

CITY OF UNALASKA  
UNALASKA, ALASKA

ORDINANCE 2018-02

AN ORDINANCE OF THE UNALASKA CITY COUNCIL AMENDING SECTION 1.24.010 OF THE UNALASKA CODE OF ORDINANCES TO PROHIBIT THE COURT FROM REDUCING FINES ESTABLISHED BY A FINE SCHEDULE FOR A VIOLATION OF CITY ORDINANCES.

WHEREAS, UCO § 1.24.040 specifies that any fine established in the City's minor offense fine schedule may not be judicially reduced; and

WHEREAS, UCO § 14.04.025(A) similarly prohibits the court from reducing scheduled fines for violations of local traffic offenses; and

WHEREAS, City Code does not clearly prohibit the court from reducing scheduled fines for state traffic laws and regulations that have been incorporated into City Code by reference; and

WHEREAS, the City seeks consistent imposition of fine amounts for all traffic offenses, whether stated in City Code or incorporated by reference.

NOW THEREFORE, BE IT ENACTED by the City Council of the City of Unalaska:

Section 1: Form. This is a Code ordinance.

Section 2: Amendment of Section 1.24.010. Section 1.24.010 of the Unalaska Municipal Code is hereby amended to read as follows: [additions are underlined; deletions are in brackets]

**§ 1.24.010 GENERAL PENALTY.**

(A) Every act prohibited by city ordinance is unlawful. Unless another penalty is expressly provided by this code for a particular act or offense, every person convicted of an infraction or violation of any provision of this code, or any rule or regulation adopted or issued pursuant to this code, is guilty of a minor offense as that term is defined in the Alaska Rules of Minor Offense Procedure and shall be punished by a fine of not more than five hundred dollars (\$500) unless the penalty is established by fine schedule, in which case the maximum penalty shall be one thousand dollars (\$1,000).

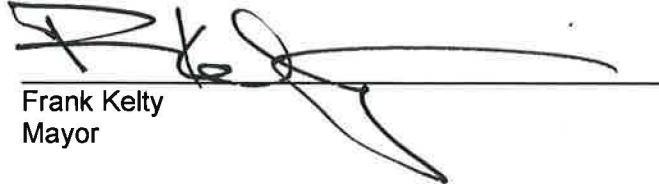
(B) In addition to any other remedies or penalties which may be provided in this code, or may otherwise be available, the city or any aggrieved person may institute a civil action to obtain injunctive or compensatory relief against a person who violates any provision of the code. In addition to injunctive and compensatory relief, a civil penalty not to exceed one thousand dollars (\$1,000) may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of violation or threatened violation, the superior court shall grant the injunction. The City shall be entitled to collect all reasonable attorney's fees in any successful civil action to enforce the laws of the City.

(C) Each act of violation and every day upon which the violation occurs constitutes a separate offense.

(D) No penalties established by a fine schedule, whether set forth in full or adopted as part of this code by reference, may be judicially reduced.

Section 3: Effective Date. This ordinance is effective upon passage.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on this 23 day of January 2018.



Frank Kelty  
Mayor

ATTEST:



Marjie Veeder  
City Clerk



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## MEMORANDUM TO COUNCIL

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**TO:** Mayor and City Council Members  
**FROM:** Jennifer Shockley, DPS Deputy Chief  
**THRU:** Mike Holman, DPS director  
**THRU:** Nancy Peterson, Interim city Manager  
**DATE:** January 9, 2018  
**RE:** Ordinance 2018-02

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**SUMMARY:** Ordinance 2018-02, amends § 01.24.010 of the Unalaska Code of Ordinances to prohibit the Court from reducing fines which have been established by a fine schedule, for violations of City Ordinances.

**PREVIOUS COUNCIL ACTION:** In 2016 Council adopted Ordinance 2016-02, a comprehensive rewrite of various provisions of the Unalaska Code of Ordinances to designate certain violations of City law as Minor Offenses and to establish fines for such violations and to provide for other penalties for violations.

**BACKGROUND:** In 2016, Council amended § 14.04.020-14.04.027, adopting by reference State traffic laws and the associated fine schedule. Council also amended UCO § 1.24.010-1.24.040 to establish processes for charging persons or entities with violations of UCO, and to create a fine schedule for certain violations of UCO not listed elsewhere. Both § 14.040.025(A) and § 01.24.040 contain language that fines set forth in UCO may not be judicially reduced. Code books have since been supplemented to include Ordinance 2016-02, which adopted the fine schedule.

**DISCUSSION:** There have been several instances since the adoption of these ordinances in which judicial officers have reduced the fines for persons convicted of minor traffic offenses charged under UCO, but for which the associated State fine was not specifically listed in UCO. Ordinance 2018-02 is intended to clarify City code so that fines listed in the fine schedule, whether set forth in full or adopted by reference, may not be judicially reduced. Ordinance 2018-02 will ensure that persons charged and convicted of traffic offenses under UCO will be fined in a consistent fashion.

**ALTERNATIVES:** The alternative is to not adopt this ordinance and allow judicial officers to continue reducing those fines which are not specifically listed in code.

**FINANCIAL IMPLICATIONS:** The City of Unalaska receives a portion of the fines collected by the Court for minor offense violations. Disallowing judicial reduction would ensure that the amount the City receives for minor traffic offenses remains consistent.

**STAFF RECOMMENDATION:** Staff recommends Council approve Ordinance 2018-02, which amends Section § 01.24.010 of the Unalaska Code of Ordinances to prohibit the Court from reducing fines which have been established by a fine schedule, for violations of City Ordinances.

**PROPOSED MOTION:** I move to adopt Ordinance 2018-02, amending § 01.24.010 of the Unalaska Code of Ordinances to prohibit the Court from reducing fines which have been established by a fine schedule, for violations of City Ordinances.

**CITY MANAGER'S COMMENTS:** I support the adoption of Ordinance 2018-02. It is clear that when the Council approved Ordinance 2016-02, they intended to incorporate the State traffic fines into the fine schedule. Adding this language to the Code of Ordinances will accomplish that result.


Attachment:

Memo from Patrick Munson - Boyd, Chandler and Falconer, LLP

**BOYD, CHANDLER & FALCONER, LLP**  
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**MEMORANDUM**

**TO:** Mike Holman  
Chief of Police, City of Unalaska

**FROM:** Patrick W. Munson  
Boyd, Chandler & Falconer, LLP 

**RE:** Reduction of Scheduled Fines Under City Code

**DATE:** September 22, 2017

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We have reviewed the material provided to us regarding the court's reduction of certain fines imposed for violations of state traffic laws that have been incorporated by reference into City Code. We have concluded that the court's conclusion that it has discretion to reduce fines for state traffic offenses is likely correct, but this can be easily remedied by ordinance. We therefore recommend the attached ordinance be provided to the City Council for consideration as soon as possible.

**ANALYSIS**

UCO Chapter 1.24 establishes the City's general minor offense system. UCO 1.24.010(A) reads:

(A) Every act prohibited by city ordinance is unlawful. Unless another penalty is expressly provided by this code for a particular act or offense, every person convicted of an infraction or violation of any provision of this code, or any rule or regulation adopted or issued pursuant to this code, is guilty of a minor offense as that term is defined in the Alaska Rules of Minor Offense Procedure and shall be punished by a fine of not more than five hundred dollars (\$500) unless the penalty is established by fine schedule, in which case the maximum penalty shall be one thousand dollars (\$1,000).

This section gives the court discretion to determine an appropriate fine up to a certain amount, and does not prohibit the court from reducing fines in a fine table. If such a limitation exists, it therefore must be stated elsewhere in the Code.

UCO 1.24.040 establishes the fine schedule for violations of non-traffic city ordinances. It reads in relevant part: “The fines set forth below [in the minor offense table] may not be judicially reduced.” The fine table in UCO 1.24.040 (*i.e.*, “below”) does not contain city or state traffic offenses or state statutes and regulations that are incorporated by reference. Therefore, the quoted sentence of UCO 1.24.040 does not prohibit the court from reducing fines imposed for violations of city or state traffic laws.

UCO Chapter 14.04 incorporates state traffic laws and regulations, adopts the state bail schedules for same, and establishes local traffic offenses, including a bail schedule. The local offenses are specific to the City and are not otherwise covered by state laws and regulations. UCO 14.04.025(A) states that the fines established in the local traffic offense fine schedule “may not be judicially reduced.” Because this sentence pertains specifically to the *local* traffic offenses fine schedule, it does not prohibit the court from reducing fines imposed for violations of *state* laws that are incorporated by reference because such violations do not appear in the local fine schedule. Therefore, the court’s discretion to reduce such fines is not limited by either UCO 1.24.040 or 14.04.025.

We therefore conclude that the court’s conclusion is correct under the ordinances as currently drafted: the court has discretion to reduce fines for violations of state laws and regulations that are included in state fine schedules because city code does not eliminate that discretion as to that narrow category of offenses.

**RECOMMENDATION**

This situation can be easily corrected by amending the City’s Code to specifically eliminate the court’s discretion to reduce fines for any offenses listed on all fine schedules, including those in City Code or adopted by reference. If the City wishes to prohibit the court from reducing all such fines, we recommend it adopt the enclosed ordinance to accomplish that result.