

Sponsored by: J. Erickson Borough Manager
Introduced: 02-19-2015
Public Hearing Date: _____
Date of Approval: _____

**CITY AND BOROUGH OF YAKUTAT, ALASKA
ORDINANCE 15-584**

AN ORDINANCE AMENDING THE CODE OF THE CITY AND BOROUGH OF YAKUTAT, ALASKA BY ADDING A NEW CHAPTER 9.16, MARIJUANA, DEFINING 'PUBLIC PLACES' FOR PURPOSES OF PROHIBITING CONSUMPTION OF MARIJUANA IN PUBLIC PLACES, AND PROHIBITING THE MANUFACTURE OF MARIJUANA CONCENTRATES BY USE OF MATERIALS OR METHODS DEEMED DANGEROUS TO PUBLIC HEALTH AND SAFETY.

WHEREAS, Ballot Measure 2 – An act to Tax and Regulate the Production, Sale and Use of Marijuana, and codified as Alaska Statutes (AS) 17.38, was passed by the voters in the recent state election and certified on November 28, 2014 by the State of Alaska, Division of Elections; and

WHEREAS, newly enacted AS 17.38.040, **Public consumption banned, penalty**, provides as follows:

It is unlawful to consume marijuana in public. A person who violates this section is guilty of a violation punishable by a fine of up to \$100.

; and

WHEREAS, the state statute does not define "public", or discuss or mandate any enforcement mechanism; and

WHEREAS, the Code of the City and Borough of Yakutat bans the consumption of alcoholic beverages in public places, and the Assembly wishes to treat public consumption of marijuana in the same manner, and to establish a new chapter in the borough code to address the topic of marijuana as permitted under the state initiative; and

WHEREAS, furthermore, other jurisdictions that have legalized marijuana have seen an increase in residential fires and explosions, resulting in injury and property damage, related to attempts to manufacture certain marijuana products; and

WHEREAS, the primary cause of the fires and explosions is from the use of highly flammable materials or methods to manufacture certain marijuana concentrates; and

WHEREAS, the effective date of the state marijuana statute is February 24, 2015, and the Borough anticipates that upon the effective date of legalization under the state

initiative, there could be incidents of persons causing fires and explosions by attempting said manufacture; and

WHEREAS, the attempts present an unreasonable risk to public health and safety, including possible death, severe burns, and significant property damage and immediate action is necessary, pending enactment of state legislation that may become effective later this year.

THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF YAKUTAT, ALASKA as follows:

SECTION 1: New Chapter. A new chapter 9.16, entitled Marijuana, is hereby added to the Code of the City and Borough of Yakutat, Alaska.

SECTION 2: New Section. A new section 9.16.010, *Consuming marijuana in a public place*, is added to Chapter 9.16 of the Borough Code, to read as follows:

9.16.010 Consuming marijuana in a public place.

A. It is unlawful for any person to knowingly consume marijuana

1. on, in or upon any public place, except as permitted by ordinance, regulation, statute or permit, or
2. outdoors on property adjacent to a public place without the consent of the owner or person in control thereof.

B. For purposes of this section, the following definitions apply:

1. *Consume* shall have the meaning, in all conjugated forms, of "consumption" set forth in AS 17.38.900.
2. *Marijuana* shall have the meaning set forth in AS 17.38.900.
3. *Public place* means a place to which the public or a substantial group of persons has access and includes, but is not limited to, streets, highways, sidewalks, alleys, transportation facilities, parking areas, convention centers, sports arenas, schools, places of business or amusement, shopping centers, malls, parks, playgrounds, prisons, and hallways, lobbies, doorways and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

C. Violation of this section is a minor offense punishable by a fine of One Hundred Dollars (\$100), as set forth in AS 17.38.040.

SECTION 3: New Section. A new section 9.16.020, *Manufacture of Marijuana Concentrate*

by *Dangerous Materials or Methods Prohibited*, is added to Chapter 9.16 of the Borough Code, to read as follows:

9.16.020 Manufacture of marijuana concentrate by dangerous materials or methods prohibited

A. It is unlawful for any person to

1. manufacture a marijuana concentrate by use of solvents containing compressed flammable gases or through use of a solvent-based extraction method using a substance other than vegetable glycerin, unless the person is validly licensed and permitted in accordance with statute, regulation, or ordinance.

B. For purposes of this section, the following definitions apply:

1. *Manufacture* means the preparation, compounding, conversion, or processing of marijuana, hashish, or hash oil, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the marijuana, hashish, or hash oil, or labeling or relabeling of its container. It includes the organizing or supervising of the manufacturing process. It does not include the legally authorized planting, growing, cultivating, or harvesting of a plant.
2. *Marijuana concentrate* means any product which, through manufacture, contains Tetrahydrocannabinol (THC). Common names and types of product include "shatter", butane or CO2 hash oil, "ring pots", butter, hash, hashish, keif, oil, or wax.

C. Any marijuana, as defined in AS 17.38.900, equipment, material, product, package or container possessed, used or intended to be used, or produced in violation of this section may be seized and held as evidence to be used in any future proceeding and may be disposed of as appropriate after their use for evidentiary purposes is no longer required.

D. Violation of this section is punishable by a fine of One Thousand Dollars (\$1000).

PASSED AND APPROVED THIS _____ DAY OF _____, 2015.

CITY AND BOROUGH OF YAKUTAT, ALASKA

CINDY BREMNER
MAYOR

CATHY BREMNER
BOROUGH CLERK
Yakcode/Ord229