



City Manager
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Ketchikan, AK. 99901

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5a(2)

TRANSMITTAL MEMORANDUM

TO: The Honorable Mayor and City Council
FROM: Lacey G. Simpson, Acting City Manager
DATE: August 10, 2022

RE: Ordinance No. 22-1951 - An Ordinance Of The Council Of The City of Ketchikan, Alaska; Regarding The Filing And Payment Of Citations By Amending Subsection (A) And Adding A New Subsection (B) To That Section Of KMC Section 1.02.080 Entitled "Disposition," Amending KMC Section 1.02.090 Entitled "Payment Of Fine Without Court Appearance," KMC Section 10.24.030 Entitled "Fine Schedule For Traffic Offenses In This Chapter," KMC 10.12.050 Entitled "Traffic Fine Schedule-Adoption Of State Bail Forfeiture Schedule By Reference;" And Establishing An Effective Date.

The attached ordinance was prepared by City Attorney Mitch Seaver, who asked that it be placed before the City Council for consideration at its meeting of August 18 2022. If adopted, Ordinance No. 22-1951 provides for the City's participation in the Alaska Court System program for municipalities receiving non-payee status for minor violations. The City Council authorized the City's participation in this program at the September 6, 2018 meeting, but for the reasons described in the City Attorney's memorandum, the City has not yet taken part in the program.

The City Attorney will attend the City Council meeting of August 18, 2022, in order to address any questions and/or concerns that Councilmembers may have.

A motion has been prepared for City Council consideration.

RECOMMENDATION

It is recommended the City Council adopt the motion approving in first reading Ordinance No. 22-1951 amending Subsection (A) and adding a new Subsection (B) to that section of KMC Section 1.02.080 entitled "Disposition," amending KMC Section 1.02.090 entitled "Payment of Fine Without Court Appearance," KMC Section 10.24.030 entitled "Fine Schedule for Traffic Offenses in this Chapter," KMC 10.12.050 entitled "Traffic Fine Schedule-Adoption of State Bail Forfeiture Schedule by Reference;" and establishing an effective date.

Recommended Motion: I move the City Council approve in first reading Ordinance No. 22-1951 amending Subsection (A) and adding a new Subsection (B) to that section of KMC Section 1.02.080 entitled "Disposition," amending KMC Section 1.02.090 entitled "Payment of Fine Without Court Appearance," KMC Section 10.24.030 entitled "Fine Schedule for Traffic Offenses in this Chapter," KMC 10.12.050 entitled "Traffic Fine Schedule-Adoption of State Bail Forfeiture Schedule by Reference;" and establishing an effective date.

Mitch Seaver

City Attorney

City of Ketchikan, Alaska

334 FRONT STREET
Ketchikan, Alaska 99901
Telephone (907) 228-5611

MEMORANDUM

TO: Mayor Kiffer
City Council
Lacey Simpson, Acting City Manager
Jeff Walls, Chief of Police

FROM:  Mitch Seaver
City Attorney

DATE: August 4, 2022

SUBJECT: Non-Payee Ordinance

Transmitted herewith is a proposed ordinance that facilitates the City's participation in the Court System program for municipalities receiving non-payee status in respect to certain minor violations which was approved by the Council in September 2018. This has been delayed for a number of reasons including that the Court System software vendor was not able to add Ketchikan to the program until the end of July 2019, crafting an ordinance that satisfied the Court System, dealing with COVID related issues and the press of other more time sensitive matters.

THE CITY OF KETCHIKAN, ALASKA

ORDINANCE NO. 22-1951

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KETCHIKAN, ALASKA; REGARDING THE FILING AND PAYMENT OF CITATIONS BY AMENDING SUBSECTION(A) AND ADDING A NEW SUBSECTION (B) TO THAT SECTION OF KMC SECTION 1.02.080 ENTITLED “DISPOSITION,” AMENDING KMC 1.02.090 ENTITLED “PAYMENT OF FINE WITHOUT COURT APPEARANCE,” KMC SECTION 10.24.030 ENTITLED “FINE SCHEDULE FOR TRAFFIC OFFENSES IN THIS CHAPTER,” KMC SECTION 10.12.050 ENTITLED “TRAFFIC FINE SCHEDULE-ADOPTION OF STATE BAIL FORFEITURE SCHEDULE BY REFERENCE;” AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KETCHIKAN, ALASKA, AS FOLLOWS:

Section 1: Amendment. Subsection(a) of Section 1.02.080 of the Ketchikan Municipal Code, entitled “Disposition,” is hereby amended to read as follows:

“All citations issued by the Ketchikan Police Department, [every police officer or enforcement agent, upon issuing a citation to an alleged violator of any provision of this code], shall **be deposited with** the original and such copies of the citation as are required by the court with the chief of police or his designee, who shall cause the original or duplicate to be delivered to the **D**[d]istrict **C**[c]ourt, **F**[f]irst **J**[j]udicial **D**[d]istrict at Ketchikan.

Section 2: Amendment. Subsection(b) of Section 1.02.080 of the Ketchikan Municipal Code, entitled “Disposition,” is hereby amended to read as follows:

(b) Citations issued by departments of the City, other than the Ketchikan Police Department, shall be deposited with the Ketchikan Police Department to be delivered to the District Court, First Judicial District at Ketchikan when:

- (1) The offense requires a mandatory court appearance;
- (2) The defendant requests arraignment or trial for optional court appearance offenses; or
- (3) The city requests a default judgment.

Section 3: Subsections re-lettered. Existing subsections(b) through (e) of Section 1.02.080 of the Ketchikan Municipal Code, entitled “Disposition,” are being re-lettered as subsections (c) through (f);

Section 4: Amendment. Section 1.02.090 of the Ketchikan Municipal Code, entitled “Payment of fine without court appearance,” is hereby amended to read as follows:

“(a) A person receiving a citation **issued by the Ketchikan Police Department** for a violation for which a fine has been scheduled may, within 30 days from the date of the citation, mail or personally deliver to the court, the amount of the scheduled fine and surcharge indicated on the citation together with a copy of the citation for the violation signed by the person indicating the person’s waiver of court appearance, entry of a plea of no contest, and payment of the fine and surcharge. The receipt of the fine, surcharge, and the signed plea of no contest shall act as a judgment of conviction. The payment of the fine and surcharge shall be complete satisfaction for that particular offense, but will not bar subsequent actions to enjoin violations, to order compliance or to prosecute repeated violations. Disposition of any offense under this section may not occur unless the person cited for the offense pays the surcharge prescribed in AS 12.55.039 in addition to the scheduled fine amount. If no fine has been scheduled for

an offense, the alleged violator shall appear in the district court on the date shown on the citation.

(b) A person receiving a citation issued by any department of the City other than the Ketchikan Police Department for a violation for which a fine has been scheduled may, within 30 days from the date of the citation, mail or personally deliver to the City, the amount of the scheduled fine and surcharge indicated on the citation together with a copy of the citation for the violation signed by the person indicating the person's waiver of court appearance, entry of a plea of no contest, and payment of the fine and surcharge. The receipt of the fine, surcharge, and the signed plea of no contest shall act as a judgment of conviction. The payment of the fine and surcharge shall be complete satisfaction for that particular offense, but will not bar subsequent actions to enjoin violations, to order compliance or to prosecute repeated violations. Disposition of any offense under this section may not occur unless the person cited for the offense pays the surcharge prescribed in AS 12.55.039 in addition to the scheduled fine amount. If no fine has been scheduled for an offense, the alleged violator shall appear in the district court on the date shown on the citation."

Section 5: Amendment. Section 10.24.030 of the Ketchikan Municipal Code, entitled "Fine schedule for traffic offenses in this chapter," is hereby amended to read as follows:

"Pursuant to KMC 1.02.110, the following fine schedule is established for violation of this chapter. In accordance with AS 28.05.151(a), citations for the following offenses

may be disposed of as provided in AS 12.25.195 through 12.25.230, without a court appearance, upon payment to the [city] court of the fine amounts listed below plus the state surcharge required by AS 12.55.039 and 29.25.074. The Rules of Minor Offense Procedure in the Alaska Rules of Court 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. If an offense in this chapter is not listed on the fine schedule, the defendant must appear in court to answer to the charges. These fines may not be judicially reduced.

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.

Sections	Offense	Fine
10.24.010	Unlawful use of low-speed vehicles	\$100.00
10.24.020(g)	Low-speed vehicle permits	\$100.00"

Section 6: Amendment. Section 10.12.050 of the Ketchikan Municipal Code, entitled “Traffic fine schedule - Adoption of state bail forfeiture schedule by reference,” is hereby amended to read as

follows:

“The city adopts as its traffic fine schedule the “traffic bail forfeiture schedule” and the “oversize vehicle bail 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 the ordinance codified in this chapter. Citations for offenses listed on these schedules may be disposed of as provided in AS 12.25.195 through 12.25.230, without a court appearance, upon payment to the [city] **court** of the amounts listed plus the state surcharge required by AS 12.25.039 and 29.25.074. 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 and the Alaska Rules of Court. If an offense is not listed on the fine schedule, the defendant must appear in court to answer the charges. The fines established in this fine schedule may not be judicially reduced.”

Section 7: Effective Date. This ordinance is effective one (1) month after its final passage and publication.

PASSED ON FIRST READING _____.

FINAL PASSAGE _____.

Dave Kiffer, Mayor

ATTEST:

Kim Stanker
City Clerk

FYI: Bracketed language is intended to be removed from the existing ordinance, and underlined language in bold type is intended as an addition to the existing Ketchikan Municipal Code.

EFFECTIVE DATE: *			
ROLL CALL	YEA	NAY	ABSENT
BRADBERRY			
GAGE			
GASS			
FLORA			
KISTLER			
MAHTANI			
ZENGE			
MAYOR			