



KENAI PENINSULA BOROUGH

144 North Binkley Street • Soldotna, Alaska 99669-7520
Toll-free within the Borough: 1-800-478-4441
PHONE: (907) 262-4441 • FAX: (907) 262-1892
www.kpb.us

MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Blaine Gilman, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Mike Navarre, Mayor *P.O. for M.N.*
Blaine Gilman, Assembly President *B. for B.H.*
Wayne Ogle, Assembly Member *B. for W.O.*

DATE: January 22, 2016

SUBJECT: Ordinance 2016-07, An Ordinance Amending KPB Chapter 7.20 and Enacting KPB Chapter 7.30 Regarding Local Protests of State Marijuana Licenses, Amending KPB 21.25 and Enacting KPB Chapter 21.30 Regarding Permit Requirements for Marijuana Establishments, and Amending KPB 21.50 Regarding Violations and Enforcement (Mayor, Gilman, Ogle)

An ordinance is being submitted for introduction which would adopt a marijuana protest chapter, KPB 7.30, similar to the one currently on the books for alcohol. The ordinance through proposed KPB 21.30 also establishes a land use counter permit for marijuana facilities regulated by AS 17.38. Additionally, the ordinance amends pending KPB 7.20 establishing the planning commission as the commenting agency for the borough on state marijuana license applications. The ordinance further amends KPB 21.50 to add fines for the enforcement of the land use permit ordinance.

KPB 7.20 is amended to cross-reference that the planning commission will comment to the state regarding the standards set forth in KPB 7.30 and KPB 21.30. KPB 7.20 is also amended to provide for hearing before the planning commission on a marijuana license application.

KPB 7.30 provides that delinquencies in obligations to the borough provide a basis for a protest of a state marijuana facility license. The language of KPB 7.30 is based on the language in KPB 7.10 wherein an operator's delinquencies in borough obligations form the basis for the protest of a liquor license.

KPB 21.25 is amended to provide for a counter permit for marijuana establishments. The regulations for this permit are found at KPB 21.30. A marijuana facility is subject to the following mandatory conditions: A 1,000 foot setback is required from schools; a 500 foot setback is required from youth or recreation centers, church service locations, and correctional facilities; there must be sufficient ingress and egress for traffic to the parcel; retail marijuana stores must not conduct business or allow a consumer access between 2 a.m. and 8 a.m.

Standards for marijuana establishments are set forth at KPB 21.30.030. Volunteered conditions by the operator which are consistent with these standards may be added to the permit issued by the planning director or may be proposed at the time the planning commission holds the hearing on the application for the state license. An appeal from the planning director's decision on a counter permit may be taken to the planning commission, and that appeal hearing may be combined with the hearing before the commission on the application for a state license. Permits in compliance with the permit conditions may be extended in five year increments. A permit may be modified through the same counter permit process as the initial granting of the permit. The fines for failure to obtain a permit or violation of a permit condition are set at \$300.00 which is consistent with other similar violations of land use regulations.

The planning commission will set a fee for the counter permit; it is believed the fee will be approximately \$100.

The Marijuana Task Force supported the adoption of the borough permit process (proposed KPB 21.30) at its meeting on January 20, 2016.

Shortened time is being requested on this ordinance for February 23, 2016 so that it can be heard prior to February 24, the date the state Marijuana Control Board will start accepting license applications. By hearing the ordinance prior to that date there will not be a gap in time where the state regulations are in effect, but corresponding borough regulations are not. Such a gap could cause difficulties in establishing the local permit application and borough comment deadlines for license applications that have already been filed with the state. Your consideration of this ordinance is appreciated.