

An Ordinance of the Haines Borough amending Borough Code Sections 2.06.035 and 2.990.010 to clarify the local financial disclosure reporting process.

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

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

Sec. 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

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

Sec. 4. Amendment of Section 2.06.035: Section 2.06.035 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

2.06.035 Public Financial Disclosure

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

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

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

upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 notwithstanding HBC 1.24. Any citizen eligible to vote in Alaska may bring a civil action to enforce any of the sections of 2.06.035.

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

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

(1) The source of income over \$5000 during the preceding calendar year, including taxable and nontaxable capital gains, received by the filer, the filer's spouse or domestic partner, and or the filer's dependent child, except that a source of income that is a gift received from sources other than immediate family members must be included if the value of the gift, or series of gifts from the same donor, exceeds \$250 during the preceding calendar year.

a. A public official or candidate required to file a disclosure statement, may, for any reason set out in Alaska Statute 39.50.035, request an exemption from the requirement to report the name of an individual who was a source of income on a form provided by the borough clerk. The person requesting any exemption has the burden of proving each fact necessary to show that an exemption available under this section is applicable. A written request for exemption must be submitted before the due date of any report or filing to which it relates. No later than 30 days after the clerk receives a written exemption request, the clerk shall send to the person requesting the exemption, at the address listed in the request, a decision granting or denying the request. If the clerk issues a decision denying the request, the decision must state the reasons and notify the person requesting the exemption of the right to appeal the staff decision to the assembly. If the person that requested the exemption does not file an appeal to the assembly within 30 days after the date the clerk's decision is mailed or delivered to the person, the decision is final, and may not be appealed to the assembly at a later date.

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

a. Reporting stock investments.

1. Filers who exercise full control of their investments shall list each company in which they invest and the company address.

2. Filers who do not manage their own investments, who do not decide where to invest, shall report the name of the investment company that holds and manages their assets.

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

~~b. A public official or candidate required to file a disclosure statement, may, for any reason set out in Alaska Statute 39.50.035, request an exemption from the requirement to report the name of an individual who was a source of income on a form provided by the Borough Clerk. The person requesting any exemption has the burden of proving each fact necessary to show that an exemption available under this section is applicable. A written request for exemption or waiver must be submitted before the due date of any report or filing to which it relates. No later than 30 days after the Clerk receives a written exemption request, the Clerk shall send to the person requesting the exemption or waiver, at the~~

~~address listed in the request, a decision granting or denying the request. If the Clerk issues a decision denying the request, the decision must state the reasons and notify the person requesting the exemption or waiver of the right to appeal the staff decision to the Assembly. If the person that requested the exemption or waiver does not file an appeal to the Assembly within 30 days after the date the Clerk's decision is mailed or delivered to the person, the decision is final, and may not be appealed to the Assembly at a later date.~~

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

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

(5) A list of all mineral, timber, oil, or ~~any~~ other natural resource leases held, **bid, or offered** in the Haines Borough, ~~or lease offer made in the Haines Borough,~~ during the preceding calendar year by the filer, the filer's spouse or domestic partner, and or the filer's dependent child, a partnership or professional corporation of which the filer is a member, or a corporation in which the filer, the filer's spouse or domestic partner, and or the filer's dependent child, or a combination of them, holds a controlling interest. **Controlling interest means the filer and/or family members hold more than 50%.**

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

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

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

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

2.990.010 Definitions.

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

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

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

"Gift" means money, goods, services, travel expenses, tickets, discounts not available to the public, loans or debts forgiven or paid by a third party, a promise, or other item of value gratuitously transferred from a donor to a recipient.

"FLSA" means the Fair Labor Standards Act.

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

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

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

"Manager" means the borough manager or designee.

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

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

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

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

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

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

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

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

"Source of income" means an employer or other person or entity paying compensation, dividends, or interest, directly or indirectly, for services, products, or investments. If the income being reported is derived from employment by a sole proprietorship, partnership, or corporation in which the reporting person, the spouse or children, or a combination of them holds a controlling interest, that proprietorship, partnership, or corporation may be designated as the source of income without specifying clients or customers if the business is one that is normally conducted on a cash basis or maintains accounts payable within 30 days and annual account accrual does not exceed \$10,000. In all other cases, the clients or customers of the proprietorship, partnership, or corporation shall be listed as sources of income of the person whose income is being reported, whose spouse, children, or a combination of them holds a controlling interest.

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ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS 26th
DAY OF MARCH, 2013.



Stephanie Scott, Mayor

ATTEST:



Julie Cozzi, MMC, Borough Clerk

Introduction: 01/22/13
First Public Hearing: 03/12/13
Second Public Hearing: 03/26/13 - adopted

