



# City of Bethel, Alaska

## Marijuana Advisory Committee Agenda

Special Meeting **June 8, 2016 – 6:15 p.m.** City Hall 300 State Highway

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Maggie Ryan  
Committee Chair  
Term Expires 12/2017

Mary C. Nanuwak  
Vice Committee Chair  
Term Expires 12/2017

Kerri Fox  
Committee Member  
Term Expires 12/2017

Tom McCallson  
Committee Member  
Term Expires 12/2017

Pat Jennings  
Committee Member  
Term Expires 12/2017

Vacant

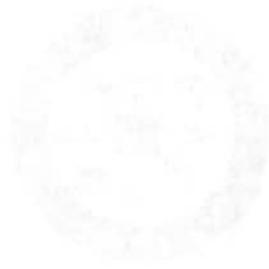
Zach Fansler  
Council Rep  
Term Expires 10/2016

Courtney Trammell  
Alternate Committee Member  
3 Year Term

Vacancy  
Alternate Committee Member  
3 Year Term

Ted Meyer  
City Planner  
Ex-Officio  
Recorder  
543-5306

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. PEOPLE TO BE HEARD – THREE MINUTES PER PERSON**
- IV. APPROVAL OF AGENDA**
- V. APPROVAL OF THE May 16, 2016 MEETING MINUTES**
- VI. UNFINISHED BUSINESS**
  - a. Review City staff comment on Marijuana Ordinance.
- VII. NEW BUSINESS**
- VIII. CITY PLANNER'S REPORT**
- IX. MEMBER COMMENTS**
- X. ADJOURNMENT**



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# City of Bethel, Alaska

## Marijuana Advisory Committee Minutes

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**May 16, 2016**

**Special Meeting**

**Bethel, Alaska**

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**I. CALL TO ORDER:**

A special meeting of the Marijuana Advisory Committee was held on May 16, 2016 at 6: 15 pm in the City Hall Council Chambers conference room, in Bethel, Alaska. Committee Chair Maggie Ryan called the meeting to order at 6:18pm.

**II. ROLL CALL:**

Compromising a quorum, the following members were present for roll call: Kerri Fox, Pat Jennings, Courtney Trammell, and Zach Fansler, and Maggie Ryan. Tom McCallson and Mary Nanuwak were absent. Also present was Ex-Officio member and recorder, Ted Meyer, Planning Director.

**III. PEOPLE TO BE HEARD:** None.

**IV. APPROVAL OF AGENDA:**

**MOTION TO APPROVE THE AGENDA OF May 16, 2016**

<b>MOVED:</b>	Pat Jennings	Motion to approve the agenda.
<b>SECONDED:</b>	Kerri Fox	
<b>VOTE ON MAIN MOTION</b>	All in favor 5 yes and 0 opposed	

**V. APPROVAL OF THE May 2, 2016 MEETING MINUTES:**

<b>MOVED:</b>	Kerri Fox	Motion to approve the MINUTES.
<b>SECONDED:</b>	Courtney Trammell	
<b>VOTE ON MAIN MOTION</b>	All in favor 5 yes and 0 opposed	

**VI. UNFINISHED BUSINESS:**

- A. Review and edit the latest draft of the City of Bethel’s Marijuana Ordinance: The Committee reviewed the latest edited version from the May 2 meeting. They discussed more issues and made more edits and additions. The draft was being fine-tuned for a planned presentation to the City Council later in the month.

**MOTION TO DISTRIBUTE DRAFT ORDINANCE TO THE CITY OF BETHEL ADVISORY COMMITTEES FOR REVIEW.**

<b>MOVED:</b>	Zach Fansler	Motion to distribute draft Marijuana Ordinance to City of Bethel Advisory Committees for review.
<b>SECONDED:</b>	Courtney Trammel	

<b>VOTE ON MAIN MOTION</b>	All in favor 5 yes and 0 opposed
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**MOTION TO RECOMMEND TO THE CITY COUNCIL TO PUT ON THE BALLOT AT THE NEXT ELECTION IN OCTOBER A LOCAL OPTION VOTE ON MARIJUANA, CONSISTING OF TWO PARTS:**

- 1. Allow Marijuana Sales in Bethel?**
- 2. Allow Consumable marijuana establishments?**

<b>Moved:</b>	Zach Fansler	Motion to recommend to the City Council to put on the ballot at the next election in October a local option vote on marijuana, consisting of two parts: <b>1. Allow Marijuana Sales in Bethel?</b> <b>2. Allow Consumable marijuana establishments?</b>
<b>Seconded:</b>	Kerri Fox	

<b>VOTE ON MAIN MOTION</b>	All in favor 5 yes and 0 opposed
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**VII. NEW BUSINESS:** none

**VIII. CITY PLANNER'S REPORT**

**IX. MEMBER'S COMENTS:**

**X. ADJOURNMENT**

**MOTION TO AJDOURN THE MEETING**

<b>Moved:</b>	Kerri Fox	Motion to adjourn the meeting at 7:43 pm.
<b>Seconded:</b>	Pat Jennings	

<b>VOTE ON MAIN MOTION</b>	All in favor 5 yes and 0 opposed
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The next meeting will be on June 9, 2016 at 6:15pm (**later changed to June 8** because of a scheduling conflict.

\_\_\_\_\_  
Maggie Ryan, Chairman

ATTEST:

\_\_\_\_\_  
Ted Meyer, Ex-officio/recorder

**Ann Capela**

May 22 (12 days ago)

to ryan ,  
Bethelboreas ,  
Maggie ,  
Patrick ,  
Zach , Patty ,  
Lori , me ,  
Andre , Bill

To All:

I had a first "blush" reading on the proposed City Ordinance for marijuana - there are some issues that I would like to address and not necessarily prolong City Council meeting.

When or how can we establish a process where some of these issues can be addressed?

The proposed ordinance does not address for the "waste disposal" process and how to store the disposed waste in the City's landfill. AK regulations provide specific guidelines on the disposition of marijuana waste. Who will guard or be in charge of marijuana waste disposal?

The proposed ordinance should contain language provisions for a building inspection by a Building Code inspector or the Fire Chief for ventilation installation. This is due to the strong odor of marijuana products - including the retail facility - (during my tour in Seattle WA after spending an hour in the retail store - many individuals walked away with a pounding headache).

Employees at the facility were not necessarily users of the product and require a safe working environment that comply with OSHA regulations.

The State of Washington allows retail stores to sell consuming instruments like "bongs" "inhalers" tweezers etc - is the City of Bethel contemplating of "marijuana use paraphernalia". Would like to check with Police Chief on this one.

The one odd lesson I learned in Seattle during the on-site visit was that there really needs to be sufficient turnaround for traffic and parking. Planning

Department employees who were our tour guides in Seattle - said that is the one thing they would improve in the next round of ordinance re-write in WA. Sufficient parking and traffic circulation.

Since there is no provision for taking in of credit cards - the Seattle based retailer of marijuana has a separate small vestibule to operate a cash machine in each retail facility. This is a separate business. The cash machine makes a small fortune with the withdrawal fees - these should be taxed as well.

The proposed ordinance allows for "one consumable establishment for every 3,000 residents" this means there would be 2 marijuana "clubs" in the City of Bethel - if I am reading the proposed ordinance correctly.

The proposed ordinance does not allow for a "transpiration" of the marijuana from cultivating to testing to retail or to consumable establishments (reading Alaska regulations there is some provision for a certified or licensed transporter from one place to another?)

A licensed consumable establishment would also have to provide for public restrooms which will bring another set of regulations.

What defines an "open container" in marijuana? is this a half smoked joint? is this an open jar of hand cream?

Hope this is helpful - I learned much about these issues during my visit to the State of Washington's tour and seminar with city officials from OR, WA, AK and Colorado during my 2016 September ICMA conference.

Ann

Introduced by: Marijuana Advisory  
Committee  
Introduction Date May 24, 2016  
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*CITY OF BETHEL, ALASKA*

**Ordinance #16-**

AN ORDINANCE BY THE BETHEL CITY COUNCIL, ADDING SECTION 5.10,  
MARIJUANA REGULATION, TO THE BETHEL MUNICIPAL CODE

**Marijuana Regulation**

- 5.10.010 Definitions
- 5.10.020 Procedure for Administrative Review of License Applications
- 5.10.030 City Council Review of License Applications
- 5.10.040 Council Action on Marijuana License Applications
- 5.10.050 Recordkeeping Required of all Sellers
- 5.10.060 License Restrictions
- 5.10.070 Conditional Use Permit Required
- 5.10.080 Licensee Responsible for Employee's Actions on Premises
- 5.10.090 Hours and Days of Operation
- 5.10.100 Obligation to Enforce Restrictions within Licensed Premises
- 5.10.110 Marijuana Handler Permit
- 5.10.120 Operation of Licensed Premises
- 5.10.130 Sale to Intoxicated Persons Prohibited
- 5.10.140 Eviction of Patrons
- 5.10.150 Open Container
- 5.10.160 Transportation of Marijuana
- 5.10.170 Inspection of Premises
- 5.10.180 Access for Enforcement
- 5.10.190 Limitation on Type and Number of Marijuana Facilities
- 5.10.200 Advertising
- 5.10.210 Water Supply – Limitation of Liability
- 5.10.220 Violation
- 5.10.230 Penalties

**5.10.010 Definitions.**

(A) "Board" means the Alaska Marijuana Control Board as established on November 4, 2014 by HB 123.;

(B) "Consumer" has the meaning given in 3 AAC 306.990;

(C) "Consumption" means the act of ingesting, inhaling, or otherwise introducing marijuana into the human body;

(D) "Intoxicated Person" means a person whose physical or mental conduct is

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substantially impaired as a result of the introduction of an alcoholic beverage and/or controlled substance(s) into the person's body and who exhibits those plain and easily observed or discovered outward manifestations of behavior commonly known to be produced by the overconsumption of alcoholic beverages and/or controlled substance(s).

- (E) "Licensed Premises" has the meaning given in 3 AAC 306.990.
- (F) "local government" means the City of Bethel;
- (G) "local regulatory authority" has the meaning given in AS 04.21.080;
- (H) "marijuana" has the meaning given in AS 17.38.900;
- (I) "marijuana accessories" has the meaning given in AS 17.38.900;
- (J) "marijuana cultivation facility" has the meaning given in AS 17.38.900;
- (K) "marijuana establishment" has the meaning given in AS 17.38.900;
- (L) "Marijuana License" means means a license issued by the Marijuana Control Board pursuant to the requirements set out in AS 17.38 and/or 3 AAC 306;
- (M) "marijuana product manufacturing facility" has the meaning given in AS 17.38.900;
- (N) "marijuana products" has the meaning given in AS 17.38.900;
- (O) "marijuana testing facility" has the meaning given in AS 17.38.900;
- (P) "Person" means an individual, partnership, cooperative, association, joint venture, corporation, estate trust, business, receiver, or any entity, group or combination acting as a unit;
- (Q) "retail marijuana store" has the meaning given in AS 17.38.900;
- (R) "unreasonably impracticable" has the meaning given in AS 17.38.900.

**~~5.10.020 Operations Plan~~**

~~Each retail marijuana cultivation facilities, retail marijuana product manufacturing facilities, and retail marijuana testing facilities shall submit to the City:~~

~~A. A plan that specifies all means to be used for extracting, heating, washing, or otherwise changing the form of the marijuana plant or for testing any marijuana~~

**Comment [p1]:** Moved to Conditional Use Permit Section

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~~or marijuana product, including a verification that such plan is in compliance with all applicable federal, state, and local laws and regulations governing ventilation and safety measures for each such process;~~

~~B. A description of all toxic, flammable, or other materials regulated by a federal, state, or local government that will be used, kept, or created at the facility, the quantities and location of such materials, and the manner in which such materials will be stored; and~~

~~C. A description of the processes used to extract or distill marijuana derivatives from their source and the processes used to incorporate marijuana derivatives into all retail marijuana products produced, including a verification that such processes are in compliance with all applicable federal, state, or local laws or regulations.~~

~~D.A. A plan for ventilation of a retail marijuana establishment that describes the ventilation systems that will be used to prevent any odor of marijuana off the premises of the establishment must be submitted to the City. For retail marijuana cultivation facilities, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises.~~

**5.10.020 Procedure for Administrative Review of License Applications.**

- A. Upon receipt of notice from the Board of an application for the issuance, renewal, transfer of location or transfer to another person of a marijuana license for a license location in the City, the clerk shall as soon as practicable distribute copies of the notice to the city manager, the city council and the city attorney.
- B. The city manager shall immediately refer the application for review as follows:
  - 1. To the planning director or their designee to determine if the applicant has complied with the conditional use provision of the Bethel Municipal Code;
  - 2. To the finance director or their designee to determine whether the licensee or license transferee is delinquent in paying to the City any tax, assessment, business license fee, or fee or charge for utility service for the business and/or affiliate (as defined in 3 AAC 306.990) that operates or will operate, under the marijuana license.
  - 3. To the police and fire chiefs to determine whether, in their opinion there have been excessive calls for service, excessive numbers of convictions or arrests for unlawful activity at the license location, police or ambulance reports, reports of unlawful activity at the license location, or police, fire or ambulance dispatches to the license location.

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- C. The fire chief, police chief, planning director and finance director shall forward written statements to the city manager within fourteen (14) calendar days after the application was referred by the city manager.
- D. The city manager shall provide a written report to the city council, with a copy to the applicant, listing any objections to the Board's issuance of the application. The city manager's report is due within twenty (20) days after the date of receipt of notice from the city clerk.
- E. An applicant who believes the city manager's report contains factual errors shall file a written protest outlining, with specificity, the sections of the report believed to be factually incorrect. Such protest must be filed with the city manager not later than ten (10) calendar days after issuance of the city manager's report.
- F. The city manager shall investigate the applicant's protest and shall issue a written decision no later than ten (10) business days after receipt of the protest.
- G. The city clerk shall place the matter of the application upon the city council agenda not less than thirty (30) and not more than forty (40) calendar days after the date of receipt from the Board;

**5.10.030 City Council Review of License Applications.**

The city council shall determine whether to protest, recommend with conditions, or ~~take no action stay silent~~ on the issuance, renewal or transfer of a marijuana license application and shall consider the following factors it believes are pertinent. Such factors shall include, but not be limited to:

- A. City records indicating whether the applicant and/or transferor is in violation of the city sales tax ordinances or regulations, has failed to comply with any of the filing, reporting or payment provisions of the city ordinances or regulations, or has any unpaid balance due on tax accounts for which the applicant and/or transferor is liable;
- B. The character and public interests of the surrounding neighborhood;
- C. Actual law enforcement problems with supporting data;
- D. The concentration of other licenses of the same and other types in the area;
- E. The adequacy of parking facilities;
- F. The safety of ingress to and egress from the premises;
- G. Compliance with state and local fire, health and safety codes;
- H. The degree of control the licensee has or proposes to have over the conduct of the licensed business. In determining the applicant's demonstrated ability to maintain order and prevent unlawful conduct, the city council may consider police reports, the appearance of a readily identifiable pattern or practice of recurring violent acts or unlawful conduct on the licensed premises. testimony presented before the council, written comments, or other evidence deemed to be reliable and relevant to the purpose of this subsection;
- J. Whether the applicant can demonstrate prospective or continued compliance with operations procedures for licensed premises set forth in BMC section

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5.08.110. The proximity to a school, licensed day care, alcohol/ drug inpatient or outpatient treatment center;

- K. Any history of convictions of the applicants and affiliates of the applicants for:
  - 1. Any violation of AS Title 04, **AS Title 17, 3 AAC 306 and or the BMC;**
- L. Any other factor the city council determines is relevant to a particular application.

#### **5.10.040 Council Action on Marijuana License Applications.**

- A. If a city council member wishes to protest the application, a resolution shall be prepared and introduced at the next regularly scheduled council meeting or earlier if necessary to meet the requirements of 3 AAC 306.060.
- B. At least seven (7) calendar days prior to the council meeting, the city clerk shall provide the applicant with:
  - 1. A copy of the proposed resolution; and
  - 2. Notice of the date and time when council will consider the resolution; and
  - 3. Notice the applicant will have an opportunity, pursuant to **(BMC?)** to appear before the council to defend the application.
- C. A protest by the council under this section cannot be based in whole or in part on police reports or other written materials available to the City but which were not provided to the affected applicant before the public hearing on that protest.
- D. At the conclusion of the public hearing, and any deliberation of the council, the council may choose to:
  - 1. Pass the resolution protesting to the Board the issuance, transfer or renewal of the marijuana license application; or
  - 2. Recommend the license be approved with conditions; or
  - 3. Take no action on the application.

#### **5.10.050 Recordkeeping required of all sellers.**

- A. Premises licensed under 3 AAC 306 shall keep and preserve suitable records of all sales made by the seller and such other books or accounts as may be necessary to determine the amount of tax which it is obliged to collect, including records of the gross daily sales, together with invoices of purchases and sales, bills of lading, bills of sale or other pertinent records and documents as will substantiate and prove the accuracy of a tax return.
- B. All sellers within the City who sell marijuana must have a cash register and must record each retail sale on a cash register that provides, at a minimum, a daily "Z" or "Z-total" report, or equivalent.
- C. "Suitable records of all sales made" as used in subsection A of this section shall mean at a minimum a daily "Z" or "Z-total" report or equivalent, (A "Z" or "Z-total" report is the report generated by the cash register at the end of each business day, which calculates, at least, the totals for each department key, total sales and total receipts – although some cash registers have more detailed "Z" or "Z-total" reports). Whatever records are kept must reflect the total daily

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purchases of taxable items. If no taxable sales are made on a business day, the records kept shall so reflect "zero" sales on that day. Records must also be kept to substantiate any claimed deductions or exclusions authorized by law. Records may be written, stored on data processing equipment, or may be in any form that the City may readily examine.

- D. Records shall be kept in a systematic manner conforming to accepted accounting methods and procedures. Such records include:
1. The books of accounts ordinarily maintained by a prudent business person. Records and accounting information stored on computers must be provided to the City in a readable form when requested by the City.
  2. Documents of original entry such as original source documents, pre-numbered sequential source documents, pre-numbered sequential receipts, cash register tapes, sales journals, invoices, job orders, contracts, or other documents of original entry that support the entries in the books of accounts;
  3. All schedules or working papers used to prepare gross and taxable sales results, including receipts or invoices showing exempt sales.
- E. Records must show:
1. Gross receipts and amounts due from all taxable and exempt sales; and
  2. The total purchase price of all goods and other property purchased for sale, resale, consumption, or lease.
- F. Every seller shall preserve suitable records for the period specified in 3 AAC 306.775 or three (3) full calendar years, whichever is greater. .
- G. The City finance department may examine and audit any relevant books, papers, records, returns or memoranda of any seller, may require the attendance of any seller, or any officer or employee of a seller, at a meeting with the finance director or his or her designee, and may require production of all relevant business records, in order to determine whether the seller has complied with this chapter.

#### **5.10.070 License Restrictions**

~~A.—The City of Bethel adopts 3ACC.010 A and B, which states the Board will not issue a marijuana establishment license if the licensed premises will be located within 500 feet of a school ground, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility. The distance specified in this subsection must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of the school ground, the outer boundaries of the recreation or youth center, the main public entrance of the building in which religious services are regularly conducted, or the main public entrance of the correctional facility. This section does not prohibit the renewal of an existing marijuana establishment license or the transfer of an existing marijuana establishment license to another person if the licensed premises were in use before the school ground, recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility began use of a site within 500 feet. If an existing marijuana~~

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~~establishment license for premises located within 500 feet of a school ground, a recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility is revoked or expires, the board will not issue another marijuana establishment license for the same premises unless the school ground, the recreation or youth center, the building in which religious services are regularly conducted, or the correctional facility no longer occupies the site within 500 feet.~~

~~B. The board will not issue a marijuana establishment license if the licensed premises will be located in a liquor license premises as it currently reads and as it may later be amended.~~

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#### **5.10.070 Conditional use permit required.**

All marijuana establishments including but not limited to cultivation, manufacturing, testing, dispensing, and retail are permitted only by a Conditional Use Permit.

- A. **Operations Plan.** As part of the conditional use permit application, all marijuana establishments shall submit an operations plan:
1. Specifying all means to be used for extracting, heating, washing, or otherwise changing the form of the marijuana plant or for testing any marijuana or marijuana product, including a verification that such plan is in compliance with all applicable federal, state, and local laws and regulations governing ventilation and safety measures for each such process (if applicable);
  2. Describing of all toxic, flammable, or other materials regulated by a federal, state, or local government that will be used, kept, or created at the facility, the quantities and location of such materials, and the manner in which such materials will be stored;
  3. Describing the processes that will be used to extract or distill marijuana derivatives from their source and the processes used to incorporate marijuana derivatives into all retail marijuana products produced, including a verification that such processes are in compliance with all applicable federal, state, or local laws or regulations; and/or
  4. Describing a plan for ventilation that will be used to prevent any odor of marijuana from dissipating into the area. For retail marijuana cultivation facilities, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems will operate to prevent any odor leaving the premises.

#### **5.10.080 Licensee Responsible for Employees' Actions on Premises.**

- A. A licensee may not knowingly or negligently allow its agents or employees to violate any provision of Alaska law or the Bethel Municipal Code and may not recklessly or with criminal or civil negligence fail to act in accordance with the duties prescribed under either with the result that if an agent or employee of the licensee violates a law, regulation or ordinance, the licensee may be held responsible.

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- B. The licensee shall be responsible for all acts or omissions of the licensee's employees on the licensed premises. The licensee may be cited and prosecuted for all acts or omissions of employees which are committed on the licensed premises and which are in violation of this chapter; provided, however, that the prosecution of the licensee shall not prohibit the prosecution of the employee for acts or omissions committed by the employee in violation of any provision of this chapter.

**5.10.090 Hours and Days of Operation.**

A. Premises licensed for the sales, service and consumption of marijuana shall be closed between the hours of 9:00 p.m. and 11:00 a.m., seven days per week.

B. A person may not sell, offer for sale, give, furnish, deliver or consume marijuana on premises licensed under BMC 05.04 during the hours of closure set forth in this section.

C. A licensee, an agent, or employee may not permit a person to consume marijuana on the licensed premises between the hours of closure set forth in this section.

**5.10.100 Obligation to Enforce Restrictions within Licensed Premises.**

A licensee, their agent or employee may not permit the consumption of marijuana by any person within the licensed premises unless it is permitted by the license.

**5.10.110 Marijuana Handler Permit**

- A. A marijuana establishment and each licensee, employee, or agent of the marijuana establishment who sells, cultivates, manufactures, tests, or transports marijuana or a marijuana product, or who checks the identification of a consumer or visitor, must obtain a marijuana handler permit from the Board before being licensed or beginning employment at a marijuana establishment.
- B. A licensee, employee, or agent of a marijuana establishment shall keep the marijuana handler permit card in that person's immediate possession or a valid copy on file on the premises at all times when on the licensed premises of the marijuana establishment.
- C. A marijuana product manufacturing facility, including a marijuana concentrate manufacturing facility, shall ensure that each licensee, employee, or agent who is required or permitted to be physically present on the licensed premises at any time:
  - 1. Obtains a marijuana handler permit before being present or employed at the marijuana product manufacturing facility's licensed premises; and
  - 2. Has the marijuana handler permit card in the person's immediate possession, or a valid copy on file on the premises, at all times while on the marijuana product manufacturing facility's licensed premises.

**5.10.120 Operation of Licensed Premises.**

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- A. Except as otherwise provided in this section, the operations procedures set forth in subsection B of this section shall apply to all marijuana establishments within the City of Bethel which sell or serve marijuana or marijuana products for consumption on the Premises.
- B. Marijuana establishments operating within the City of Bethel which sell or serve marijuana or marijuana products for consumption on the Premises shall comply with the following operations procedures:
1. *Public Transportation.* Licensees shall make available to their patrons access to means of public transportation or permit patrons to make arrangements for transportation off the premises.
  2. *Notice of Penalties.* Operators shall place, at conspicuous locations within licensed premises, a clear and legible sign describing applicable penalties for driving under the influence, and for service or sale of marijuana to minors or intoxicated persons.
  3. *Compliance Determination.* In order to determine whether applicants seeking the issuance, renewal or transfer of marijuana licenses have complied with the provisions of this chapter, applicants shall, at the request of the City, submit to the city manager (or their designee) a marijuana licensee compliance form. Upon request, operators shall also provide the city manager with certificates from all current employees demonstrating that those employees have successfully completed a marijuana awareness training program as approved by the Board.
  4. *In the event the City of Bethel adopts code for allowing for the impoundment and/or forfeiture of vehicles seized pursuant to an arrest for or charge driving under the influence or refusal to submit to chemical tests, such signs must be posted.* Upon adoption of a municipal code allowing for the forfeiture, operators shall display at conspicuous places in licensed premises two (2) signs warning that vehicles are seized in cases of driving under the influence or refusal to submit to chemical tests. One of these warning signs shall be at least eleven (11") inches by fourteen (14") inches in size, and must read, in lettering at least one-half (1/2") inch high and in contrasting colors or black and white, "DRIVE UNDER THE INFLUENCE—LOSE YOUR CAR." The sign described in the preceding sentence must carry a logo or illustration approved by the chief of police or their designee which shows an automobile being towed. The second warning sign shall be at least eleven (11") inches by fourteen (14") inches and must read, in letters at least one-quarter (1/4") inch high and in contrasting colors or black and white, "WARNING: IF YOU DRIVE UNDER THE INFLUENCE OR LET ANYONE DRIVE YOUR VEHICLE UNDER THE INFLUENCE, YOU WILL LOSE YOUR VEHICLE. The police SEIZE cars and trucks driven by intoxicated drivers. A vehicle will be IMPOUNDED for 30 days for the driver's first DUI offense. A vehicle will be FORFEITED if the driver has been convicted of DUI in the past ten (10) years."
  5. *Warning signs required other:*

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C. *Mandatory identification check in the retail sale of marijuana:* A retail marijuana store shall refuse to sell marijuana or a marijuana product to a person who does not produce a form of valid photographic identification showing that person and the persons that person entered with are all twenty-one (21) years of age or older.

1. A valid form of photographic identification includes:

- (a) An unexpired, unaltered passport;
- (b) An unexpired, unaltered driver's license, instruction permit, or identification card of any state or territory of the United States, District of Columbia, or a province of Canada;
- (c) An identification card issued by a federal or state agency authorized to issue a driver's license or identification card.

D. *Security Personnel.*

Each premises licensed for consumption, shall employ at least one (1) person who shall be on duty during open business hours. This person shall not be the budtender on duty, and shall be on duty for the express purpose of maintaining order within the establishment and assuring compliance, by the clientele, with the provisions of this chapter.

E. *Video surveillance.* The City adopts the provisions of 3 AAC 306.720 regarding video surveillance as they currently exist and as they may be amended in the future.

F. *Premises to be cleared Upon Closing.* Upon closing, licensees shall clear the marijuana establishment of all persons, other than necessary employees, within fifteen (15) minutes after the closing hours.

G. *Age Limit Signs to be exhibited.* Each entry to a retail marijuana store must be posted with a sign that says "No one under twenty-one (21) years of age allowed." The sign must be not less than 12 inches long and 12 inches wide, with letters at least one-half inch in height in high contrast to the background of the sign.

#### **5.10.130 Sale to Intoxicated Persons Prohibited.**

A licensee, his agent or employee may not knowingly or negligently:

- 1. Sell, give or barter marijuana to an intoxicated person;
- 2. Allow another person to sell, give or barter marijuana to an intoxicated person within the licensed premises;
- 3. Allow an intoxicated person to enter and remain within the licensed premises or to consume marijuana within the licensed premises; or
- 4. Permit an intoxicated person to sell or serve marijuana.

#### **5.10.140 Eviction of Patrons.**

The licensee and employees of the licensee are expressly permitted to evict any person suspected of being under the age of twenty-one (21) and/or intoxicated and failure of such person to leave after oral request is unlawful and an offense on the part of that person.

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**5.10.150 Open Container**

A. It shall be unlawful to consume, an open container of marijuana on the public streets, sidewalks, alleys, parks or other public places throughout the City. Open container of consumable marijuana may be carried in a vehicle in a locked trunk or other secured location inaccessible to the driver and passengers in the vehicle.

B. Open containers are permitted on private residential property, with the consent of the owner or legal occupant of the property (see 17.38.020)

**5.10.160 Transportation of Marijuana.**

A. A licensed, retail marijuana store may only sell marijuana or marijuana product to a consumer who is physically present on the licensed premises.

B. The transportation of marijuana by common carrier or commercial carrier within the City of Bethel to a residential home or non-licensed marijuana facility is strictly prohibited.

**5.10.170 Inspection of premises.**

A. A marijuana establishment or an applicant for a marijuana establishment shall, upon request, make the licensed premises or the proposed licensed premises, including any place for storage, available for inspection by the City, an employee or agent of the City, or an officer charged with the enforcement of this chapter.

B. Inspection under this section includes inspection of the premises, facilities, qualifications of personnel, methods of operation, business and financial records, marijuana inventory tracking system, policies, and purposes of any marijuana establishment and of any applicant for a marijuana establishment license.

C. The premises of licensees authorized to sell or distribute marijuana shall be easily accessible for inspection by police officers during all regular hours of the transaction of business upon the premises, and at any other time with reasonable notice by the officer.

D. The City may inspect any premises with a marijuana license for compliance with conditions on the license. Upon discovering a violation of such conditions, the person conducting the investigation shall submit a written report of the violation to the Planning Director for review by the Planning Commission and provide a copy thereof to the licensee.

E. If at any time there appears to be a readily identifiable pattern or practice of recurring calls for service or unlawful conduct in a licensed premise, the City may send notice of possible protest to the licensee that he or she must submit and implement a plan for remedial action or be in jeopardy that a protest will be filed to any renewal, transfer of location or transfer of ownership sought by the licensee.

F. Upon receiving a report of conditions violation, the Planning Commission may, after a proper hearing on the matter:

1. Revoke the premise's conditional use permit;

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2. Recommend the City Council protest the issuance, renewal, transfer, relocation or continued operation of the license;
3. Request the City Council recommend imposition of conditions on the state marijuana license pursuant to 3 AAC 306.060; or
4. Request the City Council notify the Board that a licensee has violated conditions and request that an accusation pursuant to 3 AAC 306.060 be brought against the licensee.

G. Prior to taking any of the actions listed in subsection F) of this section, the City shall give the permittee or licensee notice and an opportunity to be heard on the accusation(s) at a publicly noticed meeting.

#### **5.10.180 Access for Enforcement.**

A. The public entrance of licensed marijuana establishments shall be open and unlocked before and after the closing hour of such establishment if there are any patrons in the establishment.

B. A marijuana establishment, and any licensee or employee, or agent in charge shall cooperate with the City, to enforce the laws related to marijuana, including, but not limited to:

1. Permitting entry upon and inspection of the licensed premises; and

2. Providing access to business records at reasonable times when requested by the City. Licensees of licensed marijuana establishments, their employees and all patrons in such establishments shall permit and aid the entry of any law enforcement officer during all hours of operation and at any other time when there are two or more persons in such licensed marijuana establishment.

3. Lack of knowledge or, lack of intent and absence from the premises shall not be a defense to any action brought under this section against any such employee in charge of such establishment or such licensee.

4. Licensees shall provide the Police Chief with their current hours of operation. Any changes to the hours of operation shall be communicated, in writing, to the Police Chief, at least three (3) business days prior to the change being implemented.

#### **5.10.190 Limitation on Type and Number of Marijuana Facilities**

The City of Bethel will cap limits the number of marijuana facilities within the City operations at the following maximums as established by the most recent Bethel population census:

- A. One cultivation operation per every 1,500 people.
- B. One manufacturing facility per every 1,500 people.
- C. One retail shop per every 1,500 people.
- D. One consumable establishment per every 3,000 people.

#### **5.10.200 Advertising**

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A. A retail marijuana establishment shall not advertize the sale of marijuana or marijuana products electronically. This includes but is not limited to the internet, Facebook, Twitter, other social media platforms, and/or mobile devices. These limitations do not include the print media, television, or radio advertising.

B. Outdoor Advertising Generally Prohibited. Except as otherwise ~~provided in the State rule, allowed under~~ AAC 306.360, it shall be unlawful for any ~~Retail~~ marijuana establishment to engage in advertising that is visible to members of the public from any street, sidewalk, park or other public place, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device; any sign mounted on a vehicle, any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner.

~~5.10.220 Water Supply for Grow Operations~~

~~The license for any cultivation or manufacturing facility shall bear the burden for providing all water needed. The City will not provide water through piped water nor will not be responsible for hauled water. Licensees may haul their water or provide it through other means. Under no circumstances will the City be held liable for lack of water availability.~~

**Comment [p2]:** Legal issue denying one class of business with a public utility. The goal seems to be not to be responsible for late or missed deliveries.

~~5.10.210 Water Supply – Limitation of Liability~~

~~The City does not guarantee delivery of water on a specified day or time. The City shall not be liable for any loss or damage of any nature whatsoever caused by any delay or failure to deliver water to an establishment regardless of delivery schedules and anticipated requests. Customers are encouraged to have a back-up water source in case of late or missed water deliveries.~~

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**5.10.220 Violation**

- A. Violation of any section of this chapter shall be an infraction.
- B. The ~~Bethel Police Department~~ City shall have the authority to write and serve citations for violations of the provisions of any portion of this chapter.
- B-C. ~~Each separate day for which a violation occurs is a separate penalty.~~

**5.10.230 Penalties.**

Offense	BMC Section	Mandatory Court Appearance	Penalty Amount
<del>Failure to keep adequate records</del>	<del>5.10.060</del>	<del>Yes</del>	<del>\$500</del>

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<del>Failure to allow City to inspect records</del>	<del>5.10.060</del>	<del>Yes</del>	<del>\$750</del>
<del>Operating without a Conditional Use Permit</del>	<del>5.10.070</del>	<del>Yes</del>	<del>\$750</del>
<del>Operating in Violation of Conditions of Conditional Use Permit</del>	<del>5.10.070</del>	<del>Yes</del>	<del>\$750</del>
<del>Premises Open during non-permissible days or hours</del>	<del>5.10.100-A &amp; B090</del>	<del>No</del>	<del>1<sup>st</sup> Offense: \$150 2<sup>nd</sup> Offense: \$300 3<sup>rd</sup> &amp; subsequent offenses: \$700</del>
<del>Premises Open during on non-permissible days</del>	<del>5.10.100-A &amp; B</del>	<del>No</del>	<del>1<sup>st</sup> Offense: \$500 2<sup>nd</sup> Offense: \$700 3<sup>rd</sup> &amp; subsequent offenses: \$1,000</del>
<del>Selling, Offering for Sale, Giving, Furnishing, Delivering or Consuming or allowing consumption of marijuana or marijuana products on Premises during hours of Closure</del>	<del>5.10.100C090 C</del>	<del>No</del>	<del>\$300</del>
<del>Allowing person to consume marijuana on premises during hours of closure</del>	<del>5.10.100C</del>	<del>No</del>	<del>\$300</del>
<del>Allowing consumption on premises in violation of license</del>	<del>5.10.1020</del>	<del>No</del>	<del>\$500</del>
<del>Permitting the consumption of marijuana or marijuana products within a licensed premises outside the scope of the license</del>	<del>5.10.100</del>	<del>Yes</del>	<del>\$750</del>

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Selling or dispensing marijuana prior to successful completion of a marijuana handler permit training program	5.10.1 <del>12</del> 0A	Yes	\$1,000
<u>Failure to maintain marijuana handler permit or valid copy on the premises</u>	5.10.110	<u>Correctable</u>	<u>\$350</u>
<u>Permitting an employee or agent to work on the Premises without having their marijuana handler's permit or valid copy readily available</u>	5.10.110	<u>Correctable</u>	<u>\$350</u>
Allowing employee to sell or dispense marijuana prior to their successful completion of a marijuana handler permit training program	5.10.1 <del>12</del> 0A	Yes	\$1,000
Failure to show proof of successful completion of a marijuana handler permit training program	5.10.1 <del>12</del> 0B	Correctable	\$300
Failure to provide access to means of public transportation to patrons or to arrange for transportation off premises	5.10.1 <del>23</del> 0B1	No	<u>\$500</u>
Failure to properly post signs describing penalties for driving under the influence, sale or service to minors, or intoxicated persons	5.10.1 <del>23</del> 0B2	No	\$250
Failure to submit a marijuana compliance form upon request	5.10.1 <del>23</del> 0B3	No	\$300
Failure to check identification of purchaser <u>and/or all persons entering with purchaser</u>	5.10.1 <del>30</del> C	Yes	1 <sup>st</sup> Offense: \$500 2 <sup>nd</sup> Offense: \$700 3 <sup>rd</sup> & subsequent offenses: \$1,000
Acceptance of non-conforming identification for purchase of marijuana	5.10.1 <del>23</del> 0C	Yes	1 <sup>st</sup> Offense: \$150 2 <sup>nd</sup> Offense: \$300 3 <sup>rd</sup> & subsequent

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			offenses: \$700
Failure to install or maintain security equipment	5.10.1230E	Yes	1 <sup>st</sup> Offense: \$500 2 <sup>nd</sup> Offense: \$700 3 <sup>rd</sup> & subsequent offenses: \$1,000
Interior camera not positioned to capture sales transactions	5.10.1230E	Yes	1 <sup>st</sup> Offense: \$500 2 <sup>nd</sup> Offense: \$700 3 <sup>rd</sup> & subsequent offenses: \$1,000
Failure to clear premises after closing	5.10.1230F	No	1 <sup>st</sup> Offense: \$150 2 <sup>nd</sup> Offense: \$300 3 <sup>rd</sup> & subsequent offenses: \$700
Failing to post age limit signs	5.10.1230G	No	\$300
Sale of marijuana improperly obtained	5.10.1230	Yes	\$700
Sale of marijuana to an intoxicated person	5.10.1340	Yes	1 <sup>st</sup> Offense: \$500 2 <sup>nd</sup> Offense: \$700 3 <sup>rd</sup> & subsequent offenses: \$1,000

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Providing marijuana to an intoxicated person	5.10.1340A1&2	Yes	1 <sup>st</sup> Offense: \$500 2 <sup>nd</sup> Offense: \$700 3 <sup>rd</sup> & subsequent offenses: \$1,000
Allowing an intoxicated person to enter and remain within licensed premises	5.10.1430A3	Yes	1 <sup>st</sup> Offense: \$150 2 <sup>nd</sup> Offense: \$300 3 <sup>rd</sup> & subsequent offenses: \$700
Permitting intoxicated person to consume marijuana within a licensed premise	5.10.1430A3	Yes	1 <sup>st</sup> Offense: \$500 2 <sup>nd</sup> Offense: \$700 3 <sup>rd</sup> & subsequent offenses: \$1,000
Permitting an intoxicated person to sell or serve an marijuana	5.10.1430A4	Yes	1 <sup>st</sup> Offense: \$500 2 <sup>nd</sup> Offense: \$700 3 <sup>rd</sup> & subsequent offenses: \$1,000
<del>Carrying, transporting or possessing an open container in public</del>	<del>5.10.160</del>	<del>No</del>	<del>1<sup>st</sup> Offense: \$150 2<sup>nd</sup> Offense: \$300 3<sup>rd</sup> &amp; subsequent offenses: \$700</del>
<del>Transportation of marijuana by common carrier for resale</del>	<del>5.10.170</del>	<del>Yes</del>	<del>1<sup>st</sup> Offense: \$500 2<sup>nd</sup> Offense: \$700</del>

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			3 <sup>rd</sup> & subsequent offenses: \$1,000
Transportation of marijuana by commercial carrier for resale	5.10.170	Yes	1 <sup>st</sup> Offense: \$500 2 <sup>nd</sup> Offense: \$700 3 <sup>rd</sup> & subsequent offenses: \$1,000
Consuming marijuana in a public place	5.10.150	No	1 <sup>st</sup> Offense \$100 2 <sup>nd</sup> Offense \$250 3 <sup>rd</sup> and subsequent \$500
Transportation of marijuana or marijuana products to a residential home or non-licensed facility	5.10.160	Yes	\$1000
Failure to make premises easily-reasonably accessible for inspection by police officers	5.10.1890	Yes	\$700
Failing to maintain premises unlocked while patrons are on premises	5.10.1890A	Yes	\$1,000
Failure to permit or aid the entry of law enforcement during hours of operation	5.10.1890B	Yes	\$700
Failure to permit or aid the entry of law enforcement any time there are two (2) or more persons on the premises	5.10.1890B	Yes	\$700
Failure to keep public entrance open and unlocked while there are still patrons	5.10.180	No	\$500
Failure to provide hours of Operation to Police Chief	5.10.180	No	\$250
Violation of electronic advertising	5.10.2400	No	\$250

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<u>Violation of Advertising Regulations</u>	<u>5.10.200</u>	<u>No</u>	<u>\$250</u>
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