CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2015-XXX

AN ORDINANCE AMENDING DILLINGHAM MUNICIPAL CODE TITLE 8 – HEALTH AND WELFARE BY THE ADDITION OF A NEW CHAPTER PROVIDING REGULATION OF MARIJUANA IN THE CITY OF DILLINGHAM, ALASKA

WHEREAS, on February 24, 2015 use and possession of less than an ounce of marijuana by persons over the age of 21 will be permitted by state law;

WHEREAS, use of marijuana in public places threatens the health, welfare, and peace of the City of Dillingham and its residents;

WHEREAS, marijuana possession and use by persons under the age of 21 remains a crime; and

WHEREAS, the City has a compelling interest in regulating intoxicating substances and their use;

BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

Section 1. Classification. This is a code ordinance.

Section 2. Amendment to Title 8. That Dillingham Municipal Code Title 8 – Health and Safety is hereby amended by the addition of a new Chapter 8.30 – Marijuana Regulation to read as follows:

Chapter 8.30.
MARIJUANA REGULATION

Sections:

8.30.010 Definitions.
8.30.020 Local regulatory authority.
8.30.030 Violations and remedies.
8.30.040 Marijuana use in public prohibited.
8.30.050 Marijuana use in vehicles prohibited.
8.30.060 Marijuana possession and use under the age of 21 prohibited.

8.30.010 Definitions.

“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 in or upon any city-owned property, as well as any area to which the public is invited or in which the public is permitted, including, but not limited to, banks, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, bars, clubs, retail food production and marketing establishments, retail service establishments, theaters, waiting rooms, hallways, lobbies and common areas of hotels and multi-unit buildings, shorelines, waterways, and tidelands.

8.30.020. 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.

8.30.030 Violations and remedies.
A. It is unlawful for any person who operates any restaurant, eatery, bar, hotel or other lodging, or retail establishment to permit marijuana use in violation of this chapter.
B. It is unlawful for any person to consume or use marijuana in violation of this chapter.
C. Any person aggrieved by a violation of this chapter or the city may bring a civil action against a person who violates this chapter and may recover a civil penalty not to exceed three hundred dollars per violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy.

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.

8.30.050. Marijuana use in or on motor vehicles prohibited.
Marijuana use in or on motor vehicles, on the deck or in the wheelhouse of a watercraft, or in an aircraft is prohibited.

8.30.060. Marijuana possession and use under the age of 21 prohibited.
Possession and consumption of marijuana by persons less than 21 years of age are prohibited.

Section 3. Amendment to Title 1, Chapter 1.20, Section 1.20.040. That Dillingham Municipal Code 1.20.040 – Minor Offense Fine Schedule is hereby amended by the addition of new language to read as follows:

<table>
<thead>
<tr>
<th>Code Section</th>
<th>Offense</th>
<th>Penalty/Fine</th>
</tr>
</thead>
</table>
| 8.30.030(A)  | Permitting unlawful marijuana use| 100 first offense  
500 second offense  
Must appear – 3rd offense |
| 8.30.030(B)  | Unlawful marijuana use           | 100 first offense  
100 second offense  
Must appear – 3rd offense |
| 8.30.060     | Under-age Marijuana use or possession | 100 first offense  
200 second offense  
Must appear – 3rd offense |
Section 4. Effective Date. This ordinance is effective upon passage.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on ______________________.

____________________________________________
Alice Ruby, Mayor

ATTEST: [SEAL]

____________________________________________
Janice Williams, City Clerk
AN ORDINANCE AMENDING DILLINGHAM MUNICIPAL CODE CHAPTER 8.10, PROHIBITION OF SMOKING IN PUBLIC PLACES, SECTION 8.10.010 DEFINITIONS

WHEREAS, on February 24, 2015 use and possession of less than an ounce of marijuana by persons over the age of 21 will be permitted under state law;

WHEREAS, use of electronic cigarettes and vaporizers for the consumption of tobacco and marijuana is increasing;

WHEREAS, these devices give off fumes and vapors containing chemicals omitted when tobacco and marijuana are smoked; and

WHEREAS, the public health risk posed by second-hand inhalation of these fumes and vapors is unknown;

BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

Section 1. Classification. This is a code ordinance.

Section 2. Amendment to Section 8.10.010. That Dillingham Municipal Code Section 8.10.010 – Definitions is hereby amended to read as follows (Additions are underlined and emboldened and deletions are shown as strikethrough.):

8.10.010 Definitions.
The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

“Bar” means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges and cabarets.

“Business” means a person (as defined in Sections 4.20.020 and 1.16.010) providing goods or services within the city for profit.

“Employee” means any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity.

“Employer” means any person, partnership, corporation, including a municipal corporation, non-profit entity, business, association and trust, which employs the services of one or more individual persons.
“Enclosed area” means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of doors or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, office landscaping or similar structures.

“Health care facility” means an office or institution providing care or treatment of diseases whether physical, mental, or emotional, or other medical physiological, or psychological conditions, including but not limited to hospitals, or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

“Places of employment” means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including but not limited to work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias, hallways and vehicles. A private residence is not a place of employment unless it is used as a childcare, adult day care or health care facility.

“Public place” means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to banks, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. A private residence is not a public place unless it is used as a childcare, adult day care or health care facility.

“Restaurant” means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities. The term restaurant shall include a bar area within a restaurant. Smoking would still be permissible in stand-alone bars.

“Retail tobacco store” means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

“Service line” means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not service involves the exchange of money.

“Smoking” means inhaling, exhaling, burning or carrying any lighted tobacco product and lighted cigar, cigarette, or pipe. nicotine, marijuana, or herbal product as well as the use of any vaporizer, electronic cigarette, or other device used to produce inhalable fumes or vapors from tobacco, nicotine, marijuana, or herbal product, or oils produced from these products.

“Sports arena” means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.
Section 3. Effective Date. This ordinance is effective upon passage.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on ____________________.

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Alice Ruby, Mayor

ATTEST: [SEAL]

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Janice Williams, City Clerk