

**ORDINANCE NO. 6070, AS AMENDED**

**AN ORDINANCE TO AMEND FAIRBANKS GENERAL CODE CHAPTER 14,  
BUSINESSES, BY ADDING ARTICLE VI REGULATING MARIJUANA  
ESTABLISHMENTS**

**WHEREAS**, the Fairbanks City Council is the local regulatory authority for licensing marijuana establishments in the corporate limits of the City of Fairbanks, per state law and City Council Resolution No. 4740; and

**WHEREAS**, guidelines are needed for the review and approval of applications for marijuana establishment licenses within the city.

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

**Section 1.** Fairbanks General Code Chapter 14 is hereby amended by adding a new Article VI. Marijuana Establishments as follows:

**CHAPTER 14. BUSINESSES**

**ARTICLE VI. MARIJUANA ESTABLISHMENTS**

**Sec. 14-211. Local Control.**

The city council may exercise local control of marijuana establishments to the fullest extent allowed by state law.

**Sec. 14-212. Number of licenses authorized.**

(a) The number of marijuana establishment licenses authorized within the city limits is the number authorized by state law or as set forth below:

- (1) Retail marijuana store: 12 allowed within the city limits.
- (2) Marijuana cultivation facility: as authorized by state law.
- (3) Marijuana testing facility: as authorized by state law.
- (4) Marijuana product manufacturing facility: as authorized by state law.

**Sec. 14-213. Restrictions on marijuana establishments.**

(a) No onsite consumption of marijuana at any marijuana establishment is allowed in the city, even if authorized by state law.

(b) No marijuana cultivation facility may be located within ~~750~~4,000 feet of areas zoned as Multiple Family (MF), Multiple Family Residential/Professional Office District (MFO), Two-Family Residential (TF), and all Single-Family (SF) zoned areas. ~~a dwelling. As used in this section, "dwelling" means a building or portion thereof designed or used exclusively for residential purposes, but not including hotels, motels, guest rooms, boarding homes, group homes, or nursing homes.~~

(c) No retail marijuana store may be located within ~~750~~4,000 feet of a school or within ~~750~~4,000 feet of a drug or alcohol rehabilitation facility. As used in this section, "school" means a building whose primary use is for instruction, on a daily basis, of students grades K through 12, and "drug or alcohol rehabilitation facility" means a building whose primary use is for treatment of persons seeking rehabilitation and recovery from drug or alcohol abuse or addiction.

(d) Any distance requirement in this section shall be measured ~~by using a straight line from the closest points of the primary structure of the referenced marijuana establishment and the primary structure of the dwelling, school, or rehabilitation facility~~ **as follows:**

**(1) For subsection (b), the distance shall be measured by using a straight line from the closest point of the primary structure of the referenced marijuana establishment to the nearest border of the zone.**

**(2) For subsection (c), the distance shall be measured by using a straight line from the closest points of the primary structure of the referenced marijuana establishment and the primary structure of the school or rehabilitation facility.**

(e) **The restrictions in subsections (b), (c) and (d) above do not apply to** ~~M~~marijuana establishments licenses approved by the state Alcohol and Marijuana Control Office (AMCO) or previously considered by the City Council and pending before AMCO prior to the effective date of this ordinance ~~shall not be subject to the restrictions in subsections (b), (c), and (d) above.~~

**Sec. 14-214. Procedure for review of licenses.**

(a) Upon receipt of notice from AMCO that it is considering an application for a transfer, renewal, or new marijuana establishment license of any type, the city

clerk will direct the fire and police chiefs, the building official, and the chief financial officer to make appropriate investigations within their respective areas of responsibility and to forward written statements to the clerk's office of any reasons why the city should object to the approval of the application.

(b) The city clerk will report to the city council any objections to approval of an application which have been submitted.

(c) For all new marijuana establishment licenses and license transfers referred to the city by AMCO:

- (1) The city clerk will duly advertise in a newspaper of general circulation in the Fairbanks area the date, time, and place where the city council will consider the proposed application and in addition, for all new marijuana establishment licenses, will send copies of such advertisement by mail to all owners of record of land within 1,000 feet of where the marijuana establishment will be located under the proposed new license; and
- (2) On the date and time set for consideration of the proposed application, the city council will hear all interested citizens who may wish to express their opinions on the application.

(d) The city council will determine by motion whether or not to object to the approval by AMCO of the application for the transfer, renewal, or new marijuana establishment license. The city council will consider any written objection, protest, suggested condition, petition, and any testimony received at the public hearing when it considers the application. If the city council objects to approval of the application, the city clerk will prepare and lodge an appropriate protest with AMCO within 60 days of receipt of the proposed application.

**Sec. 14-215. City council review of license issuance, renewal or transfer.**

(a) Upon receipt of notification from AMCO that it has before it an application for the issuance, renewal, or transfer of a marijuana establishment license, the city council will determine whether to protest approval of the application. The city council may protest the issuance, transfer, or renewal of a license if it determines any of the following conditions exist:

- (1) Noncompliance with any of the restrictions set forth in Sec. 14-213.
- (2) The business operated under the license is, on the date the city council considers the application, delinquent in the

payment of any sales tax or penalty or interest on such taxes arising out of the operation of the licensed premises.

- (3) There are delinquent property taxes or local improvement district assessments or penalty or interest arising out of real or personal property owned in whole or in part by any person named in the application as an applicant where such property is used, or is to be used, in whole or in part, in the business conducted or to be conducted under the licenses.
- (4) There is a delinquent charge or assessment owing the city by licensee for a municipal service provided for the benefit of the business conducted under the license or for a service or an activity provided or conducted by the city at the request of or arising out of an activity of the business conducted under the license.
- (5) The business to be operated under the license would violate the zoning code of the borough.

(b) The city council will also consider the following factors in determining whether to protest the approval of the application:

- (1) The character of the surrounding neighborhood and whether the issuance of the license would adversely impact the health, welfare, or public safety of the neighborhood in which the marijuana establishment is proposed to be located, or otherwise would not be in the best interest of the public.
- (2) Actual and potential law enforcement problems, including the proximity of the premises to law enforcement stations and patrols.
- (3) The concentration of other marijuana licenses in the same vicinity.
- (4) Whether the surrounding area experiences an unacceptable rate of crime.
- (5) The adequacy of parking facilities.
- (6) The safety of ingress to and egress from the premises.
- (7) Compliance with state and local fire, building, and health and safety codes.

- (8) The degree of control the licensee has or proposes to have over the conduct of the licensed business.
- (9) The history of convictions of the applicants and affiliates of the applicants for:
  - a. Any felony involving moral turpitude;
  - b. Any violation of AS 11.71 (Controlled Substances) or AS 17.38 (Regulation of Marijuana); and
  - c. Any violation of the marijuana laws of another state as a licensee of that state.
- (10) Whether the applicant or the applicant's affiliates are untrustworthy, unfit to conduct a licensed business, or constitute a potential source of harm to the public.
- (11) Any other factor the city council determines is relevant to a particular application.

**Sec. 14-216. Access for enforcement; penalties.**

(a) All marijuana establishments must provide the Chief of Police with their current hours of operation.

(b) Owners of marijuana establishments, their employees, and all patrons in such establishments must permit and aid the entry of any law enforcement officer during all hours of operation and at any other time when there are two or more persons in the licensed establishment.

(c) Any person who violates or fails to comply with the provisions of subsection (b) of this section will be guilty of a misdemeanor and upon conviction will be fined as provided in FGC Sec. 1-15.

(d) Lack of knowledge, lack of intent, or absence from the premises is not a defense to any criminal action brought under this section against any employee in charge of a marijuana establishment.

(e) The following evidence will constitute a prima facie case of violation of this section in any criminal action against any employee in charge of the establishment or against any owner:

- (1) A law enforcement officer knocked heavily at the public entrance of the establishment and the entrance was not opened within one minute thereafter to permit entry; and

- (2) The officer heard sound emanating from within the establishment that was consistent with the sound of two or more persons in the establishment.

**Sec. 14-217. State law incorporated.**

(a) The city hereby incorporates by reference Alaska Statute 17.38 inclusive as if set forth fully in this chapter.

(b) If a conflict should arise or exist between the provisions of AS 17.38 and this Article, the requirements of this Article will take precedence and will be deemed the applicable law within the City of Fairbanks.

**Section 2.** That the effective date of this Ordinance is the \_\_\_\_ day of \_\_\_\_\_ 2018.

\_\_\_\_\_  
**Jim Matherly, Mayor**

AYES:  
NAYS:  
ABSENT:  
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
D. Danyielle Snider, CMC, City Clerk

\_\_\_\_\_  
Paul Ewers, City Attorney