



Introduced By:	Fannie Suvlu, Mayor
Date:	11/30/17
Revised:	1/25/18
Public Hearing:	12/21/17
Tabled to:	1/25/18
Action:	PASSED
Vote:	6 to 0

CITY OF UTQIAGVIK, ALASKA

ORDINANCE #18-2017 - REVISED

AN ORDINANCE CREATING A NEW CHAPTER 8.19 IN THE CITY OF UTQIAGVIK CODE OF ORDINANCES ESTABLISHING A LOCAL REGULATORY AUTHORITY TO PROCESS APPLICATIONS SUBMITTED FOR REGISTRATION TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE CITY AND OTHERWISE REGULATING THE OPERATION OF MARIJUANA ESTABLISHMENTS, MARIJUANA AND MARIJUANA PRODUCTS WITHIN THE CITY

WHEREAS the City of Utqiagvik ("City") previously passed and subsequently repealed an ordinance regulating the operation of marijuana establishments in Utqiagvik; and

WHEREAS the City desires to regulate the operation of marijuana establishments and the sale of marijuana within the City in accordance with AS 17.38.110(a) and related provisions of AS 17.38 regarding marijuana regulation; and

WHEREAS the City desires to prohibit the manufacture, sale or importation of marijuana products (commonly referred to as "edibles") in Utqiagvik; and

WHEREAS the City further desires to prohibit personal use of marijuana in public and by those under the age of 21 under City law as well as under State law;

BE IT ORDAINED by the City Council of Utqiagvik, Alaska, that:

SECTION 1. Classification. This ordinance is permanent and general in nature and shall be placed in the City of Utqiagvik Code of Ordinances.

SECTION 2. Marijuana Regulation. The City of Utqiagvik Code of Ordinances is amended to add a new Chapter 8.19 to read as follows:

***Chapter 8.19
Marijuana Regulation***

Section 8.19.010 Definitions

Section 8.19.020 Establishment of a local regulatory authority to process applications for operation of marijuana establishments

- Section 8.19.030 Prohibition on sale or manufacture of marijuana products, or importation for sale of marijuana products**
- Section 8.19.040 Prohibition on use of marijuana in public**
- Section 8.19.050 Prohibition on use of marijuana by persons under the age of 21**
- Section 8.19.060 Penalties**

Section 8.19.010 Definitions

"Consumer" means a person 21 years of age or older who purchases marijuana or marijuana products for personal use by persons 21 years of age or older, but not for resale to others.

"Consumption" means the act of ingesting, inhaling, or otherwise introducing marijuana into the human body.

"In public" means in a place to which the public or a substantial group of persons has access, including but not limited to City-owned or operated property, any place that members of the public are able to congregate regardless of whether the property is privately or publically owned, streets, highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, correctional facilities, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence, bars, or restaurants.

"Local Regulatory Authority" means the Utqiagvik City Council.

"Marijuana" means all parts of the plant of the genus cannabis whether growing 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; "marijuana" does not include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

"Marijuana cultivation facility" means an entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

"Marijuana product manufacturing facility" means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

"Marijuana products" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

"Marijuana testing facility" means an entity registered to analyze and certify the safety and potency of marijuana.

"MCB" means the State of Alaska Marijuana Control Board.

"Retail marijuana store" means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

Section 8.19.020 Establishment of a local regulatory authority to process applications for operation of marijuana establishments

- A. In accordance with AS 17.38, the Local Regulatory Authority for the City of Utqiagvik shall be the Utqiagvik City Council. The Local Regulatory Authority is responsible for processing applications submitted to operate a marijuana establishment within the City boundaries under AS 17.38 and any regulations adopted pursuant to AS 17.38.
- B. The Local Regulatory Authority shall comply with all requirements and procedures established in AS 17.38 and the regulations adopted pursuant to AS 17.38 that apply to the Local Regulatory Authority.
- C. Upon receipt of notification from the MCB that the MCB has before it an application for the issuance, renewal or transfer of a marijuana establishment license, the Local Regulatory Authority shall determine whether the license application is in the best interest of the public. In making this determination, the Local Regulatory Authority shall consider the following factors as well as any other factors that the Local Regulatory Authority believes are pertinent:
 - (1) The character and interests of the neighborhood surrounding the proposed location for the marijuana establishment;
 - (2) Whether the business that would be operated under the license is, or persons who have applied for the license are, delinquent in the payment of any taxes, business license fees or other fees due and owing to the City;
 - (3) Comments and objections, if any, of residents, property owners, or other members of the public;
 - (4) Any actual or potential law enforcement issues created by operation of a marijuana establishment in the proposed location included in the application, including the proximity of the proposed location to law enforcement stations and patrols;

- (5) Criminal history of persons named on the application involving use or abuse of alcohol, marijuana, a controlled substance, or any felony;
- (6) Whether the application complies with AS 17.38 and regulations adopted under the authority of AS 17.38; and
- (7) Whether any condition(s) should be recommended to the MCB for approval of the application.

Section 8.19.030 Prohibition on sale or manufacture of marijuana products, or importation for sale of marijuana products

Marijuana establishments shall not manufacture or sell marijuana products or import marijuana products for sale.

Section 8.19.040 Prohibition on use of marijuana in public

Use or consumption of marijuana in public is prohibited.

Section 8.19.050 Prohibition on use of marijuana by persons under the age of 21

Use, possession, or consumption of marijuana by persons under the age of 21 is prohibited.

Section 8.19.060 Penalties

- A. A violation of Sections 18.19.030, 18.19.040 or 18.19.050 shall result in a fine of \$1,000. Each day that a violation continues constitutes a separate violation.
- B. The City or an aggrieved person may institute a civil action against a person, including a person under the age of 21, who violates this Chapter. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction.

SECTION 3. Uncodified provision. Should any provision of this ordinance, or application thereof to any person or circumstances be declared invalid, void, or illegal, the application to other persons or circumstances shall not be affected thereby. Further, such declaration shall in no way affect, impair, or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

SECTION 4. Severability. Nothing in this ordinance shall be construed to authorize or condone actions which would violate any requirement of applicable state or federal law. This ordinance is intended to be interpreted consistently with, where possible, the Constitution of the United States, the Constitution of the State of Alaska, federal statutes and regulations, and Alaska statutes and regulations. Where it is not possible to construe a provision of this ordinance consistently with these state and federal provisions, the conflicting provision of this ordinance shall be void.

SECTION 5. Effective Date. This Ordinance shall become effective upon passage by the City Council.

ENACTED THIS 25th DAY OF January, 2018, by a vote of 6 in favor and 0 opposed.


Fannie Suvlu, Mayor

ATTEST:


Loyla T. Leavitt, City Clerk