(3) that is not labeled and packaged as required in 3 AAC 306.345, and in 3 AAC 306.470 and 3 AAC 306.475 or 3 AAC 306.565 and 3 AAC 306.570;

(4) in a quantity exceeding the limit set out in 3 AAC 306.355;

(5) over the internet; a licensed retail marijuana store may only sell marijuana or marijuana product to a consumer who is physically present on the licensed premises;

(6) after the expiration date shown on the label of the marijuana or marijuana product.

(b) A licensed retail marijuana store may not

(1) conduct any business on, or allow any consumer to access, the retail marijuana store's licensed premises between the hours of 5:00 a.m. and 8:00 a.m. each day;

(2) allow any person to consume marijuana or any marijuana product on the retail marijuana store's licensed premises, except as provided in paragraph (a)(4) of 3 AAC 306.305;

(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; or

(B) alcoholic beverages, free or for compensation. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_,

Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

**3 AAC 306.315. Application for retail marijuana store license.** A person seeking a new retail marijuana store license must submit an application on a form the board prescribes

including the 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) in the operating plan required under 3 AAC 306.020(c), a description of the way marijuana and marijuana products at the retail store will be displayed and sold. (Eff.

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

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

**3 AAC 306.320. Marijuana handler permit required.** A retail marijuana store shall ensure that

(1) each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed or employed at a retail marijuana store; and

(2) each licensee, employee, or agent has that person's marijuana handler permit card in that person's immediate possession, or a valid copy on file on the premises, at all times when on the licensed premises of the retail marijuana store. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.325. Access restricted at retail marijuana store.** (a) A person under the age of 21 may not enter a retail marijuana store.

(b) Each entry to a retail marijuana 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.

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

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

**3 AAC 306.330. Marijuana inventory tracking system.** (a) A retail marijuana store shall use an inventory tracking system as provided in 3 AAC 306.730 to ensure all marijuana and marijuana product in the store's possession is identified and tracked from the time the retail marijuana 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 retail marijuana store, the retail marijuana store shall immediately enter identification information for that batch of marijuana or lot of marijuana product into the retail marijuana store's inventory tracking system. A retail marijuana store may not accept any marijuana or marijuana product that does not have a valid transport manifest generated from the inventory tracking system of the marijuana establishment that originated the delivery.

(c) A retail marijuana 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 retail marijuana 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 17.38.087 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900  
AS 17.38.084

**3 AAC 306.335. Health and safety requirements.** A retail marijuana store must comply with each applicable health and safety requirement set out in 3 AAC 306.735. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.340. Testing required for marijuana and marijuana products.** (a) A retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or any marijuana product until all laboratory testing required under 3 AAC 306.645 has been completed, and the label required under 3 AAC 306.475 or 3 AAC 306.570 is affixed. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.345. Packaging and labeling.** (a) A retail marijuana store shall assure that

(1) any marijuana sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475, except that 3 AAC 306.470(b)(2) does not

apply to the packaging of wholesale flower and bud sold by weight to a consumer; and

(2) any marijuana product sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.565 and 3 AAC 306.570, except that 3 AAC 306.565(b)(2) does not apply to the packaging of wholesale marijuana products that are not edible marijuana products;

(3) any marijuana or marijuana product sold at a retail marijuana store must be packaged in opaque, re-sealable, child-resistant packaging when the purchaser leaves the retail premises; the packaging must be designed or constructed to be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly.

(b) In addition to labeling requirements provided in (a) of this section, a retail marijuana store shall affix a label to each package of marijuana or marijuana product that

(1) identifies the marijuana retail store selling the marijuana product by name or distinctive logo and marijuana establishment license number; and

(2) states the total estimated amount of THC in the labeled product, and

(3) contains the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming and addictive;"

(B) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"

(C) "There are health risks associated with consumption of marijuana"

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

(E) "Marijuana should not be used by women who are pregnant or breast feeding;" (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.350. Identification requirement to prevent sale to person under 21.** (a)

A licensed retail marijuana store shall refuse to sell marijuana or a marijuana product to any person who does not produce a form of valid photo 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 a province 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 17.38.087 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900  
AS 17.38.084

**3 AAC 306.355. Limit on quantity sold.** (a) A licensed retail marijuana store shall not sell more than the following quantity of marijuana or marijuana product in a single transaction:

- (1) one ounce of useable marijuana;
- (2) seven grams of marijuana concentrate for inhalation, or
- (3) marijuana or marijuana products containing more than 5600 Milligrams of THC. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.360. Restriction on advertising of marijuana and marijuana products.**

(a) A retail marijuana store may have no more than three signs, visible to the general public from the public right of way, that identify the store by its business name. A sign may be placed in the store's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4800 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 appeal to a child or other person under the age of 21, that promotes consumption of marijuana.

(c) A retail marijuana store may not place an advertisement for marijuana or a marijuana product, except as provided in (a) of this section,

(1) within one thousand feet of the perimeter of any child-centered facility, including a school, childcare facility 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;
- (4) within 1000 feet of a substance abuse or treatment facility; or
- (5) on a campus for post-secondary education.

(d) A retail marijuana store may not use giveaway coupons 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) "Marijuana has intoxicating effects and may be habit forming and addictive;"
- (B) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"
- (C) "There are health risks associated with consumption of marijuana"
- (D) "For use only by adults twenty-one and older. Keep out of the reach of children;" and
- (E) "Marijuana should not be used by women who are pregnant or breast feeding." (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

#### **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
- 420. Application for marijuana cultivation facility license
- 425. Marijuana handler permit required
- 430. Restricted access area
- 435. Marijuana inventory tracking system
- 440. Health and safety requirements
- 445. Standards for cultivation and preparation
- 450. Production of marijuana concentrate prohibited
- 455. Required laboratory testing
- 460. Samples
- 465. Random sampling
- 470. Packaging of marijuana
- 475. Labeling of marijuana
- 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, package, or label marijuana grown at a place under that person's control, or sell marijuana grown at a place under that person's control 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 acting for 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 306.410:

(1) a standard marijuana cultivation facility license;

(2) a limited marijuana cultivation facility license to a person operating a marijuana cultivation facility with fewer than 500 square feet under cultivation.

(b) A person seeking a standard or limited marijuana cultivation facility license as provided in (a) of this section must

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

(2) demonstrate to the board's satisfaction that it will operate in compliance with

(A) each applicable provision of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(c) A licensee of any marijuana cultivation facility, or an employee or agent of a marijuana cultivation 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 17.38.084 AS 17.38.100  
AS 17.38.030 AS 17.38.090 AS 17.38.900  
AS 17.38.070

**3 AAC 306.405. Standard marijuana cultivation facility: 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;

(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 306.730;

(5) transport marijuana in compliance with 3 AAC 306.750;

(6) conduct in-house testing for the marijuana cultivation facility's own use;

(7) provide marijuana samples to a licensed retail marijuana store or marijuana product manufacturing facility for the purpose of negotiating a sale.

(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 or retail marijuana store operation in a room completely separated from the cultivation facility by a secure door when co-located; and

(2) comply with each provision of this chapter that applies 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 odor of the marijuana;

(4) except as permitted under a marijuana product manufacturing facility license, extract marijuana concentrate, using any process described in 3AAC 306.555, at the licensed premises;

(5) sell marijuana that is not packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.410. Limited marijuana cultivation facility: privileges and prohibited acts.** A licensed limited cultivation facility

(1) has the privileges set out in 3 AAC 305.405(a) and (b), except that it must have fewer than 500 square feet under cultivation; and

(2) is subject to each prohibition set out in 3 AAC 306.405(c). (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.090	AS 43.61.010
	AS 17.38.070	AS 17.38.100	AS 43.61.020
	AS 17.38.084	AS 17.38.900	

**3 AAC 306.420. Application for marijuana cultivation facility license.** (a) An applicant for a new standard marijuana cultivation facility license or a new limited marijuana

cultivation facility 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 the information required for a new marijuana establishment license set out in 3 AAC 306.020, and

(a)(2) of this section. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**Editor's note:** The form for an application for a marijuana cultivation facility license is available online as provided in the editor's note under 3 AAC 306.020.

**3 AAC 306.425. Marijuana handler permit required.** A marijuana cultivation facility must ensure that each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before

being present or employed at the marijuana cultivation facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana cultivation facility's licensed premises. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.430. Restricted access area.** (a) A marijuana cultivation facility shall conduct any operation in a restricted area in compliance with 3 AAC 306.710 and this section.

(b) A 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. Where not prohibited by local government, outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscuring wall or fence at least six feet high.

(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 except as allowed by a local government conditional use permit process.

(d) A marijuana cultivation facility shall have full video surveillance of the licensed premises as required under 3 AAC 306.720, 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 17.38.084 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.435. Marijuana inventory tracking system.** (a) A marijuana cultivation facility shall use an inventory tracking system in compliance with 3 AAC 306.730 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 through transfer to another licensed marijuana establishment or destruction. The marijuana cultivation facility must assign a tracking number to each plant over 8 inches tall. When harvested, bud and flowers, clones or cuttings, or leaves and trim may be combined in harvest batches of distinct strains, not exceeding five pounds; each harvest batch must be given an inventory tracking number. Clones or cuttings must be limited to 50 or fewer plants and identified by a batch tracking number.

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

(c) A marijuana cultivation facility shall record in its marijuana inventory tracking system 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 expired or outdated promotional sample returned to the marijuana cultivation facility. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100



AS 17.38.070

AS 17.38.090

AS 17.38.900

**3 AAC 306.440. Health and safety requirements.** (a) A marijuana cultivation facility must comply with all applicable health and safety requirements set out in 3 AAC 306.735, 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 17.38.084

AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

**3 AAC 306.445. Standards for cultivation and preparation.** A marijuana cultivation facility shall use certified scales in compliance with AS 45.75.080 and 3 AAC 306.745. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010

AS 17.38.084

AS 17.38.100

AS 17.38.070

AS 17.38.090

AS 17.38.900

**3 AAC 306.450. Production of marijuana concentrate prohibited.** A marijuana cultivation facility may not produce or possess marijuana concentrate that was extracted using any process described in 3 AAC 306.455 on its licensed premises unless the marijuana cultivation facility also has a marijuana product manufacturing facility license. Any extraction or production of marijuana concentrate on the premises of a licensed marijuana cultivation

facility must

(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 provisions of 3 AAC 306.500 - 3 AAC 306.570.

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

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 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 a sample of each harvest batch 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.

(b) 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 a signed statement showing that each sample has been randomly selected for testing;

(B) provide the signed statement 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 306.750.

(c) 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 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) When geographic location and transportation limitations make it unfeasible for a manufacturing facility to transport testing samples to a lab, an applicant for licensure may propose alternative means of testing to meet the requirements of this code. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.460. Samples.** (a) A marijuana cultivation facility may provide a free sample of marijuana to a retail marijuana store 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.

(b) A marijuana cultivation facility may provide a free sample of marijuana to a retail

marijuana store or marijuana product manufacturing facility as follows:

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

(2) a marijuana cultivation facility may not provide any one licensed retail marijuana store or marijuana product manufacturing facility with more than one ounce of marijuana per month free of charge for the purpose of negotiating a sale.

(c) A retail marijuana store that receives a marijuana sample 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. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.470. Packaging of marijuana.** (a) A licensed marijuana cultivation 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 may not have any printed images, including cartoon characters, that specifically target individuals under the age of 21. In addition, the packaging must protect the product from contamination and must not impart any toxic or damaging substance to the marijuana;

(c) Each package prepared in compliance with this section must be identified by a tracking 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) - (c) of this section within a sealed, tamper-evident shipping container;

(2) affixing a label in compliance with 3 AAC 306.475 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 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.475. Labeling of marijuana.** (a) When a licensed marijuana cultivation facility packages marijuana for a retail marijuana store to sell to a consumer without re-packaging, the marijuana cultivation facility shall affix a label to each package of marijuana or marijuana product that contains the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming and addictive;"

(B) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"

(C) "There are health risks associated with consumption of marijuana;" and

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

(E) "Marijuana should not be used by women who are pregnant or breast

feeding.”

(b) 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, including any pesticide, herbicide, or fungicide that was used; and

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

(c) A marijuana cultivation facility may not label marijuana as organic.

(d) 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.

(e) 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 the results of microbial testing required by 3 AAC 306.645(b)(2);

(3) a statement listing the results of residual solvent testing required by 3 AAC 306.645(b)(3), if applicable;

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

(A) molds, mildew and filth, in addition to the testing required by 3 AAC 306.645(b)(2);

(B) herbicides, pesticides, and fungicides; and

(C) harmful chemicals.

(f) If a marijuana cultivation facility ships wholesale marijuana from a harvest batch that has not been tested for each contaminant listed in (e)(4) of this section, the label for that batch must include a statement identifying each contaminant listed in (e)(4) of this section for which that harvest batch has not been tested. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.480. Marijuana tax to be paid.** (a) A marijuana cultivation establishment, including a standard marijuana cultivation facility and a limited marijuana cultivation 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 sold, or provided as a sample to any marijuana establishment. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.084	AS 17.38.900
	AS 17.38.030	AS 17.38.090	AS 43.61.010
	AS 17.38.070	AS 17.38.100	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 concentrate manufacturing facility license
- 520. Application for marijuana product manufacturing facility license
- 525. Approval of concentrates and marijuana products
- 530. Marijuana handler permit and food safety worker training
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- 545. Health and safety standards
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- 555. Production of marijuana concentrate
- 560. Potency limits per serving and transaction for edible marijuana products
- 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, or is an employee or agent acting for a licensed marijuana product manufacturing facility. 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 must

(1) submit an application for a marijuana product manufacturing facility 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 to the board's satisfaction that it will operate in compliance with

(A) each applicable provision of 3 AAC 306.500 - 3 AAC 306.570 and 3 AAC 306-700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(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 a direct or indirect financial interest in any licensed marijuana testing facility. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_,

Register \_\_\_\_)

**Authority:** AS 17.38.010

AS 17.38.084

AS 17.38.100

AS 17.38.070

AS 17.38.090

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, including a marijuana concentrate manufacturing facility, is authorized to

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

(2) extract marijuana concentrate in compliance with 3 AAC 306.555;

(3) manufacture, refine, process, cook, package, label, and store marijuana products approved under 3 AAC 306.525, 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;

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

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

(6) provide a sample of marijuana concentrate or a marijuana product approved under 3 AAC 306.525 to a licensed retail marijuana store for the purpose of negotiating a sale;

(7) store inventory in a restricted access area on the licensed premises as provided in 3 AAC 306.535; and

(8) transport marijuana in compliance with 3 AAC 306.750; or

(9) conduct in-house testing for the marijuana product manufacturing facility's

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

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100  
AS 17.38.070 AS 17.38.090 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 marijuana concentrate 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) allow any person, including a licensee, employee, or agent, to consume marijuana, marijuana concentrate, or a marijuana product on its licensed premises;

(4) manufacture or sell any product that

(A) is an adulterated food or drink;

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

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

(b) In this section, “closely resemble” or “look 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 reasonably be mistaken for that branded product, especially by children.

(c) A marijuana product manufacturing facility may not accept any marijuana from a marijuana cultivation facility or another marijuana product manufacturing facility unless

(1) all marijuana in the shipment is properly identified with a label generated in the marijuana inventory tracking system of the facility that provided the marijuana; and

(2) a valid transport manifest showing the source and destination of the marijuana is attached to the shipment. Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.515. Marijuana concentrate manufacturing facility license.** A licensed marijuana concentrate manufacturing facility has the privileges set out in 3 AAC 306.505, except that it may not

(1) manufacture, refine, 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;

(3) provide and transport a sample of any marijuana product other than marijuana concentrate to a licensed marijuana testing lab for testing; or

(4) provide samples of any product other than marijuana concentrate to a licensed retail marijuana store for purposes of negotiating a sale. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.520. Application for marijuana product manufacturing facility license.** An applicant for a marijuana product manufacturing facility license, including a marijuana concentrate manufacturing facility, must file an application on a form the board prescribes, and

provide the information required under 3 AAC 306.020 and the following:

(1) a copy of a food safety permit if required under 18 AAC 31.020 from the Department of Environmental Conservation or a municipality with authority delegated under AS 17.20.072 and 18 AAC 31.945;

(2) a diagram of the proposed licensed premises required in 3 AAC 306.020(b), 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 and the additional information required for product approval in 3 AAC 306.525;

(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; and

(E) the applicant's plan for disposal of waste. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**Editor's note:** The form for an application for a marijuana product manufacturing facility license or a marijuana concentrate manufacturing license is available online as provided in the editor's note under 3 AAC 306.020.

**3 AAC 306.525. Approval of concentrates and marijuana products.** (a) A marijuana product manufacturing facility, including a marijuana concentrate manufacturing facility, must obtain the board's approval for each product it will manufacture for sale or transfer to another licensed marijuana establishment. The board will not approve any product that is prohibited under 3 AAC 306.510(a)(4).

(b) An applicant for a marijuana product manufacturing facility license may request the board's approval of its intended products with a new license application by including, in its operating plan

(1) a photograph, drawing, or graphic representation of the expected appearance of each final product; and

(2) the proposed standard production procedure and detailed manufacturing process for each product.

(c) A licensed marijuana product manufacturing facility may at any time submit a new product approval request to the board on a form the board prescribes along with a fee of \$250.

(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 must be made available for inspection on request by the director, or an employee or agent of the board. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.530. Marijuana handler permit and food safety worker training.** (a) A marijuana product manufacturing facility including a licensed marijuana concentrate manufacturer facility shall ensure that each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana product manufacturing facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana product manufacturing facility's licensed premises.

(b) A licensee, employee, or agent of a licensed marijuana product manufacturing facility who handles marijuana at the 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 17.38.084 AS 17.38.100  
AS 17.38.070 AS 17.38.090 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 306.720, 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 must be moisture and temperature controlled and protected from pests and vermin. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.540. Marijuana inventory tracking system.** (a) A marijuana product manufacturing facility shall use a marijuana inventory tracking system as provided in 3 AAC 306.730 to ensure that the marijuana product manufacturing facility identifies and tracks any marijuana or marijuana product from the time the marijuana or marijuana product is received, through

- (1) use of the marijuana or marijuana product in manufacturing any other marijuana product;
- (2) sale or transfer of the marijuana or marijuana product originally received, or any marijuana product manufactured at that marijuana product manufacturing facility to another licensed marijuana establishment; and
- (3) disposal of any expired or outdated marijuana or marijuana product that is not sold or transferred to another licensed marijuana establishment.

(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 marijuana inventory tracking system of the licensed marijuana establishment that supplies the marijuana or marijuana product.

(c) A marijuana product manufacturing facility shall track any received marijuana or marijuana product 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 17.38.084                      AS 17.38.100  
AS 17.38.070                      AS 17.38.090                      AS 17.38.900

**3 AAC 306.545. Health and safety standards.** (a) A marijuana product manufacturing facility shall comply with the health and safety standards set out in 3 AAC 306.735, 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 or agent 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 17.38.084 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.550. Required laboratory testing.** (a) A marijuana product manufacturing facility shall provide a sample of each marijuana product manufactured at the facility to a licensed 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 a signed statement showing that each sample has been randomly selected for testing;

(B) provide the signed statement 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 in compliance with 3 AAC 306.750.

(c) After collecting and transporting a sample for testing, 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 production lot in a secure, cool, and dry location to prevent the marijuana

product from becoming contaminated or losing its efficacy. The marijuana product manufacturing facility 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 records.

(e) When geographic location and transportation limitations make it unfeasible for a manufacturing facility to transport testing samples to a lab, an applicant for licensure may propose alternative means of testing to meet the requirements of this code. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.555. 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, a safety plan, 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 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 ensure that

(1) every vessel is used in compliance with the manufacturer's stated pressure ratings;

(2) any CO<sub>2</sub> used is of at least ninety-nine percent purity;

(3) any person using a solvent or gas to extract marijuana concentrate 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 solvent and gas safely;

(4) a licensed engineer has certified 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;

(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 applicable fire, safety, and building code requirements.

(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, 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 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.560. Potency limits per serving and transaction for edible marijuana products.** (a) A marijuana product manufacturing facility may not prepare any product with potency levels exceeding the following, as tested in compliance with 3 AAC 306.645:

(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. (Eff. \_\_\_\_/\_\_\_\_

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

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 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 edible marijuana product produced by a marijuana product manufacturing facility 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 not impart any toxic or damaging substance to the product;

(2) if the marijuana product contains multiple servings, the product itself must have markings or demarcations clearly delineating each serving of the product. For liquid marijuana products with multiple servings the packaging must indicate the number and size of individual servings.

(c) A licensed marijuana product manufacturing facility may transfer marijuana products that are not edible marijuana products to another licensed facility in wholesale packages not to exceed 5 pounds.

(d) Each packaged marijuana product must be identified by a tracking label generated by the marijuana product manufacturing facility's marijuana inventory control system.

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

(1) placing marijuana products within a sealed, tamper-evident shipping container;

(2) affixing a label that complies with 3 AAC 306.570(d) 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 17.38.084                      AS 17.38.100  
AS 17.38.070                      AS 17.38.090                      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 test and the results of each required test.

(b) A marijuana product may not be labeled as organic.

(c) A marijuana product manufacturing 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;

(4) a label containing the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming and addictive;"

(B) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence;"



(C) "There are health risks associated with consumption of marijuana;" and

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

(E) "Marijuana should not be used by women who are pregnant or breast feeding."

(d) A marijuana product manufacturing facility transporting 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 the results of microbial testing required by 3 AAC 306.645(b)(2);

(3) a statement listing the results of residual solvent testing required by 3 AAC 306.645(b)(3), if applicable;

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

(A) molds, mildew and filth, in addition to the testing required by 3 AAC 306.645(b)(2);

(B) herbicides, pesticides, and fungicides, and

(C) harmful chemicals.

(e) If a marijuana product manufacturing facility ships wholesale marijuana product from a production lot of marijuana product that has not been tested for each contaminant listed in (d)(4) of this section, the label for that lot must include a statement identifying each contaminant listed in (d)(4) of this section for which that lot has not been tested. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

## **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
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- 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 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 own 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 \_\_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	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, or is an employee or agent acting for a licensed marijuana testing facility.

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

(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 will operate in compliance with

(A) each applicable provision of 3 AAC 306.600 – 3 AAC 306.675, and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(C) does not hold any marijuana establishment license in this state 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 this state other than a testing facility license; and

(D) meets the board's standards for approval as set out in 3 AAC 306.620 - 3 AAC 306.625.

(c) A licensee of any marijuana testing facility, or an employee or agent of a licensed marijuana testing facility may not have an ownership interest in, or a direct or indirect financial interest in any other licensed marijuana establishment. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 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 provided that 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 who holds any type of marijuana establishment license other than a marijuana testing facility license issued under this chapter;

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

(3) allow any person to consume marijuana or marijuana product on its licensed premises. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.615. Application for marijuana testing facility license.** An applicant for a new marijuana testing facility license must 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:

(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.

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

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.620. Approval of testing facility.** (a) A person seeking a marijuana testing

facility license must first obtain the approval of the board by showing competence to perform each test the licensee will offer as an independent third party testing facility, including tests to identify

- (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 has shown competence in testing under this section, the board or the board's 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 306.630 -

3AAC 306.675, and 3 AAC 306.700 - 3AAC 306.755, 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, pesticides, or other contaminants. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100  
AS 17.38.070 AS 17.38.090 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 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 an applicant for a marijuana testing facility license or a participating licensed marijuana testing facility to analyze test samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment that will be 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 facility, the board may require the

facility to participate in a proficiency testing 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 a 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 after the date of the marijuana testing facility's last successful proficiency test. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	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 laboratory'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 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	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 adopted by reference, as guidelines or references for testing methodologies:

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

(B) United Nations Office on Drugs and Crime: Recommended methods for the identification and analysis of cannabis and cannabis products: Manual for use by national drug analysis laboratories (2009).

(2) notify the board of any alternative scientifically valid testing methodology the facility proposes to use for any 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 the holder of a marijuana testing facility license must observe good laboratory practices.

(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 the facility uses. The marijuana testing facility must pay all costs of validation. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**Editor's note:** *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/>

United Nations Office on Drugs and Crime: Recommended methods for the identification and analysis of cannabis and cannabis products: Manual for use by national drug analysis laboratories (2009).is available at the internet address <https://www.unodc.org/documents/scientific/ST-NAR-40-Ebook.pdf>

*OECD Principles of Good Laboratory Practice and Compliance Monitoring* published by the Organisation for Economic Co-operation and Development as revised as of 1997 is available at the internet address

**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 for each matrix that will be tested;
- (2) reagent, solution, and reference standard preparation;
- (3) instrument setup, where applicable;
- (4) standardization of volumetric reagent solutions, as applicable;
- (5) data acquisition; and
- (6) calculation of results;
- (7) identification criteria;
- (8) quality control frequency;
- (9) quality control acceptance criteria; and
- (10) corrective action protocol.

(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 \_\_\_\_)

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

**3 AAC 306.645. Laboratory Testing of Marijuana and Marijuana Products.** (a) A 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, other chemical residue, and metals screening, and residual solvents levels. A marijuana testing facility shall establish a schedule of fees and sample size required for each test it offers.

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

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

(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;

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

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

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**	< .025 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)	

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

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 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 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 17.38.084	AS 17.38.100
	AS 17.38.070	AS 17.38.090	AS 17.38.900

**3 AAC 306.655. Marijuana inventory tracking system.** A marijuana testing facility shall use an inventory tracking system as provided in 3 AAC 306.730 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 disposal in compliance with 3 AAC 306.740. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010                      AS 17.38.084                      AS 17.38.100  
AS 17.38.070                      AS 17.38.090                      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 CO<sub>2</sub> or solvent-based extract. After processing, the CO<sub>2</sub> or solvent-based extract must pass all required tests.

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

Register \_\_\_\_)

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

**3 AAC 306.665. Supplemental marijuana quality testing.** (a) The board or director may at any time determine that the interests of the public require random supplemental testing of marijuana or a marijuana product. When the board or director requires random supplemental marijuana testing, the board or director 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 or director 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 17.38.084 AS 17.38.100  
AS 17.38.070 AS 17.38.090 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
- (2) to the director within 72 hours when results of tested samples exceed

allowable levels.

(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) the marijuana establishment or other person that submitted the testing sample;
- (4) the sample identifier provided by the person that submitted the testing

sample;

- (5) the date the facility received the sample;
- (6) the chain of custody identifier;
- (7) the date of report;
- (8) the type of product tested;
- (9) the test results;
- (10) the units of measure; and

(11) any other information or qualifiers needed for interpretation of the test method and the results being reported, including any identified and documented discrepancy.

(c) A marijuana testing facility may amend a final report for clerical purposes except that test results may not be amended. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.675. Records retention.** A marijuana testing facility shall maintain the business records required under 3 AAC 306.755 for the period of time specified in that section.

The books and records required under 3 AAC 306.755(a)(1) include:

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

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

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

### **Section**

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

**3 AAC 306.700. 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 consumer 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 material, 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 consumption of marijuana and marijuana products;
- (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) .

(c) To obtain a marijuana handler permit, a person who has completed the marijuana handler permit course described under (b) of this section shall present the course completion certificate 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 in that person's immediate possession when on the licensed premises of the retail marijuana store.

(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 17.38.087      AS 17.38.100  
AS 17.38.070      AS 17.38.090      AS 17.38.900  
AS 17.38.084

**3 AAC 306.705. 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. The 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 holder of a marijuana establishment license may not alter the functional floor plan or reduce or expand the area of the licensed premises without first obtaining the director's written approval. A marijuana establishment license holder seeking to change or modify the licensed premises shall submit a request for approval of the change on a form prescribed by the board, along with

(1) the fee prescribed in 3 AAC 306.100;

(2) a drawing showing the proposed change;

(3) evidence that the proposed change conforms to any local restrictions; and

(4) evidence that the licensee has obtained any applicable local building permit.

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

**Authority:** AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

**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, or stocked.

(b) Except as provided in 3 AAC 306.325 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, any licensee, employee, and agent of the marijuana establishment 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 306.350 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 a licensee, or an employee or an agent of the marijuana establishment. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.715. Security alarm systems and lock standards.** (a) Each licensee, employee, or agent of a marijuana establishment shall display an identification badge issued by the marijuana establishment 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 306.720.
- (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 device, such as a motion detector, pressure switch, and duress, panic, or hold-up alarm 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 a 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 17.38.087                      AS 17.38.100  
AS 17.38.070                      AS 17.38.090                      AS 17.38.900  
AS 17.38.084

**3 AAC 306.720. 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 area.

(b) At a marijuana establishment, a required 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 where 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, in order to allow 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 \_\_\_\_)



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

**3 AAC 306.725. 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 the director, an employee or agent of the board, or an officer charged with the enforcement of this chapter. The board or the director may also request a local fire protection agency or any other state agency with health and safety responsibilities to inspect licensed premises or proposed licensed premises.

(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 17.38.085 AS 17.38.100  
AS 17.38.070 AS 17.38.087 AS 17.38.900  
AS 17.38.084 AS 17.38.090

**3 AAC 306.730. Marijuana inventory tracking system.** (a) A marijuana establishment shall use a marijuana inventory tracking system capable of sharing information with the system the board implements 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 harvest batch of marijuana or production lot of marijuana product.

(b) All marijuana delivered to a marijuana establishment must be weighed on a scale certified in compliance with 3 AAC 306.745. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

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

**3 AAC 306.735. 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 testing 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 17.38.087                      AS 17.38.100  
AS 17.38.070                      AS 17.38.090                      AS 17.38.900  
AS 17.38.084

**3 AAC 306.740. 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 shall

(1) give the board at least 3 days notice in the marijuana inventory tracking system required under 3 AAC 306.730 before making the waste unusable and disposing of it; except that the director may authorize immediate disposal on an emergency basis; 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 any applicable local government entity; 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 any applicable local government entity.

(e) When marijuana or a marijuana product is found by, or surrendered to, a law enforcement officer including an airport security officer, the officer may dispose of the marijuana or marijuana product as provided in this section or by any method that is allowed under any applicable local ordinance. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.745. Standardized scales.** A marijuana establishment shall use certified scales in compliance with AS 45.75.080, the Alaska Weights and Measures Act. A marijuana establishment shall

- (1) maintain registration and inspection reports of certified scales; and
- (2) upon request by the board or the director, provide a copy of the registration and inspection reports of the certified scales to the board or the director for review. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.750. Transportation.** (a) A licensed marijuana establishment shall transport marijuana as follows:

- (1) a marijuana cultivation facility may transport marijuana to another marijuana

cultivation facility, a marijuana product manufacturing facility, a marijuana testing facility, or a marijuana retail store;

(2) 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;

(3) 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

(4) 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 306.700.

(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 in 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 as required under 3 AAC 306.755.

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

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

**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 each business transaction 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 306.750(f).

(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 17.38.085 AS 17.38.100

AS 17.38.070

AS 17.38.087

AS 17.38.900

AS 17.38.084

AS 17.38.090

## **Article 8. Enforcement and Civil Penalties.**

### **Section**

800. Inspection and investigation

805. Report or notice of violation

810. Suspension or revocation of license

815. Suspension or revocation based on act of employee

820. Procedure for action on license suspension or revocation

825. Summary suspension to protect public health, safety, or 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, an employee of the board, or a peace officer acting in an official capacity, may

(1) inspect the licensed premises of any marijuana establishment, including any marijuana and marijuana product 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 report or notice as provided in 3 AAC 306.805; and

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

(b) A marijuana establishment, and any licensee, employee, or agent in charge shall cooperate with the director, an enforcement agent, an employee of the 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 when requested by the director, an enforcement agent, an employee of the board, or a peace officer. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.085 AS 17.38.100

AS 17.38.070 AS 17.38.087 AS 17.38.900

AS 17.38.084 AS 17.38.090

**3 AAC 306.805. Report or notice of violation.** (a) The director, an enforcement agent, an 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 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, an 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, an employee of the board, or a peace officer may issue a notice of violation when an inspection report or other credible information shows a marijuana establishment is in violation of AS 17.38, this chapter, or other law relating to marijuana. 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 the 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 under 3 AAC 306.810. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.085	AS 17.38.100
	AS 17.38.070	AS 17.38.087	AS 17.38.900
	AS 17.38.084	AS 17.38.090	

**3 AAC 306.810. Suspension or revocation of license.** (a) The board will suspend or revoke a marijuana establishment license issued under this chapter if any licensee is convicted of a felony, or a crime listed in 3 AAC 306.010 (c) (2) or (3), or if the board becomes aware that a licensee did not disclose a previous felony conviction or a conviction of a crime listed in 3 AAC 306.010(c)(2) or (3).

(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 licensee for any marijuana establishment

(1) misrepresented a material fact on an application for a marijuana establishment license, or an affidavit, report, or signed statement under AS 17.38 or this chapter; or

(2) is following any practice or procedure that is contrary to the best interests of the public, including

(A) using any process not approved by the board for extracting or manufacturing marijuana concentrate or products; or

(B) 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 director, to correct any defect that is the subject of the notice of violation of

(A) AS 17.38 or this chapter;

(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, this chapter, or a condition or restriction imposed by the board;

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

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

(c) A local government may notify the director if 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 government's notice is arbitrary, capricious, and unreasonable, the director will prepare the notice and supporting evidence as an accusation against the marijuana establishment under AS 44.62.360, and conduct proceedings to resolve the matter as described under 3 AAC 306.820. (Eff. \_\_\_\_/\_\_\_\_)

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

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

**3 AAC 306.815. Suspension or revocation based on act of employee.** If, in a proceeding to suspend or revoke a marijuana establishment license under 3 AAC 306.810 and 3 AAC 306.820, evidence shows that an employee or agent of a licensed 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

(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 and this chapter relating to marijuana; or

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

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

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

**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 44.62.360 and AS 44.62.380, and conducted in

compliance with AS 44.62.330 – AS 44.62.630. The accusation must be served 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 under AS 44.62.390. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

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

(a) If the director finds that a person holding a marijuana establishment license has acted and appears to be continuing to act in a way that constitutes an immediate threat to the public health, safety or welfare, 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, safety, or welfare.

(b) When the director issues a summary suspension under this section, the director shall immediately give the marijuana establishment subject to the summary suspension order notice of the reasons for the summary suspension, and of the time and place for 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 scheduled hearing. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.085 AS 17.38.100  
AS 17.38.070 AS 17.38.087 AS 17.38.900

AS 17.38.084

AS 17.38.090

**3 AAC 306.830. Seizure of marijuana or marijuana product.** (a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may seize marijuana or any marijuana product from a licensed or previously 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(a)(4); or

(3) any marijuana or marijuana product that is not properly packaged and labeled as provided in 3 AAC 306.465 and 3 AAC 306.470 or 3 AAC 306.565 and 3 AAC 306.570;

(4) not renewed its license as required under 3 AAC 306.035.

(b) If the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, seizes marijuana or a marijuana product under this section, the director shall update the marijuana inventory control tracking system to reflect the seizure and ensure that the seized items are stored in a reasonable manner. The director shall immediately give the marijuana establishment from which the marijuana or marijuana product was seized notice of the reasons for the seizure and the time and place of 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 the scheduled hearing. If the seizure occurs in connection with a summary suspension under 3 AAC 306.825, the hearing will be combined with a hearing on the summary suspension.



(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 306.740.

(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 \_\_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.085	AS 17.38.100
	AS 17.38.070	AS 17.38.087	AS 17.38.900
	AS 17.38.084	AS 17.38.090	

**3 AAC 306.835. Hearing.** (a) Except as provided in 3 AAC 306.825 or 3 AAC 306.830, any person aggrieved by an action of the director, an enforcement agent, or an employee of the board, may 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 – AS 44.62.630, and the applicable regulations adopted by the Office of Administrative Hearings at 2 AAC 64.100 - 2 AAC 64.990. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

<b>Authority:</b>	AS 17.38.010	AS 17.38.085	AS 17.38.100
	AS 17.38.070	AS 17.38.087	AS 17.38.900

AS 17.38.084 AS 17.38.090

**3 AAC 306.840. Civil fines.** (a) The board may, in addition to any other penalties imposed under this title, impose a civil fine on a marijuana establishment, licensee, or person 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 AAC 306.830, the board may impose a civil fine, not to exceed the greater of

(1) an amount that is three times the monetary gain realized by the marijuana establishment, licensee, or person 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. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.845. Appeal.** (a) An aggrieved party may appeal to the board regarding any action of the director, an enforcement agent, or an employee of the board charged with enforcing AS 17.38 or this chapter, including suspending or revoking a license, seizing marijuana or a marijuana product, or imposing a civil fine.

(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 17.38.085 AS 17.38.100

AS 17.38.070      AS 17.38.087      AS 17.38.900  
AS 17.38.084      AS 17.38.090

**3 AAC 306.850. Surrender or destruction of license.** A license issued under this chapter must be surrendered to the director, an enforcement agent, or an employee of the board on demand if the director or board so orders. 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 17.38.085      AS 17.38.100  
AS 17.38.070      AS 17.38.087      AS 17.38.900  
AS 17.38.084      AS 17.38.090

## **Article 9. General Provisions.**

### **Section**

905. Public records  
910. Refusal to sell marijuana  
915. Exercise of authority  
920. Death of licensee  
990. Definitions

**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.

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

**Authority:** AS 17.38.010 AS 17.38.090 AS 17.38.900  
AS 17.38.070 AS 17.38.100 AS 40.25.110  
AS 17.38.084

**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 17.38.084 AS 17.38.100  
AS 17.38.070 AS 17.38.090 AS 17.38.900

**3 AAC 306.915. Exercise of authority.** Until a marijuana establishment surrenders its license to the board, and so long as business is conducted under the license on the licensed premises, the person holding the license, whether an individual, a partnership, a limited liability company, a corporation, or a local government, is responsible and liable for the conduct of the business. Any individual exercising actual authority over the conduct of business on the licensed premises must be the holder of the marijuana establishment license, or an agent or employee of that person unless the board has approved a transfer of the license to a different person. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.920. Death of licensee.** (a) If an individual who is the sole licensee of a marijuana establishment dies, the marijuana establishment shall cease operation. A personal representative appointed by the superior court for the estate of the deceased licensee may submit to the director a written request to reopen the business, along with a copy of the court order

appointing the personal representative. If the licensed marijuana establishment is in good standing, and the personal representative is not a person prohibited from holding a marijuana establishment by AS 17.38.100(i), the director shall grant permission to the personal representative to operate the business on the licensed premises subject to (b) of this section. In this section, "good standing" means the marijuana establishment

- (1) has a valid current license;
- (2) has paid all fees due under this chapter, and all local taxes due; and
- (3) has no unresolved suspension or revocation proceedings against it.

(b) A personal representative authorized to operate a marijuana establishment under (a) of this section must submit an application for a transfer of ownership to another person in compliance with 3 AAC 306.045 within 90 days after obtaining the director's approval to operate. The board may extend the time allowed in this section for another 90 days if the personal representative requests the additional time.

(c) This section does not authorize the transfer of a marijuana establishment license unless the board approves the personal representative's application for transfer of license to another person. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 ACC 306.990 is repealed and readopted to read:

**3 AAC 306.990. Definitions.** (a) In AS 17.38 and this chapter,

(1) "affiliate" means a person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, a partnership, limited liability company, or corporation subject to this chapter;

(2) “assisting” 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 number allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than

(i) that other person's primary residence; or

(ii) a garage, shed, or similar place under the other person's control;

(3) "delivering"

(A) means handing to a person who purchases the product on licensed premises only;

(B) does not include transferring or transporting to a consumer off licensed premises;

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

(5) “immature” means a marijuana 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;

(6) “in public”

(A) means in a place to which the public or a substantial group of people has access;

(B) except as provided in (C) of this paragraph, includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence;

(C) does not include an area on the premises of a licensed marijuana retail store designated for on-site consumption under 3 AAC 306.305.

(7) “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 number allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than

(i) that other person's primary residence; or

(ii) a garage, shed, or similar place under the other person's control;

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

(9) “registration” means “licensure,” or “license;”

(10) “transport” or “transfer” means to deliver between licensed marijuana establishments as provided in 3 AAC 306.750.

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

(1) "adulterated food or drink product"

(A ) 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;

(B) does not include raw ingredients that are combined with marijuana in a manufacturing process;

(2) “agent”

(A) means a representative who is authorized to act for a licensee, the board, or the director;

(B) includes a contractor or subcontractor;

(3) “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 including pesticides and fungicides, and harvested at the same time;

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

(5) “business day” means a day other than a Saturday, Sunday, or a state holiday;

(6) “CBN” means cannabinol;

(7) “CBD” means cannabidiol;

(8) “CBDA” means CBD Acid;

(9) “clones” or “cuttings” means small starter plants

(A) shorter than eight inches tall; and

(B) used to propagate marijuana plants;

(10) “compensation”

(A) means money, bartered objects or services, or anything else of value, whether given as payment or voluntarily as a donation, when accepted by a person who



gives, distributes, or delivers marijuana to another;

(B) includes a cover charge, a delivery charge, and a packaging charge;

(11) “concentrate” or “marijuana concentrate” means resin, oil, wax, or any other substance produced by extracting or isolating cannabinoids, THC, or other components from a marijuana plant or from materials harvested from a marijuana plant;

(12) “consumer”

(A) means an individual who purchases and uses marijuana or a marijuana product; and

(B) does not include any marijuana establishment that re-sells marijuana or incorporates marijuana into a manufactured product;

(13) “contaminant” means one or more of the following:

(A) harmful microbials, including *Escherichia coli* (*E. coli*), or *Salmonella* species;

(B) residual solvents;

(C) poisons or toxins;

(D) harmful chemicals, including pesticides;

(E) dangerous molds, mildew, or filth;

(14) “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,  
or intermingling corporation finances with personal finances; or

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

(15) “distribute” means spread out or pass out among several or many members  
of a group;

(16) "edible" and "edible marijuana product"

(A) means a marijuana product that is intended to be consumed orally,  
whether as food or drink;

(B) does not include an adulterated food or drink product;

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

(18) “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;

(19) “individual” means a natural person;

(20) “in-house testing”

(A) means laboratory testing as provided in 3 AAC 306.635;

(B) does not include consumption of any marijuana or marijuana product  
on the licensed premises;

(C) does not meet the requirements of 3 AAC 306.645;

(21) "licensed"

(A) means holding a current and valid license that the board has issued under this chapter;

(B) does not include holding a formerly valid license that has expired or that the board has suspended or revoked;

(22) "licensee" means each individual identified in 3 AAC 306.020 who must be listed in an application for a marijuana establishment license under this chapter;

(23) "licensed premises" means any or all designated portions of a building or structure, or rooms or enclosures in the building or structure, at the specific address for which a marijuana establishment license is issued, and used, controlled, or operated by the marijuana establishment to carry out the business for which it is licensed;

(24) "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;

(25) "marijuana" has the meaning given in AS 17.38.900;

(26) "marijuana cultivation facility" has the meaning given in AS 17.38.900; )

(27) "marijuana infused product"

(A) means a product that contains marijuana or marijuana concentrate and is intended for human use;

(B) does not include bud and flower marijuana;

(28) "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;

(29) "marijuana product" has the meaning given in AS 17.38.900;

(30) "marijuana product manufacturing facility" has the meaning given in AS 17.38.900;

(31) "peace officer" has the meaning given in AS 01.10.060;

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

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

(34) "propagate" means to cause a marijuana plant to grow by planting clones or cuttings, and nurturing them into viable plants up to 8 inches in height;

(35) "recreation or youth center" means a building, structure, athletic playing field, or playground

(A) run or created by a local government or the state to provide athletic, recreational, or leisure activities for minors; or

(B) operated by a public or private organization licensed to provide shelter, training, or guidance for persons under 21 years of age;

(36) "retail marijuana store" has the meaning given in AS 17.38.900;

(37) "square feet under cultivation"

(A) means an area of the licensed premises of a standard or limited marijuana cultivation facility that is used for growing marijuana, measured from the perimeter of the floor or growing space for marijuana;

(B) does not include a processing or storage area, an equipment storage area, an office, a hallway, or another area, if that area is not used for growing marijuana;

(38) "THC" means *tetrahydrocannabinol*, the main psychoactive substance found

in marijuana;

(39) “THCA” means THC Acid;

(40) “transaction” means one single occurrence in which marijuana or a  
marijuana product not exceeding the limits set out in 3 AAC 306.355 is passed from a licensed  
marijuana establishment to another person. Eff. \_2/24 /2015, Register \_\_\_\_; amended \_\_\_\_/\_\_\_\_  
/\_\_\_\_, 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



