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Submitted by: Assembly Members Dunbar
and Constant
Prepared by: Assembly Counsel's Office
For reading: August 20, 2019

**ANCHORAGE, ALASKA
AO No. 2019-103**

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUBMITTING TO THE QUALIFIED VOTERS OF THE MUNICIPALITY OF ANCHORAGE AT THE REGULAR MUNICIPAL ELECTION APRIL 7, 2020, A BALLOT PROPOSITION ASKING WHETHER TO ALLOW ON-SITE CONSUMPTION OF MARIJUANA BY SMOKING OR INHALATION AT RETAIL MARIJUANA ESTABLISHMENTS WITH A LICENSE ENDORSEMENT FOR SUCH ON-SITE CONSUMPTION; AND, SHOULD THE PROPOSITION BE APPROVED, PROVIDING FOR CONFORMING AMENDMENTS TO ANCHORAGE MUNICIPAL CODE CHAPTERS 10.80, *LICENSING AND REGULATION OF MARIJUANA ESTABLISHMENTS*, AND 16.65, *SECONDHAND SMOKE CONTROL ORDINANCE*.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Pursuant to state law and the Anchorage Municipal Charter, a ballot proposition in substantially the same form and substance as appears in Section 2 shall be placed on the ballot and submitted to the qualified voters of the Municipality at the regular municipal election on April 7, 2020.

Section 2. The proposition shall be presented in substantially the following form:

PROPOSITION NO. ___

**ALLOWING ON-SITE CONSUMPTION OF MARIJUANA BY
SMOKING OR INHALATION IN LICENSED RETAIL MARIJUANA
STORES WITH AN ENDORSEMENT FOR AN ON-SITE
CONSUMPTION AREA.**

This proposition would make it legal for licensed freestanding retail marijuana stores with a license and special land use permit endorsement approved by the Municipality and the state to allow their customers to consume marijuana bud or flower by inhalation or smoking in their marijuana consumption areas. Currently it is legal for only edible marijuana products to be consumed in marijuana consumption areas.

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Marijuana consumption areas where smoking or inhalation is allowed would be required to be isolated and ventilated, and either in separate rooms or sight-obscured outdoor areas. The marijuana consumption areas can only be accessible from the retail marijuana store premises. The odor of marijuana is not allowed to be detected by a person with a normal sense of smell at any lot line where marijuana consumption areas are located, per current Code for all marijuana establishments. A retail marijuana store is required to provide a smoke-free area for employees to monitor the marijuana consumption area at all times to ensure consumption is in compliance with state and municipal laws, ordinances, regulations, and license conditions. If this proposition is approved by the voters, Anchorage Municipal Code will be amended to conform with the above requirements and restrictions, as shown in AO 2019-__*[insert AO No.]*__.

Shall it be legal in the Municipality for freestanding retail marijuana stores to allow marijuana consumption by smoking or inhalation in on-site consumption areas as described above?

Yes [] No []

Section 3. Subject to the effective date provision in Section 5 of this ordinance, Anchorage Municipal Code section 10.80.306 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

10.80.306 On-site consumption endorsement for retail marijuana stores.

A. Unless prohibited by local or state law, a freestanding licensed retail marijuana store with an approved on-site consumption endorsement is authorized to:

*** *** ***

- 2. Sell for consumption on the premises, to any one person per day:
 - a. marijuana bud or flower in quantities not to exceed one gram; and [RESERVED.]
 - b. Edible marijuana products in quantities not to exceed ten mg of THC [TO ANY ONE PERSON PER DAY].

*** *** ***

C. A marijuana consumption area shall have the following characteristics:

- 1. The consumption area shall be isolated from the other areas of the retail marijuana store, separated by walls and a secure

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door, and shall have access only from the retail marijuana store;

2. A smoke-free area for employees to monitor the marijuana consumption area, consistent with subsection 16.65.030A.5. of the Secondhand Smoke Control Ordinance; and

3. If consumption by inhalation or smoking is to be permitted, a ventilation system that directs air from the marijuana consumption area to the outside of the building through a filtration system sufficient to remove visible smoke, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line.

D. An applicant for an on-site consumption endorsement must file an application on a form prescribed by the municipal clerk, including the documents and endorsement fee set out in this section, which must include:

1. The applicant's operating plan, in a format the planning department prescribes, describing the retail marijuana store's plan for:

*** *** ***

b. Ventilation, if consumption by inhalation or smoking is to be permitted, ventilation plans must be:

- i. Signed and approved by a licensed mechanical engineer;
- ii. Designed so there is no visible smoke in the retail area or at the lot line; and
- iii. Consistent with all applicable building codes and ordinances.

c. If any of the marijuana consumption area is outdoors, compliance with sections 16.65.030A.5., 21.05.055, or 21.50.420, as applicable.

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(AO No. 2019-66, § 15, 6-18-19)

Section 4. Subject to the effective date provision in Section 5 of this ordinance, Anchorage Municipal Code sections 16.65.010 and 16.65.030 are hereby amended to read as follows (*the remainder of the chapter and sections is not affected and therefore not set out*):

16.65.010 - Prohibition of smoking.

1 A. Smoking is prohibited at the following places:

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3 1. All enclosed public places within the Municipality of Anchorage,
4 including, but not limited to, all businesses visited by the
5 public except approved on-site consumption areas operated by
6 licensed retail marijuana stores, transportation facilities, waiting
7 areas of public transit depots, buses, taxicabs, sports arenas,
8 and other enclosed areas open to the public.
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10 2. All enclosed areas that are places of employment, except
11 isolated marijuana consumption areas operated by licensed
12 retail marijuana stores in accordance with section
13 16.65.030A.5.

14
15 *** **

16 (AO No. 2006-86(S), § 1, 7-1-07; AO No. 2016-69, § 2, 7-26-16; AO No.
17 2019-39(S), § 1, 4-9-19)

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20 **16.65.030 - Exceptions; areas where smoking is not prohibited.**

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22 A. Smoking is not prohibited in the following places:

23 *** **

- 24 3. Outdoor areas of places of employment except the outdoor
25 areas identified under AMC 16.65.010.

26 *** **

- 27 5. Marijuana consumption areas operated by freestanding
28 licensed retail marijuana stores with a municipal endorsement
29 under chapter 10.80. In these retail marijuana stores,

30 a. the smoke-free area for employees to monitor the
31 marijuana consumption area shall be either

32 i. a separate room on the premises that uses a
33 separate ventilation system and has real-time
34 video monitoring consistent with section
35 10.80.720;

36 ii. a separate room sharing a wall with the marijuana
37 consumption area that contains a transparent
38 window providing viewing of the whole area; or

39 iii. otherwise designed and operated so the area for
40 employees to monitor is smoke-free.

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42 b. any indoor marijuana consumption area shall be
43 properly ventilated as required by sections 10.80.306
44 and 21.05.055.

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C. Nothing in this chapter shall be construed or interpreted to permit or allow smoking marijuana or marijuana products in public in violation of section 8.35.300 et seq.

(AO No. 2006-86(S), § 1, 7-1-07; AO No. 2015-65, § 2, 6-9-15)

Section 5. Sections 3 and 4 shall be effective 30 days after certification of the results of the election only if the proposition in Section 2 and on the ballot is certified as approved by a majority of the qualified Municipality of Anchorage voters voting on the proposition at the April 7, 2020, regular municipal election. The remainder of this ordinance shall become effective immediately upon passage and approval of the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2019.

Chair

ATTEST:

Municipal Clerk