

**Municipal Clerk's Office**  
**Amended and Approved**  
**Date: September 14, 2018**

Submitted by: Assembly Chair Dunbar  
Prepared by: Municipal Clerk's Office  
For reading: September 14, 2018

**ANCHORAGE, ALASKA**  
**AR No. 2018-252(S-1), As Amended**

**A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY REGARDING THE RENEWAL OF MUNICIPAL MARIJUANA CULTIVATION LICENSE #M10237 FOR ALASKASENSE, LLC DBA ALASKASENSE; STATING THE ASSEMBLY'S PROTEST TO THE RENEWAL OF STATE OF ALASKA MARIJUANA LICENSE #10237 FOR THE SAME ESTABLISHMENT, RESPECTIVELY; AND AUTHORIZING THE MUNICIPAL CLERK TO TAKE CERTAIN ACTION.**

(Midtown Community Council)

1 **WHEREAS**, AlaskaSense, LLC doing business as AlaskaSense has submitted an  
2 application in a timely manner to the Municipal Clerk for the renewal of Municipal  
3 Marijuana Cultivation License #M10237; and  
4

5 **WHEREAS**, the Municipal Clerk's Office received a copy of the State of Alaska Marijuana  
6 Control Board (MCB) license renewal application (MJ-20) which is complete and satisfies  
7 the renewal application requirements of Anchorage Municipal Code (AMC) section  
8 10.80.036; and  
9

10 **WHEREAS**, the Assembly must enter any protest regarding the State of Alaska renewal  
11 application to the Alcohol and Marijuana Control Office (AMCO) within 60 days following  
12 the date the AMCO Director sends notice to the Municipal Clerk that the State application  
13 is deemed complete; and  
14

15 **WHEREAS**, the Municipal Clerk received a copy of the State of Alaska application on  
16 July 24, 2018 and has determined the last day for the Assembly to file a protest is  
17 September 22, 2018; and  
18

19 **WHEREAS**, the Municipal Clerk reports the following status concerning this license:

- 20
- 21 1. All Marijuana Control Board (MCB) violations and/or incidents on file that would  
22 lead to an MCB violation are attached; and  
23
  - 24 2. Marijuana Control Board Hearing Agenda **dated August 1, 2018 is attached**  
25 **~~regarding seizure of inventory for AlaskaSense cultivation facility, and~~**  
26 **~~seizure of product for Cannabaska retail store is attached~~**; and  
27
  - 28 3. All applicants or affiliates have complied with the State's fingerprint and fee  
29 requirements; and  
30
  - 31 4. No taxes, fees, or fines are owed to the Municipality of Anchorage by any owner;  
32 and  
33

- 1 5. Certification[s] from Land Use Enforcement has~~and the Anchorage Fire~~  
2 ~~Department have~~ **not been received**; and  
3 6. The special land use permit for marijuana required by AMC section 10.80.011 has  
4 been approved by the Assembly.  
5  
6 **7. Any written comments from the Midtown Community Council and any public**  
7 **comments received by the Clerk's Office are attached.**  
8  
9

10 **NOW, THEREFORE**, the Anchorage Assembly resolves:

11  
12 **Section 1.** The Anchorage Assembly finds the applicant **and the Midtown**  
13 **Community Council were**~~[was]~~ given **timely** notice and a hearing was properly held  
14 August 28, 2018, for purposes stated herein with relevant evidence presented as  
15 indicated in the public records maintained by the Municipal Clerk.  
16

17 **Section 2.** The Assembly, having considered relevant evidence in the record, and  
18 consideration of points in support of and in opposition to renewal of the municipal  
19 marijuana cultivation license application, hereby determines that if the outstanding items  
20 listed in this section have not been timely resolved in accordance with this Resolution,  
21 renewal of the license shall be denied for the following reason(s):  
22

23 The Municipal Clerk **has not received certification** of review of the application and  
24 facility by the following municipal departments and officials to determine whether the  
25 business complies with the specific laws or municipal regulations administered and  
26 enforced by such departments and officials:  
27

- 28  Finance department. The chief fiscal officer or his designee shall determine  
29 whether the applicant owes any taxes, assessments, judgments or bills for  
30 collection with the business or activity for which a license is sought. If no such  
31 obligations are outstanding, the chief fiscal officer shall certify the application.  
32  
33  Department of Health and Human Services, if the proposed business or activity is  
34 governed or affected by ordinances or regulations enforced by that department.  
35 Certifications by the health director or his designee under this subsection shall be  
36 based on actual inspection of the premises or activity described in the license  
37 application.  
38  
39  *[This box unchecked in this S-1 version]* Fire department, if the proposed business  
40 or activity will be operated or conducted within premises or a structure to which  
41 municipal fire and other codes and regulations enforced by that department apply.  
42 Certification by the fire chief or his designee under this subsection shall be based  
43 on actual inspection of the premises or activity described in the license application.  
44  
45  Building official, if the proposed business or activity will be operated within  
46 premises or a structure to which municipal ordinances and regulations enforced by  
47 the building official, including building, life safety and zoning ordinances, apply.  
48 Certifications under this subsection shall be based on actual inspection of the

1 premises or activity described in the license application. Violation of land use  
2 ordinance and regulation under Title 21 shall not be cause to revoke or deny  
3 renewal of a license under 10.10.030 unless the violation endangers the public  
4 health and safety. If inspection results in a determination that the land use violation  
5 endangers the public health and safety, the certification under this subsection shall  
6 include the factual basis for the determination. This subsection shall not prevent  
7 an enforcement action of land use ordinance and regulation for any violation.  
8

9  Such other municipal departments and officials under those conditions set forth in  
10 other provisions of this title applicable to the specific license for which application  
11 is made.

- 12
- 13 • The Municipal Clerk's Office has not received certification from Land Use  
14 Enforcement.
- 15

16 After review of the application, including the applicant's proposed operating plan and all  
17 relevant information, the Assembly finds that **(only checked items apply):**

- 18
- 19  The application is not complete as required under the applicable standards  
20 sections 10.80.020—10.80.056, or contains any false statement of material fact;  
21
- 22  The license would violate any restriction in section 10.80.010 or 10.80.011;  
23
- 24  The license would violate any restriction applicable to the particular license type  
25 authorized under this chapter;  
26
- 27  The license is prohibited by municipal code;  
28
- 29  The assembly finds that the operating plan does not adequately demonstrate that  
30 the applicant will comply with applicable standards of this chapter; or  
31
- 32  Issuance of the license will adversely impact the health, welfare or public safety of  
33 the neighborhood in which the marijuana establishment is proposed to be located,  
34 or otherwise would not be in the best interests of the public. **Specifically, the**  
35 **Assembly finds that:**

- 36
- 37 • **Licensee has committed and admitted to a series of violations of**  
38 **municipal code and state law and regulation during the past year of**  
39 **licensure, including violations of municipal waste disposal,**  
40 **inspection, and odor restriction requirements, and violations of state**  
41 **tax, waste disposal, and inspection requirements;**
- 42
- 43 • **The nature of the documented waste disposal violations is such that**  
44 **the usable marijuana from licensee's business was found unsecured**  
45 **on the ground, potentially endangering the welfare and public safety**  
46 **of residents of the surrounding community;**
- 47

- 1 • **The nature of the refusal of inspection which occurred on February 16, 2018 was egregious and indicated an intentional attempt to evade state and local authorities and to destroy evidence of violation of state law and regulation and municipal code; and**
- 2
- 3
- 4
- 5
- 6 • **The nature and number of the licensee's violations of municipal code and state law and regulation during the past year of licensure, taken together, indicate that this licensee's continued operation of a marijuana cultivation facility will adversely impact the welfare and public safety of the surrounding neighborhood, and not be in the best interests of the public.**
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13  That the license has been revoked for any cause;

14  [~~**(This box unchecked in this S-1 version)**~~] That the license has been operated in violation of a condition or restriction the assembly previously imposed[~~;~~ ~~or~~]. **Specifically, the Assembly finds that:**

- 15
- 16
- 17
- 18
- 19 • **Licensee's cultivation license was issued on the condition that licensee operate in compliance with state and local law;**
- 20
- 21
- 22 • **The licensee has committed and admitted to a sufficient number of violations of municipal code and state law and regulation during the past calendar year to arise to a violation of the requirement that licensee operate in compliance with state and local law.**
- 23
- 24
- 25
- 26

27  That the applicant is delinquent in the payment of taxes due in whole or in part from operation of the licensed business.

28  [~~**(This box unchecked in this S-1 version)**~~] The applicant committed prohibited acts referenced in section 10.05.020. **Specifically, the Assembly finds that:**

- 29
- 30
- 31
- 32
- 33 • **Licensee has committed and admitted to a sufficient number of violations of municipal code and state law and regulation during the past calendar year to arise to the engagement in a business contrary to any provision of Title 10, in violation of AMC 10.05.020B;**
- 34
- 35
- 36
- 37
- 38 • **Licensee obstructed, impeded, or otherwise refused to allow an administrative inspection, in violation of AMC 10.05.020E.**
- 39
- 40

41 **Section 3.** The Anchorage Assembly hereby **waives**[~~**enters**~~] its **PROTEST** of the renewal of the State of Alaska Marijuana License #10237[~~**until conditions indicated in Section 2 have been met**~~].

42

43

44

45 [~~**Section 4.**~~ ~~**The Anchorage Assembly hereby approves a temporary license valid for no longer than 90 days past August 31, 2018.**~~]

46

47

1 **Section 4[5].** The Anchorage Assembly hereby delegates authority to the Municipal  
2 Clerk to issue the renewal of Municipal Marijuana License #M10237 after confirming that  
3 outstanding items listed in Section 2 have been completed, **upon request of the**  
4 **licensee received on or after October 22, 2018.**

5  
6 **Section 4.1.** *The Anchorage Assembly received evidence and testimony regarding the*  
7 *renewal of License #M10237 at its August 28, 2018 regular meeting, August 31, 2018*  
8 *special meeting, and September 11, 2018 special meeting. Having considered evidence*  
9 *in the record, and the presentation and arguments of the licensee, pursuant to AMC*  
10 *subsection 10.80.076B.1. and in accordance with the findings of fact and*  
11 *conclusions of law outlined above, the Assembly hereby ~~denies~~<sup>grants</sup> the renewal*  
12 *of this license. The Assembly further hereby issues its approval of reinstatement of*  
13 *License #M10237 on or after October 22, 2018, provided that all operating policies,*  
14 *procedures, and parameters of the business remain as presently documented and*  
15 *approved, and delegates to the clerk the authority to accordingly re-issue the*  
16 *license pursuant to AMC 10.80.005. Notwithstanding the foregoing, for a period of*  
17 *up to thirty (30) days after the effective date of this resolution, the licensee may*  
18 *continue to store, maintain and care for marijuana plants present on the licensed*  
19 *premises on the date of this resolution, pending reinstatement of the license.*  
20 *Furthermore, the Assembly hereby ~~and~~ adds the following conditions, if any are listed,*  
21 *to it:*

- 22  
23 **1.** *For a period of six months commencing on the effective date of this*  
24 *resolution, the licensee and its employees and agents shall submit to*  
25 *and cooperate with all inspections under AMC section 10.80.725 by*  
26 *municipal code enforcement officials, including scheduled monthly*  
27 *inspections and unannounced spot inspections at reasonable times.*  
28 *The code enforcement officials are directed to provide a report of*  
29 *these inspections to the Assembly Community and Economic*  
30 *Development Committee each month. The licensee shall be*  
31 *responsible for the costs of inspections and reports. If an inspection*  
32 *is refused, the Municipal Clerk is authorized to summarily suspend the*  
33 *license under AMC section 10.80.825, and requested to commence a*  
34 *license revocation proceeding by serving an accusation in*  
35 *accordance with AMC section 10.80.821.*
- 36  
37 **2.** *Waste disposal. For a period of six months commencing on the*  
38 *effective date of this resolution, all waste disposal shall be in*  
39 *compliance with AMC section 10.80.740, state law, and the licensee's*  
40 *operating plan approved by the proper authorities. A violation shall*  
41 *be deemed to constitute a threat to the public health, safety or welfare,*  
42 *and if a violation occurs the Municipal Clerk is authorized to*  
43 *summarily suspend the license under AMC section 10.80.825.*
- 44  
45 **3.** *Odor of marijuana. Odor shall be in accordance with AMC subsection*  
46 *21.05.055A.6. If odor of marijuana is detected by code enforcement*  
47 *officers during any inspection, the licensee shall address the*  
48 *ventilation deficiencies immediately and in good faith, otherwise*  
49 *licensee is in violation of this condition.*
- 50

**Section 5[6].** If the outstanding items listed in Section 2 have not been completed before ~~November 30, 2018~~~~[the expiration of the temporary license]~~, the application for renewal shall be denied per AMC section 10.80.080B.

**Section 6[7].** The Anchorage Assembly hereby authorizes the Municipal Clerk to **send a letter to AMCO stating only that it has waived its protest of renewal of State of Alaska Marijuana License #10237**~~provide a copy of this Assembly resolution to AMCO as proof that the Assembly has stated its protest as the local governing body, in order to allow the AMCO Director to hold processing of the renewal of State of Alaska Marijuana License #10237, until receipt of notification from the Municipal Clerk that the conditions in Section 2 have been met and this protest has been lifted as authorized by this Assembly resolution.~~

~~**Section 7[8].** The Anchorage Assembly hereby authorizes the Municipal Clerk, upon confirmation that the conditions in Section 2 have been met, to provide notification to AMCO that this protest has been lifted without further action by the Assembly].~~

**Section 7.** **This resolution shall be effective on September 21, 2018.**

PASSED AND APPROVED by the Anchorage Assembly this 14th day of September, 2018.

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Municipal Clerk



# MUNICIPALITY OF ANCHORAGE

## Assembly Memorandum

No. AM 583 - 2018

Meeting Date: September 14, 2018

1 **From:** MUNICIPAL ATTORNEY REBECCA A. WINDT PEARSON

2  
3 **Subject:** ACCUSATION and Notice of License  
4 Suspension/Revocation/Restriction for Municipal Marijuana  
5 Cultivation License #M10237  
6  
7

8 Pursuant to AMC 10.80.810, the Assembly may initiate license  
9 suspension/revocation/restriction proceedings with respect to a municipal marijuana  
10 license through service of an accusation on a licensee specifying the alleged  
11 grounds for suspension/revocation/restriction and setting a date for a hearing before  
12 either the Assembly or the Administrative Hearing Officer, in compliance with AMC  
13 3.60.025 and AMC 10.80.810.  
14

15 The attached accusation document is drafted to initiate  
16 suspension/revocation/restriction proceedings with respect to municipal marijuana  
17 cultivation license #M10237, held by AlaskaSense LLC DBA AlaskaSense.  
18

19 If the Assembly desires to issue this accusation and initiate proceedings, the  
20 Assembly should vote to set and hearing date and direct the clerk to serve the  
21 completed accusation accordingly.

September 13, 2018

AlaskaSense LLC DBA Alaska Sense  
521 W. Tudor Road  
Anchorage, AK 99503

Re: **ACCUSATION and Notice of License Suspension/Revocation/Restriction for  
Municipal Marijuana Cultivation License #M10237**

This Accusation is served for the purpose of putting the Respondent on notice of license action and setting a date for the Respondent's opportunity to be heard pursuant to **AMC 3.60.025** and **AMC 10.80.810**, for actions to suspend, revoke or restrict marijuana cultivation license #M10237 under **AMC 10.80.810**.

1. Name and address of licensee (herein referred to as "Respondent."): **AlaskaSense LLC, 521 W. Tudor Road, Anchorage, AK 99503.**
2. Location of accused violation(s): **521 W. Tudor Road, Anchorage, AK 99503.**
3. Date(s) of violation(s): **February 16, 2018 (violation of AMC 10.80.725 – Inspection of Licensed Premises, and 3 AAC 306.800); February 16, 2018 (violation of AMC 10.80.740 – Waste Disposal, and 3 AAC 306.740(c)(1)); May 4, 7, 8, 9, 10, and 11, 2018 (violations of AMC 21.05.055A.6).**
4. Description of the conduct, act(s), omission(s), or condition(s) alleged to constitute the factual ground(s) for suspending, revoking, or restricting the license:
  - Licensee has committed and admitted to a series of violations of municipal code and state law and regulation during the past year of licensure, including violations of municipal waste disposal, inspection, and odor restriction requirements, and violations of state tax, waste disposal, and inspection requirements;
  - The nature and number of the licensee's violations of municipal code and state law and regulation during the past year of licensure, taken together, indicate that this licensee's internal management practices and procedures are insufficient to assure compliance with state and local law, and thus contrary to the best interests of the public;
  - The nature of the documented waste disposal violations is such that the usable marijuana from licensee's business was found unsecured on the ground, potentially endangering the welfare and public safety of residents of the surrounding community, and indicating that licensee's waste disposal practices and procedures have been contrary to the best interests of the public;
  - Licensee knowingly permitted an employee to refuse to comply with inspection on February 16, 2018, in direct violation of AMC 10.80.725;



- Licensee has failed to comply with applicable land use, public health, fire safety, or tax law or regulation, as documented by multiple violations of AMC 21.05.055A.6;
- The nature of the refusal of inspection which occurred on February 16, 2018 was egregious and indicated an intentional attempt to evade state and local authorities and to destroy evidence of violation of state law and regulation and municipal code, and is thus sufficient grounds for the exercise of general Assembly authority pursuant to AMC 10.80.810 to initiate suspension/revocation/limitation proceedings on grounds including, but not limited to, those specifically delineated;
- The licensee has committed and admitted to a sufficient number of violations of municipal code and state law and regulation during the past calendar year to constitute sufficient grounds for the exercise of general Assembly authority pursuant to AMC 10.80.810 to initiate suspension/revocation/limitation proceedings on grounds including, but not limited to, those specifically delineated.

5. Anchorage Municipal Code subsection(s) relied upon by the Municipal Clerk as **grounds for license suspension/revocation/restriction under AMC 10.80.810:**

1. Licensee has misrepresented a material fact on an application for a marijuana establishment license, or an affidavit, report, or signed statement under AS 17.38 or this chapter;
2. Licensee is following any practice or procedure that is contrary to the best interests of the public, including:
- a. Using any process not approved by the State Marijuana Control Board for extracting or manufacturing marijuana concentrate or products; or
  - b. Selling or distributing any marijuana concentrate or product that has not been approved by the State Marijuana Control Board;
3. Licensee has failed, within a reasonable time after receiving a notice of violation, to correct any defect that is the subject of the notice of violation of:
- a. AS 17.38 or this chapter;
  - b. A condition or restriction imposed by the assembly, including a condition on a special land use permit for

marijuana; or

c. Other applicable law;

4. Licensee knowingly allowed an employee or agent to violate AS 17.38, this chapter, or a condition or restriction imposed by the assembly, including a condition on a special land use permit for marijuana;
5. Licensee failed to comply with any applicable land use, public health, fire, safety, or tax law or regulation in the municipality;
6. Licensee has used the licensed premises for an illegal purpose including gambling, possession or use of narcotics other than marijuana, prostitution, or sex trafficking.
7. General Assembly authority pursuant to AMC 10.80.810 to initiate suspension/revocation/limitation proceedings on grounds including, but not limited to, those specifically delineated.

#### **NOTICE OF RIGHT TO HEARING AND HEARING DATE**

You have the right to a hearing on this license suspension/revocation/restriction action prior to issuance of any Assembly decision pursuant to AMC 10.80.810B. Such a hearing is conducted according to Chapter 3.60 of the Anchorage Municipal Code. The hearing must take place no less than 15 and no more than 30 days following the date of service of this Accusation. AMC 3.60.040A. **The Assembly has scheduled a hearing on this license suspension/revocation/restriction for [DATE/TIME/LOCATION].** If for any reason you are unable to attend this hearing you must submit a request for an alternate hearing date to:

Municipal Clerk's Office  
632 W. 6<sup>th</sup> Avenue, Suite 250  
P.O. Box 196650  
Anchorage, Alaska 99519-6650

DATED at Anchorage, Alaska this 13<sup>th</sup> day of September, 2018.

Barbara Jones  
Municipal Clerk

By: \_\_\_\_\_  
Miranda Honest  
Business License Coordinator

