

Mayor

James Kallander

Council Members

Tim Joyce
James Kacsh
David Allison
Bret Bradford
EJ Cheshier
David Reggiani
Robert Beedle

City Manager

Mark Lynch

City Clerk

Susan Bourgeois

Deputy Clerk

Tina Hammer

Student Council

Carl Ranney

**CITY COUNCIL PUBLIC HEARING
DECEMBER 5, 2012 @ 7:15 PM
LIBRARY MEETING ROOM**

AGENDA

A. CALL TO ORDER

B. ROLL CALL

Mayor James Kallander, Council members Tim Joyce, James Kacsh, David Allison, Bret Bradford, EJ Cheshier, David Reggiani, and Robert Beedle

C. PUBLIC HEARING

1. Substitute Ordinance 1100..... (page 1)

An ordinance of the City Council of the City of Cordova, Alaska, amending Cordova Municipal Code sections 1.28.085, 10.04.040, 10.12.010, 10.12.012, 10.12.030, 10.16.010, 10.16.020, 10.24.010, 10.24.020, 10.24.025, 10.24.070, 10.24.080, 10.24.090, 10.24.100, 10.24.120, 10.36.010, 10.38.010, 10.44.010 and 10.48.010; amending the titles of Cordova Municipal Code chapters 10.16 and 1038; Cordova Municipal Code sections 10.16.010, 10.16.020, 10.24.010, 10.24.020, 10.24.025, 10.24.070, 10.24.090, 10.24.120, 10.36.010, 10.38.010, 10.44.010 and 10.48.010; repealing Cordova Municipal Code chapter 10.08 and Cordova Municipal Code sections 10.16.030, 10.16.040 and 10.24.130; enacting Cordova Municipal Code 10.04.050 and 10.24.005; and repealing and reenacting Cordova Municipal Code chapters 10.52 and 10.56; regarding parking and traffic violations and enforcement of parking and traffic violations

D. ADJOURNMENT

**If you have a disability that makes it difficult to attend city-sponsored functions,
You may contact 424-6200 for assistance.**

A MEMO FROM SUSAN BOURGEOIS, CITY CLERK

DATE: November 29, 2012
TO: Mayor & City Council
SUBJECT: Substitute Ordinance 1100

This is the rewrite of Chapter 10 of the CMC. After the first reading the City Attorney had a few changes to suggest which is why this is before you as **Substitute** Ordinance 1100 tonight. The City Attorney agreed that the changes are not substantial enough to consider another first reading and therefore, suggested the ordinance was ready for a public hearing and second reading tonight.

RECOMMENDED MOTION: Move to adopt Substitute Ordinance 1100.

REQUIRED ACTION: Majority roll call vote.

**CITY OF CORDOVA, ALASKA
SUBSTITUTE ORDINANCE 1100**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA, AMENDING CORDOVA MUNICIPAL CODE SECTIONS 1.28.085, 10.04.040, 10.12.010, 10.12.012, 10.12.030, 10.16.010, 10.16.020, 10.24.010, 10.24.020, 10.24.025, 10.24.070, 10.24.080, 10.24.090, 10.24.100, 10.24.120, 10.36.010, 10.38.010, 10.44.010 AND 10.48.010; AMENDING THE TITLES OF CORDOVA MUNICIPAL CODE CHAPTERS 10.16 AND 1038; ~~CORDOVA MUNICIPAL CODE SECTIONS 10.16.010, 10.16.020, 10.24.010, 10.24.020, 10.24.025, 10.24.070, 10.24.090, 10.24.120, 10.36.010, 10.38.010, 10.44.010 AND 10.48.010~~; REPEALING CORDOVA MUNICIPAL CODE CHAPTER 10.08 AND CORDOVA MUNICIPAL CODE SECTIONS 10.16.030, 10.16.040 AND 10.24.130; ENACTING CORDOVA MUNICIPAL CODE 10.04.050 AND 10.24.005; AND REPEALING AND REENACTING CORDOVA MUNICIPAL CODE CHAPTERS 10.52 AND 10.56; REGARDING PARKING AND TRAFFIC VIOLATIONS AND ENFORCEMENT OF PARKING AND TRAFFIC VIOLATIONS.

BE IT ORDAINED by the City Council of the City of Cordova, that:

Section 1. Cordova Municipal Code 1.28.085 is amended by replacing the part of the table headed, “Vehicles and Traffic” with the following:

Code Ref.	Code Title	Fine per Day
10.12.010	Adoption by reference of stare statutes and regulations regarding motor vehicle and driving offenses	Corresponding amount in state traffic bail forfeiture schedule
<u>10.12.050</u>	<u>Maximum speed limit</u>	<u>\$90.00</u>
<u>10.16.020</u>	<u>Entering obstructed intersection</u>	<u>\$30.00</u>
<u>10.20.020</u>	<u>Turning violation</u>	<u>\$30.00</u>
<u>10.24.005</u>	<u>Method of parking</u>	<u>\$30.00</u>
10.24.010	Parking outside marked space	\$30.00
10.24.020	Parking beyond time limitation	\$30.00
10.24.025	Parking without required permit	\$30.00
10.24.040	Angle parking required	\$30.00
10.24.050	Loading permit violation	\$30.00
10.24.060	Parking over 24 hours	\$30.00
10.24.070	Parking for prohibited purpose	\$30.00
10.24.080	Parking blocking driveway	\$30.00
10.24.090	Parking on private property without permission	\$30.00
10.24.100	Parking in roadway obstructing traffic	\$30.00
10.24.110	Parking in main-traveled part of highway	\$30.00
10.28.020	Passenger loading zone time limit	\$30.00
10.28.030	Freight loading zone time limit	\$30.00
10.28.050	Bus and taxicab stands – use required	\$30.00
10.28.060	Bus and taxicab stands - unauthorized use	\$30.00
<u>10.32.020</u>	<u>Vehicle use in play street</u>	<u>\$30.00</u>

<u>10.36.010</u>	<u>Bicycle obedience to traffic control devices</u>	<u>\$30.00</u>
<u>10.36.020</u>	<u>Bicycle—riding on sidewalk</u>	<u>\$30.00</u>
<u>10.36.030</u>	<u>Bicycle—excessive speed</u>	<u>\$30.00</u>
<u>10.36.040</u>	<u>Bicycle parking</u>	<u>\$30.00</u>
<u>10.38.010</u>	<u>Snowmobile and off-highway vehicle violations</u>	<u>first violation \$100; second violation \$300; third and subsequent violation up to \$1,000 but not less than \$300</u>
<u>10.44.010</u>	<u>Driving through funeral procession</u>	<u>\$30.00</u>
<u>10.44.020</u>	<u>Conduct of funeral procession</u>	<u>\$30.00</u>
<u>10.48.010</u>	<u>Unlawful riding</u>	<u>\$30.00</u>
<u>10.48.020</u>	<u>Driving on sidewalk</u>	<u>\$30.00</u>
<u>10.48.030</u>	<u>Vehicle injurious to street</u>	<u>\$30.00</u>
<u>10.48.040</u>	<u>Transportation of explosives</u>	<u>\$30.00</u>
<u>10.54.020</u>	<u>Abandonment of Vehicles</u>	<u>\$500.00</u>

Section 2. —Subsection B of Cordova Municipal Code 10.04.040 is amended to read as follows:

B. Officers of the police department or such officers thereof as are assigned by the **Chief of Police** ~~public safety officer~~ are authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, regulations and ordinances; provided, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws, regulations and ordinances.

Section 32. —Cordova Municipal Code 10.04.050 is enacted to read as follows:

10.04.050 - Definitions. In this title:

A. “Parking lot” means property owned by the city or state that the owner has designated for use by the public to park vehicles.

B. “Traffic authority” means the city manager or the city manager’s designee.

~~C.B.~~ “Traffic laws” or “traffic regulations” means the provisions of this title and any statute or regulation incorporated by reference in this title.

Section 4. —Cordova Municipal Code Chapter 10.08, Definitions, is repealed.

Section 5. —Cordova Municipal Code 10.12.010 is amended to read as follows:

10.12.010 - Statutes **and regulations** adopted by reference. Pursuant to AS 28.01.010, the city adopts by reference, for application within the city, the following state statutes and ~~or~~ regulations, **as the same may be amended from time to time after the effective date of the ordinance codified in this section:**

13 AAC 02.005 through 13 AAC 02.560, inclusive;

13 AAC 04.001 ~~13 AAC 04.005~~ through 13 AAC 04.420, inclusive;

~~13 AAC 06.010 through 13 AAC 06.060, inclusive;~~

13 AAC 40.010;

~~**17 AAC 45.080 through 17 AAC 45.090, inclusive;**~~

~~17 AAC 25.012 through **17 AAC 25.119** ~~17 AAC 25.100~~, inclusive;~~

17 AAC 45.080 through 17 AAC 45.090, inclusive;

AS 28.05.095 (use of seat belts and child safety devices required);

AS 28.05.099 (penalty);

AS 28.10.011 (vehicles subject to registration);

AS 28.10.121a (vehicles of nonresidents);

AS 28.10.461 (driving vehicle without evidence of registration);

AS 28.10.471 (driving vehicle when registration suspended, revoked or permit expired);

AS 28.11 (abandoned vehicles);

AS 28.15.131 (license to be carried and exhibited on demand);

AS 28.22.019 (proof of insurance to be carried and exhibited on demand);

AS 28.35.235(a) (unauthorized use of parking reserved for persons with disabilities);

AS 28.39.010 (snowmobile registrations);

~~**AS 28.90.010** AS ~~28.40.050~~ penalties for violations of law, regulations, and municipal ordinances).~~

AS 28.90.990 (definitions).

Section 6. —Cordova Municipal Code 10.12.012 is amended to read as follows:

10.12.012 - Traffic fine schedule—Adoption of state bail forfeiture schedules by reference. **Except as provided in subsection D of this section:**

A. For violations of statutes and regulations listed in Section 10.12.010, the city adopts as its traffic fine schedule 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, as the same may be amended from time to time after the effective date of the ordinance codified in this section.

B. Citations for offenses listed in Section 10.12.010 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. 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.

C. Citations charging offenses listed in Section 10.12.010 must meet the requirements of District Court Criminal Rule 8 of the Alaska Rules of Court.

D. In addition to the penalties prescribed in this section for violations of statutes and regulations related to parking, stopping and standing, such violations shall be subject to the notice of violation procedure and civil penalties prescribed in Chapter 10.56.

Section 7. —Cordova Municipal Code 10.12.030 is amended to read as follows:

10.12.030 - Definitions—~~Chief of Police Public safety director.~~ Whenever there is reference to the state law adopted in Section 10.12.010 to "Department of **Transportation and Public Facilities** Highways" or "Commissioner of Highways," there shall be substituted the **title**, "**Chief of Police**" ~~public safety director.~~"

Section 8. The title of Cordova Municipal Code Chapter 10.16 is amended to read as follows:

Chapter 10.16

TRAFFIC CONTROL AT STOP AND YIELD INTERSECTIONS

Section 9. Cordova Municipal Code 10.16.010 is amended to read as follows:

10.16.010 – Official traffic control devices ~~Determination – Authority to designate.~~
The traffic authority of the city is authorized to **place official traffic control devices that the traffic authority determines to be necessary to control the movement of traffic at intersections.** ~~determine and designate intersections where particular hazard exists upon other than through streets and to determine:~~

A. ~~Whether vehicles shall stop at one or more entrances to any such intersection, in which event he shall cause to be erected a stop sign at every such place where a stop is required; or~~

B. ~~Whether vehicles shall yield the right of way to vehicles on a different street at such intersection as prescribed in 13 AAC 02.130, in which event he shall cause to be erected a yield sign at every place where obedience thereto is required.~~

Section 10. Cordova Municipal Code 10.16.020 is amended to read as follows:

10.16.020 - Entering obstructed intersections. No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any **official traffic control device** ~~traffic control signal~~ indication to proceed.

Section 11. Cordova Municipal Code 10.16.030 and 10.16.040 are repealed.

Section 12. Cordova Municipal Code 10.24.005 is enacted to read as follows:

10.24.005. – Parking – Method of parking.

A. No person driving or in charge of a motor vehicle may permit it to stand unattended by an adult person without first stopping the engine, placing the transmission in gear or in park position, locking the ignition, removing the key from the ignition and, if there is not a reasonable possibility of freezing, setting the brake. When standing upon a grade, a driver shall turn the front wheels toward the curb or near the edge of the highway in such a manner that if the unattended vehicle should roll from its standing position, the movement will be in the direction toward the curb or near the edge of the highway and away from the roadway.

A parked vehicle with no licensed driver in the driver's seat shall have

1. The brakes effectively set;

2. The engine off;

~~3. — The keys removed from the ignition lock and the ignition locked so it cannot be readily activated without a key; and~~

~~4. — If parked upon any perceptible grade, with the front wheel or wheels turned toward the nearest curb or edge of the roadway.~~

B. A vehicle shall be parked in an unmarked parking space or a parking space marked for parallel parking in the direction of authorized traffic movement in the traffic lane immediately adjacent to the parking space, parallel to and within 12 inches of the curb or edge of the roadway.

C. A vehicle shall be parked in a parking space marked for angle parking facing the nearest curb or edge of the roadway.

Section 13. Cordova Municipal Code 10.24.010 is amended to read as follows:

10.24.010 - Parking—Within marked spaces. In an area where parking spaces have been marked off the surface of the street, a driver parking a vehicle shall park it within a parking space as thus marked off, and not on or over a mark line delimiting a space. **In no case shall a vehicle exceeding twenty four feet in length or eight feet in width be parked in a City parking space on a city street or in a city parking lot unless such space is specifically designated for larger vehicles.**

Section 14. —Cordova Municipal Code 10.24.020 is amended to read as follows:

10.24.020 - Parking—Time limitation, prohibition and sign erection authority. The traffic authority of the city is authorized to establish parking time limits, or to prohibit parking, on ~~designated~~ city streets, **parking lots and other city or state property**, by having appropriate signs placed thereon. When such signs are in place, it is unlawful for any person to park a vehicle in violation thereof.

Section 15. —Cordova Municipal Code 10.24.025 is amended to read as follows:

10.24.025 - Parking—Permit only limitation, prohibition and sign erection authority. The traffic authority of the city is authorized to establish parking by permit only limits on ~~designated~~ city streets, **parking lots and other city property**, by having appropriate signs placed thereon. When such signs are in place, the required permit must be displayed in the front windshield and it shall be unlawful for any person to park a vehicle in violation thereof.

Section 16. —Cordova Municipal Code 10.24.070 is amended to read as follows:

10.24.070 - Parking—Certain purposes prohibited. No person shall park a vehicle upon any **public property** roadway for the principal purpose of:

A. Displaying such vehicle for sale;
B. Washing, greasing or repairing such vehicle, except repairs necessitated by emergency.

C. Using such vehicle for living or sleeping quarters, except in an area designated for use by the public for camping.

Section 17. Cordova Municipal Code 10.24.080 is amended to read as follows:

10.24.080 - Parking—Blocking driveways prohibited. It is unlawful for any person to park or cause to be parked any motor vehicle at such place or in such position as would block **the driveway entrance to any abutting property** or the way of ingress or egress of a motor vehicle to any private parking place owned or controlled by any person, firm or corporation.

Section 187. _Cordova Municipal Code 10.24.090 is amended to read as follows:

10.24.090 - Parking—Unauthorized use of private area prohibited. It is unlawful for any person to park or cause to be parked any ~~motor~~ vehicle in the private parking place of another person, firm or corporation without the express permission of such person, firm or corporation if such private parking place has been signed, posted or otherwise clearly designated as a private parking place.

Section 19. Cordova Municipal Code 10.24.100 is amended to read as follows:

10.24.100 - Parking—Streets and alleys. No person shall park a vehicle in any street or alley in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic, ~~and no person shall stop, stand or park a vehicle therein in such position as to block the driveway entrance to any abutting property.~~

Section ~~2018.~~ Cordova Municipal Code 10.24.120 is amended to read as follows:

10.24.120 - Impoundment. ~~In the event of any violation of Sections 10.24.080 and 10.24.090, and~~ ~~Upon~~ ~~upon~~ the written request of the rightful owner or lessee of ~~an~~ said off-street parking place **that is obstructed or occupied in violation of section 10.24.080 and 10.24.090, the city may impound the vehicle that is the source of the violation** any vehicle parked in off-street parking without the permission of the owner, or vehicle blocking the ingress and egress of motor vehicles to and from private parking places, shall be impounded by the city and **cause** the vehicle **to be** towed to any approved storage facility where it shall be retained until the owner pays all towing charges and costs of impoundment. If not reclaimed within six months of the date of impounding, the provisions of Chapter 11.48 of this code shall apply. **The provisions for hearing, release from impoundment and disposition of an impounded vehicle in Chapter 10.52 shall apply to an impoundment under this section.** Before any such vehicle is impounded, the police may require of the person requesting impoundment an affidavit that said person is rightfully in control of the parking place in question and holding the city harmless for any loss or damage growing out of said impoundment.

Section ~~2119.~~ Cordova Municipal Code 10.24.130 is repealed.

Section ~~220.~~ _Cordova Municipal Code 10.36.010 is amended to read as follows:

10.36.010 - Obedience to **official** traffic-control devices.

A. Any person operating a bicycle shall obey the instructions of official **traffic control devices** ~~traffic control signals, signs and other control devices~~ applicable to vehicles, unless otherwise directed by a police officer.

B. ~~Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no~~ **No** person operating a bicycle shall disobey **an official traffic control device indicating** that no right or left or U-turn is permitted, ~~the direction of any such sign,~~ except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

Section 23. The title of Cordova Municipal Code Chapter 10.38 is amended to read as follows:

Chapter 10.38

SPECIAL TRAFFIC RULES AND DEFINITIONS FOR SNOWMOBILES
AND OFF-HIGHWAY VEHICLES

Section 241. _Cordova Municipal Code 10.38.010 is amended to read as follows:

10.38.010 - Special rules for snowmobiles and off-highway vehicles.

A. ~~Adoption of State Law. All provisions of Title 13, Alaska Administrative Code and Alaska Statutes, Section 5.30.010 et seq., regulating traffic and the operation of motor vehicles and snow machines upon streets or highways are adopted by reference, except that those regulations are not adopted by reference which by their nature can have application or which conflict with the remainder of this section.~~

B. ~~Operation.~~

1. **Snowmobiles and off-highway vehicles** ~~Snow machines~~ may not be operated:

- a. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person;
- b. While under the influence of intoxicating liquor, narcotics or drugs;
- c. To intentionally drive, chase, run over or kill any animal;
- d. Within one hundred feet of any school or hospital, unless traveling directly to or from it;
- e. In any city-designated ski area;
- f. On or within one hundred feet of any skating area or ice rink;
- g. On city streets when transporting weapons or other instruments used to hunt within unless it is unloaded and encased;
- h. **In the case of a snowmobile, without registration and numbering** ~~Without registration and numbering~~ **having such snow machine registered as required by AS 29.38.010(a)** ~~provided for in Section 5.30.010 Alaska Statutes;~~

i. Without registration under ~~having such snow machine registered through the city of Cordova motor vehicle office snowmobile~~ and off-highway vehicle permit system. Registration of snowmobiles is non-transferable upon sale of the vehicle. Such registration numbers shall be affixed on both sides of the cowling of the machine and the rear of the machine. ~~The numerals shall be identical to the Cordova snow machine registration.~~

j. On city streets while carrying more than the operator unless the machine is designed by the manufacturer to carry more than one person.

2. Snowmobiles and off-highway vehicles ~~Snow machines~~ may not be operated between the hours of eleven p.m. and six a.m., except on Friday and Saturday evenings when they may be operated until midnight.

3. No snowmobile or off-highway vehicle ~~snow machine~~ shall be operated on private property without specific permission of the owner or other person having control of the property.

4. A person may not drive a snowmobile or off-highway vehicle ~~snow machine~~ on a road or highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards existing at the time and in no case faster than the legal speed limit.

5. When operated on city streets or alleys, snowmobiles and off-highway vehicles ~~Snow machines may be operated upon the streets and alleys of the city, and if so operated:~~

- a. Shall be driven on the extreme right, in a single file, and in accord with all motor vehicle regulations;
- b. Shall not pass any other moving vehicle while going in the same direction upon city streets;
- c. Shall yield the right-of-way to all other motor vehicles;
- d. Shall be driven with headlights on at all times.

BC. Equipment. No person shall drive or operate a snowmobile or off-highway vehicle ~~snow machine~~ unless the snowmobile or off-highway vehicle ~~snow machine~~ is equipped with:

1. A motor vehicle or motorcycle headlamp with or without non-multiple beams so aimed and of sufficient intensity to reveal to persons and vehicles at a distance of at least one hundred feet ahead during hours of darkness under normal atmospheric conditions. Such headlamp shall be aimed so that glaring rays are not projected into the eyes of an oncoming driver;

2. At least one rear lamp continuously exhibiting a red light plainly visible from a distance of five hundred feet to the rear during hours of darkness under normal atmospheric conditions, plus an operational brake light;

3. A return-to-idle spring in working order, capable of returning the snow machine engine's carburetor to the closed position;

4. A rear snowflap, mudflap and fender of sufficient material installed in a permanent manner to contain a cleat and all other debris, if thrown from the track or tire at all speeds;

5. Stock exhaust mufflers in working order;

6. Adequate brakes to control the movement of and to stop and hold such vehicle under normal conditions of operation;

7. A flag extending above the machine at least six feet above the ground visible for at a minimum of one hundred feet away from the machine.

CD. Towing. No person shall operate a snowmobile or off-highway vehicle ~~snow machine~~ while towing a sled, toboggan or other object, or any person riding on the same unless such sled, toboggan or other object is attached to the snowmobile or off-highway vehicle ~~snow machine~~ by a rigid bar, and the towed object shall be equipped with red rear reflectors and extended flag on rear of same design as in subsection **(BC)**(7) of this section.

DE. Protective Headgear. No person shall operate or ride upon a snowmobile or off-highway vehicle ~~snow machine~~ unless he is wearing a hard, protective headgear conforming to standards established by the U.S. Department of Transportation ~~or helmet~~, and adequate eye protection.

EF. Effect of Regulations. The parent of any child and the guardian of any ward shall not authorize or knowingly permit the child or ward to violate any provisions of this section.

FG. Penalties and Impoundment. In addition to any other penalty provided for a violation of this section, a ~~A person convicted of a violation of a provision of this section may be fined as such: for a first offense, a fine up to three hundred of one hundred dollars; for a second offense, a fine up to five hundred dollars (but not less than three hundred dollars); of three hundred dollars; and for a third offense, a fine up to one thousand dollars (but not less than five three hundred dollars).~~ After the third offense, the snowmobile or off-highway vehicle that has been used in three or more violations of this section by the same operator shall ~~would~~ lose its registration and may ~~could~~ not be reregistered with the city for twenty-four months. In addition, the snowmobile or off-highway vehicle ~~snow machine~~ operated by the alleged violator may be impounded during the period between apprehension and hearing whether or not ~~the machine~~ it is owned by the alleged violator. Release of the snowmobile or off-highway vehicle ~~snow machine~~ shall follow the same procedure applied to impounded motor vehicles.

GH. Motor Vehicle Operator's License. All drivers or operators of snowmobiles or off-highway vehicles ~~snow machines~~ shall have in their possession a valid current motor vehicle operator's license while operating upon the city streets.

HI. Horsepower Rating. No person shall operate any snowmobile or off-highway vehicle ~~snow machine~~ upon any street of the city powered by an engine which is rated as delivering less than ten horsepower.

IJ. Limitation of Use of Streets. The use of the streets of the city by a snowmobile or off-highway vehicle ~~snow machine~~ in accord with the terms of this section is limited to traveling

from one place to another in the most reasonably direct route possible, and no person shall use the streets themselves for recreational purposes.

~~J~~**K.** Insurance. No person may operate a snowmobile or off-highway vehicle ~~snow machine~~ upon any street of the city without proof of the minimum liability insurance required by the state.

~~L.~~ ~~Definition. The term "snow machine" means and includes every motor propelled device upon any skis, skids tracks, belts, cleats, or low pressure tires or any combination thereof, designed to travel over ice or snow, in, or upon or by which any person or property is or may be transported.~~

Section 252.—Cordova Municipal Code 10.44.010 is amended to read as follows:

10.44.010 - Funeral processions—Driving through prohibited. No **person shall drive** ~~driver of a vehicle shall drive~~ between the vehicles comprising a funeral or other authorized procession while they are in motion ~~and when such vehicles are conspicuously designated as required in this chapter.~~ This provision shall not apply **to movement through an intersection in compliance with an** ~~at intersections where traffic is controlled by~~ **official traffic control device** ~~traffic control signals~~ or **the direction of a** police officers.

Section 263.—Cordova Municipal Code 10.48.010 is amended to read as follows:

10.48.010 - Unlawful riding. No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, ~~or to persons riding within truck bodies in space intended for merchandise.~~

Section 274.—Cordova Municipal Code Chapter 10.52 is repealed and reenacted to read as follows:

Chapter 10.52 – VEHICLE IMPOUNDMENT

Sections:

- 10.52.010 – Authority to impound vehicles.
- 10.52.020 - Conditions for release from impoundment.
- 10.52.030 - Notice to owners and lienholders.
- 10.52.040 - Hearing.
- 10.52.050 - Disposal of impounded vehicle.

10.52.010 – Authority to impound vehicles. A police officer may remove and impound a vehicle

- A. That is parked, stopped or standing in violation of this title when the police officer determines that the violation poses an imminent threat to the public health, safety or welfare.
- B. That is unattended and illegally left standing upon a street in such position or under such circumstances as to obstruct the normal movement of traffic.

C. When a report has been made that the vehicle has been stolen or taken without the consent of its owner; or

D. When the person driving or in control of the vehicle is incapacitated or arrested for an offense that requires the arrested person to be arraigned before a judge or magistrate.

10.52.020 - Conditions for release from impoundment. A vehicle impounded under this title shall be released from impoundment only to the registered owner or the owner's legal representative:

A. Upon a successful appeal of the impoundment under section 10.52.040; or

B. Upon payment of each of the following:

1. The civil penalty for each violation that was a cause of the impoundment, and that has not been successfully appealed under section 10.56.060;

2. Each unpaid civil penalty for a violation by the registered owner of the vehicle of a provision of this title, which violation is not subject to further appeal;

3. Any unpaid fines or surcharges for a violation by the registered owner of the vehicle of a provision of this title, which violation is not subject to further appeal; and

4. The impoundment administrative fee and any towing and storage charges arising from the impoundment.

10.52.030 - Notice to owners and lienholders.

A. The city shall give written notice to each record owner and lienholder of a vehicle that the city has impounded by registered or certified mail, return receipt requested, or if the vehicle is not registered in the state or the city cannot determine the name and address of the owner or lienholder, by publication in a newspaper of general circulation in the city.

B. The notice shall include:

1. A description of the vehicle and its location when impounded;

2. The reasons why the city impounded the vehicle;

3. The name and address of the registered owner and the vehicle identification number of the vehicle;

4. A statement that unless within seven days after the date of the notice, either: the vehicle is released from impoundment under section 10.52.020, or a person with an interest in the vehicle requests a hearing under Section 10.52.040, the city may without further notice impound and dispose of the vehicle by sale, destruction or other disposition authorized by law.

10.52.040 - Hearing.

A. A person claiming an interest in a vehicle that is impounded under this chapter may obtain a hearing on whether the vehicle was properly impounded under this chapter by requesting the hearing in writing at the office of the city manager within seven days after the date of the notice of impoundment.

B. A hearing officer, who shall be the city manager or a person designated by the city manager, shall conduct the hearing within three business days after the city receives a timely request for a hearing under subsection A of this section. The issue at the hearing shall be limited to whether the vehicle was properly impounded under this chapter.

C. The appeal hearing shall be conducted informally and may be governed by such rules and procedures as the hearing officer may establish, except that:

1. Each party may appear in person or by telephone.
2. Each party may present witnesses and evidence.
3. Each party or the party's counsel may cross examine opposing witnesses on matters relevant to the issues, impeach witnesses regardless of which party first called the witness to testify, and rebut evidence against the party.
4. Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule which makes improper the admission of the evidence over objection in a civil action. Hearsay evidence may be considered provided there are guarantees of its trustworthiness and that it is more probative on the point for which it is offered than any other evidence which the proponent can procure by reasonable efforts.
5. The hearing shall be open to the public.
6. An electronic recording shall be made of the hearing.

D. The hearing officer may exercise independent judgment as to the weight of evidence supporting or refuting the impoundment, and may exercise independent judgment on legal issues raised by the parties.

E. No later than three business days following the hearing the hearing officer shall issue a written decision based on findings and conclusions adopted by the hearing officer. Such findings must be in writing and must be reasonably specific so as to provide interested persons and, where appropriate, reviewing authorities, a clear and precise understanding of the reasons for the decision entered. The decision, findings of fact and conclusions of law shall be forwarded to all parties to the appeal. A final appealable decision must indicate that it is a final order and that a party disputing the decision has 30 days to appeal.

F. A final decision issued under subsection E of this section may be appealed to the superior court within 30 days after the date the decision was issued. For the purposes of this section the date of issuance is the date upon which the decision was mailed or delivered to the parties.

10.52.050 - Disposal of impounded vehicle.

A. Upon satisfaction of the notice and hearing requirements prescribed in this chapter, the city may dispose of an impounded vehicle that is not released from impoundment under section 10.52.020 within 60 days after the date of the notice of impoundment under section 10.52.030 by removing it to a scrap processing yard or auto wrecker for disposal or by public auction not less than twenty days after notice of the auction is published in a newspaper of general circulation in the city. The notice of auction must describe the vehicle and specify the place, date and time at which it will be sold.

B. The proceeds of any sale of an impounded vehicle shall be applied first to reimburse the city for costs of disposing of the vehicle, including towing, storing and selling the vehicle, and second to satisfy any amount the payment of which would be required for the release of the vehicle from impoundment under Section 10.52.020 ~~fine or penalty that has been imposed for the unlawful abandonment of the vehicle~~. Any part of the proceeds remaining thereafter shall be made available to the former owner of the vehicle if claimed within thirty days from the date of sale, and if not so claimed shall become the property of the city.

Section 285. –Cordova Municipal Code Chapter 10.56, Enforcement, is repealed and reenacted to read as follows:

Chapter 10.56 – PARKING ENFORCEMENT

Sections:

~~10.56.010 – Citation procedure.~~

~~10.56.020 – Disposition of citation for scheduled violation.~~

10.56.0130 - Notice of violation.

10.56.0240 - Owner of vehicle presumed responsible for violation.

10.56.0350 - Civil penalties for parking violations.

10.56.0460 – Appeals.

~~10.56.010 – Citation procedure. When a police officer stops or contacts a person for a violation of this title, the officer may, in the officer's discretion, issue a citation to the person. The citation shall include the information required by AS 12.25.200(b), and shall be made upon oath or affirmation before a person authorized by law to administer oaths or affirmations or signed with a certification under penalty of perjury that the citation is true and was personally served on the person charged. Nothing in this section shall abridge the power to arrest any violator and to take him into custody, or to file a complaint against him, at any time.~~

~~10.56.020 – Disposition of citation for scheduled violation. If a person cited for a violation for which a scheduled fine has been established does not contest the citation, the person may mail or personally deliver to the city clerk of the amount of the fine indicated on the citation plus the surcharge required under AS 12.55.039, together with a copy of the citation signed by the person indicating the person's waiver of court appearance, entry of plea of no contest, and forfeiture of the fine. The citation with the fine shall be mailed or personally delivered on or before the 30th day after the date the citation was issued.~~

10.56.0130 - Notice of violation. A vehicle parked, stopped or standing in violation of this title is a public nuisance. Upon discovery of a vehicle abandoned, parked, stopped or standing in violation of this title, a police officer may issue a notice of violation, and deliver it to the operator of the vehicle or affix it to the vehicle if it is unattended at the time of issuance. The notice of violation shall identify the vehicle, the nature of the violation and the means of resolving it.

10.56.0240 - Owner of vehicle presumed responsible for violation. It shall be presumed that ~~the registered owner of~~ a vehicle which is found to be parked, stopped or standing in violation of this title has been so operated by the registered owner thereof or has been operated by another person with the consent of the registered owner, the vehicle to which a citation pertains being a public nuisance for which the registered owner holds legal responsibility. That presumption may be rebutted by presentation of satisfactory evidence that the vehicle was being operated by another person at the time of the violation without the consent of the registered owner and beyond the control of the registered owner.

10.56.0350 - Civil penalties for parking violations.

A. A person who violates a provision of this Code pertaining to parking, standing or stopping a vehicle shall be subject to a civil penalty in the amount stated in the following table:

Code Section	Description of Violation	Penalty
10.12.010	Adoption by reference of state statutes and regulations regarding stopping, standing and parking	Corresponding amount in state traffic bail forfeiture schedule
<u>10.24.005</u>	<u>Method of parking</u>	<u>\$30.00</u>
10.24.010	Parking outside marked space	\$30.00
10.24.020	Parking beyond time limitation	\$30.00
10.24.025	Parking without required permit	\$30.00
10.24.040	Angle parking required	\$30.00
10.24.050	Loading permit violation	\$30.00
10.24.060	Parking over 24 hours	\$30.00
10.24.070	Parking for prohibited purpose	\$30.00
10.24.080	Parking blocking driveway	\$30.00
10.24.090	Parking on private property without permission	\$30.00
10.24.100	Parking in roadway obstructing traffic	\$30.00
10.24.110	Parking in main-traveled part of highway	\$30.00
10.28.020	Passenger loading zone time limit	\$30.00
10.28.030	Freight loading zone time limit	\$30.00
10.28.050	Bus and taxicab stands – use required	\$30.00
10.28.060	Bus and taxicab stands - unauthorized use	\$30.00
10.54.020	Abandonment of Vehicles	\$500.00

B. In addition to any other penalty provided by law, a person who fails to resolve a notice of violation under this chapter within the time stated on the face of the notice shall be subject to a civil penalty in the amount of \$15.00 in addition to any other penalty provided by law. Failure to resolve a notice of violation within 30 days of the date after imposition of this civil penalty may also result in legal and collection fees. A notice of violation is resolved by payment of the amount due under this section on the earlier of:

1. The date the payment is received by the city clerk; or
2. The legible postmark date on a payment the city clerk receives by mail.

10.56.060 - Appeals.

A. A person who has been issued a notice of violation for vehicle parking, stopping or standing in violation of this title may appeal that action to the a hearing officer designated by the city manager by completing a violation appeal form and delivering the form to the city manager no later than 30 days after the date of the notice of violation or impoundment to which the appeal pertains.

B. The hearing officer shall schedule an appeal hearing no more than 10 business days after the date of delivery of the violation appeal form.

C. The appeal hearing shall be conducted informally and may be governed by such rules and procedures as the hearing officer may establish, except that:

1. Each party may appear in person or by telephone.

2. Each party may present witnesses and evidence.
3. Each party or the party's counsel may cross examine opposing witnesses on matters relevant to the issues, impeach witnesses regardless of which party first called the witness to testify, and rebut evidence against the party.
4. Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule which makes improper the admission of the evidence over objection in a civil action. Hearsay evidence may be considered provided there are guarantees of its trustworthiness and that it is more probative on the point for which it is offered than any other evidence which the proponent can procure by reasonable efforts.
5. The hearing shall be open to the public.
6. An electronic recording shall be made of the hearing.

D. The hearing officer may exercise independent judgment as to the weight of evidence supporting or refuting the notice of violation or impoundment, and may exercise independent judgment on legal issues raised by the parties.

E. No later than 15 days following the hearing the hearing officer shall issue a written decision based on findings and conclusions adopted by the hearing officer. Such findings must be in writing and must be reasonably specific so as to provide interested persons and, where appropriate, reviewing authorities, a clear and precise understanding of the reasons for the decision entered. The decision, findings of fact and conclusions of law shall be forwarded to all parties to the appeal. A final appealable decision must indicate that it is a final order and that a party disputing the decision has 30 days to appeal.

F. A final decision issued under subsection E of this section may be appealed to the superior court within 30 days of the date the decision was issued. For the purposes of this section the date of issuance is the date upon which the decision was mailed or delivered to the parties.

Section 26. This ordinance shall be effective thirty (30) days after its passage and publication. This ordinance shall be enacted in accordance with Section 2.13 of the Charter of the City of Cordova, Alaska, and published in the Cordova Times, a newspaper of general circulation in the City, within ten (10) days after its passage.

1st reading: November 7, 2012

2nd reading and public hearing: December 5, 2012

PASSED AND APPROVED THIS 5th DAY OF DECEMBER, 2012.

Jim Kallander, Mayor

ATTEST:

Susan Bourgeois, City Clerk