

Kenai Peninsula Borough

Planning Department

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP

FROM: Robert Ruffner, Planning Director RR

DATE: June 23, 2022

RE: Ordinance 2022-26, Amending KPB Chapters 7.20 and 21.44 Relating to Marijuana Establishments and Processing Applications for Marijuana Establishments (Mayor)

After six years, it has become apparent that Planning Commission review and comment is an unnecessary additional regulatory step. This ordinance amends KPB 7.20.010 by removing the Planning Commission from the application process for marijuana establishment license applications. It will result in the consistent treatment of the public review process for both marijuana and alcohol establishments because KPB 7.10.010 does not require the Planning Commission to make recommendations to the Assembly regarding liquor license applications and renewals.

Under 7.20.010 and AS 17.38, the Assembly is the regulatory authority for regulation of local marijuana establishments outside of the cities. It is duplicative to have the Planning Commission hold public hearings on applications for marijuana establishment license applications and also have the Assembly hold a public hearing on the same application when, ultimately, the Assembly is the body that provides a nonbinding recommendation to the Marijuana Control Board. This ordinance still requires a Planning Department report to ensure the application complies with all local ordinances and the Planning Department to present its report to the Assembly during a public hearing.

Additionally, KPB 7.20.010(C) and KPB 21.44.130(F) cite AS 17.38 for a definition for "commercial marijuana facilities", and KPB 21.44.190(D) cites AS 17.38 for a definition for "commercial marijuana establishments". But, AS 17.38 does not provide a definition for either "commercial marijuana facilities" or "commercial marijuana establishments". Instead, the appropriate term actually defined in AS 17.38 is "marijuana establishment", which encompasses marijuana cultivation facilities, marijuana testing facilities, marijuana product manufacturing facilities, and retail marijuana stores. As such, this ordinance will align Borough code with state law.

Your consideration of this ordinance is appreciated.