



# 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.”**