

KODIAK CITY COUNCIL

WORK SESSION AGENDA

Tuesday, June 27, 2017

Kodiak Public Library Multi-Purpose Room

7:30 p.m.

Work sessions are informal meetings of the City Council where Councilmembers review the upcoming regular meeting agenda packet and seek or receive information from staff. Although additional items not listed on the work session agenda are sometimes discussed when introduced by the Mayor, Council, or staff, no formal action is taken at work sessions and items that require formal Council action are placed on a regular Council meeting agenda. Public comments at work sessions are NOT considered part of the official record. Public comments intended for the "official record" should be made at a regular City Council meeting.

Discussion Items

1. Public Comments (limited to 3 minutes)

2. Discuss Final Recommendations From the City’s Marijuana Advisory Committee
 - Final Recommendations From the City of Kodiak Marijuana Advisory Committee.....1
 - Kodiak Island Borough Ordinances.....3
 - State of Alaska Statutes27
 - State of Alaska Administrative Regulations.....39

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**Final Recommendations From
the City of Kodiak
Marijuana Advisory Committee**

- 1) Establish a 500' separation distance from any school property line to a public entrance of a marijuana establishment.
- 2) Adhere to state rules and regulations regarding the 500' pedestrian pathway separation from a marijuana establishment to jails, churches, etc.
- 3) Regulate retail stores within the City limits to industrial, light industrial, business, and business retail.
- 4) Comply with State of Alaska laws for retail stores within the City limits.
- 5) Adhere to State of Alaska laws for personal growth of marijuana.
- 6) Establish a 500' regulation for cultivation facilities within the City limits.
- 7) Regulate commercial growing within the City limits to industrial, light industrial, business, and business retail areas.
- 8) Adopt attorney's recommended ordinance Designating City Council as the City's Local Regulatory Authority on Marijuana.
- 9) Adopt attorney's recommended ordinance Prohibiting Extraction of Tetrahydrocannabinol ("The") or any Cannabinoid by Use of Materials or Methods Deemed Dangerous to Public Health and Safety, Unless Otherwise Permitted by Law.
- 10) Approve limited cultivation licenses in rural residential lots 20,00 square feet or greater with issuance of a conditional use permit and in compliance with Kodiak Island Borough zoning requirements.
- 11) Approve manufacturing facilities in industry, light industry, and both business and business retail districts with a conditional use permit.
- 12) Allow testing facilities in industrial, light industrial, business, and conservation districts.
- 13) Assess a local marijuana entity application fee, licensing fee, and sales tax.
- 14) Discuss edibles as a part of a manufacturing process within the City with the City Council.

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Introduced by: KIB Assembly
Drafted by: CDD Director
Introduced on: 04/06/2017
Amended on: 04/20/2017
Public Hearing Date: 04/20/2017
Adopted on: 04/20/2017

**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2017-27**

**AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH AMENDING
KODIAK ISLAND BOROUGH CODE TITLE 3 REVENUE AND FINANCE, TITLE 5 BUSINESS
LICENSES AND REGULATIONS, AND TITLE 17 ZONING TO PROVIDE FOR
REGULATIONS RELATING TO MARIJUANA BUSINESSES**

WHEREAS, the passage of Ballot Measure #2 in the 2014 State of Alaska Election has provided for the legalization of various marijuana-related activities on a specific timeline; and

WHEREAS, AS 17.38.110 provides for local government control not in conflict with state law; and

WHEREAS, the Kodiak Island Borough wishes to exercise the authority granted to it by AS 17.38.110; and

WHEREAS, the Kodiak Island Borough implemented a moratorium on the operation of commercial marijuana businesses until April 30, 2017 through Ordinance No. FY2016-17A; and

WHEREAS, the Kodiak Island Borough formed a Marijuana Task Force through the adoption of Resolution No. FY2016-31; and

WHEREAS, the Marijuana Task Force developed recommendations for regulating marijuana businesses in the Kodiak Island Borough; and

WHEREAS, in accordance with AS 29.40.020 the Planning and Zoning Commission discussed the proposed changes to Title 17 (Zoning) at work sessions, regular meetings, or special meetings on February 8, 2017, February 15, 2017, March 15, 2017, and March 22, 2017; and

WHEREAS, the Planning and Zoning Commission, following the March 22, 2017 public hearing, failed to pass a motion to transmit their recommendations for revisions to Title 17 to the Borough Assembly; and

44 **WHEREAS**, on March 23, 2017, two Planning and Zoning Commissioners filed a
45 Reconsideration Affidavit with the Community Development Department stating their intent to
46 reconsider the vote taken after the March 22, 2017 public hearing; and

47
48 **WHEREAS**, the Planning and Zoning Commission, at their April 19, 2017 regular meeting,
49 voted to reconsider the vote taken after the March 22, 2017 public hearing and voted to transmit
50 their recommendations for revisions to Title 17 to the Borough Assembly; and

51
52 **WHEREAS**, the Borough Assembly discussed the proposed changes at work sessions and
53 regular meetings on March 16, 2017, March 30, 2017, April 6, 2017, April 13, 2017, and April
54 20, 2017; and

55
56 **WHEREAS**, the Borough Assembly, following the public hearing at the April 20, 2017 regular
57 meeting, voted to adopted Ordinance FY2017-27.

58
59 **NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND**
60 **BOROUGH THAT:**

61
62 **Section 1:** This ordinance is of a general and permanent nature and shall become a part of the
63 Kodiak Island Borough Code of Ordinances.

64
65 **Section 2:** Titles 3, 5, and 17 of the Kodiak Island Borough Code of Ordinances are amended
66 to read as follows:

67
68 **Chapter 3.70**
69 **EXCISE TAX ON MARIJUANA**

70
71 **3.70.010 Applicability, purpose and authority.**

72 **3.70.020 Definitions.**

73 **3.70.030 Excise tax on marijuana.**

74 **3.70.040 Exemptions.**

75 **3.70.050 Tax returns.**

76 **3.70.060 Involuntary returns.**

77 **3.70.070 Amended tax returns.**

78 **3.70.080 Application of payments.**

79 **3.70.090 Prohibited acts and penalties.**

80 **3.70.100 Civil fraud.**

81 **3.70.110 Tax lien.**

82 **3.70.120 Interest on unpaid tax.**

83 **3.70.130 Taxpayer, licensee, or other person remedies.**

84 **3.70.140 Inspection and maintenance of documents and records.**

85 **3.70.150 Administrative regulations.**

86 **3.70.160 Confidentiality of records.**

87
88 **3.70.010 Applicability, purpose and authority.**

89 A. Applicability. Unless provided otherwise, this chapter shall apply to the taxation of all
90 marijuana cultivated within the borough for commercial or retail sale purposes, including
91 marijuana cultivated by a standard marijuana cultivation facility and a limited marijuana
92 cultivation facility.

93
94 B. Purpose. The purpose of this section is to provide for the levy of an excise tax on
95 marijuana cultivated within the borough by any marijuana cultivation facility, and the
96 enforcement of such tax.

97
98 C. Authority. This chapter and the regulations related to marijuana establishments herein
99 are adopted pursuant to the authority granted by AS 17.38.100 and 29.35.010(6).

100
101 3.70.020 Definitions.

102 “Flower and bud” means the hairy, sticky, or crystal-covered parts of mature female
103 marijuana plants generally harvested for their high potency content.

104 “Marijuana” has the meaning given in AS 17.38.900.

105 “Marijuana cultivation facility” has the meaning given in AS 17.38.900 and includes both
106 a standard marijuana cultivation facility and a limited marijuana cultivation facility as
107 licensed under 3 AAC 306.300.

108 “Marijuana product manufacturing facility” has the meaning given in AS 17.38.900.

109 “Marijuana testing facility” has the meaning given in AS 17.38.900.

110 “Ownership change” means:

111 1. If the licensee is a partnership, including a limited partnership, any change in the
112 identity of the partners, or in the ownership percentages held by any partners;

113 2. If the licensee is a limited liability company, any change in the identity of the members,
114 or in the ownership percentage held by any member; or

115 3. If the licensee is a corporation, any sale of corporate stocks to a person not currently
116 an owner, or any change of the percentage ownership of an existing shareholder.

117 “Retail marijuana store” has the meaning given in AS 17.38.900.

118 “Transfer” means the exchange of marijuana, as defined under AS 17.38.900, with or
119 without consideration, or by barter, between marijuana establishments, or within
120 marijuana establishments possessing multiple permits, for commercial purposes.

121
122 3.70.030 Excise tax on marijuana.

123 A. The borough hereby levies an excise tax on all marijuana cultivated in any facility
124 licensed pursuant to 3 AAC 306.300, including standard marijuana cultivation facilities,
125 and limited marijuana cultivation facilities.

126
127 B. All nonexempt marijuana transferred from a marijuana cultivation facility shall be
128 taxed as follows:

129
130 1. Any part of the flower and bud, as defined in 15 AAC 61.290, will be taxed, on a
131 per-ounce basis, at a rate equal to twenty percent of any per-ounce excise tax
132 imposed by the State of Alaska on the date of transfer pursuant to AS 43.61.010,
133 or \$10.00 per ounce, whichever is greater;

134 2. All remaining portions of the plant not included in subsection (B)(1)(a) of this
135 section will be taxed, on a per-ounce basis, at a rate equal to twenty percent of
136 any per-ounce excise tax imposed by the State of Alaska on the date of transfer
137 pursuant to AS 43.61.010, or \$3.00 per ounce, whichever is greater.

138
139 C. A marijuana cultivation facility that is also licensed as a marijuana product
140 manufacturing facility must pay tax on all marijuana transferred from the cultivation
141 facility to the product manufacturing facility for the month in which the marijuana was
142 transferred.

143
144 D. A marijuana cultivation facility that is also licensed as a retail marijuana store must
145 pay tax on all marijuana transferred from the cultivation facility to the retail marijuana
146 store for the month in which the marijuana was transferred.

147
148 3.70.040 Exemptions.

149 A. The tax imposed under this chapter does not apply to marijuana if the state of Alaska
150 prohibits the levying of this tax under AS 17.38.

151
152 B. Transfers to a licensed marijuana testing facility are exempt from the excise tax on
153 marijuana.

154
155 3.70.050 Tax returns.

156 A. On or before thirty (30) days after the end of each month, licensees shall submit to the
157 finance director a tax return, upon forms provided by the finance director, for each
158 license, and submit payment for the taxes due as prescribed by the finance director.

159
160 B. The return shall be signed under penalty of perjury by the licensee or agent and shall
161 include:

- 162
163 1. A copy of the tax return for that month submitted by the licensee to the Alaska
164 Department of Revenue in accordance with 15 AAC 61.010;
165 2. The name and address of the licensee;
166 3. The name and address of the person filing the return, if different from the
167 licensee;
168 4. The number of the zoning compliance permit issued under KIBC 17.15.060;
169 5. The name under which the marijuana cultivation facility is being operated;
170 6. A report setting forth the total amount of marijuana transferred from the
171 marijuana cultivation facility in ounces, with fractional ounces calculated to the
172 third decimal place, for the preceding month;
173 7. The amount of tax due;
174 8. Such other information and supporting documentation which may be required
175 by the finance director.
176

177 C. A marijuana cultivation facility licensed under this chapter shall file a tax return by
178 thirty (30) days after the end of the previous month, even if it did not cultivate or transfer
179 any marijuana in the borough during the preceding month.

181 D. The taxes imposed under this chapter and the return required by this section must be
182 received by the finance director or postmarked within thirty (30) days following the
183 month covered by the return.

185 E. A separate tax return must be filed for each location when a taxpayer is operating in
186 several locations within the borough.

188 3.70.060 Involuntary returns.

189 If a licensee fails to file a return as required by this chapter, or when the finance director
190 finds that a return is not supported by the records to be maintained pursuant to this
191 chapter, the finance director may prepare and file a return on behalf of the licensee.
192 Involuntary returns filed under this section may be premised upon any information that is
193 available to the finance director, including, among other things, a copy of the materials
194 the applicant submitted to the Alaska Department of Revenue in accordance with 15 AAC
195 61.010, and comparative data for similar businesses. A licensee for whom an involuntary
196 return is filed under this section shall be subject to liability for the tax stated in the
197 return, as well as subject to the penalties and interest provided for in this chapter. A
198 return prepared by the finance director is prima facie, good and sufficient for all legal
199 purposes. However, nothing prevents the licensee from presenting evidence on appeal to
200 rebut the presumed sufficiency of a return prepared by the finance director, nor does the
201 presumption of sufficiency alter the parties' respective burdens of proof once the
202 licensee has presented evidence to rebut that presumption.

204 3.70.070 Amended tax returns.

205 A. Any tax return filed hereunder may be amended by the licensee within one year after
206 the due date of the tax return being amended. No amendment by the licensee shall be
207 allowed after this one-year period.

209 B. Any tax return prepared and filed by the finance director on behalf of the licensee may
210 be amended by the licensee within one year of the date filed by the finance director. No
211 amendment by the licensee shall be allowed after this one-year period.

213 3.70.080 Application of payments.

214 Any payment submitted to the finance director for any taxes, penalties, interest, or cost
215 due under any provision of this chapter or any return or any finding or determination by
216 the finance director under this chapter shall be credited to the monthly tax period for
217 which it was remitted, first to the payment of costs and then to penalties, interest, and
218 taxes in that order.

220 3.70.090 Prohibited acts and penalties.

221 A. No person shall operate a marijuana cultivation facility within the borough without
222 complying with the provisions of this chapter.

223
224 B. A penalty of ten (10) percent of the taxes due shall be incurred automatically when a
225 person fails to pay the full amount of the tax due under this chapter within seven
226 calendar days following its due date.

227
228 1. The penalty shall be computed on the unpaid balance of the tax liability as
229 determined by the finance director.

230 2. Notice of the penalties incurred and to be incurred shall be given to the person
231 responsible for payment of the taxes or for filing the return or report when such
232 tax payment or return or report is delinquent for seven calendar days after its due
233 date.

234 3. The penalties provided for in this section shall be in addition to all other
235 penalties and interest for under this chapter.

236
237 C. If a properly filed amended return reduces the total tax liability or the tax required to
238 be paid, or the deterrent reduces the tax liability, the related penalty will be reduced
239 accordingly.

240
241 D. All penalties and remedies enumerated in this chapter are cumulative.

242
243 E. Unless otherwise provided in this section, any person who violates or fails to comply
244 with the provisions of this chapter shall be personally liable for all costs, interests,
245 penalties and taxes due under this chapter plus a penalty equal to twelve (12) percent of
246 the tax due. For good cause shown, the finance director may waive or reduce all or part
247 of any penalty imposed under this subsection.

248
249 3.70.100 Civil fraud.

250 A. A civil fraud penalty may be assessed against a person in addition to a penalty for
251 failure to file or failure to pay.

252
253 B. If it is determined by the finance director that a tax deficiency or part of a tax
254 deficiency is due to fraud, then a penalty will be added to the tax. The penalty is 50
255 percent of the deficiency due or \$500.00, whichever is greater. The penalty is computed
256 on the total amount of the deficiency due.

257
258 C. Fraud is the intentional misrepresentation of a material fact with the intent to evade
259 payment of tax which the person is believed to owe. The person must have had
260 knowledge of its falsity and intended that it be acted upon or accepted as the truth.

261
262 D. To establish civil fraud, the finance director must prove by clear and convincing
263 evidence that:

264
265 1. The tax liability was understated; and

266 2. The understatement was the result of an intent to evade tax.

267
268 E. An intent to evade tax may be demonstrated by any relevant evidence, including but
269 not limited to the following:

- 270
271 1. The person has provided false explanations regarding understated or omitted
272 amounts of marijuana cultivated or transferred;
273 2. The person has provided falsified or incomplete source documents;
274 3. The person has not justified an omission or understatement of a significant
275 amount of marijuana cultivated or transferred;
276 4. The person has substantially overstated a deduction and has failed to justify
277 the overstatement.

278
279 3.70.110 Tax lien.

280 A. If any person who is liable to pay a tax or license fee under this chapter neglects or
281 refuses to pay the tax or licensee fee after demand, the amount, including interest,
282 additional amounts, or assessable penalty together with costs, is a lien in favor of the
283 borough upon all property and rights to property, real or personal, belonging to that
284 person.

285
286 B. The lien imposed by this section arises upon delinquency and continues until the
287 amount is paid or a judgment against the person arising out of the liability is satisfied.

288
289 C. A lien arising out of a tax due under this chapter, including the penalties and interest
290 on the tax, shall be prior, paramount, and superior to all other liens, mortgages,
291 hypothecation, conveyances, and assignments, upon all real and personal property of
292 the person liable for the tax and upon all the real and personal property used with the
293 permission of the owner to carry on the business which is subject to the tax.

294
295 D. The lien on personal and real property may be enforced in a manner similar to that
296 provided by AS 29.45.300 through 29.45.480 for enforcement of real and personal
297 property tax liens.

298
299 3.70.120 Interest on unpaid tax.

300 In addition to any penalties imposed by this chapter, interest at the rate of twelve (12)
301 percent per annum shall be charged on the unpaid balance of delinquent taxes.

302
303 3.70.130 Taxpayer, licensee, or other person remedies.

304 A. Any person aggrieved by any action of the finance director in issuing, suspending,
305 revoking, or refusing to issue any license under this chapter or in fixing the amount of
306 taxes, penalties, interest, or costs under this chapter may apply to the borough clerk and
307 request a hearing within 30 days from the date the finance director mails the notice of the
308 finance director action. Upon timely application under this subsection or a hearing, the
309 assembly shall hold a hearing to determine whether a correction is warranted. Hearings
310 before the assembly under this subsection may, at the option of the assembly, be

311 conducted by an administrative hearing officer designated by the assembly. The hearing
312 officer shall conduct the hearing and prepare findings and conclusions. These findings
313 and conclusions must be forwarded to the assembly for adoption, rejection, or
314 modification and issuance of a final order or decision by the assembly. An application for
315 a hearing must notify the borough clerk of the specific action complained of and amount
316 of tax, interest, cost, or penalty contested and the reason it is contested. After receipt of
317 a written decision by the assembly, a person may appeal to the Superior Court of the
318 Third Judicial District in accordance with the Alaska Appellate Court rules. The person
319 shall be given access to the department's file in the matter for preparation of the appeal.

320
321 B. A request for appeal is filed on the date it is personally delivered, or is delivered to the
322 borough clerk by the United States Postal Service, the date of the postmark stamped on
323 the properly addressed cover in which the request is mailed. If the due date falls on
324 Saturday, Sunday, or a borough observed holiday, the due date is the next working day.
325 A current mailing address must be provided to the borough clerk with the request for
326 appeal, and any change in mailing address after the request for appeal is filed must be
327 reported to the borough clerk.

328
329 C. If the notice to the person pursuant to subsection (A) of this section shows an amount
330 due, the uncontested portion of the amount due must be paid within 30 days after the
331 date of the notice. If the uncontested amount is not paid within 30 days, collection action
332 will be taken on that amount even if the person has filed a request for appeal. Payment of
333 the total amount due may be made any time before the hearing. If the finance director has
334 reason to believe that collection of the total amount due might jeopardize by delay,
335 immediate payment of the total amount will be demanded and the finance director may
336 pursue any collection remedies provided by law. Payment in full does not affect the
337 person's right to a hearing.

338
339 D. If a person requests a hearing and fails to appear at the hearing, the assembly or
340 hearing officer may issue a decision without taking evidence from that person, unless
341 that person shows reasonable cause for failure to appear within seven days after the
342 date scheduled for the hearing.

343
344 E. Taxes, licenses fees, penalties and interest declared to be due in the final
345 administrative decision must be paid within thirty (30) days after the date of the decision,
346 or a bond must be filed with the court in accordance with the Alaska Court Rules of
347 Appellate Procedures.

348 3.70.140 Inspection and maintenance of documents and records.

349 A. Marijuana cultivation facilities shall keep complete and accurate records to support
350 the information to be included in the monthly tax returns required by this chapter,
351 including information regarding transfers. The records must include an accounting that
352 inventories live plants, trimmings, and any dried product on the first and last day of each
353 month including:
354
355

356 1. An invoice, sales receipt or other record memorializing the transfer of marijuana
357 from a marijuana cultivation facility, which must separately state the amount of
358 tax due after the sale or transfer.

359
360 B. Any person selling marijuana at a retail marijuana store who cannot produce records
361 showing taxes were paid on any marijuana in their possession are secondarily liable for
362 the unpaid tax on marijuana.

363
364 C. Persons subject to the chapter shall keep such other documents and records as the
365 finance director prescribes.

366
367 D. The finance director may, after twenty-four (24) hour notice and during business
368 hours, enter the business premises of a licensee under this chapter, so far as it may be
369 necessary for the purpose of examining such products and the related business records.

370
371 3.70.150 Administrative regulations.

372 The finance director may adopt policies and procedures providing for the application and
373 interpretation of this chapter and provide forms for reporting and collecting the tax
374 imposed by this chapter.

375
376 3.70.160 Confidentiality of records.

377 A. All tax returns, documents, records, and/or reports filed with the borough pursuant to
378 this chapter and all data obtained from tax returns, documents, records, and/or reports
379 are confidential as provided by KIBC 2.40.100 and may not be released for inspection by
380 any person except the licensee, mayor, treasurer, borough attorney, or the assembly;
381 provided, however, that such data may be released upon court order.

382
383 B. It is the duty of the borough clerk to safely keep tax returns, documents, records,
384 and/or reports and all data thereof secure from public and private inspection except as
385 provided by this chapter.

386
387 C. This section does not prohibit the borough from compiling and publishing statistical
388 analysis concerning the data submitted; provided, that no identification of particular tax
389 returns, documents, records, and/or reports is made. Nothing in this section shall be
390 deemed to prohibit the internal auditor from examining the tax returns, documents,
391 records, and/or reports; provided, that no information obtained from specific or identified
392 tax returns shall be made available to persons other than those authorized to review
393 them under subsection (A) of this section.

394
395 Chapter 5.02
396 MARIJUANA BUSINESSES

397
398 ~~* Code reviser's note: Section 2 of Ord. FY2016-17A reads, "The sunset date of February 28,~~
399 ~~2017 established by Ordinance FY 2016-17 is hereby amended to April 30, 2017." *~~
400

401 ~~5.02.010 Marijuana businesses prohibited.~~
402 ~~The operation of marijuana cultivation facilities, marijuana product manufacturing facilities,~~
403 ~~marijuana testing facilities, and retail marijuana stores anywhere within the Kodiak Island~~
404 ~~Borough is hereby prohibited. [Ord. FY2016-17 §4, 2016].~~

405
406 ~~5.02.020 Enforcement.~~

407 ~~A. A violation of a provision of this chapter is an offense punishable by a penalty not to exceed a~~
408 ~~fine of \$1,000, in addition to the surcharge required under AS 12.55.039. Each day that a~~
409 ~~violation continues constitutes a separate violation and is subject to a separate fine.~~

410
411 ~~B. Notwithstanding the availability of any other remedy provided by the provisions of this code,~~
412 ~~the borough or any person aggrieved by a violation of this chapter may institute a civil action for~~
413 ~~injunctive relief to enforce these provisions in any court of competent jurisdiction. [Ord. FY2016-~~
414 ~~17 §4, 2016].~~

415
416 5.02.010 Prohibitions.

417 5.02.020 Cooperation with State Marijuana Control Board.

418 5.02.030 State license renewal procedure.

419 5.02.040 New state license and transfer procedure.

420 5.02.050 Borough license for marijuana businesses—general.

421 5.02.060 Issuance of borough license for marijuana businesses.

422 5.02.070 Renewal of borough license for marijuana businesses.

423 5.02.080 Ownership change and transfer of borough license for marijuana businesses.

424 5.02.090 Suspension or revocation of license.

425 5.02.100 Fees.

426
427 5.02.010 Prohibitions.

428 The commercial manufacture or sale of edible marijuana products as defined by state law
429 is prohibited.

430
431 5.02.020 Cooperation with State Marijuana Control Board.

432 It is declared the policy of the borough to cooperate with and aid the Marijuana Control
433 Board for the State of Alaska in determining the fitness of applicants requesting a
434 transfer, renewal, or issuance of a new marijuana business license.

435
436 5.02.030 State license renewal procedure.

437 A. Upon receipt of notice from the Marijuana Control Board of the board's receipt of
438 intent to approve the renewal of a marijuana business license:

- 439
440 1. The clerk shall investigate to determine if the borough has an interest which
441 can be protected by protesting the approval of the application for renewal; and
442 2. The clerk shall check with the Kodiak Police Department and Alaska State
443 Troopers on the number of trouble reports at the place of business.
444

445 B. If the clerk determines that the borough has no interest in protesting the renewal, the
446 clerk shall advise the Marijuana Control Board of continued nonobjection to renewal in
447 writing. If it is determined that the renewal could be protested based on unpaid taxes or
448 trouble reports, it shall be scheduled for review by the borough assembly.

449
450 5.02.040 New state license and transfer procedure.

451 A. Upon receipt of notice from the Marijuana Control Board of the board's receipt of an
452 application or intent to approve the transfer or issuance of a new marijuana business
453 license:

454
455 1. The clerk shall investigate to determine if the borough has an interest which
456 can be protected by protesting the approval of the application for transfer or
457 issuance of a new marijuana business license;

458 2. The clerk shall check with the state troopers on the number of trouble reports at
459 the place of business;

460 3. The clerk shall duly advertise and place the matter of the application upon the
461 agenda for the next meeting of the assembly in order that citizens may express
462 their desires as to whether or not the assembly should approve or protest the
463 transfer or issuance of the marijuana business license; and

464 4. The notice of intent to establish a new marijuana business license or transfer of
465 location of an existing license shall be mailed to each landowner within 1,500 feet
466 of the proposed location by the clerk. A transfer from one person to another of a
467 marijuana business license, even if the location stays the same, shall be
468 considered a request for a new marijuana business license by the Kodiak Island
469 Borough. The applicant shall pay fees based on the adopted schedule of fees.

470
471 B. The assembly, after public hearing, shall determine by motion if a protest to the
472 application is to be lodged with the Alaska Marijuana Control Board. If a protest is
473 lodged, the manager and attorney are authorized to use any document or evidence
474 necessary to effectively advance the position of the borough at any hearing before the
475 Alaska Marijuana Control Board.

476
477 5.02.050 Borough license for marijuana businesses—general.

478 A. A license required by this chapter is in addition to any other license required by law.

479
480 B. A license issued by the borough shall include:

481
482 1. The name and address of the licensee;

483 2. The type of business to be conducted;

484 3. The address at which the business is conducted;

485 4. A license number; and

486 5. The year for which the license is issued.

487
488 C. The finance director may refuse to issue a license if there is reasonable cause to
489 believe that the applicant has willfully withheld information or if there is reasonable

490 cause to believe that information submitted in the application is false, misleading, or
491 otherwise not made in good faith.

492
493 D. A license issued under this chapter shall be prominently displayed at the licensee's
494 place of business.

495
496 E. A business whose license is lost, stolen, or defaced shall immediately file an
497 application with the finance department for reissuance of the license for the balance of
498 the unexpired year.

500 5.02.060 Issuance of borough license for marijuana businesses.

501
502 A. Marijuana businesses are required to obtain a license from the borough finance
503 department. In order to obtain this license an application must:

- 504
505 1. Complete a licensing application form provided by the finance department;
- 506 2. Provide proof of initial zoning compliance, issued per KIBC 17.15.060;
- 507 3. Provide a copy of the State of Alaska Marijuana Business license issued by the
508 Alaska Marijuana Control Board;
- 509 4. Provide a copy of the certificate(s) of registration for marijuana-specific taxes
510 imposed in applicable jurisdictions; and
- 511 5. Pay licensing fee per KIBC 5.02.100.

512
513 5.02.070 Renewal of borough license for marijuana businesses.

514
515 A. Marijuana businesses are required to renew their marijuana business license annually
516 with the finance department. In order to renew their license a marijuana business must:

- 517
518 1. Provide a copy of the State of Alaska marijuana business license renewal
519 issued by the Alaska Marijuana Control Board; and
- 520 2. Pay license renewal fee per KIBC 5.02.100.

521
522 B. Marijuana business license renewal must occur prior to August 31 each calendar year.
523 On or before June 30 each year, the finance director shall send written renewal notices to
524 licensees at the address on file with the finance department.

525
526 C. A licensee is not excused from filing a renewal application as required in this section,
527 even if the licensee fails to receive a renewal notice from the finance director.

528
529 D. Exceptions to KIBC 5.02.070(B) may be made on a case by case basis, based on the
530 status of the marijuana business' license renewal application with the Alaska Marijuana
531 Control Board.

532
533 5.02.080 Ownership change and transfer of borough license for marijuana businesses.

534 A. A license under this chapter is not transferrable and expires on the date of an
535 ownership change.

536
537 B. Transferors must surrender all licenses not later than 5 days after the effective date of
538 an ownership change.

539
540 C. Transferees must obtain a license per KIBC 5.02.060. Transferees must provide proof
541 of conveyed interest.

542
543 5.02.090 Suspension or revocation of license.

544 A. A licensee shall surrender a license with 5 days after:

- 545
546 1. A revocation of license;
547 2. A cessation of business;
548 3. A change of ownership; or
549 4. A change of place of business.

550
551 B. The finance director may suspend or revoke a license under this chapter:

- 552
553 1. For violation of this chapter or a regulation of the borough adopted pursuant to
554 this chapter; or
555 2. If a licensee ceases to act in the capacity for which the license was issued.

556
557 C. No marijuana business whose license is suspended or revoked shall operate during
558 suspension or revocation. No disciplinary proceeding or action is barred or abated by
559 the expiration, surrender, or renewal of a license issued under this chapter.

560
561 D. The borough clerk will inform the Alaska Marijuana Control Board of a licensee's
562 failure to pay tax due or to file a return as required by KIBC 3.70.050 and will initiate
563 license suspension or revocation proceedings by filing an accusation as provided in AS
564 17.38.090.

565
566 5.02.100 Fees.

567
568 A. A part of the costs for processing marijuana business licenses shall be covered by a
569 fee payable to the borough and shall be paid at the time of licensing. These fees will be
570 established annually by resolution of the assembly.

571
572 B. The finance director shall not refund any license fee paid pursuant to this chapter
573 upon the surrender or revocation of a license after the beginning of the license year, with
574 the exception that upon application, the finance director will refund a license fee shown
575 to have been paid or collected in error.

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578

Chapter 17.15
GENERAL PROVISIONS AND USE REGULATIONS

579
580 **17.15.120 Buffers for marijuana businesses**

581 **In addition to any buffers imposed by any other applicable state or federal law, marijuana**
582 **businesses may not be established on or within 500 feet of school grounds.**

583
584 **Chapter 17.20**

585 **FEES**

586
587 **17.20.010 Fees.**

588 **A.** A part of the costs for maps, legal publications, notices to affected property owners, and
589 other administrative expenses involved in processing land use change applications shall be
590 covered by a fee, established by resolution of the assembly, payable to the borough. The fees
591 apply to the following:

- 592
593 **1. A.** Conditional use permit;
594 **2. B.** Contract zoning;
595 **3. C.** Planning and zoning commission review;
596 **4. D.** Variance; ~~and~~
597 **5. E.** Zoning change; ~~and~~
598 **6. Zoning compliance permit.**

599
600 **Chapter 17.25**

601 **Definitions**

602
603 **17.25.020 A definitions.**

604 "Agricultural activities" means the production, keeping, or maintenance, for sale, lease, or
605 personal use, of plants and animals useful to people. **This does not include any uses**
606 **involving or related to commercial marijuana activities.**

607 "Airport elevation" means the established elevation of the highest point of the usable landing
608 area.

609 Airport, Municipal. "Municipal airport" means the City of Kodiak Municipal Airport and Lilly Lake.
610 Airport, Utility. "Utility airport" means any airport in the borough designed and/or constructed to
611 serve aircraft in approach category A (speed less than 91 knots).

612 "Alley" means a public way designed and intended to provide only a secondary means of
613 access to any property abutting thereon

614 "Alteration" means any change, addition, or modification in the construction, location, or use
615 classification.

616 Apartment House. For "apartment house," see "Dwelling, multiple-family," KIBC 17.25.050.

617 "Approach surface" means an approach surface longitudinally centered on the extended runway
618 centerline and extending outward and upward from each end of a runway. The inner edge of the
619 approach surface is the same width as the runway and it expands uniformly to a width of 1,500
620 feet of each end of the runway. The approach surface extends for a horizontal distance of 5,000
621 feet at a slope of 20:1. No building or structure may be constructed or erected nor may any
622 other object be stored or placed in such a manner as to protrude into the approach surfaces.

623 A. The approach surfaces for the municipal airport extend upward and outward from the south
624 end of the existing lake surface (towards Larch Street) and the north end of the gravel runway
625 (Von Scheele Way) only.

626 "Automobile wrecking" means the dismantling of used motor vehicles or trailers or the storage or
627 sale of parts from dismantled or partially dismantled, obsolete, or wrecked vehicles.

628

629 **17.25.140 M definitions**

630 "Marijuana" means all parts of the plant of the genus Cannabis whether growing or not,
631 the seeds thereof, the resin extracted from any part of the plant, and every compound,
632 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin,
633 including marijuana concentrate; "marijuana" does not include fiber produced from the
634 stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is
635 incapable of germination, or the weight of any other ingredient combined with marijuana
636 to prepare topical or oral administrations, food, drink, or other products.

637 "Marijuana Cultivation, Limited" means a legally licensed limited cultivation facility as
638 defined by state law. State law dictates that an area less than 500 square feet may be
639 under cultivation.

640 "Marijuana Cultivation, Standard" means a legally licensed standard cultivation facility
641 as defined by state law. No limit is set by state law on size of area under cultivation.

642 "Marijuana manufacturing facility" means a legally licensed commercial marijuana
643 product manufacturing facility as defined by state law, which can purchase marijuana,
644 manufacture, prepare, and package marijuana products, and sell marijuana and
645 marijuana products to other marijuana product manufacturing facilities and to retail
646 marijuana stores. These facilities may not sell marijuana products to consumers.

647 "Marijuana retail store" means a legally licensed commercial retail marijuana store as
648 defined by state law. A marijuana retail store may sell marijuana accessories as defined
649 by state law.

650 "Marijuana testing facility" means a legally licensed commercial marijuana testing facility
651 defined by state law that is registered to analyze and certify the safety and potency of
652 marijuana.

653 "Motel" means a group of one or more detached or semidetached buildings containing two or
654 more individual dwelling units and/or guest rooms, designed for or used temporarily by
655 automobile tourists or transients, with a garage attached or parking space conveniently located
656 to each unit, including groups designated as auto courts, motor lodges, or tourist courts.

657

658

Chapter 17.50

659

C – CONSERVATION DISTRICT

660

661 **17.50.020 Permitted principal uses and structures.**

662 The following land uses and activities are permitted in the conservation district:

663 A. All of the permitted principal uses and structures in the NU natural use zoning district;

664 B. Agricultural activities and related structures, including commercial livestock grazing; with a
665 written conservation plan between the land owner or lease holder and the Kodiak soil and water
666 conservation district, in those areas historically established for livestock grazing consisting of

- 667 the northeast portion of Kodiak Island east of a line drawn from Crag Point on Sharatin Bay to
- 668 the mouth of Wild Creek in Ugak Bay, and including Chirikof Island and Sitkinak Island;
- 669 C. Commercial fishing activities and related structures, including mariculture activities and
- 670 related structures;
- 671 D. Commercial guiding and/or outfitting activities (e.g., hunting, fishing, photography, etc.) and
- 672 related structures (e.g., lodges) containing provisions for no more than six clients;
- 673 E. Parks;
- 674 F. Recreational activities (including recreational mining activities);
- 675 G. Single-family dwellings/recreational cabins and associated home occupations;
- 676 H. Timber harvesting activities and transportation and utility facilities constructed in support of
- 677 permitted timber harvesting activities;
- 678 I. Churches;
- 679 J. Bed and breakfasts;
- 680 K. Vacation homes; **and**
- 681 L. Hoop houses;
- 682 **M. Marijuana cultivation, limited; and**
- 683 **N. Marijuana cultivation, standard (lots equal to or greater than 5 acres).**

684

685 **17.50.040 Conditional Uses**

686 The following land uses and activities may be allowed by obtaining a conditional use permit in

687 accordance with the provisions of Chapter 17.200 KIBC:

- 688 A. All of the conditional uses in the NU natural use zoning district;
- 689 B. Airstrips;
- 690 C. Commercial livestock grazing, excluding those areas historically established for livestock
- 691 grazing as described in KIBC17.50.020(B), where it is a permitted use;
- 692 D. Lodges that have provisions for more than six clients;
- 693 E. Logging camps and timber harvesting support facilities (e.g., log transfer facilities), including
- 694 timber products processing facilities;
- 695 F. Nonrecreational mineral extraction activities and related structures;
- 696 G. Seafood processing facilities and related structures;
- 697 H. Transportation and utility facilities not otherwise permitted and not otherwise used in
- 698 conjunction with permitted uses (e.g., roads, pipelines, communications facilities, etc.); **and**
- 699 I. Recreational vehicle parks; **and**
- 700 **J. Marijuana cultivation, standard (lots less than 5 acres).**

701

702 **Chapter 17.60**

703 **RR2 – RURAL RESIDENTIAL TWO DISTRICT**

704

705 **17.60.030 Conditional uses.**

706 The following land uses may be allowed by obtaining a conditional use permit in accordance

707 with the provisions of Chapter 17.200 KIBC:

- 709 A. Fireworks stands; **and**
- 710 B. Recreational vehicle parks; **and**
- 711 **C. Marijuana cultivation, limited (lots equal to or greater than 2 acres).**

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Chapter 17.70
RR1 – RURAL RESIDENTIAL ONE DISTRICT

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17.70.030 Conditional uses.

717 The following land uses may be allowed by obtaining a conditional use permit in accordance
718 with the provisions of Chapter 17.200 KIBC:

719 A. Fireworks stands; ~~and~~

720 B. Recreational vehicle parks; and

721 C. Marijuana cultivation, limited (lots equal to or greater than 40,000 square feet).

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Chapter 17.90
B – BUSINESS DISTRICT

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17.90.020 Permitted uses.

727 The following land uses and activities are permitted in the business district:

729 A. Accessory buildings;

730 B. Assembly halls;

731 C. Art galleries;

732 D. Automobile repair garages and dealerships;

733 E. Banks;

734 F. Building material suppliers;

735 G. Dry-cleaning establishments;

736 H. Eating and drinking establishments;

737 I. Fraternal organizations and private clubs;

738 J. Funeral parlors;

739 K. Gasoline service stations;

740 L. Government offices;

741 M. Hotels;

742 N. Laundry establishments;

743 O. Libraries;

744 P. Machine shops;

745 Q. Marinas and boat moorage;

746 R. Mini-warehouses;

747 S. Motels;

748 T. Multiple-family dwellings;

749 U. Museums;

750 V. Offices;

751 W. Outdoor storage;

752 X. Printing shops;

753 Y. Professional offices and clinics;

754 Z. Public parks and open spaces;

755 AA. Recreational related uses;

756 BB. Retail stores and services;

757 CC. Single-family and two-family dwellings, if located within a structure containing a permitted
758 business use, not exceeding 50 percent of the area of the structure, and not located on the
759 street level of the structure except that an owner-occupied single-family dwelling may be
760 allowed within a street level business structure, so long as the residential portion is
761 predominantly located in the rear of the structure (away from the commercial building facade(s)
762 for corner and multi-frontage lots), the use of the dwelling is subsidiary and incidental to the
763 principal commercial use, and there is no indication, other than a separate entrance on the
764 street level building facade, that a residential use is located within the structure;
765 DD. Theaters; **and**
766 EE. Radio stations;
767 **FF. Marijuana retail stores;**
768 **GG. Marijuana testing facilities; and**
769 **HH. Marijuana manufacturing facilities.**
770

771 **17.90.030 Conditional uses.**

772 The following land uses and activities may be allowed by obtaining a conditional use permit in
773 accordance with the provisions of Chapter 17.200 KIBC:
774

- 775 A. Churches;
- 776 B. Hospitals;
- 777 C. Recreational vehicle parks;
- 778 D. Mobile home parks; **and**
- 779 E. Warehouses-;
- 780 **F. Marijuana cultivation, limited; and**
- 781 **G. Marijuana cultivation, standard.**

782
783 **Chapter 17.105**
784 **I – INDUSTRIAL DISTRICT**
785

786 **17.105.010 Permitted uses.**

787 The following uses of the land are permitted in the industrial district:
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- 789 A. All uses permitted in B business district, except residential;
- 790 B. Aircraft, automobile and truck assembly or remodeling;
- 791 C. Asphalt batch and mixing plant, manufacturing or refining;
- 792 D. Assembly of music and vending machines;
- 793 E. Auction business;
- 794 F. Beverage manufacturing;
- 795 G. Boat building, repair and storage;
- 796 H. Cabinet shops;
- 797 I. Concrete mixing batch plants;
- 798 J. Coal storage yards;
- 799 K. Dwelling units for a watchman or caretaker on the premises;
- 800 L. Dyeing plants;
- 801 M. Gravel or sand extraction;

- 802 N. Junkyards, wrecking, salvage or scrap metal operations;
- 803 O. Lumber mills and sawmills;
- 804 P. Lumberyard, building material manufacture or sales;
- 805 Q. Machine or blacksmith shops;
- 806 R. Manufacturing, servicing or repair of light consumer goods, such as appliances, batteries,
- 807 furniture, and garments;
- 808 S. Metal working or welding shops;
- 809 T. Motor freight terminals;
- 810 U. Outdoor storage;
- 811 V. Paint shops;
- 812 W. Public uses;
- 813 X. Rock crushers;
- 814 Y. Seafood processing establishments and their dormitories;
- 815 Z. Sewage treatment plants;
- 816 AA. Slaughterhouses;
- 817 BB. Steel fabrication shops or yards;
- 818 CC. Vehicle impound lots;
- 819 DD. Vocational or trade schools;
- 820 EE. Utility installations; **and**
- 821 FF. Warehousing within an enclosed structure;
- 822 **GG. Marijuana cultivation, limited;**
- 823 **HH. Marijuana cultivation, standard;**
- 824 **II. Marijuana manufacturing facilities;**
- 825 **JJ. Marijuana retail stores; and**
- 826 **KK. Marijuana testing facilities.**

Chapter 17.110

RB – RETAIL BUSINESS DISTRICT

17.110.020 Permitted principal uses and structures.

The following land uses and activities are permitted in the retail business district:

- 834 A. Automobile service stations;
- 835 B. Boardinghouses, hotels and motels;
- 836 C. Commercial recreational facilities (e.g., health clubs, racquetball courts, ice rinks, etc.);
- 837 D. Multifamily dwellings (not located on the street level of the structure);
- 838 E. Parks and playgrounds;
- 839 F. Retail stores and service shops (e.g., beauty shops, grocery stores, clinics, professional
- 840 offices, etc.);
- 841 G. Restaurants and bars;
- 842 H. Single-family and two-family dwellings, if located within a structure containing a permitted
- 843 business use, not exceeding 50 percent of the area of the structure, and not located on the
- 844 street level of the structure;
- 845 I. Schools/daycare facilities;
- 846 J. Shopping centers; **and**

847 K. Theaters, auditoriums, community halls;

848 L. Marijuana manufacturing facilities

849 M. Marijuana retail stores; and

850 N. Marijuana testing facilities.

851

852 **17.110.040 Conditional uses.**

853 The following land uses and activities may be allowed by obtaining a conditional use permit in
854 accordance with the provisions of Chapter 17.200 KIBC:

855

856 A. Automobile and boat sales, storage, and repair;

857 B. Churches;

858 C. Institutional facilities (e.g., hospitals, fire stations, group homes, correctional facilities, etc.);

859 D. Outdoor storage, when screened by a sight-obscuring fence a minimum of six feet in height;

860 E. Utility and service uses (e.g., substations, etc.);

861 F. Warehouses;

862 G. Wholesaling and distributing operations (excluding bulk fuel operations); **and**

863 H. Recreational vehicle parks;

864 I. Marijuana cultivation; limited; and

865 J. Marijuana cultivation, standard.

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Chapter 17.120

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LI – LIGHT INDUSTRIAL DISTRICT

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870 **17.120.020 Permitted principal uses and structures.**

871 The following land uses and activities are permitted in the light industrial district:

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873 A. Automobile service stations;

874 B. Automobile and boat sales, storage, and repair;

875 C. Manufacturing (e.g., boat building, crab pot construction, cabinet making, welding and
876 fabrication, etc.);

877 D. Outdoor storage, when screened by a sight-obscuring fence a minimum of six feet in height;

878 E. Retail stores and service shops (e.g., beauty shops, clinics, grocery stores, professional
879 offices, etc.);

880 F. Warehouses;

881 G. Wholesaling and distributing operations (excluding bulk fuel operations);

882 H. A dwelling unit used by the owner or by a caretaker, manager, and family when located on
883 the premises where they are employed in such a capacity;

884 I. Utility and service uses (e.g., substations, etc.); **and**

885 J. Kodiak Municipal Airport (landing strip and Lilly Lake float plane access), until adequate
886 replacement facilities are established;

887 K. Marijuana cultivation, limited;

888 L. Marijuana cultivation, standard;

889 M. Marijuana manufacturing facilities;

890 N. Marijuana retail stores; and

891 O. Marijuana testing facilities.

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Effective Date: This ordinance takes effect upon adoption. (Note: KIBC 2.30.070 states an ordinance takes effect upon adoption or at a later date specified in the ordinance.)

**ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS TWENTIETH DAY OF APRIL, 2017.**

KODIAK ISLAND BOROUGH



Daniel A. Rohrer, Mayor

ATTEST:



Nova M. Javier, MMC, Clerk

VOTES:

Ayes: Crow, LeDoux, Skinner, Smiley
Noes: Symmons, Townsend
Absent: Van Daele

Introduced by: Borough Manager
Drafted by: Finance Director
Introduced on: 03/23/2017
Public Hearing Date: 04/06/2017
Adopted on: 04/06/2017

**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2017-28**

AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH ENACTING A NEW KODIAK ISLAND BOROUGH CODE SECTION WITHIN TITLE 5, MARIJUANA BUSINESSES, 5.02.005, LOCAL REGULATORY AUTHORITY, TO DESIGNATE THE BOROUGH ASSEMBLY AS THE LOCAL REGULATORY AUTHORITY FOR THE KODIAK ISLAND BOROUGH, PURSUANT TO A.S. 17.38.210.

WHEREAS, the passage of Ballot Measure #2 in the 2014 State of Alaska Election has legalized various marijuana-related activities, and authorized the State to regulate and tax such activities; and

WHEREAS, AS 17.38.210 authorizes local governments to enact ordinances and regulations governing the time, place, manner, and number of marijuana establishment operations that do not conflict with State law; and

WHEREAS, AS 17.38.210 authorizes the Borough to designate a local regulatory authority that is responsible for processing any applications submitted for a registration to operate a marijuana establishment within the Borough; and,

WHEREAS, AS 17.38.200 provides that a copy of each application and one half of any application fee paid to the State of Alaska will be forwarded to the applicable local regulatory authority; and,

WHEREAS, designating the Kodiak Island Borough Assembly as the local regulatory authority will permit the Borough to provide input to the State Marijuana Control Board regarding applications for marijuana establishments that, if granted, will be situated within the Borough, and to receive one half of the application fees for such marijuana establishments.

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT:

Section 1: This ordinance is of a general and permanent nature and shall become a part of the Kodiak Island Borough Code of Ordinances.

Section 2: Chapter 5.02.005 of the Kodiak Island Borough Code of Ordinances is amended to read as follows:

5.02.005 Local regulatory authority.

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A. The Kodiak Island Borough Assembly is the local regulatory authority for the regulation of marijuana establishments in all areas of the borough outside of cities as provided by AS 17.38 and any implementing regulations.


B. The Assembly is authorized to provide comments to the State of Alaska Marijuana Control Board regarding any application for a license to operate any marijuana establishment within the Kodiak Island Borough, consistent with the standards set forth at AS 17.38 and 3 AAC 306.

Effective Date: This ordinance takes effect immediately upon adoption.

**ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS SIXTH DAY OF APRIL, 2017**

KODIAK ISLAND BOROUGH

Daniel A. Rohrer, Mayor

ATTEST:

Nova M. Javier, MMC, Clerk

UNANIMOUS VOTE:
Ayes: Skinner, Smiley, Symmons, Townsend, Van Daele, LeDoux
Absent: Crow

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Chapter 17.38 THE REGULATION OF MARIJUANA

Sec. 17.38.010. Purpose and findings.

(a) In the interest of allowing law enforcement to focus on violent and property crimes, and to enhance individual freedom, the people of the state of Alaska find and declare that the use of marijuana should be legal for persons 21 years of age or older.

(b) In the interest of the health and public safety of our citizenry, the people of the state of Alaska further find and declare that the production and sale of marijuana should be regulated so that

(1) individuals will have to show proof of age before purchasing marijuana;

(2) legitimate, taxpaying business people, and not criminal actors, will conduct sales of marijuana; and

(3) marijuana sold by regulated businesses will be labeled and subject to additional regulations to ensure that consumers are informed and protected.

(c) The people of the state of Alaska further declare that the provisions of this Act are not intended to diminish the right to privacy as interpreted by the Alaska Supreme Court in *Ravin v. State of Alaska*.

(d) Nothing in this Act proposes or intends to require any individual or entity to engage in any conduct that violates federal law, or exempt any individual or entity from any requirement of federal law, or pose any obstacle to federal enforcement of federal law.

Sec. 17.38.020. Personal use of marijuana.

Notwithstanding any other provision of law, except as otherwise provided in this chapter, the following acts, by persons 21 years of age or older, are lawful and are not criminal or civil offenses under Alaska law or the law of any political subdivision of Alaska or bases for seizure or forfeiture of assets under Alaska law:

(1) possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;

(2) possessing, growing, processing, or transporting not more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown, except that not more than 12 marijuana plants, with six or fewer being mature, flowering plants, may be present in a single dwelling regardless of the number of persons 21 years of age or older residing in the dwelling;

(3) transferring one ounce or less of marijuana and up to six immature marijuana plants to a person who is 21 years of age or older without remuneration;

(4) consumption of marijuana, except that nothing in this chapter permits the consumption of marijuana in public; and

(5) assisting, aiding, or supporting another person who is 21 years of age or older in any of the acts described in (1) - (4) of this section.

Sec. 17.38.030. Restrictions on personal cultivation, penalty.

(a) The personal cultivation of marijuana described in AS 17.38.020 (2) is subject to the following terms:

(1) marijuana plants shall be cultivated in a location where the plants are not subject to public view without the use of binoculars, aircraft, or other optical aids;

(2) a person who cultivates marijuana must take reasonable precautions to ensure the plants are secure from unauthorized access;

(3) marijuana cultivation may only occur on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property.

(b) A person who violates this section while otherwise acting in

compliance with AS 17.38.020(2) is guilty of a violation punishable by a fine of up to \$750.

Sec. 17.38.040. Public consumption banned, penalty.

It is unlawful to consume marijuana in public. A person who violates this section is guilty of a violation punishable by a fine of up to \$100.

Sec. 17.38.050. False identification, penalty.

(a) A person who is under 21 years of age may not present or offer to a marijuana establishment or the marijuana establishment's agent or employee any written or oral evidence of age that is false, fraudulent, or not actually the person's own, for the purpose of

(1) purchasing, attempting to purchase, or otherwise procuring or attempting to procure marijuana or marijuana products; or

(2) gaining access to a marijuana establishment.

(b) A person who violates this section is guilty of a violation punishable by a fine of up to \$400.

Sec. 17.38.060. Marijuana accessories authorized.

Notwithstanding any other provision of law, it is lawful and shall not be an offense under Alaska law or the law of any political subdivision of Alaska or be a basis for seizure or forfeiture of assets under Alaska law for persons 21 years of age or older to manufacture, possess, or purchase marijuana accessories, or to distribute or sell marijuana accessories to a person who is 21 years of age or older.

Sec. 17.38.070. Lawful operation of marijuana-related facilities.

(a) Notwithstanding any other provision of law, the following acts, when performed by a retail marijuana store with a current, valid registration, or a person 21 years of age or older who is acting in the person's capacity as an owner, employee, or agent of a retail marijuana store, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

(1) possessing, displaying, storing, or transporting marijuana or marijuana products, except that marijuana and marijuana products may not be displayed in a manner that is visible to the general public from a public right-of-way;

(2) delivering or transferring marijuana or marijuana products to a marijuana testing facility;

(3) receiving marijuana or marijuana products from a marijuana testing facility;

(4) purchasing marijuana from a marijuana cultivation facility;

(5) purchasing marijuana or marijuana products from a marijuana product manufacturing facility; and

(6) delivering, distributing, or selling marijuana or marijuana products to consumers.

(b) Notwithstanding any other provision of law, the following acts, when performed by a marijuana cultivation facility with a current, valid registration, or a person 21 years of age or older who is acting in the person's capacity as an owner, employee, or agent of a marijuana cultivation facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

(1) cultivating, manufacturing, harvesting, processing, packaging, transporting, displaying, storing, or possessing marijuana;

(2) delivering or transferring marijuana to a marijuana testing facility;

(3) receiving marijuana from a marijuana testing facility;

(4) delivering, distributing, or selling marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store;

(5) receiving or purchasing marijuana from a marijuana cultivation facility; and

(6) receiving marijuana seeds or immature marijuana plants from a person 21 years of age or older.

(c) Notwithstanding any other provision of law, the following acts, when performed by a marijuana product manufacturing facility with a current, valid registration, or a person 21 years of age or older who is acting in the person's capacity as an owner, employee, or agent of a marijuana product manufacturing facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

(1) packaging, processing, transporting, manufacturing, displaying, or possessing marijuana or marijuana products;

(2) delivering or transferring marijuana or marijuana products to a marijuana testing facility;

(3) receiving marijuana or marijuana products from a marijuana testing facility;

(4) delivering or selling marijuana or marijuana products to a retail marijuana store or a marijuana product manufacturing facility;

(5) purchasing marijuana from a marijuana cultivation facility; and

(6) purchasing of marijuana or marijuana products from a marijuana product manufacturing facility.

(d) Notwithstanding any other provision of law, the following acts, when performed by a marijuana testing facility with a current, valid registration, or a person 21 years of age or older who is acting in the person's capacity as an owner, employee, or agent of a marijuana testing facility, are lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law:

(1) possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring, or delivering marijuana;

(2) receiving marijuana or marijuana products from a marijuana cultivation facility, a marijuana retail store, a marijuana products manufacturer, or a person 21 years of age or older; and

(3) returning marijuana or marijuana products to a marijuana cultivation facility, marijuana retail store, marijuana products manufacturer, or a person 21 years of age or older.

(e) Notwithstanding any other provision of law, it is lawful and shall not be an offense under Alaska law or be a basis for seizure or forfeiture of assets under Alaska law to lease or otherwise allow the use of property owned, occupied, or controlled by any person, corporation, or other entity for any of the activities conducted lawfully in accordance with (a) - (d) of this section.

(f) Nothing in this section prevents the imposition of penalties upon marijuana establishments for violating this chapter or rules adopted by the board or local governments pursuant to this chapter.

(g) The provisions of AS 17.30.020 do not apply to marijuana establishments.

Sec. 17.38.080. Marijuana Control Board; appointment and qualifications.

(a) The Marijuana Control Board is established in the Department of Commerce, Community, and Economic Development as a regulatory and quasi-judicial agency. The board is in the Department of Commerce, Community, and Economic Development for administrative purposes only.

(b) The board members shall be appointed by the governor and confirmed by a majority of the members of the legislature in joint session. A member of the board may not hold any other state or federal office, either elective or appointive. The board consists of five voting members as follows:

(1) one person from the public safety sector;

(2) one person from the public health sector;

(3) one person currently residing in a rural area;

(4) one person actively engaged in the marijuana industry; and

(5) one person who is either from the general public or actively engaged in the marijuana industry.

(c) Not more than two members of the board may be engaged in the same business, occupation, or profession.

(d) A board member representing the general public, the public safety sector, the public health sector, or a rural area, or the member's immediate family member, may not have a financial interest in the marijuana industry.

(e) In this section,

(1) "financial interest" means holding, directly or indirectly, a legal or equitable interest in the operation of a business licensed under this chapter;

(2) "immediate family member" means a spouse, child, or parent;

(3) "marijuana industry" means a business or profession related to marijuana in which the person is lawfully engaged and that is in compliance with the provisions of state law, including this chapter and regulations adopted under this chapter;

(4) "public health sector" means a state, federal, or local entity that works to ensure the health and safety of persons and communities through education, policymaking, treatment and prevention of injury and disease, and promotion of wellness;

(5) "public safety sector" means a state, federal, or local law enforcement authority that provides for the welfare and protection of the general public through the enforcement of applicable laws;

(6) "rural area" means a community with a population of 7,000 or less that is not connected by road or rail to Anchorage or Fairbanks, or with a population of 2,000 or less that is connected by road or rail to Anchorage or Fairbanks.

Sec. 17.38.091. Terms of office; chair.

(a) Members of the board serve staggered three-year terms.

(b) Except as provided in AS 39.05.080(4), a member of the board serves until a successor is appointed.

(c) A vacancy occurring in the membership of the board shall be filled within 30 days by appointment of the governor for the unexpired portion of the vacated term.

(d) A member who has served all or part of three successive terms on the board may not be reappointed to the board unless three years have elapsed since the person has last served on the board.

(e) The board shall select a chair from among its members.

Sec. 17.38.101. Per diem and expenses.

Members of the board do not receive a salary but are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

Sec. 17.38.111. Meetings.

(a) The board shall meet at the call of the chair. The board shall also meet at least once each year in each judicial district of the state to study this chapter and existing board regulations in light of statewide and local issues. Unless impracticable, the board shall hold its regular meetings at the same location as and within 24 hours of the regular meetings of the Alcoholic Beverage Control Board.

(b) Three members of the board constitute a quorum for the conduct of business. A majority of the whole membership of the board must approve applications for new licenses, renewals, transfers, suspensions, and revocations of existing licenses, and product approvals as provided in regulations adopted by the board.

Sec. 17.38.121. Powers and duties of the board.

(a) The board shall control the cultivation, manufacture, and sale of marijuana in the state. The board is vested with the powers and

duties necessary to enforce this chapter.

(b) The board shall

(1) propose and adopt regulations;

(2) establish by regulation the qualifications for licensure including fees and factors related to the applicant's experience, criminal justice history, and financial interests;

(3) review applications for licensure made under this chapter and may order the executive director to issue, renew, suspend, or revoke a license authorized under this chapter; and

(4) hear appeals from actions of the director and from actions of officers and employees charged with enforcing this chapter and the regulations adopted under this chapter.

(c) When considering an application for licensure, the board may reduce the area to be designated as the licensed premises from the area applied for if the board determines that a reduction in area is necessary to ensure control over the sale and consumption of marijuana on the premises or is otherwise in the public interest.

(d) The board shall adopt regulations under this chapter in accordance with AS 44.62 (Administrative Procedure Act).

(e) The board may employ, directly or through contracts with other departments and agencies of the state, enforcement agents and staff it considers necessary to carry out the purposes of this chapter. The salaries of personnel of the board in the exempt service shall be set by the Department of Administration.

(f) The board shall promptly notify all licensees and municipalities of major changes to this chapter and to regulations adopted under this chapter. However, if changes affect only specific classifications of licenses and permits, the board need only notify those licensees and municipalities directly affected by the changes. Current copies of this chapter and current copies of the regulations adopted under this chapter shall be made available at all offices in the state of the Department of Commerce, Community, and Economic Development and the detachment headquarters and posts maintained by the division of Alaska state troopers in the Department of Public Safety.

Sec. 17.38.131. Enforcement powers.

The director and the persons employed for the administration and enforcement of this chapter may, with the concurrence of the commissioner of public safety, exercise the powers of peace officers when those powers are specifically granted by the board. Powers granted by the board under this section may be exercised only when necessary for the enforcement of the criminally punishable provisions of this chapter, other criminal statutes relating to substances or activities regulated or permitted under this chapter, regulations of the board, and other criminally punishable laws and regulations relating to marijuana.

Sec. 17.38.140. Appointment and removal of director; staff.

(a) The director of the Alcoholic Beverage Control Board appointed under AS 04.06.070 shall serve as the director of the board. The board may remove the director by a majority vote of the full membership of the board and a majority vote of the full membership of the Alcoholic Beverage Control Board. The governor may remove the executive director as provided in AS 04.06.070.

(b) The paid staff of the Alcoholic Beverage Control Board created in AS 04.06.010 shall also be the staff for the board.

Sec. 17.38.150. Duties of director.

The director shall enforce this chapter and regulations adopted by the board. The director shall issue, renew, transfer, suspend, or revoke all licenses and permits and issue product approvals at the direction of the board. The board may delegate to the director the authority to temporarily grant or deny the issuance, renewal, or transfer of

licenses and permits. The director's temporary grant or denial of the issuance, renewal, or transfer of a license or permit is not binding on the board. The board may delegate to the director any duty imposed by this chapter except its power to propose and adopt regulations.

Sec. 17.38.190. Rulemaking.

(a) Not later than nine months after February 24, 2015, the board shall adopt regulations necessary for implementation of this chapter. Such regulations shall not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. Such regulations shall include

(1) procedures for the issuance, renewal, suspension, and revocation of a registration to operate a marijuana establishment, with such procedures subject to all requirements of AS 44.62 (Administrative Procedure Act);

(2) a schedule of application, registration, and renewal fees, provided, application fees shall not exceed \$5,000, with this upper limit adjusted annually for inflation, unless the board determines a greater fee is necessary to carry out its responsibilities under this chapter;

(3) qualifications for registration that are directly and demonstrably related to the operation of a marijuana establishment;

(4) security requirements for marijuana establishments, including for the transportation of marijuana by marijuana establishments;

(5) requirements to prevent the sale or diversion of marijuana and marijuana products to persons under the age of 21;

(6) labeling requirements for marijuana and marijuana products sold or distributed by a marijuana establishment;

(7) health and safety regulations and standards for the manufacture of marijuana products and the cultivation of marijuana;

(8) reasonable restrictions on the advertising and display of marijuana and marijuana products; and

(9) civil penalties for the failure to comply with regulations made pursuant to this chapter.

(b) In order to ensure that individual privacy is protected, the board shall not require a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age, and a retail marijuana store shall not be required to acquire and record personal information about consumers.

Sec. 17.38.200. Marijuana establishment registrations.

(a) Each application or renewal application for a registration to operate a marijuana establishment shall be submitted to the board. A renewal application may be submitted up to 90 days before the expiration of the marijuana establishment's registration. When filing an application under this subsection, the applicant shall submit the applicant's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check. The board shall forward the fingerprints and fees to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

(b) The board shall begin accepting and processing applications to operate marijuana establishments one year after February 24, 2015.

(c) Upon receiving an application or renewal application for a marijuana establishment, the board shall immediately forward a copy of each application and half of the registration application fee to the local regulatory authority for the local government in which the applicant desires to operate the marijuana establishment, unless the local government has not designated a local regulatory authority pursuant to AS 17.38.210(c).

(d) Within 45 to 90 days after receiving an application or renewal application, the board shall issue an annual registration to the applicant unless the board finds the applicant is not in compliance with regulations enacted pursuant to AS 17.38.190 or the board is notified by the relevant local government that the applicant is not in compliance with ordinances and regulations made pursuant to AS 17.38.210 and in effect at the time of application.

(e) If a local government has enacted a numerical limit on the number of marijuana establishments and a greater number of applicants seek registrations, the board shall solicit and consider input from the local regulatory authority as to the local government's preference or preferences for registration.

(f) Upon denial of an application, the board shall notify the applicant in writing of the specific reason for its denial.

(g) Every marijuana establishment registration shall specify the location where the marijuana establishment will operate. A separate registration shall be required for each location at which a marijuana establishment operates.

(h) Marijuana establishments and the books and records maintained and created by marijuana establishments are subject to inspection by the board.

(i) A marijuana establishment may not be registered under this chapter if a person who is an owner, officer, or agent of the marijuana establishment has been convicted of a felony and either

(1) less than five years have elapsed from the time of the person's conviction; or

(2) the person is currently on probation or parole for that felony.

Sec. 17.38.210. Local control.

(a) A local government may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or by a voter initiative. An established village may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores as provided in AS 17.38.300.

(b) A local government may enact ordinances or regulations not in conflict with this chapter or with regulations enacted pursuant to this chapter, governing the time, place, manner, and number of marijuana establishment operations. A local government may establish civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in such local government.

(c) A local government may designate a local regulatory authority that is responsible for processing applications submitted for a registration to operate a marijuana establishment within the boundaries of the local government. The local government may provide that the local regulatory authority may issue such registrations should the issuance by the local government become necessary because of a failure by the board to adopt regulations pursuant to AS 17.38.190 or to accept or process applications in accordance with AS 17.38.200.

(d) A local government may establish procedures for the issuance, suspension, and revocation of a registration issued by the local government in accordance with (f) of this section or (g) of this section. These procedures shall be subject to all requirements of AS 44.62 (Administrative Procedure Act).

(e) A local government may establish a schedule of annual operating, registration, and application fees for marijuana establishments, provided, the application fee shall only be due if an application is submitted to a local government in accordance with (f) of this section and a registration fee shall only be due if a registration is issued by a local government in accordance with (f) of this section or (g) of this section.

(f) If the board does not issue a registration to an applicant within 90 days of receipt of the application filed in accordance with AS 17.38.200 and does not notify the applicant of the specific, permissible reason for its denial, in writing and within such time period, or if the board has adopted regulations pursuant to AS 17.38.190 and has accepted applications pursuant to AS 17.38.200 but has not issued any registrations by 15 months after the effective date of this Act, the applicant may resubmit its application directly to the local regulatory authority, pursuant to (c) of this section, and the local regulatory authority may issue an annual registration to the applicant. If an application is submitted to a local regulatory authority under this subsection, the board shall forward to the local regulatory authority the application fee paid by the applicant to the board upon request by the local regulatory authority.

(g) If the board does not adopt regulations required by AS 17.38.190, an applicant may submit an application directly to a local regulatory authority after one year after February 24, 2015 and the local regulatory authority may issue an annual registration to the applicant.

(h) A local regulatory authority issuing a registration to an applicant shall do so within 90 days of receipt of the submitted or resubmitted application unless the local regulatory authority finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made pursuant to (b) of this section in effect at the time the application is submitted to the local regulatory authority. The local government shall notify the board if an annual registration has been issued to the applicant.

(i) A registration issued by a local government in accordance with (f) of this section or (g) of this section shall have the same force and effect as a registration issued by the board in accordance with AS 17.38.200. The holder of such registration shall not be subject to regulation or enforcement by the board during the term of that registration.

(j) A subsequent or renewed registration may be issued under (f) of this section on an annual basis only upon resubmission to the local government of a new application submitted to the board pursuant to AS 17.38.200.

(k) A subsequent or renewed registration may be issued under (g) of this section on an annual basis if the board has not adopted regulations required by AS 17.38.190 at least 90 days prior to the date upon which such subsequent or renewed registration would be effective or if the board has adopted regulations pursuant to AS 17.38.190 but has not, at least 90 days after the adoption of such regulations, issued registrations pursuant to AS 17.38.200.

(l) Nothing in this section shall limit such relief as may be available to an aggrieved party under AS 44.62 (Administrative Procedure Act).

(m) Except as provided in AS 29, the exercise of the powers authorized by this section by a borough may be exercised only on a nonareawide basis. In this subsection, "nonareawide" means throughout the area of a borough outside all cities in the borough.

Sec. 17.38.220. Employers, driving, minors, and control of property.

(a) Nothing in this chapter is intended to require an employer to permit or accommodate the use, consumptions, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees.

(b) Nothing in this chapter is intended to allow driving under the influence of marijuana or to supersede laws related to driving under the influence of marijuana.

(c) Nothing in this chapter is intended to permit the transfer of marijuana, with or without remuneration, to a person under the age of 21.

(d) Nothing in this chapter shall prohibit a person, employer, school, hospital, recreation or youth center, correction facility, corporation, or any other entity who occupies, owns, or controls private property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property.

Sec. 17.38.230. Impact on medical marijuana law.

Nothing in this chapter shall be construed to limit any privileges or rights of a medical marijuana patient or medical marijuana caregiver under [AS 17.37](#).

Sec. 17.38.300. Local option election by an established village.

(a) If a majority of the voters voting on the question vote to approve the option, an established village shall exercise a local option to prohibit the operation of one or more of the following types of marijuana establishments:

- (1) marijuana cultivation facilities;
- (2) marijuana product manufacturing facilities;
- (3) marijuana testing facilities; or
- (4) retail marijuana stores.

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

Sec. 17.38.310. Removal of local option.

(a) If a majority of the voters voting on the question vote to remove the option, an established village shall remove a local option previously adopted under [AS 17.38.300](#). The option is repealed effective the first day of the month following certification of the results of the election.

(b) A ballot question to remove a local option under this section must at least contain language substantially similar to the following: "Shall (name of village) remove the local option currently in effect, that prohibits (current local option under [AS 17.38.300\(a\)](#)), so that there is no longer any local option in effect? (yes or no)."

(c) When issuing a registration in the area that has removed a local option, the board shall give priority to an applicant who was formerly registered and whose registration was not renewed because of the results of the previous local option election. However, an applicant described in this subsection does not have a legal right to registration, and the board is not required to approve the application.

Sec. 17.38.320. Effect on registrations of prohibition of marijuana establishments.

If a majority of voters vote to prohibit the operation of marijuana establishments under [AS 17.38.300](#), the board may not issue, renew, or transfer, between persons or locations, a registration for a marijuana establishment located within the perimeter of the established village. A registration that may not be renewed because of a local option election held under [AS 17.38.300](#) is void 90 days after the results of the election are certified. A registration that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this section, by payment of a prorated portion of the annual registration fee.

Sec. 17.38.330. Prohibition of sale and manufacture after election.

(a) If a majority of the voters vote to prohibit the operation of marijuana establishments under [AS 17.38.300](#), a person may not knowingly sell or manufacture marijuana in the established village.

(b) If there are registered establishments within the established

village, the prohibition on sale and manufacture is effective beginning 90 days after the results of the election are certified.

(c) Nothing in this section prohibits the personal conduct authorized in [AS 17.38.020](#).

(d) A person who violates this section is guilty, upon conviction, of a class A misdemeanor. Each violation is a separate offense.

Sec. 17.38.340. Procedure for local option elections.

(a) An election to adopt a local option under [AS 17.38.300](#) or remove a local option under [AS 17.38.310](#) shall be conducted as required in this section.

(b) Upon receipt of a petition of 35 percent or more of the registered voters residing within an established village, the lieutenant governor shall place on a separate ballot at a special election the local option or removal of local option that constitutes the subject of the petition. The lieutenant governor shall conduct the election under [AS 15](#).

(c) An election under (b) of this section to remove a local option may not be conducted during the first 24 months after the local option was adopted or more than once in a 36-month period.

(d) After a petition has been certified as sufficient to meet the requirements of (b) of this section, another petition may not be filed or certified until after the question presented in the first petition has been voted on. A local option question to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores or to prohibit all marijuana establishments may be presented in one election.

Sec. 17.38.350. Establishment of perimeter of established village.

(a) Except as provided under (b) and (c) of this section, for purposes of [AS 17.38.300](#) - 17.38.320, the perimeter of an established village is a circle around the established village that includes an area within a five-mile radius of the post office of the established village. If the established village does not have a post office, the perimeter of an established village is a circle around the established village that includes an area within a five-mile radius of another site selected by the local governing body or by the board if the established village does not have a local governing body.

(b) If the perimeter of an established village determined under (a) of this section includes any area that is within the perimeter of another established village and, if the other established village has

(1) also adopted a local option under [AS 17.38.300](#), the local option of the established village that is less restrictive applies in the overlapping area;

(2) not adopted a local option under [AS 17.38.300](#), the local option does not apply in the overlapping area.

(c) If the board determines that the perimeter of an established village as provided under (a) and (b) of this section does not accurately reflect the perimeter of the established village, the board may establish the perimeter of the established village and the areas of overlapping perimeter described under (b) of this section for purposes of applying a local option selected under this chapter.

Sec. 17.38.360. Notice of the results of a local option election.

If a majority of the voters vote to adopt or remove a local option under [AS 17.38.300](#) or 17.38.310, the lieutenant governor shall notify the board of the results of the election immediately after the results are certified. The board shall immediately notify the Department of Law and the Department of Public Safety of the results of the election.

Sec. 17.38.370. Bail forfeiture for certain offenses.

The supreme court shall establish by rule or order a schedule of bail amounts that may be forfeited without court appearance for a violation of AS 17.38.030 - 17.38.050.

Sec. 17.38.900. Definitions.

As used in this chapter, unless the context otherwise requires,

(1) "board" means the Marijuana Control Board established by AS 17.38.080;

(2) "consumer" means a person 21 years of age or older who purchases marijuana or marijuana products for personal use by persons 21 years of age or older, but not for resale to others;

(3) "consumption" means the act of ingesting, inhaling, or otherwise introducing marijuana into the human body;

(4) "director" means the director of the Marijuana Control Board and the Alcoholic Beverage Control Board;

(5) "dwelling" has the meaning given in AS 11.81.900;

(6) "established village" means an area that does not contain any part of an incorporated city or another established village and that is an unincorporated community that is in the unorganized borough and that has 25 or more permanent residents;

(7) "local government" means both home rule and general law municipalities, including boroughs and cities of all classes and unified municipalities;

(8) "local regulatory authority" means the office or entity designated to process marijuana establishment applications by a local government;

(9) "manufacture" has the meaning given in AS 11.71.900.

(10) "marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products;

(11) "marijuana accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body;

(12) "marijuana cultivation facility" means an entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers;

(13) "marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store;

(14) "marijuana product manufacturing facility" means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers;

(15) "marijuana products" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures;

(16) "marijuana testing facility" means an entity registered to analyze and certify the safety and potency of marijuana;

(17) "registration" means registration or licensure, as

determined by regulation;

(18) "retail marijuana store" means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers;

(19) "unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

Chapter 306

Regulation of Marijuana Industry

Article 1

Licensing; Fees

3 AAC 306.005. License required

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

(1) a retail marijuana store license, granting authority for activities allowed under AS 17.38.070(a), and subject to the provisions of 3 AAC 306.300 - 3 AAC 306.360 and 3 AAC 306.700 - 3 AAC 306.755;

(2) a marijuana cultivation facility license, as described in 3 AAC 306.405 and 3 AAC 306.410, granting authority for activities allowed under AS 17.38.070(b), and subject to the provisions of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3 AAC 306.755;

(3) a marijuana product manufacturing facility license, as described in 3 AAC 306.505 and 3 AAC 306.515, granting authority for activities allowed under AS 17.38.070(c), and subject to the provisions of 3 AAC 306.500 - 3 AAC 306.570 and 3 AAC 306.700 - 3 AAC 306.755; and

(4) a marijuana testing facility license, granting authority for activities allowed under AS 17.38.070(d), and subject to the provisions of 3 AAC 306.600 - 3 AAC 306.675 and 3 AAC 306.700 - 3 AAC 306.755.

3 AAC 306.010. License restrictions

(a) The board will not issue a marijuana establishment license if the licensed premises will be located within 500 feet of a school ground, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility. The

distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the school ground, the outer boundaries of the recreation or youth center, the main public entrance of the building in which religious services are regularly conducted, or the main public entrance of the correctional facility. This section does not prohibit the renewal of an existing marijuana establishment license or the transfer of an existing marijuana establishment license to another person if the licensed premises were in use before the school ground, recreation or youth center, the building in which religious services are regularly conducted, or a correctional facility began use of a site within 500 feet. If an existing marijuana establishment license for premises located within 500 feet of a school ground, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility is revoked or expires, the board will

not issue another marijuana establishment license for the same premises unless the school ground, the recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility no longer occupies the site within 500 feet.

(b) The board will not issue a marijuana establishment license if the licensed premises will be located in a liquor license premises.

(c) The board will not issue a marijuana establishment license when a local government protests an application under 3 AAC 306.060 on the grounds that the applicant's proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the marijuana establishment, unless the local government has approved a variance from the local ordinance.

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

(1) is prohibited under AS 17.38.200(i) from receiving a marijuana establishment license because of a conviction of a felony; if the applicant is a partnership, limited liability company, or corporation, the board will not issue a license if any person named in 3 AAC 306.020(b)(2) is prohibited under AS 17.38.200(i) from obtaining a license; in this paragraph, "conviction of a felony" includes a suspended imposition of sentence;

- (2) has been found guilty of
 - (A) selling alcohol without a license in violation of AS 04.11.010;
 - (B) selling alcohol to an individual under 21 years of age in violation of AS 04.16.051 or 04.16.052; or
 - (C) a misdemeanor crime involving a controlled substance, violence against a person, use of a weapon, or dishonesty within the preceding five years; or
- (3) has, within two years before submitting an application, been convicted of a class A misdemeanor relating to selling, furnishing, or distributing marijuana or operating an establishment where marijuana is consumed contrary to state law.

3 AAC 306.015. License conditions

(a) The board will issue each marijuana establishment license to a specific individual, to a partnership, including a limited partnership, to a limited liability company, to a corporation, or to a local government. A person other than a licensee may not have a direct or indirect financial interest in the business for which a marijuana establishment license is issued.

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

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

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

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

(4) a corporation unless the corporation is incorporated or qualified to do business in the state and each shareholder is a resident of the state.

(c) The board will issue each license for a specific location identified on the license as the licensed premises. A marijuana establishment must have a right to possession of its licensed premises at all times, and may not lease its licensed premises to another person for any reason. If a marijuana establishment wishes to reduce or expand the area of the licensed premises used for a marijuana

establishment, the marijuana establishment must submit a new line drawing showing the proposed changes to the premises, and must obtain the board's written approval. A marijuana establishment may not relocate its licensed premises to a different place without obtaining a license for the new premises as required under 3 AAC 306.050.

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

(e) In this section,

(1) "direct or indirect financial interest" means

(A) a legal or equitable interest in the operation of a business licensed under this chapter;

(B)) does not include a person's right to receive

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

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

(2) "resident of the state" means a person who meets the residency requirement under AS 43.23 for a permanent fund dividend in the calendar year in which that person applies for a marijuana establishment license under this chapter.

3 AAC 306.020. Application for new license

(a) An applicant for a new marijuana establishment license must file an application as provided in 3 AAC 306.025, on a form the board prescribes, with the information and documents described in this section, along with the application fee and the annual license fee set out in 3 AAC 306.100, and the fingerprint cards and fees required by 3 AAC 306.055(a). The application must be initiated electronically; the completed application and fees may be filed electronically, or mailed or delivered to the director at the office of the board.

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

(1) the name of the applicant and any business name the applicant will use for the proposed marijuana establishment, along with the applicant's state business license number issued under AS 43.70;

(2) the name, mailing address, telephone number, and social security number of each proposed licensee and each affiliate of each proposed licensee; unless the context requires otherwise, "licensee" means each individual named in an application that complies with this section; an individual to be identified as a licensee under this section includes

(A) if the applicant is an individual or a sole proprietor, the individual or sole proprietor;

(B) if the applicant is a partnership, including a limited partnership, each partner holding any interest in the partnership;

(C) if the applicant is a limited liability company, each member holding any ownership interest;

(D) if the applicant is a corporation, each owner of any of the corporation's stock; and

(E) if the applicant is a local government, an authorized official of the local government;

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

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

(B) for a limited liability company, the limited liability company agreement, and a list of all members with the percentage of ownership of each member;

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

(D) for a local government, a resolution of the governing body approving the application and designating an official responsible for the proposed marijuana establishment;

- (4) for each person listed in compliance with (2) of this subsection, a statement of financial interest on a form the board prescribes;
- (5) for each applicant that is not an individual, the name of the individual licensee or designated government official listed in the application under (2) of this subsection who is responsible for
 - (A) management of the marijuana establishment; and
 - (B) compliance with state laws;
- (6) an electronic mail address at which the applicant agrees to receive any correspondence from the board before and after it receives a license; an applicant and a licensee must ensure that any electronic mail address provided to the board is current so that the board can contact the applicant or licensee at any time;
- (7) the type of license the applicant is requesting;
- (8) the address of the premises to include global positioning system (GPS) coordinates where the applicant intends to operate a marijuana establishment, and a detailed diagram of the proposed licensed premises; the diagram must show all entrances and boundaries of the premises, restricted access areas, and storage areas;
- (9) the title, lease, or other documentation showing the applicant's right to possession of the proposed licensed premises;
- (10) affidavit showing where and when the applicant posted notice of the application, and proof of advertising as required in 3 AAC 306.025(b); and
- (11) additional information that the board requires as follows:
 - (A) for a retail marijuana store, the information required under 3 AAC 306.315;
 - (B) for a marijuana cultivation facility, the information required under 3 AAC 306.420;
 - (C) for a marijuana product manufacturing facility, the information required under 3 AAC 306.520;
 - (D) for a marijuana testing facility, the information required under 3 AAC 306.615.

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

(1) security;

(2) inventory tracking of all marijuana and marijuana products on the premises;

(3) employee qualification and training;

(4) waste disposal;

(5) transportation and delivery of marijuana and marijuana products; and

(6) signage and advertising.

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

(1) the applicant, if the applicant is an individual;

(2) an authorized general partner if the applicant is a partnership, including a limited partnership;

(3) a member who owns at least 10 percent of the limited liability company if the applicant is a limited liability company;

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

(5) a designated official if the applicant is a local government.

(e) Each person signing an application for a marijuana establishment license must declare under penalty of unsworn falsification that

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

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

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

3 AAC 306.025. Application procedure

(a) An applicant must initiate a new marijuana establishment license application on a form the board prescribes, using the board's electronic system.

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

(1) posting a copy of the application, on the form the board prescribes, for 10 days at

(A) the location of the proposed licensed premises; and

(B) one other conspicuous location in the area of the proposed premises;

(2) publishing an announcement once a week for three consecutive weeks in a newspaper of general circulation in the area; in an area where no newspaper circulates, the applicant must arrange for broadcast announcements on a radio station serving the local area where the proposed licensee seeks to operate twice a week for three successive weeks during triple A advertising time; the newspaper or radio notice must state

(A) the name of the applicant;

(B) the name and location of the proposed premises;

(C) the type of license applied for along with a citation to a provision of this chapter authorizing that type of license; and

(D) a statement that any comment or objection may be submitted to the board; and

(3) submitting a copy of the application on the form the board prescribes to

(A) the local government; and

(B) any community council in the area of the proposed licensed premises.

(c) After the applicant completes the notice requirements in (b) of this section and submits each remaining application requirement listed in 3 AAC 306.020, the applicant must pay the application and licensing fees set out in 3 AAC 306.100. The applicant must then use

the board's electronic system to inform the board that the applicant has submitted a complete application.

(d) When the director receives an application for a marijuana establishment license, the director shall determine if the application is complete. Any application for a marijuana establishment license that the director receives without the application fee is incomplete. If the director determines the application is complete, the director shall immediately give written notice to;

(1) the applicant;

(2) the local government with jurisdiction over the applicant's proposed licensed premises;

(3) the community council if the proposed licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(e) If an application for a marijuana establishment license is incomplete, the director shall notify the applicant by electronic mail at the address provided by the applicant and shall either

(1) return an incomplete application in its entirety; or

(2) request the applicant to provide additional identified items needed to complete the application.

(f) When the director informs an applicant that its application is incomplete as provided in (e) of this section, the applicant must complete the application not later than 90 days after the date of the director's notice. If an applicant fails to complete its application during the 90-day period after the director's notice, the applicant must file a new application and pay a new application fee to obtain a marijuana establishment license

3 AAC 306.030. Petition for license in area with no local government

(a) The board will not approve a new license in an area outside, but within 50 miles of, the boundary of a local government unless the board receives a petition to issue the license signed by a majority of the permanent residents residing within one mile of the proposed premises.

(b) The board will not approve a new license in an area that is 50 miles or more from the boundary of a local government unless the board receives a petition to issue the license containing the signatures of two-thirds of the permanent residents residing within a radius of five miles of the United States post office station nearest to the proposed licensed premises. If there is no United States post office station within a radius of five miles of the proposed licensed premises, the petition must be signed by two-thirds of the permanent residents residing within a five-mile radius of the proposed licensed premises.

(c) A petition authorized by this section must be on a form the board prescribes. The applicant must obtain the required signatures within the 90-day period immediately before submitting the petition to the board. A signature may not be added to or removed from the petition after the board has approved the application.

(d) In this section, "permanent resident" means a person 21 years of age or older who has established a permanent place of abode. A person may be a permanent resident of only one place.

3 AAC 306.035. Application for renewal of license

(a) On or before May 1 of each year, the director shall send notice that a marijuana establishment must file a renewal application not later than June 30 of the current year. The director shall send the notice to the marijuana establishment's electronic mailing address on file with the board. In the notice the director shall include a hyperlink for the marijuana establishment to access the electronic renewal application by means of the Internet, along with instructions on using and submitting the form. The marijuana establishment must submit the completed renewal application electronically, along with the license renewal fee, to the director not later than June 30 of each year. If June 30 falls on a Saturday or Sunday, the deadline is extended to 4:30 p.m. on the first business day following June 30. A marijuana establishment must maintain a current electronic mailing address on file with the director. A marijuana establishment is not excused from filing a renewal application as required in this section even if the marijuana establishment fails to receive a renewal notice from the director.

(b) A marijuana establishment's renewal application must

(1) identify the license sought to be renewed by license number, license type, establishment name, and premises address;

(2) provide the information required for a new license application under 3 AAC 306.020(b)(1) - (9);

(3) report any change from the marijuana establishment's new license application or last renewal application, and pay the fee as provided in 3 AAC 306.100 for board review of any change in

(A) the name of the marijuana establishment business;

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

(C) the marijuana establishment's operating plan; and

(D) any new product a licensed marijuana product manufacturing facility wishes to produce;

(4) report, for each licensee listed in 3 AAC 306.020(b)(2),

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

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

(5) declare under penalty of unsworn falsification that

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

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

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

(c) If the director determines that the renewal application is complete, the director shall give written notice of a renewal application to

(1) the applicant;

(2) the local government in the area in which the applicant's proposed licensed premises are located;

(3) the community council if the proposed licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(d)) The director may require an applicant for renewal of a license under this chapter to submit fingerprints and pay fees as required by 3 AAC 306.055(a).

(e) A licensee that does not deliver a renewal application to the director on or before June 30 of each year is delinquent and must pay the late renewal application fee under 3 AAC 306.100(b) with the renewal application.

(f) On or before August 15 of each year, the director shall deliver a notice of expiration to each marijuana establishment that has not filed a complete application for renewal of a license, along with any applicable affidavit and the required fee, unless the marijuana establishment has notified the director that it does not intend to seek a renewal of its license. The director shall deliver the notice of expiration to the electronic mail address the marijuana establishment has provided to the director. A marijuana establishment is not excused from filing a license renewal application not later than August 31 of each year even if the marijuana establishment does not receive the notice of expiration described in this section.

(g) If a marijuana establishment fails to deliver a complete license renewal application or fails to pay the required renewal fee and the late renewal application fee on or before August 31 of each year, that marijuana establishment license expires at 12:00 midnight on August 31 of that year. A holder of an expired license shall immediately surrender the license to the board. Any holder of an expired license that seeks authority to operate must file a complete new application under 3 AAC 306.020, and 3 AAC 306.025, along with the required fees.

3 AAC 306.040. Ownership change to be reported

(a) A licensed marijuana establishment shall, not later than 10 days after an ownership change, report the change on a form prescribed by the board.

(b) If any change required to be reported under this section will result in a change in controlling interest of the marijuana establishment license, the marijuana establishment must file an application for transfer of license to another person under 3 AAC 306.045.

(c) In this section, "ownership change" means

(1) if the licensee is a partnership, including a limited partnership, any change in the identity of the partners, or in the ownership percentages held by any partners;

(2) if the licensee is a limited liability company, any change in the identity of the members, or in the ownership percentage held by any member; or

(3) if the licensee is a corporation, any sale of corporate stock to a person not currently an owner, or any change of the percentage ownership of an existing shareholder.

3 AAC 306.045. Application for transfer of a license to another person

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

(b) An application for transfer of a marijuana establishment license, or of a controlling interest in a marijuana establishment license issued to a partnership, a limited liability company, a corporation, or a local government, must be filed in writing on a form the board prescribes, in compliance with the application procedure set out in 3 AAC 306.025. The application must name the current holder of the marijuana establishment license and the proposed transferee, including all persons listed in 3 AAC 306.020 if the transferee is a partnership, limited liability company, a corporation, or a local government. The application must contain

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

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

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

(c) When the board receives a complete application for transfer of a license to another person, the director shall immediately send written notice of the proposed transfer to

(1) each listed creditor of the current holder of the marijuana establishment license, along with the amount shown as owed to that creditor;

(2) the local government in the area in which the licensed premises are located;

(3) the community council if the licensed premises are located within the boundary of a community council established by municipal charter or ordinance; and

(4) any nonprofit community organization that has requested notification in writing.

(d) A current holder of a marijuana establishment license must submit a license renewal application before or at the same time as an application for a transfer of a marijuana establishment license that is submitted after April 30 and before July 1.

3 AAC 306.050. Relocation of licensed premises not allowed

A marijuana establishment license may not be relocated to any other premises. A holder of a marijuana establishment license that wishes to operate a marijuana establishment at a different location must submit a new application for any new premises, and must surrender an existing license for any premises where the marijuana establishment does not intend to continue its operation.

3 AAC 306.055. Criminal justice information and records

(a) When filing an application for a new marijuana establishment license or transfer of a license, the applicant, including each individual listed in 3 AAC 306.020(b)(2), must submit the person's fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information.

(b) The director shall submit the fingerprints to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62. The board will use the information obtained under this

section to determine if an applicant is qualified for a marijuana establishment license.

(c) In this section, "criminal justice information" has the meaning given in AS 12.62.900.

3 AAC 306.060. Protest by local government

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

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

(c) If a local government determines that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition the board has imposed on the licensee, the local government may notify the board. Unless the director finds that the local government's notice is arbitrary, capricious, and unreasonable, the director shall prepare the determination as an accusation against the licensee under AS 44.62.360 and conduct proceedings to resolve the matter as provided under 3 AAC 306.820.

3 AAC 306.065. Public participation

A person may object to an application for a new license, renewal of a license, or transfer of a license to another person by submitting a written statement of reasons for the objection to the board and the applicant not later than 30 days after notice of the application, but

not later than the deadline for objections stated in a posted or published notice of the application. The objection must be sent to the applicant at the mailing address or electronic mail address provided in the notice of application. If the board determines to conduct a public hearing under this section, an interested person may give oral testimony at the public hearing.

3 AAC 306.070. Hearing on public protest

The board may, on its own initiative or in response to an objection or protest, hold a hearing to ascertain the reaction of the public or a local government to an application. The director shall send notice of a hearing under this section as provided in AS 44.62.330 - 44.62.630 (Administrative Procedure Act).

3 AAC 306.075. Procedure for action on license application

(a) The board will decide whether to grant or deny an application not later than 90 days after receiving the complete application. However, the board will not grant or deny the application before

(1) the time allowed for a protest under 3 AAC 306.060, unless the local government waives its right to protest; or

(2) the time allowed for an objection under 3 AAC 306.065 has elapsed.

(b) Not later than seven days before the date set for board action on an application for a new license, renewal of a license, or transfer of a license to another person, the director shall post a meeting agenda listing the matters scheduled for action at that meeting. The board may review an application for a new license, renewal of a license, or transfer of a license to another person, without additional notice to the applicant.

(c) The board will consider any written objection, protest, suggested condition, or petition, and also will consider any testimony received at a hearing on public protest held under 3 AAC 306.070 when it considers the application. The director shall retain the written objection, protest, or suggested condition or petition, and the hearing record as part of the permanent record of the board's review of an application.

3 AAC 306.080. Denial of license application

(a) After review of the application, including the applicant's proposed operating plan and all relevant information, the board will deny an application for a new license if the board finds that

(1) the application is not complete as required under the applicable provisions of 3 AAC 306.020 - 3 AAC 306.055, or contains any false statement of material fact;

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

(3) the license would violate any restriction applicable to the particular license type authorized under this chapter;

(4) the license is prohibited under this chapter as a result of an ordinance or election conducted under AS 17.38.210, 3 AAC 306.200, or 3 AAC 306.230;

(5) the board finds that the operating plan does not adequately demonstrate that the applicant will comply with applicable provisions of this chapter; or

(6) the license would not be in the best interests of the public.

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

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

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

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

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

licensed business.

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

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

(2) that the transferor has not paid all debts or taxes arising from the operation of the business licensed under this chapter unless the

transferor gives security for the payment of the debts or taxes satisfactory to the creditor or taxing authority;

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

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

chapter.

(d) If the board denies an application for a new license, renewal of a license, or transfer of a license to another person, the board will, not later than 15 days after the board 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. In the notice of denial the board will inform the applicant of the right to an informal conference under 3 AAC 306.085 and to a formal hearing under 3 AAC 306.090.

3 AAC 306.085. Informal conference

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

(b) If the informal conference does not resolve the matter to the applicant's satisfaction, the applicant may, not later than 15 days after the last day of the informal conference, request a formal hearing under 3 AAC 306.090 by filing a notice of defense in compliance with AS 44.62.390(b).

3 AAC 306.090. Formal hearing

(a) If an applicant for a new license, renewal of a license, or transfer of a license is aggrieved by an action of the board denying the application, the applicant may request a formal hearing by filing

a notice of defense in compliance with AS 44.62.390 not later than 15 days after the date of the written notice of the denial, or as provided in 3 AAC 306.085(b) if the applicant requested and participated in an informal conference. Failure to file a notice of defense as provided in this section constitutes a waiver of the right to a formal hearing.

(b) When an aggrieved person requests a hearing under the section, the board may request the office of administrative hearings to conduct the hearing in compliance with due process, AS 44.62.330 - AS 44.62.630 (Administrative Procedure Act), and 2 AAC 64.100 - 2 AAC 64.990, as applicable.

3 AAC 306.095. Appeals

(a) An aggrieved applicant or marijuana establishment license holder may appeal to the board regarding any action of the director, or an employee or agent of the board regarding an application for a new license, a license renewal, or a transfer of license to another person.

(b) An applicant or marijuana establishment license holder aggrieved by a final decision of the board regarding an application for a new license, a license renewal, or a transfer of license to another person may appeal to the superior court under AS 44.62.560.

3 AAC 306.100. Fees; refund

(a) The non-refundable application fee for a new marijuana establishment license or an application to transfer a license to another person is \$1,000.

(b) The non-refundable application fee for a license renewal application is \$600. If a renewal application is late as provided under 3 AAC 306.035(e), an additional non-refundable late renewal application fee is \$1,000.

(c) The non-refundable fee to request board approval of a change in a licensed marijuana establishment's business name, licensed premises diagram, operating plan, or proposed new marijuana product is \$250. A change fee does not apply to an application for transfer of a license to another person.

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

(1) for a retail marijuana store license, \$5,000;

(2) for a limited marijuana cultivation facility license, \$1,000;

(3) for a marijuana cultivation facility license, \$5,000;

(4) for a marijuana concentrate manufacturing facility license, \$1,000;

(5) for a marijuana product manufacturing facility license, \$5,000;

(6) for a marijuana testing facility license, \$1,000.

(e) The fee for a marijuana handler permit card is \$50.

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

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

(1) if a licensee pays its delinquent tax after a local government protests renewal of the license, but before the board denies license renewal, \$200;

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

(3) if a licensee pays its delinquent tax after appealing the board's denial of a license renewal, but before the administrative hearing begins, \$5,000;

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

Article 2

Local Options

3 AAC 306.200. Local options

(a) If a majority of the persons voting on the question vote to approve the option, or if a local government's assembly or city council passes an ordinance to the same effect, the local government shall adopt a local option to prohibit

(1) the sale or importation for sale of marijuana and any marijuana product;

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

(A) a retail marijuana store;

(B) a marijuana cultivation facility;

(C) a marijuana product manufacturing facility;

(D) a marijuana testing facility.

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

(c) The ballot for an election on the options set out in (a)

(2) of this section must include a brief explanation of the activity that each license type on the ballot may carry out.

(d) If a local government dissolves under AS 29.06.450, any marijuana establishment license issued to that local government expires when the local government dissolves.

(e) A local government may not prohibit the personal use and possession of marijuana and marijuana products as authorized under AS 17.38.020.

(f) Nothing in 3 AAC 306.200 - 3 AAC 306.260 precludes a local government from applying for a marijuana establishment license under other provisions of this chapter.

3 AAC 306.210. Change of local option

If a majority of persons voting on the question vote to approve a local option different from one previously adopted under 3 AAC 306.200 and currently in effect, or if the local government's assembly or city council passes an ordinance to the same effect, the local government shall change the local option to the newly approved option. A ballot question to change a local option under this section must at least contain language substantially similar to: "Shall (name of local government) change the local option currently in effect, that prohibits (current local option), and adopt in its place a local option to prohibit (proposed local option)? (yes or no)."

3 AAC 306.220. Removal of local option

(a) If a majority of the persons voting on the question vote to remove a local option previously adopted under 3 AAC 306.200 or 3 AAC 306.210 and currently in effect, or if a local government's assembly or city council passes an ordinance to the same effect, that local option is repealed effective the first day of the month after the election is certified. A ballot question to remove a local option under this section must at least contain language substantially similar to: "Shall (name of local government) remove the local option currently in effect, that prohibits (current local option), so that no local option continues in effect? (yes or no)."

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

3 AAC 306.230. Procedure for local option election

When it receives a petition to adopt, change, or remove a local option under 3 AAC 306.200 - 3AAC 306.220, the local government shall conduct the election in compliance with the initiative process under the local government's election ordinances and regulations and the applicable provisions of AS 29.

3 AAC 306.240. Prohibition of importation or purchase after election

(a) If a majority of the voters vote to prohibit the importation for sale of marijuana and any marijuana product under 3 AAC 306.200(a)(1), or if the local government's assembly or city council passes an

ordinance to the same effect, a person, beginning on the first day of the month after the results of the election are certified, may not knowingly bring, send, or transport marijuana or marijuana products for sale into the area within the boundary of the local government.

(b) A person who resides within the boundary of a local government that has adopted a local option under 3 AAC 306.200(a) may not purchase marijuana or a marijuana product from another person that has brought, sent, or transported marijuana or a marijuana product into the local government for sale in violation of the local option.

(c) Notwithstanding (a) or (b) of this section, a licensed marijuana establishment may transport marijuana or any marijuana product through the boundaries of a local government that has prohibited importation or purchase of marijuana if the marijuana or marijuana product is shipped with an attached transport manifest created in compliance with 3 AAC 306.750 and documenting that the shipment originates and terminates in a place that does not prohibit importation and purchase of marijuana or a marijuana product.

(d) In this section,

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

(2) "send"

(A) means to cause to be taken or distributed or to attempt or solicit or cause to be taken or distributed;

(B) includes use of the United States Postal Service;

(3) "transport"

(A) means to ship by any method;

(B)) includes delivering or transferring or attempting or soliciting to deliver or transfer marijuana or marijuana products to be shipped to, delivered to, or left or held for pickup by any person.

3 AAC 306.250. Effect on licenses of restriction on sale

If a majority of the voters vote under 3 AAC 306.200(a) to prohibit sale of marijuana and marijuana products or the operation of marijuana establishments, or if the assembly or city council passes an ordinance to the same effect, the board will not issue, renew, or transfer to

another person a license for a marijuana establishment with premises located within the boundary of the local government or in the unincorporated area within 10 miles of the boundaries of the local government. A license for a marijuana establishment within the boundary of the local government or in the unincorporated area within 10 miles of the boundary of the local government is void 90 days after the results of the election are certified. A license that expires during the 90 days after the certification of a local option election may be extended until it is void under this section, by payment of a prorated portion of the annual license fee.

3 AAC 306.260. Notice of the results of a local option election

If a majority of the voters vote to adopt, change, or remove a local option under 3 AAC 306.200 - 3 AAC 306.220 or if the assembly or city council passes an ordinance to the same effect, the board will notify the Department of Law and the Department of Public Safety of the results of the election.

Article 3

Retail Marijuana Stores

3 AAC 306.300. Retail marijuana store license required

(a) Except as permitted under AS 17.38.020, a person may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver marijuana or any marijuana product to a consumer unless the person has obtained a retail marijuana store license from the board in compliance with this chapter, or is an employee or agent acting for a licensed retail marijuana store operating in compliance with this chapter. A person seeking a retail marijuana store license must

(1) submit an application for a retail marijuana store license on a form the board prescribes, including the information set out under 3 AAC 306.020 and 3 AAC 306.315; and

(2) demonstrate, to the board's satisfaction, that the applicant will operate in compliance with

(A) each applicable provision of 3 AAC 306.300

- 3 AAC 306.360 and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(b) A licensee of any retail marijuana store, or an employee or agent of a retail marijuana store, may not have an ownership interest in, or a direct or indirect financial interest in a licensed marijuana testing facility.

3 AAC 306.305. 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 3 AAC 306.345, 3 AAC 306.470, and 3 AAC 306.475 in an amount not exceeding the limit set out in 3 AAC 306.355, 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 3 AAC 306.345, 3 AAC 306.565, and 3 AAC 306.570, in a quantity not exceeding the limit set out in 3 AAC 306.355, 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 3 AAC 306.710 - 3 AAC 306.720;

(4) with prior approval of the board, permit consumption of marijuana or a marijuana product purchased on the licensed premises, in a designated area on the licensed premises.

(b) This section does not prohibit a licensed retail marijuana store from refusing to sell marijuana or a marijuana product to a consumer.

3 AAC 306.310. Acts prohibited at retail marijuana store

(a) A licensed retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or a marijuana product

(1) to a person under 21 years of age;

- (2) to a person that is under the influence of an alcoholic beverage, inhalant, or controlled substance;
- (3) that is not labeled and packaged as required in 3 AAC 306.345 and
 - (A) 3 AAC 306.470 and 3 AAC 306.475; or
 - (B) 3 AAC 306.565 and 3 AAC 306.570;
- (4) in a quantity exceeding the limit set out in 3 AAC 306.355;
- (5) over the Internet; a licensed retail marijuana store may only sell marijuana or a marijuana product to a consumer who is physically present on the licensed premises;
- (6) after the expiration date shown on the label of the marijuana or marijuana product.

(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 between the hours of 5:00 a.m. and 8:00 a.m. each day;
- (2) allow a person to consume marijuana or a marijuana product on the retail marijuana store's licensed premises, except as provided in 3 AAC 306.305(a)(4);
- (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.

3 AAC 306.315. Application for retail marijuana store license

A person seeking a new retail marijuana store license must submit an application on a form the board prescribes, including the information required under 3 AAC 306.020 and

- (1) a copy of the food safety permit required under 18 AAC 31.020(a); and
- (2) in the operating plan required under 3 AAC 306.020(c), a description of the way marijuana and marijuana products at the retail marijuana store will be displayed and sold.

3 AAC 306.320. Marijuana handler permit required A retail marijuana store shall ensure that

(1) each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time obtains a marijuana handler permit as provided in 3 AAC 306.700 before being licensed or employed at a retail marijuana store; and

(2) each licensee, employee, or agent has that person's marijuana handler permit card in that person's immediate possession, or a valid copy on file on the premises, at all times when on the licensed premises of the retail marijuana store.

3 AAC 306.325. Access restricted at retail marijuana store

(a) A person under 21 years of age may not enter a retail marijuana store.

(b) Each entry to a retail marijuana store must be posted with a sign that says "No one under 21 years of age allowed." The sign must be not less than 12 inches long and 12 inches wide, with letters at least one-half inch in height in high contrast to the background of the sign.

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

3 AAC 306.330. Marijuana inventory tracking system

(a) A retail marijuana store shall use a marijuana inventory tracking system as provided in 3 AAC 306.730 to ensure all marijuana and marijuana product in the retail marijuana store's possession is identified and tracked from the time the retail marijuana store receives any batch of marijuana or lot of marijuana product through the sale, transfer to another licensed marijuana establishment, or disposal of the batch of marijuana or lot of marijuana product.

(b) When marijuana from a marijuana cultivation facility or marijuana product from a marijuana product manufacturing facility is delivered or transported to the licensed premises of a retail marijuana store, the retail marijuana store shall immediately enter identification information for that batch of marijuana or lot of marijuana product

into the retail marijuana store's marijuana inventory tracking system. A retail marijuana store may not accept marijuana or a marijuana product that does not have a valid transport manifest generated from the marijuana inventory tracking system of the marijuana establishment that originated the delivery.

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

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

3 AAC 306.335. Health and safety requirements

A retail marijuana store shall comply with each applicable health and safety requirement set out in 3 AAC 306.735.

3 AAC 306.340. Testing required for marijuana and marijuana products

A retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or a marijuana product until all laboratory testing required under 3 AAC 306.645 has been completed, and the label required under 3 AAC 306.475 or 3 AAC 306.570 is affixed.

3 AAC 306.345. Packaging and labeling

(a) A retail marijuana store shall assure that

(1) marijuana sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475;

(2) any marijuana product sold on its licensed premises is packaged and labeled in compliance with 3 AAC

306.565 and 3 AAC 306.570; and

(3) marijuana or a marijuana product sold is packaged in opaque, resealable, child-resistant packaging when the purchaser leaves the retail section of the licensed premises; the packaging must be designed or constructed to be significantly difficult for children under five years of age to open, but not normally difficult for adults to use properly.

(b) In addition to labeling requirements provided in (a) of this section, a retail marijuana store shall affix a label to each package of marijuana or marijuana product that

(1) identifies the retail marijuana store selling the marijuana product by name or distinctive logo and marijuana establishment license number;

(2) states the total estimated amount of THC in the labeled product; and

(3) contains each of the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming and addictive.";

(B) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence.";

(C) "There are health risks associated with consumption of marijuana.";

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

(E) "Marijuana should not be used by women who are pregnant or breast feeding.".

3 AAC 306.350. Identification requirement to prevent sale to person under 21

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

(b) A valid form of photographic identification includes

(1) an unexpired, unaltered passport;

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

(3) an identification card issued by a federal or state agency authorized to issue a driver's license or identification card.

3 AAC 306.355. Limit on quantity sold

A retail marijuana store may not sell 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.

3 AAC 306.360. Restriction on advertising of marijuana and marijuana products

(a) A retail marijuana store may have not more than three signs, visible to the general public from the public right-of-way, that identify the retail marijuana store by its business name. A sign may be placed in the retail marijuana store's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4,800 square inches.

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

- (1) is false or misleading;
- (2) promotes excessive consumption;
- (3) represents that the use of marijuana has curative or therapeutic effects;
- (4) depicts a person under 21 years of age consuming marijuana; or
- (5) includes an object or character, including a toy, a cartoon character, or any other depiction designed to appeal to a person under 21 years of age, that promotes consumption of marijuana.

(c) A retail marijuana store may not place an advertisement for marijuana or a marijuana product, except as provided in (a) of this section,

- (1) within 1,000 feet of the perimeter of any child-centered facility, including a school, a child care facility or other facility providing services to children, a playground or recreation center, a public park, a library, or a game arcade that is open to persons under 21 years of age;

- (2) on or in a public transit vehicle or public transit shelter;
- (3) on or in a publicly owned or operated property;
- (4) within 1,000 feet of a substance abuse or treatment facility; or
- (5) on a campus for postsecondary education.

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

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

(1) "Marijuana has intoxicating effects and may be habit forming and addictive.";

(2) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence.";

(3) "There are health risks associated with consumption of marijuana.";

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

(5) "Marijuana should not be used by women who are pregnant or breast feeding.".

Article 4

Marijuana Cultivation Facilities

3 AAC 306.400. Marijuana cultivation facility license required

(a) Except as provided under AS 17.38.020, a person may not plant, propagate, cultivate, harvest, trim, dry, cure, package, or label marijuana grown at a place under that person's control or sell marijuana grown at a place under that person's control to a marijuana establishment unless the person has obtained a marijuana cultivation facility license from the board in compliance with this chapter or is

an employee or agent acting for a licensed marijuana cultivation facility. The board will issue the following types of marijuana cultivation facility licenses, with the privileges and subject to the prohibitions set out in 3 AAC 306.405 and 3 AAC 306.410:

- (1) a standard marijuana cultivation facility license;
- (2) a limited marijuana cultivation facility license

to a person operating a marijuana cultivation facility with fewer than 500 square feet under cultivation.

(b) A person seeking a standard or limited marijuana cultivation facility license as provided in (a) of this section must

(1) submit an application for the applicable marijuana cultivation facility license on a form the board prescribes, including the information set out under 3 AAC 306.020 and 3 AAC 306.420; and

(2) demonstrate to the board's satisfaction that the applicant will operate in compliance with

(A) each applicable provision of 3 AAC 306.400

- 3 AAC 306.480 and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(c) A licensee of a marijuana cultivation facility, or an employee or agent of a marijuana cultivation facility, may not have an ownership interest in, or a direct or indirect financial interest in a licensed marijuana testing facility.

3 AAC 306.405. Standard marijuana cultivation facility: privileges and prohibited acts

(a) A licensed standard marijuana cultivation facility is authorized to

(1) propagate, cultivate, harvest, prepare, cure, package, store, and label marijuana;

(2) sell marijuana only to a licensed retail marijuana store, to another licensed marijuana cultivation facility, or to a licensed marijuana product manufacturing facility;

(3) provide samples to a licensed marijuana testing facility for testing;

(4) store inventory on the licensed premises; any stored inventory must be secured in a restricted access area and accounted for in the marijuana cultivation facility's marijuana inventory tracking system as required under 3 AAC 306.730;

(5) transport marijuana in compliance with 3 AAC 306.750;

(6) conduct in-house testing for the marijuana cultivation facility's own use;

(7) provide marijuana samples to a licensed retail marijuana store or marijuana product manufacturing facility for the purpose of negotiating a sale.

(b) A licensed standard marijuana cultivation facility may also apply for a marijuana product manufacturing facility license and a retail marijuana store license. A standard marijuana cultivation facility that obtains any other marijuana establishment license shall

(1) conduct any product manufacturing or retail marijuana store operation in a room completely separated from the marijuana cultivation facility by a secure door when co-located; and

(2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the standard marijuana cultivation facility licensee obtains.

(c) A licensed standard marijuana cultivation facility may not

(1) sell, distribute, or transfer marijuana or a marijuana product to a consumer, with or without compensation;

(2) allow any person, including a licensee, employee, or agent, to consume marijuana or a marijuana product on the licensed premises or within 20 feet of the exterior of any building or outdoor cultivation facility on the licensed premises;

(3) treat or otherwise adulterate marijuana with any organic or nonorganic chemical or other compound to alter the color, appearance, weight, or odor of the marijuana;

(4) except as permitted under a marijuana product manufacturing facility license, extract marijuana concentrate, using any process described in 3 AAC 306.555, at the licensed premises;

(5) sell marijuana that is not packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475.

3 AAC 306.410. Limited marijuana cultivation facility: privileges and prohibited acts

A licensed limited marijuana cultivation facility

(1) has the privileges set out in 3 AAC 305.405(a) and (b), except that it must have fewer than 500 square feet under cultivation; and

(2) is subject to each prohibition set out in 3 AAC 306.405(c).

3 AAC 306.420. Application for marijuana cultivation facility license

An applicant for a new standard marijuana cultivation facility license or a new limited marijuana cultivation facility license must file an application on a form the board prescribes, including

(1) the information required under 3 AAC 306.020; and

(2) the proposed marijuana cultivation facility's operating plan, including, in addition to the information required under 3 AAC 306.020(c),

(A) the size of the space intended to be under cultivation;

(B)) the growing medium to be used;

(C) fertilizers, chemicals, gases, and delivery systems, including carbon dioxide, management, to be used;

(D) the irrigation and waste water systems to be used;

(E) waste disposal arrangements;

(F) odor control; and

(G) the testing procedure and protocols the marijuana cultivation facility will follow.

3 AAC 306.425. Marijuana handler permit required

A marijuana cultivation facility shall ensure that each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana cultivation facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana cultivation facility's licensed premises.

3 AAC 306.430. Restricted access area

(a) A marijuana cultivation facility shall conduct any operation in a restricted access area in compliance with 3 AAC 306.710 and this section.

(b) A marijuana cultivation facility shall conduct any marijuana growing operation within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Where not prohibited by local government, outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight-obscuring wall or fence at least six feet high.

(c) A marijuana cultivation facility shall ensure that any marijuana at the marijuana cultivation facility

(1) cannot be observed by the public from outside the marijuana cultivation facility; and

(2) does not emit an odor that is detectable by the public from outside the cultivation facility except as allowed by a local government conditional use permit process.

(d) A marijuana cultivation facility shall have full video surveillance of the licensed premises as required under 3 AAC 306.720, including any area where marijuana is grown, processed, packaged, or stored, or where marijuana waste is destroyed.

3 AAC 306.435. Marijuana inventory tracking system

(a) A marijuana cultivation facility shall use a marijuana inventory tracking system in compliance with 3 AAC 306.730 to ensure all marijuana propagated, grown, or cultivated on the marijuana cultivation facility's premises is identified and tracked from the time the marijuana is propagated through transfer to another licensed marijuana establishment or destruction. The marijuana cultivation facility shall assign a tracking number to each plant over eight inches tall. When harvested, bud and flowers, clones or cuttings, or leaves and trim may be combined in harvest batches of distinct strains, not exceeding five pounds. Each harvest batch must be given an inventory tracking number. Clones or cuttings must be limited to 50 or fewer plants and identified by a batch tracking number.

(b) A marijuana cultivation facility shall record each sale and transport of each batch in its marijuana inventory tracking system, and shall generate a valid transport manifest to accompany each transported batch.

(c) A marijuana cultivation facility shall record in its marijuana inventory tracking system all marijuana used to provide a sample authorized under 3 AAC 306.460 for the purpose of negotiating sales, including

(1) the amount of each sample;

(2) the retail marijuana store or marijuana product manufacturing facility that received the sample; and

(3) the disposal of any expired or outdated promotional sample returned to the marijuana cultivation facility.

3 AAC 306.440. Health and safety requirements

(a) A marijuana cultivation facility shall comply with all applicable health and safety requirements set out in 3 AAC 306.735 and the additional requirements set out in this section.

(b) A marijuana cultivation facility shall ensure that any licensee, employee, or agent who is present at the marijuana cultivation facility and in contact with any marijuana

(1) wears clean clothing appropriate for the duties that person performs;

(2) wears protective apparel, such as head, face, hand, and arm coverings, as necessary to protect marijuana from contamination; and

(3) practices good sanitation and health habits.

3 AAC 306.445. Standards for cultivation and preparation

A marijuana cultivation facility shall use registered scales in compliance with AS 45.75.080 and 3 AAC 306.745.

3 AAC 306.450. Production of marijuana concentrate prohibited

A marijuana cultivation facility may not produce or possess marijuana concentrate that was extracted using any process described in 3 AAC 306.455 on the marijuana cultivation facility's licensed premises unless the marijuana cultivation facility also has a marijuana product manufacturing facility license. Any extraction or production of marijuana concentrate on the premises of a licensed marijuana cultivation facility must

(1) be in a separate room that

(A) is physically separated by a secure door from any cultivation area; and

(B) has a sign that clearly identifies the room as a marijuana concentrate production area, and warns unauthorized persons to stay out; and

(2) comply with all applicable provisions of 3 AAC 306.500 - 3 AAC 306.570.

3 AAC 306.455. Required laboratory testing

(a) A marijuana cultivation facility shall provide a sample of each harvest batch of marijuana produced at the facility to a marijuana testing facility and may not sell or transport any marijuana until all laboratory testing required under 3 AAC 306.645 has been completed.

(b) To comply with (a) of this section, a marijuana cultivation facility shall

(1) collect a random, homogenous sample for testing by segregating harvested marijuana into batches of individual strains of bud and flower, then selecting a random sample from each batch in an amount required by the marijuana testing facility;

(2) designate an individual responsible for collecting each sample; that individual shall

(A) prepare a signed statement showing that each sample has been randomly selected for testing;

(B) provide the signed statement to the marijuana testing facility; and

(C) maintain a copy as a business record under 3 AAC 306.755; and

(3) transport the sample to the marijuana testing facility's licensed premises in compliance with 3 AAC 306.750.

(c) A marijuana cultivation facility shall segregate the entire batch from which the testing sample was selected until the marijuana testing facility reports the results from its tests. During this period of segregation, the marijuana cultivation facility that provided the sample shall maintain the batch in a secure, cool, and dry location to prevent the marijuana from becoming contaminated or losing its efficacy. The marijuana cultivation facility that provided the sample may not sell or transport any marijuana from the segregated batch until the marijuana testing facility has completed its testing and provided those results, in writing, to the marijuana cultivation facility that provided the sample. The marijuana cultivation facility shall maintain the testing results as part of its business books and records.

3 AAC 306.460. Samples

(a) A marijuana cultivation facility may provide a free sample of marijuana to a retail marijuana store if packaged in a sample jar containing not more than three and one-half grams of marijuana and protected by a plastic or metal mesh screen to allow customers to smell the product before purchase.

(b) A marijuana cultivation facility may provide a free sample of marijuana to a retail marijuana store or marijuana product manufacturing facility as follows:

(1) a sample provided for the purpose of negotiating a sale may be not more than one ounce;

(2) a marijuana cultivation facility may not provide any one licensed retail marijuana store or marijuana product manufacturing facility

with more than one ounce of marijuana per month free-of-charge for the purpose of negotiating a sale.

(c) A retail marijuana store that receives a marijuana sample may not sell the marijuana sample to a customer, and shall either

(1) return the marijuana sample to the marijuana cultivation facility that provided the sample; or

(2) destroy the marijuana sample after use and document the destruction in the retail marijuana store's marijuana inventory control system.

3 AAC 306.465. Random sampling

(a) The board will or the director shall from time to time require a standard or limited marijuana cultivation facility to provide samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks. The sample may be screened for pesticides and chemical residues, screened for unsafe levels of metals, and used for other laboratory tests the director finds to be in the interests of the public. The marijuana cultivation facility shall bear all costs of testing under this subsection.

(b) When the board or the director orders random sampling under this section, the director shall identify a licensed marijuana testing facility to perform the testing. The marijuana testing facility shall collect the test samples. The marijuana cultivation facility shall cooperate to facilitate the collection of samples.

3 AAC 306.470. Packaging of marijuana

(a) A marijuana cultivation facility shall package its marijuana bud and flower for sale

(1) to a retail marijuana store, either

(A) in a package not exceeding one ounce for resale to consumers without additional handling by the retail marijuana store except to add the retail marijuana store's own

(i) identifying name or logo; and

(ii) license number; or

(B) in a wholesale package not exceeding five pounds for repackaging by the retail marijuana store; or

(2) to a marijuana product manufacturing facility in a wholesale package

(A) not exceeding five pounds; and

(B) consisting of a single strain or a mixture of strains as identified on the label.

(b) When a marijuana cultivation facility packages marijuana for a retail marijuana store to sell to a consumer without repackaging, the packaging may not have any printed images, including cartoon characters, that specifically target persons under 21 years of age. In addition, the packaging must protect the product from contamination and may not impart any toxic or damaging substance to the marijuana.

(c) Each package prepared in compliance with this section must be identified by a tracking label generated for tracking by the marijuana cultivation facility's marijuana inventory tracking system.

(d) A marijuana cultivation facility shall prepare marijuana for transport or transfer to another marijuana establishment by

(1) placing marijuana packaged in compliance with (a) - (c) of this section within a sealed, tamper-evident shipping container;

(2) affixing a label in compliance with 3 AAC 306.475 to the shipping container; and

(3) generating a transport manifest from the marijuana cultivation facility's marijuana inventory tracking system; the transport manifest must remain with the marijuana at all times while being transported, and a copy must be given to the licensed marijuana establishment that receives the shipment.

3 AAC 306.475. Labeling of marijuana

(a) When a marijuana cultivation facility packages marijuana for a retail marijuana store to sell to a consumer without re-packaging, the marijuana cultivation facility shall affix a label to each package of marijuana or marijuana product that contains each of the following statements:

(1) "Marijuana has intoxicating effects and may be habit forming and addictive.";

(2) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence.";

(3) "There are health risks associated with consumption of marijuana.";

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

(5) "Marijuana should not be used by women who are pregnant or breast feeding.".

(b) With each harvest batch of marijuana sold, a marijuana cultivation facility shall disclose in writing

(1) each soil amendment, fertilizer, and other crop production aid applied to the growing medium or marijuana plant included in the batch, including any pesticide, herbicide, or fungicide that was used; and

(2) the name of the licensed marijuana testing facility that performed any required laboratory test and the results of each required laboratory test.

(c) A marijuana cultivation facility may not label marijuana as organic.

(d) To each package of marijuana sold to another marijuana establishment, a marijuana cultivation facility shall affix a label setting out.

(1) the name and license number of the marijuana cultivation facility where the marijuana was grown;

(2) the harvest batch number assigned to the marijuana in the package;

(3) the net weight of the marijuana in the package,

(A) not including weight of the shipping container; and

(B) using a standard of measure compatible with the marijuana cultivation facility's marijuana inventory tracking system; and

(4) a complete list of all pesticides, fungicides, and herbicides used in cultivation of the marijuana.

(e) If a marijuana cultivation facility transports wholesale marijuana to another marijuana establishment for sale at retail or for use in manufacturing a marijuana product, a label must be affixed to the shipping container showing that a licensed marijuana testing facility has tested each harvest batch in the shipment as provided in 3 AAC 306.645. The label must report the test results, including

(1) a cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid listed from every test conducted on that strain of marijuana from the same marijuana cultivation facility within the last three months;

(2) a statement listing the results of microbial testing required under 3 AAC 306.645(b)(2);

(3) a statement listing the results of residual solvent testing required under 3 AAC 306.645(b)(3), if applicable; and

(4) a statement listing any contaminants for which the product was tested in addition to contaminants for which 3 AAC 306.645(b) requires testing; any additional tested contaminants include

(A) molds, mildew, and filth;

(B) herbicides, pesticides, and fungicides; and

(C) harmful chemicals.

(f) If a marijuana cultivation facility ships wholesale marijuana from a harvest batch that has not been tested for each contaminant listed in (e)(4) of this section, the label for that batch must include a statement identifying each contaminant listed in (e)(4) of this section for which that harvest batch has not been tested.

3 AAC 306.480. Marijuana tax to be paid

A marijuana cultivation facility, including a standard marijuana cultivation facility and a limited marijuana cultivation facility, shall submit monthly reports to the Department of Revenue and pay the excise tax required under AS 43.61.010 and 43.61.020 on all marijuana sold or provided as a sample to a marijuana establishment.

Article 5

Marijuana Product Manufacturing Facilities

3 AAC 306.500. Marijuana product manufacturing facility license required

(a) A person may not extract marijuana concentrate for sale or formulate or manufacture any marijuana product for sale unless that person has obtained a marijuana product manufacturing facility license from the board in compliance with this chapter, or is an employee or agent acting for a licensed marijuana product manufacturing facility.

The board will issue

- (1) a standard marijuana product manufacturing facility license; and
- (2) a marijuana concentrate manufacturing facility license.

(b) A person seeking any type of marijuana product manufacturing facility license must

(1) submit an application for a marijuana product manufacturing facility license on a form the board prescribes, including the information set out under 3 AAC 306.020 and 3 AAC 306.520; and

(2) demonstrate to the board's satisfaction that the applicant will operate in compliance with

(A) each applicable provision of 3 AAC 306.500

- 3 AAC 306.570 and 3 AAC 306.700 - 3 AAC 306.755; and

(B) each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located.

(c) A licensee of a marijuana product manufacturing facility, or an employee or agent of a marijuana product manufacturing facility, may not have an ownership interest in or a direct or indirect financial interest in a licensed marijuana testing facility.

3 AAC 306.505. Marijuana product manufacturing facility privileges

Except as provided in 3 AAC 306.515, a licensed marijuana product manufacturing facility, including a marijuana concentrate manufacturing facility, is authorized to

- (1) purchase marijuana from a marijuana cultivation facility or from another marijuana product manufacturing facility;
- (2) extract marijuana concentrate in compliance with 3 AAC 306.555;
- (3) manufacture, refine, process, cook, package, label, and store marijuana products approved under 3 AAC 306.525, including
 - (A) marijuana concentrate; or
 - (B) any product intended for consumption or use on the body that is comprised of marijuana and other ingredients, including edible products, ointments, salves, patches, or tinctures;
- (4) sell, distribute, or deliver marijuana extract or any marijuana product only to a licensed retail marijuana store or to another licensed marijuana product manufacturing facility;
- (5) provide and transport samples of marijuana concentrate or other marijuana product to a licensed marijuana testing facility for testing.
- (6) provide a sample of marijuana concentrate or a marijuana product approved under 3 AAC 306.525 to a licensed retail marijuana store for the purpose of negotiating a sale;
- (7) store inventory in a restricted access area on the licensed premises as provided in 3 AAC 306.535;
- (8) transport marijuana in compliance with 3 AAC 306.750;
- (9) conduct in-house testing for the marijuana product manufacturing facility's own use.

3 AAC 306.510. Acts prohibited at marijuana product manufacturing facility

- (a) A licensed marijuana product manufacturing facility, including a licensed marijuana concentrate manufacturing facility, may not

(1) sell, deliver, distribute, or transfer marijuana, marijuana concentrate, or a marijuana product directly to a consumer, with or without compensation;

(2) sell marijuana, marijuana concentrate, or a marijuana product that is not manufactured, packaged, and labeled in compliance with 3 AAC 306.500 - 3 AAC 306.570;

(3) allow any person, including a licensee, employee, or agent, to consume marijuana, marijuana concentrate, or a marijuana product on the licensed premises;

(4) manufacture or sell any product that

(A) is an adulterated food or drink;

(B) closely resembles a familiar food or drink item including candy; or

(C) is packaged to look like candy, or in bright colors or with cartoon characters or other pictures or images that would appeal to children.

(b) A licensed marijuana product manufacturing facility may not accept any marijuana from a marijuana cultivation facility or another marijuana product manufacturing facility unless

(1) all marijuana in the shipment is properly identified with a label generated in the marijuana inventory tracking system of the facility that provided the marijuana; and

(2) a valid transport manifest showing the source and destination of the marijuana is attached to the

shipment.

(c) In this section, "closely resemble" or "look like" means the product or its packaging has a shape, color, markings, or decorative patterns that are familiar to the public from a widely distributed branded food product, so that the marijuana product could reasonably be mistaken for that branded product, especially by children.

3 AAC 306.515. Marijuana concentrate manufacturing facility license

A licensed marijuana concentrate manufacturing facility has the privileges set out in 3 AAC 306.505, except that it may not

- (1) manufacture, refine, process, cook, package, label, or store any marijuana product other than marijuana concentrate;
- (2) sell, distribute, or deliver a marijuana product other than marijuana concentrate to a retail marijuana store or to another marijuana product manufacturing facility;
- (3) provide or transport a sample of a marijuana product other than marijuana concentrate to a licensed marijuana testing facility for testing; or
- (4) provide samples of a product other than marijuana concentrate to a licensed retail marijuana store for purposes of negotiating a sale.

3 AAC 306.520. Application for marijuana product manufacturing facility license

An applicant for a marijuana product manufacturing facility license, including a marijuana concentrate manufacturing facility license, must file an application on a form the board prescribes, and provide the information required under 3 AAC

306.20 and

- (1) a copy of a food safety permit if required under 18 AAC 31.020 from the Department of Environmental Conservation or a municipality with authority delegated under AS 17.20.072 and 18 AAC 31.945;
- (2) a diagram of the proposed licensed premises required in 3 AAC 306.020(b), identifying the area where
 - (A) in-house testing, if any, will occur; and
 - (B) marijuana and any marijuana product, including marijuana concentrate, will be stored;
- (3) in the applicant's operating plan required under 3 AAC 306.020(c), a description of
 - (A) the equipment and solvents, gases, chemicals, and other compounds used to create concentrates and the processes to be used;
 - (B) each marijuana product the applicant intends to process at this location; the product description must include the color, shape, texture, ingredients and standard production procedure to be used and the additional information required for product approval in 3 AAC 306.525;

- (C) the packaging to be used for each type of product;
- (D) sample labels showing how the labeling information required in 3 AAC 306.570 will be set out; and
- (E) the applicant's plan for disposal of waste.

3 AAC 306.525. Approval of concentrates and marijuana products

(a) A marijuana product manufacturing facility, including a marijuana concentrate manufacturing facility, must obtain the board's approval for each product it will manufacture for sale or transfer to another licensed marijuana establishment. The board will not approve a product that is prohibited under 3 AAC 306.510(a)(4).

(b) An applicant for a marijuana product manufacturing facility license may request the board's approval of its intended products with a new license application by including, in its operating plan

(1) a photograph, drawing, or graphic representation of the expected appearance of each final product; and

(2) the proposed standard production procedure and detailed manufacturing process for each product.

(c) A licensed marijuana product manufacturing facility may at any time submit a new product approval request to the board on a form the board prescribes along with the fee required under 3 AAC 306.100(c).

(d) A licensed marijuana product manufacturing facility shall keep its ingredient list and potency limits for any food product containing marijuana on file at the marijuana product manufacturing facility's licensed premises. The ingredient list and potency limits for any product manufactured at the facility must be made available for inspection on request by the director, or an employee or agent of the board.

3 AAC 306.530. Marijuana handler permit and food safety worker training

(a) A marijuana product manufacturing facility, including a marijuana concentrate manufacturing facility, shall ensure that each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time

(1) obtains a marijuana handler permit as provided in 3 AAC 306.700 before being present or employed at the marijuana product manufacturing facility's licensed premises; and

(2) has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana product manufacturing facility's licensed premises.

(b) A licensee, employee, or agent of a marijuana product manufacturing facility who handles marijuana at the facility shall obtain a food worker card in compliance with 18 AAC 31.330 and keep that card in that person's possession at all times while on the licensed premises of the marijuana product manufacturing facility.

3 AAC 306.535. Restricted access and storage areas

(a) A marijuana product manufacturing facility shall conduct any extraction or product manufacturing operation in a restricted access area in compliance with 3 AAC 306.710.

(b) A marijuana product manufacturing facility shall have full video surveillance of the licensed premises as provided in 3 AAC 306.720, including each area where

(1) marijuana concentrate is produced;

(2) any operation involved in manufacturing any product containing marijuana occurs;

(3) marijuana or a marijuana product is stored or stockpiled; or

(4) marijuana waste is destroyed.

(c) Any area where marijuana or a marijuana product is stored must be moisture- and temperature-controlled and protected from pests and vermin.

3 AAC 306.540. Marijuana inventory tracking system

(a) A marijuana product manufacturing facility shall use a marijuana inventory tracking system as provided in 3 AAC 306.730 to ensure that the marijuana product manufacturing facility identifies and tracks any marijuana or marijuana product from the time the marijuana or marijuana product is received, through

(1) use of the marijuana or marijuana product in manufacturing any other marijuana product;

(2) sale or transfer of the marijuana or marijuana product originally received, or any marijuana product manufactured at that marijuana product manufacturing facility to another licensed marijuana establishment; and

(3) disposal of any expired or outdated marijuana or marijuana product that is not sold or transferred to another licensed marijuana establishment.

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

(c) A marijuana product manufacturing facility shall track any received marijuana or marijuana product to its use in a marijuana product, and shall reconcile each transaction to the marijuana product manufacturing facility's marijuana inventory tracking system at the close of business each day.

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

3 AAC 306.545. Health and safety standards

(a) A marijuana product manufacturing facility shall comply with the health and safety standards set out in 3 AAC 306.735, 18 AAC 31 (Alaska Food Code), if applicable, and any local kitchen-related health and safety standards for retail food establishments.

(b) In addition to inspection by the director or an employee or agent of the board, a marijuana product manufacturing facility is subject to

inspection by local safety officials, including a local fire department, building inspector, or code enforcement officer.

3 AAC 306.550. Required laboratory testing

(a) A marijuana product manufacturing facility shall provide a sample of each marijuana product manufactured at the facility to a licensed marijuana testing facility, and may not sell or transport a marijuana product until all laboratory testing required under 3 AAC 306.645 has been completed.

(b) To comply with (a) of this section, a marijuana product manufacturing facility shall

(1) collect a random sample for testing by selecting a product from each production lot in an amount required by the marijuana testing facility;

(2) designate an individual responsible for collecting each sample; that individual shall

(A) prepare a signed statement showing that each sample has been randomly selected for testing;

(B) provide the signed statement to the marijuana testing facility; and

(C) maintain a copy as a business record under 3 AAC 306.755; and

(3) transport the sample to the marijuana testing facility in compliance with 3 AAC 306.750.

(c) After collecting and transporting a sample for testing, a marijuana product manufacturing facility shall segregate the entire production lot from which the testing sample was selected until the marijuana testing facility reports the results from its tests. During this period of segregation, the marijuana product manufacturing facility that provided the sample shall maintain the production lot in a secure, cool, and dry location to prevent the marijuana product from becoming contaminated or losing its efficacy. The marijuana product manufacturing facility may not sell or transport any marijuana product from the segregated lot until the marijuana testing facility has completed its testing and analysis and provided those results, in writing, to the marijuana product manufacturing facility that provided the sample. The marijuana product manufacturing facility shall maintain the testing results as part of its business records.

3 AAC 306.555. Production of marijuana concentrate

(a) Before producing marijuana concentrate for sale, a marijuana product manufacturing facility shall develop standard operating procedures, good manufacturing practices, a safety plan, and a training plan for each individual employed in an extraction process.

(b) A marijuana product manufacturing facility may create marijuana concentrates only as follows:

(1) water-based marijuana concentrate may be produced by extracting cannabinoids from marijuana by using only water, ice, or dry ice;

(2) food-based marijuana concentrate may be produced by extracting cannabinoids from marijuana through the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats; infused dairy butter, oils, or fats derived from natural sources may be used to prepare infused edible products; infused dairy butter, oils, or fats may not be prepared as stand-alone edible products for sale;

(3) solvent-based marijuana concentrate may be produced using the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases the board approves that exhibit low to minimal potential human health-related toxicity; approved solvents must be of at least 99 percent purity and must be used

(A) in a professional grade closed-loop extraction system designed to recover the solvents;

(B) in an environment with proper ventilation; and

(C) with control of all sources of ignition if a flammable atmosphere is or may be present.

(c) A marijuana product manufacturing facility using a professional grade closed-loop gas extraction system shall ensure that

(1) each vessel is used in compliance with the manufacturer's stated pressure ratings;

(2) any carbon dioxide used is of at least 99 percent purity;

(3) a person using a solvent or gas to extract marijuana concentrate in the closed-loop system is fully trained on how to use the system, has direct access to applicable material safety data sheets, and handles and stores the solvent and gas safely;

(4) a licensed engineer has certified that the professional grade closed-loop system was commercially manufactured, is safe for its intended use, and is built to codes of recognized and generally accepted engineering practices; and

(5) any professional grade closed-loop system, and other equipment and facilities used in the extraction process are approved for their use by the local fire code official and meet any applicable fire, safety, and building code requirements.

(d) A marijuana product manufacturing facility may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create

(1) kief;

(2) hashish;

(3) bubble hash;

(4) infused dairy butter, oils, or fats derived from natural sources; or

(5) other extracts.

(e) A marijuana product manufacturing facility may use food-grade glycerin, ethanol, and propylene glycol solvents to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

3 AAC 306.560. Potency limits per serving and transaction for edible marijuana products

A marijuana product manufacturing facility may not prepare a marijuana product with potency levels exceeding the following, as tested in compliance with 3 AAC 306.645:

(1) for a single serving of a marijuana product, five milligrams of active tetrahydrocannabinol (THC) or Delta 9;

(2) in a single packaged unit of a marijuana product to be eaten or swallowed, not more than 10 servings or

50 milligrams of active THC or Delta 9; the THC content must be homogenous, or evenly distributed throughout the marijuana-infused product.

3 AAC 306.565. Packaging of marijuana products

(a) A marijuana product manufacturing facility shall observe the potency limits set out in 3 AAC 306.560 in packaging each product for resale by a retail marijuana store.

(b) A container or packaging for any edible marijuana product produced by a marijuana product manufacturing facility may not have any printed images, including cartoon characters, that specifically target individuals under 21 years of age. In addition, the packaging must

(1) protect the product from contamination and may not impart any toxic or damaging substance to the product; and

(2) if the marijuana product contains multiple servings, be designed so that the marijuana product itself has markings or demarcations clearly delineating each serving of the product; for liquid marijuana products with multiple servings, the packaging must indicate the number and size of individual servings.

(c) A licensed marijuana product manufacturing facility may transfer marijuana products that are not edible marijuana products to another licensed marijuana product manufacturing facility in wholesale packages not to exceed five pounds.

(d) Each packaged marijuana product must be identified by a tracking label generated by the marijuana product manufacturing facility's marijuana inventory tracking system.

(e) A licensed marijuana product manufacturing facility shall prepare marijuana products for transfer to another marijuana establishment by

(1) placing marijuana products within a sealed, tamper-evident shipping container;

(2) affixing a label that complies with 3 AAC 306.570(d) to the shipping container; and

(3) generating a transport manifest from the marijuana product manufacturing facility's marijuana inventory tracking system; the transport manifest must remain with the marijuana products at all times while being transported, and a copy must be given to the licensed marijuana establishment that receives the shipment.

3 AAC 306.570. Labeling of marijuana products

(a) With each production lot of marijuana product sold, a marijuana product manufacturing facility shall disclose in writing the name of the licensed marijuana testing facility that performed any required test and the results of each required test.

(b) A marijuana product may not be labeled as organic.

(c) To each package of marijuana product sold to a retail marijuana store for resale to a consumer, a marijuana product manufacturing facility shall affix a label setting out

(1) the name and license number of the marijuana product manufacturing facility where the marijuana product was prepared;

(2) the production lot number assigned to the product in the package;

(3) the net weight of the product in the package,

(A) not including weight of packaging; and

(B) using a standard of measure compatible with the marijuana product manufacturing facility's marijuana inventory tracking system; and

(4) each of the following statements:

(A) "Marijuana has intoxicating effects and may be habit forming and addictive";

(B) "Marijuana impairs concentration, coordination, and judgment. Do not operate a vehicle or machinery under its influence";

(C) "There are health risks associated with consumption of marijuana";

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

(E) "Marijuana should not be used by women who are pregnant or breast feeding.".

(d) A marijuana product manufacturing facility transporting a marijuana product to a retail marijuana store shall affix a label to the shipping container showing that a licensed marijuana testing facility has tested each lot of marijuana product in the shipment and giving the test results, including

(1) a cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid listed from every test conducted on that production lot from the same marijuana product manufacturing facility within the last three months;

(2) a statement listing the results of microbial testing required under 3 AAC 306.645(b)(2);

(3) a statement listing the results of residual solvent testing required under 3 AAC 306.645(b)(3), if applicable; and

(4) a statement listing any contaminants for which the product was tested in addition to contaminants for which 3 AAC 306.645(b) requires testing; any additional tested contaminants include

(A) molds, mildew, and filth;

(B)) herbicides, pesticides, and fungicides; and

(C) harmful chemicals.

(e) If a marijuana product manufacturing facility ships wholesale marijuana product from a production lot of marijuana product that has not been tested for each contaminant listed in (d)(4) of this section, the label for that lot must include a statement identifying each contaminant listed in (d)(4) of this section for which that lot has not been tested.

Article 6

Marijuana Testing Facilities

3 AAC 306.600. Applicability

(a) The provisions of 3 AAC 306.600 - 3 AAC 306.675 apply to a person offering a service testing, analyzing, or certifying potency, moisture content, pesticide or solvent residue, mold, mildew, bacteria, or other contaminants in marijuana or a marijuana product to another person including a marijuana establishment or a member of the public,

whether for compensation or not, as a independent or third-party testing facility.

(b) The provisions of 3 AAC 306.600 - 3 AAC 306.675 do not apply to a licensed marijuana establishment that controls marijuana testing equipment used solely for its own in-house testing of its own cultivated crop, of products produced or manufactured at its own facility, or of retail products placed or offered for sale in its retail marijuana store.

3 AAC 306.605. Marijuana testing facility license required.

(a) A person may not offer or provide a marijuana testing service or test results unless the person has obtained a marijuana testing facility license from the board in compliance with this chapter, or is an employee or agent acting for a licensed marijuana testing facility.

(b) A person seeking a marijuana testing facility license must

(1) submit an application for a marijuana testing facility license on a form the board prescribes, including the information set out under 3 AAC 306.020 and 3 AAC 306.615; and

(2) demonstrate to the board's satisfaction that the applicant

(A) will operate in compliance with each applicable provision of 3 AAC 306.600 - 3 AAC 306.675 and 3 AAC 306.700 - 3 AAC 06.755;

(B) will operate in compliance with each applicable public health, fire, safety, and tax code and ordinance of the state and the local government in which the applicant's proposed licensed premises are located;

(C) does not hold a marijuana establishment license in this state other than a marijuana testing facility license, or have a financial interest in common with a person who is a licensee of a marijuana establishment in this state other than a marijuana testing facility license; and

(D) meets the board's standards for approval as set out in 3 AAC 306.620 - 3 AAC 306.625.

(c) A licensee of a marijuana testing facility, or an employee or agent of a licensed marijuana testing facility, may not have an ownership interest in or a direct or indirect financial interest in another licensed marijuana establishment.

3 AAC 306.610. Marijuana testing facilities: privileges and prohibitions

(a) A licensed marijuana testing facility may have any amount of marijuana and marijuana products on its premises at any given time if the marijuana testing facility's marijuana inventory tracking system and other records document that all marijuana and marijuana products are on the premises only for the testing purposes described in 3 AAC 306.600 - 3 AAC 06.675.

(b) A licensed marijuana testing facility may not

(1) have a licensee, employee, or agent who holds a type of marijuana establishment license other than a marijuana testing facility license issued under this chapter;

(2) sell, deliver, distribute, or transfer marijuana or a marijuana product to a consumer, with or without compensation; or

(3) allow a person to consume marijuana or a marijuana product on its licensed premises.

3 AAC 306.615. Application for marijuana testing facility license

An applicant for a new marijuana testing facility license must file an application on a form the board prescribes, including

(1) the information required under 3 AAC 306.020; and

(2) the proposed marijuana testing facility's operating plan, including, in addition to the information required under 3 AAC 306.020(c),

(A) each test the marijuana testing facility will offer;

(B) the marijuana testing facility's standard operating procedure for each test the marijuana testing facility will offer; and

(C) the acceptable range of results for each test the marijuana testing facility will offer.

3 AAC 306.620. Approval of testing facility

(a) A person seeking a marijuana testing facility license must first obtain the approval of the board by showing competence to perform each test the licensee will offer as an independent third-party testing facility, including tests to identify

(1) THC, THCA, CBD, CBDA and CBN potency;

(2) harmful microbials including *Escherichia coli* (E. Coli) or salmonella;

(3) residual solvents;

(4) poisons or toxins;

(5) harmful chemicals;

(6) dangerous molds, mildew, or filth;

(7) pesticides.

(b) In evaluating whether a person has shown competence in testing under this section, the board or the board's contractor may

(1) conduct an on-site inspection of the applicant's premises;

(2) require the applicant to demonstrate proficiency in testing; and

(3) examine compliance with any applicable requirement of 3 AAC 306.630 - 3 AAC 306.675, and 3 AAC 306.700 - 3 AAC 306.755, including

(A) qualifications of personnel;

(B) the standard operating procedure for each testing methodology the marijuana testing facility will use;

(C) proficiency testing results;

(D) quality control and quality assurance;

(E) security;

(F) chain of custody;

(G) specimen retention;

(H) space;

(I) records; and

(J) reporting of results.

(c) The board will approve a marijuana testing facility license if, after the board or the board's contractor has examined the qualifications and procedures of the marijuana testing facility license applicant, the board finds them generally in compliance with good laboratory practices. Nothing in AS 17.38 or this chapter constitutes a board guarantee that a licensed marijuana testing facility can or will protect the public from all potential hazards of marijuana including microbials, poisons or toxins, residual solvents, pesticides, or other contaminants.

3 AAC 306.625. Proficiency testing program

(a) When an accredited proficiency testing program becomes available in the state, the board may require an applicant for a marijuana testing facility license to participate successfully in a proficiency testing program not earlier than 12 months before receiving a license. The proficiency testing program must require an applicant for a marijuana testing facility license or a participating licensed marijuana testing facility to analyze test samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment that will be used for product testing. Successful participation is the positive identification of 80 percent of the target analytes that the marijuana testing facility reports, and must include quantitative results when applicable. Any false positive results reported constitute an unsatisfactory score for the proficiency test.

(b) Before renewing the license of a marijuana testing facility, the board may require the facility to participate in a proficiency testing program with documentation of continued performance satisfactory to the board. The license of a marijuana testing facility may be limited, suspended, or revoked if the facility fails to participate and receive a passing score in a proficiency testing program.

(c) The scientific director employed under 3 AAC 306.630 and each testing analyst of an applicant for a marijuana testing facility license and a licensed marijuana testing facility that participated in a proficiency test shall sign a corresponding attestation statement. The scientific director shall review and evaluate each proficiency test result.

(d) An applicant for a marijuana testing facility license, and a licensed marijuana testing facility participating in the proficiency testing program, shall take and document remedial action when the applicant or the facility meets the standards of (a) of this section, but scores less than 100 percent in a proficiency test. To take and document remedial action, the marijuana testing facility's scientific director shall, at a minimum, review all samples tested and results reported after the date of the marijuana testing facility's last successful proficiency test.

3 AAC 306.630. Scientific director

(a) A marijuana testing facility shall employ a scientific director who must be responsible for

(1) overseeing and directing the scientific methods of the laboratory within the marijuana testing facility;

(2) ensuring that the laboratory achieves and maintains quality standards of practice; and

(3) supervising all staff of the laboratory.

(b) The scientific director of a marijuana testing facility must have

(1) a doctorate degree in chemical or biological sciences from an accredited college or university and have at least two years of post-degree laboratory experience;

(2) a master's degree in chemical or biological sciences from an accredited college or university and have at least four years of post-degree laboratory experience; and

(3) a bachelor's degree in chemical or biological sciences from an accredited college or university and have at least six years of post-degree laboratory experience.

3 AAC 306.635. Testing methodologies

(a) An applicant for a marijuana testing facility license and a licensed marijuana testing facility shall

(1) use as guidelines or references for testing methodologies

(A) the American Herbal Pharmacopoeia's Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, Revision 2014, adopted by reference; and

(B) the United Nations Office on Drugs and Crime's Recommended Methods for the Identification and Analysis of Cannabis and Cannabis Products: Manual for Use by National Drug Analysis Laboratories, dated 2009 and adopted by reference; and

(2) notify the board of any alternative scientifically valid testing methodology the marijuana testing facility proposes to use for any laboratory test it conducts; the board may require third-party validation of any monograph, peer-reviewed scientific journal article, or analytical method the marijuana testing facility proposes to follow to ensure the methodology produces comparable and accurate results.

(b) An applicant for a marijuana testing facility license and the holder of a marijuana testing facility license shall observe good laboratory practices.

(c) The board or the board's contractor may inspect the practices, procedures, and programs adopted, followed, and maintained by the applicant or the licensed marijuana testing facility and may examine all records of the applicant or the licensed marijuana testing facility that are related to the inspection. The board may require an applicant or a licensed marijuana testing facility to have an independent third party inspect and monitor laboratory operations to assess testing competency and the marijuana testing facility's compliance with its quality program. The board may require random validation of a marijuana testing facility's execution of each testing methodology the facility uses. The marijuana testing facility shall pay all costs of validation.

3 AAC 306.640. Standard operating procedure manual

(a) An applicant for a marijuana testing facility license and a licensed marijuana testing facility shall have a written manual of standard operating procedures, with detailed instructions explaining how to perform each testing method the applicant or marijuana testing facility uses and minimum standards for each test. The written manual of standard operating procedures must be available to each employee of the marijuana testing facility at all times. The written manual of standard operating procedures must cover at least

- (1) sample preparation for each matrix that will be tested;
- (2) reagent, solution, and reference standard preparation;
- (3) instrument setup, if applicable;

- (4) standardization of volumetric reagent solutions, if applicable;
- (5) data acquisition;
- (6) calculation of results;
- (7) identification criteria;
- (8) quality control frequency;
- (9) quality control acceptance criteria; and
- (10) rective action protocol.

(b) The scientific director of a marijuana testing facility shall approve, sign, and date each standard operating procedure, and each revision to any standard operating procedure.

3 AAC 306.645. Laboratory testing of marijuana and marijuana products

(a) A marijuana testing facility shall use the general body of required laboratory tests as set out in this section for marijuana plant material, an extract or concentrate of marijuana, and an edible marijuana product. Required tests may include potency analysis, moisture content, foreign matter inspection, microbial screening, pesticide, other chemical residue, and metals screening, and residual solvents levels. A marijuana testing facility shall establish a schedule of fees and sample size required for each test it offers.

(b) The tests required for each marijuana type or marijuana product, are as follows:

(1) potency testing is required on marijuana bud and flower, marijuana concentrate, and a marijuana product, as follows:

(A) the required cannabinoid potency test must at least determine the concentration of THC, THCA, CBD, CBDA and CBN cannabinoids; a marijuana testing facility may test and report results for any additional cannabinoid if the test is conducted in compliance with a validated method;

(B) a marijuana testing facility shall report potency test results as follows:

(i) for a potency test on marijuana and marijuana concentrate, the marijuana testing facility shall list for each required cannabinoid a single percentage concentration that represents an average of all

samples within the test batch; alternatively, the sum of THC and THCA may be reported as total THC; the sum of CBD and CBDA may be reported as total CBD;

(ii) for a potency test on a marijuana product, whether conducted on each individual production lot or using process validation, the marijuana testing facility shall list for each cannabinoid the total number of milligrams contained within a single retail marijuana product unit for sale;

(iii) testing whether the THC content is homogenous, the marijuana testing facility shall report the THC content of each single serving in a multi-unit package; the reported content must be within 20 percent of the manufacturer's target; for example, in a 25 milligrams total THC package with five servings, each serving must contain between four and six milligrams of THC;

(C) the marijuana testing facility shall determine an edible marijuana product to have failed potency testing if

(i) an individually packaged edible retail marijuana product contained within a test lot is determined to have more than 50 milligrams of THC within it; or

(ii) the THC content of an edible marijuana product is not homogenous;

(2) microbial testing for the listed substances on the listed marijuana products is required as follows: Substance Acceptable

Limits

Per Gram Product to be Tested

Shiga-toxin producing Escherichja coli (STEC) -

bacteria less than 1 colony

forming unit (CFU/g) flower; retail marijuana

products; water- and food-based concentrates

Salmonella species -

bacteria less than 1 colony

forming unit (CFU/g)

Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger -

Fungus less than 1 colony

forming unit (CFU/g)

(3) testing for the listed residual solvents and metals on the listed marijuana products is required as follows:

Substance Acceptable Limits

Per Gram Product to be Tested butanes less than 800 parts

per million (PPM) solvent-based concentrates heptanes less than 500 parts

per million (PPM) benzene less than .025 parts

per million (PPM) toluene less than 1 parts per

million (PPM) hexane less than 10 parts

per million (PPM)

Total xylenes (meta-xylenes, para-xylenes, ortho-xyleres

) less than 1 parts per million (PPM)

3 AAC 306.650. Chain of custody

A marijuana testing facility shall establish an adequate chain of custody and sample requirement instructions that include

(1) issuing instructions for the minimum sample requirements and storage requirements;

(2) documenting the condition of the external package and integrity seals utilized to prevent contamination of or tampering with the sample;

(3) documenting the condition and amount of sample provided at the time the sample is received at the marijuana testing facility;

(4) documenting each person handling the original samples, aliquots, and extracts;

(5) documenting any transfer of samples, aliquots, and extracts to another marijuana testing facility for additional testing or at the request of the marijuana cultivation facility or marijuana product manufacturing facility that provided the testing sample;

- (6) maintaining a current list of authorized persons and restricting entry to the marijuana testing facility to those authorized persons;
- (7) securing the marijuana testing facility during non-working hours;
- (8) securing short-term and long-term storage areas when not in use;
- (9) using a secured area to log in and aliquot samples;
- (10) ensuring samples are stored appropriately; and
- (11) documenting the disposal of samples, aliquots, and extracts.

3 AAC 306.655. Marijuana inventory tracking system

A marijuana testing facility shall use a marijuana inventory tracking system as provided in 3 AAC 306.730 to ensure all marijuana transported to the marijuana testing facility's premises is identified and tracked from the time the marijuana arrives at the marijuana testing facility to the use and destruction of the marijuana in testing, or to disposal in compliance with 3 AAC 306.740.

3 AAC 306.660. Failed materials; retests

(a) If a sample tested by a marijuana testing facility does not pass the required tests based on the standards set out in 3 AAC 306.645, the marijuana establishment that provided the sample shall

(1) dispose of the entire harvest batch or production lot from which the sample was taken; and

(2) document the disposal of the sample using the marijuana establishment's marijuana inventory tracking system.

(b) If a sample of marijuana fails a required test, any marijuana plant trim, leaf, and other usable material from the same plants automatically fail the required test. The board may approve a request to allow a batch of marijuana that fails a required test to be used to make a carbon dioxide- or solvent-based extract. After processing, the carbon dioxide- or solvent-based extract must pass all required tests.

(c) If a marijuana cultivation facility or a marijuana product manufacturing facility petitions for a retest of marijuana or a marijuana product that failed a required test, the board may authorize a retest to validate the test results. The marijuana cultivation

facility or a marijuana product manufacturing facility shall pay all costs of a retest.

3 AAC 306.665. Supplemental marijuana quality testing

(a) The board or director may at any time determine that the interests of the public require random supplemental testing of marijuana or a marijuana product. When the board or director requires random supplemental testing, the board will or director shall direct the marijuana cultivation facility that produced the marijuana, or the marijuana product manufacturing facility that manufactured the product, to submit a specified sample, batch, or packaged product to a designated marijuana testing facility. The material must be packaged in a manner that ensures the marijuana testing facility will be able to confirm that it has received and is testing the correct supplemental sample.

(b) When a marijuana testing facility receives a sample for random supplemental testing under this section, the marijuana testing facility shall

(1) perform any required laboratory test the board or director requests; and

(2) report its results to

(A) the board or director; and

(B) the facility that provided the sample.

(c) A marijuana testing facility that conducts laboratory testing under this section shall bill all costs directly to the marijuana cultivation facility or the marijuana product manufacturing facility that provided the samples for testing.

3 AAC 306.670. Reporting; verification

(a) A marijuana testing facility shall report the result of each required laboratory test directly into its marijuana inventory tracking system not later than 24 hours after the test is completed. A marijuana testing facility shall provide the final report

(1) in a timely manner to the marijuana establishment that submitted the sample; and

(2) to the director not later than 72 hours after the marijuana testing facility determines that results of tested samples exceed allowable levels.

(b)) A marijuana testing facility shall establish procedures to ensure that reported results are accurate, precise, and scientifically valid. To ensure reported results are valid, a marijuana testing facility shall include in a final report

(1) the name and location of the marijuana testing facility;

(2) the unique sample identifier assigned by the marijuana testing facility; sample

(3) the marijuana establishment or other person that submitted the testing sample;

(4) the sample identifier provided by the marijuana establishment or other person that submitted the testing

(5) the date the marijuana testing facility received the sample;

(6) the chain of custody identifier;

(7) the date of the report;

(8) the type of marijuana or marijuana product tested;

(9) the test results;

(10) the units of measure; and

(11) ny other information or qualifiers needed for interpretation of the test method and the results being reported, including any identified and documented discrepancy.

(c) A marijuana testing facility may amend a final report for clerical purposes except that test results may not be amended.

3 AAC 306.675. Records retention

A marijuana testing facility shall maintain the business records required under 3 AAC 306.755 for the period of time specified in that section. The books and records required under 3 AAC 306.755(a)(1) include

(1) test results;

- (2) quality control and quality assurance records;
- (3) standard operating procedures;
- (4) chain-of-custody records;
- (5) proficiency testing records;
- (6) analytical data to include printouts generated by the instrumentation;
- (7) accession numbers;
- (8) specimen type;
- (9) raw data of calibration standards and curves, controls, and subject results;
- (10) final and amended reports;
- (11) acceptable reference range parameters;
- (12) the identity of the analyst; and
- (13) the date of the analysis.

Article 7

Operating Requirements for All Marijuana Establishments

3 AAC 306.700. Marijuana handler permit

- (a) A marijuana establishment and each licensee, employee, or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or a marijuana product, or who checks the identification of a consumer or visitor, must obtain a marijuana handler permit from the board before being licensed or beginning employment at a marijuana establishment.
- (b) To obtain a marijuana handler permit, a person must complete a marijuana handler permit education course approved by the board, pass a written test demonstrating an understanding of the course material, and obtain a certificate of course completion from the course

provider. The topics that an approved marijuana handler permit education course covers must include

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

(c) To obtain a marijuana handler permit, a person who has completed the marijuana handler permit education course described under

(b) of this section shall present the course completion certificate to the director. The director shall issue a marijuana handler permit card valid for three years from the date of issue. A person may renew a card issued under this section by passing a written test demonstrating an understanding of the course subjects.

(d) A licensee, employee, or agent of a marijuana establishment shall keep the marijuana handler permit card described in

(c) of this section in that person's immediate possession or a valid copy on file on the premises at all times when on the licensed premises of the marijuana establishment.

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

3 AAC 306.705. Licensed premise; alteration

(a) A marijuana establishment license will be issued for specific licensed premises. Specific licensed premises must constitute a place clearly designated in a license application and described by a line drawing submitted with the license application. The licensed premises must

(1) have adequate space for its approved operations, including growing, manufacturing, processing, packaging, or storing marijuana or marijuana products; and

(2) be located and constructed to facilitate cleaning, maintenance, and proper operation.

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

(c) A holder of a marijuana establishment license may not alter the functional floor plan or reduce or expand the area of the licensed premises without first obtaining the director's written approval. A marijuana establishment license holder seeking to change or modify the licensed premises must submit a request for approval of the change on a form prescribed by the board, along with

(1) the fee prescribed in 3 AAC 306.100;

(2) a drawing showing the proposed change;

(3) evidence that the proposed change conforms to any local restrictions; and

(4) evidence that the licensee has obtained any applicable local building permit.

3 AAC 306.710. Restricted access areas

(a) A marijuana establishment shall restrict access to any part of the licensed premises where marijuana or a marijuana product is grown, processed, tested, stored, or stocked.

(b) Except as provided in 3 AAC 306.325 for a retail marijuana store, each entrance to a restricted access area must be marked by a sign that says "Restricted access area. Visitors must be escorted." A marijuana establishment shall limit the number of visitors to not more than five visitors for each licensee, employee, or agent of the licensee who is actively engaged in supervising those visitors.

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

- (1) show identification as required in 3 AAC 306.350 to prove that person is 21 years of age or older;
- (2) obtain a visitor identification badge before entering the restricted access area; and
- (3) be escorted at all times by a licensee, employee, or agent of the marijuana establishment.

3 AAC 306.715. Security alarm systems and lock standards

- (a) Each licensee, employee, or agent of a marijuana establishment shall display an identification badge issued by the marijuana establishment at all times when on the marijuana establishment's licensed premises.
 - (b) The licensed premises of a marijuana establishment must have
 - (1) exterior lighting to facilitate surveillance;
 - (2) a security alarm system on all exterior doors and windows; and
 - (3) continuous video monitoring as provided in 3 AAC 306.720.
 - (c) A marijuana establishment shall have policies and procedures that
 - (1) are designed to prevent diversion of marijuana or marijuana product;
 - (2) prevent loitering;
 - (3) describe the use of any additional security device, such as a motion detector, pressure switch, and duress, panic, or hold-up alarm to enhance security of licensed premises; and
 - (4) describe the actions to be taken by a licensee, employee, or agent of the marijuana establishment when any automatic or electronic notification system alerts a local law enforcement agency of an unauthorized breach of security.
 - (d) A marijuana establishment shall use ecommercial grade, non-residential door locks on all exterior entry points to the licensed premises.

3 AAC 306.720. Video surveillance

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

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

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

(3) each point-of-sale area.

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

(c) Any area where marijuana is grown, cured, or manufactured, or where marijuana waste is destroyed, must have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height that will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, in order to allow for the clear and certain identification of any person and activity in the area at all times.

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

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

3 AAC 306.725. Inspection of licensed premises

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

(b) Inspection under this section includes inspection of the premises, facilities, qualifications of personnel, methods of operation, business and financial records, marijuana inventory tracking system, policies, and purposes of any marijuana establishment and of any applicant for a marijuana establishment license.

3 AAC 306.730. Marijuana inventory tracking system

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

(b) Marijuana delivered to a marijuana establishment must be weighed on a scale registered in compliance with 3 AAC 306.745.

3 AAC 306.735. Health and safety standards

(a) A marijuana establishment is subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that health or safety concerns are not present.

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

(1) any person who has an illness, an open sore or infected wound, or other potential source of infection does not come in contact with

marijuana or a marijuana product while the illness or source of infection persists;

(2) the licensed premises have

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

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

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

(A) maintaining adequate personal cleanliness; and

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

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

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

(B) prevent causing odors or attracting pests;

(5) floors, walls, and ceilings are constructed to allow adequate cleaning, and are kept clean and in good

(6) adequate lighting is installed in any area where marijuana or a marijuana product is stored, displayed, or

sold, and where any equipment or utensil is cleaned;

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

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

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

(10) dequate sanitation principles are used in receiving, inspecting, transporting, and storing marijuana or a marijuana product; and

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

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

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

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

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

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

3 AAC 306.740. Waste disposal

(a) A marijuana establishment shall store, manage, and dispose of any solid or liquid waste, including wastewater generated during marijuana cultivation production, processing, testing, or retail sales, in compliance with applicable federal, state, and local statutes, ordinances, regulations, and other law

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

(1) marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent;

(2) solid marijuana sample plant waste in the possession of a marijuana testing facility; and

(3) other waste as determined by the board.

(c) A marijuana establishment shall

(1) in the marijuana inventory tracking system required under 3 AAC 306.730, give the board notice not later than three days before making the waste unusable and disposing of it; however, the director may authorize immediate disposal on an emergency basis; and

(2) keep a record of the final destination of marijuana waste made unusable.

(d) Marijuana plant waste must be made unusable by grinding the marijuana plant waste and mixing it with at least an equal amount of other compostable or non-compostable materials. A marijuana establishment may use another method to make marijuana waste unusable if the board approves the method in advance. Material that may be mixed with the marijuana waste includes

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

(2) non-compostable materials including paper waste, cardboard waste, plastic waste, oil, or other wastes approved by the board when the mixed material may be delivered to a permitted solid waste facility, incinerator, or other facility with approval of any applicable local government entity.

(e) If marijuana or a marijuana product is found by, or surrendered to, a law enforcement officer including a peace officer or an airport security officer, the officer may dispose of the marijuana or marijuana product as provided in this section or by any method that is allowed under any applicable local ordinance.

3 AAC 306.745. Standardized scales

A marijuana establishment shall use registered scales in compliance with AS 45.75.080 (Weights and Measures Act). A marijuana establishment shall

(1) maintain registration and inspection reports of scales registered under AS 45.75.080 and 17 AAC 90.920 - 17 AAC 90.935; and

(2) upon request by the board or the director, provide a copy of the registration and inspection reports of the registered scales to the board or the director for review.

3 AAC 306.750. Transportation

(a) A marijuana establishment shall transport marijuana as follows:

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

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

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

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

(b) A marijuana establishment from which a shipment of marijuana or marijuana product originates is responsible for preparing, packaging, and securing the marijuana or marijuana product during shipment, for recording the transfer in the marijuana inventory tracking system, and for preparing the transport manifest. An individual transporting marijuana in compliance with this section shall have a marijuana handler permit required under 3 AAC 306.700.

(c) When marijuana or a marijuana product is transported, the marijuana establishment that originates the transport shall use the marijuana inventory tracking system to record the type, amount and weight of marijuana or marijuana product being transported, the name of the transporter, the time of departure and expected delivery, and the make, model, and license plate number of the transporting vehicle. A complete printed transport manifest on a form prescribed by the

board must be kept with the marijuana or marijuana product at all times.

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

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

(f) A marijuana establishment shall keep records of all marijuana or marijuana products shipped from or received at that marijuana establishment as required under 3 AAC 306.755.

3 AAC 306.755. Business records

(a) A marijuana establishment shall maintain in a format that is readily understood by a reasonably prudent business person

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

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

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

(4) records related to advertising and marketing;

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

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

(7) all records normally retained for tax purposes;

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

(9) transportation records for marijuana and marijuana products as required under 3 AAC 306.750(f).

(b) A marijuana establishment shall provide any record required to be kept on the licensed premises to an employee of the board upon request. Any record kept off premises must be provided to the board's employees not later than three business days after a request for the record.

(c) A marijuana establishment shall exercise due diligence in preserving and maintaining all required records. Loss of records and data, including electronically maintained records, does not excuse a violation of this section. The board may determine a failure to retain records required under this section to be a license violation affecting public safety.

Article 8

Enforcement; Civil Penalties

3 AAC 306.800. Inspection and investigation

(a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may

(1) inspect the licensed premises of a marijuana establishment, including any marijuana and marijuana product on the premises,

equipment used in cultivating, processing, testing, or storing marijuana, the marijuana establishment's marijuana inventory tracking system, business records, and computers, at any reasonable time and in a reasonable manner;

(2) issue a report or notice as provided in 3 AAC

306.805; and

(3) as authorized under AS 17.38.131, exercise peace

officer powers and take any other action the director determines is necessary.

(b) A marijuana establishment, and any licensee, employee, or agent in charge shall cooperate with the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, to enforce the laws related to marijuana, including

(1) permitting entry upon and inspection of the licensed premises; and

(2) providing access to business records at reasonable times when requested by the director, an enforcement agent, an employee of the board, or a peace officer.

3 AAC 306.805. Report or notice of violation

(a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may issue an inspection report, an advisory report, or a notice of violation before taking action to suspend or revoke a marijuana establishment license.

(b) An inspection report documents an investigator's inspection of licensed premises. An inspection report must be prepared on a form the board prescribes and include information prescribed under AS 17.38 or this chapter or that the board requires.

(c) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may issue an advisory notice when an incident occurs or a defect is noted that could result in a violation of a statute, regulation, or municipal ordinance. An advisory notice may result from an inspection report, but is not a basis for administrative action unless the incident or defect continues or is not corrected.

(d) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity may issue a notice of violation if an inspection report or other credible information shows a marijuana establishment is in violation of AS 17.38, this chapter, or other law relating to marijuana. The notice of violation must be delivered to the marijuana establishment at its licensed premises, and to the board. The notice must describe any violation, and cite the applicable statute, regulation, or order of the board. A marijuana establishment that receives a notice of violation may respond to the notice orally or in writing, and may, not later than 10 days after receiving the notice, request an opportunity to appear before the board. A notice of violation may be the basis of a proceeding to suspend or revoke a marijuana establishment's license as provided under 3 AAC 306.810.

3 AAC 306.810. Suspension or revocation of license

(a) The board will suspend or revoke a marijuana establishment license issued under this chapter if any licensee is convicted of a felony or of a crime listed in 3 AAC 306.010(d)(2) or (3), or if the board becomes aware that a licensee did not disclose a previous felony conviction or a conviction of a crime listed in 3 AAC 306.010(d)(2) or (3).

(b) The board may suspend or revoke a license issued under this chapter, refuse to renew a license, or impose a civil fine, if the board finds that a licensee for any marijuana establishment

(1) 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; or

(2) 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 board for extracting or manufacturing marijuana concentrate or products; or board;

(B) selling or distributing any marijuana concentrate or product that has not been approved by the

(3) failed, within a reasonable time after receiving a notice of violation from the director, 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 board; or

(C) other applicable law;

(4) knowingly allowed an employee or agent to violate AS 17.38, this chapter, or a condition or restriction imposed by the board;

(5) failed to comply with any applicable public health, fire, safety, or tax statute, ordinance, regulation, or other law in the state; or

(6) used the licensed premises for an illegal purpose including gambling, possession or use of narcotics other than marijuana, prostitution, or sex trafficking.

(c) A local government may notify the director if it obtains evidence that a marijuana establishment has violated a provision of AS 17.38, this chapter, or a condition or restriction the board has imposed on the marijuana establishment. Unless the board finds that the local government's notice is arbitrary, capricious, and unreasonable, the director shall prepare the notice and supporting evidence as an accusation against the marijuana establishment under AS 44.62.360, and conduct proceedings to resolve the matter as described under 3 AAC 306.820.

3 AAC 306.815. Suspension or revocation based on act of employee

If, in a proceeding to suspend or revoke a marijuana establishment license under 3 AAC 306.810 and 3 AAC 306.820, 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 if committed by a licensee, the board may find that licensee knowingly allowed the act if

(1) the licensee

(A) was physically present when the violation occurred;

(B) knew or should have known the violation was occurring; and

(C) did not take action to stop the violation;

(2) the licensee failed to adequately supervise the agent or employee;

(3) the licensee failed to adequately train the agent or employee in the requirements of AS 17.38 and this chapter relating to marijuana; or

(4) the licensee was reckless or careless in hiring the agent or employee.

3 AAC 306.820. Procedure for action on license suspension or revocation

A proceeding to suspend or revoke a license must be initiated by service of an accusation on the marijuana establishment in compliance with AS 44.62.360 and 44.62.380, and conducted in compliance with AS 44.62.330 - 44.62.630. The accusation must be served at the address of the licensed premises, or at the address of the licensee who is responsible for management and compliance with laws as listed in the marijuana establishment license application in compliance with 3 AAC 306.020(b)(5). The marijuana establishment is entitled to a hearing as provided under AS 44.62.390.

3 AAC 306.825. Summary suspension to protect public health, safety, or welfare.

(a) If the director finds that a person holding a marijuana establishment license 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 director may issue an order immediately suspending the license of that person, and ordering an immediate stop to the activity that constitutes the threat to the public health, safety, or welfare.

(b) When the director issues a summary suspension under this section, the director shall immediately give the marijuana establishment subject to the summary suspension order notice of the reasons for the summary suspension, and of the time and place for an expedited hearing before the board. Unless the marijuana establishment subject to the summary suspension order requests a delay, the hearing will be held not later than five days after the director gives notice of the reasons for the summary suspension and the scheduled hearing.

3 AAC 306.830. Seizure of marijuana or marijuana product

(a) The director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity, may seize marijuana or any marijuana product from a licensed or previously licensed marijuana establishment if the marijuana establishment has

(1) any marijuana or marijuana product not properly logged into the marijuana establishment's marijuana inventory tracking system;

(2) any adulterated marijuana food or drink product prohibited under 3 AAC 306.510(a)(4);

(3) any marijuana or marijuana product that is not properly packaged and labeled as provided in (A) 3 AAC 306.470 and 3 AAC 306.475; or

(B) 3 AAC 306.565 and 3 AAC 306.570; or

(4) not renewed its license as required under 3 AAC 306.035.

(b) If the director, an enforcement agent, an employee of the board, or a peace officer acting in an official capacity seizes marijuana or a marijuana product under this section, the director shall update the marijuana inventory control tracking system to reflect the seizure and ensure that the seized items are stored in a reasonable manner. The director shall immediately give the marijuana establishment from which the marijuana or marijuana product was seized notice of the reasons for the seizure and the time and place of a hearing before the board. Unless the marijuana establishment from which the marijuana or marijuana product was seized requests a delay, the hearing will be held not later than 10 days after the director gives notice of the reasons for seizure and the scheduled hearing. If the seizure occurs in connection with a summary suspension under 3 AAC 306.825, the hearing will be combined with a hearing on the summary suspension.

(c) If the marijuana establishment from which the marijuana or marijuana product was seized does not request or participate in a hearing under this section, or if after a hearing the board finds that seizure of the marijuana or marijuana product was justified, the marijuana or marijuana product will be destroyed by burning, crushing, or mixing with other material to make the marijuana or marijuana product unusable as provided in 3 AAC 306.740.

(d) If a seizure under this section is of marijuana plants in place in a licensed standard or limited marijuana cultivation facility, the

seizure order may direct the marijuana cultivation facility to continue care of the plants until the hearing, but prohibit any transfer, sale, or other commercial activity related to the plants.

3 AAC 306.835. Hearing

(a) Except as provided in 3 AAC 306.825 or 3 AAC 306.830, a person aggrieved by an action of the director, an enforcement agent, or an employee of the board may request a hearing in compliance with AS 44.62.390 by filing a notice of defense not later than 15 days after receiving a written accusation. Failure to file a notice of defense as provided in this section constitutes a waiver of the right to a hearing.

(b) When an aggrieved person requests a hearing under this section, the board may request the office of administrative hearings to conduct the hearing in compliance with due process, AS 44.62.330 - 44.62.630 (Administrative Procedure Act), and 2 AAC 64.100 - 2 AAC 64.990, as applicable.

3 AAC 306.840. Civil fines

(a) The board may, in addition to any other penalties imposed under this chapter, impose a civil fine on a marijuana establishment, licensee, or person that the board determines has violated a provision of AS 17.38 or this chapter.

(b) In a proceeding under 3 AAC 306.810 - 3 AAC 306.830, the board may impose a civil fine, not to exceed the greater of

(1) an amount that is three times the monetary gain realized by the marijuana establishment, licensee, or person as a result of the violation, as determined by the board;

(2) \$10,000 for the first violation;

(3) \$30,000 for the second violation; or

(4) \$50,000 for the third or subsequent violation.

3 AAC 306.845. Appeal

(a) An aggrieved party may appeal to the board regarding any action of the director, an enforcement agent, or an employee of the board charged with enforcing AS 17.38 or this chapter, including suspending

or revoking a license, seizing marijuana or a marijuana product, or imposing a civil fine.

(b) A person aggrieved by a final decision of the board suspending or revoking a license under this chapter or imposing a civil fine may appeal to the superior court under AS 44.62.560.

3 AAC 306.850. Surrender or destruction of license

A license issued under this chapter must be surrendered to the director, an enforcement agent, or an employee of the board on demand if the director or board so orders. A license issued under this chapter must be surrendered not later than 10 days after the marijuana establishment loses or vacates the licensed premises. If a license is destroyed, the marijuana establishment shall promptly notify the board.

Article 9

General Provisions

3 AAC 306.905. Public records

Marijuana establishment applications are public records. The board may, at the request of any applicant, designate materials confidential if they secrets; or

- (1) contain proprietary information including trade
- (2) are required to be kept confidential by any federal or state law.

3 AAC 306.910. Refusal to sell marijuana

Nothing in this chapter prohibits a licensee from refusing to sell marijuana or marijuana products to any person unless that refusal is a violation of AS 18.80.210.

3 AAC 306.915. Exercise of authority

Until a marijuana establishment surrenders its license to the board, and so long as business is conducted under the license on the licensed premises, the person holding the license, whether an individual, a

partnership, a limited liability company, a corporation, or a local government, is responsible and liable for the conduct of the business. Any individual exercising actual authority over the conduct of business on the licensed premises must be the holder of the marijuana establishment license, or an agent or employee of that person unless the board has approved a transfer of the license to a different person.

3 AAC 306.920. Death of licensee

(a) If an individual who is the sole licensee of a marijuana establishment dies, the marijuana establishment shall cease operation. A personal representative appointed by the superior court for the estate of the deceased licensee may submit to the director a written request to reopen the business, along with a copy of the court order appointing the personal representative. If the licensed marijuana establishment is in good standing, and the personal representative is not a person prohibited from holding a marijuana establishment license under AS 17.38.200(i), the director shall grant permission to the personal representative to operate the business on the licensed premises subject to (b) of this section.

In this section, a marijuana establishment is in good standing if the marijuana establishment

- (1) has a valid current license;
- (2) has paid all fees due under this chapter and all local taxes due; and
- (3) has no unresolved suspension or revocation proceedings against it.

(b) A personal representative authorized to operate a marijuana establishment under (a) of this section must submit an application for a transfer of ownership to another person in compliance with 3 AAC 306.045 not later than 90 days after obtaining the director's approval to operate. The board may extend the time allowed in this section for another 90 days if the personal representative requests the additional time.

(c) This section does not authorize the transfer of a marijuana establishment license unless the board approves the personal representative's application for transfer of license to another person.

3 AAC 306.990. Definitions

(a) In AS 17.38 and this chapter,

(1) "affiliate" means a person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, a partnership, limited liability company, or corporation subject to this chapter;

(2) "assisting" does not include

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

(B) possessing, growing, processing, or transporting marijuana plants in excess of the number allowed in

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

(i) that other person's primary residence; or

(ii) a garage, shed, or similar place under the other person's control;

(3) "delivering"

(A) means handing to a person who purchases the product on licensed premises only;

(B) does not include transferring or transporting to a consumer off licensed premises;

(4) "flowering" means a marijuana plant that has visible crystals, buds, or flowers, or for which the exposure to light is scheduled with the intent to produce crystals, buds, or flowers;

(5) "immature" means a marijuana plant with no visible crystals, buds, or flowers, and in which the exposure to light is scheduled with the intent to prevent formation of crystals, buds, or flowers;

(6) "in public"

(A) means in a place to which the public or a substantial group of people has access;

(B) except as provided in (C) of this paragraph, includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies and other portions

of apartment houses and hotels not constituting rooms or apartments designed for actual residence;

(C) does not include an area on the premises of a licensed retail marijuana store designated for onsite consumption under 3 AAC 306.305;

(7) "personal cultivation" does not include

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

(B) possessing, growing, processing, or transporting marijuana plants in excess of the number allowed in

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

(i) that other person's primary residence; or

(ii) a garage, shed, or similar place under the other person's control;

(8) "possess" means having physical possession or control over property;

(9) "registration" means licensure or license;

(10) transport" or "transfer" means to deliver between licensed marijuana establishments as provided in 3 AAC 306.750.

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

(1) "adulterated food or drink product"

(A) means a product that is intended to be consumed orally and that existed without marijuana in a form ready for consumption before marijuana was added by any process;

(B) does not include raw ingredients that are combined with marijuana in a manufacturing process;

(2) "agent"

(A) means a representative who is authorized to act for a licensee, the board, or the director;

(B) includes a contractor or subcontractor;

(3) "batch" or "harvest batch" means a specifically identified quantity of plant trim, leaf, and other usable product from marijuana plants that are uniform in strain, cultivated in one place and under the same conditions, using the same medium and agricultural chemicals including pesticides and fungicides, and harvested at the same time;

(4) "bud and flower" means the hairy, sticky, or crystal-covered parts of mature female marijuana plants generally harvested for their high potency content;

(5) "business day" means a day other than a Saturday, Sunday, or a state holiday;

(6) "CBD" means cannabidiol;

(7) "CBDA" means CBD Acid;

(8) "CBN" means cannabiniol;

(9) "clones" or "cuttings" means small starter plants

(A) shorter than eight inches tall; and

(B) used to propagate marijuana plants;

(10) ompensation"

(A) means money, bartered objects or services, or anything else of value, whether given as payment or voluntarily as a donation, when accepted by a person who gives, distributes, or delivers marijuana to another;

(B) includes a cover charge, a delivery charge, and a packaging charge;

(11) oncentrate" or "marijuana concentrate" means resin, oil, wax, or any other substance produced by extracting or isolating cannabinoids, THC, or other components from a marijuana plant or from materials harvested from a marijuana plant;

(12) onsumer"

(A) means an individual who purchases and uses marijuana or a marijuana product; and

(B)) does not include a marijuana establishment that resells marijuana or incorporates marijuana into a manufactured product;

(13) "contaminant" means one or more of the following:

(A) harmful microorganisms, including *Escherichia coli* (*E. coli*), or *Salmonella* species;

(B) residual solvents;

(C) poisons or toxins;

(D) harmful chemicals, including pesticides;

(E) dangerous molds, mildew, or filth;

(14) "controlling interest" means ownership or control of

(A) 50 percent or more of the ownership interest or voting shares of a corporation; or

(B) less than 50 percent if a person and family members jointly exert actual control as demonstrated by

(i) making decisions for the corporation without independent participation of other owners;

(ii) exercising day-to-day control over the corporation's affairs;

(iii) disregarding formal legal requirements;

(iv) using corporation funds for personal expenses or investments, or intermingling corporation finances with personal finances; or

(v) taking other actions that indicate the corporation is a mere instrumentality of the individual;

(15) "distribute" means spread out or pass out among several or many members of a group;

(16) "edible" and "edible marijuana product"

(A) means a marijuana product that is intended to be consumed orally, whether as food or drink;

(B) does not include an adulterated food or drink product;

(17) "extraction" or "marijuana extraction" means production of marijuana concentrate by any water-based, food-based, or solvent-based method;

(18) "homogenous" means a component or quality, such as THC, is spread evenly throughout the product, or can be found in equal amounts in each part of a multi-serving unit;

(19) "individual" means a natural person;

(20) "in-house testing"

(A) means laboratory testing as provided in 3 AAC 306.635 and that does not meet the requirements of 3 AAC 306.645;

(B) does not include consumption of any marijuana or marijuana product on the licensed premises; revoked;

(21) licensed"

(A) means holding a current and valid license that the board has issued under this chapter;

(B)) does not include holding a formerly valid license that has expired or that the board has suspended or

(22) licensee" means each individual identified in 3 AAC 306.020 who must be listed in an application for a marijuana establishment license under this chapter;

(23) licensed premises" means any or all designated portions of a building or structure, or rooms or enclosures in the building or structure, at the specific address for which a marijuana establishment license is issued, and used, controlled, or operated by the marijuana establishment to carry out the business for which it is licensed;

(24) lot" or "production lot" means a group of marijuana products that were prepared at the same time from the same batch of marijuana, using the same recipe or process;

(25) marijuana" has the meaning given in AS 17.38.900;

(26) marijuana cultivation facility" has the meaning given in AS 17.38.900;

(27) marijuana infused product"

(A) means a product that contains marijuana or marijuana concentrate and is intended for human use;

(B) does not include bud and flower marijuana;

(28) marijuana plant" means a living organism of the genus Cannabis capable of absorbing water and inorganic substances through its roots, and synthesizing nutrients in its leaves by photosynthesis;

(29) marijuana product" has the meaning given in AS 17.38.900;

(30) marijuana product manufacturing facility" has the meaning given in AS 17.38.900;

(31) "peace officer" has the meaning given in AS 01.10.060;

(32) person" has the meaning given in AS 01.10.060;

(33) process" or "processing" means harvesting, curing, drying, or trimming of a marijuana plant;

(34) propagate" means to cause a marijuana plant to grow by planting clones or cuttings, and nurturing them into viable plants up to eight inches in height;

(35) recreation or youth center" means a building, structure, athletic playing field, or playground

(A) run or created by a local government or the state to provide athletic, recreational, or leisure activities for persons under 21 years of age; or

(B) operated by a public or private organization licensed to provide shelter, training, or guidance for persons under 21 years of age;

(36) retail marijuana store" has the meaning given in AS 17.38.900;

(37) square feet under cultivation"

(A) means an area of the licensed premises of a standard or limited marijuana cultivation facility that is used for growing marijuana, measured from the perimeter of the floor or growing space for marijuana;

(B) does not include a processing or storage area, an equipment storage area, an office, a hallway, or another area, if that area is not used for growing marijuana;

(38) THC" means tetrahydrocannabinol, the main psychoactive substance found in marijuana;

(39) THCA" means THC Acid;

(40) "transaction" means one single occurrence in which marijuana or a marijuana product not exceeding the limits set out in 3 AAC 306.355 is passed from a licensed marijuana establishment to another person.