

**AN ORDINANCE OF THE HAINES BOROUGH ADDING HAINES BOROUGH CODE TITLE
12 CHAPTER 12.40 TO ESTABLISH A PUBLIC PARK AT PICTURE POINT**

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance shall become effective immediately upon adoption.

Section 4. Purpose. This ordinance adds Title 12 Chapter 12.40 to establish a public park at Picture Point. The code is amended as follows:

**Chapter 12.40
PICTURE POINT PARK**

Sections:

- 12.40.010 Definitions
- 12.40.020 Picture Point Park Establishment and Values
- 12.40.030 Regulations for Protection of Natural Resources and Wildlife
- 12.40.040 Reserved Rights and Allowable Uses
- 12.40.050 Park Operation
- 12.40.060 Enforcement and Penalties

12.40.010 Definitions

As used in this chapter,

"Permit" means Department of the Army permit number POA-2009-1303 Portage Cove issued by the Juneau Regulatory District Corps of Engineers on June 24, 2010, required to mitigate for unavoidable impacts authorized by that permit

"Property" means that area of tidelands and submerged lands located at Picture Point owned by the borough, whose legal description is:

Commencing at the southernmost property corner of Lot 3 Nukdik Point View Subdivision, Plat No. 2009-1, which is at the 1987 meander line of ATS 1308, from which the Northwest property corner of Lot 3 bears N 45° 42' 52" W a distance of 67.69 feet thus being the **Basis of Bearing** for this legal description; thence N 54° 55' 31" E a distance of 390.04 feet to the **True Point of Beginning**; thence S 49° 41' 53" E a distance of 138.82 feet; thence N 45° 54' 51" E a distance of 141.7 feet; thence N 66° 46' 51" a distance of 81.68 feet; thence N. 10° 24' 31" W a distance of 73.92 feet; thence S 89° 31' 21" W a distance of 79.55 feet; thence S 53° 52' 18" W a distance of 33.38 feet; thence S 74° 16' 56" W a distance of 62.49 feet; thence S 47° 42' 21" W a distance of 88.92 feet; thence S 65° 54' 02" W a distance of 40.26 feet to the **Point of Beginning**, containing 0.649 acres more or less.

12.40.020 Picture Point Park Establishment and Values

The establishment of a public park at Picture Point is a condition of the Permit.

The Haines Borough recognizes the conservation, scenic, natural, or aesthetic value of the Property in its natural state. The purpose of this public park is to maintain aquatic resources and other natural values of the Property, and prevent the use or development of the Property for any purpose or in any manner that would conflict with the maintenance of the Property in its natural condition.

12.40.030 Regulations for Protection of Natural Resources and Wildlife.

Any activity on, or use of the Property inconsistent with the purpose of this public park is prohibited unless identified as an allowable use. Any construction activity on this restricted area is prohibited, except:

1. Public utilities may be constructed operated, maintained , extended or located in existing utility easements provided the Borough or its permittee returns any tideland disturbed from utility construction activity to its natural state
2. Construction activities as allowed by the Permit for educational, cultural, or recreational purposes.
3. Construction of facilities to be used for educational, recreational, or cultural purposes after consultation with and approval of the U.S. Army Corps of Engineers.
4. An elevated walking trail for the purpose of environmental education and awareness may be constructed at the site provided the project is within the scope of the U.S. Army Corps of Engineers nationwide permit on minor discharges or structural discharges.

12.40.040 Reserved Rights and Allowable Uses.

The Haines Borough reserves for itself, its citizens, personal representatives, heirs, successors or assigns, the right to continue the use of the Property for all purposes consistent with this establishment of a public park, including, but not limited to, the right to quiet enjoyment of the Property, the rights of ingress and egress, including, but not limited to, traditional and contemporary subsistence and cultural activities, the right to fish, gather, and hike on the Property, the right to sell, transfer, gift or otherwise convey the Property, in whole or in part, provided such sale, transfer or gift conveyance is subject to the terms of, and shall specifically reference this Chapter.

The following uses within the park boundaries are generally allowed:

- A. Fishing, or placement of a crab pot, or shrimp pot that complies with applicable municipal, state, and federal statutes and regulations on the taking of fish and shellfish.
- B. Harvesting a small number of wild plants, mushrooms, berries, and other plant material for personal, non-commercial use.
- C. Hiking, backpacking, skiing, climbing, and other foot travel
- D. Using watercraft (such as a boat, jet-ski, raft, kayak, or canoe), in a manner that minimizes surface damage, without damaging the Property.
- E. Signs may be displayed to state:
 - a. The name and address of the property, or the owner's name;
 - b. The area is protected by this Chapter as adopted by the Haines Borough Assembly;
 - c. Prohibition of any unauthorized entry or use;
 - d. Sale or rent of the Property;
 - e. To warn the public of hazards (if any); or for
 - f. Environmental education, awareness, or interpretive panels.
- F. Placing riprap or other suitable bank stabilization material to prevent erosion of a contiguous privately owned upland parcel if material is placed onto stable shoreland and the project is otherwise in the scope of the U.S. Army Corps of Engineers nationwide permit on bank stabilization.
- G. An event or assembly of 50 people or less, including events sponsored by non-profit organizations or commercial events.

- H. Recreational or other uses not listed above may occur within the park boundaries provided the use
- a. Is not a commercial recreational camp or facility that remains overnight;
 - b. Does not involve explosives or explosive devices other than Borough-sponsored fireworks displays;
 - c. Is not prospecting or mining using hydraulic equipment methods;
 - d. Is not for geophysical exploration for minerals or an oil and gas exploration;
 - e. Does not cause or contribute to significant disturbance of vegetation, drainage, or soil stability;
 - f. Does not interfere with public access or other public uses or interests.

Notwithstanding the foregoing Restrictions, the owner reserves for itself, its successors and assigns, the right to construct wetland, intertidal and stream mitigation on the Property, in accordance with the Compensatory Mitigation Plan for the Permit dated April 2011.

12.40.050 Park Operation

- A. Permits. Temporary Use Permits issued under HBC 14.16.200 are required for special events.
- B. Park Fees. Fees as set by action of the Assembly shall be charged for special events accompanied with a damage deposit.

12.40.060 Enforcement and Penalties

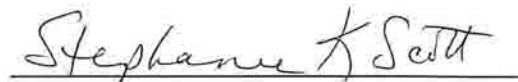
- A. Enforcement.
 - a. The Haines Borough Manager shall have the right to issue administrative regulations pertaining to use of the Property subject to approval of the Assembly..
 - b. The Haines Borough Police Department, other licensed peace officers, and designated Haines Borough employees, shall have the authority to enforce this Chapter and any city manager regulations and may eject from the park any persons acting in violation of this Chapter or any Temporary Use permit issued for use of the Property.
 - c. Nothing in this Chapter shall prevent Haines Borough employees from performing their assigned duties.
 - d. Enforcement of this Chapter shall be in the same manner set forth in HBC Chapter 9.01.
- B. Penalties. Violations of this Chapter are subject to the same penalties as provided in HBC 1.24 and 9.01.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS 14th DAY OF FEBRUARY, 2012.

ATTEST:


Julie Cozzi, MMC, Borough Clerk




Stephanie Scott, Mayor

Date Introduced:	10/25/11
Date of First Public Hearing:	01/24/12 - Hearing postponed on 11/15 and 1/10 to give the PC an opportunity to review; amended at the 1/24/12 meeting
Date of Second Public Hearing:	02/14/12 - Adopted