

CITY OF SOLDOTNA
SUBSTITUTE ORDINANCE 2016-021

AN ORDINANCE AMENDING THE SOLDOTNA CITY CODE TO INCORPORATE THE STATE COURT RULES OF MINOR OFFENSE PROCEDURE TO APPLY TO CERTAIN VIOLATIONS OF CITY ORDINANCES, ADOPTING PENALTIES CONSISTENT THEREWITH, ADOPTING ORDINANCES TO DESIGNATE CERTAIN VIOLATIONS OF CITY LAW AS MINOR OFFENSES AND ADDING OFFENSES TO THE FINE SCHEDULE

WHEREAS, the City of Soldotna regulates the conduct of persons within City limits pursuant to a number of provisions of the Soldotna Code of Ordinances; and

WHEREAS, penalties for infractions of City ordinances are not clearly defined by Code in some cases; and

WHEREAS, the City of Soldotna wishes to increase its ability to consistently enforce municipal ordinances by issuing citations that are enforceable through the Alaska Court System; and

WHEREAS, the City desires to enforce violations of municipal ordinances as minor offenses, which are non-criminal offenses, may not result in imprisonment, criminal punishment, or the loss of a valuable license subject to certain conditions; and

WHEREAS, the State of Alaska court system has instituted the Alaska Rules of Minor Offense Procedure to establish court rules to apply to all violations of city ordinances that are defined as minor offenses and which are consistent with the requirements of the Rules; and

WHEREAS, the City must update the enforcement provisions in the Code in order to comply with court requirements and to provide a procedure for disposing of citations for minor offenses amenable to disposition by payment of the fine listed on the city's fine schedule;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA, ALASKA:

Section 1. Chapter 1.08 of the Soldotna Municipal Code shall be renamed "Enforcement".

Section 2. Section 1.08.030 of the Soldotna Municipal Code is hereby amended to read as follows [new language is underlined and bolded; deleted language is in brackets and struck through]

1.08.030 - Violation—Penalty

- A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of any ordinance of the city is guilty of a minor offense [VIOLATION]. Except in cases where a specific [DIFFERENT] punishment is expressly prescribed by any ordinance of the city, [OR WHERE A SPECIFIC FINE HAS BEEN IDENTIFIED IN SECTION 1.08.060 OR WHERE A FINE IS IMPOSED UNDER AUTHORITY OF CHAPTER 10.04,] any person convicted of a minor offense [VIOLATION] under the ordinances of the city shall be punished by a

fine not to exceed five hundred dollars (\$500), except that an offense included on a fine schedule shall be punishable by a fine of not more than one thousand dollars (\$1,000) plus any surcharge required to be imposed by AS 12.55.039.

- B. In addition to any other remedies or penalties that may be provided in this code or under state law, the [THE] city or an aggrieved person may institute a civil action against a person who violates an ordinance, however, only the city may impose a fine or penalty against such person. An action to enjoin a violation and for compensatory damages resulting therefrom 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.
- C. Each act of violation or day or part of a day upon which a violation occurs constitutes a separate offense.

Section 3. Sections 1.08.040, 1.08.050, 1.08.060, 1.08.070, and 1.08.080 of the Soldotna Municipal Code are hereby repealed and reenacted to read as follows.

1.08.040 Procedure

- A. The charge for a violation of a code provision may be brought by a peace officer, the city manager, or that city official responsible for the administration and enforcement of the code provision which has been violated. A violation that is considered a minor offense shall be governed by the Alaska Rules of Minor Offense Procedure.
- B. The city shall use the Alaska Uniform Citation form, or the electronic version if authorized, to provide notice to anyone accused of committing a minor offense under any provision of this Code.

1.08.050 Disposition of optional court appearance offenses

- A. A defendant charged with a minor offense for which a bail forfeiture amount has been established by Supreme Court order or for which a scheduled fine amount has been established by statute or city ordinance must within 30 days after the citation was issued:
 - 1. appear for arraignment at the time and place indicated on the citation; or
 - 2. enter a plea of not guilty and request trial by mailing or delivering a signed plea as directed on the citation; or
 - 3. enter a plea of no contest and submit payment of the citation, plus any surcharge established by statute, as directed on the citation; or
 - 4. provide proof of compliance to a law enforcement agency if a statute, regulation, or ordinance permits dismissal of the citation upon a showing of compliance, except that proof of compliance also may be made to the court for violation of AS 28.15.131 (failure to carry or exhibit license) or AS 28.22.019 (proof of insurance). The court shall dismiss the citation upon notification from the agency or proof of compliance.
- B. A defendant who mails or delivers an unsigned copy of the citation with the defendant's payment will be deemed to have entered a plea of no contest unless the defendant designates otherwise.

1.08.060 Disposition of mandatory court appearance offenses

A defendant charged with a minor offense for which a court appearance is declared mandatory on the citation, or for which no bail forfeiture amount has been established by Supreme Court order and for which no scheduled fine amount has been established by statute or city ordinance must:

- A. appear for arraignment at the time and place indicated on the citation or summons. Arraignment must be conducted in accordance with Criminal Rule 5(c), to the extent applicable to Minor Offenses; or
- B. provide proof of compliance to a law enforcement agency if a statute, regulation, or ordinance permits dismissal of the citation upon a showing of compliance. The court or municipality shall dismiss the citation upon notification from the agency.

1.08.070 Ordinances Affecting Minor Offenses Sent to City Attorney

Immediately after the city council enacts a code ordinance affecting, creating, or eliminating a minor offense, the City Clerk shall transmit the ordinance to the City Attorney. The City Attorney shall submit any necessary updates to the Alaska Court System for inclusion in the Uniform Minor Offense Table.

1.08.080 Minor Offense Fine Schedule

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, or if no fine is listed below, a fine not to exceed \$500, plus the state surcharge required by AS 12.55.039 and AS 29.25.074. Fines must be paid to the court. The Alaska Court System's Rules of Minor Offense Procedure apply to all offenses listed below. 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 schedule amount listed below for that offense. Citations charging these offenses must meet the requirements of the Rules of Minor Offense Procedure. The fine amounts listed below are doubled for motor vehicle or traffic offenses committed in a highway work zone or traffic safety corridor, as those terms are defined in AS 28.90.990 and 13 AAC 40.010(b). An offense listed in this schedule may not be disposed of without court appearance if the offense is in connection with a motor vehicle accident that results in the death of a person. The fines set forth below may not be judicially reduced.

Soldotna Municipal Code Reference	Offense	Fine
Chapter 6.04 - Animal Control		
[SMC] 6.04.020 <u>A.</u>	Failure to license dog	\$50.00
[SMC] 6.04.030 <u>C.</u>	Failure to display license	\$25.00
[SMC] 6.04.060 <u>A.</u>	Vicious dogs	\$100.00
[SMC] 6.04.070 <u>A.</u>	Animals at Large:	<u>\$50.00</u>

	[FIRST VIOLATION WITHIN A TWELVE-MONTH PERIOD	\$50.00
	SECOND VIOLATION WITHIN A TWELVE-MONTH PERIOD	\$100.00
	THIRD VIOLATION WITHIN A TWELVE-MONTH PERIOD	MANDATORY COURT]
<u>6.04.070 B.</u>	<u>Releasing animal belonging to another</u>	<u>\$50.00</u>
<u>6.04.070 C.</u>	<u>Abandonment of animal</u>	<u>\$50.00</u>
[SMC] 6.04.080 <u>A.</u>	[OBJECTIONABLE ANIMALS OR BIRDS:] <u>Allowing animal or bird to disturb neighborhood by prolonged barking or other noises</u>	<u>\$50.00</u>
	[FIRST VIOLATION WITHIN A TWELVE-MONTH PERIOD	\$50.00
	SECOND VIOLATION WITHIN A TWELVE-MONTH PERIOD	\$100.00
	THIRD VIOLATION WITHIN A TWELVE-MONTH PERIOD	MANDATORY COURT]
<u>6.04.080 B.</u>	<u>Allowing animal or bird to dig upon or injure public property or the property of another</u>	<u>\$50.00</u>
<u>6.04.080 C.</u>	<u>Failure to clean up after animal</u>	<u>\$50.00</u>
<u>6.04.080 D.</u>	<u>Allowing animal to habitually menace, injure or frighten persons within the city</u>	<u>\$50.00</u>
<u>6.04.080 F.</u>	<u>Wolf hybrids prohibited</u>	<u>\$50.00</u>
[SMC] 6.04.090	Other [A]annoyances [P]prohibited	<u>\$100.00</u>
	[FIRST VIOLATION WITHIN A TWELVE-MONTH PERIOD	\$50.00
	SECOND VIOLATION WITHIN A TWELVE-MONTH PERIOD	\$100.00
	THIRD VIOLATION WITHIN A TWELVE-MONTH PERIOD	MANDATORY COURT]
[SMC] 6.04.100	Biting [A]animals; [R]rabies [C]control	<u>\$100.00</u>
	[FIRST VIOLATION WITHIN A TWELVE-MONTH PERIOD	\$100.00
	SECOND VIOLATION WITHIN A TWELVE-MONTH PERIOD	MANDATORY COURT]
<u>6.04.100 F.</u>	<u>Unlawful killing or removal of rabid or suspected rabid animal</u>	<u>\$50.00</u>
[SMC] 6.04.110 <u>A.</u>	Immunization for Rabies	<u>\$[50]</u> <u>100.00</u>
<u>6.04.110 B. 1</u>	<u>Failure to report bite - owner</u>	<u>\$50.00</u>
<u>6.04110 B. 2</u>	<u>Failure to report bite - victim</u>	<u>\$50.00</u>

[SMC] 6.04.140 <u>A.</u>	Interference with Officers: Investigations	\$100.00
[SMC] 6.04.180 <u>A.</u>	[DISPOSAL OF] <u>Unlawful depositing of [D]dead</u> <u>[A]animals</u>	<u>\$100.00</u>
	[FIRST VIOLATION WITHIN A TWELVE-MONTH PERIOD	\$50.00
	SECOND VIOLATION WITHIN A TWELVE-MONTH PERIOD	\$100.00]
<u>6.04.180 B.</u>	<u>Failure to properly dispose of dead animal</u>	<u>\$100.00</u>
<u>6.04.180 C.</u>	<u>Transport of uncovered dead animal</u>	<u>\$100.00</u>
[SMC] 6.04.190 <u>A.</u>	Commercial Kennel Licenses; Requirements	\$100.00
[SMC 6.04.200	CRUELTY OR INJURY TO ANIMALS	\$200.00]
Chapter 8.20 - Regulation of Smoking in Eating Establishments		
[SMC 8.20.020	SMOKING PROHIBITED IN EATING ESTABLISHMENTS	
	FIRST VIOLATION WITHIN A TWENTY-FOUR-MONTH PERIOD	\$100.00
	SECOND VIOLATION WITHIN A TWENTY-FOUR-MONTH PERIOD	\$200.00
	THIRD VIOLATION WITHIN A TWENTY-FOUR-MONTH PERIOD	\$300.00]
[SMC] 8.20.040 <u>A.</u>	Sign Posting Required	<u>\$100.00</u>
	[FIRST VIOLATION WITHIN A TWENTY-FOUR-MONTH PERIOD	\$50.00
	SECOND VIOLATION WITHIN A TWENTY-FOUR-MONTH PERIOD	\$100.00
	THIRD VIOLATION WITHIN A TWENTY-FOUR-MONTH PERIOD	\$150.00]
<u>8.20.060 A.</u>	<u>Smoking violation – operating establishment</u>	
<u>8.20.060 B.</u>	<u>Smoking violation – smoking where unlawful</u>	
<u>8.20.060 C. 1</u>	<u>Any smoking violation – First violation within a twenty-four month period</u>	<u>\$100.00</u>
<u>8.20.060 C. 2</u>	<u>Any smoking violation – Second violation within a twenty four month period</u>	<u>\$200.00</u>
<u>8.20.060 C. 3</u>	<u>Any smoking violation – Third or additional violation within a twenty-four month period</u>	<u>\$500.00</u>

Chapter 9.04 - Public Nuisance		
[SMC] 9.04.020 <u>A.</u>	Public Nuisances Prohibited	\$500.00
[SMC] 9.04.030 <u>A.</u>	Garbage, [J]junk and [R]rubbish—[D]disposal and [S]storage	\$150.00
<u>9.04.030 B.</u>	<u>Garbage cans, packing boxes and other material storage</u>	<u>\$150.00</u>
<u>9.04.030 C.</u>	<u>Failure to secure and contain garbage</u>	<u>\$50.00</u>
[SMC] 9.04.040	Transportation—Dumping	\$150.00
[SMC] 9.04.050	Unightly Premises	\$150.00
Chapter 9.05 - discharge of firearms		
[SMC] 9.05.020	Discharge of [F]firearms [P]prohibited	\$300.00
[CHAPTER 9.06 - ALARM SYSTEMS		
SMC 9.06.050	FALSE ALARM CHARGES	
	THIRD FALSE ALARM DURING ANY ONE-YEAR PERIOD	\$50.00
	FOURTH FALSE ALARM DURING ANY ONE-YEAR PERIOD	\$100.00
	FIFTH AND SUBSEQUENT FALSE ALARM DURING ANY ONE-YEAR PERIOD	\$300.00]
Chapter 9.10 - Adult Businesses		
[SMC] 9.10.010 <u>C. 1</u>	Adult [B]business [V]violation <u>—temporary or portable structure</u>	\$300.00
<u>9.10.010 C. 2</u>	<u>Adult business violation – failure to enclose dumpsters</u>	<u>\$300.00</u>
<u>9.10.010 C. 3</u>	<u>Adult business violation – windows open or uncovered</u>	<u>\$300.00</u>
<u>9.10.010 C. 4</u>	<u>Adult business violation – failure to screen interior at entry/exits</u>	<u>\$300.00</u>
<u>9.10.010 C. 5</u>	<u>Adult business violation – failure to properly light exterior grounds</u>	<u>\$300.00</u>
<u>9.10.010 C. 6</u>	<u>Adult business violation – violation of sign code</u>	<u>\$300.00</u>

<u>9.10.010 C. 7</u>	<u>Adult business violation – failure to provide notice against entry by minors</u>	<u>\$300.00</u>
<u>9.10.010 C. 8</u>	<u>Adult business violation – permitting unlawful viewing from outside the building</u>	<u>\$300.00</u>
<u>9.10.010 C. 10</u>	<u>Adult business violation – operating hours violation</u>	<u>\$300.00</u>
<u>9.10.010 C. 11</u>	<u>Adult business violation – broadcasting amplified sound outside building</u>	<u>\$300.00</u>
<u>9.10.010 C. 12</u>	<u>Adult business violation – unlawful gratuity violation</u>	<u>\$300.00</u>
<u>9.10.010 C. 13</u>	<u>Adult business violation – sexual conduct violation</u>	<u>\$300.00</u>
<u>9.10.010 C. 14</u>	<u>Adult business violation – failure to provide separate dressing room</u>	<u>\$300.00</u>
<u>9.10.010 C. 15</u>	<u>Adult business violation – failure to provide separate entrance/exit</u>	<u>\$300.00</u>
<u>9.10.010 C. 16</u>	<u>Adult business violation – failure to provide lawful access between stage and dressing rooms</u>	<u>\$300.00</u>
<u>9.10.010 C. 17</u>	<u>Adult business violation – failure to maintain open access to public areas</u>	<u>\$300.00</u>
<u>Chapter 9.20 – Miscellaneous Minor Offenses</u>		
<u>9.20.020 B.</u>	<u>Theft</u>	<u>\$250.00</u>
<u>9.20.030 A.</u>	<u>Concealment of merchandise</u>	<u>\$250.00</u>
<u>9.20.040 A.</u>	<u>Mischief – tampering with property of another</u>	<u>\$250.00</u>
<u>9.20.040 B.</u>	<u>Mischief – intentional damage of property of another in amount less than \$250.00</u>	<u>\$250.00</u>
<u>9.20.050 A.</u>	<u>Trespass - premises</u>	<u>\$250.00</u>
<u>9.20.050 B.</u>	<u>Trespass – propelled vehicle</u>	<u>\$250.00</u>
<u>9.20.060</u>	<u>Disorderly conduct as a minor offense</u>	<u>\$250.00</u>
<u>9.20.070</u>	<u>Harassment as a minor offense</u>	<u>\$250.00</u>
<u>9.20.080</u>	<u>Access to drunken person to licensed premises</u>	<u>\$250.00</u>
<u>[CHAPTER 10.05 - OFF ROAD VEHICLES</u>		
<u>[SMC 10.05.040</u>	<u>HELMETS REQUIRED, OFF-ROAD VEHICLE</u>	<u>\$100.00</u>

CHAPTER 10.06 - MISCELLANEOUS REGULATIONS		
[SMC 10.06.040	COMMERCIAL VEHICLES PROHIBITED	\$100.00]
Chapter 12.28 - Public Parks		
[SMC] 12.28.020 <u>A.</u>	[INJURY TO PARK PROPERTY PROHIBITED] <u>Disfiguring or removing park property</u>	\$100.00
<u>12.28.020 B.</u>	<u>Restroom and washroom violation</u>	<u>\$100.00</u>
<u>12.28.020 C.</u>	<u>Removal of natural resources</u>	<u>\$100.00</u>
<u>12.28.020 D.</u>	<u>Unlawful erection of structure or utilities</u>	<u>\$100.00</u>
[SMC] 12.28.030 <u>A.</u>	Injury to [P]park [V]vegetation [PROHIBITED]	\$100.00
<u>12.28.030 B.</u>	<u>Climbing upon trees or monuments</u>	<u>\$50.00</u>
[SMC] 12.28.040 <u>A.</u>	Injury to [A]animals [P]prohibited	\$100.00
<u>12.28.040 B.</u>	<u>Feeding noxious substances to animals</u>	<u>\$100.00</u>
[SMC] 12.28.060	Littering [P]prohibited	\$50.00
<u>12.28.100</u>	<u>Speeding within campgrounds</u>	<u>\$100.00</u>
<u>12.28.110 A.</u>	<u>Operating vehicle beyond established boundaries</u>	<u>\$100.00</u>
<u>12.28.110 B.</u>	<u>Operating vehicle on other than designated road or parking area</u>	<u>\$100.00</u>
[SMC] 12.28.130 <u>A.</u>	[FAILURE TO OBEY PARKING REGULATIONS] <u>Parking outside designated area</u>	\$25.00
<u>12.28.130 B.</u>	<u>Full parking in road</u>	<u>\$25.00</u>
<u>12.28.130 C.</u>	<u>Failure to notify of breakdown</u>	<u>\$25.00</u>
<u>12.28.130 D.</u>	<u>Double parking</u>	<u>\$25.00</u>
<u>12.28.130 E.</u>	<u>Muffler violation</u>	<u>\$25.00</u>
<u>12.28.130 F.</u>	<u>Trailer parking within Centennial day use area</u>	<u>\$25.00</u>
[SMC] 12.28.140 <u>A.</u>	Bicycle [AND MOTORCYCLE REGULATIONS] <u>use on other than designated road or path</u>	\$(100)50.00
<u>12.28.140 B.</u>	<u>Failure to observe road rules or regard for others' safety</u>	<u>\$50.00</u>
<u>12.28.140 C.</u>	<u>Immobile bike violation</u>	<u>\$25.00</u>
[SMC] 12.28.170 <u>C.</u>	Fishing within the Centennial Boat Launch lagoon Prohibited	\$100.00
[SMC] 12.28.200 <u>C.</u>	[FAILURE TO OBEY CAMPING REGULATIONS] <u>Parking violations in campground</u>	\$50.00

<u>12.28.200 D.</u>	<u>Overnight camping violation</u>	<u>\$50.00</u>
<u>12.28.200 E.</u>	<u>Boat trailer parking violation</u>	<u>\$50.00</u>
<u>12.28.200 F.</u>	<u>Boat mooring violation</u>	<u>\$50.00</u>
<u>12.28.200 G.</u>	<u>Unlicensed ATV use in campground</u>	<u>\$50.00</u>
<u>12.28.200 I.</u>	<u>Fire unattended</u>	<u>\$100.00</u>
[SMC] 12.28.210 <u>A.</u>	[WEAPONS, FIREWORKS, AND EXPLOSIVES PROHIBITED] <u>Use or discharge a weapon or similar devise in or into parks</u>	\$100.00
<u>12.28.210 A.</u>	<u>Use or possession of fireworks in park</u>	<u>\$100.00</u>
[SMC] 12.28.230	Failure to [O]bey [B]urning [R]estrictions	\$100.00
[SMC] 12.28.240 <u>A.</u>	Failure to [O]bey [R]estricted [A]reas	\$50.00
12.28.240 <u>B.</u>	Non-disabled persons fishing in designated disabled fishing areas prohibited	\$100.00
[SMC] 12.28.250	Loitering, [B]oisterousness and [D]isorderly [C]onduct [P]rohibited	\$50.00
[SMC] 12.28.260	Failure to [O]bey [N]oise [C]ontrol	\$50.00
[SMC] 12.28.310	Camping and [S]helter [P]ermit [R]equired	\$50.00
[SMC] 12.28.370 <u>D.</u>	Failure to pay fees for use of park and campground facilities	\$50.00

Section 4. Section 6.04.160 of the Soldotna Municipal Code is hereby amended to read as follows:

6.04.160 - Penalties

Violations of this chapter are considered a minor offense and shall subject the violator to [CIVIL] penalty as provided in Chapter 1.08 of the Soldotna Code of Ordinances.

Section 5. Section 8.20.060 of the Soldotna Municipal Code is hereby amended to read as follows:

8.20.060 - Violations and penalties

- A. It is unlawful for any person who operates any premises subject to regulation under this chapter to fail to comply with any provisions of this chapter.
- B. It is unlawful for any person to smoke in any area where smoking is prohibited by this chapter.

- C. Any person who violates any provision of this chapter shall be guilty of a[N] minor offense [INFRACTION,] punishable as provided in Chapter 1.08 of the Soldotna Municipal Code. [BY
1. A FINE NOT EXCEEDING ONE HUNDRED DOLLARS, PLUS ANY SURCHARGE REQUIRED TO BE IMPOSED BY AS 12.55.039, FOR A FIRST VIOLATION WITHIN A TWENTY-FOUR MONTH PERIOD;
 2. A FINE NOT EXCEEDING TWO HUNDRED DOLLARS, PLUS ANY SURCHARGE REQUIRED TO BE IMPOSED BY AS 12.55.039, FOR A SECOND VIOLATION WITHIN A TWENTY-FOUR MONTH PERIOD AS MEASURED FROM THE DATE OF FIRST VIOLATION; OR
 3. A FINE NOT EXCEEDING FIVE HUNDRED DOLLARS, PLUS ANY SURCHARGE REQUIRED TO BE IMPOSED BY AS 12.55.039, FOR A THIRD OR ADDITIONAL VIOLATIONS WITHIN A TWENTY-FOUR MONTH PERIOD AS MEASURED FROM THE DATE OF FIRST VIOLATION.
- D. EACH AND EVERY DAY THAT SUCH VIOLATION CONTINUES SHALL BE DEEMED A SEPARATE AND DISTINCT VIOLATION.]
- D. [E.] Any person aggrieved by a violation or threatened violation of this chapter or the city may bring a civil action against a person who violates this chapter and may recover a civil penalty not to exceed three hundred dollars per violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy.

Section 6. Section 9.04.020 of the Soldotna Municipal Code is hereby amended to read as follows:

9.04.020 - Public nuisances prohibited

- A. No person shall allow, maintain or permit a public nuisance to exist on property owned by the person or under his or her control. Any person who violates any provision of this chapter shall be guilty of a minor offense punishable as provided in Chapter 1.08 of the Soldotna Municipal Code, or if no fine is there established, by a penalty not to exceed \$500 per violation or day a violation exists. In addition, the city may institute the abatement process provided in this chapter for any violation or suspected violation of this section.
- B. Public nuisances include but are not limited to the following acts and conditions:
1. Abandoned and Unoccupied Buildings. No person shall allow vacant, unoccupied or abandoned buildings except those that have been boarded up at all doors, windows and other openings sufficiently to prevent ingress, or otherwise secured.
 2. Attractive Nuisances. No person shall allow, maintain or permit an attractive nuisance to exist.

3. Dangerous Excavations. Any swimming pool, basement, gravel pit, ditch or other excavation in the earth more than three (3) feet in depth shall not be kept, maintained or permitted to be in an uncovered, unprotected or otherwise dangerous or hazardous condition.
4. Disposal of Rubbish on Another's Property. No person may deposit or place rubbish upon a street, alley or a municipally owned property or upon any property owned by another, or in a refuse container owned by another except if with the consent of the owner and for the purpose of collection.

Section 7. Section 9.04.070 of the Soldotna Municipal Code is hereby amended to read as follows:

9.04.070 - Initiation of action

An action taken by the city upon the complaint of citizens shall be governed by the following procedures:

- A. The citizen shall make the complaint upon such form and requiring such information as the code enforcement officer shall require.
- B. The complaint shall then be investigated by the code enforcement officer. Upon the conclusion of such investigation, the matter shall be referred to the city administration for such action as is deemed appropriate, which may include a citation for a violation of this chapter, initiation of the abatement process, or both. Any judicial proceeding instituted for such a violation is separate from and shall not affect the abatement process provided for in this chapter.
- C. Nothing herein shall prevent the city from enforcing this chapter without a citizen's complaint or pursuing any other or further remedies under this code, federal, state or borough laws, ordinances and regulations.

Section 8. Subsection 9.04.080(A) of the Soldotna Municipal Code is hereby amended to read in relevant part as follows:

9.04.080 - Procedure upon finding a violation

- A. Procedures. When a code enforcement officer observes a violation of this chapter, the following procedures may [SHALL] be followed in order to initiate the nuisance abatement process. A citation for a violation of this chapter may also be issued pursuant to Chapter 1.08 of the Soldotna Municipal Code.

...

Section 9. Section 9.04.100 of the Soldotna Municipal Code is hereby amended to read as follows:

9.04.100 - Fines

Any person violating any provision of this chapter shall be subject to enforcement procedures and fines imposed under SMC 1.08[, ADMINISTRATIVE ENFORCEMENT].

Section 10. Subsection 9.10.010(C) of the Soldotna Municipal Code is hereby amended to read as follows:

...

- C. Development and Operation Standards. The following development and operation standards shall apply to adult businesses. Any violation of these standards shall be considered a minor offense punishable as provided in SMC 1.08.080, or if no fine is there established, by a fine not to exceed \$500:

...

Section 11. Title 9 of the Soldotna Municipal Code is hereby amended by the addition of a new Chapter 9.20 entitled Miscellaneous Minor Offenses to read as follows:

Chapter 9.20.

MISCELLANEOUS MINOR OFFENSES

- 9.20.010 Offenses designated minor offenses
- 9.20.020 Theft
- 9.20.030 Concealment of merchandise as a minor offense
- 9.20.040 Mischief as a minor offense (Non DV)
- 9.20.050 Trespass as a minor offense (Non DV)
- 9.20.060 Disorderly conduct as a minor offense (Non DV)
- 9.20.070 Harassment as a minor offense (Non DV)
- 9.20.080 Access of drunken persons to licensed premises

9.20.010 - Offenses designated minor offenses

- A. Any violation of this chapter shall be considered a minor offense as set forth in SMC Chapter 1.08 and punishable as provided in SMC 1.08.080, or if no fine is there established, by a fine of not more than \$500.
- B. Offenses in this chapter bearing a “Non DV” notation shall not include nor be relied upon to cite offenses falling within the definition of “domestic violence” and “crime involving domestic violence” set forth in AS 18.66.990. Nothing in this chapter is intended to alter said definitions or the applicability of AS 18.66.990 within the city.

9.20.020 - Theft

- A. Theft defined. A person commits theft if
 - 1. with intent to deprive another of property or to appropriate property of another to oneself or a third person, the person obtains the property of another;
 - 2. the person commits theft of lost or mislaid property under AS 11.46.160;
 - 3. the person commits theft by deception under AS 11.46.180;
 - 4. the person commits theft by receiving under AS 11.46.190;
 - 5. the person commits theft of services under AS 11.46.200; or
 - 6. the person commits theft by failure to make required disposition of funds received or held under AS 11.46.210.

- B. A person commits the offense of theft under this section if the person commits any of the acts defined in SMC 9.20.010 and the value of the property or services is less than \$250.

9.20.030 - Concealment of merchandise as a minor offense

- A. A person commits the offense of concealment of merchandise if without authority the person knowingly conceals on or about the person the merchandise of a commercial establishment, not purchased by the person, while still upon the premises of the commercial establishment, with intent to deprive the owner of the merchandise or with intent to appropriate the merchandise and the value of the merchandise is less than \$250.00
- B. Merchandise found concealed upon or about the person which has not been purchased by the person is prima facie evidence of a knowing concealment.

9.20.040 – Mischief as a minor offense (Non DV)

A person commits the minor offense of mischief if, having no right to do so or any reasonable ground to believe the person has such a right,

- A. with reckless disregard for the risk of harm to or loss of the property or with intent to cause substantial inconvenience to another, the person tampers with property of another; or
- B. with intent to damage property of another, the person damages property of another in an amount less than \$250.

9.20.050 – Trespass as a minor offense (Non DV)

A person commits the minor offense of trespassing if the person enters or remains unlawfully

- A. in or upon premises; or
- B. in a propelled vehicle.

9.20.060 – Disorderly conduct as a minor offense (Non DV)

- A. A person commits the minor offense of disorderly conduct if,
 - 1. with intent to disturb the peace and privacy of another not physically on the same premises or with reckless disregard that the conduct is having that effect after being informed that it is having that effect, the person makes unreasonably loud noise;
 - 2. in a public place or in a private place of another without consent, and with intent to disturb the peace and privacy of another or with reckless disregard that the conduct is having that effect after being informed that it is having that effect, the person makes unreasonably loud noise;
 - 3. in a public place, when a crime has occurred, the person refuses to comply with a lawful order of a peace officer to disperse;
 - 4. in a private place, the person refuses to comply with an order of a peace officer to leave premises in which the person has neither a right of possession nor the express invitation to remain of a person having a right of possession;
 - 5. in a public or private place, the person challenges another to fight or engages in fighting other than in self-defense;

6. the person recklessly creates a hazardous condition for others by an act which has no legal justification or excuse; or
 7. the offender intentionally exposes the offender's buttock or anus to another with reckless disregard for the offensive or insulting effect the act may have on that person.
- B. As used in this section, "noise" is "unreasonably loud" if, considering the nature and purpose of the defendant's conduct and the circumstances known to the defendant, including the nature of the location and the time of day or night, the conduct involves a gross deviation from the standard of conduct that a reasonable person would follow in the same situation. "Noise" does not include speech that is constitutionally protected.

9.20.070 – Harassment as a minor offense (Non DV)

A person commits the minor offense of harassment if, with intent to harass or annoy another person, that person

- A. insults, taunts, or challenges another person in a manner likely to provoke an immediate violent response;
- B. telephones another and fails to terminate the connection with intent to impair the ability of that person to place or receive telephone calls;
- C. makes repeated telephone calls at extremely inconvenient hours;
- D. makes an anonymous or obscene telephone call, an obscene electronic communication, or a telephone call or electronic communication that threatens physical injury or sexual contact;
- E. subjects another person to offensive physical contact;
- F. publishes or distributes electronic or printed photographs, pictures, or films that show the genitals, anus, or female breast of the other person or show that person engaged in a sexual act; or
- G. repeatedly sends or publishes an electronic communication that insults, taunts, challenges, or intimidates a person under 18 years of age in a manner that places the person in reasonable fear of physical injury.

9.20.080 - Access of drunken persons to licensed premises

A drunken person may not knowingly enter or remain on premises licensed under AS 04.

Section 12. Sections 10.04.010 of the Soldotna Municipal Code is hereby repealed and reenacted to read as follows:

10.04.010 - State traffic laws, regulations and bail forfeiture schedules adopted

- A. The city adopts by reference all vehicle and traffic statutes and regulations of the state of Alaska, creating minor offenses, as that term is defined in Minor Offense Rule 2 of the Alaska Rules of Court, as they presently exist and as they may be revised in the future, as part of the traffic code for the city, except for
 1. Provisions related to operation of off road vehicles as said vehicles are defined in section 10.05.010(A) of this Code; and
 2. Those state laws and regulations that are substantially equivalent to the ordinances set forth below as SMC 10.04.050 - .090.

- B. Notwithstanding subsection A of this section, the city does not adopt those state traffic laws that establish misdemeanor and felony offenses which are not listed on Alaska Supreme Court bail forfeiture schedules, including AS 28.35.030.
- C. All citations issued under this chapter shall use the appropriate "AS" or "AAC" citation numbers, but shall also indicate that the offense was adopted by reference as a City ordinance and indicate that the charging entity or plaintiff is the City of Soldotna.
- D. The city adopts as its traffic fine schedule for state offenses the "Traffic Bail Forfeiture Schedule" and the "Oversize Vehicle Bail Forfeiture Schedule" in Administrative Rules 43.1 and 43.6 of the Alaska Rules of Court and any other bail forfeiture schedules relating to vehicles adopted by the Alaska Supreme Court. In addition, the city adopts all amendments of those schedules that become effective after the effective date of this ordinance. Citations for offenses listed on these schedules may be disposed of as provided in AS 12.25.195-.230, without a court appearance, upon payment of the amounts listed plus the state surcharge required by AS 12.55.039 and AS 29.25.074. Fines must be paid to the court. 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 amount listed for that offense on the schedule. Citations charging these offenses must meet the requirements of Minor Offense Rule 3 of the Alaska Rules of Court. If an offense is not listed on the fine schedule, the defendant must appear in court to answer to the charges.
- E. When the context requires, the term "Alaska State trooper" or "peace officer" when used in a provision incorporated by reference under subsection (A) of this section shall be deemed to mean and construed as identical with chief of police, police officer, or such other local police officer sworn to enforce the laws of the city. When the context requires, the term "department" appearing in the Alaska Statutes and Alaska Administrative Code provisions adopted by reference shall be construed to mean the Soldotna police department.
- F. Additional traffic ordinances of the city that are necessary to meet specific local requirements shall be incorporated in other chapters of this title.

Section 13. Section 10.04.015 of the Soldotna Municipal Code is hereby repealed and reenacted to read as follows:

10.04.015 – Disposition

- A. All citations issued for a violation of this chapter are governed by SMC 1.08.040 - .060 and the Alaska Rules of Minor Offense Procedure.
- B. A person who violates a provision of this title that is not on the bail forfeiture schedules adopted by reference or on the City's Fine Schedule for local traffic offenses is subject to a mandatory court appearance and, upon conviction, payment of the fine imposed plus the state surcharge required by AS 12.55.039 and AS 29.25.074.

Section 14. Chapter 10.04 of the Soldotna Municipal Code is hereby amended by the addition of new section 10.04.035.

10.04.035 – Fine schedule for local traffic minor offenses

- A. In accordance with AS 28.05.151(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. The Alaska Rules of Minor Offense Procedure 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. These fines may not be judicially reduced. If an offense is not listed on the fine schedule, or if the citation indicates a court appearance is required, the defendant must appear in court to answer to the charges.
- B. The fine amounts listed below are doubled for motor vehicle or traffic offenses committed in a highway work zone or traffic safety corridor, as those terms are defined in AS 28.90.990 and 13 AAC 40.010(b).
- C. An offense listed in this schedule may not be disposed of without court appearance if the offense is in connection with a motor vehicle accident that results in the death of a person.

Code Section	Offense Description	Fine Amount
10.04.050(A)	Drive w/license cancelled, suspended, revoked or in violation of limitation (1 st)	\$250.00
10.04.050(B)(1)	Drive w/license cancelled, suspended, revoked or in violation of limitation (2 nd)	\$500.00
10.04.050(B)(2)	Drive w/license cancelled, suspended, revoked or in violation of limitation (3 rd or more)	\$1000.00
10.04.060	Use of electronic devices while driving	\$250.00
10.04.070	Overtaking and passing school bus	\$250.00
10.04.080	Unlicensed driver	\$250.00
10.04.090	Permitting unauthorized person to drive	\$250.00
10.05.040	Helmets required, off-road vehicle	\$100.00
10.06.040	Commercial vehicles prohibited	\$100.00

Section 15. Chapter 10.04 of the Soldotna Municipal Code is hereby amended by the addition of new sections 10.04.050, 10.04.060, 10.04.070, 10.04.080, 10.04.090 to read as follows:

10.04.050 - Driving while license canceled, suspended, revoked, or in violation of a limitation as a minor offense.

- A. A person is guilty of a minor offense if the person
1. drives a motor vehicle on a highway or vehicular way or area at a time when that person's driver's license, privilege to drive, or privilege to obtain a license has been canceled, suspended, or revoked in this or another jurisdiction; or

2. drives in violation of a limitation placed upon that person's license or privilege to drive in this or another jurisdiction.
- B. A person who commits
1. a second violation of SMC 10.04.050(A) within one year after the first violation commits a violation of this subsection (B)(1) and is subject to the penalty provided in SMC 10.04.035(C); and
 2. a third or subsequent violation within one year after the second or subsequent violation commits a violation of this subsection (B)(2) and is subject to the penalty provided in SMC 10.04.035(C)

10.04.060 - Use of electronic devices while driving as a minor offense

- A. A person commits the crime of driving while texting, while communicating on a computer, or while a screen device is operating if the person is driving a motor vehicle, and
1. the vehicle has a television, video monitor, portable computer, or any other similar means capable of providing a visual display that is in full view of a driver in a normal driving position while the vehicle is in motion, and the monitor or visual display is operating while the person is driving; or
 2. the person is reading or typing a text message or other nonvoice message or communication on a mobile or cellular telephone, personal data assistant, computer, or any other similar means capable of providing a visual display that is in the view of the driver in a normal driving position while the vehicle is in motion and while the person is driving.
- B. A person may not install or alter equipment described in (a) of this section that allows the images to be viewed by the driver in a normal driving position while the vehicle is in motion.
- C. Subsections (A) and (B) of this section do not apply to
1. portable cellular telephones or personal data assistants being used for voice communication or displaying caller identification information;
 2. equipment that is displaying only
 - a. audio equipment information, functions, and controls;
 - b. vehicle information or controls related to speed, fuel level, battery charge, and other vehicle safety or equipment information;
 - c. navigation or global positioning;
 - d. maps;
 - e. visual information to
 - i. enhance or supplement the driver's view forward, behind, or to the sides of the motor vehicle for the purpose of maneuvering the vehicle; or
 - ii. allow the driver to monitor vehicle occupants seated behind the driver;
 - f. vehicle dispatching and response information for motor vehicles providing emergency road service or roadside assistance;
 - g. vehicle dispatching information for passenger transport or freight or package delivery;

- h. information for use in performing highway construction, maintenance, or repair or data acquisition by the Department of Transportation and Public Facilities or a municipality; or
 - i. information for use in performing utility construction, maintenance, repair, or data acquisition by a public utility; in this subparagraph, "public utility" has the meaning given in AS 42.05.990.
- D. Subsections (A) and (B) of this section do not apply to devices and equipment installed in an emergency vehicle, whether removable or permanently installed, or to the viewing of authorized screen devices by police, fire, or emergency medical service personnel if the user of the equipment or device reasonably believes the information on the device is necessary to respond to a health, safety, or criminal matter. In this subsection, "emergency vehicle" means a police, fire, or emergency medical service vehicle.
- E. It is an affirmative defense to a prosecution under (B) of this section that the equipment installed or altered includes a device that, when the motor vehicle is being driven, disables the equipment for all uses except those described in (C) of this section.

10.04.070 – Overtaking and passing school bus as a minor offense

- A. The driver of a vehicle that approaches from any direction a school bus stopped on a highway or vehicular way or area shall stop not less than 30 feet from the school bus before reaching it when there are in operation on the school bus flashing red lights as required by regulation. The driver may not proceed until the school bus proceeds and the flashing lights are no longer illuminated.
- B. When a school bus is stopped on a highway or vehicular way or area, whether or not there are in operation on the school bus flashing red lights as required by regulation, the driver of a vehicle shall yield the right-of-way to a person crossing a highway, vehicular way, or area to embark on or disembark from the school bus, whether or not the person is crossing within a marked crosswalk.
- C. The driver of a vehicle on a highway with separate roadways is not required to stop when meeting or passing a school bus that is on a different roadway or, if upon a controlled access highway, when a school bus is stopped off the highway in a loading zone that is part of, or adjacent to, the controlled access highway, and pedestrians are not permitted to cross the highway.

10.04.080 - Drivers must be licensed

Every person exercising the person's privilege to drive, or exercising any degree of physical control of a motor vehicle upon a highway, vehicular way or area, or other public property in this state, is required to have in the possession of the person a valid Alaska driver's license issued under the provisions of this chapter for the type or class of vehicle driven, unless expressly exempted by law from this requirement.

10.04.090 - Permitting unauthorized person to drive

A person may not authorize or knowingly permit a motor vehicle owned by the person or under the control of the person to be driven in this state by a person who is not validly licensed.

Section 16. That changes within this ordinance that affect the Alaska Court System, Uniform Table of Minor Offenses for the City of Soldotna will be sent to the Alaska Court System in accordance with update requirements as established by the Alaska Court System.

Section 17. This ordinance shall become effective thirty (30) days after its enactment.

ENACTED BY THE CITY COUNCIL THIS 27TH DAY OF JULY, 2016.

Pete Sprague, Mayor

ATTEST:

Michelle M. Saner, CMC, City Clerk

Ayes: Baxter, Whitney, Daniels, Manley, Cashman, Murphy
Noes: None

TO: Mayor Sprague and Members of the City Council
THROUGH: Mark Dixon, City Manager
FROM: Shellie Saner, City Clerk
DATE: July 27, 2016
SUBJECT: Substitute Ordinance 2016-021 - Amending the Soldotna City Code to Incorporate the State Court Rules of Minor Offense Procedure to Apply to Certain Violations of City Ordinances, Adopting Penalties Consistent Therewith, Adopting Ordinances to Designate Certain Violations of City Law as Minor Offenses and Adding Offenses to the Fine Schedule

Changes within Substitute Ordinance 2016-021 are as follow:

- Section 3, paragraph 1.08.080 Minor Offense Fine Schedule – The table was amended to show the changes being made to the table in accordance with standard procedures new text underlined [DELETED TEXT BRACKETED IN SMALL CAPS].
- Section 3, paragraph 1.08.080 Minor Offense Fine Schedule – The additions proposed by Chief Mlynarik in his amendment memo were included in the substitute:
 - 9.20.060 Disorderly conduct as a minor offense \$250.00
 - 9.20.070 Harassment as a minor offense \$250.00
- Insertion of a new Section 16 to include provisions that the changes to the City of Soldotna Minor Offense Fine Schedule be sent to the Alaska Court System to update the Uniform Table of Minor Offenses for the City of Soldotna.