CITY OF UNALASKA
UNALASKA, ALASKA

ORDINANCE NO. 2015-04

AN ORDINANCE OF THE UNALASKA CITY COUNCIL AMENDING THE UNALASKA CODE OF ORDINANCES TO CREATE A NEW CHAPTER 11.28 FOR THE REGULATION OF MARIJUANA USE.

BE IT ENACTED by the City Council of the City of Unalaska:

Section 1: Form. This is a Code ordinance.

Section 2: Amendment of Title 11. Title 11 Health and Safety of the Unalaska Code of Ordinances is amended by the addition of a new Chapter 11.28 Marijuana Regulation to read as follows:

Chapter 11.28
MARIJUANA REGULATION

11.28.010 Definitions.
11.28.020 Local regulatory authority.
11.28.030 Remedies.
11.28.040 Marijuana use in public places prohibited.
11.28.050 Allowing unlawful marijuana use prohibited.
11.28.060 Marijuana possession and use under the age of 21 prohibited.
11.28.070 Unregistered commercial cultivation of marijuana prohibited.

11.28.010 Definitions.

“Business” means any natural person or legal entity such as, without limitation, a business-for-profit corporation, nonprofit corporation, partnership, limited liability company or trust that undertakes to provide goods or services to the public or to persons who are members of a private group that is eligible to obtain the goods or services, regardless of whether the business exists or is conducted for the purpose of making a profit.

“Marijuana” means all parts of the plant of the genus cannabis whether grown or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or its resin, including marijuana concentrate.

“Public place” means any area to which the public is invited or into which the public is permitted, including, but not limited to, educational facilities, entertainment, food and beverage services, offices, retail stores, common areas in multi-unit buildings such as
lobbies, stairwells and hallways, transportation facilities and vehicles accessible to the general public, parks, public rights-of-way, shorelines, waterways, tidelands, as well as all city-owned property.

“Commercial cultivation” means the cultivation of more than six marijuana plants, or more than three mature, flowering marijuana plants:

(a) in any non-dwelling structure;
(b) in a dwelling unit or in any non-dwelling unit area within a dwelling;
(c) if cultivated outside of a structure, upon the smallest recorded subdivision of the land; or
(d) by a business.

This chapter also adopts the definitions contained in UCO Chapter 8.06

11.28.020 Local Regulatory Authority.
The city council is designated as the “local regulatory authority” as that term is used in Alaska Statutes Chapter 17.38 and any implementing legislation or rule-making.

11.28.030 Remedies.
A. The city may cite any violation of this chapter as a minor offense. The fine for a minor offense citation may not be reduced below the fine amount established by ordinance.

B. Any person aggrieved by a violation of this chapter may bring a civil action against a person who violates this chapter and may recover, for each violation, a civil penalty not to exceed the fine amount established by ordinance.

C. The city or any person aggrieved by a violation of this chapter may bring an action to enjoin a violation notwithstanding the availability of any other remedy.

11.30.040 Marijuana use in public places prohibited.
Use or consumption of marijuana in a public place is prohibited. This section is not intended to restrict a property owner from further restricting use of marijuana. A fine of $100 shall be assessed for violation of this section.

11.30.050 Allowing unlawful marijuana use prohibited.
No person who manages, oversees, controls, or has an ownership interest in any business shall allow marijuana use in violation of this chapter in or on the premises of the business or on property owned, leased, or rented by the business. A fine of $100 shall be assessed for a first violation of this section. Subsequent violations on the same property or premises in a twelve-month period shall be assessed a fine of $500.
11.30.060 Marijuana possession and use under the age of 21 prohibited.
No person under 21 years of age shall possess or use marijuana. A fine of $100 shall be assessed for a first violation of this section. Subsequent offenses in a twelve-month period shall be assessed a fine of $300.

11.30.070 Unregistered commercial cultivation of marijuana prohibited.
No person shall commercially cultivate marijuana unless the facility and cultivator are validly registered under AS 17.38.100. Each unlawfully cultivated plant shall be considered a separate violation. Each violation of this section shall incur a fine of $500.

Section 3. Amendment to Minor Offense Table. The city clerk is instructed to update the city’s minor offense table in accordance with this ordinance and provide notice thereof to the Alaska Court System.

Section 4. Effective Date. This ordinance is effective upon passage.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE UNALASKA CITY COUNCIL THIS _________ DAY OF _______________, 2015.

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HON. SHIRLEY MARQUARDT
MAYOR

ATTEST:

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CATHERINE HAZEN, CITY CLERK