Sponsored by: Council Member Pruhs
Introduced: February 9, 2015

ORDINANCE NO. 5964

AN ORDINANCE AMENDING FAIRBANKS GENERAL CODE CHAPTER 46 OFFENSES BY ADDING A NEW SECTION TO PROHIBIT THE CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE

WHEREAS, Ballot Measure 2 – An Act to Tax and Regulate the Production, Sale and Use of Marijuana, codified as Alaska Statute 17.38, providing for the legalization of marijuana, 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 states as follows:

Public consumption banned, penalty.

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"; and

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

WHEREAS, the proponents of the effort to legalize marijuana referred to themselves as the "campaign to Regulate Marijuana Like Alcohol; and

WHEREAS, the Fairbanks General Code, FGC Sec. 46-80, bans the consumption of alcohol in a certain public places; and

WHEREAS, the effective date of the legislation enacted by Ballot Measure 2 is February 24, 2015; and

WHEREAS, within the City of Fairbanks, the enforcement of the state's smoking in public statute would be the responsibility of the Fairbanks Police Department; and

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. Fairbanks General Code Chapter 46 Offenses is amended by adding the following section to Article II:

Sec. 46-44. Consuming marijuana in public place.

(a) It is unlawful for any person to knowingly consume marijuana when the person is:

(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, and without consent of the owner or person in control thereof.

(b) For purposes of this section, the following definitions apply:

(1) *Consume* has the meaning, in all conjugate forms, of "consumption" set forth in AS 17.38.900.
(2) *Marijuana* has 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 arena, 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 $100.00. Disposition of this offense may be without court appearance pursuant to AS 29.25.070 and the Alaska Minor Offense Rules upon payment of the $100 fine and payment of the state surcharge required by AS 12.55.039 and AS 29.25.074. This fine may not be judicially reduced.

SECTION 2. That the effective date of this Ordinance shall be the ____ day of February 2015.

_____
John Eberhart, City Mayor

AYES:
NAYS:
ABSENT:
ADOPTED:

ATTEST:

_____
Janey Hovenden, MMC, City Clerk

APPROVED AS TO FORM:

_____
Paul J. Ewers, City Attorney