

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2015-04 (SUB-1)

**AN ORDINANCE AMENDING DILLINGHAM MUNICIPAL CODE TITLE 8 – HEALTH AND WELFARE BY THE ADDITION OF A NEW CHAPTER PROVIDING REGULATION OF MARIJUANA IN THE CITY OF DILLINGHAM, ALASKA**

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WHEREAS, use and possession of less than an ounce of marijuana by persons over the age of 21 is permitted by state law;

WHEREAS, use of marijuana in public places threatens the health, welfare, and peace of the City of Dillingham and its residents;

WHEREAS, marijuana possession and use by persons under the age of 21 remains a crime; and

WHEREAS, the City has a compelling interest in regulating intoxicating substances and their use;

BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

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

**Section 2. Amendment to Title 8.** That Dillingham Municipal Code Title 8 – Health and Safety is hereby amended by the addition of a new Chapter 8.30 – Marijuana Regulation to read as follows:

**Chapter 8.30.**

**MARIJUANA REGULATION**

**Sections:**

- 8.30.010**     **Definitions.**
- 8.30.020**     **Local regulatory authority.**
- 8.30.030**     **Violations and remedies.**
- 8.30.040**     **Marijuana use in public prohibited.**
- 8.30.050**     **Marijuana use in vehicles prohibited.**
- 8.30.060**     **Marijuana possession and use under the age of 21 prohibited.**

(Items highlighted in gray shading are being introduced as SUB-1; new language is underlined and **emboldened** and deleted language displayed as ~~strikethrough~~.)

### 8.30.010. Definitions.

“Marijuana” means all parts of the plant of the genus cannabis whether grown 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.

~~“Public place” means in or upon any city owned property, as well as any area to which the public is invited or in which the public is permitted, including, but not limited to, banks, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, bars, clubs, retail food production and marketing establishments, retail service establishments, theaters, waiting rooms, hallways, lobbies and common areas of hotels and multi-unit buildings, shorelines, waterways, and tidelands.~~

**“Public place” means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. Public place also includes any property or premises owned or controlled by the City.”**

### 8.30.020. Local Regulatory Authority.

The city council is designated as the “local regulatory authority” as that term is used in Alaska Statutes Chapter 17.38 and any implementing legislation or rule-making.

### 8.30.030 Violations and remedies.

A. It is unlawful for any person who operates any restaurant, eatery, bar, hotel or other lodging, or retail establishment to permit marijuana use in violation of this chapter.

B. It is unlawful for any person to consume or use marijuana in violation of this chapter.

C. Any person aggrieved by a violation of this chapter or the city may bring a civil action against a person who violates this chapter and may recover a civil penalty not to exceed three hundred dollars per violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy.

### 8.30.040. Marijuana use in public places prohibited.

Use or consumption of marijuana in a public place is prohibited. This section is not intended to restrict a property owner from further restricting use of marijuana.

### 8.30.050. Marijuana use in or on motor vehicles prohibited.

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

### 8.30.060. Marijuana possession and use under the age of 21 prohibited.

Possession and consumption of marijuana by persons less than 21 years of age are prohibited.

(Items highlighted in gray shading are being introduced as SUB-1; new language is underlined and **emboldened** and deleted language displayed as ~~strikethrough~~.)

**Section 3. Amendment to Title 1, Chapter 1.20, Section 1.20.040.** That Dillingham Municipal Code 1.20.040 – Minor Offense Fine Schedule is hereby amended by the addition of new language to read as follows:

<b>Code Section</b>	<b>Offense</b>	<b>Penalty/Fine</b>
8.30.030(A)	Permitting unlawful marijuana use	<del>75</del> <b><u>100</u></b> first offense 300 second offense Must appear – 3 <sup>rd</sup> offense
8.30.030(B)	Unlawful marijuana use	<del>75</del> <b><u>100</u></b> first offense <del>75</del> <b><u>100</u></b> second offense Must appear – 3 <sup>rd</sup> offense
8.30.060	Under-age Marijuana use or possession	<del>75</del> <b><u>100</u></b> first offense 300 second offense Must appear – 3 <sup>rd</sup> offense

**Section 4. Effective Date.** This ordinance is effective upon passage.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on May 14, 2015.

  
Alice Ruby, Mayor

ATTEST:

[SEAL]

  
Janice Williams, City Clerk

(Items highlighted in gray shading are being introduced as SUB-1; new language is underlined and **emboldened** and deleted language displayed as ~~strikethrough~~.)

**City of Dillingham Information Memorandum**

Agenda of: May 14, 2015

Attachment to: 2015-04(Sub-1)  
Ordinance No. \_\_\_\_\_ / Resolution No. \_\_\_\_\_

**Subject:**

An Ordinance amending Dillingham Municipal Code Title 8 - Health and Welfare by the addition of a new chapter providing regulation of marijuana in the City of Dillingham, Alaska

City Manager: Recommend Approval

Signature: Rose Doera

Route to	Department Head	Signature	Date
	Finance Director		
X	City Clerk	<i>J. Williams</i>	5/7/15

Fiscal Note:  Yes  No

Funds Available:  Yes  No

**Other Attachments:**

- An advertisement for a Public Hearing on Ordinance No. 2015-04 was placed in the April 30 edition of the Bristol Bay Times as required to be advertised in a local newspaper five days in advance of the public hearing. It was readvertised in the May 7 edition due to the Council meeting being rescheduled to May 14.

**Summary Statement:**

On February 24, 2015 recreational use of marijuana became legal in the State of Alaska under certain regulations. It is still illegal to buy or sell marijuana in the City of Dillingham. The State of Alaska and the City of Dillingham will continue to develop laws and regulations on the production, sale, and use of marijuana.

State law provides a penalty of \$100 for public use and that is the maximum that the city can fine for the same offense, regardless of the number of previous offenses. Dillingham standardized its fines several years ago and set a fine of \$75 for alcohol/drunkenness offenses. When the ordinance was introduced, a first time offense fine of \$75 was recommended for consuming marijuana. The city can't fine more than \$100 for a third, fourth, or fifth, public use violation and can't fine anyone more than \$500 for any minor offense violation, but it can require that the offender appear in court.

**Summary Statement continued:**

This ordinance was vetted through the Code Review Committee and was recommended to the Council for introduction March 19, 2015.

Since the time it was introduced, the City scheduled four Neighborhood Meetings in various locations throughout Dillingham during the week of April 27 to discuss the new marijuana laws and future marijuana legislation and get public feedback.

The City scheduled four Neighborhood Meetings in various locations throughout Dillingham during the week of April 27 to discuss amongst other items the new marijuana laws and future marijuana legislation and get public feedback. The Code Committee is recommending a substitute ordinance to incorporate two changes that will be brought before the Council at their May 14 Council meeting to:

- 1). Strike the current definition and insert the State's definition for public marijuana use. This is not considered a substantive change. Since this is new territory, it makes sense to track the state law.
- 2). Increase the \$75 fine offenses to \$100 to make it a steeper fine. The Council will need to determine if the proposed increase in fines is a substantive change. If yes, this ordinance would be scheduled for another hearing for the June 4 Council meeting.

There may be some confusion that the City has two different definitions for public places, one for the marijuana ordinance and one for the smoking ordinances. The smoking ordinance is to protect people from the effects of second-hand smoke. The marijuana ordinance is to keep people from getting high in public places.

Whereas it's good to be consistent with the state definition for public marijuana use as the City and state share the same goal – preventing people from getting high in public – that's not the goal of the smoking ordinance. The primary difference between the public place definition for the smoking section and for the marijuana section is that the smoking section says "any enclosed area." The marijuana language includes places that would presumably be open-air (parks, highways, playground). The City does not want to prohibit smoking a cigarette on the street or, similarly, allow people to use marijuana while walking down the street. Of course, people also smoke marijuana. A person smoking a joint in a bar could be cited for a public smoking violation (enclosed space) AND cited for public marijuana use. If he walks outside, he's violating the public marijuana use ordinance only.

### HELP WANTED

**Marrulut Enlit ("Gramma's House") Administrator**  
Objective: Provide full management, operation and supervision of the Marrulut Enlit assisted living center, responsible for the day-to-day administration of the program and financial operations: planning, development, implementation, evaluation and improvement of program services; management of staff and delivery of high quality services as determined by the residents and their families. The manager is responsible for ensuring operation of a program that is consistent with the philosophy of assisted living.  
or an application, full job description and a list of qualifications, please contact Eileen Savo at the Bristol Bay Housing Authority at (907)842-5956. You may also call Eileen Lee at the Marrulut Enlit Assisted Living Center in Dillingham at (907)842-4600.  
Salary is D.O.E. and position is open until filled.

### FORSALE

006 - 21' Bouillon Jet Boat, 350 engine Hamilton Jet. See [www.alaskaboatbrokers.com](http://www.alaskaboatbrokers.com) for details. \$7,000.00 delivered to Bristol Bay. 907-518-0101

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### PUBLIC NOTICE

Igiugig Village Council (IVC) hereby gives notice of its submittal of a draft license application to the Federal Energy Regulatory Commission (FERC) on April 1, 2015 for a 10-year pilot project license for IVC's Igiugig Hydrokinetic Project (Docket P-13511-001). The purpose of the Project is to demonstrate the potential for a new source of clean, locally produced, renewable electricity generated from water currents in the Kvichak River in Igiugig, Alaska, to displace high cost diesel generated power. IVC will use the Ocean Renewable Power Company RivGen® Power System. Issuance of the pilot project license will allow IVC to demonstrate that electricity can be generated from river currents and power can be transmitted directly to a remote community isolated power grid without adverse environmental effects. The project will be located in the Kvichak River at Igiugig.

The application may be accessed online at [www.ferc.gov/docs-filing/elibrary.asp](http://www.ferc.gov/docs-filing/elibrary.asp) (Docket No. P-13511-001).



### Job Opening at BBNC: Director of Land and Resources

BBNC is seeking applications for a Director of Land and Resources who will be responsible for implementing BBNC's land and resource policy and managing BBNC activities in compliance with those guidelines. Duties include serving as the liaison with land-owners and federal, state, regional and tribal organizations, and negotiating contracts with regional organizations.

Minimum Qualifications: Bachelor's degree and five years of relevant experience; a strong background in natural resources, Alaska Native law and BLM processes; and strong computer and public speaking skills.

The full job description and application can be found at [www.bbnc.net](http://www.bbnc.net). All qualified applicants should apply by **May 22, 2015**.

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### PUBLIC NOTICE Public Hearing on Ordinance Nos. 2015-04, 05, 06, 07

The City Of Dillingham will hold a **Public Hearing** on **Thursday, May 7, 2015, at 7:00 P.M.** in the **City Council Chambers** for the purpose of taking comment from the public on the following ordinance:

- Ordinance No. 2015-04, An Ordinance of the Dillingham City Council Amending Dillingham Municipal Code Title 8 - Health and Welfare by the Addition of a New Chapter Providing Regulation of Marijuana in the City of Dillingham, Alaska
- Ordinance No. 2015-05, An Ordinance of the Dillingham City Council Amending Dillingham Municipal Code Chapter 8.10, Prohibition of Smoking in Public Places, Section 8.10.010 Definitions
- Ordinance No. 2015-06, An Ordinance of the Dillingham City Council Authorizing the Disposal of Municipal Property by Lease
- Ordinance No. 2015-07, An Ordinance of the Dillingham City Council Amending Title 8, Health and Safety, of the Dillingham Municipal Code to Prohibit Improper Deposit of Fish Waste

If you have any questions, please contact the City Clerk's office at 842-5212 or email [cityclerk@dillinghamak.us](mailto:cityclerk@dillinghamak.us)

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