"Village with a Past, City with a Future"

210 Fidalgo Avenue, Kenai, Alaska 99611-7794
Telephone: 907-283-7535 / Fax: 907-283-3014
www.kenai.city

June 27, 2017

Ms. Sarah Daulton-Oates
Alcohol & Marijuana Control Office
550 W. 7th Avenue, Suite 1600
Anchorage, AK 99501

Re: **Conditional Protest** of New Marijuana License – Limited Marijuana Cultivation Facility
Peninsula Botanicals, LLC D/B/A Peninsula Botanicals – License No. 12303

Dear Sarah,

Pursuant to Kenai Municipal Code (KMC) 2.40.010 and 2.40.020, which require the Kenai City Council to protest license applications if the applicant is not current in obligations to the City of Kenai, the City of Kenai hereby notifies the Alcohol & Marijuana Control Office of its conditional protest to the New Limited Marijuana Cultivation Facility License for ***Peninsula Botanicals, LLC d/b/a Peninsula Botanicals***. This conditional protest is based on an outstanding condition within a Conditional Use Permit required by KMC 14.20.330. Specifically, the outstanding condition is an approved Encroachment Permit by the Kenai Planning & Zoning Commission.

The enclosed Resolution was adopted by the Kenai City Council at its meeting of June 21, 2017 after a duly noticed public hearing. The applicant was advised of the public hearing by letter and sent a representative to attend the public hearing. The City Clerk for the City of Kenai is authorized to withdraw this protest upon approval of an Encroachment Permit by the Kenai Planning & Zoning Commission.

Regards,

Jamie Heinz

Jamie Heinz, CMC
Acting City Clerk

cc: Kenai Peninsula Borough
Peninsula Botanicals

Sponsored by: City Clerk

CITY OF KENAI

RESOLUTION NO. 2017-39

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, STATING ITS CONDITIONAL PROTEST REGARDING THE ISSUANCE OF A NEW LIMITED MARIJUANA CULTIVATION FACILITY, MARIJUANA LICENSE NO. 12303, FOR PENINSULA BOTANICALS, LLC, DBA PENINSULA BOTANICALS, LOCATED AT 1030 ANGLER DRIVE UNIT B, KENAI AK, 99611 AND AUTHORIZING THE CITY CLERK TO TAKE CERTAIN ACTION.

WHEREAS, Peninsula Botanicals, LLC has made an application with the Alaska Alcohol and Marijuana Control Office (AMCO), for consideration by the Marijuana Control Board, and has paid the required fee for the issuance of a new Limited Marijuana Cultivation Facility, Marijuana License No. 12303, to be used for Peninsula Botanicals, located at 1030 Angler Drive Unit B, Kenai, Alaska 99611; and

WHEREAS, the City Council must enter any protest to the AMCO within 60 days following receipt of the application; and,

WHEREAS, the Kenai City Clerk's Office received a copy of this application on June 1, 2017 and has determined that the last day for the Council to file a protest is July 31, 2017; and

WHEREAS, the Council Meeting on July 5, 2017 is the last scheduled regular meeting of the City Council prior to the expiration of the protest period; and

WHEREAS, the City Clerk reports the following status concerning this location:

1. There are no financial obligations owed to the City of Kenai; and
2. Certification from the Legal Department has been received; and
3. Certification from the Police Department has been received; and
4. Certification from the Lands Department has been received; and
5. Certification from the Planning Department **has not been received** and conditions of the Conditional Use Permit, required per KMC 14.20.330, remain outstanding, specifically an approved Encroachment Permit; and

WHEREAS, protest by the City Council is in order, pending Council confirmation, that outstanding items are required to be completed for this location.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That the Kenai City Council hereby enters its **CONDITIONAL PROTEST** for the new Limited Marijuana Cultivation Facility, Marijuana License No. 12303, until these conditions are met:

- Certification from the Planning Department that the condition of an approved Encroachment Permit in the Conditional Use Permit, required per KMC 14.20.330, has been met.

Section 2. That a copy of this Resolution may be presented to the AMCO as proof that the Kenai City Council, as the local governing body, has stated its protest in order to allow the Director of AMCO to hold processing of the new Limited Marijuana Cultivation Facility Marijuana License No. 12303 under local protest, until receipt by the Director of confirmation from the City Clerk that the conditions in Section 1 have been met, and this protest is lifted as authorized by this Resolution.

Section 3. That the Kenai City Council here by authorizes the City Clerk, upon the City Clerk's confirmation that all City Council conditions in Section 1 have been met, to provide written notification to the AMCO that this protest by the Kenai City Council is lifted, without further action by the City Council.

Section 4. That this Resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 21st day of June, 2017.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, Acting City Clerk

CITY OF KENAI ALASKA FOUNDED 1791

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the city of KENAI, ALASKA

All-American City 1992

MEMORANDUM

TO: David Ross, Police Chief
Terry Eubank, Finance Department
Scott Bloom, Legal Department
Willie Anderson, Lands Management
Matt Kelley, City Planner

FROM: Jamie Heinz, Acting City Clerk

DATE: June 5, 2017

RE: Limited Marijuana Cultivation Facility License Application

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The Alcoholic & Marijuana Control Office has sent notification that the following applicant has requested a new license:

Applicant: Peninsula Botanicals, LLC
Owners: Kathryn Staskon
D/B/A: Peninsula Botanicals

Pursuant to KMC 2.40.010, *It is determined to be in the public interest that holders of or applicants for licenses issued by the Alcoholic Beverage Control Board or the Marijuana Control Board of the State of Alaska* ***shall have all obligations to the City of Kenai on a satisfactory basis prior to the City Council approval of any activity of said license holder or applicant.***

Please review records maintained by your department (i.e. water and sewer billings, lease/property payment history, citations, etc.) by the above reference applicant and advise if obligations have been met. Mark the appropriate box below. If obligations have not been met, attach information to this memorandum indicating what obligations are outstanding and how the obligations can be cured.

Please let me know if you have any questions. Thanks.

1. Police Department DP. **initials**

☒ I have reviewed all records for my department and the applicant is current on obligations or obligations do not exist.

☐ The applicant has outstanding obligations and an additional page has been attached.

2. Finance T.E. **initials**

☒ I have reviewed all records for my department and the applicant is current on obligations or obligations do not exist.

☐ The applicant has outstanding obligations and an additional page has been attached.

3. Legal S.B. **initials**

☒ I have reviewed all records for my department and the applicant is current on obligations or obligations do not exist.

☐ The applicant has outstanding obligations and an additional page has been attached.

4. Lands Management WA **initials**

☑ I have reviewed all records for my department and the applicant is current on obligations or obligations do not exist.

☐ The applicant has outstanding obligations and an additional page has been attached.

5. Planning and Zoning MK **initials**

☐ I have reviewed all records for my department and the applicant is current on obligations or obligations do not exist.

☑ The applicant has outstanding obligations and an additional page has been attached.

Returned to Clerk's office: _____

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MEMORANDUM

TO: Jamie Heinz, Acting City Clerk

FROM: Matt Kelley, City Planner MK

DATE: June 12, 2017

SUBJECT: Limited Marijuana Cultivation Facility License Application
1030 Angler Drive, Lot 2 James H Cowan Estates

The purpose of this communication is to recommend that the Council of the City of Kenai not approve the issuance of a License for a Marijuana Cultivation Facility, Limited until an Encroachment Permit is issued.

Pursuant to Kenai Municipal Code 14.20.330 – Standards for Commercial Marijuana Establishments, the Planning and Zoning Commission approved the issuance of a Conditional Use Permit (PZ17-10) at their regular meeting of May 24, 2017. The Conditional Use Permit would allow the operation of an approximately 500-square-foot Marijuana Cultivation Facility, Limited within an existing approximately 567-square-foot detached garage. On October 10, 1997, the City issued Building Permit Number B-3455 for the subject garage. According to the Building Permit File, the subject garage only had the foundation inspected by the Building Official on October 17, 1997. Pursuant to the Building Permit, Permit Number B-3455 expired 6 months after it was issued due there not being any subsequent inspections. Therefore, the subject garage will need to be inspected by the Building Official prior to operation of the Commercial Marijuana Establishment and a new Building Permit will need to be issued. Furthermore, when the garage foundation was installed, it was placed on the side property line where it required a setback of 15 feet. Therefore, the subject garage does not meet the setback requirements established in KMC Table 14.24.020 for the Rural Residential Zone. According to the applicants, they recorded a Private Access Easement for Ingress, Egress, and Garage Encroachment (Document Number: 2016-002955-0). The easement allows access to the garage via a residential driveway, which crosses on to the neighbor's property for a distance of 25 feet. However, because the garage was placed on the subject side property line it does not comply with Kenai Municipal Code and therefore an Encroachment Permit, pursuant to KMC 14.20.185 will need to be approved prior to operation of the proposed Commercial Marijuana Establishment. Furthermore, it was discovered by the applicants that the subject garage was placed approximately 6-inches on to the neighboring parcel. Therefore, the subject garage will need to be remodeled to remove the portion, which crosses the property line prior to the operation of the Commercial Marijuana Establishment.

Thank you for your consideration.

THE STATE of ALASKA
GOVERNOR BILL WALKER

Department of Commerce, Community, and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

June 1, 2017

City of Kenai
Attn: Sandra Modigh, City Clerk
VIA Email: smodigh@kenai.city
Cc: jblankenship@kpb.us
micheleturner@kpb.us

License Number:	12303
License Type:	Limited Marijuana Cultivation Facility
Licensee:	Peninsula Botanicals, LLC
Doing Business As:	PENINSULA BOTANICALS
Physical Address:	1030 angler drive Unit B kenai, AK 99611
Designated Licensee:	kathryn staskon
Phone Number:	907-420-4176
Email Address:	katestaskon@gmail.com

☒ **New Application** ☐ **Transfer of Ownership Application** ☐ **Onsite Consumption Endorsement**

AMCO has received a completed application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under 3 AAC 306.025(d)(2).

To protest the approval of this application(s) pursuant to 3 AAC 306.060, you must furnish the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of the date of this notice, and provide AMCO proof of service of the protest upon the applicant.

3 AAC 306.010, 3 AAC 306.080, and 3 AAC 306.250 provide that the board will deny an application for a new license if the board finds that the license is prohibited under AS 17.38 as a result of an ordinance or election conducted under AS 17.38 and 3 AAC 306.200, or when a local government protests an application on the grounds that the proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the marijuana establishment, unless the local government has approved a variance from the local ordinance.

This application will be in front of the Marijuana Control Board at our July 12-14, 2017 meeting.

Sincerely,

Erika McConnell

Erika McConnell, Director
amco.localgovernmentonly@alaska.gov