

An ordinance of the Haines Borough amending Borough Code Chapter 10.44 to provide that parking violations are subject to a civil fine; provide for the content of a notice of violation of parking restrictions; and establish an administrative appeal process for parking violations.

WHEREAS, as of April 15, 2013, the Alaska Court System will only process citations issued directly to a person by a police officer; because parking citations are not issued directly to a person and may be issued by affixing a notice of violation to the vehicle, the Alaska Court System will no longer process those citations; and

WHEREAS, the Alaska Uniform Traffic Laws Act in AS 28.01.010(i) requires that municipalities establish an administrative appeal procedure for contesting parking citations that are not processed by the Alaska Court System; and

WHEREAS, the Haines Borough Code should be amended to bring current practice on the municipal parking citation process into line with state law and administrative procedures,

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and if adopted with or without 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 is effective upon adoption.

Section 4. Amendment of Chapter 10.44. Chapter 10.44 of the Haines Borough Code is hereby repealed and re-enacted to read as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE ADDITIONS TO THE CURRENT LANGUAGE
STRIKETHROUGH ITEMS ARE DELETIONS

**Chapter 10.44
PARKING**

10.44.010 Parking during snow removal.

It shall be unlawful for any person to park any vehicle or to allow any vehicle owned or under the person's control to continue to be parked on any public street during the time, day or night, that snow removal from such street is reasonably necessary for the movement of vehicular traffic without leaving in charge of such vehicle a person authorized, competent, and able to remove such vehicle. Falling snow, the presence of unremoved snow on such street, or the conduct of snow removal operations will be sufficient to indicate this prohibition. Any vehicle found parked during such periods on a public street where such snow removal is reasonably necessary may be removed by the chief of police or persons under the chief's control and such vehicle shall be impounded until the cost of such removal shall have been paid to the borough or to the person removing the vehicle at the direction of the chief of police or other persons under the chief's supervision and control. Any such charge remaining unpaid shall constitute a lien against said vehicle and shall be collectible in the same manner as personal property taxes. ~~Fine/Bail: \$25.00.~~

10.44.020 Prohibited 24-hour parking – Impounding vehicles.

It shall be unlawful for the owner or operator of any motor or other vehicle to leave, place, or park the same for 24 hours continuously on any street, highway, alley, walk, or other public thoroughfare within the townsite service area that is posted or otherwise marked by an appropriate sign, or by a combination of placed and painted signs, indicating 24-hour parking prohibited. Signs shall be required for enforcement of this section. In addition to the penalty provided for violation of this section, any vehicle found parked for 24 hours continuously as herein prohibited shall be removed and impounded by any police officer of the borough; and the removal and impounding costs shall be charged against the offending vehicle and paid before release of such vehicle. ~~Fine/Bail: \$25.00.~~

10.44.030 Time limit parking.

It shall be unlawful for the owner or operator of any motor or other vehicle to leave, place, stand, or park the same on any street, highway, alley, walk, or other public thoroughfare on or within any area and/or zone designated as a time limit parking area and/or zone for a period of time greater than as specified by a posted appropriate sign. Such vehicles found to be in violation are subject to impound at the owner or operator's expense. ~~Fine/Bail: \$25.00.~~

10.44.040 Overtime parking penalty.

Any person, firm or corporation violating overtime parking provisions of this chapter shall pay such fine not exceeding \$25.00 for each citation issued as the court **hearing officer** shall, in its discretion, impose. ~~The time for payment and method of payment of the penalty shall be prescribed by the court. Fine/Bail: \$25.00.~~

10.44.050 Standing or parking close to curb.

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within 12 inches of the curb or edge of the roadway except as otherwise provided in this title. ~~Fine/Bail: \$25.00.~~

10.44.060 Signs or markings indicating angle parking.

A. The superintendent of public works shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets.

B. Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street. ~~Fine/Bail: \$25.00.~~

10.44.070 Obedience to angle-parking signs or markings.

Upon those streets which have been signed or marked by the superintendent of public works for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings. ~~Fine/Bail: \$25.00.~~

10.44.080 Permit for loading or unloading at an angle to the curb.

A. Any police officer is authorized to issue special permits allowing the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein.

10.44.120 Parking for certain purposes prohibited.

No person shall park a vehicle upon any street or roadway for the principal purpose of:

- A. Displaying such vehicle for sale.
- B. Washing, greasing, or repairing such vehicle except repairs necessitated by an emergency. ~~Fine/Bail: \$25.00.~~

10.44.130 Parking adjacent to schools.

A. The superintendent of public works is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in the superintendent's opinion, interfere with traffic or create a hazardous situation.

B. When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place. ~~Fine/Bail: \$25.00.~~

10.44.140 Parking prohibited on narrow streets.

A. The superintendent of public works is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.

B. When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign. ~~Fine/Bail: \$25.00.~~

10.44.150 Standing or parking on one-way streets.

The superintendent of public works is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles, and when such signs are in place, no person shall stand or park a vehicle upon such left-hand side of any one-way street in violation of any such sign. ~~Fine/Bail: \$25.00.~~

10.44.160 No stopping, standing, or parking near hazardous or congested places.

A. The superintendent of public works is hereby authorized to determine and designate by proper signs places not exceeding 100 feet in length in which the stopping, standing, or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

B. When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand, or park a vehicle in any such designated place. ~~Fine/Bail: \$25.00.~~

10.44.180 Application of parking provisions.

The provisions of the sections prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

10.44.190 Provisions not exclusive.

The provisions of this chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times.

10.44.200 Parking prohibited at all times on certain streets.

(Reserved).

10.44.210 Time limit for parking.

A. Constitutes Abandonment. Except as otherwise provided in HBC 10.44.020, it shall be unlawful for any person to park any vehicle within the right-of-way of any public street or roadway for longer than 48 hours or to abandon any vehicle within such right-of-way. The presence of any vehicle which is inoperative and upon such right-of-way shall be prima facie evidence of abandonment.

B. Parking Time Restrictions. It shall be unlawful to park any vehicle for longer than one hour on Main Street between Second and Third Avenues. Between May 1st and October 1st, it shall be unlawful to park any vehicle for longer than two hours on Main Street from Third to Fourth Avenues, on Second and Third Avenues from Willard to Dalton, on Main Street from Front Street to Second Avenue, and on the south side of Main Street from Fourth to Fifth Avenues. These time restrictions shall be in effect between the hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday, except along yellow zones indicating "no parking at any time" in accordance with HBC 10.02.250. See HBC 10.44.040 for fine/bail.

10.44.220 Unauthorized parking on private property.

It shall be unlawful for any person to park a motor vehicle on private property that is not the person's own and without the consent of the owner. ~~Fine/Bail: \$25.00.~~

10.44.230 Parking violations; civil fines.

A. All vehicle parking violations shall be subject to a civil fine in the amount of \$25.00.

B. Failure to contact the Haines Police Department within ten (10) days of the date of the notice of violation and arrange a payment schedule for the fine acceptable to the Police Department, or to pay the fine for a parking violation within 5 days of the date of the notice of violation, or to file an appeal of a notice of violation within ten (10) days of the date of the notice of violation, will result in an additional fee equal to the amount of the civil fine being added to the original amount of the civil fine.

10.44.240 Notice of Violation of Parking Restrictions.

A. A notice of violation of parking restrictions set out in this chapter may be issued by affixing a notice of violation to the vehicle that is parked in violation. The notice of violation shall include the following:

- 1. A brief description of the violation;**
- 2. The registration number and/or other identification of the vehicle, if available;**
- 3. The date and approximate time and place of the violation;**
- 4. The civil fine for the violation;**
- 5. The municipal office where the fine must be paid;**

6. Statement that unless within ten (10) days of the date of the notice of violation the Haines Police Department is contacted and an arrangement is made for payment of the fine acceptable to the Police Department, or the fine is paid within ten (10) days of the date of the notice, or an appeal is filed within ten (10) days of the date of notice, an additional fee equal to the amount of the civil fine will be added;

7. Statement that a notice of violation may be appealed, the office where such an appeal must be filed, and the time for filing an appeal;

8. Statement that timely payment, or acceptable arrangement for payment, of the fine or will waive all rights to appeal the notice of violation; and

9. Statement that failure to timely appeal will be deemed an admission of the violation and will waive all right to appeal or contest the notice of violation.

10.44.250 Administrative Appeal.

A. Right to Appeal and Time for Appeal. The registered owner of a vehicle which has been issued a notice of violation of parking restrictions may appeal the notice of violation by filing an appeal with the administration within ten (10) days of the date of the notice of violation. The administration shall prepare appeal forms which appellant may use.

B. Hearing Officer. A member of the administration shall serve as hearing officer for notice of violation appeals and shall have authority to decide such appeals.

C. Contents of Appeal. An appeal must be in writing and contain the following information:

1. Name and mailing address of the appellant;

2. Number or other sufficient identification of the notice of violation;

3. Description of the vehicle;

4. Statement of the reasons for the appeal;

5. Any facts, documents, photographs, witness statements, or other evidence supporting the appeal; and

6. Statement as to whether the appellant requests a hearing before a hearing officer, or whether the appeal can be decided without a hearing. If the appellant waives hearing, the hearing officer may decide the appeal based on the written statements of the appellant, the issuing officers and any witnesses, and the hearing officer's own observations.

D. Administrative Hearing Procedures.

1. Date of Hearing. Unless otherwise agreed by the appellant and the hearing officer, a hearing requested under this section shall be held no later than fifteen (15) days from the date the written notice of appeal is filed with the borough administration.

2. Procedure. The hearing shall be conducted informally and may be governed by such rules as the hearing officer may choose to establish, except that:

a. Parties may appear in person or through counsel;

b. Parties may present witnesses and evidence on their own behalf and witnesses may be cross-examined;

c. The hearing is not governed by the formal rules of evidence. The hearing officer may consider evidence that the officer reasonably deems to be both relevant and material to the contested issues;

d. All hearings shall be open to the public;

e. The hearing shall be memorialized by electronic recording or stenographic record, but a failure to record the hearing shall not be grounds for invalidating the hearing officer's decision;

f. Failure of the appellant to appear at a hearing requested by the appellant shall waive all right to a hearing and shall render the amount of the fine due and owing.

3. Scope of Review. The hearing officer's decision shall be based on the law and facts applicable to the case. The hearing officer may exercise independent judgment and reasonable discretion, applied in a consistent manner, in deciding appeals and may affirm, modify, or dismiss the notice of violation.

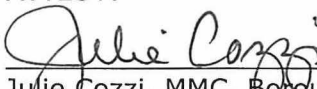
4. Decision. No later than ten (10) days following the hearing, the hearing officer shall issue a written decision setting out the hearing officer's findings and conclusions so as to provide a clear understanding of the reasons for the decision entered. The decision should also include the following statement: "This is the final decision of the municipality and a party disputing this decision has thirty (30) days from the date this decision was mailed or distributed to file an appeal with the Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska, in accordance with the Alaska Rules of Appellate Procedure." The decision shall be mailed or otherwise distributed to all parties to the appeal.

5. Judicial Appeal. The decision of the hearing officer may be appealed to the Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska, in accordance with the Alaska Rules of Appellate Procedure.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS 9th DAY OF JULY, 2013.


Stephanie Scott, Mayor

ATTEST:


Julie Cozzi, MMC, Borough Clerk

Date Introduced: 06/11/13
Date of First Public Hearing: 06/25/13
Date of Second Public Hearing: 07/09/13 - Approved

