




Kenai Peninsula Borough Legal Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor 
Colette Thompson, Borough Attorney 

FROM: Patty Burley, Deputy Borough Attorney 

DATE: March 5, 2020

RE: Ordinance 2020-10, Amending Provisions in KPB 1.24, KPB 5.12, KPB 5.18, KPB 10.18, KPB 10.20, KPB 11.10, KPB 12.08 and KPB 20.10 to Replace Criminal Penalties with Infractions (Mayor)

KPB 1.24 was last updated in 1998 and by default makes most violations of the borough code a misdemeanor crime. In reality, that has not been the practice and the portions of the code in actual practice make a violation either an infraction or a civil offense.

Making a code violation a misdemeanor would require the borough to pay for its share of the costs of public defenders as well as its share of court fees. It would also require that the legal department prosecute matters criminally, thus someone with authority would have to conduct the investigations and either make the arrests or file the criminal charges. All together the costs for enforcing violations of the code as criminal offenses could be extremely high.

Updating the current borough code to reflect the actual processes not only makes the code stronger, it also provides better due process for those who violate the borough's code. The proposed amendments to the borough code would bring it in line with the many updates currently underway. One such update was the recent repeal and restatement of the Abandoned Vehicle Ordinances. Those ordinances make violation of borough code an infraction which allow the borough to issue citations. Citations do not cost the borough any money yet allow the person charged a free avenue to contest the charge. This saves the borough the large expense of hiring administrative hearing officers and saves significant court, legal and staff time, which is generally a quicker and more efficient way to resolve minor violations of the code.

Finally, by putting all of the penalties into one section of the code, later amendments to code will not require the significant cross checks currently required. Anyone looking for a fine amount can easily locate it as can the court system whenever it has to impose the fine. Overall this is a more effective process that provides better safeguards for the public.