

Haines Borough Assembly Public Hearing on Minor Offense Violation Ordinance.
Petition to not pass Ordinance No. 15-06-413.
September 8, 2015

Mayor Hill
Members of the assembly

Thank you for addressing the problems with our Haines Borough code and the way it is written.

I believe this is a very important issue and cannot be rushed through. The problems with the existing codes and the problems with the proposed code cannot be resolved in a hurry. If we do not have time to correct Haines Borough Code and do it right, when will we have time to do it over? As Assembly member Diana Lapham stated at a recent Gov. Affairs and Services committee meeting: ".....If we had to review the entire code, we could not get through it in a year"

I will not ask you to consider all the problems that exist in current code. Nor will I ask that you consider all the problems that exist in the proposed Minor Offense Violation Ordinance.

For tonight, I ask the Assembly to consider one example of the errors in our present codes that are being carried over into the proposed new code. This is just one example of the violation of our State and Federal laws that exists in Haines Borough code and is proposed to be carried over into the Minor Offense Violation Ordinance.

The current Ordinance I am referring to is No. 1.24.010, and I quote; ".....any person failing to abide by any provisions or failing to comply with any of the mandatory requirements of this code is guilty of a violation....."

The proposed Minor Offense Violation Ordinance I am referring to is No. 1.24.060 A., and I quote; "Every person who attempts to commit a minor offense, but fails or is prevented or is intercepted in its perpetration is guilty of a minor offense"

These examples of existing and proposed code show the clear cut violation of the presumption of innocence that is the bedrock of the American legal system. The law maintains that Guilt only exists when it is found as the result of a conviction or a plea bargain agreement. To assert otherwise is to deny the presumption of innocence that operates until the entry of a conviction rebuts it.

The Constitution of the United States, 5th, 6th and 14th amendments and the Constitution of the State of Alaska, Article 1, Section 7, 8, 9, 11, 12, 13, 14, 15, 16 and 17 provide the foundation for innocent until proven guilty in criminal, civil, and even traffic violation courts

The United States Supreme court has repeatedly stated that the accused are innocent until proven guilty. One of the many US Supreme Court cases where innocence until proven guilty is explained is: In Re Winship, 397 U.S., 358, 363 (1970) Stating that the presumption of innocence is a “.....bedrock axiomatic and elementary principle whose enforcement lies at the foundation of our criminal law”

The Alaska Supreme Court and the Alaska Court of Appeals has also repeatedly stated the presumption of innocence until proven guilty, one example: Douglas v. State, appeal court decision No. 2078, Dated December of 2006, written by Justice Thomas Stuart, and I quote:

“The presumption of innocence remains in force throughout the presentation of evidence and the closing arguments and it governs the jury’s deliberations”

To have Haines Borough code state that a person is guilty without due process is a violation of our constitutional rights.

HB code needs to be changed. It needs to be changed so that it complies with the laws of the land and the supreme courts who interpret those laws.

I hereby petition the Haines Borough Assembly to not pass the Minor Offense Violation Ordinance No. 15-06-413 into law until it is completely reviewed and revised to comply with our Constitutions. Furthermore, I request that the Haines Borough find competent legal counsel, because it is clear that whoever authored and approved the current Haines Borough code and authored the proposed

Minor Offense Violation Ordinance was not familiar with or concerned about our Constitutional rights.

Be advised that voting for passage of the Minor Offense Violation Ordinance No. 15-06-413 as written, into Haines Borough code is a violation of your oath of office to support our Constitutions and to support our Borough Charter.

Thank you,

A handwritten signature in cursive script, reading "Paul A. L. Nelson", written over a horizontal line.

Paul A. L. Nelson

A handwritten date in cursive script, reading "Sept 8, 2015".