

- (1) Provide a procedure for designating city officials with authority to enforce portions of the city code; and
- (2) Provide a standardized fine schedule for certain violations of the city code.

(b) These minor offense fine provisions are intended to provide a set penalty for certain listed violations of the city code which are infractions.

Section 1.05.030 - Code enforcement officer designation.

The mayor or city administrator may designate in writing as code enforcement officers those persons authorized to enforce any part of this code. Any officer so designated to enforce some or all provisions of the city code shall be authorized to issue citations, or notices of violation where permitted, for any violation of this code which the officer is authorized to enforce in the manner provided by AS 12.25.180 through 12.25.230. Code enforcement officers appointed under the authority of this section shall not have the general authority of police officers.

Section 1.05.040 - Application of minor offense fine schedule.

(a) A fine schedule will be established by resolution and attached to this Section as Appendix A. The fine schedule will be updated as needed by resolution. In accordance with AS 29.25.070(a), citations or complaints for violations for which a particular amount is provided as the fine under Appendix A, plus the state surcharge required by AS 12.55.039 and 29.25.074, shall be submitted to the city treasurer prior to the application for entry of a default judgment.

(b) For voluntary disposition after either court appearance or application for entry of a default judgment, the alleged violator may submit the amount set forth in the minor offense fine schedule, along with the required state surcharge, to the court.

(c) In the event any penalties or fines are not paid within 30 days after the date they are due pursuant to the court's order, such penalties or fines shall be delinquent.

(d) Notwithstanding other provisions of this section, delinquent penalties and fines may be collected through any lawful means. The cost of collection of such accounts, as defined in city code 1.10.020, shall be added to the amount owed.

Section 1.05.050 - Administrative appeal.

(a) Right to appeal notice of violation. Any person to whom a notice of violation has been issued may appeal the notice of violation in the manner set forth below:

(b) Time for appeal. Within twenty (20) days of the date the notice of violation was issued any person appealing a notice of violation shall file with the vice mayor a written appeal. A written appeal may also be filed with the vice mayor within ten days of the date the notice was mailed or provided, however, that the appeal will be considered untimely unless the appellant proves to the vice mayor by satisfactory evidence that the person did not receive the notice of violation and that the failure to receive the notice was not the result of any act or omission of the person, of any other registered owner or of any other person who operated the vehicle with the consent of any registered owner. If the person appealing provides such satisfactory evidence, the person shall not be charged a late payment fee for the period prior to the date of the vice mayor's decision. Failure to file a written appeal within the time limits set forth above shall

waive any right to appeal or contest the notice of violation or the penalties, fees and costs imposed for the violation.

(c) Contents of written appeal. The written appeal shall state:

- (1) The name and mailing address of the appellant;
- (2) The number or other sufficient identification of the notice of violation;
- (3) Any facts, documents, photographs, witness statements or other evidence supporting the appeal;
- (4) A statement of the reasons for the appeal;
- (5) The signature of the appellant and the date of signing; and

(d) Procedure. The appeal shall be heard by the vice mayor. The hearing shall be conducted informally and may be governed by such rules and procedures as appear applicable and reasonable to the vice mayor. The Alaska Rules of Civil Procedure and Rules of Evidence specifically do not apply to this informal hearing. All proceedings shall be open to the public. Failure of an appellant to appear at a hearing when such hearing has been requested by appellant shall waive all right to a hearing and shall render the amount of the fines, penalties and costs due and owing.

(e) Scope of review. The vice mayor's decisions shall be based solely upon the law and the facts applicable to the case. If a violation is legally and factually determined to have occurred, the vice mayor shall not substitute his/her judgment for that of the enforcement officer or parking enforcement officer as to whether a notice of violation should have been issued. If a violation is legally and factually determined to have occurred, the vice mayor shall furthermore not substitute his/her judgment for the council or administrator which enacted the regulation or ordinance and shall not reduce the penalty below that provided for under Section 01.05.050.

(f) Decision. No later than fifteen days following the hearing the vice mayor shall issue a written decision. Such findings must be in writing. The decision of the vice mayor is final.

(g) Payment. If the vice mayor upholds the notice of violation the appellant shall pay the penalty, any applicable late fees and costs of collection.

Section 1.05.060 - Definitions and interpretation.

In the construction of the city code, and of all ordinances and resolutions, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the council or repugnant to the context of the provisions hereof, or to the law.

“AS” means and refers to the latest edition or supplement of the Alaska Statutes.

“Council” means the council of the City of Gustavus.

“City” means the City of Gustavus.

“City attorney” means the attorney duly appointed by the council. (AS 29.20.370)

“City clerk” means the clerk duly appointed by the council. (AS 29.20.380)

“City administrator” means the administrator duly appointed by the council. (AS 29.20.490)

“Collection agency(ies)” means a person, firm or other entity with a municipal contract to provide third party collection services.

Corporate Limits, Corporation Limits. Whenever the words “corporate limits” or “corporation limits” are used, they mean the legal boundary of the city.

“Cost(s) of collection” means the actual costs incurred or expended by the city in its efforts to collect a debt, including the fee or commission described in a municipal contract as allowed to be earned by a collection agency for collecting municipal debt.

Delegation of Authority. Whenever a provision appears requiring or authorizing the head of a department or office of the city to do some act or make certain inspections, it shall be construed as authorizing the head of the department or office to designate, delegate and authorize subordinates to perform the act or make the inspection unless the terms of the provision or section designate otherwise.

Gender. A word importing the masculine gender only shall also extend and be applied to females and to firms, partnerships and corporations.

Interpretation. In the interpretation and application of any provision of the city code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper, Proprietor. Whenever the word “keeper” or “proprietor” is used, it means persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.

“Mayor” means the elected mayor of the city. (AS 29.20.220)

“Minor offense” and “offense” mean any violation of city code for which a conviction cannot result in incarceration or the loss of a valuable license and for which a fine schedule has been established under AS 29.25.070(a); and, if the violation is not listed in the fine schedule, the violation cannot result in incarceration, loss of a valuable license, or a fine greater than \$1,000.

Month. Whenever the word “month” is used, it means a calendar month.

Name of Officer. Whenever the name of an officer is given, it shall be construed as though the words “of the City of Gustavus” followed it.

Number. Words used in the singular number only, either as descriptive of persons or things, extend to and embrace the plural number; and words used in the plural number extend to and embrace the singular number.

Oath. The word “oath” includes the word “affirmation” in all cases where by law an affirmation may be substituted for an oath.

Or, And. “Or” may be read “and” and “and” may be read “or” if the context requires it.

Owner. Whenever the word “owner” is applied to a building or land, it includes the owner of record, part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Person. Whenever the word “person” is used it shall include, mean and be applied to any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, or to a receiver, executor, trustee, conservator or other representative appointed by order of any court or in any other manner.

Personal Property. The term “personal property” means and includes goods, chattels, effects, evidences of rights of action, and all written instruments by which any pecuniary obligation or any right, title or interest in any real or personal estate shall be created, acknowledged, transferred, incurred, defeated, discharged or diminished.

Preceding, Following. Whenever the words “preceding” and “following” are used, they mean next before and next after, respectively.

“Premises” means place or places.

“Presiding officer” means the city mayor. (AS 29.20.160)

“Property” means and includes personal property as defined herein and also every estate, interest or right in lands, tenements and hereditaments.

Published. Unless otherwise stated, “published” means appearing at least once in at least one of the following formats: posted and remaining on the Internet on a designated city public notice website for the time period specified, and if no time is specified, for a period of at least 24 hours; in a newspaper of general circulation distributed in the City of Gustavus; or by other broadcast media. Notices for public meetings shall be published in accordance with AS 44.62.310.

“Real property” means land and improvements, all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements.

“Residence” means the place adopted by a person as his place of habitation, and to which, whenever he is absent, he has the intention of returning.

“School board” means those persons elected to the City of Gustavus school board.

“Seal” means the corporate seal of the city.

“Sidewalk” means any portion of a street between the curb line, or the lateral lines of a roadway, and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature, Subscription. The “signature” or “subscription” of a person means and includes a mark when the person cannot write.

“State,” “the State” or “this State” means the State of Alaska.

“Street” means any street, avenue, boulevard, road, alley, lane, viaduct or other public highway in the city.

“Sworn” means and includes the word “affirmed” in all cases where by law an affirmation may be substituted for an oath.

Tenant, Occupant. Whenever the word “tenant” or “occupant” is applied to a building or land, it means and includes any person holding a written or oral lease of, or who otherwise occupies the whole or a part of, such building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

“Vice mayor” means the member of the council appointed by the mayor, subject to council approval, to act as mayor during the mayor’s temporary absence or disability. (AS 29.20.260)

“Week” means seven days.

Written, in Writing. The term “written” or “in writing” may include printing, engraving, lithographing or any other representation of words, letters or figures; except that in all cases where the signature of any person is required, it shall always be the proper handwriting or mark of such person.

“Year” means a calendar year.

Section 1.05.070 - Parties to prohibited acts.

The prohibition of an act in the city code, and in any ordinance whether such ordinance shall be an addition to or an amendment of the City code, also includes the causing, securing, aiding or abetting of another person to do said act; and such causing, securing, aiding or abetting of a prohibited act is itself a prohibited act.

State Law Reference – Accessories and accomplices, AS 11.16.

Section 1.05.080 - General penalty.

(a) Every act prohibited by the city code, or the omission or failure to perform any act required by the city code, is a violation and, unless another penalty is elsewhere expressly provided for such act, omission or failure, every person convicted of a violation of any provision of this city code shall be punished by a fine of not more than \$1,000. Conviction of a violation of city code cannot result in incarceration or loss of a valuable license. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. A person charged with a violation is not entitled to a jury trial or to court-appointed counsel at public expense.

(b) In addition to any fines or other penalties imposed under the City code, any person violating any of the provisions of the city code shall pay any surcharges required by law. Such surcharges shall be collected in the same manner as fines.

State Law Reference – Penalties, AS 29.25.070.

Section 1.05.090 - Headings.

The catchlines of the several sections of the city code printed in boldface type, titles, headings, chapter heads, section and subsection heads or titles, editor's notes, cross references and State law references, unless set out in the body of the section itself, contained in the City code, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

Section 1.05.100 - Computation of time.

(a) The time in which an act provided by law is required to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded. If the last day falls on a Saturday or a Sunday, the last day shall be considered to be the next succeeding Monday.

(b) Unless otherwise specifically provided, computation of time shall be based on calendar days including weekends.

State Law Reference – Similar provisions, AS 1.10.080.

Section 1.05.110 - Severability.

Any ordinance heretofore or hereafter adopted by the council which lacks a severability clause shall be construed as though it contained the clause in the following language: "If any provision of this ordinance, or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby."

Section 1.05.120 - Repeal.

The repeal or amendment of any ordinance does not release or extinguish any penalty, forfeiture or liability incurred or right accruing or accrued under such ordinance, unless the repealing or amending ordinance expressly so provides. The ordinance shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture or liability.

When any ordinance repealing a former ordinance, section or provision is itself repealed, such repeal does not revive the former ordinance, section or provision unless it is expressly so provided.

Section 1.05.130 - Revisor of ordinances.

(a) The city attorney is designated as revisor of ordinances. The revisor of ordinances shall, when directed by the Council, revise for consolidation in the City code all ordinances of a temporary or special nature enacted by the council.

(b) The revisor shall edit and revise the ordinance for consolidation without changing the meaning of any ordinance in the following manner:

- (1) Renumber sections, parts of sections, articles, chapters and titles;
- (2) Change the wording of section or subsection titles, and change or provide new titles for articles, chapters and titles;

- (3) Change capitalization for the purpose of uniformity;
- (4) Substitute the proper designation for the terms “the preceding section,” “this ordinance” and like terms;
- (5) Correct manifest errors which are clerical, typographical or errors in spelling, or errors by way of additions or omissions;
- (6) Substitute gender neutral references where appropriate unless the context dictates otherwise; and
- (7) Correct manifest errors in references to laws, ordinances, or other sections of the City code.

Section 1.05.140 - Fees and charges.

(a) Unless a specific fee is expressly provided elsewhere, the city council may, by resolution, establish fees for city services and programs. In establishing such fees, the city council may take into account, among other things, the costs of programs such as maintenance, operations, administration and other expenses. Such fees shall be paid, filed and deposited as provided in such resolution or as otherwise provided by ordinance or resolution. Fees shall be refunded only as provided in the resolution establishing such fees. Copies of any resolution setting fees shall be available for public inspection and copying.

(b) Unless provided otherwise, in the event any fees or charges are not paid within 30 days after the date of billing such fees and charges shall be delinquent. Upon such fees or charges becoming delinquent, interest at the rate of one percent per month shall accrue and be charged on the whole of the unpaid principal amount of such fees and charges, from the date of delinquency until paid in full.

(c) Notwithstanding other provisions of this section, delinquent accounts may be collected through any lawful means. The cost of collection, as defined in city code 1.10.020, of such accounts shall be added to the amount owed.

Section 4. Effective Date. This ordinance becomes effective upon its adoption by the Gustavus City Council.

Date Introduced: April 8, 2019

Date of Public Hearing: May 13, 2019

PASSED and **APPROVED** by the Gustavus City Council this XXth day of _____, 2019

Calvin Casipit, Mayor

Attest: Karen Platt, City Clerk