

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.

DECEMBER 15, 2016

I. CALL TO ORDER; ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. June 23, 2016

IV. AUDIENCE PARTICIPATION (Three minutes per person)

V. ITEMS OF BUSINESS

A. Public Hearing Regarding MSB 17.60.020(A), Applicability; and MSB 17.60.150, General Standards for Marijuana Related Facilities (*Three minutes per person*)

B. Marijuana Advisory Committee Resolution No. 16-03 regarding MSB 17.60.020(A), Applicability; and MSB 17.60.150, General Standards for Marijuana Related Facilities

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
Mr. Ed Gravley
Ms. Crystal Nygard
Ms. Savon Duchein
Ms. Lisa Albert-Konecky
Mr. John Norris
Ms. Ronda Marcy
Ms. Edna DeVries

Staff in attendance were:

Ms. Brenda J. Henry, CMC, Assistant Clerk
Mr. Alex Strawn, Development Services Manager
Mr. Nicholas Spiropoulos, Borough Attorney

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

A. February 29, 2016
B. April 11, 2016
C. May 19, 2016

Chair Williams queried if there were any changes to the February 29, 2016, the April 11, 2016, or the May 19, 2016, meeting minutes.

GENERAL CONSENT: The minutes were approved as presented.

IV. AUDIENCE PARTICIPATION

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

V. ITEMS OF BUSINESS

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

Mr. Spiropoulos conducted a question and answer session with the Committee regarding the proposed definition of residential area and that the Borough has no jurisdiction over homeowner’s associations

- 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”

Chair Williams opened the public hearing.

The following person suggested an amendment for MSB 17.60.170(A): Mr. Tim Hale.

The following persons spoke in support of commercial marijuana: Ms. Tel White and Ms. Jeanne Erickson.

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

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

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

MOTION PENDING: 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.”

VOTE: The secondary amendment failed with Ms. Duchein, Mr. Norris, and Ms. Marcy in support and Mr. Dreher, Mr. Rempel, Ms. Williams, Mr. Gravley, Ms. Nygard, Ms. Albert-Konecky and Ms. DeVries opposed.

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

VOTE: The motion failed with Ms. Duchein, Ms. Marcy, and Ms. DeVries in support and Mr. Dreher, Mr. Rempel, Ms. Williams, Mr. Gravley, Ms. Nygard, Ms. Albert-Konecky, and Mr. Norris in support.

MOTION: Mr. Norris moved to approve Option No. 7 as recommended by the Planning Commission.

The motion was seconded.

MOTION: Ms. Marcy moved a secondary amendment to Option No. 7 as recommended by the Planning Commission, by striking "100" and inserting "50" in its place, to read: "(F) Marijuana cultivation facilities shall be set back 50 feet from public rights-of-way and 50 feet from side or rear lots lines.

The motion was seconded.

VOTE: The secondary amendment failed with Ms. Marcy in support and Mr. Dreher, Mr. Rempel, Ms. Williams, Mr. Gravley, Ms. Nygard, Ms. Duchein, Ms. Albert-Konecky, Mr. Norris, and Ms. DeVries opposed.

VOTE: The primary amendment failed (tie vote) with Mr. Rempel, Mr. Gravley, Ms. Albert-Konecky, Mr. Norris and Ms. DeVries in support and Mr. Dreher, Ms. Williams, Ms. Nygard, Ms. Duchein, and Ms. Marcy in support.

MOTION: Mr. Dreher moved to suggest language for No. 7 in the Options Table as follows: "Setbacks for marijuana cultivation facilities shall be set as in MSB 17.55."

The motion was seconded.

VOTE: The motion failed (tie vote) with Mr. Dreher, Ms. Duchein, Ms. Albert-Konecky, Mr. Norris, and Ms. Marcy in support and Mr. Rempel, Ms. Williams, Mr. Gravley, Ms. Nygard, and Ms. DeVries opposed.

MOTION: Ms. Nygard moved a primary amendment to approve Option No. 1 under No. 7 in the Options Table.

The motion was seconded.

VOTE: The motion passed with Mr. Rempel, Mr. Gravley, Ms. Nygard, Ms. Albert-Konecky, Mr. Norris and Ms. DeVries in support and Mr. Dreher, Ms. Williams, Ms. Duchein, and Ms. Marcy opposed.

(The meeting recessed at 7:40 p.m. and reconvened at 7:51 p.m.)

(Ms. Duchein exited the meeting during the recess.)

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

MOTION: Ms. Albert-Konecky moved to approve No. 8 under the Options Table as recommended by the Planning Commission.

The motion was seconded.

MOTION: Ms. Marcy moved a secondary amendment by striking the Planning Commission recommendation and inserting the following in its place: “(A) Marijuana cultivation and retail facilities shall not be located in residential areas.(B) The applicability of subsection (A) shall be determined by the Planning Commission on a case by case basis, where (1) Each application shall be considered unique; and (2) the decision rendered in one case shall be not used as the basis for a decision in any other case; and (3) at a minimum, the Commission shall consider (a) proximity of the proposed use to existing businesses; (B) proximity to parcels developed for residential use.

VOTE: The secondary amendment failed with Ms. Marcy in support and Mr. Dreher, Mr. Rempel, Ms. Williams, Mr. Gravley, Ms. Nygard, Ms. Albert-Konecky, Mr. Norris, and Ms. DeVries opposed.

VOTE: The primary amendment passed with Mr. Dreher, Mr. Rempel, Ms. Williams, Mr. Gravley, Ms. Nygard, Ms. Albert-Konecky, Mr. Norris, and Ms. DeVries in support and Ms. Marcy opposed.

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

MOTION: Mr. Rempel moved to approve No. 9 on the Options Table as recommended by the Planning Commission.

VOTE: The motion passed without objection.

MOTION: Ms. Marcy moved to approve No. 10 on the Options Table.

VOTE: The motion passed without objection.

MOTION: Mr. Norris moved to forward Marijuana Advisory Committee Resolution No. 16-02 to the Assembly.

VOTE: The motion passed with Mr. Dreher, Mr. Rempel, Ms. Williams, Mr. Gravley, Ms. Nygard, Ms. Albert-Konecky, Mr. Norris, and Ms. DeVries in support and Ms. Marcy opposed.

VI. COMMITTEE AND STAFF COMMENTS

Ms. Marcy:

- thanked everyone for their time and input; and
- spoke to an upcoming event with Mr. Trip Kieber as a guest speaker.

Mr. Gravley thanked staff for their support of the Committee.

Mr. Rempel echoed the comments of Mr. Gravley.

Mr. Dreher encouraged everyone to get out and vote in opposition of banning commercial marijuana.

Ms. Williams:

- spoke to the next Alaska State Marijuana Control Board meeting to be held in July in Fairbanks; and
- thanked everyone for their participation.

VIII. ADJOURNMENT

The meeting adjourned at 8:17 p.m.

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.60.020(A) APPLICABILITY AND MSB 17.60.150 GENERAL STANDARDS FOR MARIJUANA RELATED FACILITIES.

AGENDA OF: December 6, 2016

ASSEMBLY ACTION:

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER: 

Route To:	Department/Individual	Initials	Remarks
	Originator - A. Strawn	AS	
	Planning and Land Use Director	EP	
	Borough Attorney	NS	
	Borough Clerk		

ATTACHMENT (S) : Fiscal Note: YES ___ NO X
 Ordinance Serial No. 16-___ (2 pp)

SUMMARY STATEMENT:

This is a two-part ordinance which changes: 1) the applicability of MSB 17.60 to apply within Special Land Use Districts and 2) eliminates setback requirements for marijuana related establishments which are duplicative of setbacks required by the State of Alaska.

The first part of this ordinance (Section 2) changes the applicability of MSB 17.60 to apply within special land use districts.

On August 2, 2016, the Assembly adopted Ordinance Serial No. 16-003(SUB) which created permit requirements and standards for marijuana related facilities within the Borough. The regulation of marijuana related facilities was placed within MSB 17.60 along with junkyards and correctional community residential centers.

After adoption of Ordinance 16-003(SUB), it was discovered that MSB 17.60 does not apply within special land use districts unless otherwise specified. This ordinance would expand the applicability of MSB 17.60 to apply within Special Land Use Districts. MSB 17.60 currently specifies that correctional community residential centers (CCRC) are regulated within Special Land Use Districts, but not junkyard/refuse areas. Most special land use districts specifically address junkyard/refuse areas, but not all. This ordinance would ensure that all areas of the borough have standards for both junkyard/refuse areas and marijuana related facilities.

The second part of the ordinance (Section 3) eliminates setback requirements for marijuana related facilities and was prepared at the request of Assemblymember Sykes.

Setback requirements within MSB 17.60.150(B) were intended to match state standards, except setback distances from schools were increased to 1,000 feet. Additionally, the method for measuring separation distances within ordinance 16-003(SUB) varies from the state method because the state's method can be subjective and leaves room for interpretation.

The discrepancy in methods for measuring separation distances has been a source of confusion for potential marijuana facility applicants. Eliminating the duplicative setback requirements would make regulations related to marijuana related facilities more consistent and understandable, while maintaining the intended separation distances from sensitive receptors through the state licensing process.

This ordinance is compatible with the MSB Comprehensive Plan as it implements the following goals and policies:

***Goal (E-3):** Create an attractive environment for business investment.*

***Policy E3-2:** Institute appropriate land use guidelines and regulations that reduce land use conflicts and protect residents and businesses.*

RECOMMENDATION OF ADMINISTRATION:

Staff recommends approval of this ordinance.

CODE ORDINANCE

Sponsored by:
Introduced:
Public Hearing:
Action:

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 16-___**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING
MSB 17.60.020(A) APPLICABILITY AND MSB 17.60.150 GENERAL
STANDARDS FOR MARIJUANA RELATED FACILITIES.

BE IT ENACTED:

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

Section 2. Amendment of subsection. MSB 17.60.020(A) is hereby amended as follows:

(A) This chapter applies in all areas of the borough [OUTSIDE] including special land use districts and residential land use districts[, UNLESS OTHERWISE PROVIDED FOR IN THIS CHAPTER]. Where this chapter is in conflict with the conditions of a special land use district or residential land use district, the most restrictive conditions shall apply.

Section 3. Amendment of subsection. MSB 17.60.150(B) is hereby amended as follows:

(B) At the time of their establishment, marijuana related conditional uses shall meet the following requirements and not be located within:

(1) One thousand feet of school grounds;

[(2) FIVE HUNDRED FEET OF A RECREATION OR YOUTH CENTER;

(3) FIVE HUNDRED FEET OF A BUILDING IN WHICH RELIGIOUS SERVICES ARE REGULARLY CONDUCTED; OR

(4) FIVE HUNDRED FEET OF A CORRECTIONAL FACILITY.]

Section 4. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this - day of -, 2016.

VERN HALTER, Borough Mayor

ATTEST:

LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

Action:

**MATANUSKA-SUSITNA BOROUGH
MARIJUANA ADVISORY COMMITTEE
RESOLUTION SERIAL NO. 16-03**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH MARIJUANA ADVISORY COMMITTEE ADDRESSING THE PROPOSED ORDINANCE REGARDING MSB 17.60.020(A), APPLICABILITY; AND MSB 17.60.150(B), GENERAL STANDARDS FOR MARIJUANA RELATED FACILITIES.

WHEREAS, the Matanuska-Susitna Borough Marijuana Advisory Committee (MAC) was created by Assembly Resolution Serial No. 15-007; and

WHEREAS, the purpose of the MAC is to advise the Assembly on the implementation of Ballot Measure 2; and

WHEREAS, the MAC has recommended, and the Assembly has adopted, land use regulations for marijuana related facilities; and

WHEREAS, the Assembly has requested that the MAC provide comments regarding MSB 17.60.020(A), Applicability; and

WHEREAS, the Assembly has requested that the MAC provide comments regarding MSB 17.60.150, General Standards for Marijuana Related Facilities;

NOW, THEREFORE, BE IT RESOLVED, that the MAC recommends adoption/denial/amendment of MSB 17.60.020(A), as follows:

(A) This chapter applies in all areas of the borough [OUTSIDE] including special land use districts and residential land use districts [, UNLESS OTHERWISE PROVIDED FOR IN THIS

CHAPTER]. Where this chapter is in conflict with the conditions of a special land use district or residential land use district, the most restrictive conditions shall apply.

BE IT FURTHER RESOLVED, that the MAC recommends adoption/denial/amendment of MSB 17.60.150(B) as follows:

(B) At the time of their establishment, marijuana related conditional uses shall meet the following requirements and not be located within:

(1) One thousand feet of school grounds;

[(2) FIVE HUNDRED FEET OF A RECREATION OR YOUTH CENTER;

(3) FIVE HUNDRED FEET OF A BUILDING IN WHICH RELIGIOUS SERVICES ARE REGULARLY CONDUCTED; OR

(4) FIVE HUNDRED FEET OF A CORRECTIONAL FACILITY.]

ADOPTED by the Marijuana Advisory Committee this 15 day of December, 2016.

SARA WILLIAMS, MAC Chair

ATTEST:

BRENDA J. HENRY, CMC, Assistant Clerk