

An Ordinance of the Haines Borough repealing Ordinance 08-09-189 and amending Borough Code Title 2 to add Section 2.06.035 to establish a Local Financial Disclosure Requirement and Process and add applicable definitions to Title 2 Section 2.990.010.

BE IT ORDAINED BY THE ASSEMBLY OF THE HAINES BOROUGH, ALASKA:

Sec. 1. Classification. This ordinance is of a permanent nature and shall be codified into Haines Borough Code.

Sec. 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.

Sec. 3. Effective Date. This ordinance shall become effective immediately upon voter approval to exempt the borough from the requirements of AS 39.50.

Sec. 4. Repeal and Reenactment: Ordinance 08-09-189 is hereby repealed in its entirety and Chapter 2.06 shall be amended to add the following Section 2.06.035:

2.06.035 Public Financial Disclosure

A. The borough assembly members, mayor, school board members, planning commissioners, and borough manager must annually file a financial disclosure statement listing each source of income over \$5,000, including business interests, real property interests, and interests in trusts exceeding \$5,000, natural resources leases, government contracts and leases, and loans, loan guarantees, and debts over \$5,000. The borough clerk shall provide the forms.

B. The annual financial disclosure statements must be filed by March 15 each year. A newly appointed official must file a financial disclosure statement within 30 days of taking office. Each candidate for elected borough office, except an incumbent seeking reelection with a current disclosure statement on file, must file a financial disclosure statement at the time the candidate files. Refusal or failure of a candidate to file the required financial disclosure statement before the end of the time period for filing a declaration of candidacy shall cause the candidate's declaration of candidacy to be rejected and the candidate disqualified. A person who fails to file a properly completed and certified financial disclosure statement within the time required by this section is subject to a civil penalty of \$10 a day for each day the delinquency continues. The penalty may be deducted from any payments due.

C. The disclosure must be true, correct and complete and shall be signed under oath or affirmation, or certified to be true under penalty of perjury. A person required to file a financial disclosure statement under this section who refuses or knowingly fails to disclose required information within the time required in this chapter, or who provides false or misleading information, knowing it to be false or misleading, is guilty of a violation and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 notwithstanding HBC 1.24. A municipal officer or candidate for an office who refuses or fails to file a financial disclosure statement required under this section when due shall not hold office, and the person's name shall not be submitted to the assembly for appointment or reappointment, until the person complies. The person may not be confirmed, hired, or appointed, and the person forfeits and may not be paid any salary, per diem, or travel expenses, until

the person complies. If, after installation in office or beginning employment in the position, the person refuses or fails to file the required financial disclosure statement when due, the person is guilty of a violation and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 notwithstanding HBC 1.24. Any citizen eligible to vote in Alaska may bring a civil action to enforce any of the sections of 2.06.035.

D. The disclosures shall be filed with the borough clerk and shall be open to public inspection and copying at the office of the borough clerk. The disclosures will not be sent to the Alaska Public Offices Commission and shall not be posted on the Haines Borough's website.

E. Each statement must be an accurate representation of the financial affairs of the filer and must contain the information specified in sections E (1-8) of this section for the filer, the filer's spouse or domestic partner, and the filer's dependent child.

(1) The source of income over \$5000 during the preceding calendar year, including taxable and nontaxable capital gains, received by the filer, the filer's spouse or domestic partner, and the filer's dependent child, except that a source of income that is a gift must be included if the value of the gift exceeds \$250;

(2) The identity, by name and address, of each business in which the filer, the filer's spouse or domestic partner, and the filer's dependent child had an interest or was a stockholder, owner, officer, director, partner, proprietor, or employee during the preceding calendar year, with the following exceptions:

a. Interest of less than \$5,000 in the stock of a publicly traded corporation need not be included, or

b. Notwithstanding other provisions of this chapter, health care providers, certified public accountants, stock brokers or financial advisors and attorneys are not required to disclose, as sources of income, the names of individual patients or clients who receive professional services. Covered individuals who are the spouses or domestic partners of health care providers, certified public accountants, stock brokers or financial advisors and attorneys are not required to disclose the names of their professional spouse's or domestic partner's individual patients or clients who receive professional service. This exemption shall not apply to the identity of any corporation or other business entity having a contract with the professional producing income of five thousand dollars (\$5,000.00) or more for services to its members or a defined group, nor to the identity of clients receiving services that do not fall within the covered individual's field of professional expertise;

(3) The identity and nature of each interest in real property in the Haines Borough, including an option to buy, owned at any time during the preceding calendar year by the filer, the filer's spouse or domestic partner, and the filer's dependent child;

(4) The identity of each trust or other fiduciary relation in which the filer, the filer's spouse or domestic partner, and the filer's dependent child held a beneficial interest exceeding \$5,000 during the preceding calendar year, a description and identification of the property contained in each trust or relation, and the nature and extent of the beneficial interest in it;

(5) A list of all mineral, timber, oil, or any other natural resource lease held in the Haines Borough, or lease offer made in the Haines Borough, during the preceding calendar year by the filer, the filer's spouse or domestic partner, and the filer's dependent child, a partnership or professional corporation of which the filer is a member, or a corporation in which the filer, the filer's spouse or domestic partner, and the filer's dependent child, or a combination of them, holds a controlling interest;

(6) A list of all contracts and offers to contract with the state of Alaska or with the Haines Borough (including the School District or other Haines Borough entity) during the preceding calendar year held, bid, or offered by the filer, the filer's spouse or domestic partner, and the filer's dependent child, a partnership or professional corporation of which the filer is a member, or a corporation in which the filer, the filer's spouse or domestic partner, and the filer's dependent child, or a combination of them, hold a controlling interest;

(7) Any loan or loan guarantee of more than \$5,000 made to the filer, the filer's spouse or domestic partner, and the filer's dependent child, and the identity of the maker of the loan or loan guarantor and the identity of each creditor to whom the filer, the filer's spouse or domestic partner, and the filer's dependent child owed more than \$5,000; this paragraph requires disclosure of a loan, loan guarantee, or indebtedness only if the loan or guarantee was made, on the indebtedness incurred, during the preceding calendar year, or if the amount still owing on the loan, loan guarantee, or indebtedness was more than \$5,000 at any time during the preceding calendar year.

Sec. 5. Amendment of Section 2.990.010. Section 2.990.010 of the Haines Borough Code is hereby amended to read as follows:

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

2.990.010 Definitions.

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"Demotion" means the transfer of a person from a position in one class to a position in another class with a lower salary range.

"Dismissal" means separation of a person from the borough service for reasons other than resignation, retirement, or layoff.

"Domestic partner" means a person who is cohabiting with another person in a relationship that is like a marriage but that is not a legal marriage (AS 39.50.200 Definitions (4)).

"Electioneering" means any form of persuasion to attempt to affect the decision of any voter, including, but not limited to, campaign buttons, bumper stickers, posters, flyers, pennants, banners or by voice.

"Employee" means any person in the borough service who is paid a salary or wage by the borough regardless of the original source of the funds, other than an elected official.

"FLSA" means the Fair Labor Standards Act.

"Graveyard shift" means those hours worked between midnight through 8:00 a.m.

"Immediate family member" means spouse and any person related by blood or marriage within and including the second degree of kindred.

"Layoff" means an involuntary separation of an employee in the borough service because a position has been abolished, there are insufficient funds to pay the employee, or there is an insufficient amount of work for the employee to do.

"Manager" means the borough manager or designee.

"Pay plan" means a schedule of salaries which shall be established and amended by resolution and which covers all classes of positions in the borough service.

"Permanent status" means the status of a person who has satisfactorily completed the probationary period.

"Position" means an office or employment in the borough service composed of specific duties and requiring the full-time or part-time services of one person.

"Probationary period" means the in-service test period which follows an appointment and precedes permanent employment in a class.

"Promotion" means the change of a person from a position in one class to a position in another class with a higher salary range.

"Resignation" means termination of employment at the request of the person.

"Second degree of kindred" means father, mother, son, daughter, brother, sister, husband, wife, grandfather, grandmother, grandson, granddaughter, uncle and aunt and includes those relationships involving half or step relationships.

"Short list" means a list of at least three qualified candidates for employment.

"Source of income" means the entity for which service is performed or that is otherwise the origin of payment; if the person whose income is being reported is employed by another, the employer is the source of income; but if the person is self-employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which the person, the person's spouse or domestic partner, and the person's dependent child, or a combination of them, hold a controlling interest, the "source" is the client or customer of the proprietorship, partnership, or corporation, but, if the entity that is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source.

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ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS _____ DAY OF _____, 2012.

Stephanie Scott, Mayor

ATTEST:

Julie Cozzi, MMC, Borough Clerk

Introduction: 07/10/12
First Public Hearing: 07/24/12
Second Public Hearing: 08/14/12
Third Public Hearing: 08/28/12 – Adoption postponed to 9/11/12