

Transmittal

To: Members of the Haines Borough Assembly

From: Minor Offenses Ad Hoc Committee

Re: Submission of Final Recommendations

Date: May 2, 2016

The Minor Offenses Ad Hoc Committee would like to submit its final recommendations for Assembly consideration (see attached.) The Committee has spent significant time over the past few months reviewing the information. Along with the actual substance of the Ordinance, the Committee considered administration concerns, the concerns from other committees, and the concerns of the public. Consideration was also given to the concerns of various department heads that may be affected, including the police and fire departments. Finally, the Committee was provided legal guidance by the borough attorney, along with committee member Deb Vogt. The help by all who have given their time to this project is deeply appreciated.

As such, the Committee feels it important to provide the Assembly and Mayor with some of the highlights of the recommendations. These highlights are outlined below.

1. Need for Minor Offenses Ordinance

The Committee believes there is a need for the Minor Offenses Ordinance. First, using the State court process assists the community with providing equitable enforcement of our local laws. Second, it can assist the community with protecting individual rights. Finally, the Ordinance can protect those who serve our community to enforce our laws, and protect the Borough from unnecessary lawsuits. The Committee feels these reasons provide justification for incorporating the Minor Offenses Ordinance into our local law.

2. Purpose and Intent

The Committee incorporated a Purpose and Intent into the General Provisions of the Ordinance. The Purpose and Intent reads as follows:

“The purpose and intent of this Title is to enhance and protect the lives, health and safety of the public and government employees; to protect public and private property; and to protect the rights guaranteed in the U.S. Constitution, the Alaska Constitution, and the Haines Borough Charter Preamble and Bill of Rights. Under no circumstances shall revenue generation be used as a motive to enforce the provisions of this Title.”

The inclusion of the Purpose and Intent is structured to provide clear guidance to protect the public, government employees, and the borough. It is also structured to ensure that fundamental rights are protected. Finally, it is structured to provide clear guidance to those who administer enforcement of the provisions that revenue generation shall not be used as a motive to enforce the provisions of the Ordinance. The Committee feels this statement is crucial to the overall tone of the Ordinance itself.

3. Emphasis on Compliance, not Enforcement

The Committee recommends that emphasis be placed on compliance, and not just strict enforcement. As such, enforcement discretion is provided within the bounds of the Purpose and Intent. This discretion grants authorization for issuing warnings instead of citations for first offenses. This discretion emphasizes compliance with the law, and not just strict enforcement.

4. Alignment with the Recommendations of Other Committees

As stated, the Committee considered the recommendations of various Borough committees. These committees included the Government Affairs and Services Committee, the Port and Harbor Advisory Committee, the Parks and Recreations Committee, the Public Safety Commission, the Planning Commission, and the Tourism Advisory Board. As these committees spent considerable time and effort reviewing the details of the Ordinance in public meetings, the Minor Offenses Ad Hoc Committee has aligned its recommendations with most of the recommendations from these

various committees. The assistance and work of these committees has been greatly appreciated.

5. Authority to Issue Citations

The Committee also recommends that the authority to issue citations be granted only to police officers, and to the Harbormaster and Assistant Harbormaster after proper training and certification. This change is designed to protect the public's rights, and to protect those issuing citations. It is also designed to assist with protecting the Borough from unnecessary lawsuits from untrained and uncertified Borough personnel issuing citations. The Committee feels this is an important aspect of ensuring the provisions within the Purpose and Intent are honored.

6. Transparency and Oversight

The Committee has also recommended language within the Ordinance that requires recordkeeping of all fines imposed, along with the dollar amounts collected. This information is to be provided to the Public Safety Commission and the Borough Assembly upon request. This recommended provision is key to providing transparency and oversight of the overall enforcement of the Ordinance, and aligns with the Purpose and Intent.

7. “Softened” Language within the Ordinance

The Committee is recommending that language within the Ordinance be softened. As such, the Borough attorney was requested to remove references to “guilty”, “conviction” and “punishable” from the text and replaced with softened language such as “commits a minor offense”. The Committee feels these changes create a tone of compliance, and not just strict enforcement.

8. Wording, Grammar, and Numbering within the Ordinance

With the assistance of the Borough attorney and committee member Deb Vogt, many technical details of the Ordinance were reviewed. Recommended changes to some wording and grammar have been incorporated following this review. Additionally, some numbering of

sections and chapters has been changed following edits to the wording of the provisions. These recommended changes clean up the technical aspects of the Ordinance. Additionally, the interpretational implications of these changes were also considered when developing these recommendations.

The Committee would also like to make two recommendations that fall outside of the actual substance of the Ordinance. These recommendations are as follows:

9. Two Public Hearings to Consider Recommended Changes to the Ordinance

During one of the final meetings of the Committee, the following statements was made by a member of the public:

“The Minor Offenses Ordinance is not minor; it’s major!”

This statement sums up some of the public sentiment surrounding the Ordinance. Because of this, it is recommended that the Assembly hold two public hearings on the Ordinance. The Committee feels this would be appropriate to give the community and assembly ample time to consider the recommended changes.

10. Creation of a Code Review Commission

The Committee received many comments from members of the public regarding why individual violations were not specifically addressed in the recommendations. Because of these comments, the Committee recommends the Assembly create an Ad Hoc Code Review Commission. This would allow for the community the time to focus on individual violations for their appropriateness to our community.

Thank you for your consideration to our recommendations.