



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

Planning and Community Development Department

AGENDA ITEM

Case No: ZA 19-04
Proposal: Designation and process for onsite marijuana consumption facility
Applicant: Michelle Cleaver
Location: N/A
Legal: N/A
Zone: CBD, C-1, C-2, WD, I, GI, LI, GP

PROJECT DESCRIPTION

This request is for a zoning text amendment to update the Sitka General Code (SGC) in accordance with recently 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.

KEY POINTS AND CONCERNS

- Many 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 7, 10, and 22.
- The State of Alaska is the first state to approve onsite marijuana consumption facilities, so there is a lack of precedent or examples from other jurisdictions on how such a facility would function and be regulated.
- 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.

RECOMMENDATION

Staff does not have a recommendation for the Commission at this time – the purpose of this agenda item is to allow Commissioners an opportunity to gain familiarity with the new regulations, provide

suggestions for how onsite consumption should be managed, and allow for feedback from the public.

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(a) reads:

Unless prohibited by local or state law, a freestanding licensed retail marijuana store with an approved onsite consumption endorsement is authorized to:

- (1) sell marijuana and marijuana products, excluding marijuana concentrates, to patrons for consumption on the licensed premises at the time of purchase only in an area designated as the marijuana consumption area and separated from the remainder of the premises, either by a secure door and having a separate ventilation system, or by being outdoors in compliance with c)(4) below;*
- (2) sell for consumption on the premises*
 - (A) marijuana bud or flower in quantities not to exceed one gram to any one person per day;*
 - (B) edible marijuana products in quantities not to exceed 10 mg of THC to any one person per day; and*
 - (C) food or beverages not containing marijuana or alcohol; and*
- (3) allow a person to remove from the licensed premises marijuana or marijuana product that has been purchased on the licensed premises for consumption under this section, provided it is packaged in accordance with 3 AAC 306.345.*

3 AAC 306.370(b) further regulates the operations of an onsite consumption facility by prohibiting the sale or consumption of marijuana concentrates, employee consumption during a work shift, tobacco consumption, consumption of marijuana products not purchased at the licensed retail marijuana store, and limits discounts or promotional prices.

3 AAC 306.370(c) describes the characteristics of an onsite consumption facility in that it will be isolated from the other areas of the retail area with walls and secure door, there will be a smoke-free area for employees to monitor the consumption area, a ventilation system that directs air outside through a filtration system to sufficiently remove visible smoke and odor, and limitations for an outdoor consumption area.

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. Due to the State application process, it will likely be several more months before a

business could have an approved endorsement and begin operation of an onsite marijuana consumption facility (per State regulations).

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 22.08.587(J), as a type of marijuana establishment defined as, “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.”
- 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 22.24.026(A).

Additionally, changes to titles 7 and 10 of the SGC are necessary to fully integrate the State regulations. Title 7 Marijuana Regulations prohibits consumption of marijuana in public. Verbiage was added to SGC 7.30.010(B)(3) to state “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.”

Title 10 Public Peace, Safety, and Morals also has provisions to limit access and possession of marijuana and marijuana products to minors. Language was included in this title to limit persons under the age of 21 from entering onsite marijuana consumption facilities. SGC section 10.76.050 was amended to add a section 10.76.050(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.”

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 grows tax revenues for the City. On tourism, Alaska is one of the few states that has legalized retail sales of marijuana and now is 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 tidelands or parks. Allowing onsite consumption would contain consumption to a private, secure, monitored location and lessen the impact on public consumption.

It is worth noting that some contend 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.

At this time, the Planning, Police, and Legal departments are still reviewing the new State regulations to fully understand the provisions and ensure the language and references incorporated into the SGC are consistent. Staff is presenting this draft ordinance for review and feedback from the Commission to be incorporated into a draft ordinance that will be brought back to the Commission at a future for additional consideration and possible recommendation for approval to the Assembly.

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ATTACHMENTS

Attachment A: Draft ordinance language

Attachment B: Applicant materials

Attachment C: State regulations 3 AAC 306.370