

Submitted by: Assembly Member ...
Prepared by: Municipal Clerk's Office and
Assembly Counsel
For reading:

ANCHORAGE, ALASKA
AO No. 2019-_____

1 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY ALLOWING**
2 **ON-SITE CONSUMPTION OF MARIJUANA AND MARIJUANA PRODUCTS AT**
3 **LICENSED, FREESTANDING RETAIL MARIJUANA STORES THAT HAVE A**
4 **MUNICIPAL ENDORSEMENT AND PROTECTING EMPLOYEES FROM**
5 **SECOND-HAND SMOKE FROM MARIJUANA CONSUMPTION, BY AMENDING**
6 **ANCHORAGE MUNICIPAL CODE CHAPTERS 10.80 AND 16.65, AND SECTION**
7 **14.60.030, AND RELATED CODE PROVISIONS FOR CONFORMITY.**
8

9
10 **THE ANCHORAGE ASSEMBLY ORDAINS:**

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12 **Section 1.** Anchorage Municipal Code section 10.80.010 is hereby amended to
13 read as follows (*the remainder of the section is not affected and therefore not set*
14 *out*):

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16 **10.80.010 License restrictions.**

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18 *** **

19 **F.** A licensed marijuana retail establishment may not allow on-site
20 consumption unless it has a current and valid municipal on-site
21 consumption endorsement.

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23 (AO No. 2016-16(S), § 1, 2-9-16 ; AO No. 2017-71(S) , § 1, 4-25-17; AO No.
24 2017-95(S) , § 1, 5-1-17)

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26 **Section 2.** Anchorage Municipal Code section 10.80.026 is hereby amended to
27 read as follows (*the remainder of the section is not affected and therefore not set*
28 *out*):

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30 **10.80.026 Municipal application procedure for new license or**
31 **endorsement.**

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33 *** **

34 **B.** An applicant for a new municipal marijuana retail store license or the
35 holder of a valid municipal marijuana retail store license may apply for
36 a municipal endorsement for on-site consumption. [RESERVED]

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38 *** **
39 (AO No. 2016-16(S), § 1, 2-9-16 ; AO No. 2017-71(S) , § 3, 4-25-17)

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41 **Section 3.** Anchorage Municipal Code section 10.80.036 is hereby amended to
42 read as follows (*the remainder of the section is not affected and therefore not set*
43 *out*):

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10.80.036 Municipal application for renewal of license or endorsement; failure to timely renew results in potential closure; expiration results in termination of license, endorsement and special land use permit.

A. On or before May 1 of each year, the municipal clerk shall send notice that a marijuana establishment with a license in active and operating status must file a renewal application not later than June 30 of the current year. Renewal applications filed after that date are delinquent and subject the marijuana establishment to potential closure pending approval of the application as described in subsection G. Renewal applications for the next license period will be accepted by the municipal clerk's office only between May 1 and August 31, inclusive.

B. A marijuana establishment's renewal application must include:

1. Identification of the license and any endorsement sought to be renewed by license number, endorsement, license type, establishment name, and premises address;

G. Expiration. All marijuana establishment licenses and endorsements expire at 12:00 midnight on August 31 of each year, unless a different date is set in the assembly resolution approving the license or endorsement.

(AO No. 2016-16(S), § 1, 2-9-16 ; 2017-71(S) , § 4, 4-25-17; AO No. 2017-95(S) , § 2, 5-1-17)

Section 4. Anchorage Municipal Code section 10.80.045 is hereby added to read as follows (*the remainder of the section is not affected and therefore not set out*):

10.80.045 Application for License Transfer. Procedures for change in or transfer of a controlling interest in a license issued to non-natural persons, for a transfer of license, transfer of a license with endorsement, and for temporary operation following the death of an individual.

A. *General provisions.* Except as otherwise provided in this section, a person may not receive or transfer a marijuana establishment license, endorsement or controlling interest in a marijuana establishment license issued to a partnership, including a limited partnership, a limited liability company, or a corporation, without applying for the transfer and receiving the written consent of the assembly. Transfer of a controlling interest in a license includes a sale of all or part of the interest of an individual owner, and numerous separate transfers that in the aggregate amount to more than 50 percent of the ownership interest or the voting shares of a corporation.

B. Exceptions.

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- 1. A transfer of a license or endorsement issued to an individual as a sole proprietor to a limited liability company or a corporation with a single member or shareholder whom is the same individual may be approved by the municipal clerk. Any procedure in this section for a public hearing or assembly consideration or action is not applicable.

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C. *Procedure.* An application for transfer or transfer with endorsement must be filed in writing on a form the municipal clerk prescribes within 10 days of the effective date of an agreement or contract for such a transfer, in compliance with the application procedure set out in section 10.80.026. Regardless of any private agreement terms, a transfer of the license or of a controlling interest in a license is not effective until after approval. The application must name the current holder(s) of the marijuana establishment license and the proposed transferee(s), including all persons listed in 3 AAC 306.020 if a transferee is a partnership, limited liability company, or a corporation. The application must contain:

- 1. The same information about each transferee as is required of an applicant for a new license under section 10.80.020, section 10.80.021 except for information regarding the previously approved special land use permit as required by subsection 10.80.021C., and 3 AAC 306.020;
- 2. Any other information required by the municipal clerk for the type of marijuana establishment license sought to be transferred.
- 3. A municipal on-site consumption endorsement may only be transferred to another person if the license for which the endorsement was issued is also transferred to that person.

D. *Action by the municipal clerk.* When the municipal clerk receives a complete application for transfer of a license or transfer of a license with endorsement to another person, the municipal clerk shall immediately:

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(AO No. 2016-16(S), § 1, 2-9-16 ; AO No. 2017-71(S) , § 6, 4-25-17; AO No. 2017-95(S) , § 3, 5-1 17)

Section 5. Anchorage Municipal Code section 10.80.061 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

10.80.061 Protest to State Marijuana Control Board by municipality.

- A. The municipal clerk shall protest a state marijuana establishment license or endorsement application if:

- 1 1. The applicant proposes to operate a marijuana establishment
- 2 within the municipality, and
- 3 2. Does not possess all licenses, permits and approvals needed
- 4 to operate a marijuana establishment or activity that requires an
- 5 endorsement within the municipality.
- 6
- 7 B. The assembly may recommend that the State Marijuana Control
- 8 Board approve an application for a new state license, renewal of a
- 9 state license, [OR]transfer of a state license to another person, or
- 10 application for a new or transfer endorsement subject to a condition or
- 11 conditions. In such circumstances, the municipal clerk shall request
- 12 that a protest to the State Marijuana Control Board be lifted upon
- 13 fulfillment of such condition or conditions.

(AO No. 2016-16(S), § 1, 2-9-16)

Section 6. Anchorage Municipal Code section 10.80.065 is hereby amended to read as follows:

10.80.065 Public participation.

A person may comment on an application for a new license, renewal of a license, or transfer of a license, transfer of a controlling interest in a license, or application for a new or transfer endorsement, by submitting a written statement to the municipal clerk. If a public hearing is held, a person may also give oral testimony at the public hearing held in accordance with section 10.80.071.

(AO No. 2016-16(S), § 1, 2-9-16 ; AO No. 2017-71(S) , § 8, 4-25-17)

Section 7. Anchorage Municipal Code section 10.80.071 is hereby amended to read as follows:

10.80.071 Public hearing.

- 36 A. The assembly will hold a hearing to ascertain the reaction of the public
- 37 to a new application for a marijuana establishment. The hearing will
- 38 be consolidated with the hearing required by section 21.03.105 on the
- 39 applicant's associated application for a special land use permit.
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- 41 B. The assembly may hold a hearing to ascertain the reaction of the
- 42 public to an application for a renewal of a license, transfer of a license,
- 43 or transfer of a controlling interest in a license. The municipality will
- 44 send notice of a hearing to each community council in the area of the
- 45 proposed premises.
- 46
- 47 C. The assembly will hold a hearing to ascertain the reaction of the public
- 48 to a new application for an on-site consumption endorsement. The
- 49 hearing may be consolidated with the hearing required for a new
- 50 application for a marijuana establishment license under A. of this

section. The assembly may hold a hearing to ascertain the reaction of the public to an application for renewal of an on-site consumption endorsement. The municipality will send notice of a hearing to each community council in the area of the proposed endorsement.

Commented [GDT1]: I took out "or transfer" because the endorsement cannot be transferred without the underlying license, covered by B.

(AO No. 2016-16(S), § 1, 2-9-16)

Section 8. Anchorage Municipal Code section 10.80.076 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

10.80.076 Procedure for action on license or endorsement application; commencement of operations.

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B. The assembly will consider any written objection, suggested condition, or petition, and any testimony received at a public hearing held under section 10.80.071 when it considers the application. The municipal clerk will retain the written objection, suggested condition, or petition as part of the record of the assembly's review of an application.

1. On an application for renewal of a license or endorsement, the assembly may add, remove, or modify conditions of the license.
2. On an application for transfer of a license, endorsement or transfer of a controlling interest in a license, the assembly may add, remove, or modify conditions of the license, including conditioning its grant of the transfer on satisfaction of any such conditions of the transfer or imposed on the transferees.

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(AO No. 2016-16(S), § 1, 2-9-16 ; AO No. 2017-71(S) , § 10, 4-25-17; AO No. 2017-95(S) , § 5, 5-1-17)

Section 9. Anchorage Municipal Code section 10.80.080 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

10.80.080 Denial of [LICENSE] application.

A. After review of the application, including the applicant's proposed operating plan and all relevant information, the assembly will deny an application for a new license or endorsement if the assembly finds that:

1. The application is not complete as required under the applicable standards sections 10.80.020—10.80.056, or contains any false statement of material fact;
2. The license or endorsement would violate any restriction in section 10.80.010 or 10.80.011 or 3 AAC 306;
3. The license or endorsement would violate any restriction applicable to the particular license type authorized under this chapter;
4. The license or endorsement is prohibited by municipal code;

- 5. The assembly finds that the operating plan does not adequately demonstrate that the applicant will comply with applicable standards of this chapter; or
- 6. Issuance of the license or endorsement will adversely impact the health, welfare or public safety of the neighborhood in which the marijuana establishment is proposed to be located, or otherwise would not be in the best interests of the public.

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D. If the assembly denies an application for a new license, renewal of a license, transfer of a license, transfer of a controlling interest in a license, or a new, renewal or transfer of an endorsement, the municipal clerk will, not later than 15 days after the meeting at which the application was denied, furnish a written statement of issues to the applicant, explaining the reason for the denial in clear and concise language, and identifying any statute or regulation on which the denial is based. The notice of denial will inform the applicant of the right to appeal under section 10.80.095.

(AO No. 2016-16(S), § 1, 2-9-16)

Section 10. Anchorage Municipal Code section 10.80.095 is hereby amended to read as follows:

10.80.095 Appeals.

An applicant or marijuana establishment license or endorsement holder aggrieved by a final decision of the assembly regarding an application for a new license, a license renewal, [OR] a transfer, or an endorsement may appeal to the superior court.

(AO No. 2016-16(S), § 1, 2-9-16)

Section 11. Anchorage Municipal Code section 10.80.100 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

10.80.100 Fees; refund.

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D. The annual license operating fee to be paid with each application for a new marijuana establishment facility license and each license renewal application is \$0, except as further described in this subsection. If the state Marijuana Control Board fails to issue a timely response to an application as described in AS 17.38.210(f), and the municipality acts on the application, the applicant must pay an annual license operating fee to the municipality as follows:

- 1. For a marijuana retailer license, \$0;
- 2. [RESERVED]For an on-site consumption endorsement, \$0
- 3. For a marijuana cultivation facility license, \$0;

- 4. Reserved.
- 5. For a marijuana product manufacturing facility license, \$0;
- 6. For a marijuana testing facility license, \$0.

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 (AO No. 2016-16(S), § 1, 2-9-16 ; AO No. 2017-71(S) , § 11, 4-25-17; AO No. 2017-95(S) , § 6, 5-1-17)

Section 12. Anchorage Municipal Code section 10.80.305 is hereby amended to read as follows:

10.80.305 Retail marijuana store privileges.

- A. A licensed retail marijuana store is authorized to:
 - 1. Sell marijuana purchased from a licensed marijuana cultivation facility, packaged and labeled as required under section 10.80.345, 3 AAC 306.470, and 3 AAC 306.475, in an amount not exceeding the limit set out in section 10.80.355, to an individual on the licensed premises for consumption off the licensed premises;
 - 2. Sell a marijuana product purchased from a licensed marijuana product manufacturing facility, packaged and labeled as required under section 10.80.345, 3 AAC 306.565 and 3 AAC 306.570, in a quantity not exceeding the limit set out in section 10.80.355, to an individual on the licensed premises for consumption off the licensed premises;
 - 3. Store marijuana and marijuana products on the licensed premises in a manner consistent with sections 10.80.710—10.80.720;
 - 4. Apply for and obtain an on-site consumption endorsement, sell marijuana and marijuana products, excluding marijuana concentrates, and operate a marijuana consumption area in accordance with section 10.80.306. [RESERVED FOR ON-SITE CONSUMPTION.]
- B. This section does not prohibit a licensed marijuana retail store from refusing to sell marijuana or a marijuana product to a consumer.

(AO No. 2016-16(S), § 1, 2-9-16)

Section 13. Anchorage Municipal Code chapter 10.80 is hereby amended to add a new section to read as follows:

10.80.306 On-site consumption endorsement for retail marijuana stores.

- A. An endorsement for on-site consumption of marijuana or marijuana products issued by the municipality shall indicate whether it authorizes
 - 1. smoking marijuana bud or flower, where “smoking” has the meaning ascribed to it in section 16.65.005;

Commented [GDT2]: Subsec. A is my attempt to segregate consumption by smoking marijuana from edibles.

Commented [GDT3]: Defined therein: “Smoking means inhaling, exhaling, burning or carrying any lighted tobacco or marijuana product.”

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- 2. consumption of edible marijuana products; or
- 3. both.

B. ~~Unless prohibited by local or state law,~~ A freestanding licensed retail marijuana store with an approved on-site consumption endorsement is authorized to:

- 1. Sell marijuana and marijuana products, excluding marijuana concentrates, **as indicated on its endorsement** to patrons for consumption on the licensed premises at the time of purchase only in an area designated as the marijuana consumption area and separated from the remainder of the premises, ~~either by a secure door and having a separate ventilation system, or by being outdoors in compliance with subsection D. (Title 21 reference?)~~ below;
- 2. Sell for consumption on the premises, **when authorized by its endorsement:**
 - a. marijuana bud or flower **for smoking** in quantities not to exceed one gram to any one person per day; and
 - b. Edible marijuana products in quantities not to exceed 10 mg of THC to any one person per day;
- 3. ~~Sell food or beverages not containing marijuana or alcohol for consumption on the premises;~~ and
- 4. Allow a person to remove from the licensed premises marijuana or marijuana product that has been purchased on the licensed premises for consumption under this section, provided it is packaged in accordance with **section 10.80.345.**

C. A licensed retail marijuana store with an approved on-site consumption endorsement may not:

- 1. Sell marijuana concentrate for consumption in the marijuana consumption area or allow **any** marijuana concentrate to be consumed in the marijuana consumption area;
- 2. Allow any licensee, employee, or agent of a licensee to consume marijuana or marijuana product, including marijuana concentrate, during the course of a work shift;
- 3. Allow a person to consume tobacco or tobacco products in the marijuana consumption area, **unless the endorsement authorizes smoking of marijuana;**
- 4. **Allow smoking of marijuana bud or flower, unless authorized by the endorsement;**

Commented [HML4]: This originally references 3 AAC 306.370(c)(4) re outdoor use and compatibility with surrounding area uses. (Does that section below belong in Title 21?)

Commented [GDT5R4]: Workgroup decided to keep these all in 10.80.306, and Title 21 will reference this section

Commented [GDT6]: I am guessing there are not other means to consume bud or flower?

Commented [GDT7]: Separated this in its own paragraph 3

Commented [GDT8]: Maybe we don't care if they take these food and beverages to go?

Commented [GDT9]: A member mentioned prohibition on smoking tobacco seemed odd if smoking mj allowed
Possible preemption issue, low-risk IMHO

- 1 5. Allow a person to bring into or consume in the marijuana
- 2 consumption area any marijuana or marijuana product that
- 3 was not purchased at the licensed retail marijuana store;
- 4
- 5 6. Sell, offer to sell, or deliver marijuana or marijuana product at
- 6 a price less than the price regularly charged for the marijuana
- 7 or marijuana product during the same calendar week;
- 8
- 9 7. Sell, offer to sell, or deliver an unlimited amount of marijuana
- 10 or marijuana product during a set period of time for a fixed
- 11 price;
- 12
- 13 8. Sell, offer to sell, or deliver marijuana or marijuana product on
- 14 any one day at prices less than those charged the general
- 15 public on that day;
- 16
- 17 9. Encourage or permit an organized game or contest on the
- 18 licensed premises that involves consuming marijuana or
- 19 marijuana product or the awarding of marijuana or marijuana
- 20 product as prizes; or
- 21
- 22 10. Advertise or promote in any way, either on or off the premises,
- 23 a practice prohibited under this section.
- 24

25 D. Consumption area requirements, smoking, edibles, and outdoors.
26 Marijuana consumption areas shall have the following
27 characteristics:

- 28
- 29 1. All marijuana consumption areas shall be isolated from the
- 30 other areas of the retail marijuana store, separated by walls
- 31 and a secure door, and shall have access only from the retail
- 32 marijuana store.
- 33
- 34 2. Marijuana consumption areas where smoking is authorized
- 35 shall have
- 36 a. a smoke-free area for employees to monitor the
- 37 marijuana consumption area;
- 38
- 39 b. if indoors, a ventilation system that directs air from the
- 40 marijuana consumption area to the outside of the
- 41 building through a filtration system sufficient to remove
- 42 visible smoke, consistent with all applicable building
- 43 codes and ordinances, and adequate to eliminate odor
- 44 at the property line; and
- 45
- 46 c. if outdoors, a minimum setback distance of 10 feet from
- 47 the property line.
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Commented [GDT10]: Is 10 feet enough for outdoor smoke to dissipate and not harm perons on the adjacent property at the line?
Odor issue?

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- 3. If outdoors, be found by the Planning Department to be compatible with uses in the surrounding area through evaluation of:
 - a. if the endorsement is to authorize consumption by smoking, the location of air intake vents on neighboring buildings;
 - b. neighboring uses;
 - c. a sight-obscuring wall or fence around the outdoor marijuana consumption area;
 - d. objections of owners of property **owners, residents, and occupants** within the notification distance required by section 21.03.020H.; and
 - e. any other information the municipal clerk finds relevant.

Commented [HML11]: See above comment re 3 AAC 306.370(c)(4)

Commented [GDT12R11]: Looks like this stays

Commented [GDT13]: Title 21 notice does not include residents and occupants ... possible preemption issue

E. An applicant for an on-site consumption endorsement shall file an application on a form the municipal clerk prescribes, including the endorsement fee and documents set out in this section, which must include:

- 1. The applicant's **operating plan**, in a format the Planning Department prescribes, describing the retail marijuana store's plan for:
 - a. Security, in addition to what is required for a retail marijuana store, including:
 - i. Doors and locks;
 - ii. Windows;
 - iii. Measures to prevent diversion; and
 - iv. Measures to prohibit access to persons under the age of 21;
 - b. Ventilation, **if the application includes consumption by smoking indoors**, and then the ventilation plans must be:
 - i. signed and approved by a licensed mechanical engineer;
 - ii. Sufficient to remove visible smoke; and
 - iii. Consistent with all applicable building codes and ordinances;
 - c. Monitoring overconsumption;
 - d. Unconsumed marijuana, by disposal or by packaging in accordance with 3 AAC 306.345; and
 - e. Preventing introduction into the marijuana consumption area of marijuana or marijuana products not sold by the retail marijuana store, and marijuana or marijuana products not sold specifically for on-site consumption;

Commented [HML14]: Planning Department to have application specific to this or would it be just a modification of the operating plan?

Should this be similar to the new license/slip applications that go to Planning? Renewals/transfers to Clerk?

Commented [GDT15R14]: Yeah, I think so

2. The applicant's detailed diagram of the marijuana consumption area which must show the location of:

- 1 a. The licensed premises of the retail marijuana store;
- 2 b. Serving area or areas;
- 3 c. Ventilation exhaust points, if applicable;
- 4 d. The employee monitoring area;
- 5 e. Doors, windows, or other exits; and
- 6 f. Access control points;
- 7
- 8 3. The title, lease, or other documentation showing the
- 9 applicant's sole right of possession of the proposed marijuana
- 10 consumption area, if the area is not already part of the
- 11 approved licensed premises for the retail marijuana store;
- 12
- 13 4. An affidavit that notice of an outdoor marijuana consumption
- 14 area has been **accomplished as required by section**
- 15 **21.03.020H.** ~~mailed to property owners, residents, and~~
- 16 ~~occupants of properties within 250 linear feet of the~~
- 17 ~~boundaries of the property on which the on-site consumption~~
- 18 ~~endorsement is proposed, or the notification distance required~~
- 19 ~~by the local government, whichever is greater.~~
- 20
- 21 F. The retail marijuana store holding an on-site consumption
- 22 endorsement under this chapter shall:
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- 24 1. Destroy all unconsumed marijuana left abandoned or
- 25 unclaimed in the marijuana consumption area in accordance
- 26 with the operating plan and section 10.80.740;
- 27
- 28 2. Monitor patrons in the marijuana consumption area at all
- 29 times, **specifically including** for overconsumption;
- 30
- 31 3. Display all warning signs required under sections 10.80.360
- 32 and 10.80.365 within the marijuana consumption area, visible
- 33 to all consumers;
- 34
- 35 4. Provide written materials containing marijuana dosage and
- 36 safety information for each type of marijuana or marijuana
- 37 product sold for consumption in the marijuana consumption
- 38 area at no cost to patrons;
- 39
- 40 5. Package and label all marijuana or marijuana product sold
- 41 for consumption on the premises as required in section
- 42 10.80.345; and
- 43
- 44 6. Comply with any conditions imposed by the assembly or the
- 45 State Marijuana Control Board.
- 46
- 47 G. The holder of an on-site consumption endorsement must apply for
- 48 renewal annually at the time of renewal of the underlying retail
- 49 marijuana store license.

Commented [GDT16]: Title 21 ia "owners of land within 500 feet of the outer boundary of the land subject to the application" 21.03.020H.3.b.

Section 14. Anchorage Municipal Code section 10.80.310 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

10.80.310 Acts prohibited at retail marijuana store.

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- B. A licensed retail marijuana store may not:
 1. Conduct business on or allow a consumer to access the retail marijuana store's licensed premises during times prohibited by title 21;
 2. Allow a person to consume marijuana or a marijuana product on the retail marijuana store's licensed premises, except as authorized by a municipal endorsement;
 3. Offer or deliver to a consumer, as a marketing promotion or for any other reason,
 - a. Free marijuana or marijuana product, including a sample; or
 - b. Alcoholic beverages, free or for compensation; or[.]
 4. Allow intoxicated or drunken persons to enter or remain on the licensed premises.

(AO No. 2016-16(S), § 1, 2-9-16)

Section 15. Anchorage Municipal Code section 10.80.355 is hereby amended to read as follows:

10.80.355 Limit on quantity sold.

- A. A retail marijuana store may not sell to any one person per day [IN A SINGLE TRANSACTION]:
 1. More than one ounce of usable marijuana;
 2. More than seven grams of marijuana concentrate for inhalation; or
 3. Marijuana or marijuana products, if the total amount of marijuana, marijuana products, or both marijuana and marijuana products sold contains more than 5,600 milligrams of THC.
- B. These limits include marijuana or marijuana product sold for on-site consumption under section 10.80.306A.2.

(AO No. 2016-16(S), § 1, 2-9-16)

Section 16. Anchorage Municipal Code section 10.80.705 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

10.80.705 - Licensed premises alteration.

- 1 A. A marijuana establishment license or endorsement will be issued for
- 2 specific [LICENSED] premises. A specific licensed or endorsed
- 3 premises must constitute a place clearly designated in a license or
- 4 endorsement application and described by a line drawing submitted
- 5 with the [LICENSE] application. The [LICENSED] premises must:
- 6 1. Have adequate space for its approved operations, including
- 7 growing, manufacturing, processing, packaging, or storing
- 8 marijuana or marijuana products; and
- 9 2. Be located and constructed to facilitate cleaning, maintenance,
- 10 and proper operation.
- 11
- 12 B. A marijuana establishment's municipal license and any endorsement
- 13 must be posted in a conspicuous place within the licensed premises.
- 14
- 15 C. A holder of a marijuana establishment license may alter the functional
- 16 floor plan or reduce or expand the area of the licensed or endorsed
- 17 premises in accordance with section 21.03.105.
- 18

(AO No. 2016-16(S), § 1, 2-9-16)

Section 17. Anchorage Municipal Code section 10.80.805 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

10.80.805 Report or notice of violation.

- 27 A. The municipal clerk, a sworn Peace Officer, a Code Enforcement
- 28 Officer, or a Health Department Officer may issue an inspection report,
- 29 an advisory report, or a notice of violation before taking action to
- 30 initiate suspension or revocation of a marijuana establishment license
- 31 or endorsement.

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(AO No. 2016-16(S), § 1, 2-9-16 ; AO No. 2017-71(S) , § 19, 4-25-17)

Section 18. Anchorage Municipal Code section 10.80.810 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

10.80.810 Suspension or revocation of license or endorsement, certain civil fines.

- 42 A. The municipal clerk will suspend or revoke a marijuana establishment
- 43 license or endorsement issued under this chapter if any licensee is
- 44 convicted of violating any provision of law listed in section
- 45 10.80.010D.2., or if the municipal clerk becomes aware that a licensee
- 46 did not disclose a previous such conviction.
- 47
- 48 B. The assembly may, in addition to other provisions of this chapter
- 49 setting forth grounds for such action, suspend, revoke, or otherwise
- 50 restrict a license or endorsement issued under this chapter for the

reasons set forth in this section.

*** *** ***
(AO No. 2016-16(S), § 1, 2-9-16 ; AO No. 2017-71(S) , § 20, 4-25-17)

Section 19. Anchorage Municipal Code section 10.80.815 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

10.80.815 Suspension or revocation based on act of employee.

A. If, in a proceeding to suspend or revoke a marijuana establishment license under sections 10.80.810 and 10.80.820, or an endorsement, evidence shows that an employee or agent of a licensed marijuana establishment was responsible for an act that would justify suspension or revocation of the marijuana establishment's license or endorsement if committed by a licensee, the Administrative Hearings Officer may find that licensee knowingly allowed the act if:

*** *** ***
(AO No. 2016-16(S), § 1, 2-9-16)

Section 20. Anchorage Municipal Code section 10.80.821 is hereby amended to read as follows:

10.80.821 Procedure for action on license or endorsement suspension or revocation.

Except for the municipal clerk's action set forth in subsection 10.80.810A. or section 10.80.825, a proceeding to suspend or revoke a license or endorsement must be initiated by service of an accusation on the marijuana establishment in compliance with section 3.60.025 and conducted in accordance with chapter 3.60 of the Anchorage Municipal Code.

(AO No. 2016-16(S), § 1, 2-9-16 ; AO No. 2017-71(S) , § 21, 4-25-17)

Section 21. Anchorage Municipal Code section 10.80.825 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

10.80.825 Summary suspension to protect public health, safety, or welfare.

A. If the municipal clerk finds that a person holding a marijuana establishment license or endorsement has acted and appears to be continuing to act in a way that constitutes an immediate threat to the public health, safety or welfare, the municipal clerk may issue an order immediately suspending the license or endorsement of that person, and ordering an immediate stop to the activity that constitutes the threat to the public health, safety, or welfare.

1 *** *** ***
2 (AO No. 2016-16(S), § 1, 2-9-16)
3

4 **Section 22.** Anchorage Municipal Code section 10.80.846 is hereby amended to
5 read as follows:
6

7 **10.80.846 Appeal.**

8
9 A person aggrieved by a final decision of the Assembly suspending, revoking,
10 or restricting a license or endorsement under this chapter, or imposing a civil
11 fine, may appeal to the superior court.
12

13 (AO No. 2016-16(S), § 1, 2-9-16 ; AO No. 2017-71(S) , § 23, 4-25-17)
14

15 **Section 23.** Anchorage Municipal Code section 10.80.850 is hereby amended to
16 read as follows:
17

18 **10.80.850 Surrender or destruction of license or endorsement.**

19
20 A license or endorsement issued under this chapter must be
21 surrendered to the municipal clerk, sworn Peace Officer, Code Enforcement
22 Officer, or Health Department Officer if the municipal clerk or Administrative
23 Hearings Officer so orders. A license or endorsement issued under this
24 chapter must be surrendered not later than ten days after the marijuana
25 establishment loses or vacates the licensed premises. If a license is
26 destroyed, the marijuana establishment shall promptly notify the municipal
27 clerk.
28

29 (AO No. 2016-16(S), § 1, 2-9-16)
30

31 **Section 24.** Anchorage Municipal Code section 10.80.990 is hereby amended to
32 read as follows (*the remainder of the section is not affected and therefore not set*
33 *out*):
34

35 **10.80.990 Definitions.**

36 *** *** ***

37 B. In this chapter, unless the context requires otherwise:

38 *** *** ***

- 39 41. "drunken person" has the meaning given in AS
- 40 04.21.080(b)(9);
- 41
- 42 42. "freestanding" has the meaning given in AS 18.35.301(i)(l);
- 43
- 44 43. "intoxicated" has the meaning given in AS 11.81.900(b)(34);
- 45
- 46 44. "marijuana consumption area" means a designated area within
- 47 the licensed premises of a retail marijuana store that holds a
- 48 valid on-site consumption endorsement, where marijuana and
- 49 marijuana products, excluding marijuana concentrates, may be
- 50 consumed.

Commented [GDT17]: Does Committee want to keep alpha order? This just adds at the end.

45. "retail marijuana store premises" means an area encompassing both the retail marijuana store and any marijuana consumption area.

46. "sight-obscuring wall or fence" means an **opaque** wall or fence, including any gates, constructed of solid material and a minimum of six feet in height.

(AO No. 2016-16(S), § 1, 2-9-16 ; AO No. 2017-95(S), § 8, 5-1-17; AO No. 2017-150 , § 2, 10-11-17)

Section 25. Anchorage Municipal Code section 16.65.010 is hereby amended to read as follows (*language indicating no amendment is included for context only*):

16.65.010 - Prohibition of smoking.

A. Smoking is prohibited at the following places:

- 2. All enclosed areas that are places of employment, **except in licensed retail marijuana stores with an endorsement under chapter 10.80 allowing sale of marijuana bud or flower for consumption on the premises.** In these retail marijuana stores,
 - a. the smoke-free area for employees shall be at least five feet from the marijuana consumption area and smoking prohibited within this separation distance,
 - b. if the marijuana consumption area is indoors, there shall be a **smoke barrier** within the separation distance, or an **air circulation system that directs all air away from the smoke-free area for employees:**
 - c. smoking of marijuana bud or flower **or any marijuana product** is prohibited within **five feet** of the secure door(s) that provide access to the retail marijuana store.

8. All areas within five feet of the entrance to a premises licensed under state law to sell alcoholic beverages for consumption on the premises. When a licensed premises includes an outdoor area such as a patio or deck, the minimum reasonable distance under subsection 16.65.020 shall be five feet.

(AO No. 2006-86(S), § 1, 7-1-07; AO No. 2016-69, § 2, 7-26-16; AO No. 2019-39(S), § 1, 4-9-19)

Section 26. Anchorage Municipal Code section 16.65.030 is hereby amended to read as follows (*language indicating no amendment is included for context only*):

16.65.030 - Exceptions; areas where smoking is not prohibited.

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- A. Smoking is not prohibited in the following places:
 - 1. A maximum of 25 percent of hotel and motel sleeping rooms rented to guests designated as smoking rooms if the hotel or motel designates at least 75 percent of its guest rooms as permanently nonsmoking.
 - 2. Private clubs that are not licensed for the sale of alcoholic beverages under state law and are not places of employment; however, if an enclosed area is being used for a purpose, event, or function to which the general public is invited, then smoking is prohibited.
 - 3. Outdoor areas of places of employment except the outdoor areas identified under AMC 16.65.010.
 - 4. Private residences, except enclosed areas during the time child care is provided on a fee for service basis. Individuals providing day care on a fee for service basis shall not expose children to secondhand smoke.
 - 5. Marijuana consumption areas in licensed retail marijuana stores with a municipal endorsement under chapter 10.80 allowing sale of marijuana bud or flower, except where prohibited in section 16.65.010.
- B. Nothing in this chapter shall be construed or interpreted to provide any person a right to smoke on premises or property owned, leased or under the legal control of another.
- C. Nothing in this chapter shall be construed or interpreted to permit or allow smoking marijuana or marijuana products in public in violation of section 8.35.300 et seq.

(AO No. 2006-86(S), § 1, 7-1-07; AO No. 2015-65, § 2, 6-9-15)

Section 27. Anchorage Municipal Code section 14.60.030 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

14.60.030 - Fine schedule.

The fine schedule under this chapter is as follows:

Code Section	Offense	Penalty/Fine
*** *** ***		
<u>10.80.306D.</u>	<u>Violate prohibitions for on-site marijuana consumption areas</u>	<u>300.00</u>
<u>10.80.306F.</u>	<u>Required on-site operating requirements</u>	<u>300.00</u>

*** *** ***		
10.80.310B.2.	Allow consumption on retail premises <u>when no endorsement</u>	500.00
10.80.310B.3.	Offer/deliver alcohol or free marijuana	100.00
<u>10.80.310B.4.</u>	<u>Allow drunken or intoxicated person to remain on premises</u>	<u>300.00</u>
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(AO No. 93-167(S-1), § 1, 4-13-94; AO No. 94-108, § 1, 10-5-94; AO No. 94-134, § 2, 9-8-94; AO No. 95-42, § 2, 3-23-95; AO No. 95-67(S), § 9, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-118, § 3, 9-1-95; AO No. 95-163(S), § 21, 8-8-95; AO No. 95-195(S-1), 1-1-96; AO No. 96-51(S-1), § 2, 8-1-96; AO No. 96-96(S-1), § 2, 2-1-97; AO No. 96-126(S), § 3, 10-1-96; AO No. 96-137(S), § 9, 1-2-97; AO No. 97-88, § 3, 6-3-97; AO No. 97-107, § 3, 11-17-97; AO No. 97-133(S), § 1, 11-11-97; AO No. 98-27(S-1), § 2, 11-11-97; AO No. 98-160, § 2, 12-8-98; AO No. 99-13(S), 2-9-99; AO No. 99-91(S), § 4, 7-13-99; AO No. 2000-64, § 1, 4-18-00; AO No. 2000-116(S), § 4, 7-18-00; AO No. 2000-127(S), § 2, 10-14-00; AO No. 2000-129(S), § 26, 11-21-00; AO No. 2001-48, § 1, 3-13-01; AO No. 2001-74(S), § 2, 4-17-01; AO No. 2001-4, § 2, 2-6-01; AO No. 2001-145(S-1), § 11, 12-11-01; AO No. 2003-68, § 1, 9-30-03; AO No. 2003-97, § 4, 9-30-03; AO No. 2003-117, § 2, 1-28-03; AO No. 2003-130, § 8, 10-7-03; AO No. 2003-152S, § 10, 1-1-04; AO No. 2004-1, § 2, 1-1-03; AO No. 2004-99, § 2, 6-22-04; AO No. 2004-100(S-1), § 6, 1-1-05; AO No. 2004-171, § 1, 1-11-05; AO No. 2005-160, § 9, 11-1-05; AO No. 2005-84(S), § 3, 1-1-06; AO No. 2005-185(S), § 35, 2-28-06; AO No. 2005-124(S-1A), § 33, 4-18-06; AO No. 2006-39, § 6, 4-11-06; AO No. 2006-54, § 1, 5-2-06; AO No. 2006-80, § 1, 6-6-06; AO No. 2007-50, § 4, 4-10-07; AO No. 2007-60, § 4, 11-1-07; AO No. 2007-70, § 3, 5-15-07; AO No. 2008-84(S), § 5, 7-15-08; AO No. 2009-61, § 3, 7-7-09; AO No. 2009-82, § 5, 7-7-09; AO No. 2009-40(S), § 3, 7-21-09; AO No. 2009-112, § 4, 10-13-09; AO No. 2009-122, § 2, 12-17-09; AO-2010-35(S), § 7, 5-11-10; AO No. 2010-39, § 2, 5-11-10; AO No. 2010-87(S), § 3, 12-7-10; AO No. 2011-46, § 4, 4-12-11; AO No. 2011-59, § 10, 5-24-11; AO No. 2011-106(S), § 3, 11-8-11; AO No. 2011-112, § 4, 11-22-11, eff. 12-22-11; AO No. 2012-10, § 1, 1-31-12; AO No. 2012-77, § 29, 8-7-12; AO No. 2013-109(S-1), § 5, 12-3-13; AO No. 2013-130(S-1), § 1, 1-14-14; AO No. 2014-42, § 31, 6-21-14; AO No. 2014-85, § 4, 8-5-14; AO No. 2014-110(S), § 2, 9-9-14; AO No. 2014-137(S), § 3, 11-18-14; AO No. 2015-23(S), § 20, 3-24-15; AO No. 2015-48, § 16, 5-14-15; AO No. 2015-54, § 1, 5-26-15; AO No. 2015-65, § 4, 6-9-15; AO No. 2015-111(S-1), § 2, 1-1-16; AO No. 2016-16(S), § 4, 2-9-16; AO No. 2016-76(S), § 7, 7-12-16; AO No. 2016-81(S), § 4, 8-25-16; AO No. 2016-83(S), § 9, 7-26-16; AO No. 2016-82, § 3, 8-9-16; AO No. 2016-116, § 2, 10-18-16; AO No. 2016-115(S), § 2, 11-15-16; AO No. 2016-124(S), § 11, 12-20-16; AO No. 2017-26, § 2, 5-1-17; AO No. 2017-29(S), § 61, 6-1-17; AO No.

1 2017-30 , § 3, 3-21-17; AO No. 2017-31(S) , § 5, 5-26-17; AO No. 2017-
 2 119(S) , § 4, 11-9-17; AO No. 2017-101 , § 2, 2-5-18; AO No. 2017-161(S) ,
 3 § 3, 2-27-18)
 4
 5

6 **Section 28.** This ordinance shall be effective **immediately** upon passage and
 7 approval by the Assembly.
 8

Commented [GDT18]: Any delay needed to provide time to prepare forms etc?

9 PASSED AND APPROVED by the Anchorage Assembly this _____ day of
 10 _____, 2019.
 11
 12

13
 14
 15 _____
 16 Chair

17 ATTEST:
 18
 19 _____
 20 Municipal Clerk
 21

DRAFT