



CITY OF THORNE BAY
ORDINANCE 21-04-06-01

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, AMENDING
TITLE 9 – PUBLIC PEACE, MORALS AND WELFARE, ADDING CHAPTERS 9.06-MARIJUANA
ESTABLISHMENTS, SECTIONS 9.06.010-9.06.080


BE IT ENACTED BY THE CITY COUNCIL FOR THE CITY OF THORNE BAY ALASKA

- Section 1.** Classification. This ordinance is of a general and permanent nature, the chapter and section hereby amended shall be added to the Thorne Bay Municipal Code.
- Section 2.** Severability. If any provisions of this ordinance or any application thereof to any person or circumstances is held invalid, the circumstances shall not be affected thereby.
- Section 3.** Amendment of Section. The title and chapter of Title 9 – Public Peace, Morals and Welfare, is hereby amended and Chapter 9.06 – Marijuana Establishments, Sections 9.06.010 Local regulatory authority, 9.06.020 Marijuana establishments prohibited, 9.06.025 Registration required, 9.06.030 Limits on number of marijuana establishments, 9.06.035 Hours of operation, 9.07.040 Identification requirement to prevent sale to person under 21, 9.06.050 Production of marijuana concentrates prohibited, 9.06.055 Prohibition on on-site consumption of marijuana, 9.06.060 Enforcement and inspection, 9.06.070 Definitions, 9.06.080 Penalties for violation, are hereby added to the Thorne Bay Municipal Code.
- Section 4.** Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED this 6th day of April 2021, by a duly constituted quorum of the City Council with a vote of Six (6) yeas and One (1) nay.

ATTEST:


Teri Feibel, CMC


Cindy Edenfield, Mayor

[Introduction Hearing: March 16, 2021]

[Public Hearing: April 6, 2021]

THE FOLLOWING CHAPTER OF TITLE 9-PUBLIC PEACE, MORALS AND WELFARE IS HEREBY ADDED TO THE THORNE BAY MUNICIPAL CODE AS FOLLOWS:

Adding Chapter 9.06-Marijuana Establishments, Adding Sections 9.06.010, 020, 025, 030, 035, 040, 050, 055, 060, 070 & 080

Chapter 9.06 MARIJUANA ESTABLISHMENTS

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9.06.010 Local regulatory authority.

- A. THE THORNE BAY CITY COUNCIL SHALL BE THE LOCAL REGULATING AUTHORITY RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A REGISTRATION TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT UNDER AS 17.38.110(C).
- B. COMPLETE COPIES OF APPLICATIONS REQUIRED BY THE MARIJUANA CONTROL BOARD FOR NEW LICENSES, LICENSE RENEWALS, CHANGES OF OWNERSHIP, AND TRANSFER OF LICENSES SHALL BE SUBMITTED BY THE LICENSE APPLICANT TO THE THORNE BAY CITY CLERK ON OR BEFORE THE SAME DAY THAT APPLICATIONS ARE SUBMITTED TO THE MARIJUANA CONTROL BOARD. THE CITY CLERK WILL PROVIDE FOR CITY COUNCIL AND CITY STAFF REVIEW OF THE APPLICATION AND COMMENT TO THE MARIJUANA CONTROL BOARD WITHIN THE TIME LIMITS SET BY THE BOARD.
- C. LICENSE APPLICATIONS SHALL BE REVIEWED BY THE THORNE BAY PLANNING OFFICIAL TO ENSURE COMPLIANCE WITH LOCAL ZONING CODE, DISTANCES FROM FACILITIES

PROVIDED FOR IN 3 AAC 306.010(A), AND RELATED MUNICIPAL ORDINANCES. THE THORNE BAY PLANNING OFFICIAL WILL FORWARD COMMENTS ON EACH APPLICATION TO THE CITY CLERK FOR CITY COUNCIL REVIEW.

- D. LICENSE APPLICATIONS SHALL BE REVIEWED BY THE THORNE BAY LAW ENFORCEMENT OFFICER, AND COMMENTS WILL BE SENT TO THE CITY CLERK FOR CITY COUNCIL REVIEW. [ORD. 21-04-20-01]

9.06.020 MARIJUANA ESTABLISHMENTS PROHIBITED.

COMMERCIAL MARIJUANA CULTIVATION, COMMERCIAL MARIJUANA MANUFACTURING, AND COMMERCIAL MARIJUANA TESTING FACILITIES, AS DEFINED, LICENSED, OR REGULATED BY THE ALASKA MARIJUANA CONTROL BOARD, ARE PROHIBITED. [ORD. 21-04-20-01]

9.06.025 REGISTRATION REQUIRED.

- A. ALL MARIJUANA ESTABLISHMENTS SHALL BE REGISTERED WITH THE CITY AS REQUIRED BY TBMC 3.17.065, AND BE COMPLIANT WITH TBMC TITLE 18-ZONING. A REGISTRATION MAY BE ISSUED ONLY WHEN:
1. A VALID LICENSE HAS BEEN ISSUED BY THE ALASKA MARIJUANA CONTROL BOARD; AND
 2. THE THORNE BAY PLANNING OFFICIAL CERTIFIES THAT THE PROPOSED MARIJUANA ESTABLISHMENT COMPLIES WITH TBMC TITLE 17. [ORD. 21-04-20-01]

9.06.030 LIMITS ON NUMBER OF MARIJUANA ESTABLISHMENTS.

- A. THERE SHALL BE A LIMIT ON THE NUMBER OF LICENSED RETAIL MARIJUANA STORES LOCATED WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF THORNE BAY AS FOLLOWS: 1. NO MORE THAN TWO LICENSED RETAIL MARIJUANA STORES. [ORD. 21-04-20-01]

9.06.035 HOURS OF OPERATION.

A LICENSED RETAIL MARIJUANA STORE MAY NOT CONDUCT ANY BUSINESS ON, OR ALLOW ANY CONSUMER TO ACCESS, THE RETAIL MARIJUANA STORE'S LICENSED PREMISES BETWEEN THE HOURS OF 3:00 A.M. AND 8:00 A.M. EACH DAY. [ORD. 21-04-20-01]

9.06.040 IDENTIFICATION REQUIREMENT TO PREVENT SALE TO PERSON UNDER 21.

- A. A LICENSED RETAIL MARIJUANA STORE SHALL REFUSE ENTRY INTO THE LICENSED PREMISES TO ANY PERSON FAILING TO PRODUCE A FORM OF VALID PHOTO IDENTIFICATION SHOWING THAT PERSON IS 21 YEARS OF AGE OR OLDER. A VALID FORM OF IDENTIFICATION INCLUDES:
1. AN UNEXPIRED, UNALTERED PASSPORT;

2. AN UNEXPIRED, UNALTERED DRIVER'S LICENSE; INSTRUCTION PERMIT, OR IDENTIFICATION CARD OF ANY STATE OR TERRITORY OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, OR A PROVINCE OF CANADA;
 3. AN IDENTIFICATION CARD ISSUED BY A FEDERAL OR STATE AGENCY AUTHORIZED TO ISSUE A DRIVER'S LICENSE OR IDENTIFICATION CARD.
- B. A LICENSED RETAIL MARIJUANA STORE SHALL REFUSE TO SELL MARIJUANA OR A MARIJUANA PRODUCT TO ANY PERSON WHO DOES NOT PRODUCE A FORM OF VALID PHOTO IDENTIFICATION SHOWING THAT PERSON IS 21 YEARS OF AGE OR OLDER. [ORD. 21-04-20-01]

9.06.050 PRODUCTION OF MARIJUANA CONCENTRATES PROHIBITED.

- A. NO PERSON MAY PRODUCE SOLVENT BASED MARIJUANA CONCENTRATE USING THE HYDROCARBONS N-BUTANE, ISOBUTENE, PROPANE, OR HEPTANE OR OTHER EXPLOSIVE OR CORROSIVE CHEMICALS, SOLVENTS, OR GASES.
- B. ANY VIOLATION OF THIS CHAPTER IS AN INFRACTION AND SHALL BE PUNISHED BY THE FINE ESTABLISHED IN TBMC 1.16.035 FOR VIOLATION OF TBMC 9.06.010.
- C. EACH DAY SUCH VIOLATION IS COMMITTED OR PERMITTED TO CONTINUE SHALL CONSTITUTE A SEPARATE OFFENSE AND SHALL BE PUNISHABLE AS SUCH HEREUNDER.
- D. IN THIS SECTION, "CONCENTRATE," "MARIJUANA CONCENTRATE," AND "MARIJUANA" HAVE THE MEANING GIVEN IN 3 AAC 306.990. [ORD. 21-04-20-01]

9.06.055 PROHIBITION ON ON-SITE CONSUMPTION OF MARIJUANA.

NO LICENSED RETAIL MARIJUANA STORE SHALL PERMIT CONSUMPTION OF MARIJUANA OR A MARIJUANA PRODUCT ON THE LICENSED PREMISES WITHIN THE CITY LIMITS OF THORNE BAY. A LICENSED RETAIL MARIJUANA STORE IS CONSIDERED A "PUBLIC PLACE" AS THE TERM IS USED AT TBMC 9.07.040. [ORD. 21-04-20-01]

9.06.060 ENFORCEMENT AND INSPECTION.

- A. THE CODE ENFORCEMENT OFFICER SHALL BE RESPONSIBLE FOR ENSURING COMPLIANCE, INCLUDING ALL CONDITIONS OF APPROVAL APPLIED BY STATE AND LOCAL REGULATORY AUTHORITIES, FOR MARIJUANA ESTABLISHMENTS WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF THORNE BAY. THE THORNE BAY POLICE DEPARTMENT SHALL ASSIST THE CITY'S CODE ENFORCEMENT OFFICER IN THE COURSE OF INSPECTING MARIJUANA ESTABLISHMENTS, ENSURING COMPLIANCE WITH CONDITIONS OF APPROVAL, AND ISSUING CITATIONS FOR NONCOMPLIANCE OF ORDINANCES, REGULATIONS, AND IMPOSED LICENSE, ZONING, AND REGISTRATION CONDITIONS.
- B. IT IS UNLAWFUL FOR ANY LICENSEE OR EMPLOYEE OF LICENSEE TO REFUSE A LAW ENFORCEMENT OFFICER, OR CODE ENFORCEMENT OFFICER, ACCESS TO AND INSPECTION OF ALL AREAS OF A LICENSED PREMISE. [ORD. 21-04-20-01]

9.06.070 DEFINITIONS.

IN THIS SECTION:

“CONCENTRATE” OR “MARIJUANA CONCENTRATE” HAS THE MEANING GIVEN IN 3 AAC 306.990.

“MARIJUANA” AND “MARIJUANA PRODUCTS” HAS THE MEANING GIVEN IN AS 17.38.900.

“MARIJUANA ESTABLISHMENT” AND “LICENSED PREMISES” MEANS A COMMERCIAL MARIJUANA RETAIL, CULTIVATION, PRODUCT MANUFACTURING, OR TESTING FACILITY LICENSED BY THE STATE OF ALASKA UNDER AS 17.38 AND 3 AAC 306.

“THC” HAS THE MEANING GIVEN IN 3 AAC 306.990.

“THC-BEARING” MEANS ANY PRODUCT CONTAINING AN AMOUNT EQUAL TO OR GREATER THAN 0.01 MILLIGRAMS OF THC PER GRAM OF PRODUCT, OR 0.001 PERCENT THC CONCENTRATE. [ORD. 21-04-20-01]

9.06.080 PENALTIES FOR VIOLATION.

ANY VIOLATION OF THIS CHAPTER IS AN INFRACTION AND SHALL BE PUNISHED BY THE FINE ESTABLISHED IN TBMC 1.16.035 FOR VIOLATION OF TBMC 9.07.010. [ORD. 21-04-20-01]