

# Substitute Draft

HAINES BOROUGH, ALASKA  
ORDINANCE No. 18-09-512

## **An Ordinance of the Haines Borough Amending Haines Borough Code Title 5.**

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 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.

Section 3. Effective Date. This ordinance shall become effective immediately upon adoption.

Section 4. Amendment of Title 5. Title 5 of the Haines Borough Code of Ordinances is amended to read as follows:

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

## **Title 5 BUSINESS LICENSES, PERMITS, AND REGULATED ACTIVITIES**

Chapters:

**5.01 General Provisions**

**5.02 Business Licenses**

**5.04 ~~Permits~~ Permit Application Process**

**5.08 ~~Solicitors—Transient Merchants~~ Transient and itinerant merchants, vendors and special events.**

**5.12 Alcoholic Beverages**

**5.16 Regulation of Gaming Operators**

**5.18 Commercial Tour Permits**

**5.20 Commercial Passenger Vehicle Requirements**

**5.22 Commercial Passenger or Tour Vehicle Parking Permits**

**5.24 Commercial Helicopter Ski tours, commercial ski productions and special ski competition events.**

Section 5. Addition of Chapter 5.01. Chapter 5.01 of the Haines Borough Code of Ordinances is added as follows:

## **Chapter 5.01 GENERAL PROVISIONS**

Sections:

- 5.01.010 Purpose, type and scope.
- 5.01.020 Definitions
- 5.01.030 Regulation by the Borough.
- 5.01.040 Clerk to keep record of licenses and permits issued.
- 5.01.050 Conditions applicable to all permits.
- 5.01.060 Solicitation on Public Property.
- 5.01.070 Penalties.

### **5.01.010 Purpose, Type, and scope.**

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A. Where this title imposes a greater restriction upon persons, premises, or personal property than is imposed by the provisions of any other ordinance, the provisions of this title shall control.

B. The purpose of this title is to regulate **business and other activities within the Haines Borough** ~~transient and certain other merchants, commercial tour operations, commercial passenger vehicles, and commercial passenger or tour vehicle parking~~ in order to: protect the public safety and welfare; protect local business establishments from unfair competition; maintain safe and efficient pedestrian access and traffic flow; maintain an attractive community environment for tourism; avoid litter; and ensure the safe, efficient, and fair operation of commercial tours, business enterprises, and related activities.

### **5.01.020 Definitions.**

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For the purposes of this title, the following terms shall be defined as follows:

**“Commercial helicopter ski tour” or “helicopter ski tour” means a commercial tour that includes: (A) downhill skiing or snowboarding as the primary experience; and (B) professionally guided skiing and snowboarding; and (C) daily transportation of the customer by helicopter to and from the skiing or snowboarding area.**

“Commercial helicopter tour” means a commercial helicopter operation, other than a commercial ski tour or commercial ski production that provides a helicopter-assisted tour to or through an area. It is a commercial tour and requires a permit.

“Commercial ski production” means the professional filming or photographing of persons while skiing or snowboarding for the creation of a film or photography product featuring skiing or snowboarding as the primary subject.

“Commercial ski tour” means a commercial tour as defined in HBC 5.18.010(B) that: (A) includes downhill skiing or snowboarding as the primary experience; and (B) includes professionally guided skiing and snowboarding; and (C) includes daily transportation of the customer by all means other than helicopter to and from the skiing or snowboarding area as frequently as weather permits.

“Commercial tour” means the selling and/or providing of guided or escorted tours, excursions, experiences, sightseeing trips, or visits to a natural or cultural display, and includes all services provided, whether or not incidental to, advertised with, or specifically offered in the sale.

“Fair Vendor Permit” means a permit issued under this chapter to vendors selling for a period of one week or less at an event sponsored by the Southeast Alaska State Fair and taking place at the Southeast Alaska State Fairgrounds. Vendors with a valid Haines Borough business license are not required to purchase a fair vendor permit.

“Guided saltwater fishing charters” means a qualified individual or company for hire who take customers saltwater fishing.

“Guided hunting charters” means a qualified individual or company for hire who take customers hunting.

“Itinerant” or “transient merchant” means a person whose principal place of business is not within the Haines Borough, but who travels through the area selling goods from stock carried with the person or providing services for valuable consideration.

“Permit” used as a noun means a fair vendor permit issued under this title, an itinerant merchant permit issued under Chapter 5.08 HBC, a commercial tour permit issued under Chapter 5.18 HBC, a commercial passenger or tour vehicle parking permit issued under Chapter 5.22 HBC, **or a commercial helicopter ski tour or production permit issued under Chapter 5.24 HBC.**

“Permittee” means an entity that has been issued a permit.

“Revoke” or “revocation” means that a permit is permanently voided and, unless otherwise provided, the permittee to whom it was issued may not be issued any other permit under this title for a period of one year from the date the revocation is effective.

“Skier day” means one individual skier, snowboarder, photographer or a member of the photographer’s staff participating in a commercial ski tour or a commercial ski production on one particular day or any portion of a day excluding guides.

“Special ski competition event” means a scheduled event (which lasts no more than two weeks), marketed athletic ski event sponsored by an entity that creates a venue for skiers and/or snowboarders to compete for awards of recognized value.

“Suspend” or “suspension” means that a permit is ~~ineffective~~ **invalid** for a specified portion of its term, and the permittee to whom it was issued may not be issued any other permit under this title during the suspension period. A suspension may be conditioned on correction of a status or condition of a person or a vehicle.

#### **5.01.030 Regulation by ~~permit~~ the Borough.**

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A. In the course of regulating businesses and occupations under its authority, the borough may require businesses and occupations affecting public interest to obtain permits.

B. Any fee exacted by the borough for a permit shall be for the purpose of defraying the costs of ~~regulation~~ **managing and regulating the industry which is the subject of the permit** and shall not constitute a tax against any business or activity.

C. Where the borough code requires a license, permit or fee for the conduct of any business, occupation, or activity, no person shall engage in such business, occupation, or activity within the borough unless the person has a valid borough license or permit therefor.

#### **5.01.040 Clerk to keep record of licenses and permits issued.**

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The clerk shall keep a record, or cause a record to be kept by the appropriate department, of all **licenses and permits** granted by the borough, showing the date issued, to whom issued, the amount collected, the date of expiration, the premises or property described therein, change of location, or transfer, if any, and any other pertinent facts with reference thereto.

#### **5.01.050 Conditions applicable to all permits.**

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A. A permittee is responsible for complying with all municipal, state, and federal ordinances, statutes, and regulations applicable to the permittee’s activities.

B. A permittee shall reimburse the borough for any damage to municipal property caused by the permittee or any of the permittee's employees, agents, representatives, contractors, or customers during the course of the permittee's activities under the permit.

C. Acceptance of a permit by the permittee shall constitute an agreement and acknowledgment by such permittee that the permittee shall indemnify and hold the borough and its elected and appointed officers and employees harmless from and against any and all loss, damage, or expense for any injury to or death of any person or persons or for damage to property, resulting from or arising out of any act or omission of such permittee or of any of the permittee's employees, agents, representatives, or customers. The borough and its elected and appointed officers and employees make no representations concerning and assume no responsibility for or regarding any goods or activities sold by any permittee or by any of permittee's employees, agents, representatives, or contractors.

D. Transferability

1. A permit issued under this title, and any rights or privileges thereunder, may be assigned or transferred by the permittee, together with any right of renewal; provided, that such transfer includes the permittee's entire business interest in activities conducted under the permit. ~~The permittee's business interest includes all assets used in the business conducted under the permit.~~ The person to whom the permit was transferred shall be subject to permit renewal requirements.

2. No permit may be leased or rented to, nor may a permittee allow the permit to be used by, any person who is not an employee or contracted agent of the permittee.

3. A transferred permit shall not be valid, and the new permittee may not conduct any activities under the permit, until the permit has been reissued by the clerk after the clerk is satisfied that the new permittee will comply with all conditions in the permit and the applicable provisions of this title.

E. Limitations.

1. Period of Operation. A permittee may conduct business for the entire permit ~~year~~ period unless otherwise specified by the permit.

2. Signage. Any signs must be in compliance with existing borough code. ~~Where allowed for tours on public property, a sign must be portable and shall be removed from the designated area upon departure~~

~~of the tour. A sign shall be no larger than four square feet and shall not hinder or obstruct pedestrian or vehicular traffic.~~

F. Fraud. Unfair competitive practices are strictly prohibited. A permittee who commits any act of deceit, fraud or misrepresentation, ~~or cheating~~ that would constitute an unlawful act or practice under AS 45.50.471, either through the permittee's own act or through the acts of the permittee's employee, agent, or representative, in relation to an activity authorized under the permit shall, upon conviction, be punished as provided in HBC 5.04.140.

**5.01.060 Solicitation on public property. (Clerk's Note: Moved from 5.08.010)**

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In accordance with the purpose of this title, no person or entity may exhibit, sell products, or deliver goods, wares, merchandise, tours and services from a public street, alley, sidewalk, Portage Cove Harbor, dock/wharf or other public place except as expressly authorized by the borough manager, or provided by conditions of the permit. The manager may allow the use of public property for dissemination of educational or charitable information upon application and at the manager's discretion.

**5.01.070 Penalties. (Clerk's note: moved from 5.04.140)**

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Operation of any ~~commercial tour~~ or business enterprise for which a permit is required under this title without a permit, or the failure to follow any permit condition, or the unlawful securing of a permit, shall constitute a minor offense punishable by a fine of \$500.00 for each offense, unless a different amount is specified in HBC 1.24.040, plus any surcharge required to be imposed by AS 12.55.039. All penalties described in Chapter 1.24 shall be applicable to this title.

Section 6. Amendment of Chapter 5.02. Chapter 5.02 of the Haines Borough Code of Ordinances is amended to read as follows:

**Chapter 5.02  
BUSINESS LICENSES**

Sections:

5.02.010 Borough business license required.

5.02.020 Violation a minor offense.

**5.02.010 Borough business license required.**

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A. No individual or entity may engage in business in the Haines Borough without ~~first having been issued a~~ Haines Borough business license unless specifically exempted from this requirement. **The purpose of the**

**business license is to aid the Borough in the collection and reporting of sales tax and business sector activity.**

B. Business License Application. ~~A business license application form shall be provided by the borough office. Upon completion of the application form, submittal of all required attachments, Applications shall be made on a form provided by the borough, shall be submitted to the Borough Clerk with including a copy of applicant's Alaska State business license, and the payment of a biannual **biennial** \$50.00 fee. Applications may be denied only if the applicant is in arrears **with respect to money owed to the Borough, without a repayment plan**, or the business is unlawful. ~~a borough business license will be issued to the applicant. A current copy of the borough business license must be displayed in the place of business. **For a Haines Borough Business license**, A **a** separate line of business, as defined by the Alaska Department of Commerce and Economic Development, shall require a separate business license. **One business license may cover multiple lines of business activity, as long as all business advertising and operating occur under the same business name and same business owner.**~~~~

C. Renewal of Business License. A borough business license shall be renewable ~~biannually on March 1st~~ **biennially (every two years)** for individuals or businesses who have paid the \$50.00 ~~biannual~~ **biennial** fee and are current on all sales taxes and reports through December of the previous year. Any individual who is applicant delinquent with sales taxes or reports shall not be issued a business license renewal until the ~~biannual~~ **biennial** fee, all sales taxes, penalties, interest, and other costs resulting from such delinquency have been remitted and all reports and other required forms have been submitted to the borough office.

**5.02.020 Violation a minor offense.**

~~An individual or entity subject to this chapter, or a responsible officer, director, or agent of an entity subject to this chapter, who violates the requirements of this chapter commits a minor offense, which is punishable by a fine in the amount of \$100.00 for each month or part thereof a business operates without a license, up to a maximum total fine of \$1,000. Each month or part thereof of operation in violation of this chapter shall constitute a separate offense. **Violators who refuse to obtain a business license after notification of the minor offense are subject to further fines and penalties as described in HBC Chapter 1.24.**~~

Section 7. Amendment of Chapter 5.04. Chapter 5.04 of the Haines Borough Code of Ordinances is amended to read as follows:

**Chapter 5.04**  
**PERMIT APPLICATION PROCESS**

Sections:

- 5.04.010 ~~Purpose and scope.~~ Reserved
- 5.04.020 ~~Definitions.~~ Reserved.
- 5.04.030 ~~Regulation by permit.~~ Reserved.
- 5.04.040 ~~Clerk to keep record of permits issued.~~ Reserved.
- 5.04.050 ~~Permit application process – Hearings for new commercial tours and transient merchants –  
Renewal.~~
- 5.04.060 Investigation of application.
- 5.04.070 Grounds for issuance or denial of permit – In general.
- 5.04.080 Conditions applicable to all permits.
- 5.04.090 Appeal from decision of clerk.
- 5.04.100 Hearing.
- 5.04.110 Appeal from decision of manager.
- 5.04.120 Revocation or suspension – Procedure.
- 5.04.130 Fees designated.
- 5.04.140 ~~Penalties.~~Reserved.
- 5.04.150 ~~Offenses separable.~~Reserved.
- 5.04.160 ~~Initiation.~~Reserved.

Section 8. Repeal of Chapter 5.04.010 Chapter 5.04.010 of the Haines Borough Code of Ordinances is hereby repealed and reserved.

**5.04.010 Purpose and scope. Reserved.**

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~~A. Where this title imposes a greater restriction upon persons, premises, or personal property than is imposed by the provisions of any other ordinance, the provisions of this title shall control.~~

~~B. The purpose of this title is to regulate transient and certain other merchants, commercial tour operations, commercial passenger vehicles, and commercial passenger or tour vehicle parking in order to: protect the public safety and welfare; protect local business establishments from unfair competition; maintain safe and efficient pedestrian access and traffic flow; maintain an attractive community environment for tourism; avoid litter; and ensure the safe, efficient, and fair operation of commercial tours, business enterprises, and related activities.~~

Section 9. Repeal of Chapters 5.04.020, 5.04.030 and 5.04.040. Chapters 5.04.020, 5.04.030 and 5.04.040 of the Haines Borough Code of Ordinances is hereby repealed and reserved.



#### **5.04.020 Definitions. Reserved.**

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For the purposes of this title, the following terms shall be defined as follows:

~~“Commercial helicopter tour” means a commercial helicopter operation, other than a commercial ski tour or commercial ski production, that provides a helicopter-assisted tour to or through an area. It is a commercial tour and requires a permit.~~

~~“Commercial ski production” means the professional filming or photographing of persons while skiing or snowboarding for the creation of a film or photography product featuring skiing or snowboarding as the primary subject.~~

~~“Commercial ski tour” means a commercial tour as defined in HBC 5.18.010(B) that: (A) includes downhill skiing or snowboarding as the primary experience; and (B) includes professionally guided skiing and snowboarding; and (C) includes daily transportation of the customer by all means other than helicopter to and from the skiing or snowboarding area as frequently as weather permits.~~

~~“Fair Vendor Permit” means a permit issued under this chapter to vendors selling for a period of one week or less at an event sponsored by the Southeast Alaska State Fair and taking place at the Southeast Alaska State Fairgrounds. Vendors with a valid Haines Borough business license are not required to purchase a fair vendor permit.~~

~~“Itinerant” or “transient merchant” means a person whose principal place of business is not within the Haines Borough, but who travels through the area selling goods from stock carried with the person or providing services for valuable consideration.~~

~~“Permit” used as a noun means a fair vendor permit issued under this chapter, an itinerant merchant permit issued under Chapter 5.08 HBC, a commercial tour permit issued under Chapter 5.18 HBC, a commercial passenger vehicle permit issued under Chapter 5.20 HBC, or a commercial passenger or tour vehicle parking permit issued under Chapter 5.22 HBC.~~

~~“Permittee” means a person who an entity that has been issued a permit.~~

~~“Revoke” or “revocation” means that a permit is permanently voided and, unless otherwise provided, the permittee to whom it was issued may not be issued any other permit under this title for a period of one year from the date the revocation is effective.~~

~~“Skier day” means one individual skier, snowboarder, photographer or a member of the photographer’s staff participating in a commercial ski tour or a commercial ski production on one particular day or any portion of a day excluding guides.~~

~~“Special ski competition event” means a scheduled event (which lasts no more than two weeks), marketed athletic ski event sponsored by an entity that creates a venue for skiers and/or snowboarders to compete for awards of recognized value.~~

~~“Suspend” or “suspension” means that a permit is ineffective invalid for a specified portion of its term, and the permittee to whom it was issued may not be issued any other permit under this title during the suspension period. A suspension may be conditioned on correction of a status or condition of a person or a vehicle.~~

#### **~~5.04.030 Regulation by permit. Reserved.~~**

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~~A. In the course of regulating businesses and occupations under its authority, the borough may require businesses and occupations affecting public interest to obtain permits.~~

~~B. Any fee exacted by the borough for a permit shall be for the purpose of defraying the costs of regulation and shall not constitute a tax against any business or activity.~~

~~C. Where the borough code requires a license, permit or fee for the conduct of any business, occupation, or activity, no person shall engage in such business, occupation, or activity within the borough unless the person has a valid borough license or permit therefor.~~

#### **~~5.04.040 Clerk to keep record of permits issued. Reserved.~~**

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~~The clerk shall keep a record, or cause a record to be kept by the appropriate department, of all permits granted by the borough, showing the date issued, to whom issued, the amount collected, the date of expiration, the premises or property described therein, change of location, or transfer, if any, and any other pertinent facts with reference thereto.~~

Section 10. Amendment of Chapter 5.04.050 Chapter 5.04.050 of the Haines Borough Code of Ordinances is amended to read as follows:

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

#### **~~5.04.050 Permit application process – Hearings for new commercial tours and transient merchants – Renewal.~~**

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A. A person desiring to secure a permit to engage in an activity regulated by this title shall make written application to the clerk on forms prepared and furnished by the borough. The application fee established under this title ~~by the schedule in HBC 5.04.130~~ must be submitted with the application for that type of permit. A person who has had a permit suspended twice or revoked once within the previous three calendar years may not submit an application for a new permit.

~~B. Applications for new commercial tours shall require a public hearing and approval of the assembly as described in HBC 5.18.040 prior to issuance of a permit. Applications by transient merchants to sell on public property shall require a public hearing and approval of the assembly as described in HBC 5.08.030(E) prior to issuance of a permit.~~

~~C. **B.** All permits shall **indicate the date of expiration on the permit.** expire on March-April 1st of each permit period year unless otherwise specified by the permit. A permit may be renewed and reissued for the following permit year every three years upon application to the clerk. Except as otherwise provided in this title, the review standards and procedures that apply to an initial permit application shall apply to applications for the renewal of a permit. The renewal fee for a permit must be paid at the time the renewal permit is issued. A permit shall not be renewed if the clerk determines that grounds exist for the suspension or revocation of the applicant's expiring permit. Nor shall a permit be renewed unless **all sales tax reports have been submitted and all business** sales, real, and personal property taxes **owed to the borough and** payable by the permittee have been paid. A renewal of a commercial tour permit is also subject to the requirements of HBC 5.18.060. ~~The clerk may mail permit expiration reminders to all current permit holders prior to expiration of the permits.~~~~

~~D. **C.** Before a permit is issued under this title, a permit applicant must first obtain a borough business license (except if the merchant/vendor has a Fair Vendor permit or a transient and itinerant merchant permit) and any other required state and/or local licenses or permits.~~

**D. The borough reserves the right to make unscheduled visits to the business premises or to observe tours during regular working hours.**

E. Vendors without a valid Haines Borough business license making sales at events taking place at the Southeast Alaska State Fairgrounds shall purchase a fair vendor permit, with the fee to be collected by the Southeast Alaska State Fair and remitted to the borough in lieu of a business license.

Section 11. Repeal of Chapter 5.04.080 Chapter 5.04.080 of the Haines Borough Code of Ordinances is repealed and reserved.

**5.04.080 Conditions applicable to all permits. Reserved. (Clerk's note: This section was moved to 5.01.050).**

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~~A. A permittee is responsible for complying with all municipal, state, and federal ordinances, statutes, and regulations applicable to the permittee's activities.~~

~~B. A permittee shall reimburse the borough for any damage to municipal property caused by the permittee or any of the permittee's employees, agents, representatives, contractors, or customers during the course of the permittee's activities under the permit.~~

~~C. Acceptance of a permit by the permittee shall constitute an agreement and acknowledgment by such permittee that the permittee shall indemnify and hold the borough and its elected and appointed officers and employees harmless from and against any and all loss, damage, or expense for any injury to or death of any person or persons or for damage to property, resulting from or arising out of any act or omission of such permittee or of any of the permittee's employees, agents, representatives, or customers. The borough and its elected and appointed officers and employees make no representations concerning and assume no responsibility for or regarding any goods or activities sold by any permittee or by any of permittee's employees, agents, representatives, or contractors.~~

D. Transferability

~~1. A permit issued under this title, and any rights or privileges thereunder, may be assigned or transferred by the permittee, together with any right of renewal; provided, that such transfer includes the permittee's entire business interest in activities conducted under the permit. The permittee's business interest includes all assets used in the business conducted under the permit. The person to whom the permit was transferred shall be subject to permit renewal requirements.~~

~~2. No permit may be leased or rented to, nor may a permittee allow the permit to be used by, any person who is not an employee or contracted agent of the permittee.~~

~~3. A transferred permit shall not be valid, and the new permittee may not conduct any activities under the permit, until the permit has been reissued by the clerk after the clerk is satisfied that the new permittee will comply with all conditions in the permit and the applicable provisions of this title.~~

E. Limitations.

~~1. Period of Operation. A permittee may conduct business for the entire permit year period unless otherwise specified by the permit.~~

~~2. Signage. Any signs must be in compliance with existing borough code. (Cite) Where allowed for tours on public property, a sign must be portable and shall be removed from the designated area upon~~

~~departure of the tour. A sign shall be no larger than four square feet and shall not hinder or obstruct pedestrian or vehicular traffic.~~

~~F. Fraud. Unfair competitive practices are strictly prohibited. A permittee who commits any act of deceit, fraud or misrepresentation, or cheating that would constitute an unlawful act or practice under AS 45.50.471, either through the permittee's own act or through the acts of the permittee's employee, agent, or representative, in relation to an activity authorized under the permit shall, upon conviction, be punished as provided in HBC 5.04.140.~~

Section 12. Amendment of Chapter 5.04.120 Chapter 5.04.120 of the Haines Borough Code of Ordinances is amended to read as follows:

#### **5.04.120 Revocation or suspension – Procedure.**

A. The manager may at any time revoke or suspend a permit issued under this title for the following reasons:

1. Substantial noncompliance with any term, condition or provision of the permit;
2. Violation of any provision of this title or other applicable local, state or federal law, ordinance, or regulation;
3. Upon a determination that the operation of the permittee is causing a hazard or a disruption of pedestrian or vehicular traffic;
4. Upon a determination that the permittee secured the permit through deceit, fraud, or intentional misrepresentation; or
5. That the area affected by the permit is required for another public purpose or for other reasons affecting the public safety or welfare.

B. The manager shall give the permittee written notice of the proposed revocation or suspension of the permit(s). If the manager determines that the reason for the revocation or suspension may endanger the public health or safety, or is based on repeated noncompliance, the revocation or suspension may take effect immediately. If the manager determines that the reason for the revocation or suspension does not endanger the public health or safety, or is not based on repeated noncompliance, the effective date of the revocation or suspension may be delayed until the date set for an appeal hearing before the assembly.

C. The permittee may appeal the decision of the manager to the assembly and request a public hearing by filing a written notice of appeal with the clerk not later than three days after receipt of the written notice of

proposed revocation or suspension. Upon receipt of the notice of appeal, the clerk shall set the date of the hearing before the assembly. The clerk shall notify the appellant of the time and place of the hearing at least three days prior to the hearing. After the appeal hearing, the assembly may modify, revoke, rescind, or affirm the decision from which the appeal is taken, or may enter its own order.

If the permittee does not appeal the manager's decision, the revocation or suspension shall become final at the end of the appeal period.

A decision of the assembly may be appealed to the proper court.

D. Revocation of a permit shall result in cessation by the permittee of all permitted activities during the year for which that permit ~~or other permits held by the permittee~~ is issued. **Unless otherwise provided,** rRevocation of a permit on the grounds stated in (A)(1), (2), (3) or (4) of this section shall result in the loss of the privilege to have that permit ~~or other permits held by the permittee~~ renewed for the period of one year after the date the revocation is effective. **After revocation, any application shall be treated as a new application.**

**E.** Suspension of a permit shall result in cessation by the permittee of all ~~permitted~~ **identified** activities until the manager notifies the permittee that the reasons for the suspension have been satisfactorily corrected or until the suspension is reversed by the assembly ~~and the permittee to whom it was issued may not be issued any other permit under this title during the suspension period.~~ **A suspension may be conditioned on correction of a status or condition of a person or a vehicle.**

Section 13. ~~Amendment of Chapter 5.04.130~~ Chapter 5.04.130 of the Haines Borough Code of Ordinances is amended to read as follows:

#### **5.04.130 Fees designated.**

A. Application Fee. An applicant for a permit required by this title shall pay ~~the~~ **a** nonrefundable application fee at the time of application. ~~in accordance with the following schedule:~~

Transient and itinerant merchant permit	\$25.00
Fair vendor permit	\$25.00
Commercial tour permit — Requiring a public hearing (permit has not been previously denied)	\$125.00
Commercial tour permit — Not requiring a public hearing	\$25.00

Commercial passenger or tour vehicle  
parking permit (per business) \$25.00

Commercial tour permit— Requiring a  
public hearing (permit has been previously  
denied) \$1,000

No additional fee is due for a permit in the year it is first issued.

**B. Transient and itinerant merchant permit as well as Fair Vendor Permit fees shall be \$25.00 per year.**

**C. Special Event Fees shall be determined by the manager.**

B. Permit Renewal Fee. The annual renewal fee for a permit required by this title is the same as the application fee for that permit under subsection (A) of this section.

C. Refund of Permit Fee. A person who pays the \$1,000 permit application fee required by subsection (A) of this section shall receive a refund of \$875.00 upon issuance of the commercial tour permit.

D. Skier Day User Fee. Each commercial ski tour operator shall pay an annual nonrefundable fee in an amount equal to \$5.00 per skier day used. The fee shall be paid no later than two weeks after the season ends for that year.

Section 14. Repeal of Chapters 5.04.140, 5.04.150, and 5.04.160. Chapters 5.04.140, 5.04.150, and 5.04.160 of the Haines Borough Code of Ordinances is repealed and reserved.

**5.04.140 Penalties Reserved.**

A. ~~Operation of any commercial tour or business enterprise for which a permit is required under this title without a permit, or the failure to follow any permit condition, shall constitute a minor offense punishable by a fine of \$500.00 for each offense, unless a different amount is specified in HBC 1.24.040, plus any surcharge required to be imposed by AS 12.55.039.~~

B. ~~The securing of a permit through deceit, fraud, or intentional misrepresentation shall constitute an offense punishable by a fine of \$500.00, plus any surcharge required to be imposed by AS 12.55.039. The permit may also be revoked through administrative proceedings.~~

C. ~~The commission by a permittee of an act of deceit, fraud or misrepresentation, or cheating that would constitute an unlawful act or practice under AS 45.50.471, either through the permittee's own act or through the~~

~~acts of the permittee's employee, agent, or representative, in relation to an activity authorized under a permit, is punishable by a fine of \$500.00 for each violation plus any surcharge required to be imposed by AS 12.55.039.~~

~~D. The borough may institute a civil action against a person who violates this chapter. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction.~~

#### **~~5.04.150 Offenses separable.~~Reserved.**

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~~Each person who violates a provision of this title or a provision of any permit issued under this title commits a separate offense for each and every day during any portion of which any violation of any provision of any permit issued under this chapter is committed, continued or permitted by the person. A separate citation shall be issued for each day upon which a violation is alleged to have occurred.~~

#### **~~5.04.160 Initiation.~~ Reserved.**

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~~A. Fines may be initiated by the borough manager or by any borough police officer by filing an original or copy of a charging document with the Alaska court system.~~

~~B. A citation, notice of violation or complaint must contain the following information:~~

- ~~1. The name or address of the alleged violator or violation;~~
- ~~2. Identification of the section of this code violated;~~
- ~~3. A brief description of the conduct or condition which is alleged to be in violation;~~
- ~~4. Identification or signature of the person filing the charge indicating that the manager or officer swears that the information is true and correct as of the date of the alleged violation;~~
- ~~5. The date of the alleged violation;~~
- ~~6. Proof of service in compliance with subsection (B) of this section, including the date of service;~~
- ~~7. Notice advising the alleged violator of his right to a hearing and the manner in which to request a hearing;~~
- ~~8. The penalty proposed pursuant to HBC 5.04.140 upon conviction or failure to request a hearing;~~
- ~~9. That the person has a right to:~~
  - ~~a. A trial;~~
  - ~~b. Engage counsel;~~
  - ~~c. Confront and question witnesses;~~
  - ~~d. Testify; and~~



~~e. Subpoena witnesses on the person's behalf.~~

~~C. A citation, notice of violation or complaint may be served:~~

- ~~1. In person;~~
- ~~2. By first class mail, with return receipt requested, to the last known address of the alleged violator or person responsible for the alleged violation;~~
- ~~3. By affixing the charging document to the property that is the subject of the violation in the case of movable property; or~~
- ~~4. By delivery to the authorized representative of the alleged violator or person responsible for the alleged violation.~~

~~D. Any person charged with a violation shall appear for arraignment at the time and place designated on the citation. 23~~

Section 15. Amendment of Chapter 5.08. Chapter 5.08 of the Haines Borough Code of Ordinances is amended to read as follows:

***Chapter 5.08***  
***SOLICITORS – TRANSIENT MERCHANTS Transient and itinerant merchants,***  
***vendors and special events.***

Sections:

- 5.08.010 ~~Solicitation on public property.~~ Reserved.
- 5.08.020 ~~Solicitation on private property without invitation prohibited.~~ Reserved.
- 5.08.030 Transient and itinerant merchants and vendors.
- 5.08.040 ~~Circuses, carnivals, fairs, and other amusement concessions.~~ **Special Events**
- 5.08.050 Commercial magazines.
- 5.08.060 Sales for resale excepted.

Section 16. Repeal of Chapters 5.08.010 and 5.08.020. Chapters 5.08.010 and 5.08.020 of the Haines Borough Code of Ordinances are hereby repealed and reserved.

**5.08.010 Solicitation on public property. Reserved.**

~~A. In accordance with the purpose of this title, no person or entity may exhibit, solicit orders for, sell **products**, or deliver goods, wares, merchandise, or tours and services or other things of value from a public street, alley, sidewalk, Portage Cove Harbor, dock/wharf or other public place except as provided by conditions of the permit, as specified by a duly authorized permit granted under Chapter 5.04 HBC, or as **specifically** exempted under subsection (B) of this section.~~

~~B. If an activity is not of a general commercial nature, and is being conducted to raise funds for a civic, fraternal, religious, educational, or charitable group or organization, or if the activity is in connection with a recognized community celebration, it may be allowed on public property without a permit issued under Chapter 5.04 HBC. However, the group or organization desiring to use a street, alley, sidewalk, or other public place for such activity must first submit a request to do so to the manager. The manager may allow the use of public property for dissemination of educational or charitable information only after the manager has been assured by the chief of police and public works superintendent that the activity will not unduly impede or create risks to pedestrian or vehicular traffic upon application and at the manager's discretion.~~

~~**5.08.020 Solicitation on private property without invitation prohibited. Reserved.**~~

~~The practice of going in and upon private residences in the borough by transient solicitors, peddlers, hawkers, itinerant merchants, or transient vendors of merchandise not having been requested or invited to do so by the owner or occupant of the private residence for the purpose of soliciting orders for the sale of goods, wares, and merchandise and/or disposing of and/or peddling or hawking the same is unlawful.~~

Section 17. Amendment of Chapter 5.08.030 Chapter 5.08.030 of the Haines Borough Code of Ordinances is amended to read as follows:

**5.08.030 Transient and itinerant merchants and vendors.**

A. No person may engage in the temporary business of exhibiting, selling, and delivering goods, wares, **services** or merchandise within the borough, whether alone, in association with, or in the name of a local dealer, merchant, or auctioneer, without first procuring a permit ~~under Chapter 5.04 HBC~~. This section does not apply to a commercial traveler who occupies a temporary location and exhibits samples for the purpose of securing orders for future deliveries, but does not sell from stock. The acquisition of the transient and itinerant merchant's permit exempts the merchant from the requirement to obtain a business license.

B. An applicant for a transient and itinerant merchant's permit shall include in the applicant's application the following:

1. An accurate personal description;
2. The applicant's permanent home and local address;
3. A brief description of the nature of the business and the goods to be sold, including the location(s) where the goods, wares, or merchandise will be sold, **or services to be provided**;

4. The name and address of the applicant's employer;
5. The length of time the applicant desires to do business in the borough.

C. **In addition to the non-refundable permit fee of \$25.00**, the applicant shall post a \$250.00 cash bond with the clerk, or a copy of a current certificate of bonding for at least \$5,000. The \$250.00 cash bond will be refundable upon payment to the borough of sales taxes collected.

D. This section may not be construed to authorize a person to solicit for sales or sell goods, wares, **services** or merchandise in a residential area in violation of other provisions of the ordinances of the borough.

~~E. If the applicant proposes to solicit for sales or to sell services, goods, wares, or merchandise on public property within the borough, approval of the assembly **manager** shall be required. Upon receipt of such an application, the clerk shall fix a time and place for a public hearing before the assembly. Notice in writing of such hearing shall be given to the applicant. Due notice shall also be given to the general public by publishing a notice of such hearing in a local newspaper at least five days prior to the hearing. Any person may file with the borough a memorandum in support of or in opposition to the issuance of a permit. Unless the assembly determines that the application is not consistent with the purposes and requirements of this title, the permit shall be granted. The assembly may require that issuance of the permit be subject to designated conditions.~~

As used in this section, "temporary" means for a period contemplated to be less than 120 consecutive days' duration.

Section 18. Amendment of Chapter 5.08.040. Chapter 5.08.040 of the Haines Borough Code of Ordinances is amended to read as follows:

**5.08.040 Circuses, carnivals, fairs, and other amusement concessions. Special Events.**

A. No person may operate a circus, carnival, fair, **competition or other special event** ~~or other place of amusement~~ without first obtaining a permit for that activity. **Permit fees shall be determined by the manager as Special Event Fees.**

B. Permit applicants must provide certificates of approval from the responsible law enforcement agency, state fire marshal, and any other appropriate state agencies for activities covered by this section.

C. **The application for a permit under this section shall be made to the manager and the manager may impose conditions such as liability insurance, time constraints, parking limitations, etc. accompanied** ~~by a certificate of insurance if applicable, specifying at least the following coverage:~~

~~1. Liability coverage with limits of \$150,000 for each person and \$500,000 for each occurrence for bodily injury and \$10,000 for property damage; and~~

~~2. Umbrella liability with a \$1,000,000 limit.~~

**D. Special Event Fees shall be determined by the manager and shall include the costs associated with police services; public works requirements, etc. Special Event fees shall not exceed \$1000.**

Section 19. Amendment of Chapter 5.18 Chapter 5.18 of the Haines Borough Code of Ordinances is amended to read as follows:

**Chapter 5.18  
COMMERCIAL TOUR PERMITS**

Sections:

5.18.010 Intent and definition.

5.18.015 Permit required.

5.18.020 Number of permits available.

**5.18.025 Fee Designation**

5.18.030 Application process.

5.18.040 Hearing for commercial tours.

5.18.050 Issuance of permit.

5.18.060 Renewal.

**5.18.065 Reporting**

5.18.070 Permit revocation, suspension or reduction in skier day allocation.

**5.18.075 Appeal from Decision of manager.**

~~5.18.080 Commercial ski tours, commercial ski productions and special ski competition events.~~

Section 20. Amendment of Chapter 5.18.010 Chapter 5.18.010 of the Haines Borough Code of Ordinances is amended to read as follows:

**5.18.010 Intent and definition.**

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A. In accordance with the purposes of this title, it is the intent of this chapter that the borough, ~~in cooperation with private and commercial interests,~~ regulate commercial tours to protect public safety and welfare and to encourage the efficient delivery of commercial tours.

B. ~~“Commercial tour” means the selling and/or providing of guided or escorted tours, excursions, experiences, sightseeing trips, or visits to a natural or cultural display, and includes all services provided, whether or not incidental to, advertised with, or specifically offered in the sale.~~

~~C. Exemptions. The following are exempted from the regulation of this chapter:~~

- ~~1. Fishing and hunting charters with a total capacity of six or less customers per excursion.~~
- ~~2. Guided overnight excursions occurring outside the townsite service area.~~

Section 21. Amendment of Chapter 5.18.015. Chapter 5.18.015 of the Haines Borough Code of Ordinances is amended to read as follows:

### **5.18.015 Permit required.**

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A. No person shall operate a commercial tour in the Haines Borough except as authorized by a duly issued and currently valid tour permit obtained pursuant to this chapter **for each commercial tour offered.**

~~B. In order to sell, offer to sell, or take orders to sell commercial tours operating in the Haines Borough, the seller must possess a copy of the current commercial tour permit (obtained from the permittee) for each commercial tour being sold.~~

~~B. Multiple tour activities by a single operator having similar **different** impacts on the Haines Borough may **require a separate** be permitted under a single commercial tour permit.~~

**C. Permits shall be issued biennially annually and the permit year shall be from May 1 – April 30 except that permits issued under Chapter 5.24 shall be valid between February 1 and May 3. Proof of valid insurance shall be provided annually.**

**D. Exemptions. The following are exempted from the regulation of this chapter:**

- 1. Guided saltwater** fishing and hunting charters with a total capacity of six or less customers per excursion.
- ~~2. Guided overnight excursions occurring outside the townsite service area.~~ **hunting charters.**

Section 22. Amendment of Chapter 5.18.020. Chapter 5.18.020 of the Haines Borough Code of Ordinances is amended to read as follows:

### **5.18.020 Number of permits available.**

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The number of available tour permits, other than the number of permits for a commercial **helicopter** ski tour, may be set by the assembly in ~~September~~ **December** of each year for the following year. Renewal of existing permits by operators who have not had their permit revoked for failure to comply with this chapter shall have priority over new or expanded tour permit applications. ~~The clerk will determine the number of new permits~~

~~available and allow new applicants to apply based on their position on a waiting list maintained by the clerk. A~~  
waiting list shall be maintained by the clerk.

Section 23. Addition of Chapter 5.18.025. Chapter 5.18.025 of the Haines Borough Code of Ordinances is added to read as follows:

**5.18.025 Fee Designation** *(Clerk's note: Moved from 5.04.130)*

**A. For 2019, an applicant for a commercial tour permit required by this title shall pay the a following nonrefundable application fee at the time of application:**

**1. Commercial Tour Permittees shall pay \$75.00 for a company who annually serves fewer than 5,000 customers and \$250.00 for a company who serves more than 5,000 customers annually.**

**2. Commercial Tour Vehicle Parking Permit. Tour permittees shall pay \$25 per vehicle for a Commercial Tour Vehicle Parking Permit to park at the Portage Cove dock parking lot.**

B. Permit Renewal Fee. The ~~annual~~ renewal fee for a permit required by this title is the same as the application fee for that permit under subsection (A) of this section.

C. ~~Refund of Permit Fee. A person who pays the \$1,000 permit application fee required by subsection (A) of this section shall receive a refund of \$875.00 upon issuance of the commercial tour permit.~~

**D. C.** Skier Day User Fee. Each commercial helicopter ski tour operator shall pay an annual nonrefundable fee in an amount equal to \$5.00 per skier day used. The fee shall be paid no later than two weeks after the season ends for that year.

Section 24. Amendment of Chapter 5.18.030. Chapter 5.18.030 of the Haines Borough Code of Ordinances is amended to read as follows:

**5.18.030 Application process.**

A. Application for a commercial tour permit and permit renewal shall be made using the procedures set out in Chapter 5.04 HBC and this chapter.

B. An applicant must **make application on the borough approved Commercial Tour Permit Application and** provide the following information:

1. Name, address, and telephone number of applicant and all principals.
2. Customer capacity; number of vehicles to be used; location of all phases of the tour(s), including where the tour(s) will be offered for sale and scheduled stops; a summary of the tour(s); a map showing

the routes to be taken; and hours of operation. One copy of each published pamphlet or brochure describing each tour must accompany the application.

3. Broker's certificate of \$500,000 of current commercial general liability insurance naming the borough as additional insured. The policy shall not contain any self-insured retention or deductible in excess of \$1,000 and shall include a provision requiring written notification to be given to the borough by the insurance company not less than 30 days before the policy is canceled, modified, or terminated for any reason.
4. Proof of worker's compensation insurance where applicable by law.
5. A copy of current Haines Borough business license.
6. Current copy of a signed tour operator's code of conduct agreement which shall be approved by the borough assembly.
7. An explanation of any felony conviction within the past five years.
8. A safety and operating plan for heli-skiing and helicopter tours **and tours of more than 40 people.**

**B. Applications for new commercial tours shall require a public hearing and approval of the assembly as described in HBC 5.18.040 prior to issuance of a permit.**

Section 25. Amendment of Chapter 5.18.040. Chapter 5.18.040 of the Haines Borough Code of Ordinances is amended to read as follows:

**5.18.040 Public hearing for commercial tours required.**

A. An applicant for a commercial tour permit shall provide, in addition to the ~~submittals listed in HBC 5.18.030,~~ **application**, any additional information the clerk considers appropriate to adequately notify the public of the proposed tour, based upon the nature of the tour. Upon receipt of a new commercial tour application, or upon determination that a renewal application requires a hearing per HBC 5.18.060, the clerk shall fix a time and place for a public hearing before the assembly. Notice in writing of such hearing shall be given to the applicant. Due notice shall also be given to the general public by publishing a notice of such hearing in a local newspaper at least five days prior to the hearing containing a brief description of the proposed tour and indicating that a detailed description of the tour will be made available at the clerk's office and publicly posted.

B. The clerk shall post, in the same posting places used for other postings, a detailed description of the proposed tour, including route maps and numbers of persons anticipated to be taken on each tour, as well as any other information the clerk considers appropriate to illustrate the impacts of the tour on the community.

C. The police chief, tourism director, and harbormaster shall review any application for a tour and, for all tours subject to a hearing, submit a recommendation to the assembly for consideration prior to the scheduled

hearing. In addition, any person may file with the clerk a written submittal in support of or in opposition to the issuance of a permit and/or may voice the person's opinions at the hearing. The assembly will consider all verified comments before acting on the permit application.

~~D. An application to solicit for or sell tours on public property other than the designated staging area at the Port Chilkoot Dock shall be considered a new commercial tour application.~~

Section 26. Amendment of Chapter 5.18.050. Chapter 5.18.050 of the Haines Borough Code of Ordinances is amended to read as follows:

#### **5.18.050 Issuance of permit.**

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If the assembly, after the public hearing under HBC 5.18.040, **may place conditions on the issuance of the permit. If the assembly approves of the permit,** ~~finds that the applicant for the proposed commercial tour is fit, willing, and able to perform such tour and to conform to the provisions and purposes set out in this title, then the assembly will authorize the issuance of a permit by the clerk. The assembly may require that issuance of the permit be subject to designated conditions.~~

Section 27. Amendment of Chapter 5.18.060. Chapter 5.18.060 of the Haines Borough Code of Ordinances is amended to read as follows:

#### **5.18.060 Renewal.**

---

A commercial tour permit ~~issued under this chapter~~ **issued for the previous year** may be renewed upon application to the clerk, ~~in accordance with Chapter 5.04 HBC and this chapter.~~ The review standards that apply to initial permit applications shall apply to applications for the renewal of a permit, except that a renewal application does not require a hearing under HBC 5.18.040 unless the applicant: ~~(1) proposes to provide a new commercial tour not previously provided; (2) proposes to solicit for or sell a tour on public property other than the designated staging area at the Port Chilkoot Dock; or (3) proposes to expand the capacity of an existing tour other than a commercial ski tour by 25 percent or more of the capacity of the tour from the time of, and/or as described in, the initial permit issued by the borough for the particular tour~~

Section 28. Addition of Chapter 5.18.065. Chapter 5.18.065 of the Haines Borough Code of Ordinances is added to read as follows:

#### **5.18.065 Reporting**

**By November 1<sup>st</sup>, and before renewal of permit, all permittees except Commercial Heliski Tours, must report all actual numbers of annual customers for the previous year. Tour operators required to submit**



**totals to a state or federal entity must also report these totals to the borough clerk. Numbers must be submitted to the borough clerk and will be included in the permit holder's application for renewal.**

Section 29. Amendment of Chapter 5.18.070. Chapter 5.18.070 of the Haines Borough Code of Ordinances is amended to read as follows:

**5.18.070 Permit revocation, suspension or reduction in skier day allocation.**

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A commercial tour permit may be revoked or suspended or the number of skier days allocated pursuant to HBC 5.24.030 may be reduced for the reasons identified in HBC 5.04.120 and in accordance with the procedures set forth in HBC 5.04.120.

Section 30. Addition of Chapter 5.18.075. Chapter 5.18.075 of the Haines Borough Code of Ordinances is added to read as follows:

**5.18.075 Appeal from decision of manager.** *(Clerk's note: moved from 5.04.110)*

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A. An applicant or permittee desiring to appeal a decision of the manager made pursuant to this chapter shall, within 15 days after the written decision is mailed to the applicant or permittee, file with the manager a written notice of appeal to the assembly. The notice of appeal shall state with particularity the order or decision from which the appeal is taken and the grounds of the appeal. The stated grounds will be the only issues considered by the assembly in the appeal.

B. Filing of a notice of appeal under this section will operate to stay a decision of the manager to deny renewal of a permit.

C. Upon receipt of the notice of appeal, the mayor shall set the date of the hearing before the assembly. The mayor shall notify the appellant of the time and place of the hearing. The notice of the appeal hearing shall be given to the appellant at least three days prior to the hearing.

D. After the appeal hearing, the assembly may modify, revoke, rescind, or affirm the order from which the appeal is taken, or may enter its own order. A decision of the assembly may be appealed to the proper court.

Section 31. Repeal of Chapter 5.18.080. Chapter 5.18.080 of the Haines Borough Code of Ordinances is repealed in its entirety and reserved. *\*\* Clerk's note: Chapter 5.18.080 becomes 5.24 in its entirety\*\**

**~~5.18.080 Commercial Helicopter ski tours, commercial ski productions and special heliski competition events.~~ Reserved.**

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~~A. Number of Permits.~~

~~1. No more than three commercial ski tour permits may be issued for any one calendar year.~~

2. No more than two permits for a special helicopter ski competition event and/or commercial heliski production may be issued for any one calendar year.

3. A permit does not create an exclusive right of use of an area by the permittee. However, the borough may specify areas of the map in which a permittee may operate.

4. If more than three applicants apply for a commercial ski tour permit in any calendar year, preference shall be given to existing permit holders in good standing in the grant of a permit.

**B. Skier Day Limits.** The following limitations on skier days shall apply to all commercial ski tours conducted in areas identified on the attached map.

1. **Base Limits.** No more than a total of 2,600 skier days per year will be authorized in an allocation of skier days.

2. **Allocation.** If the borough receives applications for more than the total number of skier days authorized under subsection (B)(1) of this section, skier days will be allocated under subsection (C) of this section.

**C. Allocation of Skier Days.**

1. At the time of an application for each commercial heliski tour permit authorized by this chapter, the permit applicant shall request an allocation of skier days. Commercial ski tour permit applications and requests for allocation of skier days must be submitted to the city borough manager no later than August 31st of each year for the following season. If the deadline falls on a weekend or holiday, applications and requests must be submitted no later than the following business day. The date of submission shall be determined by the postmark or, if hand delivered, by the date the application and request are delivered to the borough manager's office.

2. If the requested number of skier days of all permit applicants exceeds the limits established by subsection (B)(1) of this section, the borough manager shall, after providing each permittee an opportunity for an informal hearing, make an allocation of skier days based on the following factors:

- a. The quality of the operating and safety plans submitted by the permittee.
- b. The economic impact of the allocation on the permittee.

- c. The safety and well-being of the general public.
- d. Historic use of skier days by the permittee.
- e. The interests of the borough in the promotion of tourism.
- f. Past safety record of the permittee.
- g. The applicant's past record of compliance with borough ordinances related to commercial ski tours.
- h. The existence and terms of any voluntary agreement between the borough and the applicant pertaining to operational practices of the applicant.

3. No later than 10 days after conclusion of all informal hearings, the borough manager shall issue a written decision establishing the allocation of skier days for each permittee and containing an explanation of the allocation decision. The term of the allocation shall be for one season subject to transfer of skier days under subsection (F) of this section.

4. A permittee receiving less than a requested allocation may appeal the initial allocation decision of the borough manager to the borough assembly by filing a notice of appeal with the borough clerk no later than 15 days from the date of the decision of the borough manager. All permittees shall be included as parties to the appeal and the results of the appeal shall be binding on all permittees.

**D. Future Allocation of Skier Days.** At or before the expiration of the initial term for an allocation of skier days, each permittee shall apply for a subsequent allocation of skier days for the next season. If the requested allocations exceed the limit for skier days established by subsection (B) of this section, the requested days shall be allocated using the same procedure and factors as in the initial allocation.

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~~E. Transfer of Allocated Skier Days. A permittee may sell or transfer a portion of their skier day allocation for a designated season to another permittee holding an allocation upon the review and approval of the manager.~~

~~F. General Permit Conditions and Regulations. Commercial heliski tours, commercial ski productions and special ski competition events are governed as follows:~~

~~1. The operating season is February 1st through May 3rd unless a different period is noted on the "Haines Borough Approved Commercial Ski Tour Areas."~~

~~2. All activity shall be conducted between the hours of 8:00 a.m. and 6:00 p.m., except that the borough may authorize additional hours for no more than 30 days.~~

~~3. All activity shall be conducted only in areas identified on the map attached to the ordinance codified in this section which shall remain on file with the borough clerk and labeled "Haines Borough Approved Commercial Ski Tour Areas" except as provided in subsection (G) of this section.~~

~~4. Every permit holder shall use global positioning system ("GPS") equipment capable of tracking and preserving information establishing the route taken by the helicopter to and from the skiing and snowboarding area and all landings. This information shall be cataloged in a manner requested by the borough and provided when requested by the borough during each commercial ski tour season. Borough requests for this information are limited to enforcement of borough-permitted activity.~~

~~5. Every permit holder shall submit to the borough clerk, on forms provided by the borough, bi-weekly use reports detailing the number of skier days used during each day of the reporting period, deviations from the flight guidelines and any accidents.~~

~~6. The borough manager shall compile a season-end report to be submitted to the borough assembly annually during the first meeting in July. The report shall include the number of skier days used by each permitted company as compared to previous years, and it shall include any verified permit infractions along with correspondence and other information documenting reasons for the infractions.~~

~~7. The borough will establish a system for receiving and responding to complaints from the public.~~

~~8. Every permit holder shall submit to the borough clerk annually a safety and operating plan that, at a minimum, will include (a) avalanche safety (addressing client safety, as well as safety of other backcountry users in the area); (b) helicopter safety; (c) emergency rescue procedures; and (d) guide requirements.~~

~~9. Explosives shall not be used for avalanche control.~~

~~10. Every permit holder shall annually register contracted helicopters, their N number, color scheme, and pilot's name with the borough.~~

~~11. Every permit holder shall provide mountain goat and other wildlife sightings to the borough. The borough clerk will provide commercial ski tour operators with incidental wildlife observation forms to be filled out daily. These forms shall be submitted annually upon completion of the permit season.~~

~~12. The permittee is responsible for obtaining authorizations required by other agencies for the permitted activity. Each permittee will provide a copy of any other authorizations to the borough clerk.~~

~~13. Every permit holder shall submit to the borough clerk a copy of a signed mutual aid agreement requiring all permittees to come to each other's aid in the event of an accident or a mechanical problem that strands a helicopter used to transport participants in a commercial ski tour away from a heliport.~~

~~14. Every permit holder shall use one of the following heliports:~~

- a. ~~Haines Airport;~~
- b. ~~The Stewart landing strip at 18 Mile Haines Highway;~~
- c. ~~The heliport adjacent to the 33 Mile Roadhouse;~~
- d. ~~Any heliport authorized by the Haines Borough planning commission as a conditional use.~~

G. ~~Temporary Additions to Approved Commercial HeliSki Tour Areas.~~

~~1. A permittee or an applicant for a special ski competition event or commercial ski production heliski permit may request the addition of territory to the "Haines Borough Approved Commercial Ski Tour Areas" map for a special ski event, not to exceed seven days of competition. All such requests shall expire at the end of the season within which the event takes place. Requests shall be submitted to the manager. All requests shall be in writing, be accompanied by a diagram showing the proposed additional area with reasonable specificity and shall explain the reasons for the proposal.~~

~~2. No later than seven days after receipt of a request submitted in compliance with subsection (G)(1) of this section, the manager shall prepare a written recommendation to the assembly. In preparing his the recommendation, the manager shall consult with Alaska Department of Fish and Game regarding the impact of the proposed use on wildlife.~~

~~3. The assembly may act on the manager's recommendation by resolution. If the assembly approves the temporary addition of territory, the "Haines Borough Approved Commercial Ski Tour Areas" map shall be amended by designating the additional territory as "temporary" and identifying the dates for which the additional territory is approved. Approval by the assembly is contingent on the acquisition of a heliski permit for the season within which the event is to be held.~~

~~4. The shared use policy (subsection (H) of this section) is not effective for the duration and in the location of a special commercial ski production or a special ski competition event.~~

H. ~~Shared Use Policy.~~

~~1. Commercial ski tour permittees shall yield to nonmotorized, recreational backcountry users, within the boundaries of the area known as Telemark Ridge at the head of the Haska Creek drainage, on a by-request basis.~~

~~2. Recreational backcountry users may contact a permittee by phone or e-mail at least 48 hours in advance of the activity and request to use a specific area on a specific day.~~

~~3. Confirmation shall be given by the permittee within 24 hours of the request.~~

~~4. The person making the request shall notify the borough clerk of the request.~~

~~5. Cancellation of the request shall be communicated to the permittee before 9:00 a.m. on the day of the activity.~~

~~6. Failure by recreational users to communicate a cancellation of the activity may result in the loss of request privileges.~~

~~7. Failure by a permittee to confirm a request, or to yield an area to recreational users, shall be reported to the borough clerk and recorded for future review.~~

~~8. The duration of a recreational activity in any specific area shall be for a maximum of three days consecutively, and for no more than 10 days per month.~~

~~9. The shared use policy in its entirety is not effective for the duration and in the location of a special commercial ski production or a special ski competition event.~~

I. ~~Nontemporary Amendment of the Haines Borough Approved Commercial Ski Tour Areas Map.~~

~~1. Amendments to the Haines Borough Approved Commercial Ski Tour Areas map shall only be considered on a three-year cycle beginning in 2016. The process to review and amend the map shall be according to the following procedures:~~

~~a. At least 30 days prior to May 15th of every third year after 2016, the manager will solicit proposals for possible map amendments. Proposals are due by May 15th of that year and will contain illustrations of the specific areas and justification for the proposed amendments.~~

~~b. As soon as possible after May 15th, the manager may establish an advisory committee to review any proposed map amendments received by the proposal deadline. The committee shall convene no later than June 15th.~~

~~c. The committee shall include the following five voting members:~~

~~(1) A representative of a local conservation organization, appointed by the mayor;~~

~~(2) A member of the Haines Borough assembly;~~

~~(3) A representative from the heliskiing industry selected randomly by current Haines Borough commercial ski tour permit holders; and~~

~~(4) Two members chosen randomly from Haines Borough residents who petition to be members of the committee. The manager shall solicit applications by posting notice no less than 10 days.~~

~~d. The committee shall organize itself as to procedure.~~

~~e. The committee shall to every extent possible involve ADFG area wildlife biologists and Bureau of Land Management (BLM) in its deliberations, including forwarding all proposals for map changes to the ADFG and BLM, seeking ADFG and BLM testimony, and requesting comments from ADFG and BLM on all draft recommendations before they are sent to the manager.~~

~~f. The committee shall make a recommendation to the manager on or before September 30th. The manager shall prepare a recommendation for the assembly and will not be bound by the committee's recommendations. However, the manager shall also provide the committee recommendations to the assembly for consideration.~~

~~g. For a proposal correctly submitted in accordance with the current map review policy, the borough assembly may adopt a resolution to provide for adjustments to the map amendment timeline to accommodate for reasonable date or schedule conflicts.~~

~~2. The Haines Borough assembly shall adopt a resolution, following a public hearing, to finalize any nontemporary amendments of the Haines Borough Approved Commercial Ski Tour Areas map.~~

Section 32. Amendment of Chapter 5.20.030. Chapter 5.20.030 of the Haines Borough Code of Ordinances is amended to read as follows:

### **5.20.030 Vehicle identification.**

A. A commercial tour vehicle and a commercial passenger vehicle must display the following information

**visible from a distance of 50 feet:**

1. Tour operator's identification on two sides and rear of vehicle readable ~~from a distance of 50 feet.~~

**2. USDOT numbers on the sides.**

**3. Tour operator's telephone number on the rear of the vehicle.**

B. Multiple vehicles of a commercial tour must be visibly distinguishable from each other by clearly visible name, number, or letter, and not by license plate alone.

C. The owner or operator of a historic, unique, or classic vehicle may request from the manager an exception from these display requirements to preserve the cosmetic integrity of the vehicle. The manager shall not unreasonably deny such a request.

Section 33. Amendment of Chapter 5.22.020. Chapter 5.22.020 of the Haines Borough Code of Ordinances is amended to read as follows:

***Chapter 5.22***  
***COMMERCIAL PASSENGER OR TOUR VEHICLE PARKING PERMITS***

Sections:

- 5.22.010 Permit required.
- 5.22.020 Number of permits available.
- 5.22.030 Application process.
- 5.22.040 Parking area rules.
- 5.22.050 Revocation or suspension.

**5.22.020 Number of permits available.**

~~The number of available commercial passenger or tour vehicle parking permits may be set by the assembly in September of each year for the following year. The assembly may also limit the number of vehicles per business that may be staged in the designated parking area at any given time.~~ **The borough may limit the number of permits available.** Renewal of existing permits by operators who have not had their permit revoked for failure to comply with this chapter shall have priority over new or expanded commercial tour or passenger vehicle parking permit applications. The clerk will determine the number of parking permit vacancies available and allow new applicants to apply based on their position on a waiting list maintained by the clerk.

Section 34. Amendment of Chapter 5.22.030. Chapter 5.22.030 of the Haines Borough Code of Ordinances is amended to read as follows:

### **5.22.030 Application process.**

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Application for a commercial passenger or tour vehicle parking permit or renewal of a current parking permit shall be made according to this chapter and the procedures set out in Chapter **5.04 5.18** HBC.

Section 35. Amendment of Chapter 5.22.040. Chapter 5.22.040 of the Haines Borough Code of Ordinances is amended to read as follows:

### **5.22.040 Parking area rules Management.**

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A. The borough, in cooperation with commercial vehicle owners, shall establish an operating plan for the use of commercial vehicle parking and staging areas of the Port Chilkoot Dock and other areas delineated for commercial tour and passenger vehicle loading, unloading and parking. The operating plan may be amended as necessary to assure the safe and orderly operation of commercial vehicles and commercial vehicle parking areas, and to meet the purposes of this title.

B. All operators of commercial vehicles shall comply with the operating plan as a condition of receiving and maintaining in effect a commercial passenger or tour vehicle parking permit.

C. Permit Display Required. Parking permits shall be displayed in the lower right corner of the front windshield of the vehicle, or as otherwise specified by the manager.

D. Operations to Be Efficient. Goods, passengers, and vehicles shall be staged so as to minimize vehicular standing time. No vehicle shall be present in the parking area except as reasonably necessary for loading, staging, or unloading of goods or passengers.

E. Commercial Vehicles Shall Be Attended. During passenger loading operations, the driver of a vehicle must remain with the vehicle or in the vicinity of the parking area. Staging of vehicles prior to passenger loading is allowed without individual vehicle drivers attending each vehicle; provided, that staging is done according to the operating plan and a driver or drivers are available to move staged vehicles if necessary.

F. Signage. A permittee may use a sign no larger than four square feet to ~~advertise the permittee's service, or, in the case of a permittee serving presold tour customers, to~~ direct customers to commercial vehicles. Signs must be portable and shall be removed from the designated area upon departure of the tour. Signs may not block pedestrian or vehicle access areas.

G. Exempted Vehicles. Vehicles exempt from permit requirements include borough vehicles, public safety vehicles, vehicles needed in case of emergency, utility vehicles, or private vehicles allowed by special use

permit. Special use permits shall be issued by the manager as required for short-term parking under special circumstances.

H. Prohibited Vehicles. Unless exempted under this chapter, vehicles not displaying a current parking permit issued by the borough are prohibited from using permit parking areas.

I. Parking Area Defined. The requirements of this chapter shall apply within the parking area south of the Port Chilkoot Dock approach dock and east of Beach Road, and within such other areas as may be designated by the borough ~~assembly~~ manager.

J. Except for a sign allowed under this chapter, a permittee shall not display any sales material such as brochures, handbills, or sales notices outside the area identified in the operating plan for independent tour operators. Sales methods shall be in accordance with the tour operator code of conduct.

**K. Shuttle, Taxi, Courtesy Vans and Private Vehicles. Shuttle, Taxi, Courtesy vans and private vehicles are allowed to pick up in the designated loading zone across from the visitor kiosk. Vehicles may not be left unattended, may not block traffic and may be waiting a maximum of 15 minutes.**

Section 36. Addition of Chapter 5.24. Chapter 5.24 of the Haines Borough Code of Ordinances is added to read as follows: *(Clerk's Note: This section is moved from Section 5.18.080)*

**Chapter 5.24**  
**Commercial Helicopter Ski Tours, Commercial Ski Productions and Special Ski Competition events**

**Sections:**

**5.24.010 Intent and definition.**

**5.24.020 Permit required.**

**5.24.030 Skier Days**

**5.24.040 General Permit Conditions and Regulations**

**5.24.050 Approved Commercial Ski Tour Areas.**

**A. Permit required.**

**~~A. No person shall operate a commercial helicopter ski tour or a special ski competition event in the Haines Borough except as authorized by a A duly issued and currently valid tour permit obtained pursuant to the Haines Borough Code.~~ is required for the operation of a commercial helicopter ski tour,**



**a commercial ski production and a special ski competition event. The process for obtaining such permit is described in Chapter 5.18 above.**

**B.** Number of Permits.

1. No more than three commercial ski tour permits may be issued for any one calendar year.
2. No more than two permits for a special ski competition event and/or commercial ski production may be issued for any one calendar year.
3. A permit does not create an exclusive right of use of an area by the permittee. However, the borough may specify areas of the map in which a permittee may operate.
4. If more than three applicants apply for a commercial ski tour permit in any calendar year, preference shall be given to existing permit holders in good standing in the grant of a permit.

**5.24.030 Skier Days.**

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A. Skier Day Limits. The following limitations on skier days shall apply to all commercial ski tours conducted in areas identified on the attached map.

1. Base Limits. No more than a total of 2,600 skier days per year will be authorized in an allocation of skier days.
2. Allocation. If the borough receives applications for more than the total number of skier days authorized under subsection (A)(1) of this section, skier days will be allocated under subsection (B) of this section.

B. Allocation of Skier Days.

1. At the time of an application for each commercial **helicopter ski** tour permit authorized by this chapter, the permit applicant shall request an allocation of skier days. Commercial **helicopter** ski tour permit applications and requests for allocation of skier days must be submitted to the ~~city~~ **borough** manager no later than August 31st of each year for the following season. If the deadline falls on a weekend or holiday, applications and requests must be submitted no later than the following business day. The date of submission shall be determined by the postmark or, if hand delivered, by the date the application and request are delivered to the borough manager's office.

2. If the requested number of skier days of all permit applicants exceeds the limits established by subsection (B)(1) of this section, the borough manager shall, after providing each permittee an opportunity for an informal hearing, make an allocation of skier days based on the following factors:

- a. The quality of the operating and safety plans submitted by the permittee.
- b. The economic impact of the allocation on the permittee.
- c. The safety and well-being of the general public.
- d. Historic use of skier days by the permittee.
- e. The interests of the borough in the promotion of tourism.
- f. Past safety record of the permittee.
- g. The applicant's past record of compliance with borough ordinances related to commercial ski tours.
- h. The existence and terms of any voluntary agreement between the borough and the applicant pertaining to operational practices of the applicant.

3. No later than 10 days after conclusion of all informal hearings, the borough manager shall issue a written decision establishing the allocation of skier days for each permittee and containing an explanation of the allocation decision. The term of the allocation shall be for one season subject to transfer of skier days under subsection (D) of this section.

4. A permittee receiving less than a requested allocation may appeal the initial allocation decision of the borough manager to the borough assembly by filing a notice of appeal with the borough clerk no later than 15 days from the date of the decision of the borough manager. All permittees shall be included as parties to the appeal and the results of the appeal shall be binding on all permittees.

C. Future Allocation of Skier Days. At or before the expiration of the initial term for an allocation of skier days, each permittee shall apply for a subsequent allocation of skier days for the next season. If the requested allocations exceed the limit for skier days established by subsection (A) of this section, the requested days shall be allocated using the same procedure and factors as in the initial allocation.

D. Transfer of Allocated Skier Days. A permittee may sell or transfer a portion of their skier day allocation for a designated season to another permittee holding an allocation upon the review and approval of the manager.

#### **5.24.040 General Permit Conditions and Regulations.**

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Commercial helicopter ski tours, commercial ski productions and special ski competition events are governed as follows:

A. The operating season is February 1st through May 3rd unless a different period is noted on the "Haines Borough Approved Commercial Ski Tour Areas."

B. All activity shall be conducted between the hours of 8:00 a.m. and 6:00 p.m., except that the borough may authorize additional hours for no more than 30 days.

C. All activity shall be conducted only in areas identified on the map ~~attached to the ordinance codified in this section which shall remain on file with the borough clerk and~~ labeled "Haines Borough Approved Commercial Ski Tour Areas" as provided in Chapter 5.24.050 of this section.

D. Every permit holder shall use global positioning system ("GPS") equipment capable of tracking and preserving information establishing the route taken by the helicopter to and from the skiing and snowboarding area and all landings. This information shall be cataloged in a manner requested by the borough and provided when requested by the borough during each commercial ski tour season. Borough requests for this information are limited to enforcement of borough-permitted activity.

E. Every permit holder shall submit to the borough clerk, on forms provided by the borough, bi-weekly use reports detailing the number of skier days used during each day of the reporting period, deviations from the flight guidelines and any accidents. **Such reports shall be due within seven (7) days of the end of the reporting period.**

F. The borough manager shall compile a season-end report to be submitted to the borough assembly annually ~~during the first meeting~~ in July. The report shall include the number of skier days used by each permitted company as compared to previous years, and it shall include any verified permit infractions along with correspondence and other information documenting reasons for the infractions.

G. The borough will establish a system for receiving and responding to complaints from the public.

H. Every permit holder shall submit to the borough clerk annually a safety and operating plan that, at a minimum, will include (a) avalanche safety (addressing client safety, as well as safety of other backcountry users in the area); (b) helicopter safety; (c) emergency rescue procedures; and (d) guide requirements.

I. Explosives shall not be used for avalanche control.

J. Every permit holder shall ~~annually~~ register contracted helicopters, their N number, color scheme, and pilot's name with the borough **by February 1 of each year.**

K. Every permit holder shall provide mountain goat and other wildlife sightings to the borough. The borough clerk will provide commercial **helicopter** ski tour operators with incidental wildlife observation forms to be filled out daily. These forms shall be submitted annually upon completion of the permit season.

L. The permittee is responsible for obtaining authorizations required by other agencies for the permitted activity. Each permittee will provide a copy of any other authorizations to the borough clerk.

M. Every permit holder shall submit to the borough clerk a copy of a signed mutual aid agreement requiring all permittees to come to each other's aid in the event of an accident or a mechanical problem that strands a helicopter used to transport participants in a commercial ski tour away from a heliport.

N. Every permit holder shall use one of the following heliports:

1. Haines Airport;
2. The Stewart landing strip at 18 Mile Haines Highway;
3. The heliport adjacent to the 33 Mile Roadhouse;
4. Any heliport authorized by the Haines Borough planning commission as a conditional use.

**O. Special Ski Event Competition. Special ski event competitions and productions must take place with one of the three permitted operators and are considered a part of the operators skier day allocation. Special ski events may not last longer than 7 days in any three week period of time.**

#### **5.24.050 Approved Commercial Ski Tour Areas.**

A. The Borough Clerk shall maintain the Official Commercial Ski Tour Area map.

B. Temporary Additions to Approved Commercial Ski Tour Areas.

1. A permittee or an applicant for a special helicopter ski competition event or commercial ski production permit may request the addition of territory to the “Haines Borough Approved Commercial Ski Tour Areas” map for a special ski event, not to exceed seven days of competition. All such requests shall expire at the end of the season within which the event takes place. Requests shall be submitted to the manager. All requests shall be in writing, be accompanied by a diagram showing the proposed additional area with reasonable specificity and shall explain the reasons for the proposal.
2. No later than seven days after receipt of a request submitted in compliance with subsection (B)(1) of this section, the manager shall prepare a written recommendation to the assembly. In preparing ~~his~~ the recommendation, the manager shall consult with Alaska Department of Fish and Game regarding the impact of the proposed use on wildlife.
3. The assembly may act on the manager’s recommendation by resolution. If the assembly approves the temporary addition of territory, the “Haines Borough Approved Commercial Ski Tour Areas” map shall be amended by designating the additional territory as “temporary” and identifying the dates for which the additional territory is approved. Approval by the assembly is contingent on the acquisition of a permit for the season within which the event is to be held.
4. The shared use policy (subsection (C) of this section) is not effective for the duration and in the location of a special commercial ski production or a special ski competition event.

C. Shared Use Policy.

1. All commercial ski tour permittees shall yield to non-motorized, recreational backcountry users, within the boundaries of the area known as Telemark Ridge at the head of the Haska Creek drainage, on a by-request basis.
2. Recreational backcountry users may contact a permittee by phone or e-mail at least 48 hours in advance of the activity and request to use a specific area on a specific day.
3. Confirmation shall be given by the permittee within 24 hours of the request.
4. The person making the request shall notify the borough clerk of the request.

5. Cancellation of the request shall be communicated to the permittee before 9:00 a.m. on the day of the activity.
6. Failure by recreational users to communicate a cancellation of the activity may result in the loss of request privileges.
7. Failure by a permittee to confirm a request, or to yield an area to recreational users, shall be reported to the borough clerk and recorded for future review.
8. The duration of a recreational activity in any specific area shall be for a maximum of three days consecutively, and for no more than 10 days per month.
9. The shared use policy in its entirety is not effective for the duration and in the location of a special commercial ski production or a special ski competition event.

D. Non-temporary Amendment of the Haines Borough Approved Commercial Ski Tour Areas Map.

1. Amendments to the Haines Borough Approved Commercial Ski Tour Areas map shall only be considered on a three-year cycle beginning in 2016. The process to review and amend the map shall be according to the following procedures:

a. At least 30 days prior to May 15th of every third year after 2016, the manager will solicit proposals for possible map amendments. Proposals are due by May 15th of that year and will contain illustrations of the specific areas and justification for the proposed amendments.

b. As soon as possible after May 15th, the manager may establish an advisory committee to review any proposed map amendments received by the proposal deadline. The committee shall convene no later than June 15th.

c. The committee shall include the following five voting members:

(1) A representative of a local conservation organization, appointed by the mayor;

(2) A member of the Haines Borough assembly;

(3) A representative from the heliskiing industry selected randomly by current Haines Borough commercial ski tour permit holders; and

(4) Two members chosen randomly from Haines Borough residents who petition to be members of the committee. The manager shall solicit applications by posting notice no less than 10 days.

d. The committee shall organize itself as to procedure.

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e. The committee shall to every extent possible involve ADFG area wildlife biologists and Bureau of Land Management (BLM) in its deliberations, including forwarding all proposals for map changes to the ADFG and BLM, seeking ADFG and BLM testimony, and requesting comments from DFG and BLM on all draft recommendations before they are sent to the manager.

f. The committee shall make a recommendation to the manager on or before September 30th. The manager shall prepare a recommendation for the assembly and will not be bound by the committee's recommendations. However, the manager shall also provide the committee recommendations to the assembly for consideration.

g. For a proposal correctly submitted in accordance with the current map review policy, the borough assembly may adopt a resolution to provide for adjustments to the map amendment timeline to accommodate for reasonable date or schedule conflicts.

2. The Haines Borough assembly shall adopt a resolution, following a public hearing, to finalize any non-temporary amendments of the Haines Borough Approved Commercial Ski Tour Areas map.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

ATTEST:

\_\_\_\_\_  
Janice Hill, Mayor

\_\_\_\_\_  
Alekka Fullerton, Borough Clerk  
Date of Introduction:  
Date of First Hearing:  
Date of Second Hearing: