

Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Dept. of _____
For reading: _____ (always blank)

ANCHORAGE, ALASKA
AO No. 2019-_____

1 **AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE**
2 **MUNICIPAL CODE TITLE 21, SECTIONS 21.03.020C, 21.03.105, 21.05.055,**
3 **21.07.090E.; “OLD CODE” SECTIONS 21.15.030, AND 21.50.420 TO ESTABLISH**
4 **LAND USE REGULATIONS FOR MARIJUANA CONSUMPTION WITHIN A**
5 **MARIJUANA RETAIL SALES ESTABLISHMENT.**

6
7 (Planning Case 2019-00XX)
8

9 **THE ANCHORAGE ASSEMBLY ORDAINS:**

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11 **Section 1.** Anchorage Municipal Code 21.03.020 is hereby amended to read as
12 follows (*the remainder of the section is not affected and therefore not set out*):
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14 *** **

15 **21.03.020C. COMMUNITY MEETINGS**

16 *** **

17 2. Applicability

18 a. Types of Applications

19 The applicant shall hold a community meeting for any of the following
20 types of applications.
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22 i. Rezoning (zoning map amendments);

23 ii. Subdivisions, except for abbreviated plats;

24 iii. Conditional uses;

25
26 iv. Marijuana—special land use permit, associated endorsements,
27 and modifications requiring a public hearing;
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29 v. Institutional master plans;

30 vi. Major site plan review; and

31 vii. Public facility site selection.
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1 TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS

TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS					
Type of Application or Procedure	Section	Notice Required			Community Council
		Written (Mailed)	Published	Posted	
Alcohol—Special Land Use Permit	21.03.040	✓	✓	✓	✓
Appeals to Board of Adjustment	21.03.050A.	✓	✓	-	-
Appeals to ZBEA	21.03.050B.	✓	✓	-	✓
Comprehensive Plan Amendments, Substantive	21.03.070C.	-	✓	-	✓
Conditional Uses	21.03.080	✓	✓	✓	✓
Marijuana - Special Land Use Permit <u>and associated endorsements</u>	21.03.105	✓	✓	✓	✓
Marijuana – Modification of a Special Land Use Permit Requiring Public Hearing	21.03.105C.	✓	✓	✓	✓
Marijuana - Variances	21.03.105C.	✓	✓	✓	✓
Master Plan, Area	21.09.030E.	✓	✓	✓	✓
Master Plan, Development	21.09.030F.	✓	✓	✓	✓

2
3 (AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2015-131, 1-12-16; AO 2015-
4 142(S-1), 6-21-16; AO 2016-3(S), 2-23-16; AO 2017-75, 5-9-2017; A) 2017-175(S),
5 2-13-18)

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7 **Section 2.** Anchorage Municipal Code 21.03.105 is hereby amended to read as
8 follows (*the remainder of the section is not affected and therefore not set out*):

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10 *** **

11 **21.03.105C. APPLICATION AND REVIEW PROCEDURE**

12 *** **

13 3. Application Submittal

14 Applications for a municipal marijuana license, [AND A] special land use
15 permit for marijuana, and any associated endorsements shall be submitted to
16 the municipality on a form provided by the municipality, after application to the
17 state marijuana control board has been accepted. Applications shall contain
18 the information required in title 10, and the following:

19 *** **

20
21 **21.03.105C.9. MODIFICATIONS**

22 *** **

23 iv. For marijuana retail sales establishments:

- 24
25 (A) If within 500 feet of a residential zoning district (measured lot
26 line to lot line) any expansion of hours of operation and/or any
27 increase in the number of outdoor light fixtures on the site that
28 have the potential to negatively affect nearby residential areas,

as determined by the director.

[(B) ANY INCREASE IN THE RETAIL SALES AREA (AREA OF THE STORE OPEN TO THE PUBLIC) OF MORE THAN 20 PERCENT OF THE APPROVED AREA, WITHIN THE APPROVED LICENSED PREMISES AREA.]

(B) The addition of an indoor or outdoor marijuana consumption area, or an increase of the existing on-site consumption area of more than 20 percent.

[V. FOR MARIJUANA CULTIVATION ESTABLISHMENTS, AN INCREASE, WITHIN THE APPROVED LICENSED PREMISES, IN THE CULTIVATION AREA (AREA FOR MOTHERS, VEG, FLOWER, AND THE LIKE) OF MORE THAN 33 PERCENT OF THE APPROVED AREA, WITHIN THE APPROVED LICENSED PREMISES AREA.]

v.[VI] For marijuana manufacturing establishments, the addition of a type of extraction process [NOT ALREADY APPROVED FOR THE ESTABLISHMENT BY THE ASSEMBLY.] which has the potential to negatively affect neighboring properties as determined by the Director.

b. Modifications to the licensed establishment submitted by the licensee for all other changes shall be considered by the director, although the director may require a proposed change to be brought to the assembly if the director determines the proposed change is significant and warrants assembly consideration. Upon denial by the director, a licensee may request that the director’s decision be vacated and the unchanged modification application be considered de novo by the assembly. The director shall provide an [A] annual [QUARTERLY] report to the assembly regarding changes requested and approved.

(AO 2016-3(S), 2-23-16; AO 2016-161, 1-10-17; AO 2017-55, 4-11-17; AO 2017-175(S), 2-13-18)

Section 3. Anchorage Municipal Code 21.05.055 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

*** *** ***

21.05.055A. USE-SPECIFIC STANDARDS APPLICABLE TO ALL MARIJUANA ESTABLISHMENTS

- 1. Licenses Required
 - a. All marijuana establishments are required to obtain a license and associated endorsements from the S[S]tate of Alaska Marijuana Control Board, and a license and associated endorsements from the municipality of Anchorage, before beginning operations.
 - b. If at any time either the state license or the municipal license is suspended or revoked, the establishment shall immediately cease

.....

1 operations, until such time as both required licenses and the land use
 2 approval are valid. If an endorsement is suspended or revoked, the
 3 associated license(s) may not be required to cease operations as
 4 determined by the Director.

5
 6 c. Licenses and endorsements from the municipality of Anchorage shall
 7 be issued in accordance with chapter 10.80.

8 *** **

9
 10 9. Signs
 11 Signs shall comply with state regulations and chapter 21.11. [SIGNS FOR ALL
 12 MARIJUANA ESTABLISHMENTS MAY ONLY BE PLACED IN A WINDOW
 13 OF THE ESTABLISHMENT OR ATTACHED TO THE OUTSIDE OF THE
 14 LICENSED PREMISES.] No temporary signs are permitted.

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 16 **21.05.055B PRINCIPAL USES**

17
 18 1. Marijuana Cultivation Facility
 19 a. Definition
 20 A facility that cultivates and harvests marijuana for transfer or sale to a
 21 marijuana manufacturing facility, a marijuana testing facility, or a
 22 marijuana retail sales establishment.

23
 24 b. Use-Specific Standards
 25 i. Marijuana plants shall not be visible from a public right-of-way.
 26
 27 ii. All cultivation facilities shall be organized in orderly rows
 28 compliant with all building and fire codes. Aisles between
 29 planting rows shall be included in the square footage under
 30 cultivation.

31
 32 iii. Direct retail sales to the general public are [IS] prohibited.

33
 34 iv. Marijuana consumption is prohibited.

35
 36 2. Marijuana Manufacturing Facility
 37 a. Definition
 38 A facility that receives harvested marijuana from a cultivation facility
 39 and extracts, processes, and/or manufactures marijuana products for
 40 transfer or sale to another marijuana manufacturing facility, a marijuana
 41 testing facility, or a marijuana retail sales establishment.

42
 43 b. Use-Specific Standards
 44 i. An industrial hygienist or a professional engineer shall attest
 45 that:

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 47 (A) Any processes using solvents or flammables are safe,
 48 are in compliance with all applicable laws, and otherwise
 49 do not create a danger to any person or entity in or near
 50 the business.

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- (B) Any noxious gases or fumes created by such processes shall be mitigated with an appropriate ventilation system.
 - ii. Direct retail sales to the general public are [IS] prohibited
 - iii. Marijuana consumption is prohibited.
 - iv.[iii.] "Industrial hygienist" as used in this section, shall mean an individual who meets the definition for "industrial hygienist" set forth in Alaska Statute 45.50.477(a). "Professional engineer" as used in this section, shall mean an individual who meets the definition for "professional engineer" set forth in Alaska Statute 08.48.341.
3. Marijuana Testing Facility
- a. Definition
A facility that analyzes and certifies the safety and potency of marijuana and marijuana products.
 - b. Use-Specific Standards
 - i. Direct retail sales to the general public are [IS] prohibited.
 - ii. Marijuana consumption is prohibited.
4. Marijuana Retail Sales Establishment
- a. Definition
An establishment that receives marijuana and/or marijuana products from a marijuana cultivation facility or a marijuana manufacturing facility, for sale to the public.
 - b. Use-Specific Standards
 - i. Establishments shall be closed to the public between the hours of midnight and 8:00 a.m. each day.
 - ii. Establishments shall not have accessory drive-throughs.
 - iii. No outdoor storage or display of products is permitted.
 - iv. Assembly issuance of special land use permits for marijuana establishments and the related licensing and regulation of marijuana establishments under AMC title 10 require engagement by the community council. The owner/operator of a marijuana retail sales establishment is encouraged to engage in neighborhood responsibility planning with neighborhood residents and other businesses. Where available, this may be done in conjunction with the community council. A copy of an informal memorandum of understanding (mou) outlining the elements confirmed with the community council may be included

with the application. In the absence of a mou, the applicant may include applicant's report on the status of community engagement efforts.

v. Marijuana consumption areas as defined by AMC Title 10.80.990, shall comply with all applicable characteristics of AMC Title 10.80.306C.

vi. All outdoor marijuana consumption areas shall be screened from view on all sides with a screening fence or wall.

(2016-3(S), 2-23-16; AO 2016-35, 4-12-16; AO 2016-144(S), 12-20-16; AO 2017-55, 4-11-17; AO 2017-175(S), 2-13-18)

Section 4. Anchorage Municipal Code 21.07.090E is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.07.090E OFF-STREET PARKING REQUIREMENTS

*** *** ***

TABLE 21.07-4: OFF STREET PARKING SPACES REQUIRED

MARIJUANA USES			
Marijuana Uses	Marijuana cultivation facility	1 per 1,000 sf gfa	X
	Marijuana manufacturing facility	1 per 400 sf gfa	X
	Marijuana testing facility	1 per 350 sf gfa	
	Marijuana retail sales establishment	1 per 350 sf gfa 1 per 100 sf gfa for marijuana consumption area(s)	X

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2014-58, 5-20-14; AO 2015-82, 7-28-15; AO 2015-100, 10-13-15; AO 2015-131, 1-12-16; AO 2016-3(S), 2-23-16; AO 2017-55, 4-11-17; AO 2017-176,1-9-18)

Section 5. Anchorage Municipal Code 21.15.030G. (“Old Code”) is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

G. MODIFICATION OF FINAL APPROVAL

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4. For modifications of approved marijuana retail sales establishments, the planning director may approve all modifications except for those listed below, which shall be processed in accordance with subsection G.2. above. The director may require a proposed change to be brought to the assembly if the director determines the change to be significant and warrant assembly consideration. Upon denial by the director, a licensee may request that the director's decision be vacated and the unchanged modification application be

1 considered de novo by the assembly. The director shall provide a quarterly
 2 report to the assembly regarding changes requested and approved
 3 administratively.

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 5 a. Any increase to the gross square footage of the licensed premises area
 6 of more than 20 percent.

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 8 b. Any second or subsequent change to the gross square footage of the
 9 licensed premises of any amount.

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 11 c. The addition of a caretaker's unit to the property.

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 13 d. If within 500 feet of a residential zoning district (measured lot line to lot
 14 line) any expansion of hours of operation and/or any increase in the
 15 number of outdoor light fixtures on the site that have the potential to
 16 negatively affect nearby residential areas, as determined by the
 17 director.

18
 19 [E. ANY INCREASE IN THE RETAIL SALES AREA (AREA OF THE
 20 STORE OPEN TO THE PUBLIC) OF MORE THAN 20 PERCENT OF
 21 THE APPROVED AREA, WITHIN THE APPROVED LICENSED
 22 PREMISES AREA.]

23
 24 e. The addition of an indoor or outdoor on-site consumption area, or an
 25 increase of the existing on-site consumption area of more than 20
 26 percent.

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 28 (GAAB 21.05.060, 21.05.080; AO No. 77-355; AO No. 78-231; AO No. 79-34; AO No.
 29 79-214; AO No. 82-22(S); AO No. 82-49; AO No. 84-70; AO No. 85-21; AO No. 85-
 30 72; AO No. 85-91, 10-1-85; AO No. 86-19; AO No. 86-155; AO No. 87-121, 11-27-87;
 31 AO No. 88-5(S); AO No. 94-62, § 1, 4-12-94; AO No. 95-129, § 5, 3-12-96; AO No.
 32 2004-6, § 1, 10-1-03; AO No. 2004-108(S), § 1, 10-26-04; AO No. 2005-19, § 1, 3-1-
 33 05; AO No. 2006-90(S), § 1, 6-20-06; AO No. 2008-15(S-2), § 3, 8-19-08; AO No.
 34 2016-3(S), § 19, 2-23-16; AO No. 2016-161, § 2, 1-10-17)

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 36 **Section 6.** Anchorage Municipal Code 21.50.420 (“Old Code”) is hereby amended
 37 to read as follows (*the remainder of the section is not affected and therefore not set*
 38 *out*):

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 40 **21.50.420 - CONDITIONAL USE STANDARDS—MARIJUANA RETAIL SALES**
 41 **ESTABLISHMENTS.**

42
 43 A. Licenses Required

44
 45 1. All marijuana establishments are required to obtain a license and associated
 46 endorsements from the State of Alaska Marijuana Control Board, and a
 47 license and associated endorsements from the municipality of Anchorage,
 48 before beginning operations.

49
 50 2. If at any time either the state license or the municipal license is suspended or

1 revoked, the establishment shall immediately cease operations, until such time
2 as both required licenses and the land use approval are valid. If an
3 endorsement is suspended or revoked, the associated license(s) may not be
4 required to cease operations as determined by the Director.

5
6 3. Licenses and endorsements from the municipality of Anchorage shall be
7 issued in accordance with chapter 10.80.

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9 B. Conditional use permit required.

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11 1. All marijuana retail sales establishments are permitted only by conditional use.
12 Associated endorsements shall be decided upon as part of the conditional use
13 application. Such conditional use shall only require the approval of the
14 assembly in accordance with section 21.15.030. The provisions of section
15 21.15.005 which pertain to notice and public hearing shall apply.

16
17 2. Notwithstanding the submittal requirements in section 21.15.030, applications
18 for conditional use permit for a marijuana retail sales establishment shall
19 contain the following:

20
21 a. A site plan to scale and dimensioned, depicting the building footprint,
22 parking areas, vehicle circulation and driveways, pedestrian facilities,
23 lighting, landscaping, loading facilities, freestanding sign location(s),
24 required open space, snow storage area or alternative strategy, trash
25 receptacle location and screening detail, and fences.

26
27 b. A floor plan to scale and dimensioned, depicting the entirety of the
28 licensed premises, [ITS ARRANGEMENT OF ROOMS,] and relation to
29 all other uses located within the same building.

30
31 c. A security plan indicating how the applicant will comply with the
32 requirements of municipal and state law and regulation. The security
33 plan is not required to show location or placement of security cameras
34 and areas covered by them.

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36 d. A waste disposal plan.

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38 e. Evidence of neighborhood responsibility planning, as required in
39 subsection C.8. below.

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42 7. Notwithstanding section 21.10.025, the Assembly shall hear and decide
43 applications for variances from the provisions of this section 21.50.420 as part
44 of an application for a conditional use for marijuana. The application must
45 state with particularity the relief sought and must specify the facts or
46 circumstances that are alleged to show that the application substantially meets
47 the following standards:

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49 a. Granting the variance does not violate state law or regulation.
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- b. Granting the variance will not be detrimental to the public welfare or injurious to other property in the area.
- c. The variance is necessary due to some particular condition of the property that is not present in most properties or for most similar applicants.
- d. The variance is the minimum variance necessary to allow reasonable use of the property for commercial marijuana.
- e. The hardship is not self-imposed, special conditions and circumstances do not result from the actions of the applicant, and such conditions and circumstances do not merely constitute inconvenience or an undesirable financial burden.

*** *** ***

13. Marijuana Consumption. Marijuana consumption areas as defined by AMC Title 10.80.990, shall comply with all applicable characteristics of AMC Title 10.80.306C. All outdoor marijuana consumption areas shall be screened from view on all sides with a screening fence or wall.

(AO No. 2016-3(S), § 24, 2-23-16; AO No. 2016-144(S), § 3, 1-1-17; AO No. 2017-55, § 15, 4-11-17; AO No. 2017-175(S), § 6, 2-13-18)

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

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2019.

Chair of the Assembly

ATTEST:

Municipal Clerk