

**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**
  - A. Holly Wells, City Attorney - Proposed State of Alaska Marijuana Regulations
- 5. RECONSIDERATION**
- 6. ADOPTION OF CONSENT AGENDA** *(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of Commissioner.)*
  - A. Meeting Minutes from the June 25, 2015 Regular Meeting **Page 3**
- 7. STAFF REPORTS**
  - A. Staff Report CAC 15-02 from City Planner Re: Follow Up Items **Page 13**
    1. Definition of "Public"
- 8. PUBLIC HEARING**
- 9. PENDING BUSINESS**
  - A. Review and Approval of the Draft Bylaws for the Commission **Page 21**
- 10. NEW BUSINESS**
  - A. Memorandum from City Attorney Wells Re: Commission Review Process Schedule Recommendation **Page 29**
  - B. Staff Report CAC 15-03 from City Planner Re: Comments on Marijuana Regulations Set #2
    1. Marijuana Regulations Set #2 **Page 31**
  - C. Memorandum from Deputy City Clerk re: Comments on Marijuana Regulations Set #1, Round 2
    1. Marijuana Regulations Set #1, Round 2 **Page 87**
  - D. Memorandum from Deputy City Clerk re: Joint Worksession with Mayor & Council **Page 101**
- 11. INFORMATIONAL MATERIALS**
  - A. 2015 Meeting Schedule and Packet Processing Deadlines **Page 103**
  - B. 2015 Commission Attendance at Council Meetings **Page 104**
  - C. Medical Marijuana Code West Yellowstone, Wyoming submitted by Commissioner Etwiler **Page 105**
  - D. Marijuana Regulations Set #1 and Public Notice Form Set #1 **Page 111**
- 11. COMMENTS OF THE AUDIENCE**
- 12. COMMENTS OF THE STAFF**
- 13. COMMENTS OF THE CHAIR**
- 14. COMMENTS OF THE COMMISSION**
- 15. ADJOURNMENT THE NEXT REGULAR MEETING IS THURSDAY, AUGUST 27, 2015 at 5:30pm in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer Alaska**



Session 15-02, a Regular Meeting of the Cannabis Advisory Commission was called to order by Chair Aryn Young at 5:00 p.m. on June 25, 2015 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

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

ABSENT: COMMISSIONER ETZWILER (EXCUSED)

STAFF: CITY PLANNER ABOUD  
DEPUTY CITY CLERK KRAUSE

### APPROVAL OF AGENDA

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

LEWIS/BURGESS - SO MOVED.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### PUBLIC COMMENT

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

Tony Burgess, resident, commented on the linkage between zoning regulations and the aspects of the legalization of marijuana and its cultivation and sale. He opined that the point was to seamlessly integrate a culture that for decades was illegal, into the culture of Homer. He advocated for less regulation up front and can learn and make stricter rules later as needed. He stated that this was an opportunity for the City to trust the people of Homer and see which way this culture can easily be integrated to ensure the prosperity of the maximum number of people in Homer. He understands the concerns about what the young see. They can watch the news and see more than he would want them to; he further stated that it isn't what the young see but how they are taught to deal with what they do see.

### RECONSIDERATION

No items were scheduled for reconsideration.

### ADOPTION OF CONSENT AGENDA

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

#### A. Meeting Minutes for the May 28, 2015 Regular Meeting

Chair Young requested a motion to approve the consent agenda which consisted of the minutes of the May 28, 2015 regular meeting as presented.

BURGESS/LEWIS - SO MOVED.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

## STAFF REPORTS

Mr. Abboud provided a brief explanation regarding his reports at future meetings. He will provide a report to update the commission on various outstanding tasks or issues that he may be working on otherwise a report or outline will be provided with agenda items along with a staff recommendation on the action the commission can take on that item.

## PUBLIC HEARINGS

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

There were no items for public hearing.

## PENDING BUSINESS

### A. Review of the Draft Bylaws

Chair Young requested a motion to bring to the floor.

BURGESS/LEWIS - SO MOVED.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Young asked for any comments or discussion regarding the draft bylaws.

Commissioner Lewis wanted to keep the meeting time to 5:00 p.m. in order to reduce overtime costs and impacts to the budget. Commissioner Burgess noted that the time of the meeting was addressed on line 38.

LEWIS/ROBL - MOVED TO AMEND LINE 38 TO SHOW AS "THE FOURTH THURSDAY AT 5:00 P.M."

Discussion ensued on the commission previously voted to change the meeting time to 5:30 and did not impact the budget to any severe degree and that it actually would accommodate the commissioners work schedules and allow them to grab a bite to eat even. It was noted that Chief Robl and the City Planner were salaried.

VOTE. YES. ROBL, HARRIS, LEWIS  
NO. STEAD, YOUNG, JONES, BURGESS

Motion failed.

Commissioner Stead questioned where absences were addressed within the bylaws. He expressed concerns regarding the ability of a commissioner to miss any number of meetings with no action.

STEAD/- MOVED TO ADD UNDER SECTION C. REGULAR MEETINGS COMMISSIONERS ALLOWED UP TO 6 EXCUSED ABSENCES IN A YEAR AND UP TO 3 UNEXCUSED ABSENCES IN A YEAR TO RETAIN THEIR SEAT ON THE COMMISSION.

Ms. Krause pointed out line 49, which addressed notice of absences and line 149 which addressed the number of absences allowed before losing their seat on the commission unless excused. Commissioner Stead was satisfied with those guidelines and removed his motion.

BURGESS/LEWIS - MOVED TO ADOPT THE BYLAWS IN THEIR CURRENT FORM.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Monroe arrived at 5:20 p.m.

#### **NEW BUSINESS**

A. Staff Report CAC 15-01 by Rick Abboud, City Planner

1. Zoning Districts for Marijuana Related Activities; Cultivation, Manufacturing, Testing, and Retail
2. Intensity of Activities; Limitation of Local Licenses, Distance Between Facilities
3. Exclusion of Operations in Certain Areas

Chair Young read the title into the record. Mr. Abboud presented his report. He additionally noted that he spoke with Representative Seaton today and asked about the interaction with the legislature and how it would affect this since in February 2016 the public can apply for licenses and they must respond in 90 days which the Legislature starts in January and Mr. Abboud did not believe that any action will be completed in time so the initiative rules and he has tried to take their tasks out of the initiative. So what he has presented is the tasks regarding local control such as zoning and those things related to the manifestation of this in the city as an actual activity related to this initiative.

The next things will be the legal aspects such as fees, licensing and structure outside of zoning and will require more legal help. Representative Seaton suggested that if they present recommendations and a good format the Legislature may adopt those recommendations. Mr. Abboud believed it will be a little murky what will happen at the beginning of next year but believed they could be ready with their recommendations regarding the zoning piece which is his expertise.

Mr. Abboud would like the Cannabis Commission to formulate a recommendation for the Planning Commission review that will be forwarded to City Council for adoption in an ordinance.

Mr. Abboud presented a PowerPoint presentation noting the following information:

#### **Effective Date of Laws**

- February 24, 2015 this date starts the clock on deadlines to meet
  - Personal Use laws become effective
- February 24, 2016 - Deadline for State to begin accepting applications
- May 24, 2016 - Latest date to process, issue or deny applications for licensing

Mr. Abboud did note that the Commission could recommend other means of penalties for those people's ages 18-21 so that they do not end up with a black mark for the rest of their lives.

#### **Personal Use**

- Over 21 may possess, use, display, purchase, or transport 1 ounce or less
- Possess, grow, process, transport 6 plants - 3 or less may be mature/flowering
- Transfer to Person 21 years of age or older 1 ounce or less and up to 6 immature plants without payment
- Manufacture, possess, purchase marijuana accessories

No consumption allowed in Public however consumption would be allowed on your porch or yard.

Commissioner Lewis requested clarification on what is "public" such as the porch at Alice's, would smoking be allowed. Mr. Abboud responded that Commissioner Robl can correct him but he believed that would be considered public since it was accessible by the general public, but if you had a private club not generally accessible by the public at large then it would be okay.

Commissioner Burgess argued that Alice's would be a private business, thus a private location since it denies access to persons under a specific age and they have the opportunity to deny service thus it would be deemed private not public. Commissioner Robl stated that if a business has published hours and is open to the public the law of public applies to it in this case. Commissioner Harris countered that is not necessarily true since the cities of Anchorage, Wasilla and Fairbanks are currently defining what is "public" and if there was already a law defining what public is they would not be trying to do that. She stated that the state did not have a defined meaning of public.

Commissioner Burgess suggested that they define and codify "public". Mr. Abboud stated that the ABC Board has already done that and they could request clarification.

There were additional comments on the ABC Board being in the process of defining "public" and Mr. Abboud will follow that up for the next meeting.

Mr. Abboud proceeded with his presentation.

#### Marijuana Establishments

- Cultivation Facility
- Product Manufacturing Facility
- Testing Facility
- Retail Store

All must have current and valid registration.

Movement of raw materials to the consumer from seeds/immature plants, cultivation, product testing, Product manufacturing, manufacturing, retail stores

#### State of Alaska deadlines

9 Months - regulations to implement Chapter 38 of Alaska Statutes

- Issue, renew, suspend, and revoke a registration
- Schedule of fees for application, registration and renewal
- Qualifications for registration
- Security requirements
- Prevention of Sale/diversion to those not 21 years if age
- Labelling requirements
- Health and safety requirements
- Restrictions on advertising and display
- Civil penalties for failure to comply

He believed that the State will need to take the lead on most of these items since they do not have the resources as a municipality to address them.

1 year

Board must begin accepting and processing applications for registration of businesses

45-90 days upon receipt of registration application:

- Board must issue annual registration or notification of denial

#### Local Government May:

- Prohibit establishments
- Enact ordinances regulating time, place, manner and number of establishments
- Establish annual operating fees
- Establish civil penalties for violations of ordinances
- Create a local regulatory authority; ideally this commission would have issued the recommendation on the creation of this authority.
  - Will receive half of the state fees
  - Provide input on applications to the state Board
  - Issue registrations if the state fails to meet deadlines

- Must Notify the State Board
- Locally issued registrations will not be subject to State Board regulations for duration of registration.

The presentation pointed out that the following is unaffected by the new laws:

- "Ravin"
- Medical marijuana laws
- Marijuana DUI
- Employers may still restrict marijuana use in the workplace
- Private property owners/occupiers, schools, hospitals, correction facilities, etc., may prohibit or regulate marijuana on their property.

State of Alaska Department of Revenue

- Collect \$50 per ounce
  - sold or transferred between cultivation facility to retail store or product manufacturing facility
  - Certain parts of plant may be exempted or taxed at a lower rate as determined by the Department of Revenue
- Receive monthly reports from cultivation facilities which include total number of ounces sold the previous month with breakdown of weight sold/transferred to each buyer along with address
- Receive payment monthly from cultivation facilities
- Can impose civil penalties on delinquent payments
- Revoke registrations for failure to pay

This initiative can be amended by the legislature in the future. There was a brief discussion that no changes could be done within the first two years. The legislature can amend but not to the point that it amounts to an effective appeal; set up framework for regulations and promulgate regulations such as testing, security, distance, etc. Mr. Abboud felt that security could be addressed in zoning. He recommended following what Colorado and Washington have done regarding display using a green cross which is becoming a universal symbol.

Local governments can prohibit or regulate more severely than the state but not less than the state. They cannot prohibit personal use, marijuana accessories, contradict the Act or restrict within a home, (Ravin Act).

Mr. Abboud provided samples of what the City of Fairbanks did regarding presenting to the public, where it was permitted and the processes to how it would be approved in regards to zoning issues. The presentation divided the zoning into categories of Cultivation, Manufacturing, Testing and Retail; applying the Federal standards in regards to locations near schools, playgrounds, public housing, pools, arcades, youth centers referred to as "double penalty areas" focusing on eight different points from protection of minors being the top number one priority to no use or possession on federally owned property.

Commissioner Lewis inquired if they could draft the ordinances and maps similar to what Fairbanks has done and Mr. Abboud noted that maps were provided on pages 109 and 111 of the packet. He questioned why Maddox would be a Federal Double penalty area. Mr. Abboud responded that with the location of the Flex School and a playground.

Mr. Abboud continued by explaining the general process for applying for a permit and conditional use permit. He referenced his report regarding what is currently allowed now in the different zoning areas. Currently the East End Mixed Use District which starts from Alder to Kachemak Drive pretty much anything goes right now, he refers to it as the "Party Zone"

Mr. Abboud commented on outdoor facilities. Commissioner Lewis suggested making the difference between the product used for hemp and the higher THC content used for smoking; he referenced the note under the taxation reference. Commissioner Burgess suggested that they could probably recommend that if there was ever a distinction between the two it could be addressed.

Commissioner Monroe offered that use of the word manufacturing provided a connotation of heavy industry but this would be more along the lines of kitchens.

Mr. Abboud responded that you would not have manufacturing in residential areas and believed that they would be off limits. Low intensity manufacturing may be allowed in the CBD with something to address security issues but higher intensity would have to be moved out to the industrial areas. Testing Facilities he doubts they would be in that market but they do call out testing to be done in the industrial areas. He noted that on the spit it is supposed to be tourism related industries and that may fit but will have to see about that. He did not support any activity in residential areas.

He used the same distances as shown in Fairbanks. he has proposed the same buffers:

1000 feet

- Schools K-12
- Playgrounds
- Public Housing

500 feet

- Post secondary education facilities

100 feet

- Youth Center
- Public Swimming Pool
- Arcades
- Residential Homes

There is no separation for day care centers, pre-schools, churches, libraries, public parks without playgrounds, test labs.

Mr. Abboud commented on building requirements regarding ventilation, hazardous mitigations, hours of operations, insurance coverages, enforcement and cost related to those. He would like to make decisions as fast as possible to have recommendations ready by September in order to have the public process and be ready by February.

He asked the commission to refer to the maps on pages 109 & 111 and noted the brighter yellow areas which cover the federal double penalty areas and included Karen Hornaday Park, West Homer Elementary, Homer Middle School, Homer High School, Flex School, College, Jack Gist Park, Ben Walters Park. East End Mixed Use areas is available for all aspects of this, there are some small areas that would be available for commercial uses along Kachemak Drive and Ocean Drive, Bay Crest, in town center and the Central Business District you may be able to operate retail or small manufacturing businesses.

Staff Recommendations to forward to the Planning Commission:

1. Eliminate cultivation in rural residential

- This activity is not one that is seen as compatible with residential activities
- Residential Uses are clearly favored in the district
- the District supports many families with children
- Many parts of the district are closer to urban standards which makes this activity even more incompatible

2. If not eliminating cultivation in rural residential

- Make it a conditional use
- Make special conditions for conditional use consideration
  - Minimum lot size
  - Minimum setback
  - Security
  - Screening

3. Allow unlimited manufacturing in General Commercial 2 districts

4. Allow testing in General Commercial 1 district



Commissioner Lewis recommended that any conditional uses permitted in the Bridge Creek Watershed District be defined as organic with no uses of fertilizers since it is in the water supply. Commissioner Burgess advocated for permitted outright uses since there was already enforceable code body for the area, he further expressed that the area that has been designated a commercial (purple area on the map provided) was over 80% wetlands and would not be suitable so he would really like the commission to consider not making it so uninviting in Homer that we lose out on the tax revenue that could be earned through cultivation and in his opinion the best way to take advantage of the smaller cultivation operations and believes they should take the approach to limit it to 1000 sf etc.

The commissioners continued a lengthy discussion regarding their viewpoints on allowing cultivation in rural residential and residential districts as permitted outright or permitted by conditional use; increased security issues in those areas; increased opportunities for those persons under 21 to be exposed to or tempted by the close proximity of the product; retail operations on the Spit; limiting cultivation only in the East End Mixed Use District; liking the process outlined by the Fairbanks North Star Borough as presented in the staff presentation; advocating for the possibility of increased commerce for the city since other areas are considering bans against cultivation and retail operations; possible testing facilities and the costs involved to have those facilities locally; creating such restrictive environments that the small business operation does not have a chance to compete and the larger operations will not be willing to pay the costs when it is much more cost effective to be outside city limits; telling a property owner what they can and cannot grow in their greenhouse, what to do on their property.

Commissioner Stead could agree if you are growing it commercially then you must get the license, and pay the fees and believed a conditional use permit where they can then limit the size, security measures, screening, etc. He did not believe that it should be allowed in urban residential due to the small lot size, he also did not believe it belonged in the rural office district as it was not appropriate.

Further comments from Commissioner Monroe and Burgess regarding using the number of plants when the size of a single plant can vary greatly and the use of square footage is more practical noting that regulating by plant numbers invites circumvention of the intent of the initiative and not permitting in urban residential made good sense and limiting above 500 square feet as minimum and anything above must have a conditional use permit and what was involved when going through the conditional use process may not be favorable to the applicant. A reasonable allowance should be instituted and anything above and beyond should then have to jump through additional hoops or deny it.

Commissioner Stead noted that a regulatory board may be established and can then take over the responsibility of the Conditional Use Permit. Mr. Abboud was not too favorable of that action but was favorable if conditions were met for the Conditional Use Permit adding that it did not make sense that someone who could produce 50 plants would not grow 100 or more.

Further discussion on the commission being agreeable to removing cultivation from urban residential, rural residential - cultivation provisions, testing allowed in GC1, retail on the spit ensued.

#### B. Intensity

Consider if you would like to forward anything beyond being subject to state regulations. The state may not have any limitations on the number of licenses that are issued, if there are limits then the city will be bound by those limits, unless the city is more restrictive.

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

There was a brief discussion on further exclusions and limiting specific facilities, the state does not have any intent to limit facilities at this time, testing is supposed to be done for every harvest or batch, costs range from \$75-175 per sample, the results are too unreliable with many factors that the results depend on tester, cleanliness, etc. The commissioners briefly discussed cannabis products such

as edibles and testing, noting that the economic feasibility of a business is up to the grower, manufacturer, etc.

**C. Exclusions**

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

Mr. Abboud will bring this back for the next meeting and try to include items that were not included.

The commissioners entertained a discussion with staff on scheduling additional meetings and worksessions along with producing a draft document to facilitate their work in a more expedient manner noting that there was a short time period for the commission to complete its assigned work and expressing that meeting once a month may not bring about the desired results within the specified time allotted.

**INFORMATIONAL MATERIALS**

**A. Commissioner Attendance at City Council Meetings**

Chair Young requested the commission to review their assigned date to attend a Council meeting and if there were any issues to let her know.

**COMMENTS OF THE AUDIENCE**

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

Glenda Korn, thanked the commissioner for being there, she believed that Homer had an opportunity to move on this issue with minimal government interference. Ms. Korn commented on the aspect of kids breaking into someone's greenhouse and recommended bringing back the Boys and Girls Club to keep the kids occupied. Ms. Korn expressed concerned on the Spit regulations because she works out there and believes that it could be a booming business out there, not cultivation but retail, she would also like to see something drafted sooner rather than later and if it has to be changed that is okay.

Lindianne Sarno, city resident, and here representing the Kachemak Cannabis Coalition, and wanted to let the commission know that they have a qualified Lab Scientist who is seriously considering opening a testing facility in Homer. She would also like the commission know that there are several people who attend the Coalition meetings because they are interested in quality cannabis products for medicinal reasons. There is more than tourism and recreational interest that could be fulfilled by people in this community by the growing town.

**COMMENTS OF STAFF**

Mr. Abboud stated he will be working hard.

Ms. Krause was not asked for her comments.

**COMMENTS OF THE CHAIR**

Chair Young stated that she is impressed by the creativity of the commission. She asked that they keep that going. She expressed her hesitation in banning things outright and enjoyed the discussion on the rural residential. Ms. Young encouraged allowing innovation and believed that a way to do that would be to allow it to occur on a small scale. She would hate to see any portion of this business be cost prohibitive and did not want to see it moved to only one area such as East End and industrial zones. Keep up the good work.

**COMMENTS OF THE COMMISSION**

Commissioner Robl commented on the issue of cultivation in rural residential and the misconception regarding the law, the laws are in effect it is illegal to consume marijuana in public and there is a definition of public, they are enforcing that and they will not argue it with anyone either. They have issued one citation and they were convicted.

Commissioner Harris commented on the opportunity availability for all of Homer since they are a very friendly community to marijuana and that they can create a very good export business from this.

Commissioner Stead likened the opportunities to the craft beer brewing that has been going on for the last 15 years. You can open them if you want to spend some money for a one barrel brewery but you will not make any money, but you have to look at economies of scale and there will be a break over scale. The smaller operations will not make it very far. However he does not see a lot of big operations coming to Homer, but you never know. He believed that they will have to wait and see about the regulations in rural residential.

Commissioner Monroe he did not have anything to add to the discussion tonight but believed that they had a ways to go to reach consensus as a body regarding the rural residential.

Commissioner Jones thanked the audience for attending and providing comments to the commission.

Commissioner Burgess issued his appreciation of the audience similarly. Mr. Burgess liked to see the public come to provide input by taking advantage of the opportunities to speak at the beginning and ending of every meeting to let this commission, council or the planning commission know as this moves forward. He further commented on how he viewed his role on any political body that sets policy or makes recommendations as trying to best express the will of the people and to provide a regulatory environment that is not as onerous and is as reasonably enforceable as possible. During his time on Council he has come to realize that a lot of the large financial problems have roots in poorly crafted contracts or regulations, things that cannot be enforced easily or create inter-neighborhood conflicts or safety situations that just don't work out, so he encourages moving forward to those of you who may have a different standpoint or who coming at this from a different angle to try to find a common ground or make reasonable compromises in terms of policy enforcement to have that open mind. It makes it difficult to have a discussion where people just won't bend on a certain point or where there is a whole lot of overlap and just sensible common ground. He believes most people on the commission are rational people and if they keep moving forward they will have a good final product and hopefully do well by their town and their government.

Commissioner Lewis thanked everyone for coming and everyone for serving and the next meeting will start at 5:30 on the 23<sup>rd</sup> of July.

**ADJOURN**

There being no further business to come before the Commission, the meeting adjourned at 7:00 p.m. The next regular meeting is scheduled for THURSDAY, JULY 23, 2015 at 5:30 p.m. in the City Hall Cowles Council Chambers.

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Renee Krause, CMC, Deputy City Clerk

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





# City of Homer

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

## Planning

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### Staff Report CAC 15-02

TO: Cannabis Advisory Commission  
THROUGH: Rick Abboud, City Planner  
DATE: July 23, 2015  
SUBJECT: Follow up items

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#### Definition of Public

I have included as an attachment the emergency order regarding the definition of “public”. It does refer to places of business to which the public or a substantial group of persons has access.

#### Buffers

While most were fine with the buffers proposed last meeting, they may have to be considered with those proposed by the state. The attorney proposes to wait and see what is adopted by the state.

#### Draft Code

After consulting with the City Attorney, she has proposed a schedule for the development of code with consideration of regulations being developed on the state and borough level. She will be presenting at the meeting.

#### Attachments

1. Emergency Regulation, definition of “public”



Byron Mallott  
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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Micaela Fowler, AAC Contact  
Department of Commerce, Community and Economic Development

**FROM:** Scott Meriwether  
Special Assistant   
907.465.4081

**DATE:** February 24, 2015

**RE:** Filed Emergency Regulations: Alcoholic Beverage Control Board  
Emergency Regulations re: definition of "in public" (3 AAC 304.990)

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Attorney General File:	Emergency Regulations
Regulation Filed:	February 24, 2015
Effective Date:	February 24, 2015
Expiration Date:	June 23, 2015 unless made permanent by the adopting agency
Print:	213, April 2015

cc with enclosures: Linda Miller, Department of Law  
Dean Williams, Administrative Regulation Review Committee  
Judy Herndon, LexisNexis

## FINDING OF EMERGENCY

The Alcoholic Beverage Control Board finds that an emergency exists and that the attached regulations are necessary for the immediate preservation of the public peace, health, safety, and general welfare. The facts constituting the emergency include the following:

Effective February 24, 2015 Alaska Statute (AS) 17.38 significantly expands the circumstances in which a citizen may lawfully possess, transport, and transfer marijuana. Alaska Statute 17.38.040 expressly makes it unlawful to “consume marijuana in public.” Alaska Statute 17.38.900 defines “consumption” as “the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.” But AS 17.38 does not define “in public.”

Testimony before the legislature and local governing bodies has revealed widespread concern that persons charged with enforcement of Alaska’s existing drug laws as well as the new marijuana law will lack sufficient guidance as to the meaning of “in public” to effectively enforce the new law, and that confusion and disorder will result, putting the public at risk.



# Emergency Regulations

Therefore, this emergency regulation is necessary, to give clear and consistent guidance to persons who may consume marijuana in various venues, as well as those charged with enforcing the new law, so that the public peace, health, safety, and general welfare may be protected.

## ORDER CERTIFYING ADOPTION

I certify that the Alcoholic Beverage Control Board, under the authority of AS 17.38.040 and 17.38.090, adopted at its February 24, 2015 meeting the attached one page of regulation changes as emergency regulations to take effect immediately upon filing by the lieutenant governor, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

DATE: February 24, 2015,  
at Juneau, Alaska.

By: Ethan Billings  
Ethan Billings  
Member, Alcoholic Beverage Control Board

## FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on Feb 24, 2015, at 10:15 A.m., I filed the attached regulation according to the provisions of AS 44.62.

Byron Mallott  
Lieutenant Governor Byron Mallott

Effective: February 24, 2015

Register: 213, April, 2015

Expires June 23, 2015  
unless made "permanent"  
by the adopting agency.

EMERGENCY REGULATION

Register 213, April 2015      COMMERCE, COMMUNITY, AND EC. DEV.

3 AAC 304.990 is amended by adding a new subsection to read:

(b) In AS 17.38.040, "in public" 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.

(Eff. 4/28/84, Register 90; am 6/13/2003, Register 166; am 2/24/2015, Register 213)

**Authority:**    AS 04.06.090                    AS 17.38.040                    AS 17.38.090  
                  AS 04.06.100

NOTICE OF ADOPTION OF EMERGENCY REGULATIONS:  
ALCOHOLIC BEVERAGE CONTROL BOARD

*Regarding consumption of marijuana "in public."*

BRIEF DESCRIPTION

The Alcoholic Beverage Control Board proposes to make permanent changes to regulations made by emergency regulations in the definitions section, by adding a definition of "in public."

On February 24, 2015, the Alcoholic Beverage Control Board adopted, as emergency regulations, changes in Title 3 of the Alaska Administrative Code dealing with public consumption of marijuana, including the following:

3 AAC 304.990 is proposed for amendment by adding a new subsection to define the term "in public" that appears in AS 17.38.040.

The emergency regulations took effect February 24, 2015, and will expire June 23, 2015. The Alcoholic Beverage Control Board intends to make the emergency regulations permanent.

You may comment on the regulation changes, including the potential costs to private persons of complying with the changes, by submitting written comments to Cynthia Franklin at 2400 Viking Drive, Anchorage, AK 99501. Additionally, the Alcoholic Beverage Control Board will accept comments by facsimile at 907-334-2285 or by electronic mail at [cynthia.franklin@alaska.gov](mailto:cynthia.franklin@alaska.gov). The comments must be received no later than 4:00 p.m. on March 31, 2015.

You may submit written questions relevant to the proposed action to Cynthia Franklin by electronic mail at [cynthia.franklin@alaska.gov](mailto:cynthia.franklin@alaska.gov), or by regular mail to Cynthia Franklin, Alcoholic Beverage Control Board, 2400 Viking Drive, Anchorage, Alaska 99501. The questions must be received at least 10 days before the end of the public comment period. The Alcoholic Beverage Control Board will aggregate its response to substantially similar questions and make the questions and response available on the agency website. The Alcoholic Beverage Control Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

Oral comments may also be submitted at a hearing to be held on April 9, 2015, at the Anchorage Legislative Information Office, Room 203, 716 W 4th Avenue, Anchorage, Alaska 99501. The oral hearing at which you may offer comments will be held from 9:00 am – 10:00 am. To participate by telephone, call 1-800-315-6338 and enter the code 69173# when prompted. Testimony at this oral hearing might be limited to a reasonable period of time for each person if necessary to accommodate those who wish to speak, and the hearing might be extended if necessary to accommodate those present who wish to speak. Please note that written comments will not be taken at this hearing.

A copy of the regulation proposed to be made permanent is available on the Alaska Online Public Notice System or by contacting Cynthia Franklin at 2400 Viking Drive, Anchorage, AK 99501, phone: 907-269-

0350, or <http://commerce.state.ak.us/dnn/abc/Home.aspx>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Gil Nelson at 907-269-0352 no later than March 21, 2015 to ensure that any necessary accommodations can be provided.


The language of the permanent regulations may be different from that of the original emergency regulations and may include other provisions dealing with the same subject. You should comment during the time allowed if your interests could be affected.

**Statutory Authority:** AS 17.38.090

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

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

DATE: 2/25/15



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Cynthia A. Franklin  
Director, Alcoholic Beverage Control Board



# City of Homer

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

Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

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

(p) 907-235-3130

(f) 907-235-3143

## MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION

FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: JULY 15, 2015

SUBJECT: REVIEW AND APPROVAL OF THE DRAFT BYLAWS FOR THE COMMISSION

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At the June 25, 2015 regular meeting the commission reviewed different bylaws that established commissions of the City use.

The Commission by consensus agreed on the bylaws that are used by the Parks and Recreation Advisory Commission with a few minor changes. Those amendments were implemented as requested.

Following is the draft of the Commission bylaws for review and approval.

### RECOMMENDATION

Move to approve the Cannabis Advisory Commission Bylaws as presented and forward recommendation to Council for formal approval at the August 10, 2015 Council meeting.



1 **CANNABIS ADVISORY COMMISSION BYLAWS**

2  
3 The Cannabis Advisory Commission is established with those powers and duties as set forth in Chapter  
4 2, Section 78, of the Homer Municipal Code.

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

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

9  
10 The Cannabis Advisory Commission membership will consist of nine members; five members of the  
11 public, two members may be residents from outside the city limits, preference shall be given to City  
12 resident applicants; Two Council members, one member of the Homer Advisory Planning Commission,  
13 who shall be nominated by the Mayor and confirmed by the Council, and the Chief of Police.

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

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

19  
20 **HISTORY**

21 The By-laws were approved by the Cannabis Advisory Commission on July 23, 2015 and by the  
22 Homer City Council on August 10, 2015, and shall be in effect and govern the procedures of the  
23 Commission. The duties and responsibilities of the Commission are:

- 24 A. Act in advisory capacity to the City Manager and the City Council on regulatory issues in the  
25 city. Consideration may include existing facilities, possible future developments and recommendations  
26 on land use.
- 27 B. Consider any specific proposal, problem or project as directed by the City Council in regards to  
28 cannabis

29  
30 **BY-LAWS**

- 31  
32 A. To abide by existing Alaska State Law, Borough Code of Ordinance, where applicable, and  
33 Homer Municipal Code;
- 34  
35 B. To abide by Robert’s Rules of Order, current edition, in so far as this treatise is consistent  
36 with Homer Municipal Code.

37  
38 **C. REGULAR MEETINGS:**

- 39 1. The commission will meet on the fourth Thursday of the month at 5:30 p.m. with the  
40 exception of November the commission will meet on the last Monday and December the  
41 commission will meet on the third Thursday of the month due to the holidays.
- 42  
43 2. Items will be added to the agenda upon request of staff, the Commission or  
44 a Commissioner. Agenda deadline is the Wednesday of the week preceding the  
45 meeting  
46 date at 12:00 p.m.
- 47  
48 3. Removing items from the published agenda will be by consensus of the Commission.  
49 No items may be added.
- 50  
51 4. Commissioners will give the Clerk’s Office or Chair a minimum of a two week  
52 notice or as soon as possible regarding their potential absence from a meeting.

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**D. COMMITTEES**

1. The commission shall submit a request for approval to City Council to form special committees. Committee membership shall include at least two Commissioners. The commission will submit in memorandum form to council the reason for establishing a committee, the task(s) assigned to the committee and the expected term for the committee plus a list of persons to be appointed to the committee such as Council members, department personnel, or number of public in specific sectors or with special experience preferred.
2. One committee member shall be appointed as Chair and work with the City Clerk's Office to create the agenda and schedule of meetings so they may be advertised in accordance with Alaska State Law and Homer City Code.
3. One committee member shall be appointed and responsible for furnishing summary notes of all Committee meetings to the City Clerk.
4. Committees shall meet in accordance with Commission bylaws and Robert's Rules.
5. Committees will make a progress report at all commission meetings.
6. No committee shall have other than advisory powers.
7. Per Robert's Rules and the resolution creating the committee as established by City Council upon giving final report the committee is disbanded.
8. All meetings are to be conducted in City Hall where they may be recorded.

**E. COMMISSION MEETING PUBLIC COMMENT/TESTIMONY AND AUDIENCE COMMENT TIME LIMITS**

1. The Chair shall note for the audience's benefit that there is a three minute time limit each time there is a place in the agenda for public comment/testimony or audience comments.
2. Any individual wishing to address the Commission shall adhere to a three minute time limit. It is the responsibility of the Chair to announce under Public Comments, Public testimony on public hearing items and Audience Comments that there is a 3 minute time limit.
3. Time limits may be adjusted by the 2 minutes up or down with the concurrence of the body in special circumstances only such as agenda content and public attendance.

**F. SPECIAL MEETINGS:**

1. Called by Chair or majority of the Commission only when required to complete time sensitive business of the commission, at the request of City Administration or City Council.

**G. DUTIES AND POWERS OF THE OFFICERS:**

1. A Chair and Vice-Chair shall be selected annually (November meeting) by the appointive members.
2. The Chair shall preside at all meetings of the Commission, call special meetings in accordance with the by-laws, sign documents of the Commission, see that all actions and notices are properly taken, and summarize the findings of the Commission for the official record.
3. The Vice-Chair shall perform all duties and be subject to all responsibilities of the Chair in his/her absence, disability or disqualification of office. The Vice-Chair will succeed the Chair if he/she vacates the office before the term is completed, to complete the unexpired term. A new Vice-Chair shall be elected at the next regular meeting.



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108 **H. MOTIONS TO RECONSIDER:**  
109 1. Notice of reconsideration shall be given to the Chair or Vice-Chair, if the Chair  
110 is unavailable, within forty-eight hours from the time the original action was taken.  
111 2. A member of Commission who voted on the prevailing side on any issue may move  
112 to  
113 reconsider the Commission's action at the same meeting or at the next regular  
114 meeting of the body provided the above 48-hour notice has been given.  
115 3. Consideration is only for the original motion to which it  
116 applies.  
117  
118 **I. CONFLICT OF INTEREST:**  
119 1. A member or the Commission shall disqualify himself/herself from participating in  
120 any official action in which he/she has a substantial financial interest.  
121 2. Should the Commission member not move to disqualify himself/herself after it has  
122 been established that he/she has a substantial financial interest, the Commission may  
123 move to disqualify that member by a majority vote of the body.  
124  
125 **J. QUORUM; VOTING:**  
126 1. Five Commission members shall constitute a  
127 quorum.  
128 2. Five affirmative votes are required for the passage of a resolution or  
129 majority.  
130 3. Voting will be by verbal vote, the order to be rotated. The final vote on each  
131 resolution or motion is a recorded roll call vote.  
132 4. The City Manager and Mayor shall serve as consulting members of the Commission but  
133 shall have no vote  
134  
135 **K. CONSENSUS:**  
136 1. The Commission may, from time to time, express its opinion or preference concerning  
137 a subject brought before it for consideration. Said statement, representing the will of the  
138 body and meeting of the minds of the members, may be given by the presiding officer  
139 as the consensus of the body as to that subject without taking a motion and roll call  
140 vote.  
141 **L. ABSTENTIONS:**  
142 1. All Commission members present shall vote unless the Commission, for special  
143 reasons, permits a member to abstain.  
144 2. A motion to excuse a member from voting shall be made prior to the call for the  
145 question to be voted upon.  
146 3. A member of the Commission requesting to be excused from voting may make a  
147 brief, oral statement of the reasons for the request and the question of granting permission  
148 to abstain shall be taken without further debate.  
149 4. A member may not be permitted to abstain except upon the unanimous consensus  
150 of members present.  
151 5. A member may not explain a vote, may not discuss the question while the roll call vote  
152 is being taken and may not change his/her vote thereafter.  
153  
154 **M. VACANCIES:**  
155 1. A Commission appointment is vacated under the following conditions and upon  
156 the declaration of vacancy by the Commission.  
157 2. The Commission shall declare a vacancy when the person appointed:  
158 A. fails to qualify to take office within 30 days after his/her appointment;  
159 B. resigns and the resignation is accepted;

- 160 C. is physically or mentally unable to perform the duties of his/her office;
- 161 D. misses three consecutive regular meetings unless excused; or
- 162 E. is convicted of a felony or of an offense involving a violation of
- 163 his/her oath of office.

164  
165 **N. GENERAL ORDER OF BUSINESS:**

166  
167 NAME OF BODY DATE OF MEETING  
168 PHYSICAL LOCATION OF MEETING DAY OF WEEK AND TIME OF  
169 MEETING HOMER, ALASKA MEETING  
170 ROOM

171 NOTICE OF MEETING  
172 REGULAR MEETING AGENDA

- 173 1. CALL TO ORDER
- 174 2. APPROVAL OF AGENDA
- 175 3. PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA. (3 MINUTE TIME LIMIT)
- 176 4. RECONSIDERATION
- 177 5. APPROVAL OF MINUTES or CONSENT AGENDA.
- 178 6. VISITORS (Chair set time limit not to exceed 20 minutes) (Public may not comment on
- 179 the visitor or the visitor's topic until audience comments.) No action may be taken at this time.
- 180 7. STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS (Chair set time
- 181 limit
- 182 not to exceed 5 minutes.)
- 183 8. PUBLIC HEARING (3 MINUTE TIME LIMIT)
- 184 9. PLAT CONSIDERATION (Planning Commission only)
- 185 10. PENDING BUSINESS or OLD BUSINESS
- 186 11. NEW BUSINESS or COMMISSION BUSINESS
- 187 12. INFORMATIONAL MATERIALS (NO ACTION MAY BE TAKEN ON THESE MATTERS, THEY
- 188 MAY BE DISCUSSED ONLY).
- 189 13. COMMENTS OF THE AUDIENCE (3 MINUTE TIME LIMIT)
- 190 14. COMMENTS OF THE CITY STAFF (not required) (Staff report may be at this time in
- 191 the agenda.)
- 192 15. COMMENTS OF THE COUNCILMEMBER (If one is assigned)
- 193 16. COMMENTS OF THE CHAIR (May be combined with COMMENTS OF
- 194 THE COMMISSION/BOARD since the Chair is a member of the Commission/Board.)
- 195 17. COMMENTS OF THE COMMISSION
- 196 18. ADJOURNMENT/NEXT REGULAR MEETING IS SCHEDULED FOR \_\_\_\_\_
- 197 note any worksessions, special meetings, committee meetings etc. All meetings scheduled to
- 198 be held in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue,
- 199 Homer, Alaska.

200  
201 **O. PROCEDURE FOR CONSIDERATION OF AGENDA**  
202 **ITEMS:**

203 The following procedure will normally be observed pursuant to Robert's  
204 Rules:

- 205 1. A motion is made to discuss the item OR to approve the staff recommendation.
- 206 The item may then be discussed, amended or voted on.
- 207 2. If there are questions of staff or an appropriate audience member, a
- 208 Commissioner
- 209 may request permission from the Chair to ask the question. The Chair, upon
- 210 consensus approval, may grant the request.

213 **P. BYLAWS AMENDED:**  
214 The bylaws may be amended at any meeting of the Commission by a majority plus one vote  
215 of the members, provided that notice of said proposed amendment is given to each  
216 member in writing. The proposed amendment shall be introduced at one meeting and action  
217 shall be taken at the next commission meeting.  
218

219  
220 **Q. TELECONFERENCE:**  
221 Teleconference meetings.  
222

223 1. The preferred procedure for Commission meeting is that all members be  
224 physically present at the designated time and location within the City for the meeting.  
225 However, physical presence may be waived by the Chair or Commission and a member may  
226 participate in a meeting by Teleconference when it is not essential to the effective participation  
227 or the conduct of business at the meeting.

228 A Commission member participating by teleconference shall be deemed to be present at  
229 the meeting for all purposes. In the event the Chair participates telephonically, the Vice-Chair  
230 shall run the meeting.  
231

232 2. Teleconference procedures.

233 A. A Commission member who cannot be physically present for a regularly  
234 scheduled meeting shall notify the recording clerk at least five days prior to the scheduled  
235 time for the meeting of his/her intent to appear by telephonic means of communication.

236 B. The recording clerk shall notify the Commission members three days prior to  
237 the scheduled time for the Commission meeting of Commission members intending to  
238 appear by teleconference.

239 C. The means used to facilitate a teleconference meeting of the Commission must  
240 enable each Commission member appearing telephonically to clearly hear all other Commission  
241 members and members of the public attending the meeting as well as be clearly heard  
242 by all other Commission members and members of the public.

243 D. The recording clerk shall note in the attendance record all Commission members  
244 appearing telephonically.  
245

246 **LEGISLATIVE HISTORY**

247 Cannabis Advisory Commission established by Ordinance 15-07(A)(S)(A)



## **MEMORANDUM**

**TO: CANNABIS ADVISORY COMMISSION**

**FROM: HOLLY C. WELLS**

**RE: REGULATION OF MARIJUANA IN THE CITY OF HOMER, ALASKA**

**CLIENT: CITY OF HOMER**

**FILE NO.: 506742.23**

**DATE: July 15, 2015**

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At the state level, the Marijuana Control Board (“MCB”) is currently responsible for the creation of regulations necessary for the chapter’s implementation.<sup>1</sup> However, AS 17.38.110, on the other hand, similarly grants authority to local governments to enact ordinances regulating the sale and distribution of marijuana; for instance, it authorizes a local government to establish a schedule of annual operating, registration, and application fees for marijuana establishments,<sup>2</sup> the power to adopt civil penalties for violation of local ordinances,<sup>3</sup> and the authority to consider certain registrations in the event the MCB fails to adopt regulations pursuant to AS 17.38.084.<sup>4</sup> It also expressly authorizes local governments the option of “prohibit[ing] the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores within their boundaries through enactment of an ordinance or by a voter initiative.”<sup>5</sup>

Currently, the City has taken several important steps to regulating the cannabis industry within the City. Specifically, the City Council has established this Commission and this Commission has initiated the process of considering current and pending laws and policies and preparing to recommend comprehensive regulations. Undoubtedly, the Commission faces many challenges. Among these challenges are:

1. The uncertainty regarding the state regulations and the impact these regulations will have on municipal regulations
2. The relationship between the Kenai Peninsula Borough’s position regarding marijuana regulation and the City’s position regarding such regulation.

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<sup>1</sup> The MCB must adopt these regulations not later than nine months after February 24, 2015. AS 17.38.090.

<sup>2</sup> AS 17.38.110(d)

<sup>3</sup> AS 17.38.110(b)

<sup>4</sup> AS 17.38.110(c) and (f).

<sup>5</sup> See AS 17.38.110(a).

3. The relationship between other municipalities in the Borough and the City and the impact one city's regulations will have on the others.
4. The importance of understanding conflicts between federal and state laws and potential legal issues surrounding the illegality of marijuana under federal law

In an effort to ensure that the Commission has an opportunity to make comprehensive and informed recommendations in a timely and transparent manner, the following is a recommended timeline for upcoming Commission discussions:

- 1) July 23, 2015 Commission Meeting: Adopt a process of review; Presentation by City Attorney Holly Wells regarding comments on proposed State regulations.
- 2) August 10, 2015: Attend a joint work session with the City Council in which City Attorney Wells will give a presentation regarding cannabis regulation.
- 3) August 27, 2015 Commission Meeting: Presentations regarding cannabis as a product and the industry (for example, its composition, its character as a crop, its uses, risks, and so on).
- 4) September 24, 2015: Commission adopts a schedule for drafting ordinances for regulating cannabis, which shall include public hearings and additional work sessions.

This above recommended schedule is, of course, very tentative but is designed to ensure that the Commission moves in pace with the State legislature. The City's interests are best served by waiting for the State legislature to finalize its regulations and statutes before drafting municipal laws that will be subject to those state regulations and statutes. That said, the cannabis industry is a very complex industry and the legal issues surrounding the regulation of that industry require careful consideration. Therefore, the Commission is well poised to use the next few months to educate the Commission, as a whole, on cannabis and the cannabis industry and then, once the State regulations and statutes are less fluid, draft its recommended local laws.



# 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 15-03

TO: Cannabis Advisory Commission  
FROM: Rick Abboud, City Planner  
DATE: July 16, 2015  
SUBJECT: Comments on Marijuana Regulations Set #2

---

#### Introduction

I had emailed the proposed regulations to the commissioners and have included them in the packet. Comments are being accepted until August 8<sup>th</sup>.

#### Considerations

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

I find that there are generally two types of comments.

1. Technical. These are items that might conflict with other provisions in Alaska Statute or other basis in law. I expect the City Attorney to provide any concerns to the City Council.
2. Policy. These items may not be technical in nature but consist of the nature of regulation and just how far they go.

#### Policy

I am finding it difficult to formulate responses to policy because I have found no discussion for the basis of the policies and would only be speculating as to their origin. One issue I did present is the subject of 3 ACC 306.010, License restrictions. This is where we see some distances for restriction that differ from those presented. These would be considered a minimum when adopted. A municipality is entitled to expand upon these standards.

The draft provisions differ from my proposal in the way of measurement and the distance proposed. The distance is measured as the shortest pedestrian route instead of from the lot where the activity is conducted. In the states proposal we could have a marijuana related business adjacent to much of the lot that contains Homer High School. I really feel that we would be more in step with the expectations of the federal government in respecting the double penalty zones already in force for drug free zones.

Regarding the restrictions on daycare and places where religious services are regularly conducted, I am in favor of the measurement measure from the public entrance of the building. Providing expansive boundaries from these activities would really restrict options for business locations.

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

### **Attachments**

1. 3 ACC Chapter 306



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

**Article**

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

**Article 1. Licensing, fees.**

**Section**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) an individual or a sole proprietorship unless the individual or proprietor is a resident of the state;

(2) a partnership unless each partner is a resident of the state;

(3) a limited liability company unless the limited liability company is qualified to do business in the state, and each member of the limited liability company is a resident of the state; or

(4) a corporation unless the corporation is incorporated or qualified to do business in the state, and each shareholder who owns the corporation's shares is a resident of the state.

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

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

(e) In this section,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

members with percentage of ownership of each member;

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

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

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

(A) management of the marijuana establishment; and

(B) compliance with all applicable laws;

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

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

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

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

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

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

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



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

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

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

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

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

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

- (1) the applicant, if the applicant is an individual;
- (2) an authorized general partner if the applicant is a partnership, including a limited partnership;
- (3) the registered agent or a member of the limited liability company if the applicant is a limited liability company; or

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

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

declare under penalty of perjury that

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

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

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

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

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

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

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

and

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

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

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

license to another person; and

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

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

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

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

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

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

application.

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

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

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

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

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

establishment name, and premises address;

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

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

(A) the name of the marijuana establishment business;

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

(C) the marijuana establishment's operating plan;

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

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

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

(5) declare under penalty of perjury that

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

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

and

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

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

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

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

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

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

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

- (1) when the licensee is a partnership, including a limited partnership, any change in the identify of the partners, or in the ownership percentages held by any partners;
- (2) when the licensee is a limited liability company, any change in the identity of the members, or in the ownership percentage held by any member; or
- (3) when the licensee is a corporation, any sale of corporate stock to a person not currently an owner, or any change of the percentage ownership of an existing shareholder.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

## AS 17.38.900

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

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

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

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

## AS 17.38.900

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

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

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

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

AS 17.38.900

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

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

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

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

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

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

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

(2) the license would violate any restriction in 3 AAC 306.010; or

(3) the license would not be in the interest of the public;

(4) the license would violate any restriction applicable to the particular license

under this chapter; or

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

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

(1) any cause listed in (a) of this section;

(2) that the license has been revoked for any cause;

(3) that the license has been operated in violation of a condition or restriction the board previously imposed; or

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

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

(1) any cause listed in (a) of this section;

(2) that the transferor has not paid all debts or taxes arising from the operation of the business licensed under this chapter unless the transferor gives security for the payment of the debts or taxes satisfactory to the creditor or taxing authority;

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

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

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

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

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

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

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

## AS 17.38.900

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

(b) When an aggrieved person requests a hearing under the section, the Office of Administrative Hearings will conduct the hearing in compliance with due process, the Alaska Administrative Procedure Act, AS 44.62.330-44.62.630, and the applicable regulations adopted by the Office of Administrative Hearings at 2 AAD 64.100-2 AAC 64.990. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

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

(b) An applicant or licensee aggrieved by a final decision of the board regarding an application for a new license, a license renewal, or a transfer of license to another person may appeal to the superior court under AS 44.62.560. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

AS 17.38.087

AS 17.38.090

AS 17.38.100

AS 17.38.900

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

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

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

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

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

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

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

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



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

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

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

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

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

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

**Article 3. Marijuana Retail Stores.****Section**

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

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

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

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

306.355; and

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

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

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

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

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

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

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

(b) A licensed marijuana retail store is authorized to

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

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

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

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

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

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

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

(2) that is not labeled and packaged as required in 3 AAC 306.4\_\_ or 3 AAC 306.5\_\_;

(3) in a quantity exceeding the limit set out in 3 AAC 306.335;

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

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

(c) A licensed marijuana retail store may not

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

(2) allow any person to consume marijuana or any marijuana product on the marijuana retail store’s licensed premises;

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

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

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

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

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

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

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

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

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

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

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

AS 17.38.900

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

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

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

**3 AAC 306.325. Marijuana handler permit required.** A marijuana retail store shall ensure that

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

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

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

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

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

(b) A valid form of identification includes:

(1) an unexpired, unaltered passport;

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

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

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

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

(1) one ounce of usable marijuana;

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

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

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

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

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

**3 AAC 306.340. Health and safety requirements for marijuana retail store.** A

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

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

**3 AAC 306.345. Testing required for marijuana sold at retail store.** (a) A

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

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

**3 AAC 306.350. Restriction on the advertising of marijuana and marijuana**

**products.** (a) A marijuana retail store may have one sign identifying the store by the marijuana retail store 's business name that is visible to the general public from the public right of way.

The sign may be in placed in the store's window or attached to the outside of the licensed premises. The size of the sign may not exceed sixteen hundred square inches.

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

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



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

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

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

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

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

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

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

(d) A marijuana retail store may not use giveaway coupons, or distribute branded merchandise as promotional materials, or conduct promotional activities such as games or competitions to encourage sale of marijuana or marijuana products.

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

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

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

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

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

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

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

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

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

(c) A marijuana retail store shall reconcile each transaction from the store's point of sale system and current inventory to its inventory tracking system at the close of business each day.

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

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

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

AS 17.38.900

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

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

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

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

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

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

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

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

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

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

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

inventory tracking system, policies and purposes of any marijuana establishment and of any applicant for a marijuana establishment license. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_)

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

**3 AAC 306.710. Restricted access areas.** (a) A marijuana establishment shall restrict access to any part of the licensed premises where marijuana or a marijuana product is grown, processed, tested, stored, displayed, or sold.

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

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

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

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

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

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

AS 17.38.087

AS 17.38.090

AS 17.38.100

AS 17.38.900

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

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

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

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

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

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

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

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

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

(b) The licensed premises of a marijuana establishment must have

- (1) exterior lighting to facilitate surveillance;
- (2) a security alarm system on all exterior doors and windows; and
- (3) continuous video monitoring as provided in 3 AAC 306.725.

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

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



premises; and

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

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

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

AS 17.38.087 AS 17.38.090 AS 17.38.100

AS 17.38.900

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

(1) each restricted access area and each entrance to a restricted access area within the licensed premises;

(2) each entrance to the exterior of the licensed premises;

(3) each point-of-sale (POS) area.

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

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

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

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

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

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

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

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

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

(2) the licensed premises have

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

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

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

(A) maintaining adequate personal cleanliness; and

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

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

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

(B) prevent causing odors or attracting pests;

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

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

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

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

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

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

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

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

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

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

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

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

accident; and

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

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

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

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

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

(c) A marijuana establishment must

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

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

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

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

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

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

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

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

(1) maintain documentation of the certified scale; and

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

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

AS 17.38.087

AS 17.38.090

AS 17.38.100

AS 17.38.900

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

older records may be archived on or off premises;

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

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

(4) records related to advertising and marketing;

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

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

(7) all records normally retained for tax purposes;

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

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

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

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

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

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

**3 AAC 306.760. Marijuana inventory tracking system.** (a) A marijuana establishment shall use an inventory tracking system capable of sharing information with the system implemented by the board to ensure all marijuana cultivated and sold in the state, and each marijuana product processed and sold in the state, is identified and tracked from the time the marijuana is propagated from seed or cutting, through transfer to another licensed marijuana establishment, or use in manufacturing a product, to a completed sale of marijuana or marijuana product, or disposal of the batch or lot of marijuana or marijuana product.

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

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

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



NOTICE OF PROPOSED REGULATIONS  
REGARDING MARIJUANA AND LICENSING, RETAIL STORES  
AND OPERATING REQUIREMENTS  
MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to adopt regulations to implement the marijuana law which was voted on as Ballot Measure 2 in November, 2014. These proposed regulations relate to licensing and fees, rules for retail marijuana stores and operating requirements for all marijuana establishments.

The Marijuana Control Board proposes to adopt regulation changes in Title 3 of the Alaska Administrative Code, dealing with licensing and fees, rules for retail marijuana stores and operating requirements for all marijuana establishments, including the following:

- (1) Article 1 – Licensing, Fees regulations are proposed as follows:

The regulations consist of a series of provisions establishing when a marijuana establishment license is required, restrictions on licenses, conditions on licenses, rules regarding applications for a new license, application procedures, rules regarding applications for renewal of licenses, rules regarding reporting of changes in ownership of licenses, rules regarding application for transfers of licenses to another person, relocation of licensed premises not allowed, rules regarding criminal justice information and records, rules for protests by local governments, public participation in issuance of licenses, renewals and transfers, public hearings, procedure for action on license applications, denial of license applications, informal conferences, formal hearings, appeals, and fees, refunds and forfeiture.

- (2) Article 3- Marijuana Retail Stores regulations are proposed to be adopted, including the following:

The regulations consist of a series of provisions establishing when a marijuana retail store license is required, marijuana retail store privileges, acts prohibited at a marijuana retail store, application for a marijuana retail store license, restricted access area at a marijuana retail store, when a marijuana handler permit is required, identification requirements to prevent sale to persons under the age of 21, limits on quantity sold, health and safety requirements for marijuana retail store, testing requirement for marijuana sold at marijuana retail store, restriction on advertising of marijuana and marijuana products, and rules regarding a marijuana inventory tracking system.

- (3) Article 7- Operating Requirements for All Marijuana Establishments regulations are proposed to be adopted, including the following:

The regulations consist of a series of provisions establishing licensed premises and alteration of licensed premises, inspection of licensed premises, restricted access areas, marijuana handlers permits, security alarm systems and lock standards, video surveillance, health and safety standards, waste disposal, certified scales, transportation, insurance, business records, and rules regarding a marijuana inventory tracking system.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to John Calder, Marijuana

Control Board at 550 W. 7<sup>th</sup> Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Marijuana Control Board will accept comments by electronic mail at [john.calder@alaska.gov](mailto:john.calder@alaska.gov). Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. The comments must be received no later than 4:30 p.m. on Aug 8, 2015.

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

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact John Calder at (907) 269-0350 no later than July 30, 2015 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available through the electronic link to the complete text on the Alaska Online Public Notice System, on the Alcoholic Beverage Control Board website at <http://commerce.state.ak.us/dnn/abc/Home.aspx> and by contacting John Calder at 550 W. 7<sup>th</sup> Ste 1600, Anchorage, AK 99501.

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

**Statutory Authority:** AS 17.38.090

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

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

DATE: July 6, 2015

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Cynthia A. Franklin, Director  
Marijuana Control Board



# City of Homer

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

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## MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION

FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: JULY 15, 2015

SUBJECT: COMMENTS ON MARIJUANA REGULATIONS SET #1, ROUND 2

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City Attorney Wells requested the Marijuana Regulations Set #1, Round 2 to be on the agenda for review and comment by the commission. Comments are due by August 8, 2015.

The first round of regulations had substantial changes and the Marijuana Control Board decided to get additional public input.

The first round of regulations have been included for your convenience under informational materials.





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

**Section**

200. Local options

210. Change of local option

220. Removal of local option

230. Procedure for local option election

240. Prohibition of importation or purchase after election

250. Effect on licenses of restriction on sale

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

270. Notice of the results of a local option election

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

(1) the sale of marijuana and marijuana products;

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

following license types:

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

(B) a marijuana products manufacturing facility;

(C) a marijuana testing facility;

(D) a marijuana retail facility;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(

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

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

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

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

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

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

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

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

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

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

(c) In this section,

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

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

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

Register \_\_\_\_)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) “assist” does not include

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

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

(C) growing marijuana plants for another person in a place other than that other



person's residence;

(2) “personal cultivation” does not include

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

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

(C) growing marijuana plants for another person in a place other than that other person's residence.

(b) In AS 17.38 and this chapter, unless the context requires otherwise,

“adulterated food or drink product” means a product which is intended to be consumed orally and which existed without marijuana in a form ready for consumption to which marijuana was subsequently added by any process. Adulterated food or drink products do not include raw ingredients which are combined with marijuana in a manufacturing process;

“edible marijuana product” means any marijuana product which is intended to be consumed orally, including but not limited to, any type of food, or drink. Edible marijuana products do not include adulterated food or drink products;

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

“marijuana concentrate” means resin, oil, wax, or any other substance produced by extracting or isolating cannabinoids, THC, or other components from the marijuana plant or

harvest thereof;

“marijuana product” means concentrated marijuana and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures;

“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;

“possess” means having physical possession or the exercise of dominion or control over property. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 17.38.090                      AS 17.38.110                      AS 17.38.90

SUPPLEMENTAL NOTICE OF PROPOSED REGULATIONS  
REGARDING MARIJUANA AND LOCAL OPTIONS.  
MARIJUANA CONTROL BOARD

The Marijuana Control Board proposes to adopt regulations to implement the marijuana law which was voted on as Ballot Measure 2 in November, 2014. These proposed regulations relate to definitions, as well as local options for communities to “opt out” of having certain kinds of marijuana establishments.

The Marijuana Control Board proposes to adopt regulation changes in Title 3 of the Alaska Administrative Code, dealing with local option regulations and definitions relating to marijuana and marijuana establishments, including the following:

- (1) local option regulations are proposed as follows:

The regulations consist of a series of provisions establishing a local governing body’s ability, by ordinance or popular vote, to opt out of allowing marijuana establishments to operate in their jurisdiction. The proposed local option regulations are modeled on the local option statutes for liquor licensed establishments in AS 04.11, except that AS 17.38.900(4) defines “local government” as excluding villages. The proposed regulations include rules prescribing types of local options, a change of a local option, the removal of a local option, the effect on licenses of a prohibition on sale, the prohibition of importation or purchase after a local option election, the effect on licenses of a restriction on sale, licensing after a prohibition on sale except on premises operated by a municipality, the procedure for local option elections, and notice of results of a local option election.

- (2) Definitions are proposed to be adopted, including the following:

Definitions of the terms “assist”, “personal cultivation”, “adulterated food or drink product”, “edible marijuana product”, “licensed premises”, “local governing body”, “marijuana concentrate”, “marijuana product”, “marijuana plant”, and “possess”.

The purpose of this supplemental notice is to provide an additional public comment period because substantive changes were made to the proposed regulations following the close of the previous public comment period. Due to the definition contained in AS 17.38.900(4), villages are not included as a type of local government that can exercise a local option under the proposed regulations.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to John Calder, Marijuana Control Board at 550 W. 7<sup>th</sup> Ave, Suite 1600, Anchorage, AK 99501. If you have already commented on Set 1, you do not need to resubmit your comments, however you may, if you would like. Additionally, the Marijuana Control Board will accept comments by electronic mail at [john.calder@alaska.gov](mailto:john.calder@alaska.gov). Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. The comments must be received no later than 4:30 p.m. on Aug 8, 2015.

You may submit written questions relevant to the proposed action to John Calder by email and physical address. Please do not submit questions through the Alaska Online Public Notice System. The questions must be received at least 10 days before the end of the public comment period. The Marijuana Control

Board will aggregate its response to substantially similar questions and make the questions and response available on the Marijuana Control Board website. The Marijuana Control Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact John Calder at (907) 269-0350 no later than July 30, 2015 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available through the electronic link to the complete text on the Alaska Online Public Notice System, on the Alcoholic Beverage Control Board website at <http://commerce.state.ak.us/dnn/abc/Home.aspx> and by contacting John Calder at 550 W. 7<sup>th</sup> Ste 1600, Anchorage, AK 99501.

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

**Statutory Authority:** AS 17.38.090

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 17.38.100; AS 17.38.110

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

DATE: July 6, 2015

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Cynthia A. Franklin, Director  
Marijuana Control Board



# City of Homer

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

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## MEMORANDUM

TO: CANNABIS ADVISORY COMMISSION

FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: JULY 15, 2015

SUBJECT: JOINT WORKSESSION WITH MAYOR AND CITY COUNCIL

---

A worksession with Council is planned for August 10<sup>th</sup> at 4:00 p.m. to review the timeline and decisions that will be needed regarding regulations with the city attorney.

Please review your schedules and plan on attending if you are able. Please let me know if you do plan on being there so I can forward the information to the City Clerk.

Recommendation  
Informational In Nature. No Action Required.



**2015 MEETINGS**  
**CANNABIS ADVISORY COMMISSION**

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

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

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

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

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

**2015 HOMER CITY COUNCIL MEETINGS**  
**CANNABIS ADVISORY COMMISSION ATTENDANCE**

It is the goals of the Commission to have a member speak regularly to the City Council at council meetings. There is a special place on the council's agenda specifically for this. After Council approves the consent agenda and any scheduled visitors it is then time for staff reports, commission reports and borough reports. That is when you would stand and be recognized by the Mayor to approach and give a brief report on what the Commission is currently addressing, projects, events, etc. **A commissioner is scheduled to speak and has a choice at which council meeting they will attend. It is only required to attend one meeting during the month that you are assigned.** However, if your schedule permits please feel free to attend both meetings. Remember you cannot be heard if you do not speak.

The following Meeting Dates for City Council for 2015 is as follows:

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

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.



## Chapter 15

# MEDICAL MARIJUANA

### 3-15-1: DEFINITIONS:

**CAREGIVER:** An individual, eighteen (18) years of age or older who has agreed to undertake responsibility for managing the well being of a person with respect to the medical use of medical marijuana. A qualifying patient may have only one caregiver at any one time.

**COMMERCIAL PURPOSES:** Where medicinal medical marijuana is grown, produced, cultivated or provided for resale, barter or gift to a person not a resident of that household or where more than two (2) patients acquire medicine from a residential home business.

**ELECTRICAL INSPECTION:** An inspection by a licensed electrician to ensure entire facility meets national electric code.

**GROW HOUSE:** A commercial grow facility where medical marijuana is grown, produced or cultivated.

**INVOLUNTARY EXPOSURE:** Any circumstance where one individual may consume secondhand smoke without knowledge or consent.

**MARIJUANA:** All plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

**MEDICAL MARIJUANA:** The uses of medical marijuana described in 50-46-102, Montana Code Annotated. Other phrases herein such as the "use of medical marijuana" or "the medical use of medical marijuana" shall have the same meaning.

**MEDICAL MARIJUANA DELIVERY LICENSE:** Required for anyone delivering medical marijuana in the town of Ennis, unless they have already obtained a storefront license.

**MEDICAL USE:** A. The acquisition, possession, cultivation, manufacture, delivery, transfer, or transportation of medical marijuana or paraphernalia by a qualifying patient or a caregiver relating to the consumption of medical marijuana to alleviate the symptoms or effects of a qualifying patient's debilitating medical condition;

B. The use of medical marijuana or paraphernalia by a qualifying patient to alleviate the symptoms or effects of the patient's debilitating medical condition; or

C. The use of paraphernalia by a caregiver for the cultivation, manufacture, delivery, transfer, or transportation of medical marijuana for use by a qualifying patient.

**ODOR ABATEMENT SYSTEM:** A barrier that eliminates the smell of medical marijuana from exiting the building.

**OPEN TO THE PUBLIC:** Anywhere in the town of Ennis that is commonly used by public.

**PRODUCTION:** Includes the manufacture, planting, cultivation, growing, or harvesting of a substance or drug regulated under the provisions of this chapter.

**SECURITY INSPECTION:** An inspection from the Ennis police department to ensure that all the required security measures are in place and functioning well.

**STOREFRONT:** A retail outlet where patients licensed to that caregiver may either walk in, or by appointment, purchase their medicine on site. A medical marijuana storefront is a business and single location used solely for the distribution and sale to patients of medical marijuana. The location or business is not to be used for the testing, growing or processing of medical marijuana. (Ord. 134, 11-5-2010)

### **3-15-2: APPLICABILITY; FAILURE TO MAINTAIN STATE AUTHORIZATION:**

For purposes of this chapter, the definitions, words, phrases, and expressions as set forth in this chapter are to be construed the same as those set forth in the Montana medical marijuana act<sup>1</sup>. Any individual or entity licensed under this chapter to conduct any transaction, use or business, involving medical marijuana, in addition to the requirements of this chapter, is subject to all other requirements of this title, this code, and the Montana medical marijuana act and any limits on possession, clean air, and all other provisions of title 50, chapter 46, and any applicable administrative rules established by the state. Should such rules or laws change, any person or entity licensed under this chapter shall immediately come into compliance with any newly adopted rules. Notwithstanding the above, nothing in this code shall be construed to authorize any person or entity to perform any act or conduct any enterprise not in conformance with state law. Compliance with this title does not shield any person, corporation, or other legal entity from the requirements of, or enforcement by, other governing entities, or from civil liabilities. Each individual or entity issued a license under this chapter shall at all times maintain authorization from the state of Montana to acquire, possess, cultivate, manufacture, deliver, transfer, or transport medical marijuana. Failure to maintain authorization under the medical marijuana act shall be cause for immediate suspension of a license issued under this chapter and may be cause for revocation or cause for criminal prosecution as provided by law. (Ord. 134, 11-5-2010)

### **3-15-3: LICENSE; APPLICATION, FEES, TRANSFERABILITY:**

A. Business Licenses: Any individual or entity desiring to conduct any transaction, use, or business regarding medical marijuana within the town of Ennis must first submit and obtain approval for an application for a business license under this chapter from the town clerk. Prior to receiving any business license(s), all fees must be paid and all documentation provided that all the inspection(s) have been performed and passed for such license(s) as established by this title. An activity where a duly licensed medical doctor engages in the review of a person's medical condition for purposes of recommending medical marijuana and who does not provide medical marijuana to a qualifying patient is not subject to these licensing requirements but may be subject to other requirements of this code.

There shall be the following types of business licenses related to medical marijuana activities conducted in the town of Ennis regardless of whether the medical marijuana is sold, bartered, exchanged, or gifted:

1. Storefront/Retail Locations: Any person or entity that provides a permanent location other than the residence of the person's or entity's qualifying patient(s) where a transaction or use related to medical marijuana is engaged in for more than three (3) qualifying patients registered by the state of Montana to the applicant or the applicant's employees or agents shall prior to engaging in such transaction or use obtain a medical marijuana storefront license. The maximum number of medical marijuana storefront licenses shall be three (3) within the town of Ennis. Prior to approval the storefront must meet all security requirements, and present documents verifying the security equipment is in place and functioning well.
2. Delivery: Any person or entity that delivers medical marijuana within the town of Ennis to more than three (3) qualifying patients residing in the town of Ennis or another entity regardless of whether the medical marijuana is sold, bartered, exchanged, or gifted shall prior to engaging in such activity obtain a medical marijuana delivery license. A medical marijuana delivery license is required for anyone delivering medical marijuana in the town of Ennis. A medical marijuana delivery license is included with a storefront, growing and/or processing license.
3. Growing And/Or Processing: Any person or entity that operates a facility for the purpose of growing and/or processing medical marijuana shall prior to engaging in such activity obtain a medical marijuana grow license. Prior to the license being issued the grow facility must pass all security, electrical and ventilation requirements, and present documents verifying that they have passed inspection. The town of Ennis has the right to request that the fire marshal inspect the facilities as well.
4. Processing: All processing of food or sundry products with medical marijuana as an ingredient shall meet all security requirements as set forth herein. All food products must be prepared in a licensed commercial kitchen. A processing license is for a business wishing to alter raw medicine into different forms of medicine for medicinal

marijuana purposes. This does not allow the facility to be used as a storefront, grow house, testing or delivery unless the applicable license or licenses have been obtained.

5. Testing Facilities: All medical marijuana testing facilities shall meet the security requirements and ventilation requirements. A medical marijuana testing facility license is solely for the purpose of testing marijuana for chemical components, structure or abnormalities in the medicine and is not licensed to grow, process, deliver, or be used as a storefront.

A person or entity desiring to engage in an activity related to medical marijuana must obtain a separate license for each activity described above except a person or entity obtaining a medical marijuana storefront license may also under said license deliver medical marijuana from that location without obtaining a separate medical marijuana delivery license. A person who has obtained a medical marijuana growing license may process at the same facility without obtaining a separate processing license. All installation and inspections are the applicant's responsibility, and must be completed before applying for any license.

#### B. Application:

1. Contents: An application under this chapter, in addition to the requirements in chapter 2 of this title, shall include the following:
  - a. The name of all owners/principals of the business as applicable and the name of all agents, contractors or employees, if any;
  - b. Documentation demonstrating the applicant and all owners/principals, agents, contractors or employees, as applicable, that may be involved in transactions regarding medical marijuana within the town of Ennis are registered with the state of Montana under title 50, chapter 46, Montana Code Annotated, and are duly authorized by state law to acquire, possess, cultivate, manufacture, deliver, transfer, or transport medical marijuana;
  - c. Documentation of any inspection(s) required must be provided to the town clerk;
  - d. A statement addressing how the applicant will comply with the security requirement provisions of section 3-15-6 of this chapter; and
  - e. Each applicant for a business license shall provide a detailed statement regarding the nature of activities related to medical marijuana for which the applicant is engaged in and the specific license(s) for which an application is being submitted.
2. Confidentiality: An application for business license under this chapter is a public document except that the names of all agents, employees and/or contractors and the number of qualifying patients provided to the town of Ennis in fulfillment of the requirements of this chapter are to be kept on a separate form and are to be considered confidential by the town of Ennis unless disclosure is required by law.

Nothing herein shall prevent a duly authorized agent of the town of Ennis from sharing the information described in this section with other authorized federal, state, or local law enforcement as necessary to perform official duties.

- C. Fees: The registration and license fee of twenty five dollars (\$25.00) includes a delivery license. Growing and/or processing occurring at the same physical location only require a single license, however all business activities must be listed on the license application.

License Types	Registration And License Fee	Special Services And Regulatory Inspection Fee
Storefront	\$25 .00	\$30 .00
Delivery	25 .00	n/a
Growing	25 .00	60 .00
Processing <sup>1</sup>	25 .00	30 .00
Testing facility	25 .00	30 .00

Note:

- 1.Any food preparation must be done in a commercial kitchen.

- D. Transferability: A license issued under this chapter is not transferable. (Ord. 134, 11-5-2010)

### 3-15-4: VARIANCE:

Variance for the number of storefront/retail locations:

- A. The applicant shall provide the commission with documentation to support the need of the community to exceed the limit of storefront/retail locations.
- B. The applicant shall provide the commission with documentation to support its ability to

abide by all the necessary requirements of that location, including security requirements.

- C. The variance application accompanied by a proper business license request shall be submitted to the commission for their consideration. (Ord. 134, 11-5-2010)

### **3-15-5: INSPECTION:**

The authorization to inspect as a condition of receiving a business license under this chapter, local law enforcement, may without notice during normal business hours inspect any premises under license pursuant to this chapter to determine whether the licensee is in compliance with the Montana medical marijuana act or any other state or local regulation, and may inspect the number of plants or amount of medical marijuana or usable medical marijuana on the premises or in control of the licensee to determine whether these amounts correspond to the amounts established by title 50, chapter 46, Montana Code Annotated, which the licensee is authorized to lawfully possess. Businesses must at that time be able to present documentation for all patients to include their medical marijuana identification number, and expiration date for current patients applicable to that location to justify number of plants, and/or quantity of medicine present. Proof that all employees who handle plants are licensed caregivers or licensed patients and are in compliance with current state statute. A minimum of three (3) inspections must be made annually. (Ord. 134, 11-5-2010)

### **3-15-6: SECURITY REQUIREMENTS:**

Prior to issuance of a license under this chapter, a medical marijuana commercial business where any amount of medical marijuana or usable medical marijuana is stored on the premises and/or where medical marijuana is grown in any amount shall be secured at all times by a physical barrier with suitable locks and also by an electronic barrier or alarm that is designed to detect entry by unauthorized persons at any time. In addition, any medical marijuana or usable medical marijuana grown or stored on the premises after normal business hours shall be kept in a security safe incorporated into the building's structure or securely attached thereto. Security cameras must be placed internally and externally of the facility along with recording equipment for logging the recorded footage. (Ord. 134, 11-5-2010)

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

**Section**

200. Local options

210. Change of local option

220. Removal of local option

230. Procedure for local option election

240. Prohibition of importation or purchase after election

250. Effect on licenses of restriction on sale

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

270. Notice of the results of a local option election

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

(1) the sale of marijuana and marijuana products;

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

following license types:

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

(B) a marijuana products manufacturing facility;

(C) a marijuana testing facility;

(D) a marijuana retail facility;

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

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

(b) If a majority of the persons voting on the question vote to approve the option, or if the assembly or city council passes an ordinance to the same effect, an established village shall exercise a local option to prohibit

(1) the sale of marijuana and marijuana products;

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

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

(B) a marijuana products manufacturing facility;

(C) a marijuana testing facility;

(D) a marijuana retail facility; or

(3) the sale and importation for sale of marijuana and marijuana products.

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

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

(e) If a municipality dissolves under AS 29.06.450(a) or (b), a local option adopted by that municipality under (a) of this section shall continue in effect as the corresponding local option under (b) of this section for an established village having the same perimeter as the previous boundaries of the municipality. Any marijuana establishment license issued to a municipality under 3 AAC 306.\_\_\_\_ expires when the municipality dissolves. Establishment of the perimeter of an established village for purposes of this section shall be governed by AS 04.11.508. (Eff. \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_)



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

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

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

**3 AAC 306.220. Removal of local option.** (a) If a majority of the persons voting on the question vote to remove a local option previously adopted under this section and currently in effect, or if the assembly or city council passes an ordinance to the same effect, that local option is repealed effective the first day of the month following certification of the results of the election. A ballot question to remove a local option under this section must at least contain language substantially similar to: "Shall (name of municipality or village) remove the local option currently in effect, that prohibits (current local option), so that no local option continues in effect? (yes or no)."

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

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

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

**3 AAC 306.230. Procedure for local option election.** (a) When the local governing body of a municipality receives a petition to adopt, change, or remove a local option, and the petition is signed by a number of registered voters equal to 35 percent or more of the number of votes cast at the last regular municipal election, the governing body 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 governing body shall conduct the election under the election ordinance of the municipality.

(b) When the lieutenant governor receives a petition to adopt, change, or remove a local option, and the petition is signed by a number of registered voters equal to 35 percent or more of the registered voters residing in an established village, the lieutenant governor shall place the issue that is the subject of the petition upon a separate ballot at a special election conducted in compliance with AS 15.

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

(1) the number of required signatures is determined under (a) of this section rather than under AS 29.26.130;

(2) 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(c), 3 AAC 306.210, or 3 AAC 306.220 rather than language of an ordinance or resolution;

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

required under AS 29.26.120 (a)(1) and (2).

(d) Notwithstanding any other provisions of law, a municipality or established village 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.

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

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

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

(b) A person who resides in a municipality or established village that has adopted a local option under 3 AAC 306.200(a) or (b) may not purchase marijuana or marijuana products from another person who has sent, transported, or brought marijuana or marijuana products into the municipality or established village in violation of the local option.

(c) In this section,

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

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

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

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

**3 AAC 306.250. Effect on licenses of restriction on sale.** If a majority of the voters vote under 3 AAC 306.200(a) or (b) to prohibit sale of marijuana and marijuana products or the operation of marijuana establishments, or if the assembly or city council passes an ordinance to the same effect, the board may not issue, renew, or transfer between persons or locations a license for a marijuana establishment with premises located within the boundary of the municipality or in the unincorporated area within ten miles of the boundaries of the municipality, or within the perimeter of the established village. A license for a marijuana establishment within the boundary of the municipality or in the unincorporated area within ten miles of the boundary of the municipality, or within the perimeter of the established village, is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this section, by payment of a prorated portion of the annual license fee. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

**3 AAC 306.260. Licensing after prohibition on sale except in premises operated by municipality.** (a) If a majority of the voters vote under 3 AAC 306.200(a)(3) to prohibit sale of marijuana and marijuana products except by the municipality, or operation of marijuana

establishments except marijuana establishments operated by the municipality, or if the assembly or city council passes an ordinance to the same effect, the board may not issue, renew, or transfer a marijuana establishment license in any other person's name within the boundaries of a municipality and in unincorporated areas within ten miles of the boundaries of the municipality. A license in effect is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the annual license fee.

(b) If a majority of the voters approve the sale of marijuana and marijuana products by the municipality, or the operation of a marijuana establishment by the municipality, the municipality's local governing body shall apply for a license to operate the type of marijuana establishment listed on the ballot and approved by a majority of the voters. The municipality shall operate the marijuana establishment subject to the conditions and fees applicable to the applicable type of license. Nothing in this section precludes a municipality from applying to be a licensee under other provisions of this title. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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

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

(1) the clerk of the municipality, or, if the election is in an established village, the lieutenant governor, shall notify the board of the results of the election or of the passage of the ordinance immediately after the results of the election are certified or the ordinance is formally adopted;

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

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

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

In this section, “local governing body” means, as appropriate, a city council, a borough assembly, or a traditional village council, but does not include a corporation established under the Alaska Native Claims Settlement Act.

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

(1) “assist” does not include

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

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

(C) growing marijuana plants for another person in a place other than that other person's residence;

(2) “personal cultivation” does not include

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

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

(C) growing marijuana plants for another person in a place other than that other person's residence.

(b) In AS 17.38 and this chapter, unless the context requires otherwise,

“adulterated food or drink product” means a product which is intended to be consumed orally and which existed without marijuana in a form ready for consumption to which marijuana was subsequently added by any process. Adulterated food or drink products do not include raw ingredients which are combined with marijuana in a manufacturing process;

“edible marijuana product” means any marijuana product which is intended to be consumed orally, including but not limited to, any type of food, or drink. Edible marijuana products do not include adulterated food or drink products;

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

“local governing body” means, as appropriate, a city council, a borough assembly, or a traditional village council, but does not include a corporation established under the Alaska Native Claims Settlement Act;

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

“marijuana product” means concentrated marijuana and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures;

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

“possess” means having physical possession or the exercise of dominion or control over property. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

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



NOTICE OF PROPOSED REGULATIONS  
REGARDING MARIJUANA AND LOCAL OPTIONS.  
ALCOHOLIC BEVERAGE CONTROL BOARD/MARIJUANA CONTROL BOARD

The Alcoholic Beverage Control Board proposes to adopt regulations to implement the marijuana law which was voted on as Ballot Measure 2 in November, 2014. These proposed regulations relate to definitions, as well as local options for communities to “opt out” of having certain kinds of marijuana establishments.

The Alcoholic Beverage Control Board proposes to adopt regulation changes in Title 3 of the Alaska Administrative Code, dealing with local option regulations and definitions relating to marijuana and marijuana establishments, including the following:

- (1) local option regulations are proposed as follows:

The regulations consist of a series of provisions establishing a local governing body’s ability, by ordinance or popular vote, to opt out of allowing marijuana establishments to operate in their jurisdiction. The proposed local option regulations are modeled on the local option statutes for liquor licensed establishments in AS 04.11. The proposed regulations include rules prescribing types of local options, a change of a local option, the removal of a local option, the effect on licenses of a prohibition on sale, the prohibition of importation or purchase after a local option election, the effect on licenses of a restriction on sale, licensing after a prohibition on sale except on premises operated by a municipality, the procedure for local option elections, the establishment of the perimeter of an established village, and notice of results of a local option election.

- (2) Definitions are proposed to be adopted, including the following:

Definitions of the terms “assist”, “personal cultivation”, “adulterated food or drink product”, “edible marijuana product”, “licensed premises”, “local governing body”, “marijuana concentrate”, “marijuana product”, “marijuana plant”, and “possess”.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to John Calder, Alcoholic Beverage Control Board at 550 W. 7<sup>th</sup> Ave, Suite 1600, Anchorage, AK 99501. Additionally, the Alcoholic Beverage Control Board will accept comments by electronic mail at [john.calder@alaska.gov](mailto:john.calder@alaska.gov). Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the "comment" link. The comments must be received no later than 4:30 p.m. on June 20, 2015.

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

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact John Calder at (907) 754-3427 no later than June 10, 2015 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and/or through the electronic link to the complete text on the Alaska Online Public Notice System and by contacting John Calder at 550 W. 7<sup>th</sup> Ste 1600, Anchorage, AK 99501.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System or through the electronic link to the complete text on the Alaska Online Public Notice System.

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

**Statutory Authority:** AS 17.38090;

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 17.38.100; AS 17.38.110

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

DATE: May 19, 2015

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Cynthia A. Franklin, Director, Alcoholic Beverage  
Control Board/Marijuana Control Board



