

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2019-XX

**AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 7
“MARIJUANA REGULATIONS”, TITLE 10 “PUBLIC PEACE, SAFETY AND MORALS”,
AND TITLE 22, “ZONING” OF THE SITKA GENERAL CODE BY MODIFYING CERTAIN
SECTIONS THROUGHOUT THESE TITLES TO REFLECT THE NEW MARIJUANA
ONSITE CONSUMPTION REGULATIONS**

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. SEVERABILITY. If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. PURPOSE. The purpose of this ordinance is to reflect State of Alaska regulations allowing for onsite marijuana consumption endorsements to businesses with licenses for retail sales of marijuana in the Sitka General Code. The proposed changes will define an onsite marijuana consumption facility, identify which zoning districts such an establishment could operate in, prescribe the conditional use permit process for those applying to operate an onsite marijuana consumption facility, and limit access to such facilities exclusively those over the age of twenty-one.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Title 7, Title 10 and Title 22, be amended by modifying chapters 7.30 entitled “Public Consumption”, chapter 10.76 entitled “Loitering”, chapter 22.08 “Definitions”, chapter 22.16 “District Regulations” and chapter 22.24 entitled “Special Use Permits” to read as follows (deleted language stricken, new language underlined):

**Title 7
MARIJUANA REGULATIONS**

Chapters:

- 7.30 Public Consumption**
- 7.40 Local Regulatory Authority**
- 7.50 Licensing**

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**Chapter 7.30
PUBLIC CONSUMPTION**

Sections:

- 7.30.010 Public consumption.**

7.30.010 Public consumption.

A. Pursuant to AS 17.38.040, public consumption of marijuana is prohibited. A person who violates this law is guilty of a violation punishable by a fine of up to one hundred dollars.

B. Except as otherwise provided, it is unlawful for a person to knowingly consume marijuana:

22. Upon any public streets, alleys, sidewalks, municipally operated harbor walkways and floats, restrooms and parking lots, any municipally controlled areas open to the general public and public school grounds, whether in a motor vehicle or not;

2. At any public park, recreation area, playground, or ball field, whether in a motor vehicle or not;

3. In or upon those portions of any private property upon which the public has an express or implied license to enter or remain, including but not limited to eating and/or drinking establishments, places of business or amusement. An exception is made for onsite marijuana consumption facilities as defined in SGC 22.08.587(J) that operate under an approved conditional use permit; and

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Title 10

PUBLIC PEACE, SAFETY AND MORALS

Chapters:

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VIII. Offenses BY or Against Minors

10.72 Juvenile Curfew

10.76 Loitering

10.80 Detention of Minors

10.84 Liquor Regulations

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Chapter 10.76 LOITERING

Sections:

10.76.040 Sale and display of narcotic and other paraphernalia.

10.76.050 Prohibiting contraband substances to minors.

10.76.060 Definition.

10.76.070 Student protection and school property.

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10.76.050 Prohibiting contraband substances to minors.

A. It is unlawful to sell, transfer, or give to any person under the age of eighteen years, and it is unlawful for any person under eighteen years of age to possess any marijuana, hashish, PCP or any other controlled substance (except by prescription) or any device, contrivance, instrument or paraphernalia described in subsection A of Section 10.76.040, or any circular multi-bladed throwing knives.

B. Any of the above-mentioned substances and items found in the possession of a minor under the age of eighteen years shall be confiscated and destroyed as contraband.

C. Any person convicted of selling, transferring, trading or giving any of the above-mentioned substances or items to a minor under the age of eighteen years shall be subject to a penalty of not more than thirty days in jail or a fine of up to five hundred dollars, or both.

D. Pursuant to Alaska Administrative Code Chapter 306.310, the operator of an onsite marijuana consumption facility as defined in SGC 22.08.587(J) shall restrict access to persons not less than twenty-one years of age.

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Title 22 ZONING

Chapters:

- 22.04 Introduction and General Provisions**
- 22.08 Definitions**
- 22.12 Zoning Maps and Boundaries**
- 22.16 District Regulations**
- 22.20 Supplemental District Regulations and Development Standards**
- 22.24 Special Use Permits**
- 22.30 Zoning Code Administration**

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Chapter 22.08 Definitions

Sections:

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22.08.587 Marijuana.

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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,~~ or an onsite marijuana consumption facility.

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 five hundred 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.

J. "Onsite marijuana consumption facility" means a marijuana retail facility that is authorized to sell marijuana and marijuana products to patrons for consumption on the premises in an area separated from the remainder of the premises by a secure door and containing a separate ventilation system. Patrons are not allowed to consume marijuana or marijuana products that were not purchased at the onsite marijuana consumption facility.

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Chapter 22.16 DISTRICT REGULATIONS

Sections:

22.16.010 Generally.

22.16.015 Permitted, conditional and prohibited uses.

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22.16.015 Permitted, conditional and prohibited uses.

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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 | C (10) |
|---|----------|----|------|-----|-----------|-------------|-----|------------|------------|-----|-----|-----------|----------|-----------|-----------|------|----|----|-----------|
| 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 | |
| • 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 | | | | | | | | | P | P | P | | P | C | C | | | P | |

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| 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 | C (10) |
|-------------------------------------|----------|----|------|-----|-----------|-------------|-----|------------|------------|-----|-----|-----------|----------|-----------|-----------|---|----|----|-----------|
| SERVICES | | | | | | | | | | | | | | | | | | | |
| • 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

Sections:

- 22.24.005 General.
- 22.24.010 Conditional uses.
- 22.24.020 Variances.
- 22.24.025 Commercial home horticulture permits.
- 22.24.026 Marijuana conditional use permits.
- 22.24.030 Planned unit developments.
- 22.24.040 Binding site plan approval.
- 22.24.050 Nonconforming use permit.

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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: Sections 22.08.587(B), Marijuana Establishment; 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; and 22.08.587(J), onsite marijuana consumption facility. Such uses shall only be approved where 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.

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5. EFFECTIVE DATE. This ordinance shall become effective _____.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska, this _____ day of _____, 2019.

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ATTEST:

Sara Peterson, MMC
Municipal Clerk

Gary L. Paxton, Mayor

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