

ORDINANCE NO. 5876, AS AMENDED

**AN ORDINANCE TO AMEND CHAPTERS 14, 46, AND 78 TO REPEAL,
AMEND, AND CLARIFY CERTAIN OFFENSES**

WHEREAS, certain offenses under the Fairbanks Code that are currently misdemeanors could be handled more efficiently and without any detriment to public safety as violations; and

WHEREAS, certain offenses under the Code are duplicative of offenses found in State criminal and traffic statutes; and

WHEREAS, there are certain ordinances currently in the Fairbanks Code that have become outdated or have been held unconstitutional since the time they were first enacted,

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. That Fairbanks General Code Chapter 14, is amended as follows [new text is in **bold/underlined** font; deleted text is in ~~strike-out~~ font]:

Sec. 14-171. Illegal Presence

(a) A person may not knowingly enter or remain on premises:

- (1) In which alcoholic beverages are manufactured, sold, offered for sale, possessed for sale or barter, trafficked in or bartered in violation of:
 - a. AS 04.11.010;
 - b. AS 04.16.090; or
 - c. A municipal ordinance adopted under AS 04.21.010(a) or (b); or
- (2) Licensed under state law during hours in which the person's presence on the premises is a violation of a city ordinance adopted under authority of AS 04.16.010(d) providing for hours of closure that are outside the hours of closure prescribed by AS 04.16.010(c).

(b) A person who violates this section is guilty of a **violation**~~misdemeanor~~, punishable **by a maximum fine of \$500**~~as provided in section 1-15~~. **This offense is amenable to disposition without court appearance upon payment**

and forfeiture of a bail amount of \$150, plus the surcharge imposed by the State of Alaska under AS 12.55.039.

Sec. 14-177. Indecent exposure in premises holding any alcohol license.

REPEALED.

SECTION 2. That Fairbanks General Code Chapter 46 is amended as follows [new text is in **bold/underlined** font; deleted text is in ~~strike-out~~ font]:

Sec. 46-4. Penalties.

* * * * *

(c) A person convicted of any of the following offenses shall be punished by a fine only of not more than \$450.00:

- (1) ~~Section 46-43 – Soliciting business on residential premises~~ **Section 46-41(a) – Disorderly Conduct.**
- (2) **Section 46-42(a) – Disturbing the peace**
- (3) Section 46-162 – Littering.
- (4) Section 46-137 – Illegal handbilling.

(d) A person convicted of any of the following offenses shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than five days or both such fine and imprisonment:

- (1) Section 46-41**(b)** – Disorderly conduct
- (2) **Section 46-42(b) – Disturbing the peace**
- (3) Section 46-80 – Drinking in public
- ~~(3) – Section 46-257 – Urinating in public~~

Sec. 46-41. Disorderly Conduct.

~~(a) A person commits the offense of disorderly conduct if he:~~ ~~No person may~~

- (a) R**~~recklessly blocks~~ the entry or exit of any public or private building **or**

(b) After being informed by a police officer that his conduct is in violation of subsection (a), refuses to clear the entry or exit of the public or private building.

~~(b) No person may recklessly insult, taunt or challenge another person in a manner likely to offend or provoke a violent response.~~

Sec. 46-42. Disturbing the peace.

(a) A person commits the offense of disturbing the peace if he:

- (1) In a public place, repeatedly or continuously shouts, blows a horn, plays a musical or recording or amplifying instrument, or otherwise generates loud sound or noise with the intent to disturb or in reckless disregard of the peace and privacy of others.
- (2) In a private place, engages in the conduct described in subsection (a)(1) of this section, with the same intent or reckless disregard, after having been informed by another that the conduct is disturbing the peace and privacy of others not in the same place.
- (3) Between the hours of 11:00 p.m. and 7:00 a.m., operates or uses a pile driver, pneumatic hammer, bulldozer, road grader, loader, power shovel, derrick, backhoe, power saw, manual hammer, motorcycle, snow machine or other instrument, appliance or vehicle which generates loud sounds or noise, after having been informed by another that such operation or use is disturbing the peace and privacy of others.
- (4) Keeps any dog or other animal which is allowed to engage in frequent or prolonged barking or other loud noise-producing activity, after having been informed by another that such frequent or prolonged barking or noise-producing activity is disturbing the peace and privacy of others.
- (5) Repeatedly or continuously sounds any horn or other sound-producing warning device on a motor vehicle when such repeated or continued sounding is not necessary to warn of any danger.

(b) After being informed by a police officer that his conduct is in violation of subsection (a), refuses to abate the prohibited activity.

(c) As used in subsections (a)(1) and (a)(2) of this section:

- (1) "Loud sound" in a public place means sound which is loud enough to inhibit the ability of a not unduly sensitive person in the same place to speak freely without leaving the same place.
- (2) "Loud sound" in a private place means sound which is loud enough to awaken a not unduly sensitive person in another private place.
- (3) The inside and outside of buildings and separate residences within an apartment house, and separate rooms within a hotel are different places.

(d) As used in subsections (a)(3) and (a)(4) of this section, loud sound or loud noise is sound or noise which would awaken, or cause difficulty in sleeping for, the average, not unduly sensitive individual attempting to sleep in any house, apartment, hotel, motel or other residence in the vicinity of the sound or noise-producing activity.

(e) The following sound or noise is not prohibited by this section:

- (1) Noise of safety signals, warning devices and emergency pressure relief valves when used for their warning of emergency purposes.
- (2) Noise produced by any authorized emergency vehicle when responding to an emergency call or when otherwise authorized by law or ordinance to activate its sirens or other warning devices.
- (3) Noises necessarily produced in the course of work required to protect persons or property from an imminent peril.
- (4) Noise produced by any activity for which a permit has been issued pursuant to subsection (ef) of this section.

(f) Applications for a permit for relief from the application of this section to any activity on the basis of undue hardship may be made to the mayor or his duly authorized representative. A non-refundable application fee and a permit fee, as set forth in the city's schedule of fees and charges for services, will be charged for the city's processing of an application. Any permit granted by the mayor under this subsection shall contain all conditions upon which such permit has been granted and shall specify a reasonable time that the permit shall be effective. The mayor or duly authorized representative may grant the relief as applied for if he finds that:

- (1) Additional time is necessary for the applicant to alter or modify his activity or operation to comply with this section; or

- (2) The activity, operation or noise source will be of a temporary duration, and cannot be done in a manner that would comply with other paragraphs of this section; and
- (3) No other reasonable alternative is available to the applicant.

However, the mayor may prescribe any conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

Sec. 46-43. Soliciting business on residential premises.

REPEALED.

Sec. 46-76. Sale or transfer of prohibited weapons to minors.

REPEALED.

Sec. 46-78. Issuing a bad check.

REPEALED.

Sec. 46-83. Administrative surcharge, minor misconduct.

REPEALED.

Sec. 46-186. Use of electronically amplified sound systems in motor vehicles.

Is hereby moved from Chapter 46 to Chapter 78, renumbered as FGC Sec. 78-652 and amended as follows:

Sec. 78-652. Use of electronically amplified sound systems in motor vehicles.

(a) No person operating or in control of a parked or moving motor vehicle shall operate or permit the operation of an electronically amplified sound system in or on the motor vehicle so as to produce sound that is clearly audible more than 50 feet from the motor vehicle.

(b) Any person violating the provisions of this section shall pay a **fine** ~~civil penalty~~ of \$50.00 for the first violation ~~or date of violation,~~ **and** \$300.00 for the second **and any subsequent** violations ~~within six months of the first violation,~~ **and** \$1,000.00 for the third violation ~~within one year of the first violation.~~

~~(c) Any authorized police officer may issue a citation for any violation under this section, except they may arrest for instances when the alleged violator refuses to provide the officer with such person's name and address and any proof as may be reasonably available to the alleged violator.~~

(d) The following sound or noise is not prohibited by this section:

- (1) Noise of safety signals, warning devices and emergency pressure relief valves when used for their warning of emergency purposes.
- (2) Noise produced by any authorized emergency vehicle when responding to an emergency call or when otherwise authorized by law or ordinance to activate its sirens or other warning devices.
- (3) Noises produced by vehicles for the purpose of advertising commercial or political messages.

Sec. 46-257. Urinating in public.

(a) A person commits the offense of urinating in public if he urinates on any portion of a public place not existing for the purpose of receiving urine.

(b) A person convicted under this section shall be punished by a fine only if the person has not been previously convicted under this section or has only been convicted once. The fine for a first or second offense is \$150.00.

(c) A person convicted more than two times under this section shall be punished by a fine of not more than \$500, by imprisonment of not more than five days, or both such fine and imprisonment.

Sec. 46-258. Loitering for prostitution.

REPEALED.

Sec. 46-292. Failing to maintain firearm transaction record.

REPEALED.

Sec. 46-294. Possession of a dangerous weapon on school grounds.

REPEALED.

Sec. 46-327. Making a false report of need for emergency assistance.

REPEALED.

SECTION 3. That Fairbanks General Code Chapter 78, is amended as follows [new text is in **bold/underlined** font; deleted text is in ~~strike-out~~ font]:

Sec. 78-611. Reckless driving.

REPEALED.

Sec. 78-613. Failure to yield to police officer.

REPEALED.

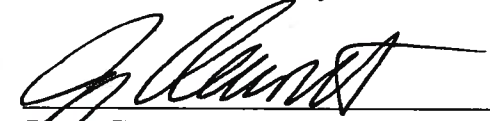
Sec. 78-614, 615, 616. Notice of accident.

REPEALED.

Sec. 78-893. Unlawful use of license.

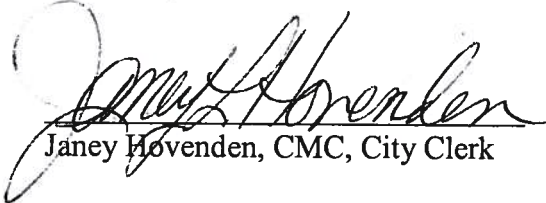
REPEALED.

SECTION 4. That the effective date of this Ordinance shall be the 10th day of March 2012.


Jerry Cleworth, City Mayor

AYES: Hilling, Eberhart, Roberts, Matherly
NAYS: None
ABSENT: Gatewood, Stiver
ADOPTED: March 5, 2012

ATTEST:


Janey Hovenden, CMC, City Clerk

APPROVED AS TO FORM:


Paul J. Ewers, City Attorney