



# CITY AND BOROUGH OF SITKA

*A COAST GUARD CITY*

## **Planning and Community Development Department**

### **AGENDA ITEM:**

Case No: ZA 25-02  
Proposal: Zoning Text Amendment  
Applicant: Marty and Elizabeth Martin  
Location: N/A  
Legal: N/A  
Zone: CBD, C-1, C-2, WD, I, GI, LI, GP

### **KEY POINTS AND CONCERNS:**

- Two parts of the SGC touch on marijuana definitions and regulation. Therefore, sections of the SGC in addition to the Zoning code required updated or added verbiage. The draft ordinance will include changes or additions to Titles 10 and 22.
- To maintain consistency within the code, onsite marijuana consumption facilities have been added to the code as another type of marijuana establishment. These facilities would be a conditional use in the same zoning districts as all other marijuana establishments and require the same conditional use permit process; no more or less process and/or limitations are required.

### **ATTACHMENTS:**

Attachment A: Draft Ordinance for Onsite Marijuana Consumption Facilities  
Attachment B: Alaska Administration Code 306.370  
Attachment C: Applicant Materials

## **PROJECT DESCRIPTION**

This request is for a zoning text amendment to update the Sitka General Code (SGC) in accordance with the enacted State of Alaska regulations regarding onsite marijuana consumption endorsements pursuant to 3 AAC 306.370. The SGC currently lacks a designation for onsite marijuana consumption facilities and does not outline where such facilities could operate and under what, if any, conditions. This zoning text change will define an onsite marijuana consumption facility, identify which zones such an establishment could operate in, and prescribe the conditional use permit process for those applying to operate an onsite marijuana consumption facility.

## **BACKGROUND**

The State of Alaska regulations allowing for onsite consumption came into effect April 11, 2019 under 3 AAC 306.370. The State of Alaska has created a new endorsement that businesses with an existing license for retail sales of marijuana can apply for. This means onsite consumption facilities must be linked to a retail location, but not all retail locations will be able to operate an onsite consumption facility by right. 3 AAC 306.370 reads: *(a) Unless prohibited by local or state law, the board may approve an onsite consumption endorsement for a licensed retail marijuana store for consumption, on the marijuana retail store premises, (1) of edible marijuana product only, in compliance with this section, in an indoor or outdoor area, regardless of whether the licensed retail marijuana store is freestanding; (2) by any method, in compliance with this section, in an indoor or outdoor area of a freestanding licensed retail marijuana store.*

*3 AAC 306.370(b) A licensed retail marijuana store with an approved onsite consumption endorsement is authorized to sell, for consumption at the time of purchase and only in an area designated as the marijuana consumption area, (1) marijuana bud or flower, in quantities not to exceed one gram to any one person per day; (2) edible marijuana products in quantities not to exceed 25 milligrams of THC to any one person per day; and (3) a vaping device that contains not more than 0.3 grams of marijuana concentrate to any one person per day; a person may not consume marijuana concentrate onsite by a means other than vaping as described in this paragraph.*

*3 AAC 306.370(c) A licensed retail marijuana store with an approved onsite consumption endorsement may; (1) sell food or beverages not containing marijuana or alcohol; and (2) allow a person to remove from the licensed premises marijuana or marijuana products that have been purchased on the licensed premises for consumption under this section, if they are packaged in accordance with 3 AAC 306.345.*

*3 AAC 306.370(d) A licensed retail marijuana store with an approved onsite consumption endorsement may not (1) allow any licensee, employee, or agent of a licensee to consume marijuana or marijuana products, including marijuana concentrate, during the course of a work shift; (2) allow a person to consume tobacco or tobacco products in the marijuana consumption area; (3) allow a person to bring into or consume in the marijuana consumption area any marijuana or marijuana product that were not purchased at the licensed retail marijuana store; (4) sell, offer to sell, or deliver marijuana or marijuana products at a price less than the price regularly charged for the marijuana or marijuana products during the same calendar week; (5) sell, offer to sell, or deliver an unlimited amount of marijuana or marijuana products during a set period of time for a fixed price; (6) sell, offer to sell, or deliver marijuana or marijuana products on any one day at prices less than those charged the general public on that day; (7) encourage or permit an organized game or contest on the licensed premises that involves consuming marijuana or marijuana products or the awarding of marijuana or marijuana*

*products as prizes; or (8) advertise or promote in any way, either on or off the licensed premises, a practice prohibited under this section.*

The SGC does not have a definition or designation for onsite consumption, nor any zoning limitations for the placement and operations of onsite consumption facilities. Businesses with a marijuana retail license are now able to apply for an endorsement allowing onsite consumption.

## **ANALYSIS**

The following zoning text changes are proposed to reflect the State regulation in the SGC:

- “Onsite marijuana consumption facility” is added as a new definition in SGC 22.05.1000:
  - “Marijuana establishment” means a means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, ~~or~~ a retail marijuana store, or an onsite marijuana consumption facility.
  - “Onsite marijuana consumption facility” means a marijuana retail facility that is authorized to sell marijuana and marijuana products for onsite consumption at time of purchase and only in an area designated as the consumption area. Onsite marijuana consumption facilities may not allow any person to consume, or bring into the designated consumption area, marijuana or marijuana products that were not purchased at the marijuana retail facility. The designated consumption area may be indoors or outdoors.
- In the use tables (Table 22.16.015-6 Retail and Business Uses (Continued)), onsite marijuana consumption facility is added as a conditional use in zoning districts CBD, C-1, C-2, WD, I, GI, LI, and GP.
- Conditional use permits undergo the same process as all other marijuana establishments by adding onsite marijuana consumption facility to section 22.25.026(A).

Additionally, a change to SGC Title 10, Public Peace, Morals and Welfare is necessary to fully integrate this new use.

- Chapter 10.25 Marijuana Regulations prohibits consumption of marijuana in public. Verbiage was added to SGC 10.25.010(A) to state “An exception is made for onsite marijuana consumption facilities as defined in SGC 22.05.1000 that operate under an approved conditional use permit.”

SGC has provisions against “smoking” in public places and places of employment under SGC Chapter 9.20. However, the definition of smoking in this section of the code is specifically related to tobacco products and therefore is not controlling in relation to marijuana consumption.

Allowing for onsite consumption facilities has several economic and public safety benefits. Onsite consumption facilities present a new economic activity for Sitka businesses that locals and tourists alike would be able to partake in. As the Commission has approved conditional use permits for cultivation of marijuana, there are growers in Sitka who would also benefit from an increase in demand of locally grown product. This new activity expands employment opportunities for Sitka residents and also increases tax revenues for the City. On tourism, Alaska is one of the few states that has legalized retail sales of marijuana and was the first state to legalize onsite consumption. Sitka can offer a unique experience to visitors and create an attraction to bring more.

Visitors to Sitka are already purchasing and using marijuana when they visit Sitka, however, many of them lack a safe, private place to consume their purchases. This inevitably leads to consumption in public places such as beaches, sidewalks, or parks. Allowing onsite consumption would contain consumption to a private, secure, monitored location and lessen unlawful public consumption.

It is worth noting that some contending instances of driving under the influence of marijuana would increase if onsite consumption were allowed to take place, the State regulations provide clear guidelines on the serving limits at onsite consumption facilities to mitigate this impact.

Like all other marijuana establishments, onsite consumption facilities are proposed solely as conditional uses and not as a use that would be allowed outright in any zone. This maintains the ability of the Commission to evaluate proposals on a case-by-case basis to ensure that proposed locations are appropriate for the use and will not result in negative impacts on surrounding areas.

### **RECOMMENDATION**

Staff recommends approval of the zoning text amendment and welcomes additional review and feedback from the Commission before finalizing the ordinance for Assembly consideration.

### **RECOMMENDED MOTION**

- 1) “I move to recommend approval of the zoning text amendment to add and regulate onsite marijuana consumption facilities in the Sitka General Code. The request is filed by Marty and Elizabeth Martin.”**

(a) A retail marijuana store shall post, in a conspicuous location visible to customers, the following notices:

(1) “Consumption of marijuana in public is prohibited by law.”;

(2) “Transportation or carriage of marijuana or marijuana products on Alaska waterways, including cruise ships, or by air carrier is prohibited by federal law.”;

(3) “Transportation or shipment of marijuana or marijuana products outside the State of Alaska is prohibited by federal law.”;

(4) “Providing marijuana to persons under 21 years of age is prohibited by law.”.

(b) Notification signs required under (a) of this section must be at least 11 inches by 14 inches in size. Lettering must be at least one-half inch in height and in colors that contrast with the background. (Eff. 7/22/2017, Register 223)

### **3 AAC 306.370. Onsite consumption endorsement for retail marijuana stores**

(a) Unless prohibited by local or state law, the board may approve an onsite consumption endorsement for a licensed retail marijuana store for consumption, on the marijuana retail store premises,

(1) of edible marijuana product only, in compliance with this section, in an indoor or outdoor area, regardless of whether the licensed retail marijuana store is freestanding;

(2) by any method, in compliance with this section, in an indoor or outdoor area of a freestanding licensed retail marijuana store.

(b) A licensed retail marijuana store with an approved onsite consumption endorsement is authorized to sell, for consumption at the time of purchase and only in an area designated as the marijuana consumption area,

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

(2) edible marijuana products in quantities not to exceed 25 milligrams of THC to any one person per day; and

(3) a vaping device that contains not more than 0.3 grams of marijuana concentrate to any one person per day; a person may not consume marijuana concentrate onsite by a means other than vaping as described in this paragraph.

(c) A licensed retail marijuana store with an approved onsite consumption endorsement may

(1) sell food or beverages not containing marijuana or alcohol; and

(2) allow a person to remove from the licensed premises marijuana or marijuana products that have been purchased on the licensed premises for consumption under this section, if they are packaged in accordance with 3 AAC 306.345.

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

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

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

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

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

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

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

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

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

(e) A marijuana consumption area must have the following characteristics:

(1) if consumption would be permitted by any method under 3 AAC 306.370(a)(2), the marijuana consumption area must

(A) be isolated from the other areas of the retail marijuana store;

(B) be separated by walls and secure door; and

(C) have access only from the retail marijuana store;

(2) the licensed marijuana retail store must provide a smoke-free area for employees to monitor the marijuana consumption area;

(3) a marijuana consumption area that is indoors and in which smoking is permitted must have a ventilation system

(A) that is separate from the ventilation system of the other areas of the licensed retail marijuana store or other licensed marijuana establishments in a freestanding building; and

(B) 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, the marijuana consumption area must 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, if consumption by smoking is permitted;

(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.

(f) An applicant for an onsite consumption endorsement must file an application on a form the board prescribes, including the endorsement fee set out in 3 AAC 306.100, and

(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 21 years of age;
- (B) ventilation, if consumption by smoking is to be permitted in an indoor area; 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) the 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; and
- (4) for an outdoor marijuana consumption area,
  - (A) 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.
- (g) 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, at no cost to patrons, written materials containing marijuana dosage and safety information for each type of marijuana or marijuana product sold for consumption in the marijuana consumption area;
- (5) package and label all marijuana or marijuana products 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.

(h) 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; am 8/7/2021, Register 239; am 12/8/2024, Register 252)

**3 AAC 306.380. Walk-up or drive-through exterior window pick-up for retail marijuana stores**

(a) Unless prohibited by local law, a licensed retail marijuana store may serve a consumer through a walk-up or drive-through exterior window in compliance with the requirements of this section.

(b) Before accepting orders for sales of marijuana or marijuana products through a walk-up or drive-through exterior window, a licensed retail marijuana store shall submit an operating plan or modification of an operating plan of the licensed premises to the board for approval. The operating plan or modified operating plan must depict the walk-up or drive-through exterior window area and the video surveillance of the walk-up or drive-through exterior window area.

(c) The area immediately outside a walk-up or drive-through exterior window must be under the licensee's sole possession and control and may not include any public property including public streets, public sidewalks, or public parking lots.

(d) The licensed retail marijuana store may accept Internet or telephone orders or may accept orders from the consumer at the walk-up or drive-through exterior window. Internet or



# CITY AND BOROUGH OF SITKA

## PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT GENERAL APPLICATION

- Applications must be deemed complete at least **TWENTY-ONE (21)** days in advance of next meeting date.
- Review guidelines and procedural information.
- Fill form out completely. No request will be considered without a completed form.
- Submit all supporting documents and proof of payment.

### APPLICATION FOR:

☐ VARIANCE☐ CONDITIONAL USE☒ ZONING AMENDMENT☐ PLAT/SUBDIVISION

**BRIEF DESCRIPTION OF REQUEST:** Change to the zoning Code to  
allow onsite marijuana consumption.

### PROPERTY INFORMATION:

CURRENT ZONING: N/A PROPOSED ZONING (if applicable): N/A

CURRENT LAND USE(S): N/A PROPOSED LAND USES (if changing): N/A

### APPLICANT INFORMATION:

PROPERTY OWNER: N/A

PROPERTY OWNER ADDRESS: N/A

STREET ADDRESS OF PROPERTY: N/A

APPLICANT'S NAME: Liza - Marty Martini

MAILING ADDRESS: Box 2752 SITKA

EMAIL ADDRESS: liza@akofarms DAYTIME PHONE: 907 738 3484

## REQUIRED SUPPLEMENTAL INFORMATION:

### For All Applications:

- ☒ Completed General Application form
- ☒ Supplemental Application (Variance, CUP, Plat, Zoning Amendment)
- ☐ Site Plan showing all existing and proposed structures with dimensions and location of utilities
- ☐ Floor Plan for all structures and showing use of those structures
- ☐ Proof of filing fee payment
- ☐ Other: \_\_\_\_\_

### For Marijuana Enterprise Conditional Use Permits Only:

- ☐ AMCO Application

### For Short-Term Rentals and B&Bs:

- ☐ Renter Informational Handout (directions to rental, garbage instructions, etc.)
- ☐ Documentation establishing property as primary residence (motor vehicle registration, voter registration, etc.)
- ☐ Signed Affidavit of Primary Residence for Short-term Rental Conditional Use Permit

**CERTIFICATION:** I hereby certify that I am the owner of the property described above and that I desire a planning action in conformance with Sitka General Code and hereby state that all of the above statements are true. I certify that this application meets SCG requirements to the best of my knowledge, belief, and professional ability. I acknowledge that payment of the review fee is non-refundable, is to cover costs associated with the processing of this application and does not ensure approval of the request. I understand that public notice will be mailed to neighboring property owners and published in the Daily Sitka Sentinel. I understand that attendance at the Planning Commission meeting is required for the application to be considered for approval. I further authorize municipal staff to access the property to conduct site visits as necessary. I authorize the applicant listed on this application to conduct business on my behalf.

N/A  
Owner

                      
Date

N/A  
Owner

                      
Date

I certify that I desire a planning action in conformance with Sitka General Code and hereby state that all of the above statements are true. I certify that this application meets SCG requirements to the best of my knowledge, belief, and professional ability. I acknowledge that payment of the review fee is non-refundable, is to cover costs associated with the processing of this application and does not ensure approval of the request.

[Signature]  
Applicant (If different than owner)

3.26.2025  
Date

Last Name

Date Submitted

Project Address



# CITY AND BOROUGH OF SITKA

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
SUPPLEMENTAL APPLICATION FORM  
ZONING AMENDMENT APPLICATION

## APPLICATION FOR

☐

ZONING MAP AMENDMENT

☒

ZONING TEXT AMENDMENT

### ANALYSIS: (Please address each item in regard to your proposal)

- NEED/HARDSHIP/JUSTIFICATION FOR PROPOSAL: REMOVES INDIVIDUALS & GROUPS FROM USWS MARIJUANA PRODUCTS IN PUBLIC PLACES, AGAINST SITKA'S ORDINANCE # 2015-06A
- PUBLIC BENEFIT OF PROPOSAL: PROTECT THE PUBLIC FROM BEWS SUBJECTED TO THE USE OF MARIJUAN. PROTECTION FOR THE CONSUMER WHILE USWS A LEGAL PRODUCT.
- CONSISTENCY WITH PHYSICAL BOUNDARIES (Streets, Major Creeks, etc.): OLD BARGE HIGHWAY - NEXT TO THE DEEP WATER DOCK 4513 HPR - 5 miles from city center
- COMPATIBLE WITH NEIGHBORING USES BECAUSE: LOCATED NEXT TO RESTAURANTS, RETAIL STORES, TOURIST ACTIVITIES.
- ANY IMPACT ON PUBLIC HEALTH, SAFETY, AND WELFARE: REDUCING THE IMPACT OF MARIJUAN CONSUMPTION ON THE PUBLIC. REDUCES PUBLIC HEALTH, SAFETY, WELFARE FOR CONSUMER AND THE GENERAL PUBLIC.

Applicant

Date

Leya Martin 3.26.2025

Last Name

Date Submitted

Project Address