

3 AAC is amended by adding a new chapter to read:

Section

200. Local options

210. Change of local option

220. Removal of local option

230. Procedure for local option election

240. Prohibition of importation or purchase after election

250. Effect on licenses of restriction on sale

260. Licensing after prohibition on sale except in premises operated by municipality

270. Notice of the results of a local option election

3 AAC 306.200. Local options. (a) If a majority of the persons voting on the question vote to approve the option, or if the assembly or city council passes an ordinance to the same effect, a municipality shall adopt a local option to prohibit

(1) the sale of marijuana and marijuana products;

(2) the operation of any marijuana establishment, including one or more of the

following license types:

(A) a marijuana cultivation facility or marijuana brokerage facility;

(B) a marijuana products manufacturing facility;

(C) a marijuana testing facility;

(D) a marijuana retail facility;

(3) the sale of marijuana and marijuana products except on premises operated by the municipality under a retail marijuana license; or

(4) the sale or importation for sale of marijuana and marijuana products.

(b) If a majority of the persons voting on the question vote to approve the option, or if the assembly or city council passes an ordinance to the same effect, an established village shall exercise a local option to prohibit

(1) the sale of marijuana and marijuana products;

(2) the operation of any marijuana establishment, including one or more of the following license types:

(A) a marijuana cultivation facility or marijuana brokerage facility;

(B) a marijuana products manufacturing facility;

(C) a marijuana testing facility;

(D) a marijuana retail facility; or

(3) the sale and importation for sale of marijuana and marijuana products.

(c) A ballot question to adopt a local option under this section must at least contain language substantially similar to: "Shall (name of municipality or village) adopt a local option to prohibit (local option under (a) or (b) of this section)? (yes or no)."

(d) The ballot for an election on the options set out in (a)(2) and (b)(2) of this section must include a brief explanation of the activity that each license type on the ballot may carry out.

(e) If a municipality dissolves under AS 29.06.450(a) or (b), a local option adopted by that municipality under (a) of this section shall continue in effect as the corresponding local option under (b) of this section for an established village having the same perimeter as the previous boundaries of the municipality. Any marijuana establishment license issued to a municipality under 3 AAC 306.____ expires when the municipality dissolves. Establishment of the perimeter of an established village for purposes of this section shall be governed by AS 04.11.508. (Eff. ___/___/____, Register ____)

Authority: AS 17.38.090 AS 17.38.110 AS 17.38.900

3 AAC 306.210. Change of local option. If a majority of persons voting on the question vote to approve a local option different from one previously adopted under this section and currently in effect, or if the assembly or city council passes an ordinance to the same effect, a municipality or established village shall change the local option to the newly approved option. A ballot question to change a local option under this section must at least contain language substantially similar to: "Shall (name of municipality or village) change the local option currently in effect, that prohibits (current local option), and adopt in its place a local option to prohibit (proposed local option)? (yes or no)." (Eff. ___/___/___, Register ___)

Authority: AS 17.38.090 AS 17.38.110 AS 17.38.900

3 AAC 306.220. Removal of local option. (a) If a majority of the persons voting on the question vote to remove a local option previously adopted under this section and currently in effect, or if the assembly or city council passes an ordinance to the same effect, that local option is repealed effective the first day of the month following certification of the results of the election. A ballot question to remove a local option under this section must at least contain language substantially similar to: "Shall (name of municipality or village) remove the local option currently in effect, that prohibits (current local option), so that no local option continues in effect? (yes or no)."

(b) When issuing a license in the municipality or established village that has removed a local option, the board will give priority to any formerly licensed applicant whose license was not renewed because of the results of the previous local option election. However, an applicant described in this subsection does not have a legal right to a license and the board is not required

to approve the application. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.090 AS 17.38.110 AS 17.38.900

3 AAC 306.230. Procedure for local option election. (a) When the local governing body of a municipality receives a petition to adopt, change, or remove a local option, and the petition is signed by a number of registered voters equal to 35 percent or more of the number of votes cast at the last regular municipal election, the governing body shall place the issue that is the subject of the petition on a separate ballot at the next regular election, or hold a special election, The local governing body shall conduct the election under the election ordinance of the municipality.

(b) When the lieutenant governor receives a petition to adopt, change, or remove a local option, and the petition is signed by a number of registered voters equal to 35 percent or more of the registered voters residing in an established village, the lieutenant governor shall place the issue that is the subject of the petition upon a separate ballot at a special election conducted in compliance with AS 15.

(c) In a general law municipality, AS 29.26.110 - 29.26.160 apply to a petition under (a) of this section except that the

(1) the number of required signatures is determined under (a) of this section rather than under AS 29.26.130;

(2) an application filed under AS 29.26.110 must at least contain language substantially similar to the questions set out under 3 AAC 306.200(c), 3 AAC 306.210, or 3 AAC 306.220 rather than language of an ordinance or resolution;

(3) a petition must at least contain language substantially similar to the questions set out under 3AAC 306.200(c), 3 AAC 306.210, or 3 AAC 306.220 rather than material

required under AS 29.26.120 (a)(1) and (2).

(d) Notwithstanding any other provisions of law, a municipality or established village may not conduct an election to change to a less restrictive option under 3 AAC 306.210, or to remove a local option under 3 AAC 306.220, or pass an ordinance to the same effect, during the first 24 months after the local option was adopted or more than once in a 36-month period.

(e) Notwithstanding AS 29.26.140(a), after a petition has been certified as sufficient to meet the requirements of (a) or (b) of this section, no other petition may be filed or certified until after the question presented in the first petition has been voted on or pass an ordinance to the same effect,. Only one local option question may be presented in an election. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.090 AS 17.38.110 AS 17.38.900

3 AAC 306.240. Prohibition of importation or purchase after election. (a) If a majority of the voters vote to prohibit the importation for sale of marijuana and marijuana products under 3 AAC 306.200(a)(4) or (b)(3), or if the assembly or city council passes an ordinance to the same effect, a person, beginning on the first day of the month following certification of the results of the election, may not knowingly send, transport, or bring marijuana or marijuana products into the municipality or established village.

(b) A person who resides in a municipality or established village that has adopted a local option under 3 AAC 306.200(a) or (b) may not purchase marijuana or marijuana products from another person who has sent, transported, or brought marijuana or marijuana products into the municipality or established village in violation of the local option.

(c) In this section,

(1) "bring" means to carry or convey or to attempt or solicit to carry or convey;

(2) "send" means to cause to be taken or distributed or to attempt or solicit to cause to be taken or distributed, and includes use of the United States Postal Service;

(3) "transport" means to ship by any method, and includes delivering or transferring or attempting or soliciting to deliver or transfer marijuana or marijuana products to be shipped to, delivered to, or left or held for pickup by any person. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.090 AS 17.38.110 AS 17.38.900

3 AAC 306.250. Effect on licenses of restriction on sale. If a majority of the voters vote under 3 AAC 306.200(a) or (b) to prohibit sale of marijuana and marijuana products or the operation of marijuana establishments, or if the assembly or city council passes an ordinance to the same effect, the board may not issue, renew, or transfer between persons or locations a license for a marijuana establishment with premises located within the boundary of the municipality or in the unincorporated area within ten miles of the boundaries of the municipality, or within the perimeter of the established village. A license for a marijuana establishment within the boundary of the municipality or in the unincorporated area within ten miles of the boundary of the municipality, or within the perimeter of the established village, is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this section, by payment of a prorated portion of the annual license fee. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.090 AS 17.38.110 AS 17.38.900

3 AAC 306.260. Licensing after prohibition on sale except in premises operated by municipality. (a) If a majority of the voters vote under 3 AAC 306.200(a)(3) to prohibit sale of marijuana and marijuana products except by the municipality, or operation of marijuana

establishments except marijuana establishments operated by the municipality, or if the assembly or city council passes an ordinance to the same effect, the board may not issue, renew, or transfer a marijuana establishment license in any other person's name within the boundaries of a municipality and in unincorporated areas within ten miles of the boundaries of the municipality. A license in effect is void 90 days after the results of the election are certified. A license that expires during the 90 days after the results of a local option election are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the annual license fee.

(b) If a majority of the voters approve the sale of marijuana and marijuana products by the municipality, or the operation of a marijuana establishment by the municipality, the municipality's local governing body shall apply for a license to operate the type of marijuana establishment listed on the ballot and approved by a majority of the voters. The municipality shall operate the marijuana establishment subject to the conditions and fees applicable to the applicable type of license. Nothing in this section precludes a municipality from applying to be a licensee under other provisions of this title. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.090 AS 17.38.110 AS 17.38.900

3 AAC 306.270. Notice of the results of a local option election. (a) If a majority of the voters vote to adopt, change, or remove a local option under 3 AAC 306.200-3 AAC 306.220 or if the assembly or city council passes an ordinance to the same effect,:

(1) the clerk of the municipality, or, if the election is in an established village, the lieutenant governor, shall notify the board of the results of the election or of the passage of the ordinance immediately after the results of the election are certified or the ordinance is formally adopted;

(2) the municipality or established village shall post public notice of the prohibition in a central location in the municipality or village before the date the prohibition becomes effective; and

(3) the board shall immediately notify the Department of Law and the Department of Public Safety of the results of the election. (Eff. ___/___/___, Register ____)

Authority: AS 17.38.090 AS 17.38.110 AS 17.38.900

In this section, “local governing body” means, as appropriate, a city council, a borough assembly, or a traditional village council, but does not include a corporation established under the Alaska Native Claims Settlement Act.

3 AAC 306.990. Definitions. (a) In AS 17.38,

(1) “assist” does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the amount allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than that other person's residence;

(2) “personal cultivation” does not include

(A) using, displaying, purchasing, or transporting marijuana in excess of the amount allowed in AS 17.38.020;

(B) possessing, growing, processing, or transporting marijuana plants in excess of the amount allowed in AS 17.38.020;

(C) growing marijuana plants for another person in a place other than that other person's residence.

(b) In AS 17.38 and this chapter, unless the context requires otherwise,

“adulterated food or drink product” means a product which is intended to be consumed orally and which existed without marijuana in a form ready for consumption to which marijuana was subsequently added by any process. Adulterated food or drink products do not include raw ingredients which are combined with marijuana in a manufacturing process;

“edible marijuana product” means any marijuana product which is intended to be consumed orally, including but not limited to, any type of food, or drink. Edible marijuana products do not include adulterated food or drink products;

“licensed premises” means any or all designated portions of a building or structure, rooms or enclosures in the building or structure, used, controlled, or operated by a licensee in the conduct of business for which the licensee is licensed by the board at the specific address for which the license is issued;

“local governing body” means, as appropriate, a city council, a borough assembly, or a traditional village council, but does not include a corporation established under the Alaska Native Claims Settlement Act;

“marijuana concentrate” means resin, oil, wax, or any other substance derived from the marijuana plant by any method which isolates the THC-bearing resins of the plant;

“marijuana product” means concentrated marijuana 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;

“marijuana plant” means a living organism of genus *Cannabis* capable of absorbing water and inorganic substances through its roots, and synthesizing nutrients in its leaves by photosynthesis;

“possess” means having physical possession or the exercise of dominion or control over property. (Eff. ___/___/___, Register ___)

Authority: AS 17.38.090 AS 17.38.110 AS 17.38.900