

Introduced by:	Mayor Watson
Date:	October 8, 2019
Action:	Passed
Vote:	4-0
Amend Something Previously Adopted:	Mayor Barr
Amended Date:	November 12, 2019
Action:	Passed
Vote:	5-0

CITY OF BETHEL, ALASKA

Resolution #19-14 AMENDED

**A RESOLUTION BY THE BETHEL CITY COUNCIL CONDITIONALLY
PROTESTING THE ISSUANCE OF RETAIL MARIJUANA LICENSE NO. 21227 TO
KUSKO KUSH, FOR THE OPERATION OF A MARIJUANA BUSINESS AT 781 3RD
AVENUE, BETHEL, ALASKA**

WHEREAS, Essenkay, LLC submitted an application for the licensure of a Retail Marijuana Facility called Kusko Kush to the State of Alaska Alcohol Marijuana Control Office (AMCO), License #21227; notice of the application was received by the City Clerk's Office on August 14, 2019; and the deadline for Council's Protest on the Application is October 13, 2019;

WHEREAS, the proposed location of the retail marijuana business is 781 3rd Avenue, Bethel, Alaska ("the premises");

WHEREAS, the proposed site is currently owned by the City of Bethel, which leased the property to Essenkay, LLC on April 23, 2019;

~~**WHEREAS**, section 4.06 of the lease agreement requires that the tenant "shall observe and comply with all state and federal laws, municipal ordinances, rules and regulations" which may be applicable to the leased premises;~~

~~**WHEREAS**, a lease provision requiring compliance with all state and federal laws is a standard requirement in leases by the City of Bethel;~~

~~**WHEREAS**, it is a violation of the federal Controlled Substances Act to "knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance" (21 U.S.C. § 856(a)(1));~~

~~**WHEREAS**, it is also a violation of the Controlled Substances act to "manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without~~

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~~compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance" (21 U.S.C. § 856(a)(2));~~

~~**WHEREAS,** marijuana is classified as a Schedule I controlled substance under the Controlled Substances Act (21 U.S.C. § 812(c)(10))~~

~~**WHEREAS,** a purported "Lease Addendum" allowing Essenkay, LLC to operate a marijuana business on the leased premises was not approved by the Bethel City Council, as is required under Bethel Municipal Code section 4.08.010(b);~~

~~**WHEREAS,** the operation of a marijuana business on the leased premises would violate section 4.06 of the Lease Agreement;~~

~~**WHEREAS,** the Bethel City Council will not authorize the operation of a marijuana business on City property;~~

~~**WHEREAS,** grant funding received by the City of Bethel is conditioned upon the City's compliance with federal law;~~

~~**WHEREAS,** the City of Bethel may be denied federal grant payments or be required to reimburse federal grant funds if the City does not comply with federal law;~~

~~**WHEREAS,** Bethel Municipal Code section 5.10.070 requires each operator of a marijuana establishment to obtain a conditional use permit;~~

~~**WHEREAS,** Essenkay, LLC had not yet obtained a conditional use permit from the City's Planning Department as of September 10, 2019 November 12, 2019 however the City of Bethel and Essenkay are working on a sale agreement for 781 3rd Avenue which if agreed upon, will provide site control and allow the applicant to continue with the conditional use permitting process with the City's Planning Commission;~~

~~**WHEREAS,** Essenkay, LLC cannot obtain site control because the City of Bethel will not consent to the use of the leased premises for a marijuana business;~~

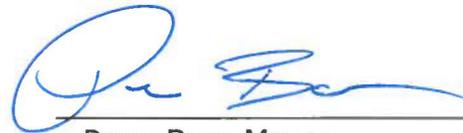
~~**WHEREAS,** the Planning Department cannot issue a conditional use permit to Essenkay, LLC to operate a marijuana business on the leased premises because Essenkay does not have site control;~~

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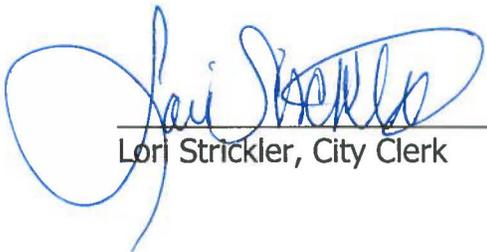
NOW, THEREFORE, BE IT RESOLVED that the Bethel City Council conditionally protests the issuance of the marijuana retail license No. 21227 to Kusko Kush to operate a marijuana business at 781 3rd Avenue and will lift their protest following the issuance of a Conditional Use Permit by the Planning Commission and only if the City no longer has ownership of the property.

ENACTED THIS 12 DAY OF NOVEMBER 2019 BY A VOTE OF 5 IN FAVOR AND 0 OPPOSED.

ATTEST:



Perry Barr, Mayor



Lori Strickler, City Clerk