

**From:** [Brenda Jones](#)  
**To:** [Julie Cozzi](#)  
**Subject:** Fwd: Minor Offense Ordinance 15-06-413  
**Date:** Tuesday, September 08, 2015 11:32:27 AM  
**Attachments:** [Attachment A.pdf](#)  
[Attachment B.pdf](#)  
[Attachment C.pdf](#)  
[Attachment D.pdf](#)  
[Attachment E.pdf](#)  
[Attachment F.pdf](#)  
[Attachment G.pdf](#)  
[Attachment H.pdf](#)  
[Attachment I.pdf](#)  
[Attachment J.pdf](#)  
[Attachment K.pdf](#)  
[MLK.pdf](#)

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Julie,

Please make sure the following information (both e-mail and attachments) are made available to the assembly tonight as written testimony regarding the Minor Offenses Ordinance 15-06-413 Public Hearing.

In addition to providing this information as written testimony, please add my name to the list to give testimony at the public hearing tonight.

Thank you,

Brenda Josephson  
Haines Borough Resident and Taxpayer

**Dear Assembly Member:**

I am requesting the Assembly not to pass the proposed ordinance 15-06-413 "Minor Offenses". Please ***DO NOT PASS*** this ordinance. This ordinance is still under review and is being considered by several committees and commissions. Additional time for consideration has been requested.

**The ordinance as written:**

- 1. Fails to establish processes and procedures to protect due process, public engagement and compliance through education.**
- 2. Fails to establish clear boundaries of responsibilities and authority of enforcement authority.**
- 3. Does not provide for any standard of training or knowledge of individuals authorized or delegated enforcement authority.**
- 4. Does not establish an appointment process for enforcement authority for "designee(s)".**

5. Allows for a duplication of violations for single incidents.
6. Does not protect from arbitrary prosecutions.
7. Is inconsistent with the Haines Borough Comprehensive Plan.
8. Is inconsistent with the Charter of Haines Borough which guarantees freedom “without unnecessarily restrictive or arbitrary laws or regulations”.

*“Those who deny the right of a jury to protect an individual in resisting an unjust law of the government, deny him all defense whatsoever against oppression.” - Lysander Spooner*

I further request that if this ordinance is passed that enforcement of Title 8 – Health and Safety, Title 9 – Public Peace, Morals, and Welfare, and Title 10 – Vehicles and Traffic is restricted to “police officer(s)” as defined in A.S. 18.65.290 (7) (A) who has met the standards required in A.S. 18.65.240.

(See Attachment A – A.S. 18.65.290(7)(A).)

The ordinance as written not only fails to protect residents from arbitrary prosecutions, it actually empowers the borough’s ability to use non-professionals that have not taken an oath of office and have not received training or education in: conflict resolution, protection of constitutional rights, and law enforcement.

Interim Police Chief Griffiths effectively stated that law enforcement is a challenge of “problem solving”. The goal of code enforcement is compliance for peace and harmony in the community and it is not about revenue generation. Public engagement and education is the most effective and efficient way to affect compliance. People generally want to do the right thing.

One way to provide a clear process of code enforcement is to include in the proposed ordinance a sentence to be added to each title that specifically states which “Borough Official” has enforcement authority for the applicable title. The code should not leave an open ended ability of nameless and unidentified and or identifiable others as deemed necessary by the Borough Manager.

It is vitally important that the proposed ordinance restricts the ability of issuing citations of Haines Borough Code to sworn police officers for the following Titles:

Title 8 – Health and Safety

Title 9 – Public Peace, Morals, and Welfare

## Title 10 – Vehicles and Traffic

These titles are of such sensitive nature that they require enforcement by professional police officers. The use of untrained personnel for enforcement of Title 8 unnecessarily exposes the Haines Borough to liability as has been realized in the Paul Nelson lawsuit and the Wrongful Death Suit of the Survivors of George Edwards.

I am providing you with several examples of enforcement orders of Title 8 – Health and Safety that have been issued recently by borough office staff that are not trained in law enforcement. The lack of proper handling has resulted in devastating consequences of both human tragedy, goodwill, time, and legal costs to the community. Attached are only a few examples that are available on the Borough's website:

June 2, 2014 – George Edwards, Issued by Xi Cui, Planning & Zoning Technician

June 25, 2014 – Paul Nelson, Issued by Xi Cui, Planning & Zoning Technician

June 27, 2014 – Tonya Clark, Issued by Xi Cui, Planning & Zoning Technician

May 6, 2015 – Shane & Janis Horton, Issued by Kathryn Friedle, Administrative

Assistant

(Attachment B – Title 8 Enforcement Orders Examples)

In order to illustrate the arbitrary enforcement of Title 8, I am using an example of the injustice that is currently occurring with the use of untrained law enforcement authority. I have provided Attachments regarding the May 6, 2015 abatement order to Shane & Janice Horton. All of these attachments were obtained from the Haines Borough website. Please consider the facts in this case:

Fact 1: Haines Borough Code states:

### 8.12.070 Notice and order to abate.

A. Upon discovery or receipt of notice of any nuisance prohibited by this title, the abatement official shall ***immediately*** notify the owner of the property on which the nuisance exists and require the **abatement of the nuisance within a *reasonable time limit*** specified by the abatement official.

(Attachment C – Haines Borough Code Title 8)

Fact 2: The timeline provided by the Borough for the Horton's appeal states:

“April 22, 2015 – Borough staff was in the Eagle's Nest Trailer Park as a part of a

townsite-wide addressing project and, while there, found excessive trash build up around two trailers located on the last row closest to the forested area off of Sawmill road. Photos were taken at that time.”

(Attachment D – Eagle’s Nest Timeline as Published by the Haines Borough Administration)

Fact 3: Fourteen (14) days later a certified letter signed by Kathryn Friedle, Administrative Assistant, was mailed to the property owner’s on May 6, 2015 requiring the trash and litter to be removed no later than May 16, 2015 ten (10) days after the letter was written and presumably mailed.

(Attachment E – May 6, 2015 Enforcement Order)

Fact 4: The certified letter was received via USPS by the property owner on May 11, 2015. The property owner was provided with only five (5) days from the receipt of the letter to have the abatement completed.

(Attachment F – May 20, 2015 Response)

Per Code the borough was required “shall immediately notify the owner of the property on which the nuisance exists” the borough responded to the code’s required for “shall immediately notify” to be fourteen (14) days from the date of discovery and then notification was via USPS certified letter with a known delay process for delivery and receipt. The borough staff felt that fourteen (14) days was responsive enough to be in compliance to Code’s requirement of “immediately”, and then this notification was by a process with known delays.

However, the same borough staff interpreted the requirement of code “require the abatement of the nuisance within a reasonable time limit” to be ten (10) days from the date they got around to writing a letter and with no allowance for the delivery time. Even the Internal Revenue Service does not start the clock on notices until receipt of their letters.

Please note that the arbitrary enforcement and the injustice that is occurring between the latitude the Borough Administration allows itself in interpreting the “immediately” requirement of Code by the Borough Administration and “reasonable time limit” by an action from a member of the public. This is indicative of the challenges with arbitrary interpretation that occurs when law enforcement authority is given to a civil administration. The example provide is not an isolated incident. This challenge is

compounded by the failure to identify in Code a process of appointment of authority and a requirement for professional training.

Additionally, the requirement that the “abatement official shall immediately notify the owner of the property” is very clear and directly stated in Code. The notification to the property owner which occurred fourteen (14) days later was from an Administrative Assistant. A public records request was made to the Borough Clerk for a copy of the confirmation of appointment and written oath of office for the individual’s that are signing the enforcement letters as Abatement Officials. The Borough Clerk responded as follows:

“The requested documents do not exist. Xi Cui and Kathy Friedle are not in positions that require oaths of office. They are not elected officials or borough officers, and the performance of their duties does not require an oath. They have not been appointed as abatement officials.”

(Attachment G – Borough Clerk e-mail to Public Records Request)

The facts in this case were used only as an example of the arbitrary enforcement that is occurring. I can provide additional examples upon request.

Other communities have dealt with similar challenges and have already worked through solutions.

I have attached a section of the Municipality of Anchorage Code Section 21.01 – Vehicle Violation Enforcement. This section is codified in Anchorage to specifically forbid any vehicle enforcement by anyone other than a “regularly sworn police officer”. This language was added to Anchorage’s Code to specifically deal with overzealous enforcement by individuals that were other than sworn police officers. It is just one example of the manner in which a community corrected the challenge they had with use of individuals that were not professionally trained in law enforcement.

(Attachment H – Anchorage Code Section 21.01 – Vehicle Violation Enforcement)

Legal problems, legal fees, loss of goodwill, and community disharmony will continue to accrue if the Code is not corrected to address processes and procedures to protect individual’s rights of due process. The arbitrary enforcement and Code interpretations that is currently being practiced which allows large amounts of tolerance and discretion when dealing with Borough Administration’s responsibilities and obligations as required by Code, while at the same time dealing harshly with the public, will continue if these issues are not addressed directly in Code.

**(Attachment I – Recent CVN Advert for George Edwards Wrongful Death)**

In addition to the legal cost that accrues to each and every taxpayer in Haines Borough, the community suffers the additional costs of a community wide hurt of disharmony. The Borough Clerk stated at the July 20, 2015 Government Affairs and Services Committee that she is the “bridge between the government and the people”. I believe that this perspective is incorrect at its most basic level. According to the Charter of the Haines Borough, there is not, or at least should not be, two entities in Haines Borough. There is instead one entity, which is the people that have a local government promised in the Charter of Haines Borough as “the right to a government of the people, by the people and for the people, which safeguards our diversity, harmony between neighbors and respect for the environment”.

**(Attachment J – Charter of Haines Borough Preamble and Bill of Rights)**

It is incumbent on each and every one in government to protect the rights of the individual before they act. This includes ensuring that the ordinances are developed to protect rights of all persons to fair and just treatment, protecting our right to enjoyments without restrictive or arbitrary laws or regulations. Police officers are professionally trained in conflict resolution to maintain the peace, enforce laws, and protect constitutional rights.

**(Attachment K – Supreme Court Opinion)**

Please protect the rights of the people of Haines Borough. Do not pass this ordinance.

Sincerely,

Brenda Josephson, EA, MBA Specialism in Strategic Planning  
Haines Borough Resident and Taxpayer

*“Injustice anywhere is a threat to justice everywhere.” - Martin Luther King, Jr.*

## Alaska Statutes

### Title 18 – Health, Safety, and Housing

#### AS 18.65.290. Definitions.

(7) "police officer" means

(A) a full-time employee of the state or a municipal police department with the authority to arrest and issue citations; detain a person taken into custody until that person can be arraigned before a judge or magistrate; conduct investigations of violations of and enforce criminal laws, regulations, and traffic laws; search with or without a warrant persons, dwellings, and other forms of property for evidence of a crime; and take other action consistent with exercise of these enumerated powers when necessary to maintain the public peace;

#### AS 18.65.240. Standards.

- (a) A person may not be appointed as a police officer, except on a probationary basis, unless the person (1) has satisfactorily completed a basic program of police training approved by the council, which includes at least 12 hours of instruction regarding domestic violence as defined in AS 18.66.990 , and (2) possesses other qualifications the council has established for the employment of police officers, including minimum age, education, physical and mental standards, citizenship, moral character, and experience. The council shall prescribe the means of presenting evidence of fulfillment of these requirements.
- (b) The council shall issue a certificate evidencing satisfaction of the requirements of (a) of this section to an applicant who satisfies those requirements or who satisfies the requirements of (a)(2) of this section and satisfactorily completes a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the council for approved police education and training programs in this state.
- (c) The council may deny or revoke the certificate of a police officer who does not meet the standards adopted under (a)(2) of this section.



HAINES BOROUGH  
Planning & Zoning  
P.O. Box 1209  
Haines, AK 99827-1209  
907-766-2231 Ext. 23  
907-766-2716 (fax)  
xcui@haines.ak.us

June 2, 2014

George Edwards  
PO Box 744  
Haines, AK 99827

Re: C-STR-02-1230  
T31S, R59E, SEC2, Lot 12-Part, Small Tracts Rd.

Dear Mr. Edwards:

It has come to the Borough's attention that the presence of excessive motor vehicles and boats on the above-listed property appears to meet the definition of junkyard in the Haines Borough nuisance code:

HBC 8.12.020 Certain conditions declared nuisances.

*"It shall be unlawful for any person to cause or create the following declared nuisances within the townsite service area: ...allowing on the premises: lumber, refuse, junk, debris, or abandoned, discarded, and unused objects, such as automobiles, fixtures, furniture, appliances, and other objects which are not kept for immediate use and have been allowed on the premises for more than 30 days."*

HBC 18.20.020 Definitions – Regulatory.

*"Junkyard" means a lot or portion thereof which is used for the purpose of the outdoor storage, handling, dismantling, wrecking, keeping or sale of more than two unregistered, discarded, wrecked or abandoned: motor vehicles, airplanes, appliances or boats. It may also include building materials, machinery, equipment, or parts thereof, including scrap metals, wood, lumber, plastic, fiber or other tangible materials allowed to accumulate to the point of meeting the definition of nuisance in Chapter 8.12 HBC.*

This situation requires immediate resolution by one of the following means:

- You may provide a copy of the registration document for each vehicle on your property that exceeds the allowed two unregistered; this would prove they are not discarded, wrecked or abandoned. If you choose this option, you must provide the copies no later than June 13, 2014; or



## ATTACHMENT "B"

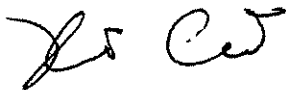
- The excessive vehicles and boats may be removed from the property so that it no longer meets the junkyard definition. If you choose this option, the removal must take place no later than July 3, 2014; or
- You may appeal this notice to the assembly by filing with the clerk an appeal in writing in accordance with the appeal procedure provided under HBC 8.12.130 within 15 days from the date of this notice. Therefore, an appeal would have to be received no later than June 18, 2014; or
- You may pursue a conditional use permit for a junkyard by applying and appearing before the Planning Commission. Your property is located within the *Rural Mixed Use* zone, and that zone allows a junkyard with a conditional use permit. If the Planning Commission decides not to permit you to have a junkyard on your property, you will be required to resolve the matter by removing the automobiles and boats such that the property no longer meets the junkyard or nuisance definitions. If you wish to apply for a conditional use permit, please do so no later than June 13, 2014 (for your convenience, I have enclosed a form in the event you choose this option).

**This matter requires your immediate attention. Please notify me as soon as possible to let me know which of the above-listed options you have selected.**

If I have received no response from you by June 13, the Borough may take such action as deemed necessary to correct or abate the violation. According to HBC 8.08.030(C), the cost of such action taken by the Borough, including process fees and incidental administrative costs, shall be charged to the responsible party and shall be due and payable within 30 days of the completion of the action, with interest accruing at a rate of 12 percent per year, until paid in full.

Thank you very much for your attention to this matter. Please contact me right away.

Sincerely,



Tracy Cui  
Planning & Zoning Technician

## ATTACHMENT "B"



HAINES BOROUGH  
Planning & Zoning  
P.O. Box 1209  
Haines, AK 99827-1209  
907-766-2231 Ext. 23  
907-766-2716 (fax)

June 25, 2014

Paul Nelson  
PO Box 858  
Haines, AK 99827

via Hand Delivery

Re: Solid Waste Disposal on Private Property  
C-SKY-0B-1700; Lot 17, Block B, Skyline Estates Subdivision

Dear Mr. Nelson:

During the Assembly meeting you were informed that litter and rubbish within the foundation must be capped and that litter and rubbish outside the foundation must be removed no later than 11:59.59 on 21 June 2014.

On Friday 20 June, Saturday 21 June, and on Sunday 22 June the Borough staff inspected your property to insure that progress was being made in meeting the instructions that the Assembly set forth on 10 June. While out doing investigation, we found you have made progress on cleaning the site but did not complete the task in the required time period. There was still broken glass and litter adjacent to the area where dirt/gravel had been laid down. Based on the inspections, the Borough determines that you are in violation of the instructions and should be assessed an additional fine of \$300.00/day, per Haines Borough Code 1.24.010. This fine shall be assessed on a daily basis until such time as the site passes inspection.

Since it has been four days after the deadline that set forth at the Assembly meeting, you are being assessed a \$1,200 penalty fee so far. This needs your immediate attention. The penalty will continue to accrue \$300/day until the site is completely cleaned.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracy Cui", is written over a horizontal line.

Tracy Cui  
Planning & Zoning Technician



HAINES BOROUGH  
Planning & Zoning  
P.O. Box 1209  
Haines, AK 99827-1209  
907-766-2231 Ext. 23  
907-766-2716 (fax)  
xcui@haines.ak.us

June 27, 2014

Tonya Clark  
1204 E. Ermina Ave.  
Spokane, WA 99207

Re: C-STR-02-42C0  
T31S, R59E, SEC2, Lot 42-Part, Small Tracts Rd.

Dear Ms. Clark:

The Haines Borough has received a complaint that your property listed above is in violation of the Borough code. In response to these concerns, the Borough staff inspected your property on June 26<sup>th</sup>, 2014. Below are the findings:

- The presence of excessive scrap lumber/debris appears to be in a violation of Haines Borough code (HBC) 8.08 Littering:
  - According to HBC 8.08.020(E), *"It is unlawful for any person to deposit any litter on private property, whether owned by the person or not"*;
  - HBC 8.08.010 defines *"litter" means garbage, refuse, rubbish and all other waste material which, if thrown or deposited as prohibited in this chapter, tend to create a danger or nuisance to public health, safety, and welfare;*
  - HBC 8.08.010 also defines *"rubbish" includes waste paper, cardboard, wood, tin cans, glass, bottles, yard rakings, tree limbs, bedding, metals, trash, sweepings, and all similar substances.*

This situation requires immediate resolution by one of the following means:

- The scrap lumber/debris may be removed from the property so that it is no longer in a violation of HBC 8.08. If you choose this option, the removal must take place no later than July 11, 2014; or
- You may appeal this notice to the assembly by filing with the clerk an appeal in writing in accordance with the appeal procedure provided under HBC 8.12.130 within 15 days from the date of this notice. Therefore, an appeal would have to be received no later than July 11, 2014.

## ATTACHMENT "B"

- The presence of four motor vehicles appears to meet the definition of junkyard in the Haines Borough nuisance code:
  - According to HBC 18.20.020, "*Junkyard*" means a lot or portion thereof which is used for the purpose of the outdoor storage, handling, dismantling, wrecking, keeping or sale of more than two unregistered, discarded, wrecked or abandoned: motor vehicles, airplanes, appliances or boats. It may also include building materials, machinery, equipment, or parts thereof, including scrap metals, wood, lumber, plastic, fiber or other tangible materials allowed to accumulate to the point of meeting the definition of nuisance in Chapter 8.12 HBC.

This situation requires immediate resolution by one of the following means:

- You may provide a copy of the registration document for each vehicle on your property that exceeds the allowed two unregistered; this would prove they are not discarded, wrecked or abandoned. If you choose this option, you must provide the copies no later than July 11, 2014; or
  - The excessive vehicles may be removed from the property so that it no longer meets the junkyard definition. If you choose this option, the removal must take place no later than July 27, 2014; or
  - You may appeal this notice to the assembly by filing with the clerk an appeal in writing in accordance with the appeal procedure provided under HBC 8.12.130 within 15 days from the date of this notice. Therefore, an appeal would have to be received no later than July 11, 2014; or
  - You may pursue a conditional use permit for a junkyard by applying and appearing before the Planning Commission. Your property is located within the *Rural Mixed Use* zone, and that zone allows a junkyard with a conditional use permit. If the Planning Commission decides not to permit you to have a junkyard on your property, you will be required to resolve the matter by removing the automobiles so that the property no longer meets the junkyard or nuisance definitions. If you wish to apply for a conditional use permit, please do so no later than July 11, 2014 (for your convenience, I have enclosed a form in the event you choose this option).
- Additionally, living in RV is in violation of the Haines Borough land use code:
    - According to HBC 18.60.020(H), "*Persons desiring to place a temporary residence, or a trailer or mobile home outside of a mobile home or RV park for a temporary or interim occupancy, shall apply for a temporary residence permit. Permits for seven days or less will be at no charge and will not require connection to or payment for public water and sewer. Temporary residences remaining over 30 days will require a temporary residence permit. Temporary residence permits may be granted for a period of one year. One six-month extension of the temporary residence/trailer permit may be granted by the planning commission as long as the developer is complying with all requirements*".

## ATTACHMENT "B"

This situation requires immediate resolution by one of the following means:

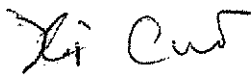
- You may pursue a temporary residence permit. If the Borough approves your proposal, you will be allowed to place the RV for a temporary occupancy. If you wish to apply for a temporary residence permit, please do so no later than July 11, 2014 (for your convenience, I have enclosed a form in the event you choose this option); or
- You may choose not to allow use of the RV as a temporary residence. If you choose this option, it must take place no later than July 11, 2014; or
- You may appeal this decision to the Planning Commission. To do so, a written appeal with particular grounds must be submitted to the Borough Clerk within 10 days of the date of the decision. The deadline is July 7, 2014.

**This matter requires your immediate attention. Please notify me as soon as possible to let me know which of the above-listed options you have selected.**

If I have received no response from you by July 7, 2014, the Borough may take such action as deemed necessary to correct or abate each violation. According to HBC 8.08.030(C), the cost of such action taken by the Borough, including process fees and incidental administrative costs, shall be charged to the responsible party and shall be due and payable within 30 days of the completion of the action, with interest accruing at a rate of 12 percent per year, until paid in full.

Thank you very much for your attention to this matter. Please contact me right away.

Sincerely,



Tracy Cui  
Planning & Zoning Technician



**Haines Borough – Alaska**

103 Third Avenue S. – P.O. Box 1209

Haines, AK 99827

907-766-2231 ext. 22

907-766-2716 Fax

May 6, 2015

Shane & Janis Horton  
P.O. Box 250  
Haines, AK 99827

\*\*\*VIA CERTIFIED MAIL\*\*\*

Re: Nuisance Order/Litter Unlawful/Clean-Up Needed  
Eagle's Nest Trailer Park, USS 785, Haines Hwy., 2.74 Acres

Dear Mr. & Mrs. Horton:

It has come to the attention of the Haines Borough that there is trash build-up at two of the trailers located in the Eagle Nest Trailer Park. In response to these concerns, the Borough staff inspected your property on April 22, 2015 and found several bags of trash and other litter piled up outside at the two trailers identified in the attached diagram. Trash accumulation, as identified, is a Haines Borough code (HBC) violation per the following code descriptions:

**HBC 8.08.020 Litter Unlawful:** *"It is unlawful for any person to do any of the following within the townsite service area: A. Cause or allow litter to be collected, deposited, or to remain in any place under the person's control, and/or possession, other than in an appropriate refuse container, designed for such purpose; E. Deposit any litter on private property, whether owned by the person or not; F. Possess or control private property that is not maintained in a litter-free condition; K. Deposit litter that may be offensive, noxious, or otherwise dangerous to the public health or safety on any public or private property, alley, street, or other roadway within the townsite service area."*

**HBC 8.08.010 Definitions of Litter Unlawful:** *"Garbage means all waste accumulations of animal, fruit, and vegetable matter that attend the preparation, use, cooking, dealing in, or storage of meat, fish, fowl, vegetables, or fruits; garbage includes containers originally used to store, collect, or transport such food stuffs. Litter means garbage, refuse, rubbish and all other waste material which, if thrown or deposited as prohibited in this chapter, tend to create a danger or nuisance to public health, safety, and welfare. Refuse means garbage, rubbish, ashes, industrial waste, and all other liquid or solid waste. Rubbish means all other refuse that is not considered garbage, ashes, or industrial waste; rubbish includes waste paper, cardboard, wood, tin cans, glass, bottles, yard rakings, tree limbs, bedding, metals, trash, sweepings, and all similar substances."*

## ATTACHMENT "B"

Eagle's Nest Nuisance  
May 6, 2015  
Page Two

**HBC 8.12.020(I) Certain conditions declared nuisances.** *"It shall be unlawful for any person to cause or create the following declared nuisances within the townsite service area: To maintain a building in a state of disrepair or deterioration so as to reduce the surrounding property values or cause other unreasonable economic detriment to surrounding property owners, including, but not limited to, allowing on the premises: lumber, refuse, junk, debris, or abandoned, discarded, and unused objects, such as automobiles, fixtures, furniture, appliances, and other objects which are not kept for immediate use and have been allowed on the premises for more than 30 days.*

The Borough hereby declares this to be a nuisance and orders the accumulated trash to be removed. Attached is an aerial view of the trailers in violation, as well as photos of the trash build-up at the trailer sites. **This situation requires immediate resolution** by one of the following means:

- The trash and litter may be removed from the property so that it is no longer in violation of HBC 8.08.020 and HBC 8.12.020(I). If you choose this option, the removal must take place no later than **May 16, 2015**; or
- You may appeal this notice to the assembly by filing with the clerk an appeal in writing in accordance with the appeal procedure provided under HBC 8.12.130 within 15 days from the date of this notice. Therefore, an appeal would have to be received no later than **May 21, 2015**.

Sincerely,

Kathryn Friedle  
Administrative Assistant  
Lands Department

Enclosures

## **8.08.010 Definitions.**

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Unless the context requires otherwise, whenever used in this chapter the following words and terms shall have the meaning herein ascribed to them:

"Abate" means to clean up.

"Abatement official" means the manager or designee of the manager **appointed** to carry out and enforce the provisions of this chapter.

## **8.08.030 Notice to abate – Removal by borough.**

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A. The abatement official is authorized to notify the responsible party of a violation of HBC 8.08.020 and to require the correction or abatement of the violation by said party. The notice shall specify the violation and required abatement or corrective action and shall be given by certified mail, addressed to the responsible party at the party's reasonably ascertainable last known address. As circumstance may warrant, the chief of police is authorized to issue a citation for a violation pursuant to HBC 1.24.010.

*B. Upon the failure, neglect, or refusal of the party so notified to **take the required responsive action within 10 days of receipt of the notice**, or upon return of the notice if, though properly addressed, it is returned as undeliverable, the abatement official may take such action as the official deems necessary to correct or abate the violation.*

## **8.12.010 Definitions.**

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For the purposes of this chapter, the following terms are defined as follows:

"Incidental expenses" includes, but is not limited to, the actual expenses and costs incurred by the borough in the preparation of notices, specifications, and contracts, in the overhead and inspection of the work, and in the printing and mailing required under this chapter.

"Nuisance" means any act or thing that is injurious to the public health or safety, prevents or obstructs the reasonable use and enjoyment of life or property, or is dangerous to surrounding property.

## **8.12.070 Notice and order to abate.**

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A. Upon discovery or receipt of notice of any nuisance prohibited by this title, the abatement official shall immediately notify the owner of the property on which the nuisance exists and require the abatement of the nuisance within a reasonable time limit specified by the abatement official.



**Timeline**

**Nuisance Abatement Order – Eagle’s Nest Trailer Park**

14 Days  
10 Days

**April 22, 2015** - Borough staff was in the Eagle’s Nest Trailer Park as a part of a townsite-wide addressing project and, while there, found excessive trash build up around two trailers located on the last row closest to the forested area off of Sawmill Road. Photos were taken at that time.

**May 6, 2015** – Following staff review of code, the Haines Borough declared it to be a public nuisance in violation of Title 8, and ordered the removal of the unlawful accumulation of trash no later than May 16, 2015. This nuisance abatement order was issued to Eagle’s Nest Trailer Park owners, Shane & Janis Horton via certified mail. Additionally, copies were hand-delivered to the owners of the two trailers.

5 Days From Receipt of notice by Certified Mail

**May 20, 2015** - The borough clerk received a written appeal from trailer park owner, Janis Horton, as allowed by HBC 8.12, and this “stayed” the order (put it on hold). The appeal deadline was May 21.

**June 9, 2015** – The borough clerk made the assembly aware of the appeal and scheduled the appeal hearing for July 14, 2015.

**July 9, 2015** – Borough staff conducted a re-inspection of the property to determine if there were any improvements. Photos were again taken, and there appears to be no improvement.



## Haines Borough – Alaska

103 Third Avenue S. – P.O. Box 1209  
Haines, AK 99827  
907-766-2231 ext. 22  
907-766-2716 Fax

May 6, 2015

Shane & Janis Horton  
P.O. Box 250  
Haines, AK 99827

\*\*\*VIA CERTIFIED MAIL\*\*\*

Re: Nuisance Order/Litter Unlawful/Clean-Up Needed  
Eagle's Nest Trailer Park, USS 785, Haines Hwy., 2.74 Acres

Dear Mr. & Mrs. Horton:

It has come to the attention of the Haines Borough that there is trash build-up at two of the trailers located in the Eagle Nest Trailer Park. In response to these concerns, the Borough staff inspected your property on April 22, 2015 and found several bags of trash and other litter piled up outside at the two trailers identified in the attached diagram. Trash accumulation, as identified, is a Haines Borough code (HBC) violation per the following code descriptions:

**HBC 8.08.020 Litter Unlawful:** *"It is unlawful for any person to do any of the following within the townsite service area: A. Cause or allow litter to be collected, deposited, or to remain in any place under the person's control, and/or possession, other than in an appropriate refuse container, designed for such purpose; E. Deposit any litter on private property, whether owned by the person or not; F. Possess or control private property that is not maintained in a litter-free condition; K. Deposit litter that may be offensive, noxious, or otherwise dangerous to the public health or safety on any public or private property, alley, street, or other roadway within the townsite service area."*

**HBC 8.08.010 Definitions of Litter Unlawful:** *"Garbage means all waste accumulations of animal, fruit, and vegetable matter that attend the preparation, use, cooking, dealing in, or storage of meat, fish, fowl, vegetables, or fruits; garbage includes containers originally used to store, collect, or transport such food stuffs. Litter means garbage, refuse, rubbish and all other waste material which, if thrown or deposited as prohibited in this chapter, tend to create a danger or nuisance to public health, safety, and welfare. Refuse means garbage, rubbish, ashes, industrial waste, and all other liquid or solid waste. Rubbish means all other refuse that is not considered garbage, ashes, or industrial waste; rubbish includes waste paper, cardboard, wood, tin cans, glass, bottles, yard rakings, tree limbs, bedding, metals, trash, sweepings, and all similar substances."*

## ATTACHMENT "E"

Eagle's Nest Nuisance  
May 6, 2015  
Page Two

**HBC 8.12.020(I) Certain conditions declared nuisances.** *"It shall be unlawful for any person to cause or create the following declared nuisances within the townsite service area: To maintain a building in a state of disrepair or deterioration so as to reduce the surrounding property values or cause other unreasonable economic detriment to surrounding property owners, including, but not limited to, allowing on the premises: lumber, refuse, junk, debris, or abandoned, discarded, and unused objects, such as automobiles, fixtures, furniture, appliances, and other objects which are not kept for immediate use and have been allowed on the premises for more than 30 days."*

The Borough hereby declares this to be a nuisance and orders the accumulated trash to be removed. Attached is an aerial view of the trailers in violation, as well as photos of the trash build-up at the trailer sites. **This situation requires immediate resolution** by one of the following means:

- The trash and litter may be removed from the property so that it is no longer in violation of HBC 8.08.020 and HBC 8.12.020(I). If you choose this option, the removal must take place no later than **May 16, 2015**; or
- You may appeal this notice to the assembly by filing with the clerk an appeal in writing in accordance with the appeal procedure provided under HBC 8.12.130 within 15 days from the date of this notice. Therefore, an appeal would have to be received no later than **May 21, 2015**.

Sincerely,

Kathryn Friedle  
Administrative Assistant  
Lands Department

Enclosures

# ATTACHMENT "F"

Eagles Nest Motel  
Shane & Janis Horton  
PO Box 250  
Haines, AK 99827  
907-766-2891

May 20, 2015

To: The Haines Borough Assembly

RE: Nuisance Order/Litter Eagles Nest Trailer Park

On May 11 I received a certified letter regarding a trailer park tenant's trash and litter. Since the pictures and letter were sent there has been significant cleanup done on the lot. There is still a lot to do, but they are making progress. As in most of these cases the renter allows it to get out of hand and then they don't have the money to dispose of it all at once. In our recent discussion with them they stated they are going to use their tax return for more cleanup and disposal.

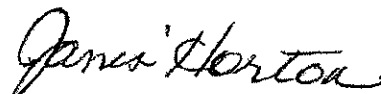
Now that I have been given a notice I just wanted to touch on the inequity of how the Borough code is being enforced in this matter. There is an ordinance on the books regarding the trash, garbage etc but it all comes back on the landowner, not the responsible party? Why isn't the offender fined? Maybe they would take a more positive approach if they had a legal court summons regarding the matter. Forcing me to clean up the mess created by someone else only enforces the notion that they not clean up their own mess because someone else will do it. If this notion were to catch on with all the trailer park tenants imagine what would happen.

It seems odd to me that if someone puts a bag of trash in a Borough dumpster, it gets full investigation to find out who is responsible, and the party is notified and potentially fined, but in a situation like the above the Borough falls back to the landowner to dispose of someone else's mess?

At this time I would like to request an extension of time in order to allow for the tenant to continue their cleanup efforts through the next few months. I believe that with continued monitoring of the situation by both the Borough and ourselves we can bring the situation to a productive end.

Thank you for your time and consideration.

Sincerely,

  
Janis Horton

Subject **Response to 7/27 Public Records Requests...**  
From Julie Cozzi <jcozzi@haines.ak.us>  
To Brenda Josephson <brenda@aptalaska.net>  
Date 2015-08-10 16:10



- SKMBT\_42315072715300.pdf (1.8 MB)
- SKMBT\_42315072715240.pdf (4.2 MB)
- Oath of Office - David Sosa.pdf (225 KB)

Hi, Brenda...

In response to the attached public record requests received on July 27, 2015:

The requested documents do not exist. Xi Cui and Kathy Friedle are not in positions that require oaths of office. They are not elected officials or borough officers, and the performance of their duties does not require an oath. They have not been appointed as abatement officials. They write letters on behalf of the borough manager who is a borough officer who also serves as an abatement official when needed. He has taken the attached oath which is substantially in the form stated in 2.04.040:

**HBC 2.04.040 Oaths of office.**

Elected officials, borough officers and other employees as required for the performance of their duties, before taking office, shall affirm in writing that they will honestly, faithfully and impartially perform their duties. The oaths shall be administered by and filed with the clerk or his designee and shall be substantially in the following form:

I solemnly affirm that I will support the Constitution of the United States, the Constitution of the State of Alaska, and the Charter of the Haines Borough, and that I will faithfully perform the duties of \_\_\_\_\_ to the best of my ability.

FYI, it is my opinion that a minor difference between the text of the oath set forth in the Charter and the text of an oath a particular official subscribes to does not render the oath ineffective or constitute a violation of the Code. Because "the laws" of the Haines Borough is broader than -- and includes -- "the Charter," I do not believe the oath is "substantially" different from that set forth in Section 18.05 of the Charter. I am personally happy the manager has vowed to uphold ALL of the borough's laws, not just those in the Charter.

*Julie Cozzi, MMC*

Borough Clerk  
Haines Borough  
P.O. Box 1209  
Haines, AK 99827  
907-766-2231, ext.31  
907-766-2716 (fax)  
[www.hainesalaska.gov](http://www.hainesalaska.gov)

"The most wasted day of all is that in which we have not laughed."

Subject **Public Records Request - Cui**  
From Brenda Josephson <brenda@aptalaska.net>  
To Julie Cozzi <jcozzi@haines.ak.us>  
Date 2015-07-27 16:51

Julie,

Attached please find my public records request for a copy of the confirmation of appointment and writ, oath of office for Xi Cui, who appears to have been appointed as an abatement official. These written records are required under HBC 2.04.030 and HBC 2.04.040. The completed and signed Request for Public Records is attached.

Thank you,

Brenda Josephson

P.O. Box 51

Haines, AK 99827

(907) 766-2170

Subject **Public Records Request - Friedle**  
From Brenda Josephson <brenda@aptalaska.net>  
To Julie Cozzi <jcozzi@haines.ak.us>  
Date 2015-07-27 16:47

Julie,

Attached please find my public records request for a copy of the confirmation of appointment and written oath of office for Kathryn Friedle, who appears to have been appointed as an abatement official. These written records are required under HBC 2.04.030 and HBC 2.04.040. The completed and signed Request for Public Records is attached.

Thank you,

Brenda Josephson

P.O. Box 51

Haines, AK 99827

(907) 766-2170



Haines Borough

## OATH OF OFFICE

STATE OF ALASKA )

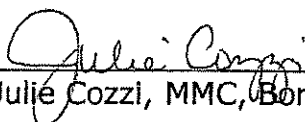
FIRST JUDICIAL DISTRICT )

HAINES BOROUGH, ALASKA )

I, DAVID SOSA, do solemnly swear that I will support the constitution of the United States and State of Alaska and the laws of the Haines Borough and that I will honestly, faithfully and impartially perform the duties of the Borough Manager to the best of my ability.

  
\_\_\_\_\_  
David Sosa, Borough Manager

SUBSCRIBED AND SWORN TO BEFORE ME THIS 8<sup>TH</sup> DAY OF APRIL, 2014.

  
\_\_\_\_\_  
Julie Cozzi, MMC, Borough Clerk

## ATTACHMENT "H"

- **Section 21.01. - Vehicle violation enforcement.**

(a)

No enforcement of any vehicle violation, whether the vehicle is parked or in motion may be performed by the Municipality of Anchorage by any persons other than a regularly sworn police officer who meets the standards set forth in A.S. 18.65.290(5)(A) or (B). Such enforcement includes, but is not limited to, any and all civil or criminal statutes, codes, ordinances or regulations which apply to the regulation of vehicles and which currently exist or may exist in the future.

(b)

The Municipality may, by ordinance only, delegate enforcement of parking violations to a municipal agency or municipal authority. The allowable delegation is limited to enforcement of parking violations on both sides of named streets within the area bounded by Ship Creek on the north, Gambell Street on the east, 10th Avenue on the south, and M Street on the west. The enforcement of parking violations for the area other than that described above may be delegated only to employees of the Anchorage Police Department. The phrase "employees of the Anchorage Police Department" includes, but is not limited to, police officers of the Anchorage Police Department.

(Prop. 3 of 4-15-97 election, effective 6-6-97, § 1; AO No. 2010-94(S), § 2, election of 4-5-11, effective 6-1-11; AO No. 2014-11, § 2, 4-1-14)

- **Section 21.02. - Prohibited vehicle impound, towing and transportation from public streets and emergency exception.**

No vehicle may be impounded, towed, or transported from upon the public streets in the Municipality of Anchorage without the written permission of either the owner or the operator of the vehicle, a valid court order, or unless an impound notice is placed on the vehicle by a police officer qualified as set forth in Section 21.01 above, or by other employees of the Anchorage Police Department as may be delegated by ordinance. This shall not prohibit necessary emergency action in the event that a vehicle presents an immediate threat to life or public safety.

(Prop. 3 of 4-15-97 election, effective 6-6-97, § 2; AO No. 2014-11, § 2, 4-1-14)

- **Section 21.03. - Liability for improper impound, towing and transportation; private rights.**

Towing, impounding or transporting a vehicle within the Municipality of Anchorage, unless such is in conformity with the requirements of these vehicle code standards, shall be considered a wrongful taking of property as to the owner or operator for which civil damages to the full extent permitted by law shall be available. Without limitation as to other damages, any damages sustained by a vehicle upon or after being impounded, towed, or transported in a fashion not in conformity with these vehicle code enforcement standards shall conclusively be presumed to be the fault of any persons impounding, towing, or transporting the vehicle. Nothing in this section shall be construed to diminish or infringe upon the rights of private property owners to enforce their own property rights in this regard.

(Prop. 3 of 4-15-97 election, effective 6-6-97, § 3)

- **Section 21.04. - Prohibited enforcement and delegation of enforcement; enforcement in person; prohibited administrative enforcement.**

(a)

Enforcement of any part of the present or future state or Anchorage municipal vehicle laws or codes by anyone other than qualified police officers, except as set forth in Section 21.01 above, is prohibited.



## ATTACHMENT "H"

(b)

The Municipality may not delegate vehicle related **enforcement** powers to any agency other than as described in Section 21.01 above, nor shall they delegate by ordinance, contract, or otherwise such powers to anyone except as set forth in Section 21.01 above.

(c)

Any and all vehicle law or code **enforcement** activity pursuant to this Article XXI shall be performed in person. Any vehicle law or code **enforcement** powers which may currently exist, other than those described in Section 21.01 above, are null and void.

(d)

Final review of all vehicle law and code **enforcement** within the Municipality of Anchorage shall be, and remain with, the judicial branch of government as described in Article IV of the Alaska Constitution, with such right of appeal as the law provides. The Municipality may, by ordinance only, provide for an intermediate review through an administrative appeals system by a municipal agency or municipal authority. Any person choosing to use such administrative appeals system may, after such use, appeal to the Alaska Court System.

(e)

This law is not to be construed as defining the jurisdiction of courts or prescribing their rules, rather, this ordinance declares that the Municipality shall not enforce any motor vehicle ordinance or policy by way of administrative process.

(Prop. 3 of 4-15-97 election, effective 6-6-97, § 4; AO No. 2010-94(S), § 2, election of 4-5-11, effective 6-1-11; AO No. 2014-11, § 2, 4-1-14)

- **Section 21.05. - Supremacy of municipal vehicle code **enforcement** standards.**

These municipal vehicle code **enforcement** standards shall supersede any and all Municipality of Anchorage laws, ordinances, administrative rules or judicial decisions and the like which are inconsistent with them.

(Prop. 3 of 4-15-97 election, effective 6-6-97, § 5)

Heaton said he was hoping to have the pole in place Friday, in advance of Saturday's Totem Trot, a fun run and museum fundraiser that makes a circuit of local totems. Started three years ago, the totem was made from a yellow cedar log from Kake.

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with an Acupuncture  
& Craniosacral  
Combination Treatment

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ACUPUNCTURE  
L. Dedswain, L.Ac. 766-3348



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(EXCEPT SUNDAYS)

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locally made and  
Alaskan-made  
arts and gifts.*

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766-2031

**Support Haines,  
Shop Locally!**

... mile Haines Highway.  
The American Bald Eagle  
Foundation responded.  
A person turned in a set of  
keys found at Chilkoot Lake.  
A person reported a bear  
getting into the dumpster at the

**Lynn Canal  
Counseling Services**  
For an appointment  
call 766-2177  
After hours Emergencies call  
1-877-294-6974

... could address the  
issue.  
A person turned in a wallet  
found near the border.  
Two callers reported  
teenagers riding ATVs around  
North Sawmill, Sunshine and  
Piedad roads. Police responded

**Chamber Members  
Let's Find our Voice!**  
Participate in our opinion  
survey in this week's  
Chamber Connection in your email

A FREE, family oriented celebration to learn about bears  
& do fun activities.

August 21, 2015 August 22, 2015

11am - noon Haines Public Library 9 - 4pm ANB Hall, Senior Center  
6 - 9pm Harnett Hall Target Park

schedule of events & more information at [bearfoundation.org](http://bearfoundation.org)

# Will you testify and participate in the Wrongful Death Suit of: **SURVIVORS OF GEORGE EDWARDS**

v.

## **DAVID SOSA, Haines Borough Manager TRACY CUI, Haines Borough Planning and Zoning Technician III et al, dba, THE HAINES BOROUGH**

Please Contact: [buildabridge@yahoo.com](mailto:buildabridge@yahoo.com) to be added to the proposed witness list. You will be contacted before your name or any information is submitted in this action.

**HAINES BOROUGH CHARTER**

**WITH PROVISION FOR TRANSITION UPON CONSOLIDATION OF  
THE CITY OF HAINES  
AND  
THE HAINES BOROUGH**

**Prepared by  
THE CITY OF HAINES  
PETITIONER**

**December 20, 2000**

**As Amended by the Local Boundary Commission with the Concurrence of the Petitioner Following the  
March 9, 2002 Public Hearing on the Proposal**

**PREAMBLE AND BILL OF RIGHTS**

We the people of the Haines Borough, exercising the powers of home rule granted by the Constitution of the State of Alaska, in order to achieve common goals, to support individual rights, to form a more responsive government, and to secure maximum control of our own local affairs, hereby establish this charter.

This charter guarantees to the people of the Haines Borough the following rights that are in addition to the rights guaranteed by the Constitution of the United States of America and the Constitution of the State of Alaska:

The right to a government of the people, by the people and for the people, which safeguards our diversity, harmony between neighbors and respect for the environment;

The right to access a well maintained public record of all actions of public officials in accordance with this charter, so that the citizens of the borough may retain control over the affairs of their government;

The right to enjoyment of private property, chosen lifestyles, traditions, employment, and recreational activities without unnecessarily restrictive or arbitrary laws or regulations.

We, the people of the Haines Borough, believe the rights set out in the Constitution of the United States and the Constitution of the State of Alaska, like those in this Charter, are guaranteed only to individual human beings and do not apply to artificial entities. (Amended by voters October 1, 2013)

# Article 1 - Declaration of Rights

## § 1. Inherent Rights

This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

## § 2. Source of Government

All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.

## § 3. Civil Rights

No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin. The legislature shall implement this section. [Amended 1972]

## § 4. Freedom of Religion

No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

## § 5. Freedom of Speech

Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.

## § 6. Assembly; Petition

The right of the people peaceably to assemble, and to petition the government shall never be abridged.

## § 7. Due Process

No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.

## § 8. Grand Jury

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the armed forces in time of

## ATTACHMENT "K"

Consider this opinion of the Supreme Court:

*"The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The Constitution of the United States is the supreme law of the land, and any statute, to be valid, must be in agreement.*

*It is impossible for both the Constitution and a law violating it to be valid; one must prevail. This is succinctly stated as follows: The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it.*

*An unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted. Since an unconstitutional law is void, the general principals follow that it imposes no duties, confers no rights, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it . . . A void act cannot be legally consistent with a valid one.*

*An unconstitutional law cannot operate to supersede any existing valid law. Indeed, insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it."*

*-- Sixteenth American Jurisprudence, Second Edition, Section 177. (late 2nd Ed. Section 256)*

The Haines Borough Charter establishes:

*"This charter guarantees to the people of the Haines Borough the following rights that are in addition to the rights guaranteed by the Constitution of the United States of America and the Constitution of the State of Alaska."*

*"The right to enjoyment of private property, chosen lifestyles, traditions, employment, and recreational activities without unnecessarily restrictive or arbitrary laws or regulations."*

The State of Alaska Constitution establishes:

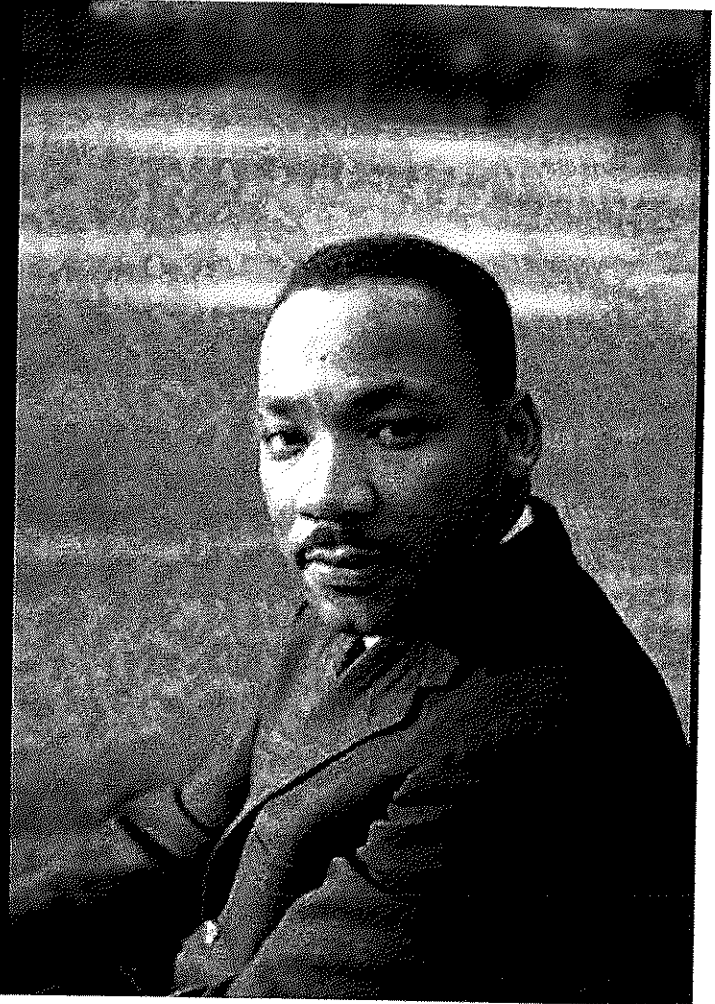
*"This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State."*

*"No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed."*

**"Who can determine if a "Law" is unconstitutional?" is: each and everyone in government, who must do so before they act. This is a required solemn, constitutional duty according to their "oath of office" or the oath of their superior(s).**

However, ultimately each individual Citizen has the sovereign power, duty and responsibility, always being responsible for their decision(s) and action(s), to determine what is unconstitutional. Some may say this will result in "total chaos and anarchy". No! It will once again result in freedom and liberty. Those in government must constantly be held accountable for their actions and/or lack of lawful actions.

" Injustice  
anywhere  
is a  
threat  
to justice  
everywhere "



**“I guess the only time most people think about injustice is when it happens to them.”**

*Charles Bukowski (1920 - 1994)*



*ThinkingHumanity.com*

*Good intentions will always be pleaded for every assumption of authority. It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions. There are men of all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters.*

**- Daniel Webster**

*There's no way to rule innocent men. The only power government has is to crack down on criminals. Well, when there aren't enough criminals, one makes them. One declares so many things a crime that it becomes impossible for men to live without breaking laws.*

**- Ayn Rand**



Brenda Jones &lt;brendajones57@gmail.com&gt;

---

**Minor Offense Ordinance 15-06-413**

4 messages

---

**Brenda Jones** <brendajones57@gmail.com>

Tue, Sep 8, 2015 at 11:25 AM

To: dberry@haines.ak.us, dlapam@haines.ak.us, mcase@haines.ak.us, jwaterman@haines.ak.us,  
gcampbell@haines.ak.us, rjackson@haines.ak.us

Cc: jhill@haines.ak.us

**Dear Assembly Member:**

I am requesting the Assembly not to pass the proposed ordinance 15-06-413 "Minor Offenses". Please **DO NOT PASS** this ordinance. This ordinance is still under review and is being considered by several committees and commissions. Additional time for consideration has been requested.

**The ordinance as written:**

1. Fails to establish processes and procedures to protect due process, public engagement and compliance through education.
2. Fails to establish clear boundaries of responsibilities and authority of enforcement authority.
3. Does not provide for any standard of training or knowledge of individuals authorized or delegated enforcement authority.
4. Does not establish an appointment process for enforcement authority for "designee(s)".
5. Allows for a duplication of violations for single incidents.
6. Does not protect from arbitrary prosecutions.
7. Is inconsistent with the Haines Borough Comprehensive Plan.
8. Is inconsistent with the Charter of Haines Borough which guarantees freedom "without unnecessarily restrictive or arbitrary laws or regulations".

*"Those who deny the right of a jury to protect an individual in resisting an unjust law of the government, deny him all defense whatsoever against oppression." - Lysander Spooner*

I further request that if this ordinance is passed that enforcement of Title 8 – Health and Safety, Title 9 – Public Peace, Morals, and Welfare, and Title 10 – Vehicles and Traffic is restricted to



**“police officer(s)” as defined in A.S. 18.65.290 (7) (A) who has met the standards required in A.S. 18.65.240.**

**(See Attachment A – A.S. 18.65.290(7)(A).)**

**The ordinance as written not only fails to protect residents from arbitrary prosecutions, it actually empowers the borough’s ability to use non-professionals that have not taken an oath of office and have not received training or education in: conflict resolution, protection of constitutional rights, and law enforcement.**

**Interim Police Chief Griffiths effectively stated that law enforcement is a challenge of “problem solving”. The goal of code enforcement is compliance for peace and harmony in the community and it is not about revenue generation. Public engagement and education is the most effective and efficient way to affect compliance. People generally want to do the right thing.**

**One way to provide a clear process of code enforcement is to include in the proposed ordinance a sentence to be added to each title that specifically states which “Borough Official” has enforcement authority for the applicable title. The code should not leave an open ended ability of nameless and unidentified and or identifiable others as deemed necessary by the Borough Manager.**

**It is vitally important that the proposed ordinance restricts the ability of issuing citations of Haines Borough Code to sworn police officers for the following Titles:**

**Title 8 – Health and Safety**

**Title 9 – Public Peace, Morals, and Welfare**

**Title 10 – Vehicles and Traffic**

**These titles are of such sensitive nature that they require enforcement by professional police officers. The use of untrained personnel for enforcement of Title 8 unnecessarily exposes the Haines Borough to liability as has been realized in the Paul Nelson lawsuit and the Wrongful Death Suit of the Survivors of George Edwards.**

**I am providing you with several examples of enforcement orders of Title 8 – Health and Safety that have been issued recently by borough office staff that are not trained in law enforcement. The lack of proper handling has resulted in devastating consequences of both human tragedy, goodwill,**

collected under AS 12.55.039 and AS 28.05.151. The legislature may appropriate equal amounts from the fund to the

1. Department of Public Safety for the Public Safety Training Academy, including Village Public Safety Officers, and
2. Alaska Police Standards Council to provide training for the law enforcement and corrections community of the state under AS 18.65.230. Nothing in this section creates a dedicated fund.

#### SECTION 18.65.230 Training programs.

The council shall establish and maintain police training programs, probation and parole officer training programs, and correctional training programs through those agencies and institutions that the council considers appropriate.

#### SECTION 18.65.240 Standards.

1. A person may not be appointed as a police officer, except on a probationary basis, unless the person
  1. has satisfactorily completed a basic program of police training approved by the council, which includes at least 12 hours of instruction regarding domestic violence as defined in AS 18.66.990, and
  2. possesses other qualifications the council has established for the employment of police officers, including minimum age, education, physical and mental standards, citizenship, moral character, and experience. The council shall prescribe the means of presenting evidence of fulfillment of these requirements.

The council shall issue a certificate evidencing satisfaction of the requirements of

1. of this section to an applicant who satisfies those requirements or who satisfies the requirements of (a) (2) of this section and satisfactorily completes a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the council for approved police education and training programs in this state.
2. ...
3. The council may deny or revoke the certificate of a police officer who does not meet the standards adopted under (a) (2) of this section.

#### SECTION 18.65.242 Standards for correctional, probation, and parole officers.

1. The council shall establish qualifications for employment of persons as correctional, probation, and parole officers, including
  1. minimum age, physical and mental standards, citizenship, moral character, and experience; and
  2. minimum education standards.
2. The council shall

"I WOULD NOT HAVE EXPECTED THAT I, WHO AM BARELY OUT OF SAVAGERY, WOULD HAVE TO REMIND GENTLEMEN WITH 5,000 YEARS OF RECORDED CIVILIZATION BEHIND THEM, OF OUR BILL OF RIGHTS."



## HAINES BOROUGH CHARTER

### WITH PROVISION FOR TRANSITION UPON CONSOLIDATION OF THE CITY OF HAINES AND THE HAINES BOROUGH

Prepared by  
THE CITY OF HAINES  
PETITIONER

December 20, 2000

As Amended by the Local Boundary Commission with the Concurrence of the Petitioner Following the  
March 9, 2002 Public Hearing on the Proposal

#### PREAMBLE AND BILL OF RIGHTS

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The right to a government of the people, by the people and for the people, which safeguards our diversity, harmony between neighbors and respect for the environment;

The right to access a well maintained public record of all actions of public officials in accordance with this charter, so that the citizens of the borough may retain control over the affairs of their government;

The right to enjoyment of private property, chosen lifestyles, traditions, employment, and recreational activities without unnecessarily restrictive or arbitrary laws or regulations.

We, the people of the Haines Borough, believe the rights set out in the Constitution of the United States and the Constitution of the State of Alaska, like those in this Charter, are guaranteed only to individual human beings and do not apply to artificial entities. (Amended by voters October 1, 2013)

# Article 1 - Declaration of Rights

## § 1. Inherent Rights

This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

## § 2. Source of Government

All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.

## § 3. Civil Rights

No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin. The legislature shall implement this section. [Amended 1972]

## § 4. Freedom of Religion

No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

## § 5. Freedom of Speech

Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.

## § 6. Assembly; Petition

The right of the people peaceably to assemble, and to petition the government shall never be abridged.

## § 7. Due Process

No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.

## § 8. Grand Jury

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the armed forces in time of