

Presented By:
City Manager

Action Taken:
Yes _____
No _____
Abstain _____

CITY OF NOME, ALASKA

ORDINANCE NO. O-15-02-07

AN ORDINANCE ADOPTING CHAPTER 3.07 OF THE NOME CODE OF ORDINANCES

WHEREAS, the City of Nome has the power to regulate the conduct of persons within City limits pursuant to a number of provisions of the Nome Code of Ordinances; and,

WHEREAS, the passage of Ballot Measure #2 in the 2014 State of Alaska Election has provided for the legalization of various marijuana-related activities on a specific timeline; and,

WHEREAS, the City wishes to be proactive in regulating the marijuana-related behaviors that can be regulated by individual municipalities; and,

WHEREAS, in order for the City to regulate such behaviors, an applicable ordinance must be in place; and,

WHEREAS, on January 26, 2015, the City Council requested that such an ordinance be drafted by the City Attorney and the Police Chief.

NOW, THEREFORE, BE IT ORDAINED BY THE NOME COMMON COUNCIL THAT CHAPTER 3.07 OF THE NOME CODE OF ORDINANCES BE ENACTED AS FOLLOWS:

Section 1. Classification. This is a Code ordinance.

Section 2.

**Chapter 3.07
MARIJUANA REGULATION**

Sections:

- 3.07.010** Advisory board—Established—Membership.
- 3.07.020** Advisory board—Powers and authority.
- 3.07.030** State laws and regulations adopted.
- 3.07.040** Marijuana consumption in public prohibited.
- 3.07.050** Marijuana consumption in vehicles prohibited.
- 3.07.060** Marijuana smoke as nuisance.
- 3.07.070** Production or sale of edible marijuana products.
- 3.07.080** Possession, sale, or production of marijuana concentrates.
- 3.07.090** Allowing unlawful marijuana use prohibited.

- 3.07.100 Marijuana use without consent of property owner prohibited.
3.07.110 Violation—Enforcement
3.07.120 Definitions.

3.07.010 Advisory board—Established—Membership.

(a) There is established a Nome marijuana advisory board consisting of five members. The mayor shall appoint the members of the board, subject to confirmation by the city council. Terms shall expire upon resignation or reappointment. All board members serve at the pleasure of the Mayor.

(b) All members of the board shall be residents of the city during the term of their appointment. Members of the board may hold municipal, state or federal office, either elective or appointive.

(c) Two members of the board constitute a quorum for the conduct of business. The board shall meet at least once each year, and at such other times as directed by the city council. (Ord. O-93-6-6 § 1 (part), 1994)

3.07.020 Advisory board—Powers and authority.

(a) The board shall conduct studies and investigations to insure the proper administration of marijuana regulations in a manner that will protect the public health, safety and welfare, and shall report to the city council at least one time each year.

(b) The board shall be advisory by nature, and shall possess none of the legal powers or authorities of the city unless specifically delegated by ordinance hereafter. (Ord. O-93-6-6 § 1 (part), 1994)

3.07.030 State laws and regulations adopted.

All laws and regulations of the state of Alaska regarding licensed marijuana sales, service, distribution, and consumption apply within the city of Nome unless otherwise stated in this chapter.

3.07.040 Marijuana consumption in public prohibited.

No person shall consume marijuana, in any form, in any public place.

3.07.050 Marijuana consumption in vehicles prohibited.

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

3.07.060 Marijuana smoke as nuisance.

No person shall disturb the peace and privacy of another by marijuana odors, smoke, or vapors that drift onto the property of another, including into any residential or commercial unit rented, leased, or owned by another.

3.07.070 Production and sale of edible marijuana products.

(a) No person shall solicit or engage in the production, sale, barter or exchange of any edible marijuana product.

(b) No person shall possess, sell, barter, or exchange any edible marijuana product unless the product contains a label accurately identifying all information required by 21 CFR 101 as well as the amount of THC in a serving.

(c) All edible marijuana products must be contained in child-resistant packaging except for when being actively consumed.

3.07.080 Production of marijuana concentrates.

No person shall manufacture marijuana concentrates through use of a solvent-based extraction method using a substance other than vegetable glycerin.

3.07.090 Permitting unlawful marijuana use prohibited.

No owner, operator, manager or other person in control of any area where marijuana use is prohibited by this chapter shall allow or permit unlawful use of marijuana on said premises.

3.07.100 Marijuana use without consent of property owner prohibited.

(a) No person shall consume marijuana on private property without the affirmative consent of the property owner is prohibited.

(b) If a person has a possessory interest in private property but is not the owner and the owner prohibits the use or consumption of marijuana, use or consumption of marijuana on or in that property is prohibited.

3.07.110 Enforcement.

(a) A person who violates any provision of this chapter is guilty of an infraction, and upon conviction shall be fined as set forth in NCO Section 1.20.040 or if no fine is there established, not more than five hundred dollars plus any surcharge required to be imposed by AS 12.55.039. Each violation is a separate offense.

(b) Notwithstanding the availability of any other remedy provided by the provisions of this chapter, the city or any person aggrieved by a violation of this chapter may apply for injunctive relief to enforce these provisions in any court of competent jurisdiction.

3.07.120 Definitions.

As used in this chapter:

"Child-resistant" means packaging specially constructed to be significantly difficult for children under ten years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 as well as opaque so that the packaging does not allow the product to be seen without opening the packaging material.

"Edible Marijuana Product" means any marijuana product which is intended to be chewed or swallowed, including but not limited to, any type of food, drink, pill or product intended for human consumption that contains any form of marijuana. Edible marijuana product does not include marijuana flowers.

"Marijuana" means all the 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, 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, cake made from the seed of the plant, sterilized seeds 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 accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for or for the ingesting, inhaling, or otherwise introducing marijuana into the human body.

"Marijuana concentrates" means any oil, liquid, or other substance created by extracting cannabinoids from marijuana through the use of a solvent other than water for the purpose of increasing the strength or proportion of the cannabinoids.

"Minor" means any person under twenty-one years of age.

"Public place" means any place to which the public or a substantial group of persons has access, including but not limited to streets, highways, alleys, sidewalks, transportation facilities, schools, places of amusement or business, food and beverage service facilities, offices, retail stores, parks, playgrounds, hallways, lobbies, vehicles available for commercial hire, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence and waterways. All property owned or leased by the city shall be considered a public place regardless of the public's access.

Section 3. Effective date. This ordinance is effective upon passage.

APPROVED and SIGNED the 23rd day of February, 2015.

DENISE MICHELS
Mayor

ATTEST:

TOM MORAN
City Clerk