



December 3, 2015

Council,

Marijuana establishments are currently permissible within our City. Our code does not include any provisions for marijuana establishments. The Clerk's office has done much research and outlined below the areas of the code we recommend amending to include provisions for marijuana establishments.

LOCAL REGULATORY AUTHORITY

Per Alaska Statutes 17.38.110; in the event that the State fails to issue marijuana establishment licenses in the timeline set out in Ballot Measure 2, the responsibility of issuing such licenses falls to the Local Regulatory Authority. In November the Houston City Council passed Resolution 15-12 naming themselves the Local Regulatory Authority. The State statues are at the end of this document.

PENDING LOCAL REGULATIONS

The Marijuana Advisory Committee, which the Deputy City Clerk is a member of, forwarded recommendations to the Borough for an ordinance requiring conditional use permits for Marijuana Retail Establishments, and Marijuana Cultivation Establishments. In these recommendations a limit of 5,000 square feet of growing space per cultivation facility was suggested. This will appear on the Borough's December 15th agenda.

Please note: City code may be more restrictive than the State Regulations for marijuana establishments. However, the State will only enforce their own regulations.

The Clerk's office recommends that the Council amend the following:

- **Amend Title 5, Business License Regulations** to include the following Marijuana Regulations:
 - Purpose and Scope of Authority
 - Local Regulatory Authority
 - Definitions
 - Definitions of Marijuana and Marijuana Establishments
 - License Required
 - License Restrictions
 - No marijuana establishments within 500 feet of (Per AAC 3 Chapter 306)
 - Schools
 - Places of religious services
 - Youth or recreations centers
 - Correctional Facilities
 - License Procedures
 - Details process initiated when the City receives an application for a marijuana establishment from the State (similar to the Liquor License Process).
 - Fees

- City license application fees
 - Violations, Enforcements, and Penalties
- **Amend Title 10, Land Use Regulations**
 - Amend Chapter 10.03, District Regulations
 - Amend each zone to include marijuana establishments that are allowed or prohibited

TAXATION

Many other municipalities have raised the sales tax on marijuana sales. Bethel has passed a marijuana sales tax of 15%. Fairbanks has passed a marijuana sales tax of 5%. The City of Juneau has proposed an 8% sales tax.

STATE REGULATIONS

Below is an outline of what the State regulations currently look like. These could undergo minor alterations by February of 2016.

- The State will only license individuals or corporations who meet the residency requirements to receive an Alaska PFD.
- The State is allowing NO outside investors at this time.
- A State excise tax of \$50.00 per ounce of marijuana is to be collected when the marijuana is sold from a cultivator to a manufacturer or retailer.
 - The Marijuana Control Board has suggested that the price of “trim” be less.
- The State is charging \$1000.00 application fee with each application as well as the following license fees
 - \$5,000.00 for a retail facility
 - \$5,000.00 for a standard cultivation facility
 - \$5,000.00 for a product manufacturing facility
 - \$1,000.00 for a limited cultivation facility (under 500 sq. ft. of growing space)
 - \$1,000.00 for an extract only manufacturing facility
 - \$1,000.00 for a testing facility.
 - Half of each application fee will be given to the Local Regulatory Authority for the premises to be licensed.
- The State requires a business plan and a waste management plan with each application
- All employees are required to obtain a marijuana handlers permit
- Every gram of marijuana from seed to sale is required to be tracked through an inventory tracking system.
 - Unlike Colorado, Alaska has not mandated a specific software be used.
- There is a ban on on-site consumption of marijuana for all establishments with the exception of retail.
 - At the November 22nd meeting, the Marijuana Control Board created an optional endorsement for Retail facilities to allow on-site consumption under certain circumstances.

- The State has not set limits on the number of plants or the size of facilities for any license type.
- The State has removed the Cultivation Broker license type. Each facility will be responsible for remitting taxes to the State and City.

Duration of Licenses-

- All Licenses will be required to renew yearly.

Process of Licensing

The licensing process, per Alaska Statutes, has a total deadline of 90 days.

The licensing process will function much like the liquor licensing process. To be compliant with the State, the City must be able to process licenses in 90 days.

The possible steps are outlined below:

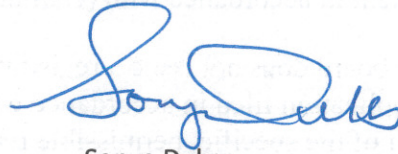
- Applicants will apply to the State
- The State will forward the application to the City
 - The City will follow HMC, Title 5, Marijuana Regulations
 - The City will follow public noticing procedures
 - The City will hold a public hearing
 - City will approve or deny
 - Denials cannot be “arbitrary or capricious”
 - Denials may be based on zoning
 - The City will send the results to the State
- License will be granted or denied

Unlike liquor licenses, there is no population formula for how many marijuana establishment licenses may be in the City. The City has the right, by ordinance, to limit the number of establishments, as well as the time and place in which they may operate. The City will be responsible for enforcing any regulations it creates.

If you have any further questions, please email the Deputy City Clerk



Rebecca Rein
Deputy City Clerk



Sonya Dukes
City Clerk

2014 Alaska Statutes

Title 17 - FOOD AND DRUGS

Chapter 17.38 - THE REGULATION OF MARIJUANA

Sec. 17.38.110 Local control. [Effective February 24, 2015].

Universal Citation: [AK Stat § 17.38.110 \(2014\)](#)

(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.

(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 17.38.090](#) or to accept or process applications in accordance with [AS 17.38.100](#).

(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 17.38.100](#) 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 17.38.090 and has accepted applications pursuant to [AS 17.38.100](#) 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 17.38.090, 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 17.38.100. 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 17.38.100.

(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 17.38.090 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 17.38.090 but has not, at least 90 days after the adoption of such regulations, issued registrations pursuant to AS 17.38.100.

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

