

ORDINANCE NO. 17-02

AMENDING TITLE 1 TO PROVIDE A MINOR OFFENSE FINE SCHEDULE; ISSUANCE OF CITATIONS FOR MINOR OFFENSES; ALLOWING FOR THE DISPOSITION OF CERTAIN OFFENSES WITHOUT A COURT APPEARANCE; PROVIDING FOR THE APPLICABLE STATE SURCHARGE; AND AMENDING TITLE 60 TO IDENTIFY THOSE OFFENSES PUNISHABLE BY THE FINES LISTED ON THE FINE SCHEDULE

WHEREAS, the Aleutians East Borough exercises certain enforcement powers, which include the ability to levy fines in accordance with the Aleutians East Borough Code (Borough Code) and AS 29.25.070; and

WHEREAS, the Assembly believes such revisions to be in the Borough's best interests; and

WHEREAS, the Borough Code contains references and authority to levy fines and penalties in Title 1, General Provisions; and Title 60, Revenue.

WHEREAS, Borough Code Title 1 and Title 60 contain references to fines for violations of Borough Code; and

WHEREAS, the Borough Code does not presently contain a schedule of fines or a designated person authorized to issue citations for minor offenses, adopted by the Borough Assembly to allow for the disposition of violations without court appearance.

NOW, THEREFORE, LET IT BE ORDAINED BY THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH AS FOLLOWS:

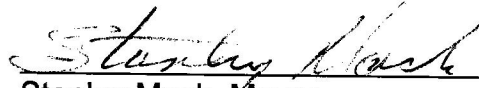
Section 1. Classification. This Ordinance shall be of a permanent nature and shall become a part of the Aleutians East Borough Code of Ordinances.

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

Section 3. Those amendments to the Borough Code Chapters, as set forth in Exhibit A attached hereto, are hereby enacted.

Section 4. Effective Date. This Ordinance shall become effective upon adoption, and shall be included in the Aleutians East Borough Code at the time of its next regular supplementation and printing, or ratification by the qualified voters of the Aleutians East Borough.

Passed and adopted by the Aleutians East Borough Assembly this 12th day of January, 2017.


Stanley Mack, Mayor

ATTEST:


Tina Anderson, Borough Clerk

Exhibit A

Aleutians East Borough Code of Ordinances

[Revisions to Select Provisions of Titles 1 and 60]

TITLE 1

GENERAL PROVISIONS

1.24.010 General Penalty

A.

Except in cases where a different punishment is prescribed by any ordinance of the Borough, a person convicted of a violation of the ordinances of the Borough is guilty of an infraction punishable by a fine not to exceed \$500.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.24.010, part, 1987).

B. The Borough shall provide written notice to the commissioner of health and social services or to the commissioner's designee of the commencement of a civil enforcement action for the violation of an ordinance under subsection E of this section against a minor. Unless the commissioner and the Borough have negotiated an agreement making other arrangements for the Borough to provide the notice required by this subsection, the Borough shall provide the notice by mailing a copy of the citation or other document setting out the notice of the commencement of the civil enforcement action.

C. Unless an ordinance authorizes use of a hearing officer, the enforcement of an infraction against a minor for violation of any provision of this Code shall be heard in the District Court in the same manner as for similar allegations brought against an adult, except that the minor's parent, guardian or legal custodian shall be present at all proceedings unless the court excuses the parent, guardian or legal custodian from attendance for good cause.

D. An action for an infraction filed against a minor under this section does not give rise to the right to a trial by jury or to counsel appointed at public expense.

E. Notwithstanding the availability of any other remedy, the Borough or an aggrieved person may institute a civil action against a person who violates a borough ordinance or any order issued under the AEBMC. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. 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 as provided in AS 29.25.070(b) or any successor law.

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1.24.040 Penalty Surcharge Authorization and Collection.

The surcharge required to be imposed pursuant to AS 12.55.039 is authorized and shall be imposed as a surcharge on penalties imposed for the violation of an ordinance, Code provision, or regulation of the Aleutians East Borough brought under a citation or criminal complaint that would require a proceeding in the Alaska Court System if the defendant were to enter a plea of not guilty. The Court may impose and collect the surcharge on all penalties imposed by the Court where fines are paid to the Court. For all criminal proceedings in which the fine is collected by the Borough, the surcharge imposed shall be collected by the Borough with the payment of the fine and regularly paid over to the appropriate agency of the state less any collection and administration fee or reimbursement authorized by the state to be retained by the Borough. In addition to any penalty prescribed by law, a defendant convicted of violating a Borough ordinance shall pay the surcharge required under AS 12.55.039 and 29.25.074. All such surcharges collected shall be remitted to the State of Alaska as required by AS 29.25.074.

(Ord. 14-03 (Amended Ord. 99-01), new section 1.24.020)

1.24.050 Minor Offense Fine Schedule.

A. In accordance with AS 29.25.070(a), citations for the following offenses may be disposed of as provided in AS 12.25.195-.230, without a court appearance, upon payment of the fine amounts listed below plus the state surcharge required by AS 12.55.039 and AS 29.25.074. Fines must be paid to the court. If an offense is not listed on a fine schedule, the defendant must appear in court to answer the charges. The Alaska Court System's Rules of Minor Offense Procedure shall apply to all offenses listed below. Citations charging these offenses must meet the requirements of Minor Offense Rule 3. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense listed below. The fines may not be judicially reduced.

B. FINE SCHEDULE

Code Section	Ordinance Description	Fine Schedule Amount

60.20.140(a)	Failure/delinquency to file a raw fish sales tax return	\$250
60.20.140(a)	Incomplete filing of raw fish sales tax return	\$250
60.20.140(c)	Failure to apply for Certificate of Registration	\$200
60.20.140(c)	Engaging in taxable transactions without a Certificate of Registration	\$300
60.20.140(d)	Failure to provide written statement of tax due on a transaction	\$250
60.20.140(e)	Failure or refusal to collect required tax	\$300

TITLE 60

REVENUE

CHAPTER

60.20 SALES TAX

60.20.140 Penalties and Interest.

- (a) A person who fails to file a return as required under this chapter or who fails to remit all the taxes due the Borough by that person shall pay a penalty in accordance with the fine established in Section 1.24.050. Each month or part of a month during which the delinquency or failure to file exists shall constitute a separate offense. The filing of an incomplete return shall be treated as the filing of no return.
- (b) Interest at the rate of twelve percent (12%) per annum shall be paid on all amounts due the Borough that are not received by the Borough as required under this chapter except, interest does not accrue on penalties.
- (c) A person who fails to apply for a certificate of registration as required by this chapter shall pay a penalty in accordance with the fine established in Section 1.24.050. Such penalty must be paid before the license is issued or before a renewal or amendment to the license is issued if the original license was issued before the determination that a penalty was due. A person who fails to apply for a certificate of registration, who engages in taxable transactions after being informed in writing that a certificate of registration is required, shall pay a penalty in accordance with the fine established in Section 1.24.050

- (d) A person required to collect a tax under this chapter, who fails to provide a written statement setting out the amount of the tax due on the transaction, shall pay a penalty in accordance with the fine established in Section 1.24.050.
- (e) A failure of or refusal of a person required to collect a tax under this chapter, to produce records or allow inspection at such reasonable time as requested or demanded by the Sales Tax Administrator shall pay to the Borough a penalty in accordance with the fine established in Section 1.24.050.
- (f) A person required to maintain records under the provisions of this chapter shall immediately notify the Borough of any fire, theft or other casualty that would prevent the person from complying with the provisions of this chapter. Such casualty is a defense to a civil penalty levied under this section 140, but does not excuse the person from the liability for payment to the Borough of taxes required to be collected. Accidental or unexplained loss of funds or records does not excuse a person from the performance of any of the requirements under this chapter.

(Ord. 88-2, Sec. 60.120.140)

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60.20.185 Liability of Responsible Persons.

Each responsible individual as defined under section 60.20.250 is liable to the Borough for the payment of sales and use taxes that are delinquent and which were collected or required to be collected or required to be paid over to the Borough while such individual was a responsible individual with respect to such taxes. Such individual is liable to the Borough for penalties and interest on the delinquent taxes accrued to the date of payment. Upon written demand for payment of delinquent taxes and interest sent by registered mail to a responsible individual, the responsible individual shall pay over to the Borough the amount of the delinquent taxes, interest due within 20 days of the date of the written demand. If the responsible individual upon whom demand for payment has been made fails to pay the taxes and interest due within 20 days of the date of the demand, the amount due may be collected in a civil action against the responsible individual. (Ord. 96-4, Sec. 60.20.185)

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60.20.300 Enforcement and Penalties

- (a) Violation of any of the requirements of this chapter is an infraction punishable in accordance with the fine established in Section 1.24.050.
- (b) Each month upon which a violation of this chapter continues is a separate offense.
- (c) The Borough may recover taxes, interest and civil penalties due in a civil action independent of or in addition to any criminal action filed.

(Ord. 8802, Sec. 60.20.300)