

Submitted by: Mayor Berkowitz, Assembly Chair
Rivera and Assembly Member
Petersen

Prepared by: OECD
For reading: May 7, 2019

**ANCHORAGE, ALASKA
AO No. 2019-67**

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 **AND 21.07.090E., AND AMENDING “OLD CODE” SECTIONS 21.15.030 AND**
4 **21.50.420, TO ESTABLISH LAND USE REGULATIONS FOR ON-SITE**
5 **CONSUMPTION OF MARIJUANA ENDORSEMENTS ASSOCIATED WITH A**
6 **MARIJUANA RETAIL SALES ESTABLISHMENT; AND WAIVING REVIEW OF**
7 **THESE AMENDMENTS BY THE PLANNING AND ZONING COMMISSION.**
8

9
10 **THE ANCHORAGE ASSEMBLY ORDAINS:**

11
12 **Section 1.** Anchorage Municipal Code section 21.03.020 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 **21.03.020 - Common procedures.**

17 *** **

18 **C. Community meetings.**

19 *** **

20 **2. Applicability**

21 **a. Types of Applications**

22 The applicant shall hold a community meeting for any of
23 the following types of applications.

- 24
- 25 i. Rezoning (zoning map amendments);
 - 26 ii. Subdivisions, except for abbreviated plats;
 - 27 iii. Conditional uses;
 - 28
 - 29 iv. Marijuana—special land use permit, associated
30 endorsements, and modifications requiring a
31 public hearing;
 - 32
 - 33 v. Institutional master plans;
 - 34
 - 35 vi. Major site plan review; and
 - 36
 - 37 vii. Public facility site selection.
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 - 39

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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.	✓	✓	✓	✓

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

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

21.03.105 Marijuana—Special land use permit.

*** *** ***
C. Application and review procedure.

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

- a. For all marijuana establishments:
 - i. A site plan to scale and dimensioned, depicting

the building footprint, parking areas, vehicle circulation and driveways, pedestrian facilities, lighting, landscaping, loading facilities, freestanding sign location(s), required open space, snow storage area or alternative strategy, trash receptacle location and screening detail, [AND] fences, and outdoor marijuana consumption areas.

*** *** ***

9. Modifications

*** *** ***

a. Modifications to the licensed establishment submitted by the licensee for the following changes shall be considered by the assembly after a public hearing noticed in accordance with subsection 21.03.020H.:

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

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

*** *** ***

iv. For marijuana retail sales establishments:

(A) If within 500 feet of a residential zoning district (measured lot line to lot line) any expansion of hours of operation and/or any increase in the number of outdoor light fixtures on the site that 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.

(C) The addition of an indoor or outdoor marijuana consumption area, or an increase of the existing marijuana consumption area of more than 20 percent, or the addition of marijuana consumption by inhalation or smoking not previously approved by the assembly.

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(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)

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1 **Section 3.** Anchorage Municipal Code section 21.05.055 is hereby amended to
 2 read as follows (*the remainder of the section is not affected and therefore not set*
 3 *out*):
 4

5 **21.05.055 - Marijuana establishments.**

6 *** **

7 A. Use-specific standards applicable to all marijuana establishments.

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 9 1. Licenses Required

10 a. All marijuana establishments are required to obtain a
 11 license and associated endorsements from the S[S]tate
 12 of Alaska Marijuana Control Board, and a license and
 13 associated endorsements from the municipality of
 14 Anchorage, before beginning operations.

15
 16 b. If at any time either the state license or the municipal
 17 license is suspended or revoked, the establishment shall
 18 immediately cease operations, until such time as both
 19 required licenses and the land use approval are valid. If
 20 an endorsement is suspended or revoked, the
 21 establishment shall immediately cease operations
 22 authorized by that endorsement until such time it is valid.

23
 24 c. Licenses and endorsements from the municipality of
 25 Anchorage shall be issued in accordance with chapter
 26 10.80.

27 *** **

28 6. Ventilation. The premises shall be ventilated so that the odor of
 29 marijuana cannot be detected by a person with a normal sense
 30 of smell at any lot line of the subject property.

31 *** **

32 B. Principal uses.

33 1. Marijuana Cultivation Facility

34 *** **

35 b. Use-Specific Standards

36 *** **

37 iv. Marijuana consumption is prohibited.

38
 39 2. Marijuana Manufacturing Facility

40 *** **

41 b. Use-Specific Standards

42 *** **

43 iii. Marijuana consumption is prohibited.

44
 45 iv.[iii.] "Industrial hygienist" as used in this section, shall
 46 mean an individual who meets the definition for
 47 "industrial hygienist" set forth in Alaska Statute
 48 45.50.477(a). "Professional engineer" as used in
 49 this section, shall mean an individual who meets
 50 the definition for "professional engineer" set forth
 51 in Alaska Statute 08.48.341.

1
2 3. Marijuana Testing Facility

3 *** **

4 b. Use-Specific Standards

5 *** **

6 ii. Marijuana consumption is prohibited.

7
8 4. Marijuana Retail Sales Establishment

9 a. Definition

10 An establishment that receives marijuana and/or
11 marijuana products from a marijuana cultivation facility
12 or a marijuana manufacturing facility, for sale to the
13 public.

14
15 b. Use-Specific Standards

16 i. Establishments shall be closed to the public
17 between the hours of midnight and 8:00 a.m.
18 each day.

19
20 ii. Establishments shall not have accessory drive-
21 throughs.

22
23 iii. No outdoor storage or display of products is
24 permitted.

25
26 iv. Assembly issuance of special land use permits
27 for marijuana establishments, [AND THE] related
28 licensing, associated endorsements, and
29 regulation of marijuana establishments under
30 AMC title 10 require engagement by the
31 community council. The owner/operator of a
32 marijuana retail sales establishment is
33 encouraged to engage in neighborhood
34 responsibility planning with neighborhood
35 residents and other businesses. Where available,
36 this may be done in conjunction with the
37 community council. A copy of an informal
38 memorandum of understanding (MOU) outlining
39 the elements confirmed with the community
40 council may be included with the application. In
41 the absence of a MOU, the applicant may include
42 applicant's report on the status of community
43 engagement efforts.

44
45 v. Marijuana consumption areas, as defined by
46 section 10.80.990, shall comply with all
47 applicable characteristics of section 10.80.306C.

48
49 vi. All outdoor marijuana consumption areas shall be
50 screened from view on all sides with a screening
51 fence or wall.

(AO No. 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 section 21.07.090 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.07.090 - Off-street parking and loading.

*** *** ***

E. Off-street parking requirements.

*** *** ***

TABLE 21.07-4: OFF STREET PARKING SPACES REQUIRED

TABLE 21.07-4: OFF-STREET PARKING SPACES REQUIRED ("du" = dwelling unit; "sf" = square feet; "gfa" = gross floor area)			
Use Category	Use Type	Minimum Spaces Required	See Loading Subsection 21.07.090G.

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 ("Old Code") section 21.15.030 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

21.15.030 - Approval of site plans and conditional uses.

*** *** ***

C. Application. With its application the applicant shall submit the following:

*** *** ***

2. The following maps, drawn on a stable base reproducible mylar, at the scale specified in the following table:

*** *** ***

b. A site plan, showing:

*** *** ***

(7) Outdoor marijuana consumption areas.

*** *** ***

1 G. Modification of final approval.

2 *** **

- 3 4. For modifications of approved marijuana retail sales
4 establishments, the planning director may approve all
5 modifications except for those listed below, which shall be
6 processed in accordance with subsection G.2. above. The
7 director may require a proposed change to be brought to the
8 assembly if the director determines the change to be significant
9 and warrant assembly consideration. Upon denial by the
10 director, a licensee may request that the director's decision be
11 vacated and the unchanged modification application be
12 considered de novo by the assembly. The director shall provide
13 a quarterly report to the assembly regarding changes
14 requested and approved administratively.

15 *** ** ****

- 16 f. The addition of an indoor or outdoor marijuana
17 consumption area, or an increase of the existing
18 marijuana consumption area of more than 20 percent, or
19 the addition of marijuana consumption by inhalation or
20 smoking not previously approved by the assembly.

21 *** ** **

22 (GAAB 21.05.060, 21.05.080; AO No. 77-355; AO No. 78-231; AO No. 79-
23 34; AO No. 79-214; AO No. 82-22(S); AO No. 82-49; AO No. 84-70; AO No.
24 85-21; AO No. 85-72; AO No. 85-91, 10-1-85; AO No. 86-19; AO No. 86-155;
25 AO No. 87-121, 11-27-87; AO No. 88-5(S); AO No. 94-62, § 1, 4-12-94; AO
26 No. 95-129, § 5, 3-12-96; AO No. 2004-6, § 1, 10-1-03; AO No. 2004-108(S),
27 § 1, 10-26-04; AO No. 2005-19, § 1, 3-1-05; AO No. 2006-90(S), § 1, 6-20-
28 06; AO No. 2008-15(S-2), § 3, 8-19-08; AO No. 2016-3(S), § 19, 2-23-16; AO
29 No. 2016-161, § 2, 1-10-17)

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32 **Section 6.** Anchorage Municipal Code ("Old Code") section 21.50.420 is hereby
33 amended to read as follows (*the remainder of the section is not affected and*
34 *therefore not set out*):

35
36 **21.50.420 - Conditional use standards—Marijuana retail sales**
37 **establishments.**

38
39 A. Licenses Required

- 40
41 1. All marijuana establishments are required to obtain a license
42 and associated endorsements from the State of Alaska
43 Marijuana Control Board, and a license and associated
44 endorsements from the municipality of Anchorage, before
45 beginning operations.
46
47 2. If at any time either the state license or the municipal license is
48 suspended or revoked, the establishment shall immediately
49 cease operations, until such time as both required licenses and
50 the land use approval are valid. If an endorsement is
51 suspended or revoked, the establishment shall immediately

cease operations authorized by that endorsement until such time it is valid.

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

B. Conditional use permit required.

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

*** **

C. *Use-specific standards for marijuana retail sales establishments.* All marijuana retail sales establishments shall meet the following standards:

*** **

5. *Ventilation.* The premises shall be ventilated so that the odor of marijuana cannot be detected by a person with a normal sense of smell at any lot line of the subject property.

*** **

13. Marijuana consumption. Marijuana consumption areas as defined by section 10.80.990, shall comply with all applicable characteristics of section 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. Notwithstanding Anchorage Municipal Code section 21.03.210, this ordinance and its text amendments to Title 21 shall not require Planning and Zoning Commission review.

Section 8. 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



MUNICIPALITY OF ANCHORAGE

Assembly Memorandum

No. AM 344-2019

Meeting Date: May 7, 2019

1 **From:** MAYOR

2
3 **Subject:** AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING
4 ANCHORAGE MUNICIPAL CODE TITLE 21, SECTIONS
5 21.03.020C., 21.03.105, 21.05.055, AND 21.07.090E., AND
6 AMENDING "OLD CODE" SECTIONS 21.15.030 AND 21.50.420,
7 TO ESTABLISH LAND USE REGULATIONS FOR ON-SITE
8 CONSUMPTION OF MARIJUANA ENDORSEMENTS
9 ASSOCIATED WITH A MARIJUANA RETAIL SALES
10 ESTABLISHMENT; AND WAIVING REVIEW OF THESE
11 AMENDMENTS BY THE PLANNING AND ZONING COMMISSION.
12
13

14 This ordinance will establish land use regulations for on-site marijuana
15 consumption endorsements associated with a marijuana retail sales
16 establishment's special land use permit. A team of personnel from the Planning
17 Department, Municipal Clerk's Office, Office of Economic and Community
18 Development, Department of Law, and Assembly Counsel's Office worked
19 collaboratively to produce this ordinance, including revisions after presenting it to
20 the Assembly's Community and Economic Development Committee at three
21 separate meetings. This ordinance is proposed in conjunction with another
22 proposed ordinance amending the Municipality's licensing of marijuana
23 establishments provisions in Chapter 10.80 of the Anchorage Municipal Code.
24

25 The following amendments to Title 21 of the Anchorage Municipal Code are
26 proposed:
27

- 28 • Establishment of public involvement standards by requiring an applicant to
29 hold a community meeting prior to submitting an application, and also
30 establishes public hearing notice requirements for on-site marijuana
31 consumption endorsements.
32
- 33 • Clarification on the application submittal requirements for an on-site
34 marijuana consumption endorsement.
35
- 36 • Establishment of the decision-making body for modifications which involve
37 the creation or modification of an on-site marijuana consumption area within
38 a marijuana retail sales establishment. The Assembly decides
39 modifications that create new on-site consumption areas or major
40 modifications to them, the Planning Director decides minor modifications.

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- Outline of due process should an endorsement be suspended or revoked.
- Clarification that marijuana consumption is prohibited within a marijuana manufacturing facility, cultivation facility, and testing facility.
- Establishment of use-specific standards for marijuana consumption areas to minimize adverse impacts to adjoining properties.
- Establishment of an off-street parking requirement for marijuana consumption areas that is identical to coffee shops, restaurants, and bars.
- Establishment of compatible and/or identical language within “old” code to regulate on-site marijuana consumption areas within the downtown districts.

Any work will be absorbed by current staffing and resources, and there are no costs by only amending the Code. Therefore, a summary of economic effects is not included.

THE ADMINISTRATION RECOMMENDS APPROVAL.

Prepared by:	Ryan Yelle, Senior Planner, Planning Department
Approved by:	Michelle McNulty, Director, Planning Department
Concur:	Christopher M. Schutte, Director Office of Economic and Community Development
Concur:	Deitra L. Ennis, Acting Municipal Attorney
Concur:	William D. Falsey, Municipal Manager
Respectfully submitted:	Ethan A. Berkowitz, Mayor Felix Rivera, Assembly Chair Pete Petersen, Assembly Member-District 5