

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2016-11

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, AMENDING SITKA GENERAL CODE TITLE 22 "ZONING" BY AMENDING CHAPTER 22.08 "DEFINITIONS" BY ADDING SECTION 22.08.587 "MARIJUANA", AMENDING SECTION 22.16.015 "PERMITTED, CONDITIONAL AND PROHIBITED USES", AND AMENDING CHAPTER 22.24 "SPECIAL USE PERMITS" BY ADDING SECTION 22.24.026 "MARIJUANA CONDITIONAL USE PERMITS"

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska.
2. **SEVERABILITY.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person and circumstances shall not be affected thereby.
3. **PURPOSE.** The purpose of this ordinance is to allow all licensed marijuana activities as conditional uses in the Central Business District (CBD), Gary Paxton Special District (GP, aka Gary Paxton Industrial Park), Industrial zoning districts (I), General Commercial (C-1), General Commercial Mobile Home (C-2), Waterfront (WD), Large Island (LI), and General Island (GI) zoning districts. The definition changes in Title 22 Chapter 8 reflect State definitions.
4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that SGC Chapters 22.08, 22.16, and 22.24 are amended to read as follows (new language underlined; deleted language stricken):

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**Chapter 22.08  
Definitions**

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**22.08.587 Marijuana**

A. "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 which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

B. "Marijuana Establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

C. “Marijuana Cultivation Facility” means an entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

D. “Marijuana Cultivation Facility, Limited” means a Marijuana Cultivation Facility with fewer than 500 square feet under cultivation.

E. “Marijuana Product Manufacturing Facility” means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

F. “Marijuana Product Manufacturing Facility, Extract Only” means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana concentrate; and sell marijuana concentrate to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

G. “Marijuana Retail Facility” means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

H. “Marijuana Testing Facility” means an entity registered to analyze and certify the safety and potency of marijuana.

I. “Marijuana products” means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

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Table 22.16.015-3  
General Services Uses

ZONES	P(1)	SF	SFLD	R-1 (6)	R-1 MH (6)	R-1 LDMH (6)	R-2	R-2 MHP	CBD	C-1	C-2	WD(2)	I	GI(3)	LI(3)	R	OS	GP (8)
PERSONAL SERVICES																		
• General services									P	P	P			C				
• Dry cleaning									P	P	P							
• Industrial laundry										C	C		P					
• Funeral home/crematorium									C	P	P			C				
• Cemeteries/mausoleum	P													C	C			
• Day care/kindergartens	P			P(6)	P(6)	P(6)	P(5)	P(5)	C	P(5)	P(5)			P	P			
• Veterinary clinic							(7)		C	C	C		P	C				
• Automotive repair									C	P	P	P	P	C				

ZONES	P(1)	SF	SFLD	R-1 (6)	R-1 MH (6)	R-1 LDMH (6)	R-2	R-2 MHP	CBD	C-1	C-2	WD(2)	I	GI(3)	LI(3)	R	OS	GP (8)
• Automotive service									C	P	P	P	P	C				
• Miscellaneous repair									P	P	P	P	P	C	C			
• Social service agencies									P	P	P	C		CU/*S	C			
• Stable	C									C	C			PU/CS		C		
• Kennel										C	C		C	P				
• Bank							C	C	P	P	P			C	C			
• Credit union							C	C	P	P	P			C	C			
• Massage treatments																C		
HEALTH SERVICES																		
• Offices/outpatient clinic							C	C	P	P	P			C	C			
• Hospital	C(4)								C	P	P			C	C			
• Medical/dental laboratory							C	C	P	P	P		P	C	C			
• <u>Marijuana Testing Facility</u>									<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>
• <u>Miscellaneous health facility</u>							C	C	C	C	C	-	-	C	C	-	-	-
EDUCATIONAL SERVICES																		
• Elementary school	P						C	C	C	C	C			C	C			
• Middle/junior high school	P						C	C	C	C	C			C	C			
• Secondary/high school	P						C	C	C	C	C			C	C			
• Vocational school	P						C	C	C	C	C			C	C			
• Specialized instruction school	P						C	C	C	C	C			C	C			
• College/university	P								C	C	C			C	C			
• School district support facility (excluding bus barns)	P						C	C	C	P	P		P	C	C			
• Auditorium	P																	

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Table 22.16.015-5  
Manufacturing/Storage Uses

ZONES	P(1)	SF	SFLD	R-1	R-1 MH	R-1 LDMH	R-2	R-2 MHP	CBD	C-1	C-2	WD(2)	I(3)	GI(4)	LI(4)	R	OS	GP (7)
MANUFACTURING																		
• Food products include seafood processing										C	C	P	P	C	C	C		

ZONES	P(1)	SF	SFLD	R-1	R-1 MH	R-1 LDMH	R-2	R-2 MHP	CBD	C-1	C-2	WD(2)	I(3)	GI(4)	LI(4)	R	OS	GP (7)
• Mariculture												P		C	C			
• Winery/brewery, small scale									C	C	C	P	P	C	C			
• Textile mill products										C	C	P	P	C	C			
• Apparel and textile products										C	C	P	P	C	C			
• Wood products, except furniture										C	C	P	P	PU/CS	C			
• Furniture and fixtures										P	P	P	P	P	C			
• Paper and allied products										C	C	P	P	C	C			
• Petroleum refining and related products										C	C	P	P					
• Rubber and plastics products										C	C	P	P					
• Leather and leather goods										P	P	P	P	C	C			
• Tannery										C	C							
• Stone, clay, glass and concrete products										C	C	P	P	C	C			
• Primary metal products										C	C	P	P	C	C			
• Asphalt plant/concrete batch plant													C					
• Fabricated metal products										C	C	P	P	C				
• Industrial and commercial machinery										C	C	P	P					
• Heavy machinery and equipment										C	C	P	P					
• Computer and office equipment										P	P	P	P	C	C			
• Electronic and electric equipment										P	P	P	P	PU/CS	C			
• Miscellaneous vehicle manufacturing										C	C	P	P	C				
• Boat building										C	C	P(5)	P	C				
• Tire retreading										C	C	P	P					
• Other manufacturing										C	C	P	P(6)	C	C			
• <u>Marijuana Cultivation Facility</u>										<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>
• <u>Marijuana Cultivation Facility, Limited</u>										<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>
• <u>Marijuana Product Manufacturing Facility</u>										<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>			<u>C</u>

ZONES	P(1)	SF	SFLD	R-1	R-1 MH	R-1 LDMH	R-2	R-2 MHP	CBD	C-1	C-2	WD(2)	I(3)	GI(4)	LI(4)	R	OS	GP (7)
• <u>Marijuana Product Manufacturing Facility, Extract-Only</u>									C	C	C	C	C	C	C			C
STORAGE AND WAREHOUSING													P					
• Marine equipment/ commercial fishing gear/material storage										P	P	P	P	PU/CS	C			
• Boat storage										P	P	P	P					
• Construction materials storage									P	P	P	P	P	C	C	C		
• Trucking, courier and taxi service facilities									P	P	P	P(5)	P	C	C			
• Warehousing and wholesale trade									P	P	P	P(5)	P	C				
• Self-service storage									P	P	P	P	P	C				
• Log storage	C									C	C	P	P	C		P		
• Freight and cargo services									P	P	P	P(5)	P	C				
• Equipment rental services									P	C	C	P	P	C				
• Vehicle rental services									P	P	P	P	P	C				
• Natural resource extraction and mining support facilities												C	C	C	C			C
• Storage of explosives													C					
• Bulk fuel storage												C						

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Table 22.16.015-6  
Retail and Business Uses

ZONES	P(1)	SF	SFLD	R-1	R-1 MH	R-1 LDMH	R-2	R-2 MHP	CBD (8)	C-1	C-2	WD(2)	I(3)	GI(4)	LI(4)	R	OS	GP
RETAIL USES																		
• Building, hardware and garden materials										P	P		P	C	C			P
• Bulk forest products sales									P	P	P	P	P	P				P
• Retail forest products sales										P	P	P	P					C
• Art galleries and sales of art									P	P	P	P						
• Department and variety stores									P	P	P	P(5)		C	C			
• Food stores									P	P	P	P(5)		C	C	C(6)		C

ZONES	P(1)	SF	SFLD	R-1	R-1 MH	R-1 LDMH	R-2	R-2 MHP	CBD (8)	C-1	C-2	WD(2)	I(3)	GI(4)	LI(4)	R	OS	GP
• Agricultural product sales										P	P		P	C	C			P
• Motor vehicle and boat dealers									P(7)	P	P	P(5)		C				P
• Auto supply stores									P	P	P			C	C			P
• Gasoline service stations									C	P	P		P	C	C			C
• Apparel and accessory stores									P	P	P	P(5)		C	C			
• Furniture and home furnishing stores									P	P	P			C				C
• Eating and drinking places									P	P	P	P	C	PU/ CS	C			C
• Drug stores									P	P	P			C	C			
• Liquor stores									P	P	P	P(5)		C	C			
• Used goods, secondhand stores									P	P	P	P(5)		C	C			C
• Sporting goods									P	P	P	P(5)		C	C			
• Book, stationery, video and art supply									P	P	P	P(5)		C	C			
• Jewelry stores									P	P	P	P(5)		C	C			
• Monuments, tombstones and gravestones									P	P	P		P	C	C			P
• Hobby, toy, game stores									P	P	P			C	C			
• Photographic and electronic stores									P	P	P	P(5)		C	C			
• Fabric stores									P	P	P			C	C			
• Fuel dealers										P	P		P	C	C			C
• Florists									P	P	P			C	C			
• Medical supply stores									P	P	P			C	C			
• Pet shops									P	P	P			C	C			
• Sales of goods that are wholly manufactured at Gary Paxton industrial park GPIP																		P
• Sales of gifts, souvenirs and promotional materials that bear the logo or trade name of a GPIP permitted use business																		P
• Stand alone souvenir and gift shops									P	P	P	P						
• Bulk retail										P	P			C	C			
• Commercial home horticulture	P	C	C	C(9)	C(9)		C(9)	C(9)	P	P	P	P		PU/ CS(9)	C(9)	P	P	
• Horticulture and	P								P	P	P	P						P

ZONES	P(1)	SF	SFLD	R-1	R-1 MH	R-1 LDMH	R-2	R-2 MHP	CBD (8)	C-1	C-2	WD(2)	I(3)	GI(4)	LI(4)	R	OS	GP
related structures																		
• <u>Marijuana Retail Facility</u>									C	C	C	C	C	C	C			C
BUSINESS SERVICES																		P
• General business services									P	P	P	P(5)	P	C	C			C
• Professional offices							C	C	P	P	P	P(5)		C	C			P
• Communications services									P	P	P	P(5)		C	C			P
• Research and development services									C	P	P	C(5)	P	C	C			P

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**Chapter 22.24  
SPECIAL USE PERMITS**

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**22.24.026 Marijuana Conditional Use Permits.**

- A. Intent. This section shall govern the approval of all conditional use permits for the following uses defined as: 22.08.587 A. Marijuana Activity, Licensed; 22.08.587 C. Marijuana Cultivation Facility; 22.08.587 D. Marijuana Cultivation Facility, Limited; 22.08.587 E. Marijuana Product Manufacturing Facility; 22.08.587 F. Marijuana Product Manufacturing Facility, Extract Only; 22.08.587 G. Marijuana Retail Facility; and 22.08.587 H. Marijuana Testing Facility. Such uses shall only be approved were there are no negative impacts that exist or where any negative impacts are mitigated through conditions that shall mitigate any potential negative impacts to preserve the public's health, safety, and welfare.
- B. Application Requirements. Same as conditional use application in Table 22.24.010-1.
- C. Standard Regulations, Dimensions, and Setbacks
  1. Owners, operators, and staff of conditional uses shall comply with all state and municipal licensing regulations.
  2. All licensed facilities shall comply with all life and safety regulations as promulgated by the municipal Building official.
  3. All licensed manufacturing and cultivation uses shall provide a fire safety plan, material handling plan, and comply with all fire safety regulations that satisfies the Fire Marshall or their designee and the Building Official.
  4. All licensed facilities and/or uses shall provide screening from public view of any marijuana related commercial, retail, cultivation, or manufacturing use.
  5. All licensed facilities and/or uses shall establish an active sales account and business registration with the Municipality and shall comply with all standard & required accounting practices.
  6. It shall be a standard regulation that all conditional uses comply with all applicable state regulations and licensing laws or it shall be deemed to

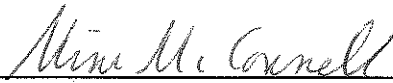
abandon and extinguish any associated municipal license or conditional use permit.

7. All approved Conditional use permits shall comply with all Sitka General Code or shall be deemed to abandon and extinguish any associated municipal license or conditional use permit
  
- D. All proposed licensed facilities and/or uses for a conditional use at a specific location shall be reviewed according to the following objective criteria to determine whether the proposed use presents any negative impacts to the public's health, safety, and welfare:
  1. All criteria listed in section 22.24.010(I)
  2. Any impact or criteria that surfaces through public comment, planning staff review, or planning commission review
  
- E. Findings of Fact: Upon review and considerations of the required criteria, the Planning Commission shall determine whether the proposed use(s) at the proposed project location are found to not present a negative impact to the public's health, safety, and welfare.
  1. If such a finding can be made, than the proposed use shall be approved with standard regulations, dimensions, and setbacks.
  2. In the alternative, where the Planning Commission finds negative impacts are present, the Planning Commission shall only approve conditional use permits where the negative impacts can be adequately mitigated by conditions of approval that preserve the public's health, safety, and welfare. These conditions of approval shall be case by case specific and in addition to the standard regulations.
  3. If negative impacts to the public's health, safety, and welfare cannot be mitigated through conditions of approval than the Planning Commission shall so find and deny the proposed conditional use permit.


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5. **EFFECTIVE DATE.** This ordinance shall become effective the day after the date of its passage.

**PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka, Alaska this 26<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
Mim McConnell, Mayor

ATTEST:

  
\_\_\_\_\_  
Sara Peterson, CMC  
Municipal Clerk

1<sup>st</sup> reading 4/12/16  
2<sup>nd</sup> reading 4/26/16