MARIJUANA COMMITTEE
THE CITY AND BOROUGH OF JUNEAU, ALASKA

November 12, 2015, 6:00 PM.
Municipal Building - Assembly Chambers

Marijuana Committee Meeting

I. ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. **October 22, 2015 Draft Minutes**

IV. PUBLIC PARTICIPATION

V. AGENDA TOPICS

A. **Marijuana Taxation Discussion Points and Marijuana Revenue Update**

B. **Draft CBJ Marijuana Land Use Ordinance**

VI. COMMITTEE MEMBER / LIAISON COMMENTS AND QUESTIONS

VII. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org

DRAFT MINUTES

CITY AND BOROUGH OF JUNEAU
MARIJUANA COMMITTEE

Thursday, October 22, 2015, 6:00 p.m.
City Hall Assembly Chambers

I. ROLL CALL

Committee Members Present: Mike Satre, Vice Chair, Dennis Watson, Debbie White, Mary Becker, Bill Peters, Jesse Kiehl (telephonic participation), Maria Gladziszewski

Committee Members Absent: None

Staff Present: Amy Mead, Municipal Attorney, Deb Senn, Clerk/Law Office Manager, Clinton Singletary, Sales Tax Administrator, Sven Pearson, Deputy Fire Marshal, CCFR, Bob Bartholomew, Director, Finance, Kim Kiefer, Manager, Rob Steedle, Deputy Manager, Chrissy McNally, Planner II, CDD

II. APPROVAL OF AGENDA

The agenda was approved as submitted.

III. APPROVAL OF MINUTES

Motion by Ms. White to approve the draft minutes.

Hearing no objection, the draft minutes of the September 24, 2015 Marijuana Committee meeting and the October 8, 2015 Marijuana Committee were approved.

IV. PUBLIC PARTICIPATION

Benjamin Wilcox – Mr. Wilcox discussed numbers on estimated sales tax revenue from sales of marijuana and medical marijuana establishments. Mr. Wilcox stated that the estimated marijuana retail sales are very low as referenced by CBJ Sales Tax. The amount of marijuana sales and consumption in Washington is much higher than what is referenced, as is reflected in Washington records for legitimate businesses (not black market businesses). He asked the Committee to not restrict new marijuana businesses.

Adam Burke – Mr. Burke spoke to the intent of the law. Mr. Burke spoke about being attacked when coming out of the closet as a marijuana user, even for medical marijuana use. He stated his concerns about regulations that may restrict and push users to Craig's List and the black market to obtain marijuana products.

IV. AGENDA TOPICS

A. November / December Marijuana Committee Meeting Date Scheduling Discussion

Discussion ensued between Committee members and staff regarding the best Marijuana Committee meeting dates. Topics at future meetings will include Title 49, revenue and taxation.

The November and December meeting dates are scheduled for **November 12th** and **December 10th**.

B. Marijuana Revenue Estimates, prepared by CBJ Sales Tax

Clinton Singletary, Sales Tax Administrator, spoke to the Marijuana Revenue Estimates in the meeting packet, and the supplemental material regarding the Discussion Points handout.

Pertaining to the Discussion Points handout, Mr. Singletary stated the information was specific to retail sales, not medical marijuana. He stated that he was not familiar with medical marijuana. Medical marijuana in Juneau, if allowed, would likely fall under the sales tax exemption for medical items.

Mr. Singletary reviewed population comparisons between Washington and Juneau. He reviewed his calculations and how he arrived at figures based on number of retail recreational marijuana licenses (172 reported). The number of licenses per population is: one recreational marijuana license per 41,000 people. The annual average dollar amount spent per person on recreational marijuana in Washington is calculated at $460. Based on the 33,000 population of Juneau, Mr. Singletary estimated $15.3 Million in recreational sales for an annual average for Juneau.

Mr. Singletary stated that the tax rates of 8%, 10% and 15% provided on the spreadsheet in the packet include the current 5% tax rate for Juneau local tax.

Mr. Singletary stated that the above calculation is only one way of estimating – many variables would come into play. Juneau is said to have a higher user ratio, and Juneau has a tourist factor which is much different than what is found in Washington, and also Juneau has outlying areas that visit Juneau.

Ms. White inquired about the 8% alcohol tax - is it 8% total, or 8% plus 5% for 13% total. It was stated that 8% total was the current tax.

Ms. Mead stated that CBJ was grandfathered in after the Legislature prohibited municipalities from imposing an extra alcohol tax. If CBJ wanted a sales tax over and above our general sales tax rate, CBJ could do that. CBJ would need to make a finding about the impacts from the business that justified the higher tax rate. She stated that CBJ could do this only as long as the legislature does not do something similar as they did with alcohol.

Discussion continued regarding the CBJ Sales Tax spreadsheet for Marijuana Revenue Estimates, discussion points, and methodology.

Mr. Satre asked staff what they will need from the Committee to move forward on tax.

Ms. Mead asked if the Committee wants to do something other than impose the CBJ general sales tax. If so, will there be an additional sales tax or an excise tax in addition to the State imposed excise tax. She stated this is the decision that needs to be made.

Ms. Gladziszewski stated that a license fee is also on the table if CBJ licenses marijuana establishments.

Mr. Kiehl stated that he looks at this from a slightly different angle, that being, what impact the tax has on the retail price of marijuana products. After studying the Colorado and Washington reports, and by Googling, the licensed retail price of marijuana is roughly at $300 - $320 per ounce. Mr. Kiehl is using this measure since the State's excise tax is based on the dried marijuana flower per ounce. The excise tax is set in the initiative at $50. He stated his goal is to recognize the increased costs that the CBJ will have, and the social costs although limited there will be some. He stated it makes sense to address those costs with a tax increase, similar to what CBJ does with alcohol. He stated he is wary of raising the tax rate too high and pushing buyers to the black market. He recommended the Committee put forward an 8% retail tax on marijuana products (5% current CBJ sales tax, plus 3% additional tax).

Ms. White stated that in Juneau smaller quantities of marijuana are sold at a higher rate, $25 per gram; $120 - $125 per quarter ounce; $350 - $400 per ounce. She stated that she has family in Seattle area, and you find places that state they are marijuana shops when they are not actually licensed. Once police become aware of the illegal shops, they move out. She stated that she is comfortable with an 8% tax on marijuana products, the same as alcohol.

Ms. Gladziszewski agreed that she does not want to make marijuana more expensive than the black market street price. She stated that the market will bear an 8% sales tax.

Mr. Satre asked for concurrence from the Committee on an 8% sales tax on marijuana products. He stated that ultimately this is an Assembly policy discussion.

Ms. Mead stated that a new sales tax would need to go to a vote. She stated that the Committee could ask that an ordinance be drafted that reflects the will of the body (Committee), and that ordinance could be brought to the Assembly for its consideration.

Mr. Bartholomew inquired about the option of having the 5% base sales tax and a 3% excise tax at Assembly level that would not require a public vote.

Ms. Mead stated that the 5% is a given, and a 3% excise would be more limited on who it can be imposed upon. For example, the State imposes its excise tax on cultivators selling to the retail stores and the product manufacturers. CBJ could do something similar that would not need to go to a vote; a 3% sales tax must go to a vote.

Discussion ensued about imposing a flat rate excise tax, one that can be raised by CBJ as needed; or a retail sales tax that requires a vote.

Mr. Satre stated that CBJ would be taxing at the point of sale at the products highest value. He stated that the Committee needed more information from staff on what the excise tax would look like at the CBJ level before the Committee can make an ordinance recommendation to the Assembly. Finance and Law will provide additional information to the Committee on an excise tax at the November 12th Committee meeting.

Mr. Kiehl stated that he did not object to obtaining more information from staff on the excise tax. He stated that the Committee will find tremendous complexity to the excise tax question.

Ms. Mead stated the tax question (how to tax) is more of a policy decision. She stated it depends on who the CBJ is trying to impose the tax upon, and what CBJ is taxing for. If it is the Committee and Assembly's decision to do an excise tax that can happen, if a sales tax is requested that can also happen. Ms. Mead stated that there is no a legal impediment, that it is a policy call.

C. Draft Marijuana Land Use Ordinance

Mr. Satre asked staff for any presentation or discussion points.

Ms. McNally indicated she did not have a presentation prepared on the draft ordinance – she had provided a memo in the Committee's packet. She deferred to the Law Department.

Ms. Mead stated that there was some direction given by the Committee at the last meeting. This was to be incorporated into a new draft ordinance. There were follow-up questions that the Committee asked of CDD, which were to be answered at the last meeting.

Mr. Satre referred to the CDD October 10th CDD memo, and asked Ms. McNally if there was anything specific that she wished to cover.

Ms. McNally stated that she wanted to provide the answers to the Committee's questions from the September 24th meeting, and did so within the memo in the Committee's packet.

Mr. Kiehl inquired if the suggestion for buffers on limited cultivation facilities had been refined since first presented to the Committee. He asked if the buffer is sufficient to prevent limited cultivation

facilities from clustering on the same piece of property – to prevent people from getting limited licenses and really operating as large scale commercial grows.

Ms. McNally stated yes, that is correct.

Ms. Mead stated that the decision on licensing needs to be made before Law can finish the ordinance, and asked the Committee to keep this in mind.

Mr. Satre asked if discussion could start there – and asked what would be most helpful for Law.

Ms. Mead asked if the Committee had heard the draft ordinance at all – trying to recall what had gone before.

Mr. Satre said the Committee had the draft ordinance, and it was the same as what the Committee has before it now. He said the Committee needed more "meat" in the draft ordinance so it could say yes or no to some portions at the October 10th meeting, and that meeting was cancelled due to lack of quorum. He stated that the Table of Permissible Uses (CBJ Ordinance No. 2015-39) is moving through the process, but he was concerned about those persons who want to plan for grow operations and acquire land to do that. He asked if the Land Use regulations needed to be place for businesses to plan.

Ms. Mead stated that commercial marijuana establishments are not legal until after the business gets a license. She stated that there needs to be more policy direction given to move this forward and fill in the ordinance substance. Number one – does the Committee want a marijuana business license, if it does, then the current draft ordinance format will work. If the Committee wants a general business license then Law will take out all of the pieces relating to a marijuana business license.

Mr. Satre stated that a marijuana business license would provide CBJ with more control over facilities than CBJ would have with a standard business license – whether it was failure to pay taxes or failure to comply the CUP provisions, that license could be revoked. Enforcement would be less complex than with a standard business license.

Ms. Mead stated that if it's a general business license then we could attach things or require compliance with sales tax and anything that is in Title 49. If it's a marijuana business license only it's going to be centered on the time, place, and manner provisions that are going to be in Title 49. She stated the process is very similar and it depends on what it is the Committee is trying to regulate. The end result, with respect to the Title 49 provisions, is the same.

Ms. Gladziszewski stated that currently when a liquor store fails to pay sales tax, the CBJ waits to protest to the State when the store's license renewal comes due.

Ms. Mead stated that CBJ does have enforcement mechanisms in place for sales tax collection. CBJ does not need a marijuana license in order to enforce the Title 49 provisions. She stated that

some of the same enforcement tools used with a license can be added to the Code - CBJ can fine, can impose criminal penalties, and can provide for injunctive relief which is already in Title 49.

Ms. Gladziszewski stated a license would make it easier for compliance - that it's a visual tangible thing. She stated that a license is easier to understand as a business owner.

Ms. White stated that the State does require that people have a business license in order to do business within the State of Alaska. If CBJ requires one particular type of business to have a business license that it will require every single business operating within the CBJ to have a business license. She stated that as a business owner she would be heavily opposed to this.

Ms. Gladziszewski stated she is in favor of a marijuana license at this point.

Mr. Watson stated CBJ does not need a separate business license for marijuana. The State's business license and the CBJ Code enforcement will be sufficient.

Mike Satre stated that if the Committee chooses not require a marijuana license the ordinance will be shortened to exclude those sections. He inquired about the special use provisions for permitting.

Ms. Mead stated that the ordinance will contain conditions imposed on all of the establishments, it is not efficient to include in the CUP process, and also CBJ would have to amend the CUP to address some of these things. If the Committee decides against the marijuana license, then this Committee will need to decide hours of operation, signage, and more direction for language in the special use chapter to include enforcement for civil and criminal penalties, and injunctive relief in civil court. The license process is a little faster, but similar.

Mr. Kiehl stated that enforcing CUP conditions has been lacking. The opportunity of the marijuana license would give flexibility. He stated later on CBJ could relax when there is a responsible business community acting responsibly.

Mr. Peters stated he is not in favor of a separate license for marijuana businesses. He stated that it would create an extra level of government and would be burdensome.

Ms. Becker stated a marijuana license would be easier to pull until corrections were made versus court action.

Ms. Gladziszewski stated that marijuana is different – it is illegal federally, it is new to Alaska and Juneau, and there are people who feel CBJ should not have legalized recreational marijuana at all. She stated marijuana is different than other businesses, there are federal restrictions.

Ms. Mead agreed with Ms. Gladziszewski. She stated she is not concerned that CBJ would single out one business – that it would survive a challenge. Under the proposed State regulation, there is a protest mechanism in place to pull a state license for failure to comply with local law. The CBJ would ask the State to pull a license and there would be a hearing.

Ms. Kiefer stated there are currently 4,000 businesses in CBJ.

Ms. Gladziszewski asked how to proceed with the ordinance draft.

Ms. Mead stated that the Committee cannot fill in the blanks in the draft ordinance until it reviews the State's proposed regulations. She stated much of the language in the CBJ draft ordinance is now covered in the State's proposed regulations. The Committee will need to decide if it is satisfied with how the State regulations are written, or if CBJ wants to duplicate what the State is doing, or if CBJ wants to impose something different. The draft ordinance cannot be finished until the Committee reviews the State proposed regulations.

Mr. Satre said the Committee needs to come back and address the licensing topic. The Committee certainly has diverse opinions on that topic.

1. **Community Development Department Memo**

   See discussion above under Agenda Item C. Draft Marijuana Land Use Ordinance.

2. **Marijuana Best Practices Public Health Policy Wish List, provided by the National Council on Alcohol and Drug Dependence (NCADD).**

Mr. Kiehl asked the Committee to please review the Marijuana Best Practices Public Health Policy Wish List. He stated that if there are items from this Policy Wish List to add to the CBJ draft ordinance, the time is now to bring those items before the Committee and staff for discussion on or before the November 12th Committee meeting.

D. State of Alaska Marijuana Control Board Proposed Regulations

Ms. Mead stated that she has reviewed the State's proposed regulations and has a few issues to highlight for the Committee, those issues include:

1. The buffers – the State is recommending a 500 foot buffer from schools, recreation or youth centers, any building where religious services are regularly conducted, or a correctional facility.
2. Some of the proposed special use provisions in CBJ draft ordinance will also be required by the State. For example, the State is requiring security plan measures. The State is also proposing a waste disposal plan.
3. The State has amended the notice provision. This was one of the CBJ comments forwarded to the Marijuana Control Board (MCB). The applicant was required to provide notice to local government upon filing an application, and now the MCB must provide notice to local government as well for license renewals and transfers.
4. When a local government protests a new or renewal application the Board will deny application unless it finds the local government is being arbitrary or capricious. If the local government determines the establishment is violating state law, the regulations,

or a condition the MCB has imposed on the licensee, then the local government can provide notice to the MCB and then a hearing process will begin. Ms. Mead stated that it is not clear if the MCB's intent is that marijuana establishments' compliance with local laws is somehow subsumed. This needs to be clarified in the State regulations.

5. The MCB is proposing that stores may not operate between 5:00am and 8:00am.
6. There is no consumption on licensed premises allowed.
7. There is a restriction on signage that conflicts with CBJ code.
8. The dual licenses will be allowed in certain situations – a cultivator may apply for a product manufacturing license or a retail license. This is for large grow operations only, not limited cultivation.
9. Inspections – who can inspect. The inspection of premises is provided for in regulation for any officer charged with the enforcement of the chapter. There is a provision for the MCB to request the local building code officials or fire code officials to inspect as well. This seems to conflict – CBJ needs to ask the MCB to clarify on inspection authority
10. There is a waste disposal plan being required – how product must be disposed of, such as by grinding to make unusable.
11. Inspection of the inventory tracking system is still not allowed by local government. It is allowed by peace officers, but this does not extend to local, but could be provided for in the CBJ Code.
12. Marijuana clubs are prohibited as being proposed by the regulations. The MCB must derive it's authority from AS17 – it is not clear if the MCB has this authority.

Ms. Mead stated that the only item not addressed by the State regulations is the odor and ventilation plan. Also, the hours of operation follow what the State currently uses for alcohol, so CBJ will likely want to impose its own hours of operation.

Mr. Satre asked if staff could edit the ordinance using the proposed State regulations that are available.

Ms. Mead asked if the Committee wants to do something different than the State - impose something more than what the State is proposing, or be duplicative of the State regulations?

Mr. Kiehl requested review of the waste requirements from the State regulations.

Ms. Mead stated that waste disposal requirements at 3 AAC 3O6.740 requires storage and disposal in accordance with any other law, including local laws. Waste must be rendered unusable for any purpose for which it was grown or produced. She stated the regulations also specify where the waste can be disposed of and all of this must be input into the inventory tracking system. There is also a 3-day notice requirement to the MCB before disposal.

Ms. Mead stated that the waste plan and security plan are mentioned in the draft ordinance – both of which are also provided for in the State regulations. Depending on the Committee's satisfaction with State regulations it may or may not need to amend the draft ordinance on those topics.

Mr. Satre stated that the Committee needs to do its homework and compare CBJ draft ordinance to State proposed regulations and be ready for that conversation at the next Marijuana Committee meeting on November 12th. He stated that the Committee also will finalize the discussion on the local licensing for marijuana establishments as well.

Ms. Mead stated that CDD and Law worked together on the draft ordinance amending Title 49 before the State regulations were available. She stated that if there are other subject areas to cover in the draft ordinance the Committee should bring those forward to Law on or before the next Committee meeting. If there are sections of the special use chapter within the draft ordinance that are now moot because they are covered by State regulations, please advise Law and that language will be removed. Also, CDD can compose the odor and ventilation plan.

Ms. McNally stated that CDD will put together an odor and ventilation plan for the next meeting.

Ms. Mead stated that staff will need to hear if the Committee has any further comments on State's proposed regulations to pass along to the MCB. Those comments are due on or before November 11, 2015.

Mr. Kiehl stated the comments for the MCB should include:

1) How are violations of local law handled?
2) Request clarity and specificity on CBJ's ability to inspect by building code official and civil authorities, not only peace officers.
3) Local government's ability to see the marijuana inventory tracking system. Mr. Singletary indicated at a previous meeting that this would be a very valuable tool.
4) The question of clubs should be left to local governments to regulate.

Mr. Kiehl suggested that CBJ get very specific and that we ask law to draft precise amendment language on those issues for the Assembly to recommend to the MCB. It will not then be a general broad comment, it is a four specific fixes for those four specific issues.

Mr. Satre asked Ms. Mead to draft comments on the State's proposed regulations for the Assembly.

Ms. Mead stated that the question of Local Regulatory Authority (LRA) needs to be decided sooner rather than later, as the February 2016 deadline does impact the LRA.

Mr. Satre stated that at the next meeting the Committee must decide the question of LRA.

Ms. Mead stated that licensing and the LRA are separate issues. The LRA only entwines with Title 49 license issues in that it would be the same person. The question is whether or not CBJ wants to appoint or have an LRA who would be processing applications (the State applications) and receiving half of the application fees from the applicants - this is what Title 17 provides for.

Ms. Gladziszewski requested more information on the LRA, as the Committee is struggling with this topic - why would the CBJ have a LRA?

Ms. Mead stated CBJ would receive the half of the fees. She stated that if the State fails to act, the LRA would be the mechanism for getting a registration. If the State failed to accept, process, or approve the applications under the timeline provided for in state law, an LRA could step in. If the State is timely then the benefit would be receiving half of the application fees. The CBJ would receive the applications and would have knowledge and more ability for oversight. The CBJ would process the applications using the State's process, and would have more notice. The MCB would still hear the protests and take the official registration action, but CBJ would process the applications.

Mr. Kiehl stated that an LRA would make sense if the State had only bare-bones regulations and the CBJ did a local set of regulations which were much more comprehensive. An LRA would then be efficient; however the State regulations are comprehensive. An LRA would also make sense if the State dragged its feet or the legislature defunded the agency then the CBJ would need to start issuing licenses on its behalf of the State in order to comply with the initiative.

Mr. Kiehl asked the Law Department if the MCB does not issue licenses, could CBJ copy and paste the regulations into the CBJ Code, and issue licenses to become an LRA, or does CBJ need to have this in place ahead of time if that bad thing happens?

Ms. Mead stated it is more a question of the State not being administratively ready to begin processing applications. The State law does not state how CBJ would create that position or appoint someone – it is somewhat unclear. She stated CBJ would not need to adopt the State regulations. The CBJ would need to have an LRA and let the State know that by either providing for that in Code or hiring someone and declaring them to be the LRA person.

V. COMMITTEE MEMBER COMMENTS AND QUESTIONS

Mr. Satre stated before next meeting the Committee members should evaluate the State regulations and Title 49 and send their comments or questions to Ms. Mead or Ms. McNally.

Dennis Watson stated that at the last Assembly meeting an Assemblymember stated that CDD did not have a definition of "Neighborhood" – he asked if that was correct.

Rob Steedle stated there is a definition of "Neighborhood" it is just not useful for this purpose and CDD is working on that now.

VI. SUPPLEMENTAL MATERIALS

A. Marijuana Revenue Estimates Discussion Points, prepared by CBJ Sales Tax

VII. ADJOURNMENT

The meeting was adjourned at 7:43pm

The draft October 22, 2015 Marijuana Committee meeting minutes submitted by:
Deb Senn, Clerk/Law Officer Manager

CBJ Marijuana Committee

Marijuana Taxation Discussion Points

November 12, 2015

Excise Tax Information

- Excise taxes are normally levied on specific commodities and are paid to the taxing authority by the wholesaler / producer.
- Excise Tax rate can either be a flat rate per unit of said commodity or a percentage of the wholesale price of the commodity.
- Customary for the wholesaler / producer to recover the "expense" of the excise tax on that commodity by increasing the overall selling price / cost of the commodity on sales to retail merchants.
- In CBJ, an excise tax could be implemented without voter approval.

The State of Alaska's Marijuana excise tax is to be set at $50 per ounce and is to be paid by the marijuana cultivation facility on sales to a retail store or manufacturing facility. The State of AK Tax Division is investigating the possibility of establishing a different flat rate for the various parts of the marijuana plant. Flowers would be taxed at the top rate, leaves at a lessor rate, and stems at the lowest rate.

The Tax Division recommended that if CBJ was to establish a marijuana excise tax, the above taxing structure should be used. If CBJ adopted an excise tax structure similar to the State's, they would be able to collect the tax on CBJ's behalf (for a fee).

Note-both the State of Washington and the State of Colorado have a percentage based excise tax. Washington's excise tax rate is 37% while Colorado's excise tax rate is 15%.

Sales Tax Information

- The existing CBJ Sales Tax of 5% will be collected as soon as retail sales begin.
- Any additional sales tax rate specific to marijuana will need to be voter approved.
- An additional sales tax rate would not increase merchandise costs for retail merchants, an excise tax would.
- An additional sales tax rate would be administratively simpler for CBJ Staff and affected merchants than would an excise tax.
    - Retail merchants would already be collecting the 5% sales tax from their customers.
    - If an excise tax was implemented, wholesalers / producers would file both a sales tax return and an excise tax return.

Medical Marijuana in Alaska

Under current State of Alaska law, medical marijuana cannot be purchased. Marijuana for medical use can only be grown in specific limited quantities by individuals who have been issued a medical marijuana registry card. It appears that based on current State statutes and City code, no marijuana sales would be sales tax exempt under CBJ 69.05.040(7)(b) – exemption on controlled substances prescribed by a licensed doctor.

Staff Recommendation

1. Given the developing nature of the marijuana industry, it is hard to say how well an excise tax program at the local level would work.
2. A sales tax based approach would be straightforward to implement and easy to adjust for changing tax rates.
3. Staff recommends a sales tax and not pursue a CBJ Marijuana Excise tax at this time.

CBJ Marijuana Committee

Marijuana Revenue Update

November 12, 2015

In light of public testimony during the previous CBJ Marijuana Committee, staff felt the need to further research the revenue estimates presented at the last meeting. The main focus of the research was on the effect of the tourism industry and the question of medical marijuana.

Tourism's effect on Revenues

Staff's previous estimates were presented on State of Washington reported retail recreational marijuana sales. To staff's knowledge, Washington's figures and subsequently staff's estimates, did include purchases resulting from tourism.

At this time, the staff's previous revenue estimates will not be further adjusted for tourism as the previous estimates did include tourism and because tourism purchases are still a substantial unknown in Juneau.

Medical Marijuana's effect on Revenues

Staff's previous estimates were based solely on State of Washington reported retail recreational marijuana sales. The estimates did not take State of Washington medical marijuana sales into account. Under current CBJ code, medical marijuana will not qualify for the medical sales tax exemption under 69.05.040(7)(b).

As a result, the previous estimates will be increased by 25% to bring the estimates more in line with total Washington State sales figures.

See below for a revised table of estimates. The Estimated Revenue @ 15% rate column was removed. A column showing the estimated revenue for the standard 5% sales tax was added.

Estimate Method	Estimated Total Annual Retail Sales (6 retail merchants)	Revised Estimate- increase by 25%	Est Revenue 5% rate	Est Revenue 8% rate	Est Revenue 10% rate
Population Basis	$15,300,000	$19,125,000	$956,250	$1,530,000	$1,912,500
Reported Retail Sales per License	$13,148,940	$16,436,175	$821,809	$1,314,894	$1,643,618

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2015-38 (MC v.1)

An Ordinance Amending the Land Use Code to Provide for the Regulation of Marijuana Use and Marijuana Establishments and Providing for a Penalty.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Chapter. CBJ 49.65 Specified Use Provisions is amended by adding a new article to read:

ARTICLE X. MARIJUANA ESTABLISHMENTS

49.65.1100 Purpose.

It is the purpose of this article to establish reasonable regulations that allow for the operation of marijuana establishments within the City and Borough in a manner that promotes public health, safety, and general welfare.

49.65.1105 Licensed required.

(a) No person may operate a marijuana establishment within the City and Borough without a conditional use permit, a valid license issued by the City and Borough, and a valid license issued by the State of Alaska. The following types of licenses may be issued under this article:

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(1) Marijuana retail store license;

(2) Marijuana cultivation facility license:

(3) Marijuana product manufacturing facility license; and

(4) Marijuana testing facility license.

(b) A separate license shall be required for each specific business or business entity or for each geographic location.

(c) Upon denial or revocation of a marijuana establishment license issued by the State of Alaska, any license issued by the City and Borough under this article shall be null and void. If a court of competent jurisdiction determines that the issuance of local licenses violates State or federal law, all licenses issued under this article shall be deemed immediately revoked by operation of law, with no ground for appeal or redress on behalf of the licensee.

49.65.1110 Prohibited Acts.

a) It is unlawful for any licensee to engage in business contrary to any term or condition of any City and Borough of Juneau marijuana establishment license or any provision of this chapter.

(b) It is unlawful for any person to obtain or attempt to obtain a license by making a false statement in any application for a license, or by any other fraudulent or deceptive means.

(c) It is unlawful for any person to forge, counterfeit, or fraudulently alter a license issued under this chapter.

(d) It is unlawful for any person to obstruct, impede or otherwise refuse to allow an administrative inspection authorized under CBJ 49.65.1120.

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(e) It is unlawful for any person licensed or regulated under this article to knowingly or willfully authorize, order, instruct or permit an employee, agent or person under the licensee's control to do an act in connection with the licensed activity which violates any provision of this article or any license issued under this article.

49.65.1115 Application for license.

(a) An applicant for a Marijuana Establishment License shall submit an application on a form provided by the department accompanied by the appropriate fee. Applications must include the following documentation

(1) If the applicant is not a natural person, the organizational documents for all entities identified in the application;

(2) A copy of the lease or deed for the property upon which the marijuana establishment will be located;

(3) A site plan of all buildings on the property where the premises is located, including, but not limited to: a floor plan showing how the floor space is or will be used to include but not limited to restricted access areas; parking and circulation for the premises; property lines and setbacks; total floor area of the building(s); and the nature and location of any existing or proposed exterior lighting and signage;

(4) A list of all other uses on the property;

(5) A statement verifying compliance with any buffer requirements imposed by 3 AAC Chapter 306 of the Alaska Administrative Code;

(6) A list of all proposed changes or modifications to the premises;

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(7) A security plan indicating how the applicant will comply with the requirements of this article and any other applicable law;

(8) A copy of the Notice of Decision approving the conditional use permit by the City and Borough of Juneau Planning Commission;

(9) A certificate of financial good standing with the City and Borough that the applicant is not delinquent in the payment of property taxes or utility bills or delinquent in the reporting or remittance of sales tax to the municipality; and

(10) Any additional documentation determined by the department to be necessary to make a decision whether to approve or deny the license application, or approve with conditions.

(b) Special requirements. In addition to the above, applicants must satisfy the following requirements when applying for certain types of licenses:

(1) Marijuana retail store license applicants [_____]

(2) Marijuana cultivation facility license applicants must provide a ventilation and filtration plan describing the systems that will be used to ensure compliance with CBJ 49.65.1155 and whether the applicant intends on using carbon dioxide. If carbon dioxide will be used by applicant, the plan should identify the storage area for the gas.

(3) Marijuana product manufacturing facility license applicants and marijuana testing facility license applicants must specify all means to be used for extraction, heating, washing or otherwise changing the form of the marijuana plant, along with proposed ventilation and safety measures to be implemented for each process.

(4) Marijuana cultivation facility license applicants and marijuana product manufacturing facility license applicants must specify the methods to be used to prevent

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the growth of harmful mold and compliance with limitations on discharge into the wastewater system.

49.65.1120 Term of license; renewal.

(a) No license granted or issued under any of the provisions of this title shall be in any manner assignable or transferable.

(b) If a licensee desires to modify the licensed premises by changes to equipment or any approved plan, an amendment to the original application shall be submitted for review and approval. [*Procedure for processing? Distinguish between major and minor modifications?]*

(c) Licenses are valid only as long as the applicant holds a current license from the State and is in compliance with the applicable conditional use permit.

(d) Licenses issued under this chapter are effective from the date of issuance through December 31 of the same year.

(e) Licenses shall automatically renew upon the timely remittance of the annual license fee, due by January 1. Failure to timely remit the annual license fee shall result in the license expiring and will require a new license application.

49.65.1125 Correction orders.

(a) The department may issue a corrective order whenever a licensee:

(1) Has violated any provision of this chapter;

(2) Has relinquished legal control of the licensed establishment to any other person;

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(3) Has failed, refused or neglected to comply with any general or special term or condition of the license issued under this chapter, or any law of the State or the municipality;

(4) Has become delinquent in the payment of property taxes, utility bills or rent owed the municipality; or has failed or refused to report and remit sales taxes due the municipality and has become more than one (1) month delinquent in such reporting or remittance.

(b) A corrective order shall be served on the licensee by hand-delivery or certified mail and shall specify:

(1) The term or condition of the license that has been violated;

(2) The corrective action, if any, the licensee may take to prevent suspension or revocation of the license, and the time limited for such corrective action, which shall be no earlier than seven (7) days following date of issuance of the corrective order;

(3) Notification of the penalties provided by this title; and

(4) That the licensee may request an informal meeting before the department during the seven day period specified above prior to suspension or revocation of the license in order to allow the licensee to contest the grounds for issuance of the corrective order and to provide the licensee the opportunity to provide information to the manager relevant to the grounds for the corrective order.

(c) Based on information timely received from the licensee, or from any other source, the department may amend the terms or conditions of the corrective order, or after consideration of the information provided by the licensee, affirm the corrective order as issued.

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49.65.1130 License suspension or revocation.

Upon the expiration of the time allowed in a corrective order issued in CBJ 49.65.65.1125, if the licensee has not complied with the corrective order, the marijuana establishment license will be suspended or revoked. Upon suspension or revocation of any license, the department shall notify the person whose license has been suspended or revoked by certified mail or by hand-delivery. Following such suspension or revocation and after notification, it is unlawful for the licensee to continue to operate the marijuana establishment.

49.65.1135 Appeal.

The revocation or suspension of a marijuana establishment license is appealable in accordance with CBJ 49.20.

49.65.1140 Inspection of premises.

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 department for the purpose of ensuring compliance with this chapter and any applicable marijuana establishment license. Inspection shall include access to any marijuana or marijuana product on the premises, equipment used in cultivating, process, testing or storing marijuana, the inventory tracking system and business records of the licensee or applicant.

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49.65.1145 Hours of operation – marijuana retail stores.

Licensed premises may open no earlier than 8 a.m. and shall close no later than 11 p.m. the same day, Monday through Sunday. No marijuana may be distributed, sold or dispensed at a licensed premises when the licensed premises is required to be closed pursuant to this section.

49.65.1150 License to be displayed.

A licensee shall exhibit the marijuana establishment license in a conspicuous location inside the licensed premises near the main entrance.

49.65.1155 Odor.

All marijuana establishments shall utilize a ventilation and odor system that prohibits the detection of noxious odors from outside the licensed premises.

49.65.__ Waste Plan and Maintenance.

3 AAC 306.020(e)(4)

3 AAC 306.735

3 AAC 306.740

49.65.__ Security.

3 AAC 306.020(c)(1)

3 AAC 306.430

3 AAC 306.535

3 AAC 306.715

3 AAC 306.720

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49.65.__ Age requirements.

3 AAC 306.310

3 AAC 306.325

3 AAC 306.350

49.65._____ Signage.

3 AAC 306.325

3 AAC 306.360

49.65._____ Packinging and labeling of marijuana products.

3 AAC 306.310
3 AAC 306.345
3 AAC 306.470
3 AAC 306.475
3 AAC 306.565
3 AAC 306.570

49.65.____ Penalty.

(a) Operation of a marijuana facility without a valid license is a [Civil violation? Criminal violation? Provide for both?]

(b) The City and Borough may seek a court order enjoining the continued operation, within the municipality, of any business whose owner or operator fails to comply with correction orders issued under CBJ 49.65.1125, terms of any decision on appeal under CBJ 49.65.1135, or who fails to cease operation following suspension or revocation of a license under CBJ 49.65.1130.

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Section ___. Amendment of Section. CBJ 49.80.120 Definitions, is amended by the addition of the following definitions to be incorporated in alphabetical order:

…

Section ___. Amendment of Section. CBJ 49.85.100 Generally, is amended to read:

49.85.100 Generally.

Processing fees are established for each development, platting and other land use action in accordance with the following schedule:

_____

Section ___. Amendment of Section. CBJ 49._____, is amended to read:

CBJ _____ **Marijuana processing and manufacturing in residential areas.**

It is unlawful for any person to process or manufacture marijuana concentrate by any means other than water-based or food-based extraction, except as otherwise provided by law.

Section __. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2015.

_____
Greg Fisk, Mayor

Attest:

_____
Laurie J. Sica, Municipal Clerk

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3 AAC is amended by adding a new chapter to read:

Chapter 306. Regulation of Marijuana Industry.

Article **beginning page**

1. Licensing, Fees (3 AAC 306.005 - 3AAC 306.100) 1
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3. Retail Marijuana Stores (3 AAC 306.300 - 3AAC 306.360) 34
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Article 1. Licensing, Fees.

Section

05. License required
10. License restrictions
15. License conditions
20. Application for new license
25. Application procedure
30. Petition for license in area with no local government
35. Application for renewal of license

40. Ownership change to be reported

45. Application for transfer of a license to another person

50. Relocation of licensed premises not allowed

55. Criminal justice information and records

60. Protest by local government

65. Public participation

70. Hearing on public protest

75. Procedure for action on license application

80. Denial of license application

85. Informal conference

90. Formal hearing

95. Appeals

100. Fees, refund

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 - 3AAC 306.755;

(2) a marijuana cultivation facility license, as described in 3 AAC 306.405 – 3 AAC 306.415, 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 - 3AAC 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 - 3AAC 306.755. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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, 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, recreation or youth center, or the main public entrance of the building in which religious services are regularly conducted, or 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, recreation or youth center, the building in which religious services are regularly conducted, or the 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, 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, 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 when a local government protests an application under 3 AAC 306.060 on the grounds that 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.

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

(1) is prohibited under AS 17.38.100(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 17.38.100(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; or

(B) selling alcohol to a minor in violation of AS 04.16.051 or AS 04.16.052; or

(3) operated a marijuana delivery service, a marijuana club, or a marijuana establishment illegally without a license issued under this chapter, or otherwise violated AS 17.38, during the two years before the date the person files the application, unless the board finds that person has diligently worked with the board to comply with all current laws and regulations relating to marijuana. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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 who owns the corporation's shares 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. A marijuana establishment that proposes to operate in any new premises must apply for a new marijuana establishment license.

(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) a 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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 and the federal employer identification number (EIN) for the proposed marijuana establishment;

(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 indicates 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, the limited liability company's registered agent, and each member holding any ownership interest; and

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

(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 document 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 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 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 paragraph (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 paragraph (2) of this subsection who is responsible for

(A) management of the marijuana establishment; and

(B) compliance with all applicable 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 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) an 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 required by the board 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; and

(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 product 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) the registered agent or 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

Editor's note: Forms and instructions for filing an application for a marijuana establishment license can be obtained online at the Marijuana Control Board's website or at the board's office. The board's Internet address is www commerce.alaska.gov/web/abc/ and its office is at 550 West 7th Ave. Suite 1600, Anchorage, AK 99501. The board's telephone

number is (907)269-0350.

3 AAC 306.025. Application procedure. (a) An applicant shall 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 shall 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; and

(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, by 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 shall 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 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.

(e) If an application for a marijuana establishment license is incomplete, the director shall notify the applicant, and will 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 shall file a new application and pay a new application fee to obtain a marijuana establishment license. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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. The notice will 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 no 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; and

(C) the marijuana establishment's operating plan;

(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 immediately 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 a non-refundable $1,000 late renewal application fee 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 it 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 return 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. The board will not issue a new license for the same premises to the holder of an expired license unless the expired license holder's new application contains proof satisfactory to the board of good cause for the failure to file a license renewal application. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.040. Ownership change to be reported. (a) A licensed marijuana establishment shall, not later than 10 days after an ownership change as described in this section, report the change on a form prescribed by the board. In this section, an 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.

(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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

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 the following information:

(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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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 and a national criminal history record check.

(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 and a national criminal history record check under AS 12.62.400. 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.

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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 will 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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 no 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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 will send notice of a hearing not later than 20 days before the hearing date to each person that has filed an objection, to each local government that has filed a protest, to each community council in the area of the proposed premises, and to any nonprofit community organization that has requested notice. Any interested person may be heard at a hearing under this subsection. Unless the applicant and the board waive this requirement, the board will hold the hearing in the area where the proposed licensed premises are located, or will arrange for telephonic appearances. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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 7 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 will 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 any testimony received at a hearing on public protest held under 3 AAC 306.070 when it considers the application. The director will 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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; or

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

(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 17.38.110, 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 interest 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. The notice of denial 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.085. Informal conference. (a) An applicant for a new license, renewal of a license, or transfer of a license to another person that is aggrieved by an action of the board denying the application may, no 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, within 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 44.62.380(b). (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.090. Formal hearing. An applicant for a new license, renewal of a license,

or transfer of a license that is aggrieved by an action of the board denying the application may request a formal hearing by filing a notice of defense in compliance with AS 44.62.380 within 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 Office of Administrative Hearings will conduct the hearing in compliance with due process, the Alaska Administrative Procedure Act, AS 44.62.330 – AS 44.62.630, and the applicable regulations adopted by the Office of Administrative Hearings at 2 AAC 64.100 - 2 AAC 64.990. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

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 $1000.

(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 late renewal application fee is $1000.

(c) The nonrefundable 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 marijuana retailer license, $5000;

(2) for a limited marijuana cultivation facility license, $1000;

(3) for a marijuana cultivation facility license, $5000;

(4) for a marijuana cultivator's broker license, $5000;

(5) for a marijuana extract only manufacturing facility license, $1000;

(6) for a marijuana product manufacturing facility license, $5000;

(7) for a marijuana testing facility license, $1000.

(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, $5000; and

(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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

Article 2. Local Options.

Section

200. Local options
210. Change of local option
220. Removal of local option
230. Procedure for local option election
240. Prohibition of importation or purchase after election
250. Effect on licenses of restriction on sale
260. Notice of the results of a local option election

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 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; or

(D) a marijuana testing facility;

(3) the sale or importation for sale of marijuana and any marijuana product.

(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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900

AS 17.38.090 AS 17.38.110

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 this section 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)." (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900

AS 17.38.090 AS 17.38.110

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 this section 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900

AS 17.38.090 AS 17.38.110

3 AAC 306.230. Procedure for local option election. (a) When a local government receives a petition to adopt, change, or remove a local option, and the petition is signed by a number of registered voters equal to 25 percent or more of the number of votes cast at the last regular municipal election, the local government shall place the issue that is the subject of the petition on a separate ballot at the next regular election, or hold a special election. The local government shall conduct the election in compliance with its election ordinance.

(b) In a general law local government, AS 29.26.110 – AS 29.26.160 apply to a petition under (a) of this section except that

(1) an application filed under AS 29.26.110 must at least contain language substantially similar to the questions set out under 3 AAC 306.200(b), 3 AAC 306.210, or 3 AAC 306.220(a) rather than language of an ordinance or resolution;

(2) a petition must at least contain language substantially similar to the questions set out under 3AAC 306.200(b), 3 AAC 306.210, or 3 AAC 306.220(a) rather than material required under AS 29.26.120(a)(1) and (2).

(c) Notwithstanding any other provisions of law, a local government may not conduct an election to change to a less restrictive option under 3 AAC 306.210, or to remove a local option under 3 AAC 306.220, or pass an ordinance to the same effect, during the first 24 months after the local option was adopted or more than once in a 36-month period, except that if an original prohibition was passed by ordinance, an election as set forth in this article to change the ordinance may be conducted within the 36 month period following the passage of the ordinance.

(d) Notwithstanding AS 29.26.140(a), after a petition has been certified as sufficient to meet the requirements of (a) or (b) of this section, no other petition may be filed or certified until after the question presented in the first petition has been voted on or the local government has passed an ordinance to the same effect. Only one local option question may be presented in an election. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900
AS 17.38.090 AS 17.38.110

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)(3), 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" means to cause to be taken or distributed or to attempt or solicit or cause to be taken or distributed, and includes use of the United States Postal Service;

(3) "transport" means to ship by any method, and 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900
AS 17.38.090 AS 17.38.110

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 may 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 ten 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 ten 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900
AS 17.38.090 AS 17.38.110

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

(1) the clerk of the local government shall notify the board of the results of the election or of the passage of the ordinance immediately after the results of the election are certified or the ordinance is formally adopted;

(2) the local government shall post public notice of the prohibition in a central location within the boundary of the local government before the date the prohibition becomes effective; and

(3) the board shall immediately notify the Department of Law and the Department of Public Safety of the results of the election. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.020 AS 17.38.100 AS 17.38.900
AS 17.38.090 AS 17.38.110

Article 3. Retail Marijuana Stores.

Section

300. Retail marijuana store license required

305. Retail marijuana store privileges

310. Acts prohibited at retail marijuana store

315. Application for retail marijuana store license

320. Marijuana handler permit required

325. Access restricted at marijuana retail store

330. Marijuana inventory tracking system

335. Health and safety requirements

340. Testing required for marijuana and marijuana products

345. Packaging and labeling

350. Identification requirement to prevent sale to person under 21

355. Limit on quantity sold

360. Restriction on advertising of marijuana and marijuana products

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 at 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 any

licensed marijuana testing facility. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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 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;

(3) store marijuana and marijuana products on the licensed premises in a manner consistent with 3 AAC 306.710 – 3 AAC 306.720.

(b) This section does not prohibit a licensed retail store from refusing to sell marijuana or marijuana product to any consumer. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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 any marijuana product

(1) to any person under the age of 21;

(2) that is not labeled and packaged as required in 3 AAC 306.345, and in 3 AAC 306.470 and 3 AAC 306.475 or 3 AAC 306.565 and 3 AAC 306.570;

(3) in a quantity exceeding the limit set out in 3 AAC 306.355;

(4) over the internet; a licensed retail marijuana store may only sell marijuana or marijuana product to a consumer who is physically present on the licensed premises;

(5) after the expiration date shown on the label of the marijuana or marijuana product.

(b) A licensed retail marijuana store may not

(1) conduct any business on, or allow any 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 any person to consume marijuana or any marijuana product on the retail marijuana store's licensed premises;

(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) a consumable product other than marijuana, including cigarettes, tobacco products, alcoholic or non alcoholic beverages, or food, free or for compensation.

(c) A retail marijuana store may not purchase any marijuana or marijuana product for resale without a certificate showing the tax due under AS 43.61.010 has been paid to the state.

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

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 the following

(1) a copy of the food safety permit required under 18 AAC 31.020(a);

(2) in the operating plan required under 3 AAC 306.020(c), a description of the way marijuana and marijuana products at the retail store will be displayed and sold. (Eff. ___/___ /____, Register____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

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

(1) each licensee, employee, or agent 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 when on the licensed premises of the retail marijuana store. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

3 AAC 306.325. Access restricted at retail marijuana store. (a) A person under the

age of 21 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.330. Marijuana inventory tracking system. (a) A retail marijuana store shall use an inventory tracking system as provided in 3 AAC 306.730 to ensure all marijuana and marijuana product in the 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 any 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 inventory tracking system. A retail marijuana store may not accept any marijuana or marijuana product that does not have a valid transport manifest generated from the inventory

tracking system of the marijuana establishment that originated the delivery.

(c) A retail marijuana store shall reconcile each transaction from the store's point of sale system and current inventory to its 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 store received and the quantity the store sold, transferred, or disposed of. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.335. Health and safety requirements. A retail marijuana store must comply with each applicable health and safety requirement set out in 3 AAC 306.735. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.340. Testing required for marijuana and marijuana products. (a) A retail marijuana store may not sell, give, distribute, deliver, or offer to sell, give, distribute, or deliver, marijuana or any 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.345. Packaging and labeling. (a) A retail marijuana store shall assure that

(1) any marijuana sold on its licensed premises is packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475, except that 3 AAC 306.470(b)(2) does not apply to the packaging of wholesale flower and bud sold by weight to a consumer; and

(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, except that 3 AAC 306.565(b)(2) does not apply to the packaging of wholesale marijuana products that are not edible marijuana products.

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

(2) contains the following statements:

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

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

(C) "There may be health risks associated with consumption of marijuana;" and

(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." (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

3 AAC 306.350. Identification requirement to prevent sale to person under 21. (a) A licensed retail marijuana store shall refuse to sell marijuana or a marijuana product to any person who does not produce a form of valid identification showing that person is 21 years of age or older.

(b) A valid form of identification includes:

(1) an unexpired, unaltered passport;

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

(3) an identification card issued by a federal or state agency authorized to issue a driver's license or identification card. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

3 AAC 306.355. Limit on quantity sold. (a) A licensed retail marijuana store shall not sell more than the following quantity of marijuana or marijuana product in a single transaction:

(1) one ounce of usable marijuana;

(2) sixteen ounces of marijuana-infused product in solid form;

(3) seven grams of marijuana-infused extract for inhalation, or

(4) seventy-two ounces of marijuana-infused product in liquid form. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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

(a) A retail marijuana store may have no more than three signs, visible to the general public from the public right of way, that identify the store by its business name. A sign may be placed in the store's window or attached to the outside of the licensed premises. The size of each sign may not exceed 4800 square inches.

(b) An advertisement for marijuana or marijuana product may not contain any 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 the age of 21 consuming marijuana; or

(5) includes an object or character, including a toy, a cartoon character, or any other depiction designed to appeal to a child or other person under the age of 21, 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 one thousand feet of the perimeter of any child-centered facility, including a school, daycare 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 the age of 21;

(2) on or in a public transit vehicle or public transit shelter; or

(3) on or in a publicly owned or operated property;

` (4) within 1000 feet of a substance or treatment facility; or

(5) on a college campus.

(d) A retail marijuana store may not use giveaway coupons, or distribute branded merchandise 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 the following warnings:

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

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

(3) "There may be health risks associated with consumption of marijuana;" and

(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."

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

Article 4. Marijuana Cultivation Facilities.

Section

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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, or package, label, or sell marijuana grown at a place under that person's control, directly or through a marijuana cultivation broker facility, to any 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 sections 3 AAC 306.405 - 3 AAC 306.415:

(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; and

(3) a marijuana cultivation broker facility license for a person providing essential business functions of a limited marijuana cultivation facility, including storing marijuana, purchasing or arranging the purchase of the limited marijuana cultivation facility's marijuana crop, arranging testing and transportation of marijuana, and filing the reports and paying the marijuana excise tax required under AS 43.61.010 and AS 43.61.020.

(b) A person seeking any type of 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 at 3 AAC 306.020 and 3 AAC 306.420; and

(2) demonstrate to the board's satisfaction that it 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 any 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 any licensed marijuana testing facility. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.030 AS 17.38.090 AS 17.38.900
AS 17.38.070

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 lab 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 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 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 any marijuana or 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 3AAC 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; or

(6) sell marijuana that has not been reported to the Department of Revenue with excise tax paid as required under AS 43.61.010 and AS 43.61.020. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.410. Limited marijuana cultivation facility: privileges and prohibited acts. (a) A licensed limited cultivation facility is authorized to

(1) propagate, cultivate, harvest, and prepare marijuana for sale in a marijuana

cultivation facility with fewer than 500 square feet under cultivation;

(2) provide marijuana samples to a licensed marijuana cultivation broker facility for the purpose of negotiating a sale;

(3) sell marijuana only to a licensed marijuana cultivation broker facility with which the limited cultivation facility has a written agreement that

(A) assigns responsibility for

(i) arranging transportation and testing by a licensed marijuana testing facility; and for

(ii) other services as agreed between the parties; and

(B) requires the marijuana cultivation broker facility to file reports and pay the excise tax as required under AS 43.61.010 and AS 43.61.020 for all marijuana the marijuana cultivation broker facility purchases from the limited marijuana cultivation facility;

(4) if a written agreement as provided in paragraph (a)(3) of this section does not provide for the marijuana cultivation broker facility to provide these services:

(A) arrange for testing by a licensed marijuana testing facility; and

(B) transport marijuana to a licensed marijuana testing facility or the marijuana cultivation broker facility with which the limited marijuana cultivation facility has an agreement under (a)(3) of this section.

(b) A licensed limited marijuana cultivation facility may not

(1) do any act prohibited under 3 AAC 306.405(c);

(2) hold any other type of marijuana establishment license;

(3) sell directly to a consumer,

(4) sell to any marijuana establishment except through a marijuana cultivation broker facility; and

(5) sell marijuana to a marijuana cultivation broker facility without a written agreement in which the marijuana cultivation broker facility agrees to file each report and pay the excise tax required under AS 43.61.010 and AS 43.61.020. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.090 AS 43.61.010
AS 17.38.070 AS 17.38.100 AS 43.61.020
AS 17.38.084 AS 17.38.900

3 AAC 306.415. Marijuana cultivation broker facility: privileges and prohibited acts. (a) A licensed marijuana cultivation broker facility is authorized to

(1) purchase marijuana from any number of licensed limited marijuana cultivation facilities;

(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) arrange laboratory testing of marijuana obtained from a limited cultivation facility, and provide the necessary testing samples to a licensed marijuana testing facility;

(4) arrange transportation of marijuana to a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store; and

(5) submit to the Department of Revenue the monthly statements and pay the excise tax specified under AS 43.61.010 and AS 43.61.020 on all marijuana the marijuana cultivation broker facility purchases from a limited marijuana cultivation facility.

(b) A licensed marijuana cultivation broker facility may apply for a marijuana product

manufacturing facility license and a retail marijuana store license. A marijuana cultivation broker facility that obtains any other marijuana establishment license shall

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

(2) comply with each provision of this chapter that applies to any other type of marijuana establishment license that the cultivation broker facility has obtained.

(c) A licensed marijuana cultivation broker facility may not

(1) do any act prohibited under 3 AAC 306.405(c);

(2) grow marijuana;

(3) extract concentrate from marijuana unless the broker facility has obtained a marijuana manufacturing facility license;

(4) sell marijuana that is not packaged and labeled in compliance with 3 AAC 306.470 and 3 AAC 306.475; or

(5) sell marijuana that has not been reported to the Department of Revenue with excise tax paid as required under AS 43.61.010 and AS 43.61.020. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.090 AS 43.61.010
AS 17.38.070 AS 17.38.100 AS 43.61.020
AS 17.38.084 AS 17.38.900

3 AAC 306.420. Application for marijuana cultivation facility license. (a) An applicant for a new standard marijuana cultivation facility license or a new limited marijuana cultivation facility shall 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 CO2 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.

(b) An applicant for a limited marijuana cultivation facility license must submit the information required for a new marijuana establishment license set out in 3 AAC 306.020, and (a)(2) of this section.

(c) An applicant for a marijuana cultivation broker facility license must

(1) submit the information required for a new marijuana establishment license under 3 AAC 306.020;

(2) agree to submit the monthly reports and pay the excise tax specified under AS 43.61.010 and AS 43.61.020 on all marijuana it purchases; and

(3) provide other services the marijuana cultivation broker facility offers to a limited marijuana cultivation facility. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

Editor's note: The form for an application for a marijuana cultivation facility license or a marijuana cultivation broker facility license is available online as provided in the editor's note under 3 AAC 306.020.

3 AAC 306.425. Marijuana handler permit required. A marijuana cultivation facility must ensure that each licensee, employee, or agent

(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 at all times while on the marijuana cultivation facility's licensed premises. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.430. Restricted access area. (a) A marijuana cultivation facility shall conduct any operation in a restricted 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 cultivation facility

(1) cannot be observed by the public from outside the 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.435. Marijuana inventory tracking system. (a) A marijuana cultivation facility shall use an 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 must assign a tracking number to each plant over 8 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.440. Health and safety requirements. (a) A marijuana cultivation facility must 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.445. Standards for cultivation and preparation. A marijuana cultivation facility shall use certified scales in compliance with AS 45.75.080 and 3 AAC 306.745. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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 its 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.

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.455. Required laboratory testing. (a) Except as provided in (d) of this section, 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 by 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;

(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 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.

(d) A limited marijuana cultivation facility may contract with a marijuana cultivation broker facility to arrange the laboratory testing required in this section, and transportation of marijuana to the marijuana testing facility. A marijuana cultivation broker facility's contract to perform these services must be in writing and must be maintained in the limited marijuana cultivation facility's business records. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

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 no more than 3 1/2 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 no 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 cultivation facility that provided the sample; or

(2) destroy the marijuana sample after use and document the destruction in its marijuana inventory control system. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.465. Random sampling. (a) The board or the director will 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, 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 will identify a licensed marijuana testing facility to perform the testing. The marijuana testing facility will collect the test samples; the marijuana cultivation facility shall cooperate to facilitate the collection of samples. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.470. Packaging of marijuana. (a) A licensed marijuana cultivation facility, including a marijuana cultivation broker facility, shall package its marijuana bud and flower for sale as follows:

(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 identifying name or logo and license number; or

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

(2) to a marijuana product manufacturing facility in a wholesale package not exceeding five pounds, consisting of a single strain or a mixture of strains as identified on the label.

(b) When a licensed marijuana cultivation facility packages marijuana for a retail

marijuana store to sell to a consumer without re-packaging, the packaging must be designed or constructed in compliance with 16 C.F.R. 1700.01 – 1700.20, as amended Dec.30, 1983 to be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly. The packaging may not have any printed images, including cartoon characters, that specifically target individuals under the age of 21. In addition, the packaging must

(1) protect the product from contamination and must not impart any toxic or damaging substance to the marijuana;

(2) be four mil or greater thickness plastic, heat sealed, and with no easy-open corner, dimple or flap;

(3) be opaque so that the product cannot be seen without opening the packaging material.

(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 control 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 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.475. Labeling of marijuana. (a) When a licensed 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 the following statements:

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

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

(3) "There may be health risks associated with consumption of marijuana;" and

(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 must 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; 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 unless permitted by the United States Department of Agriculture in accordance with 7 U.S.C. 6501 (Organic

Foods Production Act of 1990).

(d) A marijuana cultivation facility shall affix a label containing the following information to each package of marijuana sold to another marijuana establishment.

(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, not including weight of the shipping container, using a standard of measure compatible with the 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, then 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 the following information:

(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 by 3 AAC 306.645(b)(2);

(3) a statement listing the results of residual solvent testing required by 3 AAC

306.645(b)(3), if applicable;

(4) a statement listing any of the following contaminants for which the product was tested:

(A) molds, mildew and filth, in addition to the testing required by 3 AAC 306.645(b)(2);

(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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.480. Marijuana tax to be paid. (a) A standard marijuana cultivation facility shall submit monthly reports to the Department of Revenue and pay the excise tax required under AS 43.61.010 and AS 43.61.020 on all marijuana sold, or provided as a sample to any marijuana establishment.

(b) A marijuana cultivation broker facility shall submit monthly reports to the Department of Revenue and pay the excise tax required under AS 43.61.010 and AS 43.61.020 on all marijuana it has obtained from a limited marijuana cultivation facility, including any sample provided to any other marijuana establishment. The broker shall agree to comply with this section in a written agreement with each limited marijuana cultivation facility from which it purchases marijuana, and shall provide a copy of the monthly report required under AS

43.61.020 to each limited marijuana cultivation facility from which it purchases marijuana. If a marijuana cultivation broker facility fails to pay the required tax, the limited marijuana cultivation facility shall pay the required tax.

(c) When a marijuana cultivation facility, including a marijuana cultivation broker facility, sells or distributes any marijuana to a retail marijuana store or a marijuana product manufacturing facility, the marijuana cultivation facility or marijuana cultivation broker must provide verification of tax payment to the purchaser. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.900
AS 17.38.030 AS 17.38.090 AS 43.61.010
AS 17.38.070 AS 17.38.100 AS 43.61.020

Article 5. Marijuana Product Manufacturing Facilities.

Section

500. Marijuana product manufacturing facility license required

505. Marijuana product manufacturing facility privileges

510. Acts prohibited at marijuana product manufacturing facility

515. Marijuana concentrate manufacturing facility license

520. Application for marijuana product manufacturing facility license

525. Approval of concentrates and marijuana products

530. Marijuana handler permit and food safety worker training

535. Restricted access and storage areas

540. Marijuana inventory tracking system

545. Health and safety standards

550. Required laboratory testing

555. Production of marijuana concentrate

560. Potency limits per serving and transaction for edible marijuana products

565. Packaging of marijuana products

570. Labeling of marijuana products

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 at 3 AAC 306.020 and 3 AAC 306.520; and

(2) demonstrate to the board's satisfaction that it 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 any 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 any licensed marijuana testing facility. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.505. Marijuana product manufacturing facility privileges. (a) 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 including a marijuana cultivation broker 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 certified marijuana testing lab 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; and

(8) transport marijuana in compliance with 3 AAC 306.750; or

(9) conduct in-house testing for the marijuana product manufacturing facility's own use. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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 its licensed premises;

(4) manufacture or sell any product that

(A) is an adulterated food or drink;

(B) is a marijuana product containing any food that requires temperature-controlled storage to keep it safe for human consumption;

(C) closely resembles any familiar food or drink item including candy; or

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

(5) operate in a location that is a retail or wholesale food establishment.

(b) 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 easily be mistaken for that branded product, especially by children.

(c) A 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 licensed marijuana establishment that provided the marijuana; and

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

(d) A marijuana product manufacturing facility may not purchase or receive any marijuana from a marijuana cultivation facility, or another marijuana product manufacturing facility unless it receives evidence that tax due under AS 43.61.010 has been paid. If a marijuana product manufacturing facility has marijuana on its premises without a certificate showing the excise tax imposed under AS 43.61.010 has been paid on that marijuana, the marijuana product manufacturing facility is liable for payment of the tax. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.090 AS 17.38.900
AS 17.38.070 AS 17.38.100 AS 43.61.010
AS 17.38.084

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 any marijuana product other than marijuana concentrate to a retail marijuana store or to another marijuana product manufacturing facility;

(3) provide and transport a sample of any marijuana product other than marijuana concentrate to a licensed marijuana testing lab for testing; or

(4) provide samples of any product other than marijuana concentrate to a licensed retail marijuana store for purposes of negotiating a sale. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

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, must file an application on a form the board prescribes, and provide the information required under 3 AAC 306.020 and the following:

(1) a copy of a food safety permit if required under 18 AAC 31.020;

(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; and

(D) sample labels showing how the labeling information required in 3 ÅAC 306.570 will be set out; and

(E) the applicant's plan for disposal of waste. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

Editor's note: The form for an application for a marijuana product manufacturing facility license or a marijuana concentrate manufacturing license is available online as provided in the editor's note under 3 AAC 306.020.

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

(1) any marijuana concentrate or product intended for sale directly to a consumer if the concentrate or product will have THC potency equal to or greater than 76 percent; or

(2) any 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 a fee of $250.

(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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.530. Marijuana handler permit and food safety worker training. (a) A marijuana product manufacturing facility shall ensure that each licensee, employee, or agent

(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 at all times while on the marijuana product manufacturing facility's licensed premises.

(b) A licensee, employee, or agent of a licensed marijuana product manufacturing

facility who handles marijuana at the facility shall obtain a food safety worker card in compliance with AS 18.31.330, and keep that card in that person's possession at all times while on the licensed premises of the marijuana product manufacturing facility. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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 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 any 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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 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 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 its 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

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, the Alaska Food Safety Code, 18 AAC 31, 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

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 any marijuana product until all laboratory testing required by 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.555. Production of marijuana concentrate. (a) Before producing any 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 and oils or fats derived from natural sources may be used to prepare infused edible products, but 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 ninety-nine 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 must ensure that

(1) every vessel is used in compliance with the manufacturer's stated pressure ratings;

(2) any CO2 used is of at least ninety-nine percent purity;

(3) any person using a solvent or gas to extract marijuana concentrate in the

closed looped system must be fully trained on how to use the system, have direct access to applicable material safety data sheets, and handle and store 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;

(5) any professional grade closed loop system, and other equipment and facilities used in the extraction process must be approved for their use by the local fire code official and must 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 kief, hashish, bubble hash, infused dairy butter, or oils or fats derived from natural sources, and 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.560. Potency limits per serving and transaction for edible marijuana products. (a) A marijuana product manufacturing facility may not prepare any product with potency levels exceeding the following, as tested in compliance with 3 AAC 306.645:

(1) for a single serving of marijuana product, five milligrams active tetrahydrocannabinol (THC) or Delta 9;

(2) in a single packaged unit of marijuana product to be eaten or swallowed, not more than ten servings, or fifty milligrams of active THC or Delta 9; the THC content must be homogenous, or evenly distributed throughout the marijuana infused product. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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 must be designed or constructed in compliance with 16 C.F.R. 1700.01 – 1700.20, as amended Dec. 30, 1983 to be significantly difficult for children under five years of age to open; but not normally difficult for adults to use properly. The container or packaging may not have any printed images, including cartoon characters, that specifically target individuals under the age of 21. In addition, the packaging must

(1) protect the product from contamination and not impart any toxic or damaging substance to the product;

(2) be four mil or greater thickness plastic, heat sealed and with no easy-open corner, dimple or flap; marijuana product in liquid form may also be sealed using a metal crown product;

(3) be opaque so that the product cannot be seen without opening the packaging material;

(4) if the marijuana package contains multiple servings or is intended for more

than a single use, the packaging must be resealable to childproof standards in compliance with C.F.R. 1700.01 – 1700.20, as amended Dec. 30, 198; and

(5) if the marijuana product contains multiple servings, the product itself must have 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 facility in wholesale packages not to exceed 5 pounds.

(d) Each packaged marijuana product must be identified by a tracking label generated by the marijuana product manufacturing facility's marijuana inventory control 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 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.570. Labeling of marijuana products. (a) With each production lot of marijuana product sold, a marijuana product manufacturing facility must 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 unless permitted by the United States Department of Agriculture in compliance with 7 U.S.C. 6501 (Organic Foods Production Act of 1990).

(c) A marijuana product manufacturing facility shall affix a label containing the following information to each package of marijuana product sold to a retail store for resale to a consumer:

(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, not including weight of packaging, using a standard of measure compatible with the inventory tracking system;

(4) a label containing the following statements:

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

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

(C) "There may be health risks associated with consumption of marijuana;" and

(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 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 the following information:

(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 by 3 AAC 306.645(b)(2);

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

(4) a statement listing any of the following contaminants for which the product was tested:

(A) molds, mildew and filth, in addition to the testing required by 3 AAC 306.645(b)(2);

(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. (Eff. ___/___ /____,

Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

Article 6. Marijuana Testing Facilities.

Section

600. Applicability

605. Marijuana testing facility license required

610. Marijuana testing facilities: privileges and prohibitions

615. Application for marijuana testing facility license

620. Approval of testing facility

625. Proficiency testing program

630. Scientific director

635. Testing methodologies

640. Standard operating procedure manual

645. Laboratory testing of marijuana and marijuana products

650. Chain of custody

655. Marijuana inventory tracking system

660. Failed materials, retests

665. Supplemental marijuana quality testing

670. Reporting, verification

675. Records retention

3 AAC 306.600. Applicability. (a) The provisions of 3 AAC 306.600 - 3 AAC 306.675 apply to any person offering any service testing, analyzing, or certifying potency, moisture content, pesticide or solvent residue, mold, mildew, bacteria, or other contaminant in marijuana or any marijuana product to any other person including a marijuana establishment or any 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 any 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 marijuana retail store. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.605. Marijuana testing facility license required. (a) A person may not offer or provide any 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 at 3 AAC 306.020 and 3 AAC 306.615; and

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

(A) each applicable provision of 3 AAC 306.600 – 3 AAC 306.675, 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) does not hold any marijuana establishment license in Alaska other than a testing facility license, or have any financial interest in common with any person who is a licensee of a marijuana establishment in Alaska other than a 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 any 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 any other licensed marijuana establishment. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.610. Marijuana testing facilities: privileges and prohibitions. (a) A licensed marijuana testing facility may have any amount of marijuana and marijuana product on its premises at any given time provided that the 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 3306.675.

(b) A licensed marijuana testing facility may not

(1) have any licensee, employee, or agent who holds any type of marijuana establishment license other than a marijuana testing facility license issued under this chapter;

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

(3) allow any person to consume marijuana or marijuana product on its licensed premises. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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), the following:

(A) each test the marijuana testing facility will offer;

(B) the facility's standard operating procedure for each test the facility will offer; and

(C) the acceptable range of results for each test the facility will offer.

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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 or the board's contractor 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 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 - 3AAC 306.675, and 3 AAC 306.700 - 3AAC 306.755, including

(A) qualifications of personnel;

(B) standard operating procedure for each testing methodology the 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) In this section, "approval" means the board or its contractor has examined the qualifications and procedures of the marijuana testing facility license applicant and found them generally in compliance with good laboratory practices; "approval" does not mean the board guarantees that the 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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 within 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 means the positive identification of 80 percent of the target analytes that the testing facility reports, and must include quantitative results when applicable. Any false positive results reported will be considered 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 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 must 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. "Remedial action" means 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.630. Scientific director. (a) A marijuana testing facility must employ a scientific director who must be responsible for

(1) overseeing and directing the laboratory's scientific methods;

(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 the following qualifications:

(1) a doctorate degree in chemical or biological sciences from an accredited

college or university and have at least 2 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 4 years of post-degree laboratory experience; or

(3) a bachelor's degree in chemical or biological sciences from an accredited college or university and have at least 6 years of post-degree laboratory experience. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.635. Testing methodologies. (a) An applicant for a marijuana testing facility license and a licensed marijuana testing facility shall

(1) use the following materials, which are hereby adopted by reference, as guidelines or references for testing methodologies:

(A) *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, Revision 2014* published by the American Herbal Pharmacopoeia; and

(B) United Nations Office on Drugs and Crime: Recommended methods for the identification and analysis of cannabis and cannabis products: Manual for use by national drug analysis laboratories (2009).

(2) notify the board of any alternative scientifically valid testing methodology the 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 must be familiar with, and to the extent possible, integrate into the facility's operations the good laboratory practices set out in the following materials, hereby adopted by reference

(1) 21 C.F.R. 58, as revised as of Dec. 22, 1978; and

(2) *Principles of Good Laboratory Practice and Compliance Monitoring* published by the Organization for Economic Co-operation and Development (OECD), as revised as of 1999.

(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 facility's compliance with its quality program. The board may require random validation of a marijuana testing facility's execution of all testing methodologies the facility uses. The marijuana testing facility must pay all costs of validation. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

Editor's note: *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, Revision 2014,* published by the American Herbal Pharmacopoeia may be obtained from the American Herbal Pharmacopoeia, P.O. Box 66809, Scotts Valley, California 95067, or at the Internet address http://www.herbal-ahp.org/

United Nations Office on Drugs and Crime: Recommended methods for the identification and analysis of cannabis and cannabis products: Manual for use by national drug analysis laboratories (2009).is available at the internet address https://www.unodc.org/documents/scientific/ST-NAR-40-Ebook.pdf

OECD Principles of Good Laboratory Practice and Compliance Monitoring published by the Organisation for Economic Co-operation and Development as revised as of 1997 is available at the internet address

3 A**AC 306.640. Standard operating procedure manual.** (a) An applicant for a marijuana testing facility license and a licensed marijuana testing facility must have a written procedures manual 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 procedures manual must be available to each employee of the marijuana testing facility at all times. A standard operating procedures manual must cover at least the following procedures:

(1) sample preparation;

(2) reagent, solution, and reference standard preparation;

(3) instrument setup, where applicable;

(4) standardization of volumetric reagent solutions, as applicable;

(5) data acquisition; and

(6) calculation of results.

(b) The scientific director of a licensed marijuana testing facility shall approve, sign, and date each standard operating procedure, and each revision to any standard operating procedure.

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.645. Laboratory Testing of Marijuana and Marijuana Products. (a) A licensed marijuana testing facility must use the general body of required laboratory tests for marijuana plant material, any extract or concentrate of marijuana, and any edible marijuana products as listed in the tables in this section. 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 marijuana product, and is subject to the following rules:

(A) 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 provided 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, by listing for each required cannabinoid a single percentage concentration that represents an average of all samples within the test batch; alternatively, the sum of THC + THCA may be reported as total THC; the sum of CBD + 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, by listing for each cannabinoid the total number of milligrams contained within a single retail marijuana product unit for sale; and

(iii) for testing whether the THC content is homogenous, the THC content of each single serving in a multi-unit package must be reported, and must be within 20% of the manufacturer’s target; for example, in a 25 mg total THC

package with 5 servings, each serving must contain between 4 and 6 mg of THC;

(C) edible marijuana products will be considered 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 mg of THC within it, then the test batch is considered to have failed potency testing;

(ii) if the THC content of an edible marijuana product is not homogenous, then it is considered to have failed potency testing;

(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 Escherichia coli (STEC)*- Bacteria	< 1 Colony Forming Unit (CFU/g)	Flower; Retail Marijuana Products; Water- and Food-Based Concentrates
Salmonella species* – Bacteria	< 1 Colony Forming Unit (CFU/g)	
Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger - Fungus	< 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	< 800 Parts Per Million (PPM)	Solvent-Based Concentrates
Heptanes	< 500 Parts Per Million (PPM)	
Benzene**	< 1 Parts Per Million (PPM)	
Toluene**	< 1 Parts Per Million (PPM)	
Hexane**	< 10 Parts Per Million (PPM)	
Total Xylenes (m,p, o-xylenes)**	< 1 Parts Per Million (PPM)	
Any solvent not permitted for use pursuant to Rule R 605.	None Detected	

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.650. Chain of custody. A marijuana testing facility must 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 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 manufacturer that provided the testing sample;

(6) maintaining a current list of authorized personnel and restricting entry to the facility to those authorized persons;

(7) securing the 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.655. Marijuana inventory tracking system. (a) A marijuana testing

facility shall use an 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 testing facility to the use and destruction of the marijuana in testing, or disposal in compliance with 3 AAC 306.740.

(b) When a marijuana testing facility completes any testing, use, or research, it shall immediately dispose of any sample received under this section. If a marijuana testing facility disposes of a sample received under this section, the testing facility shall document the disposal of the sample using its inventory control system. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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 facility 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 its marijuana inventory control 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 fails 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 CO2 or solvent-based extract. After processing, the CO2 or solvent-based extract must pass all required tests.

(c) If a marijuana cultivation facility or a marijuana product manufacturing facility

petitions for a re-test 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 must pay all costs of a retest. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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 marijuana testing, the board or director will 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 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 supplemental laboratory testing under this section, the marijuana testing facility shall

(1) perform any required laboratory test the board requests; and

(2) report its results to the board or director and 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

3 AAC 306.670. Reporting, verification. (a) A marijuana testing facility must report the result of each required laboratory test directly into its marijuana inventory control system within twenty-four hours after the test is completed. A marijuana testing facility must provide the final report

(1) to the facility that submitted the sample in a timely manner; and

(2) to the director within 72 hours when 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 must include in all final reports:

(1) the name and location of the marijuana testing facility;

(2) the unique sample identifier assigned by the testing facility;

(3) the marijuana establishment or other person that submitted the testing sample;

(4) the sample identifier provided by the person that submitted the testing sample;

(5) the date the facility received the sample;

(6) the chain of custody identifier;

(7) the date of report;

(8) the type of product tested;

(9) the test results;

(10) the units of measure; and

(11) any 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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) identity of analyst; and

(13) date of analysis. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

Article 7. Operating Requirements for All Marijuana Establishments.

Section

700. Marijuana handler permit

705. Licensed premises, alteration

710. Restricted access areas

715. Security alarm systems and lock standards

720. Video surveillance

725. Inspection of licensed premises

730. Marijuana inventory tracking system

735. Health and safety standards

740. Waste disposal

745. Standardized scales

750. Transportation

755. Business records

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, shall 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 shall 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. An approved marijuana handler permit education course must cover at least the following topics:

(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;

(3) how to determine valid identification;

(4) how to intervene to prevent unlawful marijuana consumption; and

(5) 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 course described under (b) of this section shall present the course completion certificate, along with a report of criminal justice information obtained from the Department of Public Safety under AS 12.62.160 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 when on the licensed premises of the retail marijuana store.

(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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

3 AAC 306.705. Licensed premises, alteration. (a) A marijuana establishment license will be issued for a specific licensed premises, which is 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 shall 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.

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

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 marijuana retail 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, any licensee, employee, and agent of the marijuana establishment shall wear a current identification badge bearing the person's photograph. A person under the age of 21 may not enter any restricted access area. Any visitor to the restricted area must

(1) show identification as required in 3 AAC 306.350 to prove that person is not under the age of 21;

(2) obtain a visitor identification badge before entering the restricted access area; and

(3) be escorted at all times by a licensee, or an employee or an agent of the marijuana establishment. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100

AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

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 its 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 must use commercial grade, non-residential door locks on all exterior entry points to the licensed premises. Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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;

(3) each point-of-sale (POS) 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 which 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 an agent of the board. A marijuana establishment may use an offsite monitoring service and offsite storage of video surveillance records as long as 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

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 product, to a completed sale of marijuana or marijuana product, or disposal of the harvest batch of marijuana or production lot of marijuana product.

(b) All marijuana delivered to a marijuana establishment must be weighed on a scale certified in compliance with 3 AAC 306.745. (Eff. ___/___ /____, Register ____)

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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 no health or safety concerns are 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 may 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 hand-washing facilities with running water at a suitable temperature; the marijuana establishment shall require employees to wash or sanitize their hands, and must provide effective hand-cleaning, sanitizing preparations, and drying devices;

(3) each person working in direct contact with marijuana or a marijuana product shall conform 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

(A) avoid contaminating any area where marijuana or any marijuana product is stored, displayed, or sold; and

(B) prevent causing odors or attracting pests;

(5) floors, walls, and ceilings must be constructed to allow adequate cleaning, and must be kept clean and in good repair;

(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) any building, fixture, and other facility is maintained in sanitary condition;

(9) any toxic cleaning compound, sanitizing agent, and pesticide chemical must

be identified and stored in a safe manner to protect against contamination of marijuana or marijuana product and in compliance with any applicable local, state, or federal law;

(10) adequate sanitation principles are used in any receiving, inspecting, transporting, and storing of marijuana or marijuana product; and

(11) any marijuana or marijuana product must be 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 section, "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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

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 laws and regulations.

(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) give the board at least 3 days notice in the marijuana inventory tracking system required under 3 AAC 306.730 before making the waste unusable and disposing of it; except that 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 other methods 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) When marijuana or a marijuana product is found by, or surrendered to, a law enforcement officer including 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.745. Standardized scales. A marijuana establishment shall use certified scales in compliance with AS 45.75.080, the Alaska Weights and Measures Act. A marijuana establishment shall

(1) maintain registration and inspection reports of certified scales; and

(2) upon request by the board or the director, provide a copy of the registration and inspection reports of the certified scales to the board or the director for review. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900
AS 17.38.084

3 AAC 306.750. Transportation. (a) A licensed marijuana establishment shall transport marijuana as follows:

(1) a marijuana cultivation facility may transport marijuana to a marijuana cultivator's broker, another marijuana cultivation facility, a marijuana product manufacturing facility, a marijuana testing facility, or a marijuana retail store;

(2) a marijuana broker may transport marijuana to the broker's own storage area, a marijuana product manufacturing facility, a marijuana testing facility, or a marijuana retail store;

(3) 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;

(4) 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; and

(5) a marijuana retail store may transport marijuana or a marijuana product to another marijuana retail 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. Any individual transporting marijuana in compliance with this section shall have a marijuana handler permit required under 3 AAC 306.700.

(c) When any marijuana or marijuana product is transported, the marijuana establishment that originates the transport shall use the marijuana 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, any marijuana or marijuana product must be in a sealed package or container 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. Any vehicle transporting marijuana or marijuana product must travel directly from the shipping marijuana establishment to the receiving marijuana establishment, and must not make any unnecessary stops in between except to deliver or pick up marijuana or marijuana product at any other 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 licensed recipient shall refuse to accept any shipment of marijuana or marijuana product that is not accompanied by the transport manifest.

(f) A marijuana establishment must keep records of all marijuana or marijuana product shipped from or received at that marijuana establishment as required under 3 AAC 306.755.

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.087 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

AS 17.38.084

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, the following information:

(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 product 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 within three business days after a request for the record.

(c) A marijuana establishment is required to exercise due diligence in preserving and maintaining all required records. Loss of records and data, including electronically maintained records, will not be considered an excuse for a violation of this rule. Failure to retain records required under this section may be interpreted by the board as a license violation affecting public safety. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

Article 8. Enforcement and Civil Penalties.

Section

800. Inspection and investigation

805. Report or notice of violation

810. Suspension or revocation of license

815. Suspension or revocation based on act of employee

820. Procedure for action on license suspension or revocation

825. Summary suspension to protect public health, safety, or welfare.

830. Seizure of marijuana or marijuana product

835. Hearing

840. Civil fines

845. Appeal

850. Surrender or destruction of license

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 any marijuana establishment, including any marijuana and marijuana product on the premises, equipment used in cultivating, processing, testing, or storing marijuana, the marijuana establishment's 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 17.38.085, 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

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 by statute, regulation, or the board.

(c) The director, an enforcement agent, an employee of the board, or a peace officer 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 may issue a notice of violation when 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, within ten 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

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 if the board becomes aware that a licensee did not disclose a previous felony conviction.

(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

(B) selling or distributing any marijuana concentrate or product that has not been approved by the board;

(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 law or regulation in the state; or

(6) used the licensed premises for any 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 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 will 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

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 was physically present when the violation occurred, and knew or should have known, the violation was occurring and took no action to stop it;

(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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

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 AS 44.62.380, and conducted in compliance with AS 44.62.330 – AS 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

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 within five days after the director gives notice of the reasons for the summary suspension and the scheduled hearing. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

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 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 forbidden under 3 AAC 306.510(a)(4); or

(3) any marijuana or marijuana product that is not properly packaged and labeled as provided in 3 AAC 306.465 and 3 AAC 306.470 or 3 AAC 306.565 and 3 AAC 306.570.

(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 within ten 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 cultivation facility to continue care of the plants until the hearing, but prohibit any transfer, sale, or other commercial activity related to the plants. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

3 AAC 306.835. Hearing. (a) Except as provided in 3 AAC 306.825 or 3 AAC 306.830, any 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 within 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) The Office of Administrative Hearings will conduct the hearing in compliance with due process, the Alaska Administrative Procedure Act, AS 44.62.330 – AS 44.62.630, and the applicable regulations adopted by the Office of Administrative Hearings at 2 AAC 64.100 - 2 AAC 64.990. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

3 AAC 306.840. Civil fines. (a) The board may, in addition to any other penalties imposed under this title, 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

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.

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

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 within 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.

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.085 AS 17.38.100
AS 17.38.070 AS 17.38.087 AS 17.38.900
AS 17.38.084 AS 17.38.090

Article 9. General Provisions.

Section

900. Marijuana clubs prohibited

905. Public records

910. Refusal to sell marijuana

915. Exercise of authority

920. Death of licensee

990. Definitions

3 AAC 306.900. Marijuana clubs prohibited. (a) A person may not maintain a place where marijuana or marijuana products are received or kept, or to which marijuana or marijuana products are brought for consumption by the public or by members of a club, association, or corporation unless the person is authorized to do so under this title.

(b) A person may not maintain, operate, or lease premises for the purpose of providing a place for consuming marijuana or marijuana products for consideration by members of the public or other persons, unless the person is authorized to do so under this title.

(c) In this section, "consideration" includes a membership fee, a cover charge, the sale of food, ice, mixers, or other drinks, or the furnishing of marijuana accessories for use in the consumption of marijuana or any marijuana product.

(d) A person violating this section is subject to a civil fine as provided in 3 AAC 306.840. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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

(1) contain proprietary information including trade secrets; or

(2) are required to be kept confidential by any federal or state law or regulation.

(Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.090 AS 17.38.900
AS 17.38.070 AS 17.38.100 AS 40.25.110
AS 17.38.084

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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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 by AS 17.38.100(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, "good standing" means 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 within 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. (Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.084 AS 17.38.100
AS 17.38.070 AS 17.38.090 AS 17.38.900

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;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the number allowed in AS 17.38.020;

(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) “personal cultivation” does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the number allowed in AS 17.38.020;

(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;

(7) "possess" means having physical possession or control over property;

(8) "registration" means "licensure," or "license;"

(9) "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) "CBN" means cannabinol;

(7) "CBD" means cannabidiol;

(8) "CBDA" means CBD Acid;

(9) "clones" or "cuttings" means small starter plants

(A) shorter than eight inches tall; and

(B) used to propagate marijuana plants;

(10) "compensation"

(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) "concentrate" 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) "consumer"

(A) means an individual who purchases and uses marijuana or a marijuana product; and

(B) does not include any marijuana establishment that re-sells marijuana or incorporates marijuana into a manufactured product;

(13) "contaminant" means one or more of the following:

(A) harmful microbials, 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;

(B) does not include consumption of any marijuana or marijuana product on the licensed premises;

(20) "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 revoked;

(21) “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;

(22) “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;

(23) "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;

(24) "marijuana" has the meaning given in AS 17.38.900;

(25) "marijuana cultivation facility" has the meaning given in AS 17.38.900;

(26) "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;

(27) "marijuana product" has the meaning given in AS 17.38.900;

(28) "marijuana product manufacturing facility" has the meaning given in AS 17.38.900;

(29) "peace officer" has the meaning given in AS 01.10.060;

(30) "person" has the meaning given in AS 01.10.060;

(31) "process" or "processing" means harvesting, curing, drying, trimming of a marijuana plant;

(32) "propagate" means to cause a marijuana plant to grow by planting clones or cuttings, and nurturing them into viable plants up to 8 inches in height;

(33) "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 minors; or

(B) operated by a public or private organization licensed to provide shelter, training, or guidance for minors;

(34) "retail marijuana store" has the meaning given in AS 17.38.900;

(35) "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;

(36) "THC" means *tetrahydrocannabinol*, the main psychoactive substance found in marijuana;

(37) "THCA" means THC Acid;

(38) "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. Eff. ___/___ /____, Register ____)

Authority: AS 17.38.010 AS 17.38.070 AS 17.38.084
AS 17.38.090 AS 17.38.100 AS 17.38.900

Marijuana Best Practices Public Health Policy Wish List

- Levy tax – Sweet spot that won't drive people to the black market. (According to the Associated Press, the black market has exploded in WA and CO since legalization. I don't know why we'd expect anything else.)

- Smoke-free policies (tobacco and marijuana, including e-cigs)
  - Work places
  - Multi-unit/rental housing
  - Public places indoors and outdoors including beaches, sidewalks, parks, patios
  - Schools, child and adult care facilities

- Retail Regulation
  - License retail outlets to strictly regulate sales.
  - Educate retailers
  - Limit density of retailers
  - Restrict proximity to schools
  - Limit hours of sales
  - Increase enforcement
  - Regulate novel devices and flavors

- Limit Access by Minors
  - A felony to sell/provide marijuana to a minor
  - Can't sell to anyone under 21 years
  - Require identification for the sale
  - Retailers can confiscate fake ID's
  - Marijuana included in MIP laws
  - Require child resistant packaging
  - Require content and warning labels
  - Requires home cultivation to be in an enclosed and locked space, restricting access to anyone under 21.

- Prohibit the industry from marketing to youth.
  - Packaging cannot use cartoon characters
  - Bans tv and radio ads
  - Bans print and internet ads and event sponsorship unless 70% of the audience is over 21.
  - Ban's all outdoor signage except a fixed shop sign.
  - Ban's pop-up ads.

- Fund prevention, cessation, education and treatment programs.
- Consider funding youth empowerment programs.
- Fund public education campaigns.
- Monitor use trends and effectiveness of educational messages.