

**ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

June 10, 2019, 6:00 PM.
Assembly Chambers - Municipal Building

AGENDA

- I. ROLL CALL**
- II. APPROVAL OF AGENDA**
- III. APPROVAL OF MINUTES**
 - A. Assembly Committee of the Whole DRAFT Minutes, April 8, 2019**
- IV. AGENDA TOPICS**
 - A. Rename Willoughby District: Resolution 2855 A Resolution Renaming the Historic Auk Tribe Indian Village located on Willoughby Avenue as the Aak'w Village District.**
 - B. Senior Housing Tax Abatement Ordinance**
 - C. On Site Consumption of Marijuana**
 - D. Chronic Nuisance Property Ordinance**

Lt. Weske's *Prezi* presentation is available by clicking on the following link or copying and pasting it into your web browser:
<https://prezi.com/view/a0GvD7ax2cxoCZMPC8ZY>
 - E. Eaglecrest Financial Stability Planning/Adventure Center Concept**
 - F. Ordinance 2019-27 An Ordinance Amending the Land Use Code to Extend the Sunset Date for the Downtown Juneau Overlay District.**
- V. 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 audiotope 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

**ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE**

April 8, 2019, 6:00 PM.

Assembly Chambers - Municipal Building

MINUTES

I. ROLL CALL

Deputy Mayor Maria Gladziszewski called the meeting to order at 6:00 p.m. in the Assembly Chambers.

Assemblymembers Present: Mary Becker (telephonic), Rob Edwardson, Maria Gladziszewski, Loren Jones, Jesse Kiehl, Carole Triem, Michelle Hale, Wade Bryson and Mayor Beth Weldon.

Assemblymembers Absent: None.

Staff present: City Manager Rorie Watt, City Attorney Robert Palmer, Deputy Manager Mila Cosgrove, Municipal Clerk Beth McEwen, Fire Chief Rich Etheridge, Assistant Fire Chief Chad Cameron, Finance Director Bob Bartholomew, Incoming Finance Director Jeff Rogers, Chief Housing Officer Scott Ciambor, Housing/Homelessness Coordinator Irene Gallion, Port Director Carl Uchytel, Code Compliance Officer Nate Watts

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. December 10, 2018 Assembly Committee of the Whole Minutes

Hearing no objection, the minutes of the Dec. 10, 2018 Committee of the Whole meeting were approved.

Ms. Hale said in reading the minutes, she was reminded of the disestablishment of the Affordable Housing Commission and she asked if their members had been sent thank you letters for their service. Ms. McEwen said she was not sure if those had been sent but she will check with the Deputy Clerk to make sure that happened.

IV. AGENDA TOPICS

A. TBMP Update - Verbal Report from Kirby Day

Kirby Day gave a report about the Tourism Best Management Practices (TBMP) program. Mr. Day distributed three handouts regarding the program.

He started with a brief history of how TBMP came about: they started with approximately 20 guidelines and they are now up to over 90. He recounted the work they have done since its inception in the 1990's which included loans for the float planes to switch from the noisy engines to a lower noise engine. He also noted how their TBMP model is now being expanded to other communities such as Icy Strait Point, Seward, Ketchikan and communities in other states such as Maine and Florida as well as other countries like Sweden and Norway. Southeast Conference is wanting to partner with them to develop a TBMP model packet. The keys to the program are support from CBJ and the buy in from the tour operators in trying to do a better job in providing a meaningful service.

Mr. Day noted that the new guidelines for this season will be out by May 1 and they will be posted on the website www.TBMP.info and at all the libraries. The hotline will also be starting as of May 1.

This year, they are looking at approximately \$200 Million dollars generated by tourism revenues and it is a great economic driver and provides jobs for a wide variety of residents. He noted that they are partnering with JEDC to hold a community meeting on April 23 at the Elizabeth Peratrovich Hall at 5pm. The meeting will provide information on the upcoming tourism season as well as have a facilitated session to gather feedback from Juneau citizens on their concerns relating to impacts and capacity concerns and to gather ideas for strategies to maximize the benefit to Juneau while minimizing the impacts to the community.

Discussion took place regarding the concerns surrounding cruise ship emissions and the role of DEC in regulating air quality standards. That in turn led to discussions regarding the forecast for when electrified buses might transition into the industry. Gastineau Guiding looked into the possibility of bringing electric buses to Juneau but due to the \$800,000+ price tag and the long wait for manufacturing/delivery of the buses, Mr. Day said it is not likely to happen until the industry can get a better return on investment (ROI). In 2001, CBJ became the first place in the world to provide cruise ships with shorepower through the electrical hookups at the Princess Dock.

Mr. Watt told the Assembly that in response to their goal to figure out how to allow for additional shorepower plug ins, the draft Marine Passenger Fee (MPF) list has \$250,000 included for additional study of this topic.

Mr. Day ended his presentation with providing the TBMP hotline number and email. When they do receive comments, if a return number or email is provided, they respond within 3 days. **TBMP Hotline #907-586-6774** and email: **Hotline@traveljuneau.com**.

B. Sleep Off Center Discussion

Ms. Cosgrove and Chief Etheridge gave an overview of the proposal to shift the sleep off center duties from the Bartlett Regional Hospital Rainforest Recovery Center (RRC) program to something that would be managed by Capital City Fire/Rescue (CCFR).

Chief Etheridge explained that this would result in 6 FTE's that they would be adding rather than burden the current staff with the additional duties. He said they would hope to co-locate the program at St. Vincent De Paul's alongside the Navigator program and tie it into the CARES (Community Assistance Response and Emergency Services) program. This is a high risk population and medical needs do flare up with this population.

In looking at the statistics, on average approximately 24 people are using the sleep off services per month while 48 are being transported to their homes or another safe place. During the last month, 14 individuals were transported to the warming shelter, while only 6 people have recently gone on to Bartlett for evaluation and last month. They did have one person go to Lemon Creek Correctional Center for a 12-hour hold.

The mission is to provide emergency services under the direction of a physician to people inebriated by drugs and alcohol. The department-sponsored physician writes standing orders of what they do and how they do it. If they say A, then you do B; if something falls outside of that, CCFR calls the Emergency Room physician to get guidance for that. He said as they build the medical component of what they do, it has direct oversight through a physician.

The Assembly asked a wide variety of questions regarding the proposal to change this program as well as the current procedures and statistics of persons served by the current program. BRH Behavioral Health Officer Bradley Grigg was also present and answered many of the questions pertaining to the current program at RRC, its staffing levels, usage, and statistics. Assemblymembers expressed their concerns relating to the safety of the individuals being served due to their medical

needs as well as any potential liabilities that shifting the program from RRC to CCFR might open them to.

Mr. Watt said that since this is such a big topic and the Assembly has a wide range of questions, he didn't anticipate the Assembly making any decisions at this meeting. He suggested they refer some of their questions to staff who will work through them, in conjunction with the Homelessness Coalition and those results would be brought back to the Assembly at a future meeting. Mr. Watt also commented on the warming shelter experience. When they first began the warming shelter idea 3 years ago, the response from the Homeless Coalition was tepid and they wanted to see CBJ concentrate its resources on supportive housing. The Assembly did that through the Housing First Phase I and Phase II and that brings up the question as to whether the Assembly wants to continue with the warming shelter next winter.

Mayor Weldon asked that staff provide more detailed budget numbers when they do bring back additional information on this proposal.

MOTION by Mayor Weldon for the Assembly to authorize the Manager to pursue moving the Sleep Off program from BRH to CCFR and to prepare budget documents to effectuate that change and asked that it come back to the COW for further review.

Mr. Jones objected and said he adamantly opposed this proposal. He said it is the wrong way to go and it absolves BRH of their medical responsibility to this community. It does not follow Title 47 which is how you treat intoxicated and incapacitated persons. He said they funded a study last year by the Juneau Community Foundation on mental health and opiate services. He said he told them what they would find but he has not yet seen the report. He said he thinks this process has been flawed from the beginning and he objected to this going any further.

Mr. Edwardson said was uncomfortable with this proposal as CCFR is about response and he questions if this would affect their readiness to respond to other emergencies.

Other members expressed their wish to have the questions explored and answered.

ROLL CALL VOTE

Ayes: Weldon, Becker, Hale, Hughes-Skandijs, Triem, and Gladziszewski

Nays: Jones, Bryson, and Edwardson

Motion passed 6:3

The committee then recessed for a 10-minute break.

C. Moderate Drought Impacts - Staff Verbal Report

Mr. Watt provided a verbal report on this topic. He reported that 2018 was "abnormally dry" which is a technical term and we are presently in a moderate drought which the Weather Service predicts to continue.

Mr. Watt provided statistics from Snettisham that last year, we were at 82% of normal precipitation as of the first quarter of the year. The first quarter for this year, we are at 68% so there has been a lot less rain at Snettisham this year compared to last. He said we have also had warmer temperatures which has resulted in less power consumption for people to move resistant heat so the load has been down and some interrupt-able customers have been interrupted. He said that the lakes at Snettisham are now both back up above the rule curve which is the amount of water necessary for AEL&P to not take people off the interrupt-able service and they are actively monitoring that. Mr. Watt said the drinking water systems have not been affected by the low rainfall. We get drinking water from two locations 1) Gold Creek to ground water source, and 2) Salmon Creek that comes out of the reservoir behind the Salmon Creek dam. Both are sources that the power company uses so they both monitor those levels.

Chief Etheridge said that Joel Curtis, who works for NOAA/Weather forecasting and has served with us on the LEPC, goes around the country to all the major wildfires and does the weather forecasting for those. He saw the conditions in Juneau going into the troubling direction and gave the Fire Department a heads up about this. In Mr. Curtis' 12 years in Juneau, he has never seen the conditions projected to become as dry as they are and he warned them that we will start seeing a lot of the fuels that typically aren't dry enough to burn will start to burn. Fires that do happen, will burn faster than they have in the past. Mr. Etheridge said we typically do not get a lot of wild land fires but that there were two significant fires last year. One was at "Lucky Me" and was a couple of acres and there was another fire that was almost 60 acres at Berner's Bay last year. It is just far enough outside the roaded area that people aren't noticing it. We typically see a handful of open burning fires get out of control and our typical wildland fire is the dry grasses. Once those dry grasses are replaced with green grass, the risk goes down some but they were warned that this will be a busy year for them.

Chief Etheridge said that prompted him to meet with the Forest Service and they are short staffed this year having only 2 staff members in Juneau with 1 fire engine and they are sharing that engine with three communities: Juneau, Haines, and Skagway. They will travel to wherever the fire danger is the most. He said to keep ahead of it, they will be trying to do as much public education that they can, especially letting people know it is a bad day to burn. CCFR will be working closely with the Weather Service and when they issue red flag warnings, CCFR will be potentially suspending open burning permits if they see a protracted length of time. They were told to be prepared for an unusual condition in Southeast.

Chief Etheridge then answered a number of questions from Assembly members and also discussed the various methods for getting the word out to the public.

Ms. Triem commented that all these issues would be good to tackle in a CBJ Climate Change Adaptation Plan.

Mr. Bryson asked if the Juneau Hydro project at Sweetheart Lake had been online, would any of the interruptable customers not been interrupted or would there have been adequate power supply through those drought conditions. Mr. Watt responded that he didn't know how much power that project would supply but he would expect that it would be in excess of the need.

D. On Site Consumption Regulations - Information Only

City Attorney Robert Palmer referred the members to his memo in the packet on pages 14 and 15. He explained that the current CBJ Code 42.20.230 prohibits all forms of marijuana consumption in public, including in retail stores. He explained that there are two main questions for the Assembly to decide upon and that it would take a majority vote of the Assembly. The Assembly could change the consumption of marijuana by smoking or vaping in public places but it would take a majority vote to do so and the memo outlines the specific issues that would have to be addressed relating to that process.

The second option would be if the Assembly chose to repeal its marijuana consumption prohibitions on edibles in public and that too would take a majority of Assembly members voting in favor of that to change the current laws.

Ms. Gladziszewski said the Assembly's Marijuana Committee discussed these topics at length at the time the citizens' initiative passed and they helped craft the current CBJ laws on this and the Assembly has not really discussed this since then.

Ms. Hughes-Skandijs asked if there were at least five members who wanted to tease that out, either for edibles to be opened up or to distinguish marijuana consumption from tobacco smoking, what the process would be.

Mr. Palmer said that if the COW wants to undertake that project, they could ask him to draft the

ordinance. He said the drafting of the ordinance is the relatively straightforward piece, while the harder piece will be the rational basis for public support behind it. He said that depending on which item, if it is just smoking or if it is non-smoking consumptive edibles, he said the edibles will be easier and the smoking would be harder.

Ms. Gladziszewski asked Mr. Palmer to explain the language pertaining to "the rational basis for public support" and where that language comes from. Mr. Palmer said that in order to pass an ordinance that would pass legal review, it would have to be rationally based; there has to be a rational basis for it. He said that the other piece of that is what the Assembly does everyday and that is figuring out what the community wants. If five of them says they want an ordinance drafted, he can do that. The more complex piece is on the smoking. If they want to repeal that prohibition for smoking, that will need some rational basis that he doesn't have. He doesn't have any data or facts that explains that marijuana smoking is different than tobacco smoking or even if it is similar to tobacco smoking. He would need facts that would provide the "rational basis" piece that he would need to support an ordinance.

Ms. Triem said she was not on the Marijuana Committee but she did present to the committee and her recommendation at the time was to not limit artificially the number of stores. She said she has the same "light touch" approach, at least as it applies to the edibles. She stated that Mr. Palmer noted in his memo that the definition for that would need to be narrow and she asked if there was a definition in state statute. Mr. Palmer said he has not looked specifically but he could look if that is a desire of the body.

Members then discussed the difference between smoking marijuana vs. tobacco. They also asked about allowing smoking in private clubs or smoking rooms. Mr. Palmer explained the history of the current CBJ ordinance prohibiting tobacco smoking and also the subsequent legal challenge by the Eagles that went all the way to the Alaska Supreme Court and was decided in favor of CBJ. That second hand smoke prohibition for private clubs for tobacco has been and remains in code and the only thing that was changed was to clarify last fall that marijuana smoking was also prohibited. It was already in there in a few places and this provision under Title 42.20.230 specifically described marijuana smoking. There wasn't a lot that was substantively done to marijuana smoking but it clarified a few aspects of it, especially related to vaping.

Ms. Hale said her question relates to Ms. Triem's comment regarding taking a light touch. Ms. Hale's question is "Why would they prohibit on site consumption?" She asked if there are benefits, such as tax benefits, and what are the negative consequences for consumption at a private shop?

Ms. Gladziszewski said that at the time this was at the CBJ Marijuana Committee meetings, there was no discussion about that topic because it was prohibited by the state at that time. She said that the committee wanted to preserve the city's right to, in a future time if it was ever allowed, to do what Ms. Hale just said because of all the thousands of cruise ship passengers were among them. She said it was not unanimous in the committee but the majority of the committee wanted to preserve the local option to do that. When the state law makers were debating this issue, the city went so far as to send a letter that said "We want to preserve our local option to allow clubs for consumption." They did not do a lengthy analysis at the time because it wasn't ripe at the time. No one wanted to harm the smoking ordinance to do it but allow for it to be brought up for discussion at a future date.

Mr. Bryson said that he wanted to point out what is currently happening. We don't have a rule right now for onsite consumption. He said that during his day job, one of his locations is located directly connected to a marijuana distribution facility. He said they have immediate smokers who are buying it, walking out of the store, ripping the package open and smoking under the awnings in the area of 2nd and Seward Street. He has had to kick people out of the area. It is obvious the immediate Juneau smokers are needing a place to smoke. He said the other component is marijuana tourism. People are specifically taking a trip to Alaska because of the tourism and the legalization of marijuana. As soon as it became legal, tourism operators were receiving reservations because that was what people wanted to do and they were struggling to find a place for them to legally do it. He said that if they give people a legal place to smoke, it makes it more legal and gets them off the

streets, out of the hotels, and not on the ships. He commented that edibles are not safer than smoking marijuana. It takes hours for edibles to kick in and people were having marijuana overdoses because they weren't able to feel the effects right away.

Additional discussion took place regarding the state regulations, definitions, and how that compares to CBJ's current code and our Clean Air Act.

Mayor Weldon said that she disagreed with Mr. Bryson that having smoking in enclosed spaces would be safer as that was the reasoning behind the Clean Air Act in part to protect the employees from second hand smoke. She also asked if JPD can determine if someone is under the influence of marijuana and do they have a level that is legal. If you allow consumption, people are going to drive impaired.

Mr. Watt said he asked that question of the police chief earlier that day and the chief's response was that it is an evolving field of inquiry in law enforcement. They don't have simple tools like they do for alcohol to make it easy to determine when someone is above or below the limit. They face this issue, not just with marijuana but for all controlled substances. They continue to train and gain expertise in determining when someone is not fit to drive vehicles. It is not fixed at all. He said he anticipates technology and law enforcement measures will evolve a lot in the next few years.

Mr. Palmer said they do prosecute drug DUIs that are not alcohol related. He said the two to three tools they use on those are driving behavior (weaving, speeding erratically, stopping erratically, etc...) that type of behavior is a tell tale sign that something is going on, not necessarily a drug or alcohol caused behavior but a sign that something is going on. Secondly, are the interactions with the driver when the officer comes to the window, the odors might indicate certain things or the driver may tell the officer outright. He said they can sometimes rely on blood samples that will give some indication. There is not a strict number for marijuana in the same way there is for blood alcohol content numbers. The typical drug prosecution involves driver behavior and some sort of officer observed information.

Ms. Gladziszewski asked if there were five members who wished to pursue the possibility of looking at #1 allowing onsite consumption of edibles or #2 the possibility of allowing onsite marijuana smoking.

MOTION by Ms. Hale that the assembly pursue exploration of on site consumption of edibles.

Amendment by Mr. Edwardson to include smoking.

Mayor Weldon objected to the amendment. Members expressed wishes to vote on the questions separately. Mr. Edwardson withdrew his amendment.

Mr. Jones said that the regulations at the state level remain the same for edibles. They have to be done at a licensed retail facility. They can't be giving out brownies on the street. It can only be in a separate section of a retail shop and as Mr. Bryson said, edibles take 1-2 hours to take effect. Most marijuana retail businesses do not want someone coming into their shop, walking into a separate room, eating the brownie and sitting there for two hours waiting to get high. He said they don't expect there will be a lot of people looking to consume edibles. It won't be like sitting in a coffee shop drinking coffee waiting to get high. He said there are 7 retailers in CBJ and two of them are too small to have enough space to do edibles and of those five, he doubted if any would apply. He said someone could purchase a gummy candy, eat it at Marine Park and no one could tell the difference of that from something you purchased in any other store. In respect to that, he felt the Law Department would be doing a lot of work and effort on this without much result.

Ms. Triem said she will be voting yes on this and compared it to the social aspect of sitting in a bar and consuming alcohol. She said that five businesses in Juneau is a lot and the Assembly should not be limiting their business and if they want to invest in onsite consumption we should be encouraging them to expand their business opportunities.

Mr. Edwardson said he is old enough to think you wouldn't sit in a coffee shop and drink coffee or

pay money to play video games. He said that some folks made a go of those business models and he agreed with Ms. Triem that the Assembly doesn't know what people will do and what business model they might come up with and how they will overcome the obstacles. He will be voting in favor of this.

Ms. Hughes-Skandijs agreed that the city should be not limiting things and should allow for businesses to have the option to have a space where someone could enjoy their edibles legally in the same way someone can go and enjoy a glass of wine.

Mr. Bryson said that the onsite consumption issue is not about the edibles, it is about the ability to smoke with their buddies. He said if the question is only limited to edibles, he would vote no. The infrastructure to get just edibles, it would not be a worthwhile business venture. They want to allow people to smoke on their property.

Ms. Hale said that there is no requirement for someone to sit there and wait until they get high. She said she has a fundamental opposition to setting up a legal structure and then asking them to break the law where they would be taking a lozenge or other edible and ingesting it down at Marine Park because we don't provide any other legal place for them to ingest it.

Mr. Jones said the other legal place that has always been legal has been a person's home. There have been many discussions at CBJ and at the state that a person's home is a safe place to consume and their home is legal. He said that if you look at the law, it says "no consumption in public." He said that a retail store that is open to the public is a public place. He said that was one of the reasons he voted no for the onsite consumption because somehow the state's attorney has said that if AMCO gives an endorsement that "retail" is no longer a public place. He said he thinks that is legally wrong and there are many issues to that and he suggested they may want to look at the regulations. In a retail store, were you allowed onsite consumption of edibles or inhalation, they can't sell alcohol, they can't sell tobacco, they may not allow tobacco or tobacco products to be consumed and you can't offer other beverages that are non-alcoholic or those kinds of things. He said it is not a very inviting atmosphere to go and sit.

Ms. Becker said from the very beginning, she has been opposed to breaking the federal law for one thing and opposed to legalizing and putting our stamp of approval on something that needs to be kept out of the hands of children. She said she will be voting no on the edibles question and if the smoking question also comes up, she will be adamantly voting no.

Ms. Gladziszewski said she will be voting yes on this. She said she does not know what the current onsite regulations say. It may be unattractive as Mr. Jones said but she wants to pursue it, analyze it and see if it is viable and she doesn't want to proclaim whether some business owner might decide it is viable for them or not. She wants to give people who come here on ships in the hundreds of thousands, a legal place to do what is legal.

Mr. Jones said he hopes this will not become a TBMP condition in terms of how we do it. He said he doubts that Juneau wants to become the marijuana vacation place.

ROLL CALL VOTE on the main motion to pursue the exploration of onsite consumption of edibles.

Ayes: Hale, Edwardson, Bryson, Hughes-Skandijs, Triem, Weldon and Gladziszewski

Nays: Jones, Becker

Motion passed 7:2

MOTION by Ms. Hale that the Assembly explore onsite marijuana smoking and said she will be voting against it.

Mayor Weldon said she would be objecting as it violates the Clean Air Act which was made to protect employees, not necessarily the people who were smoking.

Mr. Edwardson said the people the Clean Air Act was meant to protect work in places where it was

not set up specifically for the purposes to smoke cigarettes and only cigarettes. He said he thinks this is different fundamentally. He said that he also thinks it is incorrect to assume that people who consume marijuana and people who consume tobacco products are similarly situated. They are doing it for different reasons and there is a different history behind it and there will be a different use pattern. He said it is legal and he thinks people should have a legal place to do it.

Mr. Bryson spoke in favor of the motion. There are hundreds of thousands of people coming and if we give them a place to legally purchase and smoke marijuana, we have another industry that we strengthen and support. It is being done safely in a controlled environment. He said if we provide safe, secure places downtown, it will once again be a nice place to visit if people are not smoking marijuana on the streets as they are now.

Mr. Jones said the regulations do not allow for any consumption by employees. The regulations call for a separate area for employees from the area where the smoking is taking place. He said to allow for this would be to unravel the Clean Air Act in CBJ and that is what would happen by passing this motion.

Ms. Triem said she will vote in favor of the motion and while she may not eventually vote in favor of a final ordinance changing the current Clean Air Act, she would like to explore what the City Attorney brings back and then it can be ultimately decided from there.

Ms. Hughes-Skandijs said she feels similar to Ms. Triem and while she may not support the final ordinance, she would like to see more information about this and would like see if there is some way to allow the residents of the borough to have a choice and a place to do things legally similar to the way alcohol is allowed in a bar.

Mayor Weldon reminded the body that the City Attorney said they will need to have a rational argument to distinguish marijuana from tobacco.

ROLL CALL VOTE on the main motion to pursue the exploration of onsite smoking of marijuana.

Ayes: Edwardson, Bryson, Hughes-Skandijs, Triem, and Gladziszewski

Nays: Hale, Jones, Becker, Weldon

Motion passed 5:4

V. ADJOURNMENT

There being no further business to come before the body, the meeting was adjourned at 8:45 p.m.

*Respectfully submitted,
Beth McEwen, MMC
Municipal Clerk*



City and Borough of Juneau
City & Borough Manager's Office
155 South Seward Street
Juneau, Alaska 99801
Telephone: 586-5240 | Facsimile: 586-5385

DATE: June 10, 2019

TO: Maria Gladziszewski, Chair Assembly Committee of the Whole

FROM: Mila Cosgrove, Deputy City Manager

RE: Resolution 2855: Request to Change Name of Willoughby District to Aak'w Village District

Attached is a letter from Ms. Fran Houston, representing the Aak'w Kwaan and requesting that CBJ consider renaming the Willoughby District to the Aak'w Village District.

This issue was first considered at the February 4, 2019, Committee of the Whole meeting. At that time, the Assembly deferred the discussion to confirm that Ms. Houston was the appropriate representative to make the request and that the name change was acceptable within the Native community.

Subsequent to that meeting, Mayor Weldon and Manager Watt interacted with a variety of individuals and confirmed that the requested renaming is desirable. Resolution 2855 will signal the renaming of the area and the new name will be included in the Wayfinding and Downtown Blueprint projects.

Requested Action: Forward the attached resolution to the full Assembly for approval.

AAK'W KWAAN CULTURAL HERITAGE AND LAND COUNCIL

January 4, 2019

Mayor Weldon
The City and Borough of Juneau
155 S. Seward St.
Juneau, AK 99801

Dear Mayor Weldon:

I am spokesperson for the Aak'w Kwáan, and I am writing on behalf of the Aak'w Kwáan. Over the past few years, there have been several names proposed that refer to the area of the Aak'w Village and the (now filled) coastal area lying in front of it, as the 'Willoughby District' and the 'Juneau Arts and Culture District.'

Most recently, the area has been called, the 'Auk Summer Village' by the Downtown Wayfinding planning team. We appreciate the efforts by the Downtown Wayfinding team to recognize the original residents of the Aak'w Village, as contrasted with the aforementioned names that erase the indigenous people from the map of Juneau.

I am writing to request that this area be named the 'Aak'w Village District' in recognition of the historical and ongoing settlement and residence of the Aak'w people in this area. The area was identified as the Auk Village or the Auk Indian Village from the earliest maps and historical photos, and is identified as such on the first survey map of the Juneau Townsite (1892). It continued to be recognized in this way in legal proceedings and newspaper accounts up to about 1950, after which the area became more generally known as the Juneau Indian Village in recognition of the members of other tribes and clans who moved to Juneau and took up residence in the Aak'w Village.

The Aak'w Kwáan strongly recommends that this area be recognized henceforth by the historically and cultural correct term, Aak'w Village District.

Sincerely,



Frances A. Houston
Aak'w Kwáan Tribal Spokesperson
Aak'w Kwáan Cultural Heritage and Land Center
9241 Emily Way
Juneau, AK 99081
franceshouston01@yahoo.com

cc: City Manager
Planning Commission

Presented by: The Manager
Introduced:
Drafted by: R. Palmer III

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2855

A Resolution Renaming the Historic Auk Tribe Indian Village located on Willoughby Avenue as the Aak'w Village District.

WHEREAS, the Auk Tribe historian tells that the original Auk Tribe Indian Village was first located on the tidelands where Marine Park is currently located; and

WHEREAS, the Auk Tribe Indian Village was later relocated to the mouth of Gold Creek; and

WHEREAS, when the Gold Creek tidelands were filled in to provide land for structures, including the Coast Guard Support Building, Centennial Hall, the Juneau Arts and Culture Center, and the Prospector Hotel, the Auk Tribe Indian Village was relocated to its current location on Willoughby Avenue near where the Salvation Army buildings are now located; and

WHEREAS, over the years the Auk Tribe Indian Village has been known by different names; and

WHEREAS, the spokesperson for the Auk Tribe and Taku Quan people and the Aak'w Kwaan Cultural Heritage and Land Council request that the historic Auk Tribe Indian Village be named the Aak'w Village District in recognition of the historical and ongoing settlement and residence of the Aak'w people in this area.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. That the historic Auk Tribe Indian Village located on Willoughby Avenue is hereby named the Aak'w Village District.

Section 2. Effective Date. This resolution shall be effective immediately after its adoption.

Adopted this _____ day of _____, 2019.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk



City and Borough of Juneau
City & Borough Manager's Office
155 South Seward Street
Juneau, Alaska 99801
Telephone: 586-5240 | Facsimile: 586-5385

DATE: June 10, 2019

TO: Maria Gladziszewski, Chair Assembly Committee of the Whole

FROM: Mila Cosgrove, Deputy City Manager

RE: Senior Housing Tax Abatement Ordinance

At the April 29, 2019 Committee of the Whole meeting, Chief Housing Officer Ciambor presented the full Assembly with a three part plan to assist in the creation of senior assisted living housing in the community:

1. **Land Purchase:** As part of the FY20 budget process, the Assembly authorized the purchase of land in the Vintage Park area with the goal of helping to make a senior assisted living housing project more feasible for an investor.
2. **Tax Abatement:** The Assembly at the May 20, 2019 COW began a detailed discussion of tax abatement for housing and economic development. The Assembly gave staff direction to bring back an ordinance specific to senior housing. That ordinance and supporting materials are included in your packet tonight.
3. **Competitive Process:** A full discussion about the terms of a competitive process are premature until the tax abatement question is settled. However, in your packet a memo from Manager Watt outlining a potential path to competitive solicitation and a draft competitive process outline from Mr. Ciambor have been included for your review.

The information before the Assembly tonight continues the discussion of tax abatement for senior housing projects.

Requested Action: Discuss options for tax abatement for senior housing projects and provide direction to the Attorney to finalized an ordinance for introduction and public hearing.



City and Borough of Juneau
City & Borough Manager's Office
155 South Seward Street
Juneau, Alaska 99801

Telephone: 586-5240 | Facsimile: 586-5385

DATE: June 10, 2019

TO: Deputy Mayor Gladyszewski and Committee of the Whole

FROM: Rorie Watt, City Manager

RE: Senior Housing – Potential Path to Competitive Solicitation

As you discuss tax abatement for housing development in general or senior housing in specific, it may be helpful to consider several big picture approach models. This memo assumes that the Assembly is willing to provide the financial support necessary to incentivize a senior housing project.

The Assembly could consider different blends of the following interrelated factors:

- Value of municipal support (total dollars)
- Support in various categories (land, tax abatement and/or grant)
- Time/Patience/Speed – How fast does a project come on line
- Complexity of Approach

In general, more money and less complexity will result in a faster project. But, there are plenty of very good policy reasons to worry the details and come up with an approach that the Assembly believes is most appropriate for our situation. Each of the below models starts with the CBJ purchasing the land and making a decision on tax abatement. The decision on tax abatement could be specific to senior housing, more global to other housing or economic development or the decision that tax abatement is not a strategy that we should pursue.

Approach A: (Current Process)

CBJ will have purchased land and determined tax abatement, if any, prior to soliciting for a developer.

CBJ issues a solicitation for buyer/developer of the land and chooses the developer with the best track record, history of success and financial resources.

CBJ subsequently allows developer to apply to CBJ Affordable Housing Fund for grant support, competing with other community proposals.

Approach B:

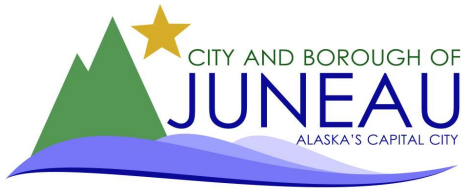
Similar to A, but bundled with grant support in one solicitation.

CBJ states development goal (number of beds, level of care and/or number of needs based beds) CBJ issues a solicitation that asks developers to propose additional support necessary to meet development goal.

Approach C:

Similar to B, but reversed.

CBJ states amount of additional grant funding available. Developer proposes what they could do given the stated land lease approach, tax abatement Ordinance. CBJ selects best development proposal.



Exemption Financial Impact SUMMARY 2019

CODE	DESCRIPTION	Data			
		Assessed Value	Exempt Value	Exempted \$s	# of Parcels
01	Senior Citizen	855,211,586	310,614,741	3,304,509	2167
02	Disabled Veteran	17,396,500	6,060,300	64,603	41
05	Utility Cooperative	0	0	0	1
06	ANCSA-Tribal Land	0	0	0	13
07	Borough	5,464,600	1,393,800	14,858	625
08	Low Income Housing	40,346,600	25,242,272	269,083	68
09	Cemetery	1,680,200	831,200	8,861	9
10	Religious Non-Profit	5,216,156	3,015,242	32,142	64
11	Federal	25,437,700	854,800	9,112	46
12	VFW/AM Legion	0	0	0	1
13	Hospital-Non Profit	0	0	0	6
14	Native Restricted Deed	0	0	0	43
15	Native Regional Housing	0	0	0	8
15A	NRHA Res Contract	13,352,500	13,352,500	142,338	40
15B	NRHA Land	0	0	0	1
15C	NRHA Admin	0	0	0	4
15D	NRHA Housing	0	0	0	2
16	State	21,900	21,900	233	211
17	Education-Non Profit	5,089,800	4,215,680	44,939	5
18	Charitable-Non Profit	6,071,600	5,897,774	61,167	67
20	Community Purpose	21,679,200	18,802,117	199,907	12
22	Farm	2,326,300	896,100	9,552	9
23	AHFC	0	0	0	7
24	Disaster Relief	515,400	118,700	1,265	1
26	Tribal Fee Land	0	0	0	7
27	Subdivision Deferral	1,203,500	1,013,300	10,802	6
Grand Total		1,001,013,542	392,330,426	4,173,370	3464

**Request for Proposals to Purchase and
Develop the Vintage II Subdivision for Senior Assisted Living Units**

I. Introduction

The City and Borough of Juneau seeks a developer who can create a sustainable Senior Assisted Living project that fulfills the need reflected in the Juneau Senior Housing and Services Market Demand Study (2014) and the CBJ Housing Action Plan (2016).

The primary goals for the Senior Assisted Living project are as follows:

- Generate assisted living beds in Juneau to help meet the targeted forecast of 327 beds by 2042;
- Ensure a target population of seniors that includes units for private pay and Medicaid-eligible individuals;
- Provide a mix of units that includes assisted living units, memory care units, and potentially hospice care units;
- Provide an array of quality services that meet the needs of senior residents ranging from basic level of care to include some skilled nursing;
- Create skilled/professional and entry-level employment opportunities in the healthcare field;
- Develop a facility that meets licensing requirements and Certificate of Need standards for the State of Alaska;
- Enhance the local neighborhood and create a campus-feel for delivery of Senior Assisted Living and services.

II. Proposals and Submission Deadlines

The winning proposal will accomplish the greatest number of goals while demonstrating to the Assembly that the proposal is viable; that it is grounded in market demand, and is able to attract the capital required to build and operate the project.

- Proposals must be for the entire site
- The CBJ Assembly will select the developer based upon the following:
 - Vision for the development of the site;
 - Meeting the goals and objectives stated in the Request for Proposals (RFP);
 - Team Experience: (1) demonstrated experience on projects of similar size and scope; (2) Established development and/or operating partnerships, including a full array of senior services; (3) Qualified Staff – Developer, Director, Property Manager, and Support Services
 - Project Design and Characteristics including site plan and elevations;
 - Feasibility: (1) Demonstrated ability to secure financing for development and operation of the project; (2) Operational feasibility/long-term viability; (3) reasonable and balance budget with cost controls; and (4) leveraging percentage of CBJ resources
 - Project Pro Forma
 - Readiness to Proceed

Project proposals are due on September XX, 20xx.

III. The Development Opportunity

The subject parcel is a parcel of vacant land containing an area of 8.68 acres or 378,542 square feet. The property is zoned LC and MU, Light Commercial and Mixed Use, which permits single-family and duplex residential, professional offices not more than 2,500 sf, etc.

Property Identification	
Property Name	Vintage Business Park Subdivision
Address	Vintage Blvd. Juneau, Alaska 99801
Tax ID	5B1601440011, 5B1601440021, 5B1601440031, 5B1601440041, 5B1601440051, 5B1601440061, 5B1601440071, 5B1601440082, 5B1601420020, 5B1601420040, 5B1601440320, 5B1601440330, 5B1601440340, 5B1601440350, 5B1601440360, 5B1601440370, 5B1601440380 and 5B1601430017
Owner of Record	City and Borough of Juneau

IV. City Incentives Available for the Project

The City and Borough of Juneau is committed to the development of additional assisted living opportunities in the community. The following mix of incentive area available for

I. Price of Land to the Developer

The City and Borough of Juneau acquired the land for the Vintage II Subdivision for the purpose of developing senior assisted living units. The total cost was \$1,519,000. The CBJ will offer the land to the selected development team through a flexible long-term lease (up to 10-years) with the intention to sell at fair market value once the lease is complete. Terms should be factored into project pro forma.

II. Tax Abatement for Senior Housing Development

The City and Borough of Juneau recently passed ORD. XXX that provides tax abatement to senior assisted living development projects. Under the ordinance assisted living unit projects over 15 units are eligible for tax abatement for 15 years. Tax abatement is only eligible on the units being created (not the land). Tax abatement terms are the total mill rate less minimum contribution. (2.65) Terms should be factored into project pro forma.

III. Grant or Loan through the Juneau Affordable Housing Fund

If needed, the developer may be eligible for and request additional funding from the Juneau Affordable Housing Fund. Qualifying projects are eligible for grants and loans up to \$50,000 per housing unit created.

City and Borough of Juneau
ASSEMBLY COMMITTEE OF THE WHOLE
June 10, 2019

Property Tax Abatement Relating to Senior Assisted Living

Issue:

The Assembly has expressed interest in promoting the development of additional senior assisted living housing opportunities in Juneau. Private developers have expressed that the high cost of construction and operation render a commercial project insufficiently profitable to attract private investment. Without municipal incentives that enhance profitability for the developer/operator, it is unlikely that a new senior housing project will advance.

Discussion:

Property tax abatement is one of the tools CBJ can use to enhance economic viability of an assisted living project.

The following types of developers/operators already have options for exemption from property tax:

1. Non-profit
 - a. Religious
 - b. Education
 - c. Charitable
 - d. Hospital
 - e. Community Purpose
2. Tribal
3. Low-Income Housing Tax Credit program

Since the organization types above *already have exemption options from property tax*, code changes for property tax abatement is only necessary to enhance the economic viability of a project by a private for-profit organization.

AS 29.45.050(m) provides for municipalities to exempt properties from property taxes for the purpose of “all or some types economic development”. Under this section, municipalities may only exempt property tax in excess 2.65 mills—which effectively is the “floor” for taxation under this exemption category. CBJ has determined that a new senior assisted living facility would likely qualify for this exemption under state law, if enacted by the CBJ assembly. State law does not exclude for-profit entities from eligibility under this section.

To advance the goal of a new assisted living facility, the Assembly must determine how much property tax abatement to offer to a private for-profit organization. Generally, there are only two levers for property tax abatement:

1. Abatement of property tax (down to 2.65 mills) on **full or partial property value**
2. **Length of period** for property tax abatement

Presented by:
Introduced:
Drafted by:

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2019-23 COW v2

An Ordinance to Incentivize the Development of Senior Assisted Living Housing by Providing a Property Tax Abatement Program.

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 Section. CBJC 69.10.020, Property Exempt, is amended by adding a new subsection to read:

69.10.020 Property Exempt

(12) Economic development property consistent with CBJC 69.10.023.

Section 3. Amendment of Chapter. Chapter 69.10.023 is amended by adding a new section to read:

69.10.023 Property Tax Incentives for Housing

(a) *Purpose.* This section authorizes property tax exemptions for construction of the following categories at least four new residential units on a property that meets the definition of economic development property in A.S. 29.45.050(m):

(1) At least fifteen residential units of assisted living for senior citizens. The term residential units includes the assisted living residential units for senior citizens and only those building spaces that are necessary and incidental to the assisted living of senior citizens qualify for inclusion in the exemption like common space, support space, and shared facilities. A residential unit qualifies for the exemption even if a non-senior citizen resides in the unit with a senior citizen.

(b) *Location.* The property is located entirely within the urban service area as defined by Title 49.

(c) *Exclusions.* Repair and rehabilitation property as defined in CBJC 69.10.025 for which an exemption application has been filed or granted ~~isare~~ not eligible for this housing tax incentive. Submission of an application for exemption pursuant to this section shall automatically terminate any existing CBJC 69.10.025 application or designation for the property.

(d) *Application.* An application for an exemption under this section shall be made in writing to the Assessor's Office prior to issuance of a building permit for the residential units. Applications made after issuance of a building permit for the residential units shall not be accepted or rejected if accepted. The application shall at a minimum contain the following:

(1) *Name.* The name of the applicant;

(2) *Address.* The legal description and street address of the property for which the application is made;

(3) *New residential units.* Drawings of the residential units that the applicant will construct, including a floor plan that includes approximate square footages;

(4) *Existing structures.* Drawings showing the square footage of all existing structures and structures to be constructed on the property;

(5) *Increase in residential units.* Plans showing the construction will increase the total number of residential units on the property;

(6) *Acknowledgement of liability.* Applicant acknowledges that the residential units will be taxable if and when the residential units are no longer eligible for tax exemption under this section; and

(7) *Other information.* Other information as may be required by the Assessor.

(e) *Provisional approval.* The Assessor shall provisionally approve an application for tax exemption if (1) the applicant submitted a complete application; and (2) the applicant acknowledges it must (a) construct not less than the required four (4) new residential units in accordance with the plans and drawings submitted with its application, and (b) increase the total number of residential units on the property in order to receive final approval under this section.

(f) *Final approval of exemption.* The Assessor shall finally approve an application for tax exemption if (a) the applicant has completed construction of residential units in accordance with the plans and drawings submitted with its application and a Certificate of Occupancy has been issued pursuant to Title 19 for each structure that contains a residential unit described in the application, and (b) the total number of residential units on the property has increased.

(g) *Magnitude of exemption.* Consistent with this subsection, the total potential exemption shall not exceed reduce the amount of taxes below the amount levied on other property for the school district's required local contribution under AS 14.17.410(b)(2). The taxes eligible for exemption under this section are those attributable only to the newly constructed residential units exclusive of previously existing residential units (whether remodeled or not), all non-residential improvements, and land. Except as provided by subsection (m), the magnitude of

exemption shall be determined on a spatial basis as follows: the square footage of the newly constructed residential units shall be divided by the square footage of all structures on the property, then multiplied by the assessed value of all improvements on the property and by the mill rate applicable to the property.

(h) *Duration of tax exemption.* Tax exemptions approved under this section shall be for a period of ~~twelve~~^{ten} consecutive years beginning on January 1 of the first full calendar year after final approval of the application.

(i) *Recording of exemption.* The Assessor shall memorialize the terms of an exemption granted under this section in a memorandum recorded in the Juneau Recording District and kept on file in the Assessor's Office.

(j) *Termination of exemption upon reduction in number of residential units.* An exemption granted under this section shall terminate immediately if and when the number of residential units on the property is less than the number existing at the time of final approval of the application under this section. An exemption granted under this section does not terminate if the property or residential unit is sold and the new owner continues to comply with this section.

(k) *Appeal.* Any decision of the Assessor under this section may be appealed to the assembly in accordance with CBJC 01.50.

(l) *Annual compliance and status report.* Not later than March ~~31~~¹⁵ of each year, the owner of the property for which an exemption has been granted, shall file with the Assessor a report with the following information:

(1) *Occupancy.* A statement of occupancy and vacancy of the residential units for the prior twelve (12) months;

(2) *Residential units remain as described.* A certification that the newly constructed residential units described in the application continue to exist and have not been converted to a non-residential use;

(3) *Further changes.* A description of physical changes or other improvements constructed since the last report or, on first report, since the filing of the application; and

(4) *Additional information.* Any additional information requested by the Assessor.

(m) *Late-file penalty.* The failure for the owner to file the annual compliance and status report by March ~~31~~¹⁵ shall result in 10 percent reduction of the taxes exempted in the prior year.

(n) *Definition.* In this section, the following definitions apply:

Previously exempt property means real or personal property exempt under CBJC Title 69 in the ~~prior~~^{current} calendar year but taxable in the next calendar year.

Residential unit means a dwelling unit as defined by CBJC 49.80.120 and is either owner-occupied or only leased for periods of at least one month.

Senior citizen means a person who is (1) Sixty-five years or older; or (2) at least 60 years of age and the widow or widower of a senior citizen who qualified for an exemption under AS 29.45.030(e) and CBJ 69.10.020(1)(A)(i) and (ii).

Widow or widower means a person whose spouse has died and who has not remarried.

Assisted living means a facility providing housing and institutional care for people unable to live independently or without assistance. Assisted living includes facilities that provide nursing care services.

Section 4. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2019.

, Mayor

Attest:

Municipal Clerk



DATE: June 7, 2019
 TO: Maria Gladyszewski, Deputy Mayor, Committee of the Whole
 FROM: Robert Palmer, Municipal Attorney
 SUBJECT: Draft Ordinance 2019-29, Marijuana Consumption

At the Assembly Committee of the Whole meeting on April 8, 2019, the Committee directed me to draft potential code amendments to allow marijuana consumption. The attached draft ordinance would allow consumption of marijuana edibles and allow consumption of marijuana by smoking/vaping. Alternatively, the Committee could decide to continue and prohibit marijuana consumption by not taking action. As the Committee considers its options, there are at least two legal issues to be aware of.

I. Recent State Law: Smoking Prohibitions and Marijuana Smoking Restrictions

The Legislature recently enacted Senate Bill 63 (2018), which generally prohibits smoking. While municipalities may adopt more restrictive smoking laws, SB63 established the regulatory “floor.” SB63 § 2 (AS 18.35.331). If a municipality wants to be exempt from the SB63 requirements (i.e. AS 18.35.301-350), the municipality must adopt an ordinance that is ratified by the voters. SB63 §13 (AS 18.35.357). SB63 generally followed CBJ’s second hand smoke ordinances.

For the last 18 years, the CBJ has prohibited tobacco smoking in enclosed public places to protect the public from exposure to second hand smoke. Ord. 2001-40(am). In 2008, the Assembly expanded the code and generally prohibited smoking in bars, private clubs, and any other enclosed place where alcoholic beverage or food is offered for sale. Ord. 2008-05(b).

SB63 generally followed those CBJ ordinances and prohibits smoking in enclosed public places, except marijuana may be smoked “in an establishment licensed under AS 17.38 that is freestanding¹ if the smoking is in accordance with regulations adopted by the Marijuana Control Board created under AS 17.38.080.” SB63 §2 (AS 18.35.301(h)). Marijuana smoking “in public” is also prohibited by AS 17.38.040.

The new Marijuana Control Board regulations would only allow marijuana consumption (smoking and edibles) in a freestanding retail marijuana store that either (1) has a secured consumption area with a separate ventilation system or (2) has an outdoor consumption area that is sufficiently isolated. 3 AAC 306.370. Thus, State law prohibits smoking of marijuana in public except in certain licensed retail marijuana stores with an onsite consumption endorsement.

¹ “Freestanding means a building that is not supported by another structure and does not share ventilation or internal air space with an adjoining structure and smoke from the building cannot travel into the adjoining structure.” SB63 §2 (AS 18.35.301(i)).

II. Differential Treatment of Marijuana and Tobacco Smoking in Enclosed Public Places

If the Assembly decides to repeal/amend the CBJ codes that currently prohibit marijuana smoking but continue to prohibit tobacco smoking in similar facilities, there is litigation risk for the differential treatment. There may be ways to differentiate tobacco smoking from marijuana smoking to justify the different treatment, but more policy work is needed to articulate the differences. See the attached excerpt of *Marijuana, National Institute on Drug Abuse* (June 2018). Alternatively, if litigation is brought and a court agrees that the differential treatment between tobacco smoking and marijuana smoking is unlawful, the Assembly would likely need to treat marijuana smoking the same as tobacco smoking by either repealing the marijuana consumption ordinance (i.e. prohibit all smoking in enclosed public places) or repealing the tobacco smoking ordinance (i.e. allow marijuana and tobacco smoking substantially the same form in the same type of enclosed public places).

For context, SB63 does allow for tobacco smoking in certain tobacco retail stores and private clubs:

- E-cigarettes may be smoked in a sufficiently separated freestanding tobacco or e-cigarette store. AS 18.35.301(d)(1)(iv));
- Tobacco may be smoked in private clubs that continuously operated since 1/1/2017, are not licensed to serve alcoholic beverages, and are not a place of employment. AS 18.35.301(g)(1); and
- Tobacco may be smoked in an e-cigarette store continuously operated since 1/1/2017. AS 18.35.301(g)(2).

Because the CBJ currently prohibits both marijuana and tobacco smoking in the same enclosed public places (i.e. retail stores), the CBJ is not exposed to that litigation risk.

Enclosures:

- **April 4, 2019, Memo from Palmer to COW**
- **3 AAC 306.370 Onsite Consumption endorsement for retail marijuana stores**, including the 2/28/2019 Memorandum of the State of Alaska Department of Law.
- **Excerpt of *Marijuana, National Institute on Drug Abuse* (June 2018)**, available at <https://www.drugabuse.gov/publications/research-reports/marijuana/letter-director>
- **Draft Ordinance 2019-29 vCOW1**



DATE: April 4, 2019
 TO: Deputy Mayor Gladziszewski, Assembly Committee of the Whole
 FROM: Robert Palmer, City Attorney
 SUBJECT: Onsite Marijuana Consumption

A new State anti-smoking law (SB63) went into effect in October 2018. SB63 explicitly allowed municipalities to be more restrictive than state law (i.e. prohibit smoking in more places than state law). AS 18.35.331.

The CBJ had an anti-smoking law that was very similar to SB63, which had been affirmed in litigation. *Fraternal Order of Eagles v. City & Borough of Juneau*, 254 P.3d 348 (Alaska 2011) (concluding CBJ's anti-smoking law prohibited smoking in private clubs that sell alcohol or food). In late 2018, the CBJ amended its anti-smoking law to be fully consistent with SB63. Ordinance 2018-47am.

SB63 generally prohibits smoking in an enclosed public place including a retail store, office, or place of employment. AS 18.35.301(a). However, State law allows retail tobacco stores to allow smoking of e-cigarettes if the building is generally free-standing. AS 18.35.301(d). State law also has a similar free-standing building exception for marijuana smoking consistent with Marijuana Control Board regulations. AS 18.35.301(h)(3).

On March 12, 2019, the State published a regulation amendment to 3 AAC 306 that allows certain onsite marijuana consumption consistent with SB63. The regulation allows marijuana retail stores to apply for an onsite endorsement to have onsite marijuana smoking and consumption of edibles purchased at that retail store. 3 AAC 306.370.

The onsite marijuana consumption regulations provide multiple options for local government. Local governments may:

1. By ordinance, outright prohibit consumption endorsements, 3 AAC 306.200(a)(2)(E);
2. By ordinance, prohibit specific operational characteristics, including consumption indoors by smoking or vaping, or outdoor consumption, 3 AAC 306.200(a)(3);
3. Protest a consumption endorsement, 3 AAC 306.060.

By ordinance, the CBJ currently prohibits all forms of marijuana consumption in public, including in marijuana retail stores. CBJC 42.20.230. Consumption of marijuana by smoking or vaping is also specifically prohibited in enclosed public places, in marijuana retail stores, and

outdoors within 20 feet of a door or air intake. CBJC 36.60.010. Thus, no onsite consumption endorsements should be issued in the CBJ. 3 AAC 306.200; 3 AAC 306.370(a); 3 AAC 306.060(a) & (c).

If the CBJ were to repeal its marijuana consumption prohibitions related to smoking or vaping in public, the CBJ would need to (a) have a rational argument to distinguish marijuana from tobacco or (b) also allow tobacco smoking in similar places as marijuana smoking (i.e. private rooms in tobacco retail stores).

If the CBJ were to repeal its marijuana consumption prohibitions related to edibles in public (i.e. CBJC 42.20.230) consistent with the new marijuana consumption regulations, I am not aware of a tobacco consequence. However, the definition of edibles would need to be narrow to avoid vaping and other inhalation forms of consumption that can affect nearby people.

CBJC 42.20.230 - Consumption of marijuana in a public place prohibited.

- (a) Consumption of marijuana in a public place is prohibited.
- (b) For purposes of this section:
 - (1) Consumption means ingesting, inhaling or otherwise introducing marijuana into the human body.
 - (2) Marijuana has the same meaning as in Alaska Statute 17.38.900.
 - (3) Public place means a place, enclosed or unenclosed, to which the public or a substantial group of persons has access, including, but not limited to:
 - (A) Public streets, alleys, sidewalks, easements, trails or other ways dedicated or held for public vehicular or pedestrian use, including parking lots owned or operated by the municipality;
 - (B) Transportation facilities;
 - (C) Schools;
 - (D) Places of amusement or business;
 - (E) Parks;
 - (F) Playgrounds;
 - (G) Correctional facilities; and
 - (H) The common areas of public or private buildings and facilities.
- (c) Consumption of marijuana in a public place is an infraction.

(Serial No. 2015-09, § 2, 2-23-2015, eff. 3-26-2015)

3 AAC 306.370. Onsite consumption endorsement for retail marijuana stores. (a)

Unless prohibited by local or state law, a freestanding licensed retail marijuana store with an approved onsite consumption endorsement is authorized to

(1) sell marijuana and marijuana products, excluding marijuana concentrates, to patrons for consumption on the licensed premises at the time of purchase only in an area designated as the marijuana consumption area and separated from the remainder of the premises, either by a secure door and having a separate ventilation system, or by being outdoors in compliance with (c)(4) below;

(2) sell for consumption on the premises

(A) marijuana bud or flower in quantities not to exceed one gram to any one person per day;

(B) edible marijuana products in quantities not to exceed 10 mg of THC to any one person per day; and

(C) food or beverages not containing marijuana or alcohol; and

(3) allow a person to remove from the licensed premises marijuana or marijuana product that has been purchased on the licensed premises for consumption under this section, provided it is packaged in accordance with 3 AAC 306.345.

(b) A licensed retail marijuana store with an approved onsite consumption endorsement may not

(1) sell marijuana concentrate for consumption in the marijuana consumption area or allow marijuana concentrate to be consumed in the marijuana consumption area;

(2) allow any licensee, employee, or agent of a licensee to consume marijuana or marijuana product, including marijuana concentrate, during the course of a work shift;

(3) allow a person to consume tobacco or tobacco products in the marijuana consumption area;

(4) allow a person to bring into or consume in the marijuana consumption area any marijuana or marijuana product that was not purchased at the licensed retail marijuana store;

(5) sell, offer to sell, or deliver marijuana or marijuana product at a price less than the price regularly charged for the marijuana or marijuana product during the same calendar week;

(6) sell, offer to sell, or deliver an unlimited amount of marijuana or marijuana product during a set period of time for a fixed price;

(7) sell, offer to sell, or deliver marijuana or marijuana product on any one day at prices less than those charged the general public on that day;

(8) encourage or permit an organized game or contest on the licensed premises that involves consuming marijuana or marijuana product or the awarding of marijuana or marijuana product as prizes; or

(9) advertise or promote in any way, either on or off the premises, a practice prohibited under this section.

(c) A marijuana consumption area shall have the following characteristics:

(1) the consumption area shall be isolated from the other areas of the retail marijuana store, separated by walls and a secure door, and shall have access only from the retail marijuana store;

(2) a smoke-free area for employees to monitor the marijuana consumption area;

(3) a ventilation system that directs air from the marijuana consumption area to the outside of the building through a filtration system sufficient to remove visible smoke, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line;

(4) if outdoors, be found by the board to be compatible with uses in the surrounding area through evaluation of

(A) neighboring uses;

(B) the location of air intake vents on neighboring buildings;

(C) a sight-obscuring wall or fence around the outdoor marijuana consumption area;

(D) objections of property owners, residents, and occupants within 250 linear feet or the notification distance required by the local government, whichever is greater; and

(E) any other information the board finds relevant.

(d) An applicant for an onsite consumption endorsement must file an application on a form the board prescribes, including the documents and endorsement fee set out in this section, which must include

(1) the applicant's operating plan, in a format the board prescribes, describing the retail marijuana store's plan for

(A) security, in addition to what is required for a retail marijuana store, including:

(i) doors and locks;

(ii) windows;

(iii) measures to prevent diversion; and

(iv) measures to prohibit access to persons under the age of 21;

(B) ventilation. If consumption by inhalation is to be permitted,

ventilation plans must be

(i) signed and approved by a licensed mechanical engineer;

(ii) sufficient to remove visible smoke; and

(iii) consistent with all applicable building codes and ordinances;

(C) monitoring overconsumption;

(D) unconsumed marijuana, by disposal or by packaging in accordance

with 3 AAC 306.345; and

(E) preventing introduction into the marijuana consumption area of

marijuana or marijuana products not sold by the retail marijuana store, and marijuana or

marijuana products not sold specifically for onsite consumption;

(2) the applicant's detailed diagram of the marijuana consumption area which

must show the location of

(A) the licensed premises of the retail marijuana store;

(B) serving area or areas;

(C) ventilation exhaust points, if applicable;

(D) the employee monitoring area;

(E) doors, windows, or other exits; and

(F) access control points;

(3) the title, lease, or other documentation showing the applicant's sole right of possession of the proposed marijuana consumption area, if the area is not already part of the approved licensed premises for the retail marijuana store;

(4) an affidavit that notice of an outdoor marijuana consumption area has been mailed to property owners, residents, and occupants of properties within 250 linear feet of the boundaries of the property on which the onsite consumption endorsement is proposed, or the notification distance required by the local government, whichever is greater.

(e) The retail marijuana store holding an onsite consumption endorsement under this chapter shall

(1) destroy all unconsumed marijuana left abandoned or unclaimed in the marijuana consumption area in accordance with the operating plan and 3 AAC 306.740;

(2) monitor patrons in the marijuana consumption area at all times, specifically for overconsumption;

(3) display all warning signs required under 3 AAC 306.360 and 3 AAC 306.365 within the marijuana consumption area, visible to all consumers;

(4) provide written materials containing marijuana dosage and safety information for each type of marijuana or marijuana product sold for consumption in the marijuana consumption area at no cost to patrons;

(5) package and label all marijuana or marijuana product sold for consumption on the premises as required in 3 AAC 306.345; and

(6) comply with any conditions set by the local government or placed on the endorsement by the board.

(f) The holder of an onsite consumption endorsement must apply for renewal annually at the time of renewal of the underlying retail marijuana store license. (Eff. 4 / 11 / 2019, Register 230)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.38.121

3 AAC 306.990(b) is amended to add the following subsections:

(41) “drunken person” has the meaning given in AS 04.21.080(b)(9);

(42) “freestanding” has the meaning given in AS 18.35.301(i)(1);

(43) “intoxicated” has the meaning given in AS 11.81.900(b)(34);

(44) “marijuana consumption area” means a designated area within the licensed premises of a retail marijuana store that holds a valid onsite consumption endorsement, where marijuana and marijuana products, excluding marijuana concentrates, may be consumed.

(45) “retail marijuana store premises” means an area encompassing both the retail marijuana store and any marijuana consumption area.

(46) “sight-obscuring wall or fence” means a wall or fence, including any gates, constructed of solid material and a minimum of six feet in height. (Eff. 2/24/2015, Register 213; am 2/21/2016, Register 217; am 10/11/2017, Register 224; am 8/11/2018, Register 227; am 4 / 11 / 2019, Register 230)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.38.121

MEMORANDUM

State of Alaska
Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: February 28, 2019

File No.: JU2017200548

Tel. No.: 465-3600

From: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Re: Marijuana Control Board:
Marijuana Onsite Consumption
(3 AAC 306.370)

The Department of Law has reviewed the attached regulations of the Marijuana Control Board against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations implement standards for onsite consumption of marijuana (excluding concentrates) in a freestanding licensed retail marijuana store with an endorsement. An endorsement is not a separate license for a retail marijuana store; it is a separate authorization on top of a retail marijuana store license.

The subject of these regulations was considered by the board for approximately two years (and 11 public meetings). Our review addresses whether the procedural steps were followed and whether the regulations are consistent with the authorizing statute and reasonably necessary to carry out its purpose. AS 44.62.030 and 44.62.060 (review of regulations for legality, constitutionality, and consistency with other regulations). We also address federal law in relation to the proposed regulations. AS 44.62.020 ("To be effective, each regulation adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.") *Davis v. State*, 235 P.3d 1017, 1020 (Alaska App. 2010); *Beran v. State*, 705 P.2d 1280, 1287 (Alaska App. 1985).

Procedural steps. The proposed regulations were published on August 23, 2018; the notice stated the board was considering regulations for onsite consumption endorsements for retail marijuana establishments. The board accepted written and oral comments, with oral comments occurring at a hearing on December 19, 2018. The regulations were adopted by the Marijuana Control Board after the close of the public comment period.

The August 23, 2018 public notice gives notice that the board would consider onsite marijuana consumption endorsements for retail marijuana establishments. The board took written and oral comments. The board adopted the regulation at its December 20, 2018 meeting. Further, the public notice and the January 8, 2019 certification of adoption order states that this action is

not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Consistency with authorizing statute. The board is authorized to propose and adopt regulations. Further, while marijuana consumption “in public” is illegal (AS 17.38.040) consumption within regulated, licensed premises is anticipated; the board has statutory authority to make changes to the area of a licensed premises “necessary to ensure control over the sale and consumption of marijuana on the premises.” AS 17.38.121(c). Under current regulation, “in public” does not “include an area on the premises of a licensed retail marijuana store designated for onsite consumption.” 3 AAC 306.990(a)(5)(C). The board further provides in these regulations that marijuana consumption is limited to a “marijuana consumption area within the licensed premises of a retail marijuana store that holds a valid onsite consumption endorsement.” 3 AAC 306.990(b)(44).

Consumption of marijuana in a licensed premises excludes marijuana concentrates (3 AAC 306.990(b)(44)), but envisions that some consumption may be through smoking marijuana or a marijuana product. Accordingly, we considered AS 18.35.301, which addresses public health law by prohibiting smoking tobacco in certain places, but the statute provides an exception for smoking “in an establishment licensed under AS 17.38 that is freestanding if the smoking is in accordance with regulations adopted by the Marijuana Control Board created under AS 17.38.080.” AS 18.35.301(h)(3). “Freestanding” means a building that is not supported by another structure and does not share ventilation or internal airspace with an adjoining structure and smoke from the building cannot travel into the adjoining structure. AS 18.35.301(i)(1). The regulations proposed here adopt this definition of “freestanding” in 3 AAC 306.990(b)(42).

In short, we find that the state statutes provide the board with necessary regulatory authority, and anticipate onsite consumption of marijuana, in a freestanding building.

Reasonably necessary to carry out the statutory purpose. Here we consider if the regulation is reasonable and not arbitrary. *Kelly v. Zamarello*, 486 P.2d 906 (Alaska 1971). Initially we note that the board considered the issue of onsite consumption for approximately two years, including approximately 11 meetings of substantive discussion about onsite consumption. The result is a detailed regulation, 3 AAC 306.370, onsite consumption endorsement for retail marijuana stores, to set the standards for onsite consumption. We are confident the record reflects that the board engaged in reasoned decision making. *See, Alaska Fish & Wildlife Conservation Fund v. State*, 347 P.3d 97 (Alaska 2015).

Specifically, the section limits consumption endorsements to stores that are freestanding, and where not otherwise prohibited by local or state law. 3 AAC 306.370(a). A marijuana store with a consumption endorsement is authorized to sell marijuana products including limited quantities of bud or flower or products not to exceed 10 mg of THC and *not including concentrates*, for consumption in a designated area that is separated from the rest of the store by a secure door and having a separate ventilation system or that is outdoors. 3 AAC 306.370(a)(1) and (2). The store may sell food or beverages not containing marijuana or alcohol (3 AAC 306.370(a)(2)(C)) and may allow customers to take away from the premises product that they

have purchased for consumption on the premises so long as it is packaged properly. 3 AAC 306.370(a)(3). The section provides that a store with an endorsement may not:

- (1) sell concentrate for consumption in the consumption area or allow it to be consumed in the consumption area;
- (2) allow consumption by employees while on the job;
- (3) allow tobacco consumption;
- (4) allow offsite purchases to be consumed in the consumption area;
- (5) offer “happy hour” type discounts;
- (6) offer “all-you-can-eat” type deals;
- (7) offer “in-house” type discounts;
- (8) offer or encourage games or contests that involve marijuana consumption or awarding of marijuana as prizes; or
- (9) advertise any prohibited practice, whether on or off the premises.

In addition, this section sets out the physical characteristics of a marijuana consumption area. 3 AAC 306.370(c). It must be accessible only from inside the store but must be isolated from the rest of the store, have a smoke-free area from which employees can monitor the consumption area, and have a ventilation system that directs air outside and removes visible smoke and odor at the property line. 3 AAC 306.370(c)(1)-(3). If the consumption area is outdoors, it must be found by the board to be compatible with uses in the surrounding area. 3 AAC 306.370(c)(4). This paragraph requires at least the consideration of a sight-obscuring wall or fence around the area and consideration of the objections of neighbors.

Obtaining an endorsement for onsite consumption requires an applicant to hold a license for a retail marijuana store. To apply for an endorsement to allow onsite consumption on the licensed premises, the applicant must show plans for security, ventilation, monitoring consumption, disposition of unconsumed marijuana, and preventing introduction of product not purchased onsite. 3 AAC 306.370(d)(1). In addition, the application must include a detailed diagram of the consumption area, ventilation exhaust points, the employee monitoring area, and access control points, as well as proof of possession of the property and proof that notice of any outdoor consumption area has been given to nearby property owners. 3 AAC 306.370(d)(2)-(4). Subsection (e) requires an endorsement holder to destroy all unconsumed product left by customers, monitor consumption, display warning signs required of stores, provide dosage and safety information for each product that is sold for consumption, ensure that all product is packaged properly, and comply with all conditions set by local government or the board. Finally, onsite endorsements must be renewed annually. 3 AAC 306.370(f).

Local governments can adopt a local option to prohibit onsite consumption endorsements, just as they can now opt out of specific license types (stores, cultivation facilities, manufacturing facilities and testing facilities) (3 AAC 306.200(a)(2)); with the proposed amendments, they could also opt to prohibit specific operational characteristics of an onsite consumption endorsement, including by smoking or vaping, or consuming outdoors. 3 AAC 306.200(a)(3); 3

AAC 306.250. Also, these proposed amendments would allow a local government to hold an endorsement if it has a retail store license. 3 AAC 306.200(f).

In our view, the regulations are reasonably necessary to assure onsite consumption is retained in the licensed premises of a freestanding building.

Federal law. Next, we address whether the regulations are problematic under federal law. Under Alaska law, some commercial marijuana activity is authorized under AS 17.38, including onsite consumption on a licensed premises; for the reasons explained above these regulations are authorized by state law. But marijuana cultivation, use, and possession remains illegal under federal law. The regulations cannot resolve this conflict. Previously, the federal government issued guidance for states with legalized marijuana suggesting that the federal government would be more inclined to leave enforcement of criminal law applicable to commercial marijuana to states where the state has a robust regulatory system.¹ Accordingly, our state's marijuana regulation has been developed with attention to former key federal guidance, including regulatory action to ensure safe and clear packaging, regulations to ensure marijuana is not accessible to persons under age, and robust vetting requirements for licensees. The current regulations appear to establish robust requirements for onsite consumption designed to ensure limited onsite use, and with restrictions (such as requirements for security) designed to ensure that marijuana consumption occurs only by those of legal age on a designated area of a licensed premise, remains on the premise, and includes only consumption of marijuana purchased at the licensed premise. Accordingly, we believe that the board has established restrictions to ensure compliance with state law.

SRP:lbp

cc: Erika McConnell, Director
Marijuana Control Board
Department of Commerce, Community, and Economic Development

Debbie Morgan, Regulations Contact
Department of Commerce, Community, and Economic Development

Jedediah Smith, Local Government Specialist
Alcohol and Marijuana Control Office
Department of Commerce, Community, and Economic Development

Harriet Dinegar Milks, Assistant Attorney General
Commercial, Fair Business, and Child Support Section

¹ James M. Cole, Deputy Attorney General, U.S. Dep't of Justice, *Memorandum for All United States Attorneys, Guidance Regarding Marijuana Enforcement* (Aug. 29, 2013; later withdrawn, Memorandum from Attorney General Jefferson B. Sessions III to All U.S. Attorneys (Jan. 4, 2018), <https://www.justice.gov/opa/press-release/file/1022196/download>.

National Institute on Drug Abuse (NIDA) Marijuana

Last Updated June 2018

<https://www.drugabuse.gov>



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Letter From the Director



Photo by the NIDA

Changes in marijuana policies across states legalizing marijuana for medical and/or recreational use suggest that marijuana is gaining greater acceptance in our society. Thus, it is particularly important for people to understand what is known about both the adverse health effects and the potential therapeutic benefits linked to marijuana.

Because marijuana impairs short-term memory and judgment and distorts perception, it can impair performance in school or at work and make it dangerous to drive. It also affects brain systems that are still maturing through young adulthood, so regular use by teens may have negative and long-lasting effects on their cognitive development, putting them at a competitive disadvantage and possibly interfering with their well-being in other ways. Also, contrary to popular belief, marijuana can be addictive, and its use during adolescence may make other forms of problem use or addiction more likely.

Whether smoking or otherwise consuming marijuana has therapeutic benefits that outweigh its health risks is still an open question that science has not resolved. Although many states now permit dispensing marijuana for medicinal purposes and there is mounting anecdotal evidence for the efficacy of marijuana-derived compounds, the U.S. Food and Drug Administration has not approved "medical marijuana." However, safe medicines based on cannabinoid chemicals derived from the marijuana plant have been available for decades and more are being developed.

This Research Report is intended as a useful summary of what the most up-to-date science has to say about marijuana and its effects on those who use it at any age.

Nora D. Volkow, M.D.

Director

National Institute on Drug Abuse

See Also:

- [Message from the NIDA Director - Marijuana's Lasting Effects on the Brain](#), (Archives) (March 2013)

What are marijuana's effects on lung health?

Like tobacco smoke, marijuana smoke is an irritant to the throat and lungs and can cause a heavy cough during use. It also contains levels of volatile chemicals and tar that are similar to tobacco smoke, raising concerns about risk for cancer and lung disease.⁶⁸

Marijuana smoking is associated with large airway inflammation, increased airway resistance, and lung hyperinflation, and those who smoke marijuana regularly report more symptoms of chronic bronchitis than those who do not smoke.^{68,69} One study found that people who frequently smoke marijuana had more outpatient medical visits for respiratory problems than those who do not smoke.⁷⁰ Some case studies have suggested that, because of THC's immune-suppressing effects, smoking marijuana might increase susceptibility to lung infections, such as pneumonia, in people with immune deficiencies; however, a large AIDS cohort study did not confirm such an association.⁶⁸ Smoking marijuana may also reduce the respiratory system's immune response, increasing the likelihood of the person acquiring respiratory infections, including pneumonia.⁶⁹ Animal and human studies have not found that marijuana increases risk for emphysema.⁶⁸

Whether smoking marijuana causes lung cancer, as cigarette smoking does, remains an open question.^{68,71} Marijuana smoke contains carcinogenic combustion products, including about 50 percent more benzoprene and 75 percent more benzanthracene (and more phenols, vinyl chlorides, nitrosamines, reactive oxygen species) than cigarette smoke.⁶⁸ Because of how it is typically smoked (deeper inhale, held for longer), marijuana smoking leads to four times the deposition of tar compared to cigarette smoking.⁷² However, while a few small, uncontrolled studies have suggested that heavy, regular marijuana smoking could increase risk for respiratory cancers, well-designed population studies have failed to find an increased risk of lung cancer associated with marijuana use.⁶⁸

One complexity in comparing the lung-health risks of marijuana and tobacco

concerns the very different ways the two substances are used. While people who smoke marijuana often inhale more deeply and hold the smoke in their lungs for a longer duration than is typical with cigarettes, marijuana's effects last longer, so people who use marijuana may smoke less frequently than those who smoke cigarettes.

Additionally, the fact that many people use both marijuana and tobacco makes determining marijuana's precise contribution to lung cancer risk, if any, difficult to establish. Cell culture and animal studies have also suggested THC and CBD may have antitumor effects, and this has been proposed as one reason why stronger expected associations are not seen between marijuana use and lung cancer, but more research is needed on this question.⁶⁸

What are marijuana's effects on other aspects of physical health?

Within a few minutes after inhaling marijuana smoke, a person's heart rate speeds up, the breathing passages relax and become enlarged, and blood vessels in the eyes expand, making the eyes look bloodshot. The heart rate—normally 70 to 80 beats per minute—may increase by 20 to 50 beats per minute or may even double in some cases. Taking other drugs with marijuana can amplify this effect.

Limited evidence suggests that a person's risk of heart attack during the first hour after smoking marijuana is nearly five times his or her usual risk.⁷³ This observation could be partly explained by marijuana raising blood pressure (in some cases) and heart rate and reducing the blood's capacity to carry oxygen.⁷⁴ Marijuana may also cause *orthostatic hypotension* (head rush or dizziness on standing up), possibly raising danger from fainting and falls. Tolerance to some cardiovascular effects often develops with repeated exposure.⁷⁵ These health effects need to be examined more closely, particularly given the increasing use of "medical marijuana" by people with health issues and older adults who may have increased baseline vulnerability due to age-related cardiovascular risk factors (see "[Is marijuana safe and effective as medicine?](#)").

A few studies have shown a clear link between marijuana use in adolescence and increased risk for an aggressive form of testicular cancer (nonseminomatous testicular germ cell tumor) that predominantly strikes young adult males.^{76,77} The early onset of testicular cancers compared to lung and most other cancers indicates that, whatever the nature of marijuana's contribution, it may accumulate over just a few years of use.

Studies have shown that in rare cases, chronic use of marijuana can lead to Cannabinoid Hyperemesis Syndrome—a condition marked by recurrent bouts of severe nausea, vomiting, and dehydration. This syndrome has been found to occur in persons under 50 years of age and with a long history of marijuana use. Cannabinoid Hyperemesis Syndrome can lead sufferers to make frequent

trips to the emergency room, but may be resolved when a person stops using marijuana.^{[78](#)}

Is marijuana safe and effective as medicine?

The potential medicinal properties of marijuana and its components have been the subject of research and heated debate for decades. THC itself has proven medical benefits in particular formulations. The U.S. Food and Drug Administration (FDA) has approved THC-based medications, dronabinol (Marinol®) and nabilone (Cesamet®), prescribed in pill form for the treatment of nausea in patients undergoing cancer chemotherapy and to stimulate appetite in patients with wasting syndrome due to AIDS. The FDA also approved a CBD-based liquid medication called Epidiolex® for the treatment of two forms of severe childhood epilepsy, Dravet syndrome and Lennox-Gastaut syndrome. It's being delivered to patients in a reliable dosage form and through a reproducible route of delivery to ensure that patients derive the anticipated benefits. CBD does not have the rewarding properties of THC.

In addition, several other marijuana-based medications have been approved or are undergoing clinical trials. Nabiximols (Sativex®), a mouth spray that is currently available in the United Kingdom, Canada, and several European countries for treating the spasticity and neuropathic pain that may accompany multiple sclerosis, combines THC with another chemical found in marijuana called cannabidiol (CBD).

Researchers generally consider medications like these, which use purified chemicals derived from or based on those in the marijuana plant, to be more promising therapeutically than use of the whole marijuana plant or its crude extracts. Development of drugs from botanicals such as the marijuana plant poses numerous challenges. Botanicals may contain hundreds of unknown, active chemicals, and it can be difficult to develop a product with accurate and consistent doses of these chemicals. Use of marijuana as medicine also poses other problems such as the adverse health effects of smoking and THC-induced cognitive impairment. Nevertheless, a growing number of states have legalized dispensing of marijuana or its extracts to people with a range of medical conditions.

An additional concern with "medical marijuana" is that little is known about the long-term impact of its use by people with health- and/or age-related vulnerabilities—such as older adults or people with cancer, AIDS, cardiovascular disease, multiple sclerosis, or other neurodegenerative diseases. Further research will be needed to determine whether people whose health has been compromised by disease or its treatment (e.g., chemotherapy) are at greater risk for adverse health outcomes from marijuana use.

Medical Marijuana Legalization and Prescription Opioid Use Outcomes

Two recent studies in JAMA Internal Medicine report an association between not only medical marijuana laws (MML) but also protected access to dispensaries and their association with opioid prescription patterns based on Medicaid or Medicare Part D prescription data. The first study found that Medicare Part D prescriptions filled for all opioids decreased in states with MML by 2.11 million daily doses per year per state. In states with medical cannabis dispensaries, prescriptions decreased by 3.742 million daily doses per year per state.⁷⁹ Similarly, the second study examined Medicaid prescription data and found that MMLs and adult-use marijuana laws were associated with lower opioid prescribing rates (5.88% and 6.38% lower, respectively).⁸⁰

Additionally, NIDA funded two studies that explored the relationship between marijuana legalization and adverse outcomes associated with prescription opioids. The first study found an association between medical marijuana legalization and a reduction in overdose deaths from opioid pain relievers; an effect that strengthened in each year following the implementation of legislation.⁸¹ The second NIDA-funded study was a more detailed analysis by the RAND Corporation that showed legally protected access to medical marijuana dispensaries is associated with lower levels of opioid prescribing, lower self-report of nonmedical prescription opioid use, lower treatment admissions for prescription opioid use disorders, and reduction in prescription opioid overdose deaths.⁸² Notably, the reduction in deaths was present only in states with dispensaries (not just medical marijuana laws) and was greater in states with active dispensaries. It should be noted that the population-based

nature of these studies, and the two above, do not establish a causal relationship or give evidence for changes in individual pain patient behavior and caution should be used when interpreting their results.

To date, research into the effects of cannabis on opioid use in pain patients is mixed. Some data suggest that medical cannabis treatment may reduce the dose of opioids required for pain relief,^{83,84} while another NIH-funded study found that cannabis use appears to increase the risk of developing nonmedical prescription opioid use and opioid use disorder.⁸⁵ Though no single study is definitive, they cumulatively suggest that medical marijuana products may play a role in reducing the use of opioids needed to control pain but that these products don't come without risk. More research is needed to investigate the potential therapeutic role of marijuana including its role as a treatment option for opioid use disorder and its ability to reduce specific types of pain.

What are the effects of secondhand exposure to marijuana smoke?

People often ask about the possible psychoactive effect of exposure to secondhand marijuana smoke and whether a person who has inhaled secondhand marijuana smoke could fail a drug test. Researchers measured the amount of THC in the blood of people who do not smoke marijuana and had spent 3 hours in a well-ventilated space with people casually smoking marijuana; THC was present in the blood of the nonsmoking participants, but the amount was well below the level needed to fail a drug test. Another study that varied the levels of ventilation and the potency of the marijuana found that some nonsmoking participants exposed for an hour to high-THC marijuana (11.3 percent THC concentration) in an unventilated room showed positive urine assays in the hours directly following exposure⁸⁶; a follow-up study showed that nonsmoking people in a confined space with people smoking high-THC marijuana reported mild subjective effects of the drug—a "contact high"—and displayed mild impairments on performance in motor tasks.⁸⁷

The known health risks of secondhand exposure to cigarette smoke—to the heart or lungs, for instance—raise questions about whether secondhand exposure to marijuana smoke poses similar health risks. At this point, very little research on this question has been conducted. A 2016 study in rats found that secondhand exposure to marijuana smoke affected a measure of blood vessel function as much as secondhand tobacco smoke, and the effects lasted longer.⁸⁸ One minute of exposure to secondhand marijuana smoke impaired flow-mediated dilation (the extent to which arteries enlarge in response to increased blood flow) of the femoral artery that lasted for at least 90 minutes; impairment from 1 minute of secondhand tobacco exposure was recovered within 30 minutes. The effects of marijuana smoke were independent of THC concentration; i.e., when THC was removed, the impairment was still present. This research has not yet been conducted with human subjects, but the toxins and tar levels known to be present in marijuana smoke (see [“What are marijuana’s effects on lung health?”](#)) raise concerns about exposure among vulnerable populations, such as children and people with asthma.

Presented by: The Manager
Introduced:
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2019-29 vCOW1

An Ordinance Amending the CBJ Code to Allow for the Consumption of Marijuana by Smoking and Edibles in Licensed Marijuana Retail Facilities with an Onsite Consumption Endorsement

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 Section. CBJC 36.60.010 is amended to read:
36.60.010 - Smoking prohibited.

(a) Except as provided in CBJ 36.60.030, smoking ~~Smoking~~ is prohibited:

- (1) In enclosed public places;
- (2) In enclosed areas that are places of employment;
- (3) In vehicles and enclosed areas owned by the City and Borough of Juneau, including the Juneau School District;
- (4) In commercial passenger vehicles regulated by the City and Borough under CBJ 20.40;
- (5) In bus passenger shelters;
- (6) In private clubs that are licensed by the State of Alaska to sell marijuana or alcoholic beverages, or that offer food for sale, regardless of the number of employees;

- 1
- 2 (7) In indoor or outdoor areas designated by "No Smoking" signs meeting the requirements
- 3 of CBJ 36.60.035;
- 4
- 5 (8) Outdoors within ten feet of playground equipment located at a public or private school or
- 6 a state or municipal park while children are present;
- 7
- 8 (9) Outdoors within ten feet of an entrance to a bar or restaurant that serves alcoholic
- 9 beverages;
- 10
- 11 (10) Outdoors within 20 feet of an entrance, open window, or heating or ventilation system
- 12 air intake vent of any building area within which smoking is prohibited by this chapter;
- 13 and
- 14
- 15 (11) Outdoors within a reasonable distance, as determined by the owner or operator, of an
- 16 entrance, open window, or heating or ventilation system air intake vent of:
- 17
- 18 (i) A vessel covered by this chapter; or
- 19
- 20 (ii) A long term care facility as defined in A.S. 47.62.090.

21 ***

22 **Section 3. Amendment of Section.** CBJC 36.60.030 is amended to read:

23 **36.60.030 - Exceptions; areas where smoking is not prohibited.**

- 24 (a) Unless otherwise prohibited by State or Federal law, smoking is not prohibited in the
- 25 following places:

- (1) Private residences, including those used as a place of employment, provided this exception does not apply at any time the private residence is open for use as a child care, adult care, or health care facility;
 - (2) An establishment licensed under AS 17.38 that is freestanding if the consumption is in accordance with regulations adopted by the Marijuana Control Board created under AS 17.38.080Reserved;
 - (3) Private enclosed areas in nursing homes or assisted living facilities;
 - (4) Reserved;
 - (5) Performers smoking as part of a stage performance;
 - (6) Reserved;
 - (7) Reserved;
 - (8) Federal or state property, or those portions of buildings leased by the federal or state government; and
 - (9) Private property used for residential incarceration under contract to a federal or state correctional agency.
- (b) The owner, operator, or manager of property may by permanently affixing a sign thereon, waive any exception provided in subsection (a) of this section.

Section 4. Amendment of Section. CBJC 42.20.230 is amended to read:

42.20.230 - Consumption of marijuana in a public place prohibited.

- (a) Consumption of marijuana in a public place is prohibited.

(b) For purposes of this section:

(1) Consumption means ingesting, inhaling or otherwise introducing marijuana into the human body.

(2) Marijuana has the same meaning as in Alaska Statute 17.38.900.

(3) Public place means a place, enclosed or unenclosed, to which the public or a substantial group of persons has access, including, but not limited to:

(A) Public streets, alleys, sidewalks, easements, trails or other ways dedicated or held for public vehicular or pedestrian use, including parking lots owned or operated by the municipality;

(B) Transportation facilities;

(C) Schools;

(D) Places of amusement or business;

(E) Parks;

(F) Playgrounds;

(G) Correctional facilities; and

(H) The common areas of public or private buildings and facilities.

(4) Public place does not mean an establishment licensed under AS 17.38 that is freestanding if the consumption is in accordance with regulations adopted by the Marijuana Control Board created under AS 17.38.080.

(c) Consumption of marijuana in a public place is an infraction.

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

Adopted this _____ day of _____, 2019.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk



DATE: June 7, 2019
 TO: Maria Gladziszewski, Deputy Mayor, Committee of the Whole
 FROM: Robert Palmer, Municipal Attorney
 SUBJECT: Draft Ord. 2019-30: Chronic Nuisance

On May 20, 2019, the Juneau Police Department presented the concept of a chronic nuisance ordinance. The Committee requested staff to develop the concept and return with a draft ordinance. The Committee also asked questions about the State law (AS 29.35.125), which was adopted in 2002. I drafted the attached ordinance based on AS 29.35.125 and chronic nuisance codes from other communities: Anchorage, AK (AMC 8.80); Portland, OR (PMC 14B.60), and the City of Ashland, OR (AMC 9.18).

AS § 29.35.125. Fees for police protection services

(a) A municipality may by ordinance impose a fee on the owner of residential property, including multi-family housing, if a member of the municipal police department goes to the property an excessive number of times during a calendar year in response to a call for assistance, a complaint, an emergency, or a potential emergency. The number of responses considered to be excessive and the amount of the fee shall be set out in the ordinance that establishes the fee. The fee may not exceed the actual cost to the municipality for the excessive responses. A fee may not be imposed under this subsection for responses to calls that involve potential child neglect, potential domestic violence, as defined in AS 18.66.990, or potential stalking under AS 11.41.260 or 11.41.270.

(b) An ordinance enacted under this section shall require actual notice to the property owner of police contacts and a warning that failure to take appropriate corrective action may result in the imposition of a fee. The ordinance must also define "appropriate corrective action" to include written notice to quit under AS 09.45.100--09.45.110 in appropriate situations as well as other types of corrective action, and provide that the property owner is not liable for the fee if that action is promptly taken.

(c) A municipality may provide that a fee imposed under (a) of this section is a lien on the property to which the municipal police have been called an excessive number of times and may provide for the recording and notice of the lien. When recorded, a lien under this subsection has priority over all other liens except

- (1) liens for property taxes, special assessments, and sales and use taxes;
- (2) liens that were perfected before the recording of the lien under this subsection; and
- (3) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien under this subsection.

(d) This section applies to home rule and general law municipalities.

Chapter 36.20 - NUISANCES

36.20.010 - Nuisances declared.

Any person who does any act, or causes or creates anything within the City and Borough which substantially and unreasonably interferes with the use or enjoyment of real property, including water, is guilty of maintaining a nuisance which shall be punished as a misdemeanor. Whenever a nuisance is deemed to exist it shall be abated by the chief of police or some other designated officer of the City and Borough at the expense of the person maintaining the nuisance.

(JCC § 8-5-1)

State Law reference— Nuisance defined, AS 09.45.255.

36.20.030 - Polluting water.

It is unlawful for any person to throw, empty out or deposit in any gutter or ditch or near any inhabited place, the suds or filthy water resulting from the washing of clothes, slops from kitchens or other foul or filthy matter or allow such water to stand on his or her own premises or to seep into the premises of another.

(JCC § 8-5-3)

36.20.035 - Watershed protection.

- (a) It is unlawful for any person within the Gold Creek Watershed or the Salmon Creek Watershed to:
 - (1) *Engage in recreational mining.* As used in this section, "recreational mining" means casual and isolated efforts to collect placer gold using shaker tables, sluice boxes, pumps, or any other device, but not including gold pans, whether used by individuals or organized groups.
 - (2) *Camp in Last Chance Basin or the Salmon Creek Watershed or camp for more than two nights in the Gold Creek Watershed outside Last Chance Basin.* As used in this section, "camp" means to be personally present with the intent of

remaining between the hours of 12:00 midnight and 7:00 a.m., other than in a permanent residential structure constructed and maintained in accordance with applicable codes.

- (b) It is unlawful for any person to operate a gasoline-powered vessel on the Salmon Creek Reservoir except as necessary to conduct official business of the City and Borough, the State of Alaska, the United States government, or the Alaska Electric Light and Power Company.
- (c) It is unlawful for any person to store fuel, lubricants, or hazardous substances in the Salmon Creek or Gold Creek Watersheds except as authorized by a state or federal permit or as necessary to conduct official business of the City and Borough, the State of Alaska, the United States government, or the Alaska Electric Light and Power Company. As used in this section, "store" means to maintain or keep in a container other than one which is transportable by and kept within the immediate control of a single person, and "hazardous substance" means a substance which is defined as such by state or federal law, or which when it enters into the atmosphere or in or upon water or surface or subsurface land, presents an imminent and substantial danger to the public health or welfare, including fish, animals, vegetation, or any part of the natural habitat in which they are found.
- (d) As used in this section,
 - (1) *Gold Creek Watershed* means all land which is higher in elevation than the Gold Creek steel vehicle bridge and which drains into Gold Creek.
 - (2) *Last Chance Basin* means all land within the Gold Creek Watershed between the Gold Creek steel vehicle bridge and the base of Ebner Falls.
 - (3) *Salmon Creek Watershed* means all land which is higher in elevation than the Salmon Creek Dam and which drains into the Salmon Creek Reservoir.
- (e) Violation of this section is an infraction.

(Serial No. 98-07, § 2, 1998; Serial No. 2007-53, § 3, 8-20-2007)

State Law reference— Environmental nuisances, AS 46.03.800—46.03.820.

36.20.040 - Gutters to be kept clean.

It shall be the duty of every owner of any property to keep the gutter in front of such property at all times clean and free from all obstructions to the free passage of water, and to remove all dirt, filth, garbage or rubbish that may have accumulated on the street or alley adjoining the property, to the middle of the street or alley.

(JCC § 8-5-4)

36.20.050 - Offensive drains.

No person shall permit any cellar, pool, sewer, water closet or private drain belonging to him or her to become nauseous, foul or offensive and prejudicial to the public health and comfort.

(JCC § 8-5-5)

36.20.055 - Storage and disposal of appliances.

- (a) *Precautionary measures.* No person shall leave, keep or permit upon any land or in or upon any premises occupied by that person or under his or her control, in a place accessible to children, any ice box, refrigerator, freezer, washer, dryer, or dishwasher not then being used for the purpose for which it was manufactured or produced, without first removing any doors thereon and taking such other adequate precautionary measures as may be required to prevent any person from being trapped in such ice box, refrigerator, freezer, washer, dryer, or dishwasher or in any part thereof.
- (b) *Use.* No person shall use an appliance referred to in subsection (a) of this section for the purpose for which it was manufactured other than in a wholly enclosed building.
- (c) *Exceptions.* Subsections (a) and (b) of this section shall not apply where an ice box, refrigerator, freezer, washer, dryer, or dishwasher:
 - (1) Is being delivered by a manufacturer of or dealer in such goods;
 - (2) Is being stored, or displayed for sale by a manufacturer of or dealer in such goods within a building partly or wholly occupied by or under the control of a dealer or manufacturer; or
 - (3) Is being exhibited at an agricultural, horticultural, industrial or sporting exhibition or fair.

(d) *Disposal.* No person shall dispose of or abandon upon any land or premises of another in any place accessible to children any ice box, refrigerator, freezer, washer, dryer, or dishwasher unless all the locks and doors thereon have been first removed.

(e) *Violations.* Any person who violates this section is guilty of an infraction.

(Serial No. 99-30, § 3, 1999)

36.20.056 - Bear attraction nuisance.

(a) *Offense.* Except as provided in this section, no owner or person in charge of property shall cause or allow the creation or maintenance of a bear attraction nuisance on that property or the adjacent right-of-way.

(b) *Classification of offense.* Violation of this section is:

- (1) A class A misdemeanor if the offense is committed intentionally, knowingly, or recklessly;
- (2) A class B misdemeanor if the offense is committed with criminal negligence;
- (3) A violation, subject to a civil fine, if the offense is not committed intentionally, knowingly, recklessly, or with criminal negligence;
- (4) Terms in this subsection identifying culpable mental states shall have the meaning ascribed to them in CBJ 42.05.010.

(c) Each and every day or portion thereof during which a violation or failure to comply is committed, permitted, or continued, shall be treated as a separate offense, and subject the offender to separate charges and a fine as provided in subsection (a) of this section.

(d) *Defenses.*

- (1) It shall be no defense for the owner of property to a charge under this section that the property was in the possession or control of another, unless it can be shown to the satisfaction of the court that at such time such property was being used without the consent of the owner.
- (2) It shall be a defense for the owner of property to a charge of a failure to appear in court if it is shown to the court's satisfaction that the owner was not aware of the citation and that such property was in the possession or control of another.

(e) *Definitions.* For purposes of this section:

(1) *"Bear attraction nuisance"* means

- (A) More than one-half gallon of any putrescible material, including packaging or other surfaces to which the material is adhered;
- (B) Any organic material of a type which has previously attracted a bear to the property;
- (C) Soiled disposable diapers;
- (D) Exceptions. "Bear attraction nuisance" does not include:
 - (i) Material in a certificated landfill;
 - (ii) Manure or sewage;
 - (iii) Material in a garbage can stored outside temporarily for purposes of collection after 4:00 a.m. on a day scheduled for collection;
 - (iv) Living or dead flora or fauna indigenous to the property on which it is located;
 - (v) Material completely enclosed in a structure or container which requires hands or tools to open, unless the structure or container has been proven ineffective as a bear-resistant container or containment area, whether due to design or improper use, three or more times within a 30-day period;
 - (vi) Material in a metal garbage container designed to be lifted and emptied by a garbage truck, provided that the container is tightly covered by a bear-resistant metal lid fastened with a bear-resistant device or located within a garbage containment area behind barriers sufficient to withstand entry by a bear, unless the container or area has been proven ineffective as a bear-resistant container or containment area, whether due to design or improper use, three or more times within a 30-day period.

(2) *"Garbage can"* means a watertight, odor-free, corrosion-resistant container labeled in a clear, discernible and legible fashion with the address of its owner, or, if rented, with the address of its renter, and equipped with a tight-fitting cover secured so as to remain in place if the can is knocked over.

(3) *"Person in control"* means a tenant or an agent, superintendent, or other owner's representative.

- (4) *"Property"* means developed or undeveloped real property, including any apartment house, mobile home park, planned unit development, or other multifamily development.
- (f) *Regulations.* The manager may adopt regulations pursuant to chapter 01.60 to implement the provisions of this chapter.
- (g) *Notification and abatement.* CBJ 36.20.060 does not apply to violations of the provisions of this section.

(Serial No. 2001-23am, § 2, 5-21-01; Serial No. 2001-37, § 2, 7-2-2001; Serial No. 2002-04(am-2), § 3, 3-18-2002; Serial No. 2004-11, § 3, 3-22-2004; Serial No. 2012-38, § 2, 9-17-2012; Serial No. 2013-15(c), § 7, 5-13-2013, eff. 6-13-2013; Serial No. 2013-21(b), § 2, 9-9-2013, eff. 10-10-2013.)

Editor's note— Serial No. 2004-11, § 3, adopted March 22, 2004, effective April 22, 2004, repealed former § 36.20.056, and enacted provisions designated as a new § 36.20.056 to read as herein set out. Prior to inclusion of said ordinance, § 36.20.056 pertained to urban bear control. See also the Code Comparative Table.

Editor's note— It should be noted that § 4 of Serial No. 2002-04(am-2) provides, " *Affirmative defense*. It shall be an affirmative defense to a prosecution under section 3(b) of the definition of "bear attraction nuisance" that the owner or person in control of the garbage container has made a good faith effort to acquire a metal lid, but because of a limited supply, has been unable to do so. This section shall expire on December 31, 2002."

36.20.057 - Barbed wire.

- (a) No person or firm being the owner of, or agent for, or in possession and control of any property within the roaded service area shall construct, maintain or allow to exist any barbed wire fence except as provided in this section.
- (b) This section shall not apply to barbed wire fences:
 - (1) Used to restrain livestock other than in a residentially zoned area.
 - (2) Enclosing a government facility.
 - (3) Existing within the City and Borough limits before January 1, 1990, provided that this exception shall expire on January 1, 2010.
 - (4) Containing barbed wire more than six feet above the ground and fencing material not including barbed wire below such level, commonly known as security fences.

(c) Violation of this section is a class B misdemeanor.

(Serial No. 2001-36, § 2, 6-18-2001)

36.20.058 - Manufacturing marijuana concentrate by unlawful means.

(a) Unless specifically authorized by license or permit to do so, it is unlawful for any person to manufacture marijuana concentrate by any means other than water-based, alcohol-based, or food-based extraction.

(b) For purposes of this section:

(1) *Marijuana concentrate* means resin, oil, wax, or any other substance produced by extracting or isolating cannabinoids, including tetrahydrocannabinol, or other components from a marijuana plant or from materials harvested from a marijuana plant.

(c) Violation of this section is a class A misdemeanor.

(Series No. 2016-02(b)(am), § 2, 2-8-2016, eff. 3-10-2016)

36.20.060 - Violation; notification; abatement.

It shall be the duty of the chief of police upon receiving notice of any violation of the provisions of this chapter to immediately notify the offender to show cause why the offender should not be required to abate and remove the same within such time as the chief of police may deem necessary to protect the public health, safety and welfare, not to exceed 72 hours. If the nuisance shall not be removed or abated or if the alleged offender shall not have appeared and shown cause why the condition complained of should not be regarded as a nuisance or, alternatively, why more time should be allowed for the abatement thereof, the chief of police shall cause the same to be removed and the expense thereof shall be paid by the City and Borough and recovered from the owner by an action at law.

(Serial No. 85-56 § 13, 1985; JCC § 8-5-6)

Chapter 36.30 - LITTER

36.30.010 - Short title.

This chapter shall be known and may be cited as the "Juneau, Alaska, Anti-Litter Ordinance."

(CBJ Code 1970, § 51.05.010; Serial No. 70-19, § 3, 1970)

36.30.020 - Definitions.

For the purposes of this chapter the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Abandoned vehicle means a vehicle registered or titled, as required under state law, that reasonably appears to have been left unattended, standing, parked upon or within ten feet of the traveled portion of a highway or vehicular way or area in excess of 48 hours, or a vehicle registered or titled, as required under state law, that reasonably appears to have been left standing or parked on private property in excess of 24 hours or upon other public property for more than 48 hours, without the consent of the owner or person in charge of the property.

State Law reference— Presumption of abandonment, AS 28.11.020.

Aircraft means any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air.

Authorized private receptacle means a litter storage and collection receptacle which is fitted with a tight cover; kept tightly covered at all times except when necessary to place litter therein or remove litter therefrom; and from which the litter is removed and properly disposed of once a week or more often. Such receptacle must be strong, watertight, not easily corrodible, rodent proof and insect proof.

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Junked vehicle means a vehicle that:

- (A) Is not currently registered under AS 28.10, except for a vehicle not currently registered under AS 28.10 and used exclusively for competitive racing;
- (B) Is stripped, wrecked, or otherwise inoperable due to mechanical failure;
- (C)

Has not been repaired because of mechanical difficulties or because the cost of repairs required to make it operable exceeds the fair market value of the vehicle; or

(D) Is in a condition that exhibits more than one of the following elements:

- (1) Broken glass;
- (2) Missing wheels or tires;
- (3) Missing body panels or parts; or
- (4) Missing drive train parts.

Litter means garbage, refuse, and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to be offensive, noxious or creates a danger to public health, safety and welfare.

Municipality means the City and Borough of Juneau, Alaska.

Newspaper means a publication, produced on newsprint and issued one or more times weekly, the primary purpose of which is the dissemination of noncommercial news, features, and editorial opinion, but which also contains commercial news, including advertising.

Park means a park, reservation, playground, beach, recreation center or any other public area in the municipality devoted to active or passive recreation.

Person means any person, firm, partnership, association, corporation, company, political subdivision or organization of any kind.

Refuse means all putrescible and nonputrescible solid wastes, except human body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.

Rubbish means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

Vehicle is every device in, upon, or by which any person or property is or may be transported or drawn upon highways, roads, or trails, including devices for off-highway use.

(CBJ Code 1970, § 51.05.020; Serial No. 70-19, § 3, 1970; Serial No. 81-16, § 2, 1981; Serial No. 82-36, § 4, 1982; Serial No. 2000-20, § 2, 6-5-2000)

Cross reference— Definitions generally, CBJ Code § 01.15.010.

36.30.030 - Litter in public places.

No person shall throw or deposit litter or thereafter allow the same to remain in or upon any street, sidewalk or other public place within the municipality except in public receptacles, and otherwise private receptacles for collection, or in a disposal area designated by the municipality.

(CBJ Code 1970, § 51.05.030; Serial No. 70-19, § 3, 1970; Serial No. 83-80, § 2, 1983)

Cross reference— Public ways and property, CBJ Code tit. 62.

State Law reference— Similar provisions, AS 46.06.080.

36.30.040 - Litter thrown by persons in vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the municipality, or upon private property.

(CBJ Code 1970, § 51.05.040; Serial No. 70-19, § 3, 1970)

State Law reference— Similar provisions, AS 46.06.080.

36.30.050 - Litter in parks.

No person shall throw or deposit litter in any park within the municipality except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided in this chapter.

(CBJ Code 1970, § 51.05.050; Serial No. 70-19, § 3, 1970)

Cross reference— Recreation, parks and community centers, CBJ Code tit. 67.

State Law reference— Similar provisions, AS 46.06.080.

36.30.060 - Litter in lakes and fountains.

No person shall throw or deposit litter in any lake, stream, bar or any other body of fresh or

salt water within the municipality.

(CBJ Code 1970, § 51.05.060; Serial No. 70-19, § 3, 1970)

Cross reference— Waters and harbors, CBJ Code tit. 85.

State Law reference— Similar provisions, AS 46.06.800.

36.30.070 - Truck loads causing litter.

- (a) No person may operate within the municipality a loaded vehicle unless the load is securely contained by the vehicle body, by independent containers or a tarpaulin securely fastened to the vehicle body, or by any combination thereof. The containment system shall be designed, maintained, arranged, and secured so as to prevent any of the load, its fumes or odors, or any containers or coverings from becoming loose or detached or from dropping, blowing away, sifting, leaking, or otherwise escaping or in any manner creating a hazard or nuisance to other users of the highway. Nor shall any person drive or move any vehicle or truck within the municipality, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.
- (b) Any person in charge of operating any truck or other vehicle having knowledge of that truck or vehicle causing litter to be deposited within the municipality shall immediately take all necessary steps to cease such littering and cause to be removed all litter which was deposited as a result of the operation of the truck or other vehicle it was his or her charge to operate.
- (c) Any person in charge of operating any truck or other vehicle having knowledge of that truck or other vehicle causing litter to be deposited within the municipality who is unable, for any reason except his or her personal injury, to immediately cease such littering and cause it to be removed shall immediately report such littering to the manager or any other agent designated by the municipality. Removal of such litter may then, if deemed in the public interest, be removed at the expense of the owner or operator of the truck or other vehicle causing the litter. Such removal or cleanup shall be to the satisfaction of the manager.

(CBJ Code 1970, § 51.05.070; Serial No. 70-19, § 3, 1970; Serial No. 82-36, § 2, 1982)

State Law reference— Contained or confined loads, AS 28.35.251; littering prohibited, AS

46.06.080.

36.30.080 - Dropping litter from aircraft.

No person in an aircraft shall throw out, drop or deposit within the municipality any litter or handbill.

(CBJ Code 1970, § 51.05.080; Serial No. 70-19, § 3, 1970)

State Law reference— Littering prohibited, AS 46.06.080.

36.30.090 - Litter on occupied private property.

No person shall throw or deposit litter on any occupied private property within the municipality whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(CBJ Code 1970, § 51.05.090; Serial No. 70-19, § 3, 1970)

State Law reference— Littering prohibited, AS 46.06.080.

36.30.100 - Owner to maintain premises.

The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

(CBJ Code 1970, § 51.05.100; Serial No. 70-19, § 3, 1970; Serial No. 82-36, § 3, 1982)

State Law reference— Littering prohibited, AS 46.06.080.

36.30.110 - Litter on vacant lots.

No person shall throw or deposit litter or thereafter allow the same to remain on any open or vacant private property within the municipality whether owned by such person or not.

(CBJ Code 1970, § 51.05.110; Serial No. 70-19, § 3, 1970; Serial No. 83-80, § 3, 1983)

State Law reference— Littering prohibited, AS 46.06.080.

36.30.120 - Clearing litter from private property.

- (a) *Disposal notice.* The manager is authorized to notify the owner of property within the municipality to properly dispose of litter located on the owner's property. The notice shall specify the type and location of the litter on the owner's property. Notice shall be provided to the owner at the owner's last known address as shown on the assessment rolls of the municipality. The notice shall state that the owner must dispose of litter on the owner's property within 30 days of receipt of the notice, and if the litter is not disposed of within that time, the municipality may dispose of the litter and bill the owner for disposal charges which, if unpaid after 30 days, shall accrue interest at the rate of 10½ percent per annum, plus applicable costs of collection, and such charges and costs shall become a lien on the owner's real property and shall be subject to a civil action for collection. The notice shall state that a hearing concerning disposal of the litter will be held within 30 days of receipt of the notice if the owner notifies the manager within 15 days of receipt of the notice that the owner contests the litter disposal notice.
- (b) *Response to disposal notice.* If the owner does not contest the disposal notice, the owner must dispose of the litter no later than 30 days following receipt of the notice. If the owner contests the disposal notice, the owner must notify the manager of the owner's opposition to the disposal notice within 15 days of receipt of the notice, in which case a hearing will be held. The owner must attend the hearing concerning disposal of the litter. The disposal notice is stayed pending the outcome of the hearing.
- (c) *Hearing procedure.* If a hearing is requested as provided in subsection (b) of this section, it will occur no more than 30 days following the owner's receipt of a disposal notice. The owner shall be provided with not less than five days' advance notice of the hearing date and time. The hearing notice shall include a copy of this section 36.30.120. The hearing shall be recorded and held before a hearing officer appointed by the manager. The case shall be presented first by a member of the City and Borough staff, who may testify. The owner shall then present the owner's side of the case and may testify. Each party may present witnesses. All testimony shall be under oath. The hearing shall be informal and technical rules of evidence shall not apply, but the parties shall confine their presentations to evidence or

arguments directly relating to disposal of the litter. The parties may be represented by counsel. In the hearing, the hearing officer may consider information and issues relevant to disposal of the litter, including the following: the owner's financial and physical ability to dispose of the litter; various options for disposal of the litter; the appropriate time frame for disposal of the litter; whether or not the material to be disposed of is "litter" as defined by the litter code; the owner's responsibility for disposal of litter on the owner's real property pursuant to the litter code; and whether or not the person directed to dispose of the litter is the owner of the real property upon which the litter is located. If the owner fails to appear for the hearing, the right to the hearing shall be deemed to be waived. Upon waiver of the hearing, the manager may take appropriate action to dispose of the owner's litter, and bill the owner for disposal charges, which, if unpaid after 30 days, shall accrue interest at the rate of 10½ percent per annum, plus applicable costs of collection, and such charges and costs shall become a lien on the owner's real property and shall be subject to a civil action for collection.

- (d) *Hearing decision.* At the conclusion of the hearing, the hearing officer may orally state the decision regarding disposal of the litter. No later than five days following the conclusion of the hearing, the hearing officer shall issue a written decision. The hearing officer is not required to make formal findings of fact and conclusions of law, but must clearly state the reasons for the decision and indicate the evidence relied upon. Notice of the hearing officer's written decision shall be provided to the owner. The hearing officer may order that the owner dispose of the litter. If disposal is ordered, the hearing officer's decision shall state that should the owner fail to dispose of the litter, the manager may take appropriate action to dispose of the litter and bill the owner for disposal charges which, if unpaid after 30 days, shall accrue interest at the rate of 10½ percent per annum, plus applicable costs of collection, and such charges and costs shall become a lien on the owner's real property and shall be subject to a civil action for collection.
- (e) *Appeal.* The hearing officer's decision is final. The owner may, within 30 days of receipt of notice of the decision, file an appeal of the decision in the state superior court in accordance with the applicable court rules governing appeals of decisions of administrative agencies.

(f)

Compliance with decision ordering disposal. If the hearing officer orders the owner to dispose of the litter and the owner fails to dispose of the litter as ordered or within 30 days of receipt of the decision, whichever is later, the manager may take appropriate action to dispose of the litter and bill the owner for disposal charges. If the bill is not paid within 30 days, it shall accrue interest at the rate of 10½ percent per annum, plus applicable costs of collection, and shall become a lien on the owner's real property, and shall be subject to a civil action for collection. If the owner files a timely appeal in superior court of the hearing officer's decision, municipal action concerning disposal of the litter will be stayed pending outcome of the appeal.

- (g) *Owner's payment of litter disposal charges.* In the event the municipality or an agent thereof disposes of an owner's litter as set forth in this section, notice of the bill for the disposal charges shall be provided to the owner. The owner has 30 days from the date of receipt of the notice to pay the amount owing to the municipality. The notice shall state that, if the owner fails to pay the amount set forth therein within 30 days, such amount shall thereupon be delinquent and shall accrue interest at the rate of 10½ percent per annum, plus applicable costs of collection, and shall become a lien on the owner's real property, and shall be subject to a civil action for collection.
- (h) *Owner defined.* "Owner" means the owner of the real property on which the litter is located, or the agent of the owner.
- (i) *Notice.* Whenever notice is required to be given to the owner of the property under this section, it shall be provided to the owner at the owner's last known address as it appears on the assessment rolls of the municipality, by certified mail, return receipt requested, or by personal delivery.
- (j) *Computation of time.* For purposes of this section, in computing any prescribed period of time, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.
- (k) *Exceptions.* This section does not apply to disposal of abandoned vehicles, which is governed by AS 28.11.010—28.11.110.

State Law reference— Citations, AS 12.25.190.

36.30.130 - Sweeping litter into gutters prohibited.

No person shall sweep into or deposit in any gutter, street or other public place within the municipality the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk adjoining their premises free of litter.

(CBJ Code 1970, § 51.05.130; Serial No. 70-19, § 3, 1970)

State Law reference— Littering prohibited, AS 46.06.080.

36.30.140 - Merchants to keep sidewalks litter-free.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the municipality the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the municipality shall keep the sidewalk adjoining their business free of litter, mud and dirt.

(CBJ Code 1970, § 51.05.140; Serial No. 70-19, § 3, 1970)

State Law reference— Littering prohibited, AS 46.06.080.

36.30.150 - Placement of litter in receptacles.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. Public litter receptacles shall not be used for the deposition of household litter, dead animals or other putrescible matter.

(CBJ Code 1970, § 51.05.150; Serial No. 70-19, § 3, 1970)

36.30.160 - Handbills; throwing or distributing in public place.

No person shall throw or deposit any handbill in or upon any sidewalk, street or other public place within the municipality. Provided, however, that it is not unlawful on any sidewalk, street, or other public place within the municipality for any person to hand out or distribute, without charge to the receiver thereof, any handbill to any person willing to accept it.

(CBJ Code 1970, § 51.05.160; Serial No. 70-19, § 3, 1970)

Cross reference— Public ways and property, CBJ Code tit. 62.

36.30.170 - Placing handbills on vehicles.

No person shall throw or deposit any handbill in or upon any vehicle, provided enforcement agents and police officers may deposit motor vehicle regulatory notices and citations upon vehicles. It is not unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a handbill to any occupant of a vehicle who is willing to accept it.

(CBJ Code 1970, § 51.05.170; Serial No. 70-19, § 3, 1970; Serial No. 84-04, § 2, 1984)

36.30.180 - Depositing handbills on vacant private premises.

No person shall throw or deposit any handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(CBJ Code 1970, § 51.05.180; Serial No. 70-19, § 3, 1970)

36.30.190 - Handbill distribution prohibited where posted.

No person shall throw, deposit or distribute any handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any matter that the occupants of the premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

(CBJ Code 1970, § 51.05.190; Serial No. 70-19, § 3, 1970)

36.30.200 - Posting notices.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law.

(CBJ Code 1970, § 51.05.200; Serial No. 70-19, § 3, 1970)

36.30.210 - Handbills; distributing at inhabited private premises.

- (a) *Generally.* No person shall throw, deposit or distribute any handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted, as provided in this chapter, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public place, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.
- (b) *Exemption for mail and newspapers.* The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(CBJ Code 1970, § 51.05.210; Serial No. 70-19, § 3, 1970)

36.30.220 - Violation; penalty.

Any person violating the provisions of this chapter shall be guilty of an infraction. Upon conviction for depositing an amount of litter, which, when aggregated, constitutes less than one square foot of litter, in violation of sections 36.30.030—36.30.080, or of Section 36.30.110, the court shall impose a fine not to exceed \$50.00. Upon conviction for depositing an amount of litter, which, when aggregated, constitutes one square foot or more of litter, in violation of sections 36.30.030—36.30.080, or section 36.30.110, the court shall impose minimum fines as follows: for the first conviction, \$200.00; for the second conviction within two years, \$250.00; for the third and

subsequent convictions within two years, \$300.00. The execution of sentence may not be suspended nor may probation be granted except on condition that the minimum fine provided in this section is paid. Imposition of sentence may not be suspended.

(Serial No. 86-74, § 2, 1986; Serial No. 2000-20, § 3, 6-5-2000; Serial No. 2004-04, § 2, 1-26-2004; Serial No. 2010-18, § 3, 6-28-2010)

State Law reference— Violations, penalties, AS 46.06.080.

36.30.230 - Abandoned and junked vehicles.

- (a) No person may deposit or maintain a junked or abandoned vehicle on any private property or on any street, sidewalk, recreation area, open space, or other public property. It shall be a defense to a charge under this section that the vehicle was located within a permanent structure or on property lawfully used as a junkyard pursuant to title 49 of this Code.
- (b) A junked or abandoned vehicle deposited in any place in violation of this section is considered to have been so deposited by the last registered owner of the vehicle unless the last registered owner has filed a notice of transfer or assignment in accordance with AS 28.10.271, in which case proof of the filing of the notice shall constitute prima facie evidence that the transferee named in the notice was the person who deposited the junked or abandoned vehicle in violation of this section.
- (c) A transferor or assignor of a vehicle who fails to file a notice as provided in AS 28.10.271, within ten days of the transfer or assignment, shall be guilty of an infraction.
- (d) Violation of subsection (a) or subsection (c) of this section is an infraction, upon conviction of which the court shall impose a minimum fine of \$295.00. The execution of sentence may not be suspended nor may probation be granted except on condition that the minimum fine provided in this section is paid. Imposition of sentence may not be suspended.
- (e) Upon a conviction under subsection (a) of this section, the court shall order the defendant to make restitution for the actual costs incurred by the City and Borough for disposal of the vehicle.

(Serial No. 79-53, § 3, 1979; Serial No. 2000-20, § 4, 6-5-2000)

36.30.240 - Owner of personal property responsible for litter.

- (a) Any owner or person in control of an item shall dispose of it only in a manner that will prevent it from being thrown, deposited, or distributed in any place except a refuse container, a licensed sanitary landfill, a licensed hazardous waste station, or other lawful waste disposal site.
- (b) Ownership or control and disposal by a person of a collection of litter found at a place other than a refuse container, a licensed sanitary landfill, a licensed hazardous waste station, or other lawful waste disposal site, may be established if the collection includes mail addressed to that person, items having other indicia of ownership or control by that person, or items identified by a witness as owned or controlled by that person.
- (c) It shall be a defense to liability under this section if the defendant can establish that an item came to be thrown, deposited, or distributed at a place other than a refuse container, a licensed sanitary landfill, a licensed hazardous waste station, or other lawful waste disposal site solely by an act of God or an act or omission of a third party other than an employee or agent of the defendant, if the defendant establishes that the defendant exercised due care with respect to disposal of the item, including foreseeable acts or omissions of such third party.

(Serial No. 94-16, § 2, 1994)

36.30.250 - Unauthorized use of garbage containers.

- (a) No person may deposit garbage in or about a residential garbage can, commercial dumpster, or other container owned or leased by another unless the person depositing the refuse has been authorized to do so by the owner or lessee of the container.
- (b) No person may deposit garbage in or about a garbage container placed by a government agency on public property unless the garbage was generated while making a permitted use of the public property associated with the container. Unless otherwise posted on the containers, garbage containers placed by a government agency within highway rights-of-way, parking areas abutting a public highway, scenic pullouts or overlooks, highway rest areas and similar places serving the traveling public may be used only for the deposit of garbage generated while making a lawful use of such area or while traveling upon the streets and highways.

- (c) No person may deposit refuse in or about a garbage container which is on a facility or property which is a part of a municipally operated harbor facility unless the refuse was generated during the use of a boat, whether it was generated while the boat was inside the harbor or was afloat or underway outside the harbor.

(Serial No. 2001-23am, § 3, 5-21-2001)

Chapter 36.40 - SOLID FUEL-FIRED BURNING DEVICES

36.40.010. - Findings.

The assembly of the City and Borough finds that there has been a significant and unprecedented increase in the installation and use of solid fuel-fired burning devices in the City and Borough; that the increase in such installations and use in the Mendenhall Valley has been especially great; that such devices generally produce a high level of harmful airborne pollutants; and that the above conditions combined with atmospheric conditions throughout the municipality and other factors causing recurring smoke pollution conditions are detrimental to the health of, and offensive to, the people of Juneau. It is the purpose of this chapter to reduce the increase of airborne pollutants from open burning and from solid fuel-fired heating devices at the times and in the areas of the City and Borough that appear to be most adversely affected by such pollutants.

(Serial No. 2008-28, § 2, 9-8-2008)

36.40.020. - Smoke hazard area map adopted.

There are adopted as the maps identifying the smoke hazard areas of the City and Borough the maps entitled "Mendenhall Valley Smoke Hazard Area Map, City and Borough of Juneau, Alaska," dated September 30, 1985, and "Lemon Creek Smoke Hazard Area Map," dated December 10, 1985.

(Serial No. 2008-28, § 2, 9-8-2008)

36.40.030. - Definitions.

The following words, terms and phrases when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Masonry heater means a heating appliance constructed of concrete or solid masonry which is designed to absorb and store heat from a solid fuel fire built in the firebox by routing the exhaust gases through internal heat exchange channels in which the flow path downstream of the firebox may include flow in a horizontal or downward direction before entering the chimney and which delivers heat by radiation from the masonry surface of the heater, or as otherwise defined in the current version of the International Building Code. Masonry heaters shall comply with one of the following:

1. Masonry heaters shall comply with the requirements of ASTM E 1602; or
2. Masonry heaters shall be listed and labeled in accordance with UL 1482 and installed in accordance with the manufacturer's installation instructions.

Open burning means the burning of a material which results in the products of combustion being emitted directly into the ambient air without passing through a stack or flue, but not including the burning of campfires, barbecues, candles or tobacco.

Particulate matter means any combination of particles transported in the air that are either coarse (between 2.5 micrometers and 10 micrometers) or fine (2.5 micrometers or less). The two types of particulate matter have separate regulatory requirements. These particles can form from solids or liquids and can be a health hazard when inhaled.

Person means an individual, partnership corporation, company or other association.

Solid fuel-fired heating device and *device* mean a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, fireplaces, solid fuel-fired cooking stoves and combination fuel furnaces or boilers which burn solid fuel, but does not include stoves, fireplaces, furnaces, or boilers designed and used exclusively for the combustion of wood pellets having a maximum length of one inch in any dimension.

(Serial No. 2008-28, § 2, 9-8-2008)

36.40.040. - Air pollution alerts and emergencies.

- (a) For the purposes of this section, the manager shall declare an air pollution emergency to be in effect whenever the ambient concentration of particulate matter within the air pollution zone equals or exceeds 30 micrograms per cubic meter (ug/m3) averaged over a 24-hour period and will remain at or above 30

ug/m³ if an emergency is not called. The manager may call an emergency whenever available scientific and meteorological data indicate that the ambient concentration of particulate matter within a smoke hazard area can reasonably be expected to equal or exceed 30 ug/m³ averaged over a 24-hour period. When, in the opinion of the manager, meteorological and scientific data indicate that the type of particulate measured is not hazardous, the limit may be adjusted. The manager may call an emergency upon a finding that smoke conditions are, or are likely to become, a danger to health or generally objectionable to persons in a smoke hazard area.

- (b) Within a smoke hazard area, no person may operate a solid fuel fired heating device, other than a masonry heater, during an air pollution emergency declared by the manager pursuant to subsection (a) of this section.
- (c) Reserved.
- (d) Reserved.
- (e) Notice of an air pollution emergency is adequate if published in a newspaper of general circulation within the City and Borough, or if given orally at least three times during a six-hour period by at least two radio stations operating within the City and Borough, or if made available to the general public in the form of a recorded telephone message the telephone number for which is published in the telephone directory or newspaper of general circulation within the City and Borough, or if made available to the general public as a posting on the municipal webpage the address for which is published in the telephone directory or newspaper of general circulation within the City and Borough. The prohibition shall be effective from the earlier of the time stated in the notice, 6:00 p.m. of the day the notice is published in a newspaper, the time the last required announcement of the notice is given by radio, or two hours after the time the recorded message is first made available by telephone or webpage.
- (f) Notwithstanding the provisions of subsection (b) of this section, solid fuel fired heating devices may be used at any location during a loss of electrical power service to that location. Use of the device may commence no sooner than two hours after the loss of electrical service and shall be terminated as soon as practicable after reestablishment of service.

(Serial No. 2008-28, § 2, 9-8-2008)

36.40.050. - Reserved.

36.40.060. - Open burning.

- (a) No person may engage in the open burning of any material except as authorized by a valid open burning permit. Open burning permits may be issued by the manager or the manager's designee upon application. No permit may be issued for open burning in the Mendenhall Valley or the Lemon Creek smoke hazard areas during the period of November 1 through March 31. Open burning by commercial businesses is not allowed.
- (b) Open burning permits shall be valid only for the times and locations specified in the permit. Permits shall be issued only when weather conditions or smoke conditions are not such as to cause the burning to be, or be likely to become, a danger to the public health or generally objectionable. The manager or the manager(s designee may base such determination upon direct observation or upon reports or forecasts from other agencies.
- (c) A person may engage in open burning only if the fire is tended to at all times; the fire is not within 50 feet of any building; the prevailing wind direction is away from any structure or roadway; and the open burn is conducted during a period of adequate air movement.
- (d) When burning land-clearing debris, slash piles must be loosely stacked to promote maximum combustion efficiency throughout the burn cycle. Noncombustible material must be minimized so as to not cause or create dense smoke. The manager or the manager's designee may, at their discretion, require the use of fans to promote enhanced combustion.
- (e) No person may cause or allow open burning which creates a danger to public health or safety or a public or private nuisance. No person may cause or allow the open burning of asphalt, rubber, plastic, tar, wire insulation, petroleum products, automobile parts, petroleum-treated products, treated lumber, oily waste, contaminated oil cleanup materials, or other materials in a way that produces black smoke; or of putrescible garbage, animal carcasses, or petroleum-based materials.
- (f) "Open burning" means the burning of a material that results in the products of combustion being emitted directly into the ambient air without passing through a contaminant outlet.

- (g) This section 36.40.060 is applicable only to those portions of the City and Borough within the Roaded Service Area No. 9.

(Serial No. 2008-28, § 2, 9-8-2008)

36.40.070. - Permits.

- (a) Upon a showing of justifiable need, the manager may issue a temporary permit authorizing operation of a solid fuel fired heating device in circumstances otherwise prohibited by this Code. "Justifiable need" includes occasions when a furnace or central heating system is inoperable other than through the owner's own actions or neglect.
- (b) The manager may issue a temporary special burning permit to the municipal fire department for the purpose of training fire fighters, if the fire is restricted to a building or structure or a permanent training facility, and if the material to be burned is not allowed to smolder after the training session has terminated and no public nuisance is created. Special burning permits will not be issued during either an air alert or an air emergency.

(Serial No. 2008-28, § 2, 9-8-2008)

36.40.080. - Solid fuel combustion and smoke emission standards.

- (a) No person shall use a solid fuel-fired heating device for the combustion of any material other than paper, cardboard or untreated wood.
- (b) No person may operate a solid fuel-fired heating device in such a manner that visible emissions reduce visibility through the exhaust effluent by 50 percent or greater for more than 15 minutes in any one hour as determined by a test conducted in substantial compliance with the regulations applicable to the visual determination of stationary source emission opacity promulgated at 40 CFR 60, Appendix A, by the United States Environmental Protection Agency; provided, and notwithstanding any contrary provisions in the regulation, opacity observation shall be made at the point of greatest opacity in any portion of the emissions plume without regard to the presence or absence of condensed water vapor.

(Serial No. 2008-28, § 2, 9-8-2008)

36.40.090. - Penalties.

- (a) Violation of any section of this chapter is a violation, subject to a civil fine.
- (b) *Reserved.*

(Serial No. 2008-28, § 2, 9-8-2008; Serial No. 2009-24, § 3, 11-23-2009; Serial No. 2013-15(c), § 8, 5-13-2013, eff. 6-13-2013.)

Chapter 36.50 - TOBACCO

36.50.010 - Selling or giving tobacco to a minor.

- (a) A person commits the offense of selling or giving tobacco to a minor if the person is 19 years of age or older and:
 - (1) Negligently sells, exchanges, or gives a cigarette, a cigar, tobacco, or a product containing tobacco to a person under 19 years of age; or
 - (2) Maintains a vending machine that dispenses cigarettes, cigars, tobacco, or products containing tobacco.
- (b) Notwithstanding the provisions of (a) of this section, a person who maintains a vending machine is not in violation of subsection (a)(2) of this section if the vending machine is located:
 - (1) On premises licensed by the state to sell alcohol as a beverage dispensary, a club, or a package store; and
 - (A) As far as practicable from the primary entrance; and
 - (B) In a place that is directly and continually supervised by a person employed on the licensed premises during the hours the vending machine is accessible to the public; or
 - (2) In an employee break room or other controlled area of a private work place that is not generally considered a public place.
- (c) In this section, a person maintains a vending machine if the person owns the machine or owns or controls a facility in which the machine is located.
- (d) Selling or giving tobacco to a minor is an infraction and upon conviction is punishable by a fine of not less than \$300.00.
- (e) The court shall forward to the state department of commerce and economic development a record of each person convicted under this section who holds a business license endorsed by the state for the sale of tobacco.

- (f) The provisions of subsection (a) of this section do not apply to a person who sells or gives tobacco to a minor, if the minor is a prisoner at an adult correctional facility.

(Serial No. 96-37, § 4, 1996)

State Law reference— Similar provisions, AS 11.76.100.

36.50.020 - Possession of tobacco by a minor.

- (a) A person under 19 years of age may not knowingly possess a cigarette, a cigar, tobacco, or a product containing tobacco. This subsection does not apply to a person who is a prisoner at an adult correctional facility.
- (b) Possession of tobacco by a minor is an infraction.

(Serial No. 96-37, § 4, 1996)

State Law reference— Similar provisions, AS 11.76.105.

Presented by:
Introduced:
Drafted by:

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2019-30 vCOW1

An Ordinance Related to the Regulation of Nuisance Properties

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 Title. Title 36 is amended by adding a new chapter to read:

36.70 Chronic Nuisance Property

36.70.010 Purpose

The purpose of this section is to protect the health, welfare, and safety of the City and Borough's residents and environment by regulating chronic nuisance property. Consistent with A.S. 29.35.125, the intent of this section is to prevent properties from becoming chronic nuisances, provide reasonable procedures to abate properties that are public nuisances, and provide enforcement tools to recover municipal costs in responding to chronic nuisance properties.

36.70.020 Definitions

Enforcement agent means a person authorized by section 3.45.010 or by law to enforce City and Borough of Juneau laws.

Chronic nuisance property means

1. Residential property that has had eight or more law enforcement responses to a dwelling unit in a twelve-month period.
2. Non-residential property that has had sixteen or more law enforcement responses to a commercial unit, or if none per parcel, in a twelve-month period.

Residential property means an individual parcel, tract, or lot shown on the most recent plat of record containing one or more dwelling units or a mobile home.

Commercial unit means an area within a property that is readily identifiable by visual inspection as an area used by a single business or commercial enterprise.

Property means any property, including continuous parcel or area of land undivided in ownership.

Law enforcement response means a police officer or enforcement agent responded to and charged or issued a warning based on probable cause of a nuisance activity.

Nuisance activity means any of the following activities, behaviors or conduct:

1. A violation of CBJ 36.20, Nuisances;
2. A violation of CBJ 36.30, Litter;

3. A violation of CBJ 36.40, Solid fuel-fire burning devices;

4. A violation of CBJ 36.50, Tobacco;

5. A violation of CBJ Title 42, Penal code;

6. A violation of A.S. Title 11, Criminal Law;

A nuisance activity does not include a response to any of the following:

1. Receipt of false information as defined by A.S. 11.56.800 or CBJ 42.30.040, unless the false information was provided by an occupant or owner of the property;

2. A false alarm as defined by CBJ 42.30.030, unless the false alarm was caused, permitted, or allowed by an occupant or owner of the property;

3. A call or response involving potential child neglect, potential domestic violence as defined in A.S. 18.66.990, or potential stalking under A.S. 11.41.260 or 11.41.270;

4. A report of sexual assault as defined by AS 11.41.410-427;

5. A response for a medical emergency for serious bodily injury or death;

6. A call from the tenant or owner of commercial property used as a retail store for law enforcement assistance with (a) theft or potential theft from the retailer, (b) report of the presence or identification of a person subject to a state of federal warrant; or (c) trespass;

7. A call from the tenant or owner of commercial property used as a licensed premises regulated by A.S. Title 4 (alcohol) or A.S. 17.38 (marijuana) for police assistance with law enforcement matters including: (a) a minor seeking unlawful admittance or service, (b) a person under the influence seeking admittance or service, (c) a report of the presence or identification of a person under state or federal warrant, or (d) a person under the influence preparing to operate a motor vehicle upon leaving the premises.

Owner means the person in whose name the property is listed as owner in the State Recorder's Office is conclusively presumed to be the legal record owner.

Dwelling unit means a structure or portion thereof providing independent and complete cooking, living, sleeping, and toilet facilities for a person or group of persons living as a single housekeeping unit.

36.70.030 Violation

(a) Subject to subsection (b), the owner shall be liable to the City and Borough of Juneau or the owner and the tenant of a unit thereon shall jointly be liable to the City and Borough of Juneau for a fee of \$400 per additional law enforcement response to a chronic nuisance property.

(1) For property with more than one owner, all owners shall be jointly liable with the tenant for any fee imposed under this chapter. Actual notice to one owner creates a rebuttable presumption of actual notice to all other owners.

(2) For property owned by a condominium, a fee based on law enforcement response to a chronic nuisance to a single dwelling unit shall be assessed against the owner of the dwelling unit, jointly with the tenant if there is one, and not against the condominium.

(3) A tenant shall not be liable for the fee if the tenant's conduct did not require the chronic nuisance law enforcement response and the tenant's right to possession commenced on a date subsequent to the date of the first law enforcement response that is counted for purposes of the fee imposed under this chapter.

(4) If the chronic nuisance property is a mobile home located in a mobile home park, the fee may not be imposed on the owner or operator of the mobile home park, unless the owner's or operator's conduct caused the chronic nuisance. The fee may be imposed jointly on the owner and tenant of the mobile home.

(b) A person is exempt from liability for the fee established by this chapter if:

(1) The person is a federal, state, or local government agency;

(2) The property or unit responded to is used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(3) The municipality has not provided notice to the person in writing as provided in section 36.70.040(b);

(4) Any person has taken appropriate corrective action and given written notice to police of the action as required by section 36.70.050;

(5) The owner or tenant of the commercial property or unit responded to has entered a current written agreement with the Juneau Police Department to actively abate nuisance activity on the property; or

(6) If a lieutenant or higher ranking official of the police department determines appropriate corrective action was taken with respect to a specific chronic nuisance property, the count of law enforcement responses to the unit shall reset to zero, effective the date of the determination.

(c) The fee imposed by this chapter may be collected in any lawful manner, including bringing an action in court for a personal judgment against any one or more of the persons liable.

1
2 (d) An owner or tenant liable for a fee under this chapter may bring an action in court
3 against a person whose conduct required the law enforcement responses to the chronic
4 nuisance property to recover the amount of the fee and related costs. An owner or tenant shall
5 not be granted any extension of time or continuance to pay the fee based on a pending action
6 against a third party.
7

8 **36.70.040 Notices**

9

10 (a) Warning Notice. The municipality shall provide a warning notice to the owner or the owner
11 and tenant of a property when the number of law enforcement responses approaches a chronic
12 nuisance property. Notice may be by mail and need not be certified. Failure to provide a
13 warning notice under this subsection shall prevent the assessment of fees under this chapter.

14 (b) Notice of Chronic Nuisance Determination. Prior to assessing a fee under this chapter, the
15 municipality shall notify the owner or owner and tenant, if applicable, in writing when a
16 chronic nuisance property exists.

17 (1) A notice under this section shall be given in a manner reasonably calculated, under all
18 the circumstances, to provide actual notice to the person of the potential liability for the fee.
19 Notice to an owner is sufficient if sent by certified mail, return receipt requested, to owner's the
20 mailing address listed on the real property tax assessment records. If the mailed notice is
21 returned refused for signature by the owner, actual notice shall be conclusively presumed on
22 the date refused. If the mailed notice is returned unclaimed or undeliverable, the municipality
23 shall accomplish notice by another method and attest to the date notice is accomplished by
24 affidavit or in a police report. Notice to the owner or tenant may be accomplished by any lawful
25 manner.

(2) The notice shall:

(A) Identify the property that is the subject of the notice by street address and legal description, and, if the property has multiple units, identify the dwelling unit or commercial unit;

(B) State the number of qualifying law enforcement responses and state additional law enforcement responses to the unit or property may result in imposition of fees under this chapter;

(C) State the person shall be liable for a fee for each law enforcement response to the chronic nuisance property, unless, within 30 days, a person takes appropriate corrective action promptly and gives written notice to the Juneau Police Department of the action taken;

(D) State the amount of the fee per law enforcement response to the chronic nuisance property; and

(E) State the name and telephone number of a representative of the Juneau Police Department to contact concerning the notice.

(3) Appeal right. A Notice of Chronic Nuisance Determination is appealable to a hearing officer designated by the manager pursuant to 36.70.070. No person shall be entitled to appellate review of a Notice of Chronic Nuisance Determination who fails to file a proper notice of appeal with the hearing officer at the city manager's office within 20 days of when the Notice of Chronic Nuisance was served. An appeal of a Notice of Chronic Nuisance is limited to the issue of whether the property is a chronic nuisance. The failure to exhaust this administrative remedy prevents a later challenge to whether the property was a chronic nuisance.

36.70.050 Appropriate Corrective Action

(a) An owner or tenant of a property shall have 30 days from the date notice is accomplished, as required under section 36.70.040(b), to promptly take appropriate corrective action. Appropriate corrective action is action reasonably expected to correct the cause of the law enforcement responses to the property. Police officers holding the rank of lieutenant or higher are authorized to determine whether corrective action is appropriate under the circumstances. The officer's determination shall be in writing and issued within five days of receipt of the person's written notice of the action taken. Should the officer determine the action taken is not appropriate corrective action, the officer shall explain the reasons and the person shall have ten days from the date of the determination to take appropriate corrective action. The ten-day extension shall be provided only once in twelve months for each unit receiving excessive law enforcement responses. Examples of appropriate corrective action, subject to a law enforcement officer's determination whether it is appropriate, may include, without limitation:

- (1) Written notice to quit under AS 09.45.100—09.45.110;
- (2) Eviction notice served on the tenant or lessee requiring vacation of the premises within 30 days or less;
- (3) Obtaining a restraining order, if appropriate;
- (4) Installation or implementation of new or additional security measures; or
- (5) Action recommended by the Juneau Police Department in writing and implemented to the satisfaction of a police officer the rank of lieutenant or higher.

(b) Appropriate corrective action does not include:

- (1) Relocating a tenant or lessee of a unit to a different unit on the same property, unless a police officer the rank of lieutenant or higher determines the relocation is appropriate. If a

person is relocated, the municipality may transfer the number of law enforcement responses from the former unit to the new unit.

(2) Communicating only orally with the person causing the law enforcement responses.

(c) No fee may be imposed for additional law enforcement responses to the unit that is the subject of the notice during the 30-day period allowed under subsection A. if any person takes appropriate corrective action and gives written notice to the Juneau Police Department of the action taken during the 30-day period. There is a conclusive presumption that appropriate corrective action was taken if there are no additional law enforcement responses to the property from the end of the 30-day period and for the next ninety days.

36.70.060 Lien on property

(a) A fee imposed under Section 36.70.030(a) is a lien on the property to which there have been an excessive number of law enforcement responses to a chronic nuisance property.

(b) The lien becomes effective upon the recording of a Notice of Chronic Nuisance Lien that:

(1) Describes the property that is the subject of the lien;

(2) States the amount of fees accrued at the time of recording;

(3) States the lien has been recorded pursuant to this section; and

(4) The notice is then served on the property owner.

(c) When a Notice of Chronic Nuisance Lien has been recorded, the lien has priority over all other liens except:

(1) Liens for property taxes, special assessments, and sales and use taxes;

(2) Liens perfected before the recording of the lien under this section; and

(3) Mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien under this section.

(d) A Notice of Chronic Nuisance Lien is appealable after recording to a hearing officer designated by the manager pursuant to 36.70.070. No person shall be entitled to appellate review of a Notice of Chronic Nuisance Lien who fails to file a proper notice of appeal with the hearing officer at the city manager's office within 20 days of when the Notice of Chronic Nuisance Lien was served. An appeal of a Notice of Chronic Nuisance Lien is limited to the issue of whether the person is liable for each fee imposed under this chapter. The failure to exhaust this administrative remedy prevents a later challenge to whether the owner of the chronic nuisance property is liable for the chronic nuisance fees.

36.70.070 Appeal Hearing

A hearing before a hearing officer shall be informal and be held within 15 days of receipt of the notice of appeal unless extended for good cause. Relevant evidence must be admitted if it is probative of a material fact in controversy. Irrelevant and unduly repetitive evidence shall be excluded. The hearing officer shall issue a written decision within 15 days of the hearing. A decision from a Notice of Chronic Nuisance Determination appeal is not a final administrative decision. A decision from a Notice of Chronic Nuisance Lien appeal shall comprise a final administrative decision of the City and Borough of Juneau. Within 30 days of service of the written decision, a person aggrieved by the decision may appeal to the Superior Court of the First Judicial District in Juneau in accordance with the Alaska Rules of Appellate Procedure.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2018.

, Mayor

Attest:

, Municipal Clerk



City and Borough of Juneau
155 South Seward Street
Juneau, Alaska 99801

Telephone: 586-5240 | Facsimile: 586-5385

DATE: June 10, 2019

TO: Board and Assembly

FROM: Dave Scanlan, Eaglecrest General Manager
Rorie Watt, City & Borough Manager

RE: Eaglecrest Financial Sustainability Planning/Adventure Center Concept

In order to ensure the long-term financial sustainability of Eaglecrest, staff has begun investigations into creating and implementing a summer operations plan. Throughout the ski industry, ski areas large and small have increasingly relied on summer revenue streams and year round operations in order to thrive.

We see two general scenarios moving forward. The first is the status quo attempt to operate and maintain the ski area in the historical manner. The second is to pivot towards a model that leverages revenue streams from our summer tourist visitation. Staff has researched other ski area models that appear to be appropriate to our circumstances, two good examples are Bogus Basin in Idaho and Gunstock in New Hampshire. Another nearby example of successful mountain investment is the ISP Ziprider in Hoonah.

<https://bogusbasin.org/>
<https://www.gunstock.com/>
<https://ziprider.com/rides/icy-strait-point/>

Staff has developed an ambitious proof of concept that includes ideas such as a new gondola and other mountain activities. In consultation with tourism representatives, it appears that an aggressive package of activities could likely make for a successful tour package. As a conceptual example of economic activity, 3% of cruise ship visitors paying \$150 each for a tour results in a \$6M annual revenue stream. Because of its proximity to such a robust cruise ship port, for a ski area, Eaglecrest has a rare and unusual opportunity to capitalize on the summer season.

The Board and Assembly should consider whether staff should continue to pursue this concept. There are two big policy questions imbedded in this:

- Whether Eaglecrest should become commercialized in the summer
- The role of public and/or private funding

Recommendation 1:

Eaglecrest staff and Board should engage the public on the concept of summer commercialization

Recommendation 2:

The Assembly should get updates at the PWFC

Recommendation 3:

The Ski Area and City Manager should work together to advance the Board and Assembly process of consideration of this idea

Purpose Statement

Eaglecrest's expansion into summer operations and creation of the Summer Adventure Center will develop affordable summer recreation activities for locals and visitors, independently fund sustainable year around operations, help disburse summer visitors, and create a mechanism to assist with funding community initiatives with future ski area profits.

Summer Operations Opportunities

- Reduce overcrowding of existing community recreation and visitor attractions helping to mitigate the impacts of tourism growth.
- Fully utilize existing Eaglecrest infrastructure, which has a current design capacity of 1500 people per day.
- Potential to eliminate current general fund subsidy of Eaglecrest within two years. Future capital improvements at Eaglecrest will be forward funded from ski area revenues.

Summer Operations Challenges

- Expansion of summer operations will necessarily increase non-resident use of the facility. Care must be taken to preserve opportunities for residents via careful planning of trail systems and use patterns..

Financials

- Estimated development capital of \$30-\$35M
- Debt service on the development capital will be fully funded from the project revenues.
- Initial financial model indicates free cash flow available in year four for use in the CBJ general fund or a Community Reinvestment Fund
- Interest currently exists in the private sector for formation of a Public Private Partnership (PPP) to move project forward.



(907) 586-0757
Jill.Maclean@juneau.org
www.juneau.org/CDD
155 S. Seward Street • Juneau, AK 99801

DATE: June 5, 2019

TO: Maria Gladziszewski, Chair
Assembly Committee of the Whole

FROM: Jill Maclean, Director *Jill Maclean*
Community Development Department

ORD. NO.: 2019-27

PROPOSAL: **Extension of Downtown Juneau Alternative Development
Overlay District (ADOD)**

This is an amendment to Article XII. - Alternative Development Overlay District (CBJ 49.70.1210), extending the sunset date for the downtown Juneau ADOD from August 1, 2019, to August 1, 2020.

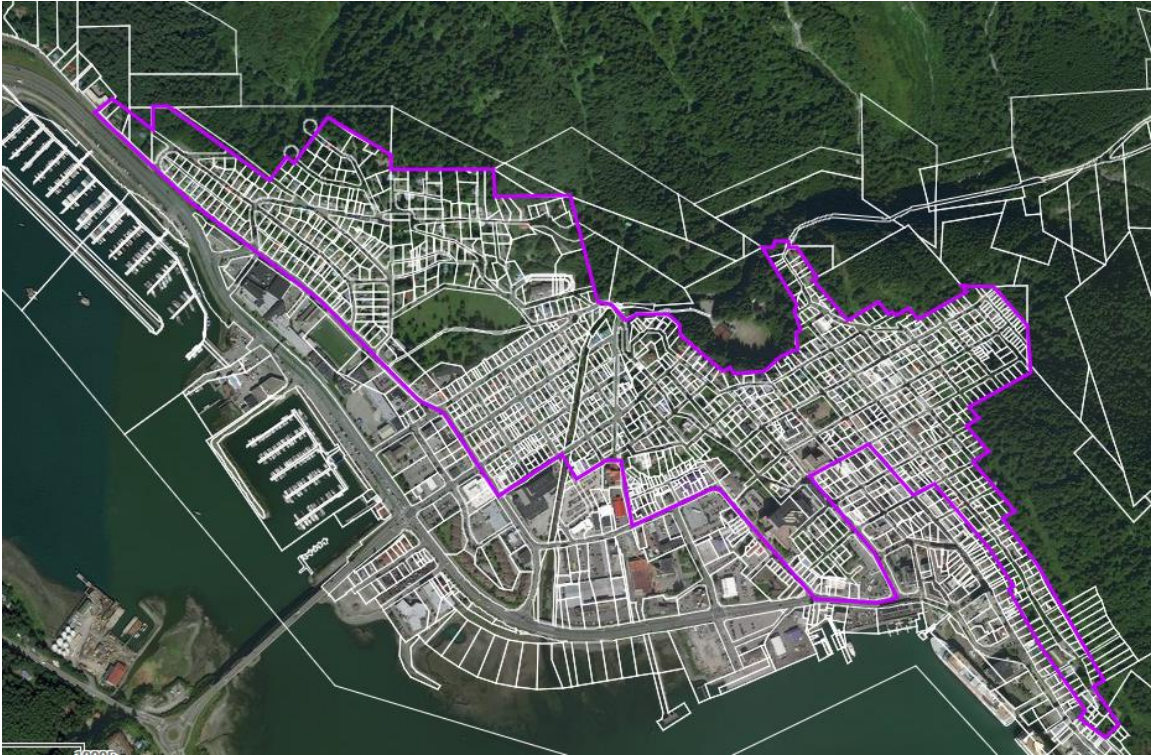
The purpose of the ADOD is to provide adequate minimum standards and procedures for the construction of new residential buildings and the expansion, restoration, or repair of existing residential buildings, while providing time to implement new zoning regulations. This extension provides additional time for the review and adoption of new zoning for the downtown neighborhoods. CDD staff has been working with the Title 49 Committee to develop regulations that bring a significant number of currently nonconforming properties into conformance and work with the existing neighborhoods in downtown Juneau.

The anticipated substantive ordinance would rezone certain areas of downtown Juneau. Downtown Juneau, as well as the rest of the Borough, was rezoned in 1987. Suburban-type zoning districts were applied to the established urban neighborhoods of downtown Juneau and downtown Douglas. At this time, staff is not seeking an extension to the downtown Douglas ADOD, which expires in August 2020.

Ordinance 2019-27 is tentatively scheduled for introduction on June 24, 2019, and public hearing on July 22, 2019. Ordinance 2019-27 is scheduled for Planning Commission consideration on June 25, 2019.

Assembly Committee of the Whole
Ord. No.: 2019-27
June 5, 2019
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VICINITY MAP



STAFF RECOMMENDATION

Recommend the Assembly adopt Ordinance 2019-27 to extend the downtown Juneau ADOD one year, from August 2019 to August 2020.

Presented by: The Manager
Introduced:
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2019-27 vCOW

An Ordinance Amending the Land Use Code to Extend the Sunset Date for the Downtown Juneau Overlay District.

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 Section. CBJ 49.70.1210, Overlay Districts, is amended to read:

(a) *Downtown Juneau overlay district.* This article applies to property within the alternative development overlay district for Downtown Juneau as shown on the map dated May 25, 2017. The Downtown Juneau overlay district shall cease to exist and the provisions of this article shall not apply to property within the Downtown Juneau overlay district after August 1, ~~2020~~2019.

(b) *Downtown Douglas overlay district.* This article applies to property within the alternative development overlay district for Downtown Douglas as shown on the map dated May 25, 2017. The Downtown Douglas overlay district shall cease to exist and the provisions of this article shall not apply to property within the Downtown Douglas overlay district after August 1, 2020.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2019.

Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk