

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

AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE TITLE 21, SECTIONS 21.03.020C., 21.03.105, 21.05.055, AND 21.07.090E., AND AMENDING “OLD CODE” SECTIONS 21.15.030 AND 21.50.420, TO ESTABLISH LAND USE REGULATIONS FOR ON-SITE CONSUMPTION OF MARIJUANA ENDORSEMENTS ASSOCIATED WITH A MARIJUANA RETAIL SALES ESTABLISHMENT; AND WAIVING REVIEW OF THESE AMENDMENTS BY THE PLANNING AND ZONING COMMISSION.

THE ANCHORAGE ASSEMBLY ORDAINS:

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

21.03.020 - Common procedures.

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C. Community meetings.

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2. Applicability

a. Types of Applications

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

- i. Rezoning (zoning map amendments);
- ii. Subdivisions, except for abbreviated plats;
- iii. Conditional uses;
- iv. Marijuana—special land use permit, associated endorsements, and modifications requiring a public hearing;
- v. Institutional master plans;
- vi. Major site plan review; and
- vii. Public facility site selection.

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TABLE 21.03-1: SUMMARY OF NOTICE REQUIREMENTS

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

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

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

21.03.105 Marijuana—Special land use permit.

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C. Application and review procedure.

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3. Application Submittal

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

a. For all marijuana establishments:

- i. A site plan to scale and dimensioned, depicting the building footprint, parking areas, vehicle

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

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9. Modifications

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

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

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

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iv. For marijuana retail sales establishments:

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

(B) Any increase in the retail sales area (area of the store open to the public) of more than 20 percent of the approved area, within the approved licensed premises area.

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

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

Section 3. Anchorage Municipal Code section 21.05.055 is hereby amended to

read as follows (*the remainder of the section is not affected and therefore not set out*):

21.05.055 - Marijuana establishments.

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

1. Licenses Required

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

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

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

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

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B. Principal uses.

1. Marijuana Cultivation Facility

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b. Use-Specific Standards

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iv. Marijuana consumption is prohibited.

2. Marijuana Manufacturing Facility

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b. Use-Specific Standards

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iii. Marijuana consumption is prohibited.

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

3. Marijuana Testing Facility

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b. Use-Specific Standards

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ii. Marijuana consumption is prohibited.

4. Marijuana Retail Sales Establishment

a. Definition

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

b. Use-Specific Standards

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

ii. Establishments shall not have accessory drive-throughs.

iii. No outdoor storage or display of products is permitted.

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

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

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

(AO No. 2016-3(S), 2-23-16; AO 2016-35, 4-12-16; AO 2016-144(S), 12-20-16; AO 2017-55, 4-11-17; AO 2017-175(S), 2-13-18)

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

21.07.090 - Off-street parking and loading.

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E. Off-street parking requirements.

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TABLE 21.07-4: OFF STREET PARKING SPACES REQUIRED

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

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

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

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

21.15.030 - Approval of site plans and conditional uses.

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

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

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b. A site plan, showing:

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(7) Outdoor marijuana consumption areas.

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G. Modification of final approval.

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

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

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

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

21.50.420 - Conditional use standards—Marijuana retail sales establishments.

A. Licenses Required

1. All marijuana establishments are required to obtain a license and associated endorsements from the State of Alaska Marijuana Control Board, and a license and associated endorsements from the municipality of Anchorage, before beginning operations.
2. If at any time either the state license or the municipal license is suspended or revoked, the establishment shall immediately cease operations, until such time as both required licenses and the land use approval are valid. If an endorsement is suspended or revoked, the establishment shall immediately cease operations authorized by that endorsement until such

time it is valid.

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

B. Conditional use permit required.

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

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

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

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

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

Section 7. Notwithstanding Anchorage Municipal Code section 21.03.210, this ordinance and its text amendments to Title 21 shall not require Planning and Zoning Commission review.

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

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

Chair of the Assembly

ATTEST:

Municipal Clerk