Introduced by: Marijuana Advisory Committee
Date: May 24, 2016
Public Hearing: June 14, 2016
Action: Passed
Vote: 6-0

CITY OF BETHEL, ALASKA

Ordinance #16-18

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

NOW, THEREFORE BE IT ENACTED by the Bethel City Council:

SECTION 1. Classification. This is a Codified Ordinance and shall become part of the Bethel Municipal Code.

SECTION 2. Amendment.
Section 3.64.010 of the Bethel Municipal Code is amended (new language is underlined and old language is stricken)

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
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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

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5.10.010 Definitions.

A. "Board" means the ~~Alcoholic Beverage Control Board~~ Alaska Marijuana Control Board.

B. "Consumer" ~~means a person 21 years of age or older who purchases marijuana or marijuana products for personal use by persons 21 years of age or older, but not for resale to others;~~ 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 substantially impaired as a result of the introduction of an alcoholic beverage and/or marijuana 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 marijuana~~ means a person whose physical or mental conduct is 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" ~~means any or all designated portions of a building or structure, rooms or enclosures in the building or structure, or real estate leased, used, controlled, or operated by a licensee in the conduct of business for which the licensee is licensed by the Board and the City at the specific address for which the license is issued~~ has the meaning given in 3 AAC 306.990.

(F) "Local government" ~~means both home rule and general law municipalities, including boroughs and cities of all classes and unified municipalities~~ means the City of Bethel.

(G) "Local regulatory authority" ~~means the office or entity designated to process marijuana establishment applications by a local government;~~ has the meaning given in AS 04.21.080.

(H) "Marijuana" ~~means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products;~~ has the meaning given in AS 17.38.900

(I) "Marijuana accessories" ~~means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding,~~

~~converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body;~~ has the meaning given in AS 17.38.900.

(J) "Marijuana cultivation facility" ~~means an entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers;~~ has the meaning given in AS 17.38.900.

(K) "Marijuana establishment" ~~means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store;~~ has the meaning given in AS 17.38.900.

(L) "Marijuana License" ~~means any of the licenses or permits described in AS~~ 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 products" ~~means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures;~~ has the meaning given in AS 17.38.900.

(N) "Marijuana product manufacturing facility" ~~means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers;~~ has the meaning given in AS 17.38.900.

(O) "Marijuana testing facility" ~~means an entity registered to analyze and certify the safety and potency of marijuana;~~ 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" ~~means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers;~~ has the meaning given in AS 17.38.900.

(R) "unreasonably impracticable" ~~means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.~~ 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 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 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.~~

~~5.10.030~~ 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 304.990) 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.

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 specific, the sections of the report believed to be factually incorrect. Such protest must be filed to the city manager not later than ten (10) calendar days after issuance of the city manager 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;

5.10.040 30 City Council Review of License.

The city council shall determine whether to protest, recommend with conditions, or ~~stay silent~~ take no action 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:

1. 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;
2. The character and public interests of the surrounding neighborhood;
3. Actual law enforcement problems with supporting data;
4. The concentration of other licenses of the same and other types in the area;
5. The adequacy of parking facilities;
6. The safety of ingress to and egress from the premises;
7. Compliance with state and local fire, health and safety codes;
8. 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;

9. Whether the applicant can demonstrate prospective or continued compliance with operations procedures for licensed premises set forth in BMC section 5.08.110.
10. The proximity to a school, licensed day care, alcohol/ drug inpatient or outpatient treatment center;
11. Any history of convictions of the applicants and affiliates of the applicants for:
12. Any violation of AS Title 04 AS Title 17, 3AAC 306 and or the BMC.
13. Any other factor the city council determines is relevant to a particular application.

5.10.0~~50~~ 40 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 (BMC?); 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 liquor license application; or
    2. Recommend the license be approved with conditions; or
    3. Take no action on the application.

5.10.0~~60~~ 50 Recordkeeping required of all sellers.

A. Premises licensed under (BMC?) 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 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. 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~~.~~

E. 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.

F. 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.

~~G.~~ Every seller shall preserve suitable records ~~of sales for a period of three (3) years from the date of the return reporting such sales, and shall preserve for a period of three (3) years all invoices of goods and merchandise purchased for resale, and all such other books, invoices and records as may be necessary to accurately determine the amount of taxes which the seller was obliged to collect under this chapter.~~ for the period specified in 3 AAC 306.775 or three (3) full calendar years, whichever is greater.

H. 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.

5.10.0~~70~~ 60 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 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.~~ As it currently reads and as it may later be amended.

~~B. The board will not issue a marijuana establishment license if the licensed premises will be located in a liquor license premises.~~

5.10.0~~80~~ 70 Conditional use permit required.

~~Unless exempt, all marijuana establishments including but not limited to cultivation, manufacturing, testing, dispensing, and retail are permitted only by a Conditional Use Permit.~~ 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.~~090~~ 80 Licensee Responsible for Employees' Actions on Premises.

~~A. A licensee may neither knowingly allow agents or employees to violate this chapter or (AS Title 04?) or regulations adopted thereunder, or to recklessly or with criminal or civil negligence fail to act in accordance with the duties prescribed under (AS 04.21.030?) with the result that an agent or employee of the licensee violates a law, regulation or ordinance.~~

~~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 o omissions committed by the employee in violation of any provision of this chapter.~~

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.
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.~~100~~ 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 5.10 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.

5.10.1~~10~~ 00 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.

5.10.1~~20~~ 10 Marijuana Handler Permit

A. ~~Pursuant to 3 AAC 306.700 A and D, 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 times when on the licensed premises of the marijuana establishment.
C. ~~Pursuant to 3 AAC 306.530. a~~ 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 as provided in 3 AAC 306.700 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.

5.10.1~~30~~ 20 Operation of Licensed Premises.

A. Except as otherwise provided in this section, the operations procedures set forth in Subsection B of this section shall apply to all ~~persons seeking the issuance, renewal or transfer of any license issued by the Board by virtue of (AS ?) and other applicable provisions of law allowing the sale or service of marijuana. (Subsection ?) of this section shall not apply to persons seeking the issuance, transfer or renewal of licenses issued under (AS ?) which do not authorize the sale or service of marijuana for consumption on the premises licensed.~~ marijuana establishments within the City of Bethel which sell or serve marijuana or marijuana products for consumption on the Premises.

B. ~~Persons seeking the issuance, transfer or renewal of licenses issued by the Board under (AS Title?) and other applicable provisions of law shall comply with the following operations procedures:~~ 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) an 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 such as the program for techniques in marijuana management 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:*

C. *Mandatory identification check in the retail sale of marijuana:* ~~Licensee or licensee's employee or agent shall require any purchaser (and anyone accompanying the purchaser) of marijuana to produce a current government-issued identification with birth date and photograph for identification check prior to any on-premises sale. The purpose of the identification check is to verify age and eligibility to purchase marijuana. Failure to conduct the mandatory identification check required by this section is a violation of code and the licensee or licensee's employee or agent failing to conduct the mandatory identification check shall be subject to the civil penalty provisions of this chapter. For purposes of mandatory identification check required by this section:~~ 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.

~~"*Current government issued*" means a state, federal or foreign government picture identification in force and effect for a specified period stated within the identification, when presented prior to expiration of the period stated. A state government identification with birth date and photograph issued by any state of the United States is included within the meaning of "current government-issued" if the period of validity is specified and the identification is presented prior to expiration of the period stated.~~

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.

~~1. The subsequent invalidation of the identification as a bona fide government-issued identification does not invalidate the compliance.~~

~~2. An ongoing pattern of non-compliance with the mandatory identification check required by this code may result in review of the conditions of use or may result in the revocation of a special use permit previously approved by the city council. Action by the city council on licensee's special use permit under this section shall be in addition to any criminal or civil penalty applicable to the individual making the sale without performing the mandatory identification check.~~

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 bud tender 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.

1. ~~Pursuant to 3 AAC 306.720., a marijuana establishment shall install and maintain a video surveillance and camera recording system as provided in this section. The video system must cover~~

~~(a) each restricted access area and each entrance to a restricted access area within the licensed premises;~~

~~(b) each entrance to the exterior of the licensed premises; and~~

~~(c) each point-of-sale area.~~

2. ~~At a marijuana establishment, a required video camera must be placed in a way that produces a clear view adequate to identify any individual inside the licensed premises, or within 20 feet of each entrance to the licensed premises. Both the interior and the exterior of each entrance to the facility must be recorded by a video camera.~~

3. ~~Any area where marijuana is grown, cured, or manufactured, or where marijuana waste is destroyed, must have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height that will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, in order to allow for the clear and certain identification of any person and activity in the area at all times.~~

4. ~~Surveillance recording equipment and video surveillance records must be housed in a locked and secure area or in a lock box, cabinet, closet or other secure area that is accessible only to a marijuana establishment licensee or authorized employee, and to law enforcement personnel including a peace~~

~~officer or an agent of the board. A marijuana establishment may use an offsite monitoring service and offsite storage of video surveillance records if security requirements at the offsite facility are at least as strict as onsite security requirements as described in this section.~~

~~5. Each surveillance recording must be preserved for a minimum of 40 days, in a format that can be easily accessed for viewing. All recorded images must clearly and accurately display the time and date, and must be archived in a format that does not permit alteration of the recorded image, so that the images can readily be authenticated. After 40 days, a marijuana establishment may erase video recordings, unless the licensee knows or should know of any pending criminal, civil, or administrative investigation for which the video recording may contain relevant information.~~

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.* ~~All licensees shall cause to remain displayed upon the premises and in the entrance to the premises of their establishments a conspicuous sign in a prominent place visible from outside the establishment, which shall in substance state: "No person under the age of 21 years permitted. Any such person will be prosecuted to the full extent of the law."~~ 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.

5.10.1~~40~~ 30 Sale to Intoxicated Persons.

A. 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.

5.10.1~~50~~ 40 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) or intoxicated and failure of such person to leave after oral request is unlawful and an offense on the part of that person.

5.10.1~~60~~ 50 ~~Open Container.~~ Public Consumption

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 truck or other secured location inaccessible to the driver and passengers within the vehicle~~

~~B. Open containers are permitted on private residential property, with the consent of the owner or legal occupant of the property.~~

A. It shall be unlawful to consume marijuana on the public streets, sidewalks, alleys parks or other public places throughout the City.

B. It shall be unlawful to consume marijuana in a vehicle.

C. Marijuana is permitted on private residential property, with the consent of the owner or legal occupant of the property.

5.10.1~~70~~ 60 Transportation of Marijuana.

A. Pursuant to 3 AAC 306.310(a)(5), 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.

5.10.180 Inspection of premises.

~~A. Pursuant to 3 AAC 306.725, a marijuana establishment or an applicant for a marijuana establishment license under this section 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.~~

~~1. 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.~~

~~2. The cost for inspections shall be borne by the applicant or licensed establishment.~~

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. <u>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.</u>

F. Upon receiving a report of conditions violation, the city council may:
1. Revoke the premise's conditional use permit;
2. Protest the issuance, renewal, transfer, relocation or continued operation of the license;
3. Recommend imposition of conditions on the state marijuana license pursuant to AS 04.11.480(c); or
4. Notify the Board that a licensee has violated conditions and request that an accusation pursuant to AS 04.11.370 be brought against the licensee.

G. Prior to taking any of the actions listed in subsection c) 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 council meeting.

5.10.~~190~~ <u>80</u> 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. Provide access to business records at reasonable times when requested by the City.
   3. Lack of knowledge or intent, shall not be a defense to any action brought under this section.
   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, at least three (3) business days prior to the change being implemented.

~~C. 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.~~

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

~~E. 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.~~

~~5.10.200 Limitation on Type and Number of Marijuana Facilities~~

~~The City of Bethel will cap 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.~~210~~ 190 Advertising

~~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.~~

A. Outdoor Advertising Generally Prohibited. Except as otherwise provided in the State rule, 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~~ 200 Water Supply ~~for Grow Operations~~ – Limited Liability

~~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.~~ 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 missed water deliveries.

5.10.2~~30~~ 10 ~~Marijuana Offenses.~~ Violations

A. Violation of any section of this chapter shall be an infraction.
B. The Bethel Police Department shall have the authority to write and serve citations for violations of the provisions of any portion of this chapter.

5.10.220 Disclaimer.
This Chapter does not supersede applicable Federal Law.

5.10.~~240~~ 230 Penalties.

Offense	BMC Section	Mandatory Court Appearance	Penalty Amount
Failure to keep adequate records	5.10.060	Yes	$500
Failure to allow the city to inspect records.	5.10.060	Yes	$750
Operating without a conditional use permit.	~~5.10.100C~~ 5.10.070	~~No~~ Yes	~~$300~~ $750

Operating in violation of conditions of conditional use permit.	5.10.070	Yes	$750
Premises Open during non-permissible ~~hours~~ days or hours.	5.10.090	No	1st Offense: $150 2nd Offense: $300 3rd & subsequent offenses: $700
~~Premises Open during on non-permissible days~~	~~5.10.100 A & B~~	~~No~~	~~1st Offense: $500~~ ~~2nd Offense: $700~~ ~~3rd & subsequent offenses: $1,000~~
Selling, Offering for Sale, Giving, Furnishing, Delivering or Consuming or allowing consumption of marijuana or marijuana product on premises during hours of closure.	5.10.090 C	No	$300
~~Allowing person to consume marijuana on premises during hours of closure~~	~~5.10.100C~~	~~No~~	~~$300~~
Allowing consumption on premises in violation of license	~~5.10.120~~ 5.10.100	No	$500
Permitting the consumption of marijuana or marijuana products within a licensed premises outside the scope of the license	5.10.100	Yes	$750
Selling or dispensing marijuana prior to successful completion of a marijuana handler permit training program	~~5.10.120 A~~ 5.10.110 A	Yes	$1,000
Failure to maintain marijuana handler permit or valid copy on the premises	5.10.110	Correctable	$350
Permitting an employee or agent to work on the premises without having their marijuana handler's permit or valid copy readily available	5.10.110	Correctable	$350
Allowing employee to sell or dispense marijuana prior to their successful completion of a marijuana handler permit training program	~~5.10.120A~~ 5.10.110 A	Yes	$1,000

Failure to show proof of successful completion of a marijuana handler permit training program	~~5.10.120B~~ 5.10.110B	Correctable	$300
Failure to provide access to means of public transportation to patrons or to arrange for transportation off premises	~~5.10.130B1~~ 5.10.120B1	No	$500
Failure to properly post signs describing penalties for driving under the influence, sale or service to minors, or intoxicated persons	~~5.10.130B2~~ 5.10.120 B2	No	$250
Failure to submit a marijuana compliance form upon request	~~5.10.130B3~~ 5.10.120 B3	No	$300
Failure to check identification of purchaser and/or all persons entering with purchaser	~~5.10.130C~~ 5.10.120C	Yes	1st Offense: $500 2nd Offense: $700 3rd & subsequent offenses: $1,000
Acceptance of non-conforming identification for purchase of marijuana	5.10.120C	Yes	1st Offense: $150 2nd Offense: $300 3rd & subsequent offenses: $700
Failure to install or maintain security equipment	5.10.120E	Yes	1st Offense: $500 2nd Offense: $700 3rd & subsequent offenses: $1,000
Interior camera not positioned to capture sales transactions	5.10.120E	Yes	1st Offense: $500 2nd Offense: $700 3rd & subsequent offenses: $1,000
Failure to clear premises after closing	5.10.120F	No	1st Offense: $150 2nd Offense: $300 3rd & subsequent offenses: $700
Failing to post age limit signs	5.10.120G	No	$300
Sale of marijuana improperly obtained	5.10.120	Yes	$700
Sale of marijuana to an intoxicated person	5.10.130	Yes	1st Offense: $500 2nd Offense: $700 3rd & subsequent

			offenses: $1,000
Providing marijuana to an intoxicated person	5.10.130A1&2	Yes	1st Offense: $500 2nd Offense: $700 3rd & subsequent offenses: $1,000
Allowing an intoxicated person to enter and remain within licensed premises	5.10.130A3	Yes	1st Offense: $150 2nd Offense: $300 3rd & subsequent offenses: $700
Permitting intoxicated person to consume marijuana within a licensed premise	5.10.130A3	Yes	1st Offense: $500 2nd Offense: $700 3rd & subsequent offenses: $1,000
Permitting an intoxicated person to sell or serve an marijuana	5.10.130A4	Yes	1st Offense: $500 2nd Offense: $700 3rd & subsequent offenses: $1,000
~~Carrying, transporting or possessing an open container in public~~	~~5.10.160~~	~~No~~	~~1st Offense: $150~~ ~~2nd Offense: $300~~ ~~3rd & subsequent offenses: $700~~
~~Transportation of marijuana by common carrier for resale~~	~~5.10.170~~	~~Yes~~	~~1st Offense: $500~~ ~~2nd Offense: $700~~ ~~3rd & subsequent offenses: $1,000~~
~~Transportation of marijuana by commercial carrier for resale~~	~~5.10.170~~	~~Yes~~	~~1st Offense: $500~~ ~~2nd Offense: $700~~ ~~3rd & subsequent offenses: $1,000~~
Consuming marijuana in a public place	5.10.150	No	1st Offense $100 2nd Offense $250 3rd 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~~ reasonable accessible for inspection by police officers	5.10.180	Yes	$700

Failing to maintain premises unlocked while patrons are on premises	5.10.180A	Yes	$1,000
Failure to permit or aid the entry of law enforcement during hours of operation	5.10.180B	Yes	$700
Failure to permit or aid the entry of law enforcement any time there are two (2) or more persons on the premises	5.10.180B	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	5.10.200	No	$250
Violation of advertising regulations	5.10.200	No	$250

Section 3. Effective Date.
This Ordinance shall become effective upon the passage by the City Council

ENACTED THIS 14 DAY OF JUNE BY A VOTE OF 6 IN FAVOR AND 0 OPPOSED.

Richard Robb, Mayor

ATTEST:

Lori Strickler, City Clerk