

MATANUSKA-SUSITNA BOROUGH

350 E. Dahlia Ave., Palmer, Alaska 99645

CHAIRPERSON

Sara Williams

VICE CHAIR

Darryl Dreher

COMMITTEE MEMBERS

Lisa Albert-Konecky

John Anderson

Lyn Carden

Savon Duchein



MEMBERS CONTINUED

Link Fannon

Ed Gravley

Delena Johnson

Lance Ketterling

Ronda Marcy

Brandon Montano

John Norris

Crystal Nygard

Rebecca Rein

Mark Rempel

Joseph Schmidt

MARIJUANA ADVISORY COMMITTEE AGENDA

ASSEMBLY CHAMBERS

350 EAST DAHLIA AVENUE, PALMER

SPECIAL MEETING

6 P.M.

JUNE 23, 2016

I. CALL TO ORDER; ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. February 29, 2016

B. April 11, 2016

C. May 19, 2016

IV. AUDIENCE PARTICIPATION (Three minutes per person)

V. ITEMS OF BUSINESS

A. Discussion with the Borough Attorney Regarding the Proposed Definition of Residential Area

B. Public Hearing Regarding The Proposed Definition of Residential Area: "Residential Area Means: Any Subdivision of four or more lots where at least 75 Percent Of The Lots Are Restricted By Private Covenants upheld by an active Home Owners Association (HOA). The definition of active being an HOA that has met to conduct business in accordance with their bylaws"

- C. Marijuana Advisory Committee Resolution No. 16-02 regarding staff and Planning Commission suggestions to the Assembly regarding Ordinance Serial No. 16-003

VI. COMMITTEE COMMENTS

VII. ADJOURNMENT

To provide comment regarding agenda items, please email:

Brenda.henry@matsugov.us

I. CALL TO ORDER; ROLL CALL

The meeting of the Matanuska-Susitna Borough Marijuana Advisory Committee was called to order at 6 p.m. by Chair Williams for the purpose of conducting a special meeting.

Board members present and establishing a quorum were:

Ms. Sara Williams, Chair
Mr. Darryl Dreher
Mr. Mark Rempel
Ms. Peggy Mulligan
Mr. Lance Ketterling
Ms. Lisa Albert-Konecky
Mr. John Norris
Ms. Ronda Marcy
Ms. Rebecca Rein

Staff in attendance were:

Ms. Brenda J. Henry, CMC, Assistant Clerk
Mr. Nicholas Spiropoulos, Borough Attorney

II. APPROVAL OF AGENDA

Chair Williams queried if there were any changes to the agenda

GENERAL CONSENT: The agenda was approved as presented without objection.

III. APPROVAL OF MINUTES

A. January 25, 2016

Chair Williams queried if there were any changes or corrections to the January 25, 2016, meeting minutes.

Ms. Henry:

- advised that she inadvertently included an incorrect draft of the minutes;
- requested that on page 1 of 4, the words “or the September 17, 2015” be stricken;
- requested that on page 4 of 4, the words “Ms. Rein inquired if” be stricken; and
- apologized for the confusion.

Chair Williams queried if there were any additional changes.

Ms. Albert-Konecky noted a typo on page 3 of 4 of her comments needed to be stricken, which was the word “in.”

Chair Williams queried if there was any objection.

There was no objection noted.

Ms. Henry advised that those changes would be made prior to preparing the minutes for signature.

VOTE: The minutes were approved as corrected without objection.

IV. AUDIENCE PARTICIPATION

The following person recommended that a retail sales tax on marijuana be placed before the voters at the October 2016 election: Mr. Timothy Hale.

The following person spoke in opposition to an excise tax on marijuana and in support of waiting until after October 2016 to propose a tax: Mr. Don Hart.

The following person spoke in support of commercial marijuana and in support of a marijuana tax: Mr. Clint Tuma.

The following person spoke in support of a marijuana tax and to concerns with the proposed conditional use process: Ms. Amy Tuma.

The following person spoke to concerns with the staff recommendation regarding 100-foot setbacks and opined that there would be no money to be made off of a marijuana tax: Mr. Brad Empey.

The following person spoke to concerns with the public process: Mr. Eugene Carl Haberman.

The following person spoke in support of a low marijuana tax, in opposition to the Borough opting out of a tax, and to the need to keep marijuana out of the hands of children: Mr. Miles France.

The following person spoke in support of a middle ground for a marijuana tax: Mr. Joe McAneney.

The following person thanked the body for their hard work, in support of the body making recommendations to the Assembly, and in support of the proposed land use regulations for marijuana: Assemblymember Jim Sykes, District 1.

V. ITEMS OF BUSINESS

A. Discussion Regarding Possible Marijuana Tax; Possible Resolution to the Assembly Regarding a Marijuana Tax

Mr. Nicholas Spiropoulos, Borough Attorney answered questions of the Marijuana Advisory Committee regarding different types of possible marijuana taxes.

MOTION: Ms. Rein moved to provide a resolution to the Assembly regarding a possible marijuana excise tax.

The motion was seconded.

VOTE: There was no objection noted.

Ms. Henry requested that if the body would like to make any amendments to the draft MAC Resolution Serial No. 16-01, to please take them from the beginning of the resolution and go paragraph by paragraph in order to be clear for the public.

MOTION: Ms. Marcy moved a primary amendment to Resolution Serial No. 16-01, by striking the 9th and 10th whereas clauses in their entirety.

The motion was seconded.

WITHDRAWAL: Ms. Marcy moved to withdraw her primary amendment.

VOTE: There was no objection noted.

MOTION: Ms. Marcy moved to postpone Resolution Serial No. 16-01 to the next meeting of the Marijuana Advisory Committee.

The motion was seconded.

VOTE: The motion passed without objection.

VI. BOARD COMMENTS

Mr. Dreher thanked the public for their input regarding a possible marijuana tax.

Mr. Rempel thanked the public for attending the meeting.

Ms. Mulligan spoke to her appreciation of the public attending meetings.

Ms. Albert-Konecky thanked the public for their participation.

Mr. Norris thanked the public for providing input and noted that it brings more to the meetings.

Ms. Rein:

- thanked the public for providing testimony; and
- advised the body that Ordinance Serial No. 16-003, regarding marijuana land use regulations would be on the Assembly agenda for March 1, 2016.

Chair Williams:

- thanked the public for their input and noted that there were a lot of new people in attendance;
- invited the public to provide public comment on Assembly Ordinance Serial No. 16-003 at the March 1, 2016 meeting; and
- summarized where the State is with their process for approving commercial marijuana licenses.

VII. ADJOURNMENT

The meeting adjourned at 7:06 p.m.

I. CALL TO ORDER; ROLL CALL

The meeting of the Matanuska-Susitna Borough Marijuana Advisory Committee was called to order at 6 p.m. by Chair Williams for the purpose of conducting a special meeting.

Board members present and establishing a quorum were:

Ms. Sara Williams, Chair
Mr. Darryl Dreher
Ms. Crystal Nygard
Mr. Lance Ketterling
Ms. Savon Duchein
Ms. Lisa Albert-Konecky
Mr. John Norris
Mr. Link Fannon
Ms. Ronda Marcy
Ms. Delena Johnson
Ms. Alyssa Farrar
Mr. Joseph Schmidt

Staff in attendance were:

Ms. Brenda J. Henry, CMC, Assistant Clerk
Mr. Alex Strawn, Development Services Manager

II. APPROVAL OF AGENDA

Chair Williams:

- advised that Ms. Henry was directed to add a presentation to the agenda regarding the Planning Commission's Recommendations for Ordinance Serial No. 16-003; and
- queried if there were any objections to approving the agenda as presented.

Ms. Marcy queried who provided that direction.

Ms. Henry advised that it was at the direction of her supervisor, the Borough Clerk.

GENERAL CONSENT: The agenda was approved as amended without objection.

III. APPROVAL OF MINUTES

Chair Williams noted that there were no minutes to approve.

Ms. Marcy queried why that was.

Ms. Henry advised that she had not had time to do them.

IV. AUDIENCE PARTICIPATION

The following person spoke to the benefits of medical marijuana: Dr. Lyn Mikelson.

The following persons spoke in opposition to the Assembly's proposed moratorium on marijuana and in support of taxation and regulation: Mr. Miles France and Ms. Peggy France.

The following person spoke to concerns with the public process: Mr. Eugene Carl Haberman.

The following person spoke in support of moving forward with the conditional use permitting process and in opposition to a moratorium on marijuana: Ms. Amy Tuma.

The following persons spoke in support of waiting until after October 2016 to propose a tax: Mr. Timothy Hale and Mr. Don Hart.

The following persons spoke in support of commercial marijuana business: Mr. David Straub and Mr. Timothy Clark.

The following person spoke to the need for land use regulations for commercial marijuana in order to protect residential areas: Ms. Patricia Rosnel.

The following person spoke to a recent home invasion over marijuana that occurred and opined that type of incident occurs because there is no regulated commercial marijuana: Mr. Miles France.

The following person spoke regarding the Ravin vs. State of Alaska, Supreme Court decision: Mr. Don Hart.

The following person spoke in support of keeping marijuana out of the hands of kids: Mr. David Straub.

[Clerk's note: The Committee asked questions of those who provided testimony; some members of the audience also testified twice.]

V. ITEMS OF BUSINESS

- A. Presentation Regarding Planning Commission's Recommendations For Ordinance Serial No. 16-003

Mr. Alex Strawn provided a presentation regarding the Planning Commission's recommendations to the Assembly regarding Ordinance Serial No. 16-003.

The Committee asked questions of Mr. Strawn.

VI. UNFINISHED ITEMS OF BUSINESS

- A. Possible Resolution to the Assembly Regarding a Marijuana Tax

MOTION: Ms. Marcy moved a primary amendment to strike the first and second whereas clauses on page two of three of the resolution.

The motion was seconded.

VOTE: The motion passed without objection.

MOTION: Ms. Marcy moved a primary amendment to strike the now, therefore, be it resolved clause in its entirety.

VOTE: The motion passed without objection.

MOTION: Mr. Fannon moved to recommend a marijuana tax to the Assembly.

The motion was seconded.

VOTE: The motion failed unanimously.

VII. COMMITTEE AND STAFF COMMENTS

Ms. Marcy:

- noted that there are stringent State requirements for packaging of edibles; and
- spoke in support of edibles being contained in child resistant packages.

Mr. Dreher:

- thanked the public for providing testimony;
- stated the he takes notes and tries to respond to the comments of the public when possible;
- noted that he would like to promote a campaign with the slogan “Make a Spot for Pot;” and
- encouraged the audience to spread the word about making a spot for pot.

Ms. Mulligan:

- thanked Mr. Strawn for his presentation; and
- noted that it helped answer a lot of her questions.

Ms. Nygard:

- thanked Mr. Strawn for his presentation;
- spoke in opposition to tax on marijuana; and
- spoke in support of small business.

Mr. Ketterling thanked everyone for the meeting.

Ms. Duchein spoke in appreciation of the public attendance and input.

Ms. Albert-Konecky:

- thanked Mr. Strawn and Ms. Henry for their support of the Committee; and
- spoke in to her appreciation of comments regarding child resistant packaging.

Ms. Marcy:

- thanked the body for participating and noted her respect for that participation;
- thanked Mr. Strawn and Ms. Henry for providing staff support to the Committee; and
- noted the importance of the Committee hearing from the public.

Mr. Norris:

- noted that the Committee is breaking new ground;
- thanked Ms. Henry for providing the support to the Committee; and
- thanked Mr. Strawn for his presentation and support.

Mr. Schmidt:

- spoke in appreciation of the comments that it is up to parents to ensure the safety of their children;
- spoke in support of child resistant packaging for edibles; and
- stated that he is looking forward to more discussion regarding taxes.

Ms. Farrar:

- thanked the public for attending;
- thanked Mr. Fannon for bringing forward the idea of defeating the resolution regarding taxes; and
- thanked Mr. Strawn and Ms. Henry for their support of the Committee.

Ms. Johnson:

- quipped that everyone that stayed until the end of the meeting did make a spot for pot; and
- spoke to her appreciation of staff for their support and in support of Ms. Williams as Chair.

Mr. Fannon:

- noted that he is not intending to slow the process by not recommending a tax at this time;
- stated that there is no good information to base a recommendation on; and
- commented that the government that governs least, governs best.

Chair Williams:

- thanked everyone for their participation;
- noted the timeframe for the Assembly's moratorium on commercial marijuana;
- related the date of the next State Marijuana Control Board meeting; and
- spoke to concerns that the June deadline for issuing commercial licenses may not be met by the State.

Ms. Marcy noted that marijuana handler permit course provider applications will be decided upon by the State Marijuana Control Board on April 27.

Ms. Duchein spoke to concerns that meetings were not listed on the Marijuana Advisory Committee site.

Ms. Henry requested that Ms. Duchein call her so that she could walk through it with her to determine if there was a problem with meetings being listed.

VIII. ADJOURNMENT

The meeting adjourned at 9:21 p.m.

I. CALL TO ORDER; ROLL CALL

The meeting of the Matanuska-Susitna Borough Marijuana Advisory Committee was called to order at 6 p.m. by Chair Williams for the purpose of conducting a special meeting.

Board members present and establishing a quorum were:

Ms. Sara Williams, Chair
Ms. Peggy Mulligan
Ms. Crystal Nygard
Ms. Savon Duchein
Ms. Lisa Albert-Konecky
Mr. John Norris (*arrived at 6:01 p.m.*)
Ms. Ronda Marcy
Ms. Rebecca Rein
Ms. Delena Johnson
Mr. Joseph Schmidt

Staff in attendance were:

Ms. Brenda J. Henry, CMC, Assistant Clerk
Mr. Alex Strawn, Development Services Manager

II. APPROVAL OF AGENDA

Chair Williams queried if there was any changes to the agenda.

GENERAL CONSENT: The agenda was approved as presented without objection.

III. APPROVAL OF MINUTES

Chair Williams noted that there were no minutes to approve and that Madam Clerk had advised that they will be on the next meeting agenda.

IV. AUDIENCE PARTICIPATION

The following person spoke to concerns with prohibiting cultivation facilities in the core area and to concerns with the definition of marijuana being unconstitutional: Mr. Don Hart.

The following person spoke in support of commercial marijuana, noted the funds being expended to get his marijuana facility operational and noted the proposed location of his facility: Mr. David Straub.

The following person spoke to concerns with the public process: Mr. Eugene Carl Haberman.

The following person spoke in support of a public hearing on what is a residential area, in support of providing for land use regulations, and to concerns with No. 7 in the Options Table, and in support of a 90-foot setback from rights-of-way and 25-foot set back from roads: Mr. Tim Hale.

V. ITEMS OF BUSINESS

- A. Marijuana Advisory Committee Resolution No. 16-02 regarding staff and Planning Commission suggestions to the Assembly regarding Ordinance Serial No. 16-003

Chair Williams:

- advised the Committee that it is not necessary to vote whether to do the resolution, as it was directed that they do so by the Assembly;
- stated that the Committee will take up each item in the options table consecutively; and
- queried if there was any objection.

There was no objection noted.

No. 1 – Options Table

Chair Williams queried if there was any objection to approving No. 1 on the Options Table as presented.

There was no objection noted.

No. 2 – Options Table

Chair Williams queried if there was any objection to approving No. 2 on the Options Table as presented.

There was no objection noted.

No. 3 – Options Table

MOTION: Ms. Marcy moved to retain the language as proposed to be stricken in the Options Table.

The motion was seconded.

VOTE: The motion passed without objection.

No. 4 – Options Table

Chair Williams queried if there was any objection to approving No. 4 on the Options Table as presented.

There was no objection noted.

No. 5 – Options Table

Chair Williams queried if there was any objection to approving No. 5 on the Options Table as presented.

There was no objection noted.

No. 6 – Options Table – MSB 17.60.150(B)

MOTION: Ms. Albert-Konecky moved to retain the language that is proposed to be stricken.

The motion was seconded.

VOTE: The motion failed (tie vote) with Ms. Nygard, Ms. Albert-Konecky, Mr. Norris, Ms. Johnson, and Mr. Schmidt in support and Ms. Williams, Ms. Mulligan, Ms. Duchein, Ms. Marcy, and Ms. Rein opposed.

MOTION: Ms. Marcy moved to approve the bold and underlined language as proposed in the Options Table.

The motion was seconded.

VOTE: The motion passed without objection.

MOTION: Ms. Johnson moved to amend No. 6 in the Options Table, MSB 17.60.150(B)(1) by striking “500” and inserting “1,000” and by inserting “500” before each other location to read: “(1) Within 1,000 feet of school grounds, 500 feet of a recreation or youth center, 500 feet of a building in which religious services are regularly conducted, or 500 feet from a correctional facility.”

The motion was seconded.

VOTE: The motion passed with Ms. Mulligan, Ms. Nygard, Ms. Albert-Konecky, Mr. Norris, Ms. Johnson, and Mr. Schmidt in support and Ms. Williams, Ms. Duchein, Ms. Marcy, and Ms. Rein opposed.

No. 6 – Options Table – MSB 17.60.150(C)

MOTION: Ms. Albert-Konecky moved to retain the language proposed to be stricken in MSB 17.60.150(C), that reads: “Separation distances referenced in (B) of this section are measured in a direct line between the closest point of the facility within which the marijuana facility is located, and the closest point on the lot or parcel of land upon which any of the above itemized uses are located.”

The motion was seconded.

VOTE: The motion passed with Ms. Mulligan, Ms. Nygard, Ms. Albert-Konecky, Mr. Norris, Ms. Johnson, and Mr. Schmidt in support and Ms. Williams, Ms. Duchein, Ms. Marcy, and Ms. Rein opposed.

No. 6 – Options Table – MSB 17.125.010

MOTION: Ms. Marcy moved to approve the definitions as proposed in the Options Table.

MOTION: Ms. Rein moved a secondary amendment to strike the definition of “recreational facility.”

VOTE: The secondary amendment passed without objection.

VOTE: The primary amendment passed as amended without objection.

(The meeting recessed at 7:12 p.m. and reconvened at 7:22 p.m.)

No. 7 – Options Table – Prohibit Cultivation Facilities from residential areas.

MOTION: Ms. Marcy moved to approve Option No. 3 under No. 7 of the Options Table.

The motion was seconded.

[Clerk’s note: Ms. Rein made and withdrew two secondary amendments; there was no objection.]

MOTION: Ms. Rein moved a secondary amendment to amend the definition of residential area to read: “Residential area means any subdivision of four or more lots where at least 75 percent of the lots are restricted by private covenants upheld by an active Home Owners Association (HOA). The definition of an active HOA being an HOA that has met to conduct business in accordance with their bylaws.”

MOTION: Ms. Johnson moved to postpone the primary amendment to the next meeting.

The motion was seconded.

VOTE: The motion to postpone passed with Ms. Mulligan, Ms. Albert-Konecky, Mr. Norris, Ms. Rein, Ms. Johnson, and Mr. Schmidt in support and Ms. Williams, Ms. Nygard, Ms. Duchein, and Ms. Marcy.

The Committee unanimously requested that a public hearing on the secondary amendment be conducted at the next meeting.

No. 8 – Options Table – Prohibit retail facilities from residential areas

MOTION: Ms. Rein moved to postpone taking up No. 8 on the options table to the next meeting.

The motion was seconded.

VOTE: The motion passed without objection.

No. 9 and No. 10 - Options Table – Require demonstration of compliance with state law and other changes recommended by staff

MOTION: Ms. Marcy moved to postpone taking up No. 9 and No. 10 on the options table to the next meeting.

The motion was seconded.

VOTE: The motion passed without objection.

VI. COMMITTEE AND STAFF COMMENTS

Mr. Schmidt spoke in favor of No. 7 through No. 10 being postponed to the next meeting.

Ms. Johnson noted her agreement with Mr. Schmidt.

Ms. Albert-Konecky:

- opined that the body should be individually engaging the public about what a residential area is; and
- noted that there are two sides to the marijuana issue and it would be helpful to hear more from both sides.

Ms. Marcy:

- spoke to her disappointment with the approach of the Assembly when it comes to marijuana;
- opined that the same information is being rehashed over and over again;
- noted that there is already marijuana being cultivated in residential areas because personal use laws exist; and
- spoke to her frustration with the Assembly's legislation referral process.

Ms. Duchein:

- opined that public hearings should be held after Committee discussion and not before;
- opined that the lack of communication between the Assembly and the Committee is irreprehensible because they are making decisions without consulting the so-called advisory committee;
- opined that the Committee has not achieved anything;
- spoke in support of Mayor Halter's veto of the marijuana moratorium;
- opined that the Assembly holds utter contempt for the Committee; and
- opined that the Committee should be disbanded.

Ms. Williams:

- noted that she disagrees with Ms. Duchein, as the Committee has made recommendations to the Assembly that are within their purview;
- spoke in support of the public process;
- opined that it may be frustrating to the public to have to hear the bickering that occurs between members but that in the long run, it brings forward good discussion;
- spoke in support of the varying views of the members of the Committee;
- provided an update where the State is at with their regulations; and
- encouraged the public to provide comment to the State if they are interested in or have concerns regarding on-site consumption.

VIII. ADJOURNMENT

The meeting adjourned at 8 p.m.

From: [Nicholas Spiropoulos](#)
To: [Brenda Henry](#)
Cc: [Lonnie McKechnie](#)
Subject: RE: Question from the MAC
Date: Friday, May 20, 2016 2:50:26 PM

- 1) "Active" has no legally defined boundaries. The answer will be "it depends"
- 2) The Borough has no jurisdiction to determine the validity of any homeowners' association
- 3) Their proposed amendment would not be enforceable because someone will come forward and argue either: 1) the association is inactive; or 2) the association does not meet the requirements of state law for formation in the first place; or 3) they haven't "met" enough; or 4) they met but didn't "conduct business"; or 5) they met and conducted business but it was not "in compliance with their bylaws". . .and it could go on and on.

Let me know when the next meeting is and I'll try to attend. These answers are bare bones and it could be a bit more complicated.

Nicholas Spiropoulos
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The making of an error in one case gives others no right to its perpetuation.
Silides v. Thomas, 559 P.2d 80, 89 (Alaska 1977).

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MATANUSKA-SUSITNA BOROUGH ATTORNEY'S OFFICE.

DISCLOSURE OF CONFIDENTIAL INFORMATION IS PROHIBITED BY LAW.

From: Brenda Henry
Sent: Friday, May 20, 2016 1:33 PM
To: Nicholas Spiropoulos
Cc: Lonnie McKechnie
Subject: Question from the MAC
Importance: High

Hi Nick:

The MAC would like a report (written is fine unless you would like to come to a meeting) on the following:

- what legally constitutes an active Home Owner's Association
- If the Borough has any jurisdiction over Home Owners Associations.

They have a proposed amendment pending that they are seeking comment on:

- Residential area means any subdivision of four or more lots where at least 75 percent of the lots are restricted by private covenants upheld by an active Home Owners Association. The definition of being active is an HOA that has met to conduct business in accordance with their bylaws.

Would that be enforceable by the Borough?

They would like this for their next meeting, which has not yet be scheduled.

Please let me know if you have any questions.

Brenda J. Henry, CMC, Assistant Clerk

Clerk's Office

Matanuska-Susitna Borough

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Palmer, AK 99645

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861-8684 direct line

861-7845 fax

"You live but once; you might as well be amusing." - Coco Chanel

To provide comment to the Marijuana Advisory Committee, please click on "For Comment" to the right.



Action:

**MATANUSKA-SUSITNA BOROUGH
MARIJUANA ADVISORY COMMITTEE
RESOLUTION SERIAL NO. 16-02**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH MARIJUANA ADVISORY COMMITTEE ADDRESSING STAFF AND PLANNING COMMISSION RECOMMENDATIONS AS OUTLINED IN EXHIBIT "A" ATTACHED HERETO.

WHEREAS, on April 5, 2016, the Assembly referred the staff comments and Planning Commission's suggested amendments as contained in the Options Table attached hereto as Exhibit "A" regarding Ordinance Serial No. 16-003, to the Marijuana Advisory Committee (MAC) for a period of 90 days, with their suggestions due back to the Assembly no later than July 4, 2016; and

WHEREAS, for the purposes of clarity, language that is **bold and underlined** is proposed to be inserted, language with ~~strike throughs~~ is proposed to be removed, and any changes made by the MAC to the options table language will be color coded in green; and

WHEREAS, in No. 1 in the options table, Remove Sign Standards, the MAC recommends adoption of the section as proposed in the options table:

- Amend MSB 17.60.150(A)(1): Any potential negative effect upon other properties in the area due to such factors as noise **and** odor. ~~or obtrusive advertising.~~

- Amend MSB 17.60.150(A)(3)(c): ~~reduction or elimination of obtrusive or garish signage.~~

WHEREAS, in No. 2 of the options table, Exempt "Limited" grow operations, the MAC recommends adoption of the section as proposed in the options table:

- Amend MSB 17.60.030(A)(5)(a): **Cultivation facilities with less than 500 square feet under cultivation are exempt under this chapter.**

WHEREAS, in No. 3 of the options table, Eliminate 5,000 square foot cap on cultivation facilities, the MAC recommends retaining the section:

- Retain MSB 17.60.160(E): Marijuana cultivation facilities may not exceed 5,000 square feet on any given parcel. The 5,000 square foot limit only applies to areas of plant cultivation and does not include administrative space, processing space, bathrooms, or storage space.

WHEREAS, in No. 4 of the options table, Parking Standards, the MAC recommends adoption of the section as proposed in the options table:

- Amend MSB 17.60.150(A): **"Net Floor Area" means the total of all floor areas of a building or lease area, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading."**

- Strike MSB 17.60.150(A)(4): ~~Whether there are adequate parking facilities to accommodate a reasonably expected~~

~~increased demand for parking created by issuing the permit.~~

- Amend MSB 17.60.170 by inserting (B): The minimum number of parking spaces for retail facilities shall be one space per 350 square feet of net floor area. Each parking space shall be at least: 20 feet in length, 10 feet wide, and have a vertical clearance of at least 7 feet.

- Amend MSB 17.60.170, by inserting (C): One barrier-free parking stall shall be provided for every 25 required parking space. Each barrier-free parking stall shall be at least: 20 feet in length, 10 feet wide with a 5 foot adjacent access aisle, and have a vertical clearance of at least 8 feet.

WHEREAS, in No. 5 of the options table, Remove standards for traffic impacts, the MAC recommends adoption of the section as proposed in the options table:

- ~~Strike MSB 17.60.150(A)(2): any potential negative effect on the safe, efficient flow of traffic on any highway, arterial, collector, or street from which access to and from the establishment is obtained.~~

- ~~Strike MSB 17.60.150(A)(3)(d): clustering with other commercial establishments and use of frontage roads to reduce the number of entries and exits onto highways, arterials, and collectors.~~

- Amend MSB 17.60.150(A): ~~(5) whether access to the~~

~~premises will create an unreasonable traffic hazard; (6) whether a reasonably expected increase in traffic will overtax existing road systems.~~

WHEREAS, in No. 6 of the options table, Reduce setback standards to match state, the MAC recommends amendment of the section as proposed in the options table:

- Amend MSB 17.60.150(B): (1) within 500 1,000 feet of school grounds, 500 feet of a recreation or youth center, 500 feet of a building in which religious services are regularly conducted, or 500 feet from a correctional facility.

WHEREAS, in No. 6 of the options table, Reduce setback standards to match state, the MAC recommends retaining the language that was originally proposed by the MAC:

- Amend MSB 17.60.150(C): Separation distances referenced in (B) of this section are measured in a direct line between the closest point of the facility within which the marijuana facility is located, and the closest point on the lot or parcel of land upon which any of the above itemized uses are located.

WHEREAS, in No. 6 of the options table, Reduce setback standards to match state, the MAC recommends striking the definition of "recreational facility" in its entirety and recommends adoption of the remaining definitions as proposed in the Options Table.

- Amend MSB 17.125.010:

- "Recreational facility" means a place designed and equipped for the conduct of sports or recreational uses. Recreational Facility does not include the following: water bodies, bike or walking paths constructed within a public or private right-of-way.

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

- "Marijuana products" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

- "Recreation or youth center" means a building, structure, athletic playing field, or playground which is: (a) run or created by a local government or the state to provide athletic, recreational, or leisure activities for minors; or (b) operated by public or private organization licensed to provide shelter, training, or guidance for persons under 21 years of age.

WHEREAS, in No. 7 of the options table, Prohibit cultivation facilities from residential area, the MAC recommends Amendment of Option 3, in Section No. 7 as proposed in the options table:

Pending Amendment



- **Option 3:** Amend MSB 17.125.010: "Residential Area" means any subdivision of four or more lots where at least 75 percent of the lots are are restricted by private covenants upheld by an active Home Owners Association (HOA). The definition of active HOA means an HOA that has met to conduct business in accordance with their bylaws.

Items below this point
will be taken up at
06/23/16 meeting unless
otherwise indicated



- **Option 3 - Continued:** Amend MSB 17.60.160(F): Marijuana cultivation facilities shall not be located within residential areas.

WHEREAS, in No. 8 of the options table, Prohibit retail facilities from residential areas, the MAC recommends adoption/denial/amendment of the section as proposed in the options table:

- Adopt MSB 17.60.170(A): Marijuana retail facilities shall not be located within a residential area unless the lot is accessed by a frontage road or other major thoroughfare that is conducive to commercial use.

WHEREAS, in No. 9 of the options table, Require demonstration of compliance with state law, the MAC recommends adoption/denial/amendment of the section as proposed in the options table:

- Adopt MSB 17.60.150(D): Prior to final approval of the permit, the applicant shall: (1) provide written documentation that all applicable licenses have been obtained as required by 3 AAC 306.005; (2) provide written documentation from the Fire Marshall having jurisdiction, that the proposed conditional use is in full compliance with all applicable fire code, including but not limited to, Alaska Statute 18.70.010 through 18.70.160, Fire Protection; and 13 AAC 50.025 through 13 AAC 50.080, Fire code.

WHEREAS, in No. 10 of the options table, Other changes recommended by staff, the MAC recommends adoption/denial/amendment of the section as proposed in the options table:

- Adopt new section MSB 17.60.170:
Standards for Marijuana Retail Facilities

(A) Marijuana retail facilities shall not be located within a residential subdivision unless the lot is accessed by a frontage road or other major thoroughfare that is conducive to commercial use.

(B) and (C) were approved
Under No. 4 of the Options
Table on 05/19/16



(B) The minimum number of parking spaces for retail facilities shall be one space per 3502 square feet of net floor area. Each parking space shall be at least: 20 feet in length, 10 feet wide, and have a vertical clearance of at least 8 feet.

(C) One barrier-free parking stall shall be provided for every 25 required parking spaces. Each barrier-free parking stall shall be at least 20 feet in length, 10 feet wide with a 5 foot adjacent access aisle, and have a vertical clearance of at least 8 feet.

- Amend MSB 17.60.150(A)(7): whether the use is ~~incompatible~~ compatible with the character of the surrounding area.

- Amend MSB 17.60.160(D): Security. The applicant shall provide a security plan. The plan shall include, but not be limited to, education for employees on security measures.

ADOPTED by the Marijuana Advisory Committee this ____ day of
June, 2016.

SARA WILLIAMS, MAC Chair

ATTEST:

BRENDA J. HENRY, CMC, Assistant Clerk

Adopt 16-003 with no changes

- Higher setback standards compared to state
 - 500 feet from drug/alcohol rehab facilities, halfway houses, correctional facilities
 - 1,000 feet from schools (state requires 500 feet)
 - 1,000 feet from child care facilities
 - 500 feet from public parks, playgrounds, boat ramps, similar recreational amenities
- Lacks critical definitions
 - Marijuana products
 - Marijuana product manufacturing facility
- Lacks specific standards for retail facilities
 - Parking standards
 - Exclusion from residential neighborhoods
- Does not require demonstration of compliance with Fire Marshall

1. Remove sign standards

- ✓ Amend MSB 17.60.150(A)(1):
(1) any potential negative effect upon other properties in the area due to such factors as noise, ~~and~~ odor, ~~or~~ obtrusive advertising;
- ✓ Amend MSB 17.60.150(A)(3)(c)
(c) ~~reduction or elimination of obtrusive or garish signage;~~

2. Exempt "limited" grow operations

- ✓ Amend MSB 17.60.030(A)(5)(a)
(a) Cultivation facilities with less than 500 square feet under cultivation are exempt under this chapter.

3. Eliminate 5,000 sq. ft. cap on cultivation facilities

- ✓ Strike MSB 17.60.160 (E)
~~Marijuana cultivation facilities may not exceed 5,000 square feet on any given parcel. The 5,000 square foot limit only applies to areas of plant cultivation and does not include administrative space, processing space, bathrooms, or storage space.~~

4. Parking standards

- ✓ Amend MSB 17.125.010
"Net floor area" means the total of all floor areas of a building or lease area, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading
- ✓ Strike MSB 17.60.150(A)(4)
(4) ~~whether there are adequate parking facilities to accommodate a reasonably expected increased demand for parking created by issuing the permit;~~
- ✓ Amend MSB 17.60.170*
(B) The minimum number of parking spaces for retail facilities shall be one space per 350 square feet of net floor area. Each parking space shall be at least: 20 feet in length, ten feet wide, and have a vertical clearance of at least seven feet.
(C) One barrier-free parking stall shall be provided for every 25 required parking spaces. Each barrier-free parking stall shall be at least: 20 feet in length, ten feet wide with a five-foot adjacent access aisle, and have a vertical clearance of at least eight feet.

5. Remove standards for traffic impacts

- ✓ Strike MSB 17.60.150(A)(2)
(2) ~~any potential negative effect on the safe, efficient flow of traffic on any highway, arterial, collector, or street from which access to and from the establishment is obtained;~~
- ✓ Strike MSB 17.60.150(A)(3)(d)
(d) ~~clustering with other commercial establishments and use of frontage roads to reduce the number of entries and exits onto highways, arterials and collectors; and~~
- ✓ Amend MSB 17.60.150(A)
(5) ~~whether access to the premises will create an unreasonable traffic hazard;~~
(6) ~~whether a reasonably expected increase in traffic will overtax existing road systems;~~

6. Reduce setback standards to match state

- ✓ Amend MSB 17.60.150(B)
(1) within 500 feet of a school grounds, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility; ~~within 50 feet of any residence located on an adjacent property, but excluding residential units that are located within the subject property;~~
(2) ~~500 feet of any drug or alcohol rehabilitation facilities;~~
(3) ~~500 feet of any half way house or correctional facility;~~
(4) ~~1,000 feet of any elementary school, middle school, high school, college, or university, whether public or private;~~
(5) ~~1,000 feet of any licensed child care facility; or~~
(6) ~~500 feet of any public park, playground, boat ramp, or other similar recreational amenity open to the public.~~
- ✓ Amend MSB 17.60.150(C)
(C) ~~Separation distances referenced in (B) of this section are measured in a direct line between the closest point of the facility within which the marijuana facility is located, and the closest point on the lot or parcel of land upon which any of the above itemized uses are located} 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.~~
- ✓ Amend MSB 17.125.010
"Recreational facility" means a place designed and equipped for the conduct of sports or recreational uses. Recreational Facility does not include the following: water bodies, bike or walking paths constructed within a public or private right-of-way.
"Marijuana product manufacturing facility" means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.
"Marijuana products" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.
"recreation or youth center" means a building, structure, athletic playing field, or playground which is:
(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 persons under 21 years of age.

7. Prohibit cultivation facilities from residential areas

Option 1

- ✓ Adopt MSB 17.60.160(F)
(F) Marijuana cultivation facilities shall be set back 100 feet from public rights-of-way, and 100 feet from side or rear lot lines.

Option 2

- ✓ Adopt MSB 17.60.160(F)
(F) Marijuana cultivation facilities are prohibited from locating within:
(1) the core area as described in the official Core Area Comprehensive Plan and its amendments;
(2) Residential Land Use Districts established by MSB 17.52;
(3) Single-Family Residential Land Use Districts as defined by MSB 17.75;
(4) Large Lot Single-Family Residential Land Use Districts established by MSB 17.76;
(5) Residential Planned Unit Developments established by MSB 17.36.

Option 3

- ✓ Amend MSB 17.125.010
"Residential Area" means any subdivision of four or more lots where at least 50 percent of the lots are improved with single-family or multifamily structures, or a subdivision of four or more lots where at least 75 percent of the lots are restricted by private covenants or zoning to residential purposes.
- ✓ Adopt MSB 17.60.160(F)
(F) Marijuana cultivation facilities shall not be located within residential areas.

8. Prohibit retail facilities from residential areas

- ✓ Adopt MSB 17.60.170(A)*
(A) Marijuana retail facilities shall not be located within a residential area unless the lot is accessed by a frontage road or other major thoroughfare that is conducive to commercial use.
- ✓ Adopt definition of "Residential Area" from Option 3 above.

9. Require demonstration of compliance with state law

- ✓ Adopt MSB 17.60.150(D)
(D) Prior to final approval of the permit the applicant shall provide written documentation:
1. all applicable licenses have been obtained as required by 3 AAC 306.005.
2. from the Fire Marshal having jurisdiction, that proposed conditional use is in full compliance with all applicable fire code, including but not limited, to AS 18.70.010-.160 FIRE PROTECTION, and 13 AAC 50.025-0.80 FIRE CODE.

10. Other changes recommended by staff

- ✓ *Adopt New Subsection MSB 17.60.170 STANDARDS FOR MARIJUANA RETAIL FACILITIES
- ✓ Amend MSB 17.60.150(A)
(7) ~~whether the use is incompatible~~ compatible with the character of the surrounding area.
- ✓ Amend MSB 17.60.160(D)
Security. The applicant shall provide a security plan. The plan shall include, but not be limited to, education for employees on security measures.
- ✓ Consider increasing buffer from school grounds to 1,000 feet to ensure compliance with federal law.

* MSB 17.60.170 is not currently within Ord. 16-003. The section of code would need to be added in order to implement any of the suggestions marked with an asterisk.