

**CITY OF UNALASKA
UNALASKA, ALASKA**

ORDINANCE 2017- 03

AN ORDINANCE AMENDING UNALASKA CODE OF ORDINANCES TITLE 9 TO
CREATE A NEW CHAPTER 9.24 FOR THE REGULATION OF MARIJUANA BUSINESS

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF UNALASKA:

Section 1: Classification. This ordinance is a code ordinance.

Section 2: Amendment of Title 9. Title 9 Business Licenses and Regulations of the
Unalaska Code of Ordinances is hereby amended by the addition of a new Chapter 9.24
Marijuana to read as follows:

Chapter 9.24

MARIJUANA

9.24.010	Definitions
9.24.020	Prohibited acts
9.24.030	Operating hours
9.24.040	Restrictions on location of licensed premises
9.24.050	Prosecution of licensee for acts of employees
9.24.060	Accessibility for inspection

9.24.010 Definitions

For purposes of this Chapter, unless the context otherwise requires, the following words and phrases shall have the meanings defined herein.

(A) "LICENSED PREMISES" means any or all designated portions of a building or structure, or rooms or enclosures in the building or structure, at the specific address for which a marijuana business license is issued, and used, controlled, or operated by the marijuana business to carry out the business for which it is licensed.

(B) "MARIJUANA BUSINESS" means any and all business, acts, or commerce subject to registration or licensure pursuant to Alaska Statute Chapter 17.38.

9.24.020 Prohibited acts

It is unlawful to violate any state law governing marijuana business.

9.24.030 Operating hours

(A) It shall be unlawful for a licensed premises to allow persons or customers who are not owners or employees to enter or remain on the licensed premises except during the following hours:

- (1) Monday 8:00 am through Tuesday 2:00 am;
- (2) Tuesday 8:00 am through Wednesday 2:00 am;
- (3) Wednesday 8:00 am through Thursday 2:00 am;
- (4) Thursday 8:00 am through Friday 2:00 am;
- (5) Friday 8:00 am through Saturday 3:00 am; and
- (6) Saturday 8:00 am through Sunday 3:00 am.

(B) Nothing in this section authorizes any person to enter or remain on licensed premises when entering or remaining on licensed premises is otherwise prohibited by law.

9.24.040 Restrictions on location of licensed premises

(A) A licensed premises may not be located within 500 feet of any premises used for:

- (1) a school ground;
- (2) a recreation or youth center;
- (3) a building where religious services are regularly conducted;
- (4) a correctional facility; or
- (5) a facility managed or administered by the city Department of Parks, Culture and Recreation.

(B) The distance specified in this section must be measured by the shortest pedestrian route from the public entrance of the building in which the licensed premises would be located to the outer boundaries of a school ground, recreation or youth center, facility managed or administered by the city Department of Parks, Culture and Recreation, and from the main public entrance of the building where religious services are regularly conducted or a correctional facility.

(C) If the licensed premises were in use before the use of the nearby premises for purposes enumerated in subsection (A), the licensed premises may continue operation for the duration of the license, including any renewal or transfer, but not following any license revocation or expiration.

9.24.050 Prosecution of licensee for acts of employees

Every marijuana business licensee is responsible for the conduct of the licensed premises and may be prosecuted for violations of this chapter committed by employees or agents which occur on the licensed premises. This section shall not relieve the employee or agent of personal criminal liability.

9.24.060 Accessibility for inspection

Licensed premises shall be easily accessible for inspection by municipal law enforcement officers during all regular hours for the transaction of business upon the premises and during hours closed for business when it appears there are persons on the premises or any reason for such officers to believe there might be a violation of this chapter.

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

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE UNALASKA CITY COUNCIL THIS 14th DAY OF February, 2017.


HON. FRANK KELTY
MAYOR

ATTEST:


CATHERINE HAZEN, CITY CLERK *Acting City Clerk*



MEMORANDUM TO COUNCIL

TO: MAYOR AND CITY COUNCIL MEMBERS

THRU: DAVID MARTINSON, CITY MANAGER

FROM: ERIN REINDERS, ASSISTANT CITY MANAGER

DATE: JANUARY 24, 2017

RE: ORDINANCE 2017-03: AN ORDINANCE AMENDING UNALASKA CODE OF ORDINANCES TITLE 9 TO CREATE A NEW CHAPTER 9.24 FOR THE REGULATION OF MARIJUANA BUSINESS
ORDINANCE 2017-04: AN ORDINANCE AMENDING UNALASKA CODE OF ORDINANCES CHAPTER 6.40 - SALES AND USE TAXES TO INCREASE THE RATE OF SALES TAX ON SALES OF ALCOHOL, MARIJUANA, AND TOBACCO FROM THREE PERCENT (3%) TO SIX PERCENT (6%)

SUMMARY: Ordinances have been developed in accordance with the Council direction and consensus during several work sessions discussing the regulation of marijuana commerce. Staff recommends approval for Ordinance 2017-03 creating a new chapter 9.24 for the regulation of marijuana business, including buffer requirements from parks as well as hours of operation for marijuana retail establishments, and Ordinance 2017-04 amending chapter 6.40 to increase the rate of sale tax for alcohol, marijuana, and tobacco from 3% to 6%.

PREVIOUS COUNCIL ACTION: At the work session on October 25, 2016, the City Council expressed a desire to see this issue come forward to the Planning Commission to send a recommended ordinance to the Council for approval. The Planning Commission approved Resolution 2016-17 at their November meeting recommending Ordinance 2016-19 to the City Council. Council approved Ordinance 2016-19 at their December 27, 2016 meeting. Other regulatory issues, included size restrictions on grow facilities, limitations on product types, limitations on the number of businesses, hours of operation, sales tax, and additional buffer requirements were discussed in depth at the City Council work sessions throughout November and December. The ordinances being considered this evening have been developed in accordance with the direction and consensus gathered during those meetings.

BACKGROUND: On October 4, 2016, voters in Unalaska overturned the ordinance banning all commercial marijuana in Unalaska by referendum. Therefore, all commercial marijuana businesses are now legal in Unalaska. City Council is in the process of determining appropriate regulations for such businesses.

DISCUSSION: This evening, staff introduces two ordinances that have been developed in accordance with the Council's direction and consensus. Ordinance 2017-03 defines the regulations for marijuana business in Unalaska and the Ordinance 2017-04 increases the sales tax for marijuana, as well as alcohol and tobacco.

Ordinance 2017-03: The consensus of Council was to regulate marijuana business in a similar way as alcohol businesses are regulated where possible. The alcohol provisions of Chapter 9.20 in City Code

contain several regulatory provisions in addition to hours of operation for marijuana dispensing establishment. Ordinance 2017-03 has been drafted to create a new Chapter 9.24 which contains provisions mirroring the applicable provisions from the alcohol chapter, such as hours of operation, incorporating state law violations, inspection of licensed premises, and holding the licensee liable for the acts of employees. The ordinance specifically addresses the buffer requirements required by the state statute and includes facilities owned or managed by the Department of Parks, Culture, and Recreation in that list.

Ordinance 2017-04: The current sales tax rate in Unalaska is 3% and Alaska statutes allow for municipalities to place additional sales on marijuana subject to voter approval. Ordinance 2017-04 has been drafted to amend Chapter 6.40 to increase the sales tax for Alcohol, Marijuana and Tobacco from 3% to 6%. This ordinance also outlines the proposition language and effective date should the proposition pass. As drafted, the ordinance sets the question for the October 3, 2017 election, which should be certified by the Council no later than October 10, 2017, and then gives until November 1, 2017, before the increase is effective.

ALTERNATIVES: City Council may approve these ordinances as drafted, revise them to address specific concerns, or disapprove the ordinances.

FINANCIAL IMPLICATIONS: None that can be measured at this time.

LEGAL: These ordinances have been developed by the City Attorney.

STAFF RECOMMENDATION: Staff recommends approval for both Ordinance 2017-03 creating a new chapter 9.24 for the regulation of marijuana business and Ordinance 2017-04 amending chapter 6.40 to increase the rate of sale tax for alcohol, marijuana, and tobacco from 3% to 6%.

PROPOSED MOTION: I move to approve Ordinance 2017-03; I move to approve Ordinance 2017-04.

CITY MANAGER COMMENTS: These ordinances have been developed based on the direction received from Council. I support the approval of both Ordinance 2017-03 and Ordinance 2017-04.