WHEREAS, Ballot Measure 2 – An Act to Tax and Regulate the Production, Sale and Use of Marijuana, and codified as Alaska Statutes 17.38, provides 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:

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, proponents of the effort to legalize marijuana referred to itself as the “Campaign to Regulate Marijuana Like Alcohol”; and

WHEREAS, Anchorage Municipal Code section 8.35.400 bans the consumption of alcohol in a public place; and

WHEREAS, the effective date of the state marijuana statute is February 24, 2015; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code chapter 8.35, Alcohol and Drug Offenses, is hereby amended by adding a new section to read as follows:

8.35.300 Consuming marijuana in a 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 definitions of the words and phrases below shall apply:

1. *Consume* shall have the meaning, in all conjugate 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 as set forth in the minor offenses fine schedule.

Section 2. Anchorage Municipal Code section 8.05.025 is hereby amended to read as follows (the remainder of the section omitted is not affected and therefore not set out):

8.05.025 Minor Offense Fine Schedule; Misdemeanor penalty reference table; and state surcharge.

A. *Minor Offense Fine Schedule.* In accordance with AS 29.25.070(a), citations for the following offenses may be disposed of as provided in AS 12.25.195-.230, without a court appearance, upon payment of the fine amounts listed below plus the state surcharge required by AS 12.55.039 and AS 29.25.074, if applicable. The Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses listed below. Citations charging these offenses must meet the requirements of Minor Offense Rule 3. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense listed below. Reduction of the scheduled fine amount is prohibited pursuant to Alaska Rules of Minor Offense Procedure 10(a). If an offense is not
listed on this fine schedule or another fine schedule, the defendant must appear in court to answer to the charges. A person must respond to the citation within 30 days. Reduction of the scheduled fine amount is prohibited pursuant to Alaska Rules of Minor Offense Procedure 10(a).

<table>
<thead>
<tr>
<th>Title</th>
<th>Section</th>
<th>Fine amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impersonating paramedic or emergency medical technician</td>
<td>8.30.075</td>
<td>300.00</td>
</tr>
<tr>
<td>Consuming marijuana in public place</td>
<td>8.35.300</td>
<td>100.00</td>
</tr>
<tr>
<td>Consuming alcoholic beverage in public place.</td>
<td>8.35.400 [300]</td>
<td>100.00</td>
</tr>
<tr>
<td>Intoxicated persons on roadway</td>
<td>8.35.410 [310]</td>
<td>500.00</td>
</tr>
</tbody>
</table>

B. Misdemeanor offenses reference table.

(AO No. 2014-42, § 1, 6-21-14)

Section 3. This ordinance shall be effective on February 24, 2015.

PASSED AND APPROVED by the Anchorage Assembly this _______ day of ____________________, 2015.

________________________
Chair of the Assembly

ATTEST:

________________________
Municipal Clerk
MUNICIPALITY OF ANCHORAGE  
Summary of Economic Effects -- General Government

AO Number: 2015-7  
Title: AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 8.35 WITH A NEW SECTION TO PROHIBIT THE CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE; AND AMENDING THE MINOR OFFENSE FINE SCHEDULE AT AMC SECTION 8.05.025A. ACCORDINGLY.

Sponsor: MAYOR  
Preparing Agency: Department of Law  
Others Impacted: APD

<table>
<thead>
<tr>
<th>CHANGES IN EXPENDITURES AND REVENUES:</th>
<th>(In Thousands of Dollars)</th>
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<tbody>
<tr>
<td>OPERATING EXPENDITURES</td>
<td>FY15</td>
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<tr>
<td>1000 Personal Services</td>
<td></td>
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<tr>
<td>2000 Non-Labor</td>
<td></td>
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<tr>
<td>3900 Contributions</td>
<td></td>
</tr>
<tr>
<td>4000 Debt Service</td>
<td></td>
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<tr>
<td>TOTAL DIRECT COSTS:</td>
<td></td>
</tr>
<tr>
<td>Add: 6000 Charges from Others</td>
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<tr>
<td>Less: 7000 Charges to Others</td>
<td></td>
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<tr>
<td>FUNCTION COST:</td>
<td></td>
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<tr>
<td>REVENUES:</td>
<td></td>
</tr>
<tr>
<td>CAPITAL:</td>
<td></td>
</tr>
<tr>
<td>POSITIONS: FT/PT and Temp</td>
<td></td>
</tr>
</tbody>
</table>

The economic effects are speculative and cannot be reasonably estimated because of the changing status of marijuana laws and its use. There is no basis on which to realistically estimate the revenue from this new minor offense fine.

PRIVATE SECTOR ECONOMIC EFFECTS: None.

Prepared by: Department of Law  
Telephone: 343-4545
With legal possession of recreational marijuana only four weeks away, the Anchorage Assembly unanimously approved an ordinance making it illegal to consume it in a public place.

The ordinance Tuesday established rules on consuming the substance in a public place, a provision outlined in Ballot Measure 2 which made such an act strictly illegal and subject to fines.

The ordinance -- a blend of the city’s alcohol and tobacco prohibitions -- made clear the definition of a public place and stipulated the fines associated with violating the law. Those caught consuming marijuana in public will face a fine of $100 under the ordinance, the same fee outlined in Ballot Measure 2. Anchorage Police Chief Mark Mew noted that the fee was a civil, not criminal citation, similar to a traffic ticket.

Personal use provisions of the initiative go into effect Feb. 24. On that day it will be legal to possess up to one ounce of marijuana and six plants, three of which can be mature. Sales will still be prohibited until the state sets up a permitting system through the regulation, a nine-month process that begins when the initiative goes in to effect.

Mew testified to the Assembly that it was important to get the law on the books before the ballot measure goes in to effect and before the state completes its own rules.

“Trying to cure it down the road will be much worse unless we set the standard from the beginning,” he said. “We don’t want to educate (the) public that we can’t enforce it by our inaction and try to get it back six months from now.”

Despite the clear provisions in the initiative, the measure drew testimony mostly in opposition. Many had concerns over what constituted a public place and whether that would effect consumption in “cannabis cafes” or other businesses hoping to sell marijuana.

Joanne Henning, representing the Alaska Cannabis Association, had concerns over where people would go to use the substance, specifically tourists. If there cannot be cannabis cafes, similar to bars, she wondered where people would go to use it?

“We voted to control it like alcohol; we want a safe place to consume it like alcohol,” she testified.

But under the proposed ordinance, permitted facilities could allow patrons to consume marijuana.

Confusion stemmed from groups who voiced concerns that the issue of “public” was too broad. Bruce Schulte, spokesman for the Coalition for Responsible Cannabis Legislation, noted concerns over a specific section of the city’s alcohol laws allowing permitted facilities to be exempt from the public consumption prohibition.
When asked during Assembly debate why that portion was left out, Municipal Attorney Dennis Wheeler said it was intentionally left out because his office felt the issue was covered in another section of the ordinance. He said his office did not think having it reiterated was “good drafting.”

Assemblyman Patrick Flynn suggested adding the section back in to parallel the alcohol laws in an effort to not add any additional confusion. He said not having it could lead to inconsistencies from the courts.

The Assembly approved the amendment, though Wheeler maintained his position.

“It’s redundant and unnecessary, but legally speaking it does no good or no harm,” Wheeler said.

After its passage, Schulte admitted the issue of public consumption was a tough one, but that he was pleased with the Assembly’s outcome and pleased they had lined up the marijuana provisions with alcohol.

“It’s an excess of caution,” he said. “But let’s have parity.”

The ordinance is the second to come through the Anchorage Assembly since Ballot Measure 2 passed in November. Just weeks after the measure passed, Assemblywoman Amy Demboski introduced an ordinance that would have banned commercial marijuana sales in Anchorage, another provision allowed under the initiative. After four hours of testimony largely against the measure [4], the ordinance was voted down 9-2.


**Links:**