

ORDINANCE NO. 5970

**AN ORDINANCE AMENDING FAIRBANKS GENERAL CODE SECTION
46-42 DISTURBING THE PEACE BY ADDING A NEW SUBSECTION
RELATING TO MARIJUANA SMOKE**

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

WHEREAS, on February 23, 2015, the City Council passed Ordinance No. 5964 defining those “public places” where consuming marijuana is prohibited; and

WHEREAS, consumption of marijuana by smoking produces an airborne by-product that could affect and possibly harm those in close proximity to its consumption; and

WHEREAS, FGC Sec. 46-42 (Disturbing the Peace) currently does not take into account when the smoke and odor of marijuana consumption disturbs the peace and privacy of others.

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

SECTION 1. Fairbanks General Code Section 46-42 Disturbing the Peace is amended by adding subsections (g), (h), and (i) as follows:

Sec. 46-42. Disturbing the peace.

* * * * *

- (g) In addition to subsections (a) and (b), a person commits the offense of disturbing the peace if they:
- (1) In a private place, consume marijuana with the intent to disturb or in reckless disregard of the peace and privacy of others after having been informed by another that the conduct is disturbing the peace and privacy of others not in the same place; or
 - (2) After being informed by a police officer that their consumption of marijuana is in violation of subpart (1), refuses to abate the consumption.

(h) For purposes of this section, the following definitions and conditions 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) *Private place* means any place that is not a “public place” as defined in FGC Sec. 46-44(b)(3).
- (4) To disturb the peace and privacy of others, the consumption of marijuana must be of such a nature that it would disturb a not unduly sensitive individual.

(i) Violation of subsection (g) above 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 25th day of April 2015.

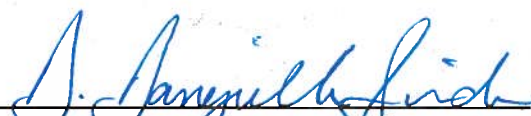


John Eberhart, City Mayor

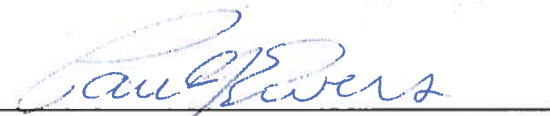
AYES: Pruhs, Gatewood, Staley, Cleworth, Matherly, Walley
NAYS: None
ABSENT: None
ADOPTED: April 20, 2015

ATTEST:

APPROVED AS TO FORM:



D. Danyielle Snider, CMC, City Clerk



Paul J. Ewers, City Attorney