LEGISLATIVE HISTORY

Introduced by:	City Manager Moosey
Date:	April 13, 2021
Public Hearing:	April 27, 2021
Action:	Adopted
Vote:	4 Yes/3 No

Yes:	No:
Berberich	Best
Combs	Carrington
Daniels	DeVries
Valerius	

CITY OF PALMER, ALASKA

Ordinance No. 21-003

An Ordinance of the Palmer City Council Amending Palmer Municipal Code Title 5.32 Definitions, Enacting 5.32.030 Standards for Marijuana Businesses, and Enacting 5.32.040 Marijuana Businesses License Review

WHEREAS, on November 4, 2014, the voters of the State of Alaska passed Ballot Measure 2, an Act to Tax and Regulate the Production, Sale, and Use of marijuana, codified as Alaska Stature 17.38; and

WHEREAS, Alaska Statute 17.38.210 states in part that a "local government" may enact ordinances or regulations not in conflict with this chapter or with regulations enacted pursuant to this chapter; and

WHEREAS, in October 2020 city of Palmer residents voted by referendum to repeal previously enacted ordinance prohibiting the operation of marijuana businesses; and

WHEREAS, the city of Palmer as a home rule municipality, has the authority to provide responsible standards of operation for marijuana businesses that protect the public peace, health, safety and welfare.

THE CITY OF PALMER, ALASKA, ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application to the other persons or circumstances shall not be affected thereby.

Section 3. Palmer Municipal Code Section 5.32.011 definitions is hereby enacted to read as follows (new language is underlined and deleted language is stricken):

5.32.11 Marijuana Classification

"Consume" means the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.
"Local regulatory authority" means the office or entity designated to process marijuana establishment applications by a local government.
"Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination, the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products, or industrial hemp.

Section 4. Palmer Municipal Code Section 5.32.030 standards for marijuana businesses is hereby enacted to read as follows (new language is underlined and deleted language is stricken):

5.32.030 Standards for marijuana businesses

A. No person may operate a marijuana business within the city without a current city of Palmer business license and a license under AS 17.38 from the State of Alaska Marijuana Control Board. Licensee must be in compliance of all requirements of AS 17.38.

B. Marijuana businesses are permitted under PMC 17.28.020 as provided in the city of Palmer's Commercial Land Use Matrix and the provisions of this section. On-site consumption endorsements are not an approved use in the city of Palmer.

C. Marijuana businesses buffer distances shall be measured as the closest distance from the perimeter of a stand-alone marijuana business structure to the outer boundaries of the school, youth recreation center, childcare facility, the main public entrance of a church, or a correctional facility. If the marijuana establishment occupies only a portion of a structure, buffer distances are measured as the closest distance from the perimeter of the closest interior wall segregating the marijuana business from other uses, or available uses in the structure , or an exterior wall if closer, to the outer boundaries of the school, youth recreation center, child care facility, the main public entrance of a church or correctional facility.

The following buffer zones shall be applied to all marijuana businesses in all districts:

1. Schools: 500 feet.
2. Churches: 500 feet.
3. Jail: 500 feet.
4. Youth recreation center: 500 feet.
5. Childcare facility: 500 feet

D. Licensed premises may not be open between the hours of 2:00 a.m. and 8:00 a.m. Monday through Sunday. No marijuana may be distributed, sold or dispensed at a licensed premise when the licensed premises is required to be closed pursuant to this section.

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

F. Licensee must be in compliance with all standards and requirements of AS 17.38 relating to odor, security alarm systems, marijuana inventory tracking systems, health and safety standards, waste disposal, transportation and business records.

G. Signs shall comply with AS 17.38 and Palmer Municipal Code Title 14. No temporary signs are permitted.

H. If city administration obtains evidence that a marijuana business has violated a provision of AS 17.38, this chapter, or any provision of PMC 17.28.020, it shall so notify the State Marijuana Control Board.

Section 5. Palmer Municipal Code Section 5.32.040 marijuana license application review process is hereby enacted to read as follows (new language is underlined and deleted language is stricken):

5.32.040 Marijuana license application review process

A. Council is designated as the local regulatory authority.

B. The State of Alaska Marijuana Control Board will transmit to the city all applications for marijuana businesses under AS 17.38 for review. City administration shall review all applications for compliance with PMC Code and AS 17.38 and provide written comments to city council.

C. Upon receipt of the application and written comments, city council shall consider whether or not to protest the application at its next duly noticed regularly scheduled meeting. Council may protest any application under this section or may recommend that an application under this section be approved subject to conditions.

D. The review of an application under this section shall not be subject to formal rules of evidence or procedure and Council may consider any facts or factors it deems relevant to its review so long as such facts or factors are not arbitrary, capricious or unreasonable.
E. Council's decision regarding whether or not to protest an application under this section shall be final and is not subject to appeal, except in accordance with AS 17.38.

Section 6. Effective Date. Ordinance No. 21-003 shall take effect upon adoption by the City of Palmer City Council.

Passed and approved this 27th day of April, 2021.

Edna B. DeVries, Mayor

Norma I. Alley, MMC, City Clerk