

Adopted

HAINES BOROUGH, ALASKA
ORDINANCE No. 17-08-472

An Ordinance of the Haines Borough adopting Marijuana Regulations.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

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

Section 4. Adoption of Title 9, Section 9.06. Section 9.06 of the Haines Borough Code is hereby adopted, as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

9.06 Marijuana Regulation.

9.06.010 Definitions.

9.06.020 Purpose and scope of authority.

9.06.030 Prohibiting certain product manufacturing methods of marijuana concentrates.

9.06.040 Designation of local regulatory authority.

9.06.050 Prohibition of marijuana establishments without a valid state registration.

9.06.070 Cooperation with state marijuana board.

9.06.080 Licensing procedure.

9.06.010 Definitions.

"Consume" means, in all conjugate forms, the act of ingesting, inhaling, or otherwise introducing *marijuana* into the human body.

"Local regulatory authority" means the office or entity designated to process *marijuana establishment* applications by a local government.

"*Marijuana*" means all 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, salt, 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, or cake made from the seeds of the plant, sterilized seed 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 concentrate" means the product created by extracting cannabinoids from marijuana.

"Marijuana cultivation facility" means an entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

"Marijuana product manufacturing facility" means an entity registered to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

"Marijuana products" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

"Marijuana testing facility" means an entity registered to analyze and certify the safety and potency of marijuana.

"Public," as used in AS 17.38.020 and 17.38.040 and as used in this chapter, means a place to which the public or a substantial group of persons has access and includes highways, rivers, lakes, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designated for actual residence. Notwithstanding the foregoing, a location with proper licensure in place and that is in compliance with applicable state law and regulation, borough ordinance, including borough licensure requirements, if any, and that is operating within the restrictions of such law and licensure is not a public place within the meaning of AS 17.38.020 and 17.38.040.

"Retail marijuana store" means an entity registered to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

9.06.020 Purpose and scope of authority.

A. Purpose. The purpose of this chapter is to provide for the municipal regulation of marijuana and marijuana establishments as allowed by state law. This chapter and the regulations related to marijuana establishments herein are adopted pursuant to the express authority granted by AS 17.38.110. This chapter and the regulations herein are intended to allow the borough to regulate marijuana and marijuana establishments within the broadest range of municipal control contemplated by state statute.

B. Local Control of *Marijuana Establishments*. The borough may by ordinance exercise local control of *marijuana establishments* within the broadest range of municipal control contemplated by state law, including the following types of local control:

- 1. Prohibit the operation of all or any type of *marijuana establishments*;**
- 2. Regulate *marijuana establishments* in a manner more restrictive than state law;**
- 3. Establish a local registration procedure for *marijuana establishments*;**
- 4. Designate a *local regulatory authority* for the following purposes:**
 - a. Receive half of the state registration application fee;**
 - b. Receive a copy of each state registration application and provide input to the state on such application; and**
 - c. Process applications for registration to operate a *marijuana establishment* within the borough and to issue registrations in the event that the state authority fails to process applications in accordance with AS 17.38.190 and 17.38.200; provided, that all such applications for registration must be processed within 90 days of receipt of the application or resubmitted application unless the application is not in compliance with ordinances and regulations and the applicant is so notified;**
- 5. Establish a schedule of annual operating fees;**
- 6. Regulate the time and manner of operations of *marijuana establishments*;**
- 7. Regulate the number of *marijuana establishments*;**
- 8. Regulate the manner in which *marijuana* and *marijuana products* may be displayed by a *retail marijuana store*; and**
- 9. Establish civil penalties for violation of borough ordinance.**

9.06.030 Prohibiting certain product manufacturing methods of marijuana concentrates.

Production of or attempting to produce a *marijuana concentrate* by a method of extraction using flammable or combustible chemicals including, but not limited to, butane, acetone, hexane, naphtha, ethanol, methanol, petroleum ether, and alcohol constitutes *marijuana product* manufacturing and is prohibited except where such *marijuana* extraction is authorized by state law or regulation, permit, license, or registration or where such *marijuana* extraction is authorized by borough ordinance, license, registration, or permit.

9.06.040 Designation of local regulatory authority.

The assembly of the Haines Borough is designated the *local regulatory authority* responsible for reviewing state registration applications and providing input to the state on such applications.

9.06.050 Prohibition of marijuana establishments without a valid state registration.

A person may not operate a *marijuana establishment* or engage in a business permitting the *public* consumption of *marijuana* on its premises without a valid, current state registration.

9.06.070 Cooperation with state marijuana board.

It is declared the policy of the Haines Borough to cooperate with and aid the *Marijuana* Control Board for the state of Alaska in determining the fitness of applicants requesting a transfer, renewal or issuance of a new *marijuana* license.

9.06.080 Licensing procedure.

A. Upon receipt of notice from the *Marijuana* Control Board for the state of Alaska of the Board's receipt of an application or intent to approve the transfer, renewal or issuance of a new *marijuana* license:

- 1. The borough manager or authorized agent shall investigate to determine if the borough has an interest which can be protected by protesting the approval of the application for transfer, renewal or issuance of a new *marijuana* license by the state Board;**
- 2. The borough manager shall ensure that a copy of the application and the investigation results are provided to the assembly in a timely manner but no later than 5 days before the final scheduled assembly meeting occurring during the protest time period; and**
- 3. Except as provided in subsection (A)(4) of this section, the borough clerk shall duly advertise and place the matter of the application upon the agenda for the next meeting of the borough assembly in order that citizens may comment as to whether or not the assembly should approve or protest the application or recommend that the license be issued, renewed, relocated or transferred with conditions. The applicant shall be allowed a reasonable opportunity to defend the application at the *public* hearing.**
- 4. License renewals will be scheduled for *public* hearing only if the borough manager or the assembly determines that an interest of the borough other than payment of property taxes can be protected by recommending conditions or protesting the application.**

B. If the borough manager determines that an interest of the borough can be protected by recommending conditions or protesting the granting of the application, the manager shall so inform the borough assembly.

C. Grounds for protesting an application include but are not limited to:

- 1. Whether the applicant has complied with conditions imposed by the state *Marijuana* Control Board;**
- 2. *Public* health or safety, including pedestrian or vehicular traffic safety;**
- 3. The character and *public* interests of the surrounding neighborhood;**
- 4. Delinquent borough taxes except that delinquent property taxes shall not be grounds for protesting a renewal;**
- 5. The grounds specified in regulations of the state *Marijuana* Control Board;**
- 6. Any other factors the assembly in its discretion determines relevant to the *public* interest.**

D. The assembly, after *public* hearing, shall determine if a protest to the application is to be lodged with the Board. If a protest is lodged, the assembly must set out its reasons in a written protest filed with the Board and copied to the applicant within 60 days of receipt from the Board of notice of filing the application. The reasons stated by the assembly must be logical grounds for opposing the application or continued operation of the license and have a reasonable basis in fact. The protest may be based upon facts that render the particular application objectionable to the assembly, or may be based upon a general *public* policy. If based on a general *public* policy, the policy must have a reasonable basis in fact, may not be contrary to law, and may not be patently inapplicable to the particular application being protested. If a protest is lodged, the borough manager is authorized to use any document or evidence necessary to advance effectively the position of the borough at any hearing before the state *Marijuana* Control Board.

E. The assembly, after *public* hearing, may recommend that a license be issued, renewed, or transferred with conditions.

F. In addition to the right to protest, the assembly may notify the *Marijuana* Control Board that the assembly has determined that a licensee has violated a provision of AS 17.38, a regulation adopted by the Board, or a condition imposed by the Board.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS 12th DAY OF SEPTEMBER, 2017.

ATTEST:


Julie Cozzi, MMC, Borough Clerk




Janice Hill, Mayor

Date Introduced: 08/08/17
Date of First Public Hearing: 08/22/17
Date of Second Public Hearing: 09/12/17