

### PUBLIC CONSUMPTION OF MARIJUANA

- Current Muni Code generally bans public smoking and consumption of marijuana, but does not preclude consumption of edibles in hotel rooms, or smoking in designated hotel “smoking rooms”.

Two prohibitions: (1) on public smoking (marijuana and tobacco) and (2) on public consumption (of marijuana).

- AMC 16.65 Smoking prohibits smoking in all places of employment, with at least two relevant exceptions:
  - (a) Hotel smoking rooms (assumes 75% of rooms are non-smoking), and
  - (b) Clubs that are not places of employment.
- AMC 8.35 General Consumption of MJ prohibits all forms of consumption in “public” places, which does not include:
  - (a) Hotels and apartment rooms, and
  - (b) Places permitted by ordinance, regulation, statute or permit.
- Current state law bans public consumption of MJ, which does not include hotel rooms or specially permitted areas of MJ retail stores. (But note: The state has not adopted regulations setting out standards for approval of “specially permitted areas of MJ retail stores”; nor has it approved any areas for any licensed MJ retail store.)

Source material below.

## **Chapter 16.65 - SECONDHAND SMOKE CONTROL ORDINANCE\***

### **AMC 16.65.005 - Definitions.**

*Smoking* means inhaling, exhaling, burning or carrying any lighted tobacco or marijuana product.

### **AMC 16.65.010 - Prohibition of smoking.**

#### **A. Smoking is prohibited at the following places:**

1. All enclosed public places within the Municipality of Anchorage, including, but not limited to, all businesses visited by the public, transportation facilities, waiting areas of public transit depots, buses, taxicabs, sports arenas, and other enclosed areas open to the public.
2. **All enclosed areas that are places of employment.**

3. All enclosed areas on properties owned or controlled by the Municipality of Anchorage, including the Anchorage School District, and including every room, chamber, place of meeting or public assembly under the control of any municipal board, council, commission, committee, or municipal authority.
  4. All areas within 20 feet of each entrance to enclosed areas on properties owned or controlled by the Municipality of Anchorage including the Anchorage School District, and including every room, chamber, place of meeting or public assembly under the control of any municipal board, council, commission, committee, or municipal authority.
  5. All areas within 50 feet of each entrance to a hospital or medical clinic.
  6. All enclosed areas where a person provides child care on a fee for service basis.
  7. Seating areas of outdoor arenas, stadiums, and amphitheaters.
  8. All areas within five feet of the entrance to a premises licensed under state law to sell alcoholic beverages for consumption on the premises. When a licensed premises includes an outdoor area such as a patio or deck, the minimum reasonable distance under subsection [16.65.020](#) shall be five feet.
  9. All areas of Town Square Park. Smoking in Town Square Park includes use of an electronic smoking device.
- B. Smoking is prohibited on any property not listed in subsection A of this section, with or without enclosure, if the owner, operator, manager, or other person having control of the property chooses to prohibit smoking.

(AO No. 2006-86(S), § 1, 7-1-07; [AO No. 2016-69, § 2, 7-26-16](#) )

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

- A. **Smoking is not prohibited in the following places:**
1. A maximum of 25 percent of **hotel and motel sleeping rooms rented to guests designated as smoking rooms** if the hotel or motel designates at least 75 percent of its guest rooms as permanently nonsmoking.
  2. **Private clubs that are not licensed for the sale of alcoholic beverages under state law and are not places of employment**; however, if an enclosed area is being used for a purpose, event, or function to which the general public is invited, then smoking is prohibited.
  3. Outdoor areas of places of employment except the outdoor areas identified under AMC [16.65.010](#).
  4. Private residences, except enclosed areas during the time child care is provided on a fee for service basis. Individuals providing day care on a fee for service basis shall not expose children to secondhand smoke.
- B. Nothing in this chapter shall be construed or interpreted to provide any person a right to smoke on premises or property owned, leased or under the legal control of another.
- 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](#) )

### **AMC 8.35.300 - Consuming marijuana in a public place.**

- A. **It is unlawful for any person to knowingly consume marijuana when the person is:**
1. **On, in or upon any public place, except as permitted by ordinance, regulation, statute or permit; or**
  2. Outdoors on property adjacent to a public place, and without consent of the owner or person in control thereof.
- B. For purposes of this section, the definitions of the words and phrases below shall apply:
1. *Consume* shall have the meaning, in all conjugate forms, of "consumption" set forth in AS 17.38.900.
  2. *Marijuana* shall have the meaning set forth in AS 17.38.900.
  3. **Public place means a place to which the public or a substantial group of persons has access and includes**, but is not limited to, streets, highways, sidewalks, alleys, transportation facilities, parking areas, convention centers, sports arenas, schools, **places of business** or amusement, shopping centers, malls, parks, playgrounds, prisons, and hallways, lobbies, doorways **and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.**
- C. Reserved.
- D. Violation of this section is a minor offense punishable as set forth in the minor offenses fine schedule.

([AO No. 2015-7](#), § 1, 1-24-15; [AO No. 2016-16\(S\)](#), § 3, 2-9-16 )

### **AS 17.38.040. Public consumption banned, penalty**

**It is unlawful to consume marijuana in public.** A person who violates this section is guilty of a violation punishable by a fine of up to \$100.

### **3 AAC 306.990. Definitions**

(6) **“in public”**

- (A) **means in a place to which the public or a substantial group of people has access;**
- (B) except as provided in (C) of this paragraph, 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;**
- (C) **does not include an area on the premises of a licensed retail marijuana store designated for onsite consumption** under 3 AAC 306.305;