

**City of Akutan**  
**Municipal Code**

**NOTE:** The ordinances or sections of ordinances provided on these pages are not the official versions and are provided for informational purposes only. While every effort has been made to ensure accuracy of the information presented herein, if the most current version or precise language of an ordinance is required, it is recommended that you contact the municipality from which it came.

# TITLE 1

## GENERAL PROVISIONS

### Chapters

1 General Provisions

2 City Data

# TITLE 1

## GENERAL PROVISIONS

### Chapter 1 – General Provisions

#### Sections

- 1.10.010. Purpose.
- 1.10.020. City seal.
- 1.10.030. Definitions.
- 1.10.040. Grammatical interpretation.
- 1.10.050. Effect of repeal of ordinances.
- 1.10.060. Severability of ordinances and parts of code.
- 1.10.070. General penalty.
- 1.10.080. Laws of Alaska; Violations; Ordinances not exclusive
- 1.10.090. Amendments to code, Effect of new ordinances.
- 1.10.100. Distribution.
- 1.10.110. Supplements.
- 1.10.120. Time ordinances take effect.

1.10.010. Purpose. We, the elected officials of the City of Akutan, Alaska, mindful of the responsibilities for the welfare of our community which we hold as the council of a second-class city incorporated under the laws of and the Constitution of the State of Alaska, and to provide local government of service to our people to meet their needs, do establish this ordinance of organization and procedure for the City of Akutan.

1.10.020. City seal. The description of the seal of the city shall be a circle upon which shall be printed the words, THE CITY OF AKUTAN, ALASKA, and across the face the inscription INCORPORATED ON OCTOBER 23, 1979. The above described seal is hereby adopted and declared the acts of this corporation. The seal of the city shall be kept by the city clerk and by him/her affixed to all acts requiring to be so authenticated.

1.10.030. Definitions. Except as otherwise specifically defined in this ordinance or indicated by the context of an ordinance, words used in ordinances of the city shall have the ordinary dictionary meanings.

- (a) CITY: Means the City of Akutan, Alaska.
- (b) CONDITIONAL USE: Means exception, special exception, special use, or special permit stated in the zoning ordinance.
- (c) MAJORITY: Means a simple majority.
- (d) MUNICIPALITY: Means a general law municipal corporation and political subdivision, which is a first or second class borough or city, -or a third class borough, incorporated under the laws of the state.
- (e) PROPERTY: Means real and personal property.
- (f) PERSONAL PROPERTY: Means tangible property other than real property, such as goods and stock in trade, machinery and equipment, furniture and fixtures, motor vehicles and vehicles, boats, vessels and aircraft.
- (g) REAL PROPERTY: Means land and improvements and all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements.
- (h) PUBLISHED: Means appearing at least once in a paper of general circulation distributed within the municipality or, if there is no newspaper of general circulation distributed within the municipality, posting in three public places for any matter of public notice in the way provided for by law, one location shall be at the U, S. Post Office.
- (i) REGISTERED MAIL: Means registered mail or certified mail. Where there is a requirement that a notice be mailed by registered mail the requirement may be met by use of certified mail.
- (j) REGULAR ELECTION: Means the municipal election held on the first Tuesday of October annually, or on an election date or at an interval of years provided by ordinance.
- (k) SUBDIVISION: Means the division of a tract or parcel of land into two or more lots,

sites, or other divisions for the purpose, whether im<sup>m</sup>ediate or future, of sale or building development. Includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or area subdivided.

- (l) BY LAW: Denotes applicable Federal law, The Constitution, statutes and regulations of the State of Alaska, and applicable -common *law*.
- (m) CODE: The Code of Ordinances, City of Akutan Alaska.
- (n) PERSON: A corporation, company, partnership, firm, association, organization, business trust or society, as well as a natural person.
- (o) STATE: The State of Alaska.

1.10.040. Grammatical interpretation.

- (a) TENSE. Words in the present tense include the past and future tense, and words in the future tense include the present tense.
- (b) NUMBER. Words in the singular number include the plural, and words in the plural number include the singular.
- (c) GENDER. Words of the masculine gender include the feminine and the neuter and when the sense so indicates, words of the neuter gender may refer to any gender.

10 050. Effect of repeal of ordinances. Ordinances repealed remain in force for the trial and punishment of all past violations of them, and for the recovery of penalties and forfeitures already incurred, and for the preservation of all rights and remedies existing by them and so far as they apply, to any office, trust, proceeding, right, contract or event, already affected by them.

1.10.060. Severability of ordinances and parts of code. Any ordinance enacted before or after the adoption of this code which lacks a severability clause shall be construed as though it contained the clause in the following language: "If any provisions of this ordinance, or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby."

1.10.070. General penalty. Every act prohibited by ordinance of this city is unlawful. Unless other penalty is expressly provided by this code for any particular provision or section, every person convicted of a violation of any provision of this code, or any rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine of not more than three hundred dollars (\$300.00). Unless otherwise specifically provided, upon the second conviction such person shall be punished by a fine of not more than five hundred dollars (\$500.00), or not more than thirty days imprisonment, or both. Each act of violation and every day upon which such violation shall occur shall constitute a separate offense. The penalty provided by this section shall, unless any other penalty is expressly provided, apply to the amendment of any section of this code, whether or not such penalty is re-enacted in the amendment ordinance.

1.10.080. Laws of Alaska. Violations; Ordinances not exclusive. No person shall violate any law of the State of Alaska, nor any rule or regulation adopted by any duly authorized agency of the State of Alaska. Violations of the foregoing shall be violations of the Code of Ordinances of the City of Akutan, Alaska, except where the state has exclusive jurisdiction over the offense.

1.10.090. Amendments to Code; Effect of new ordinances. All ordinances passed after the adoption of this code which amend, repeal or in any way affect this code shall be numbered according to the numbering system of this code. Repealed chapters, sections and subsections or any part thereof shall be excluded from the code. Amendments to this code shall be made by specific reference to the section number of this code in substantially the following language: "Chapter \_\_\_Section\_\_\_of the Code of Ordinances of the City of Akutan, Alaska, is hereby amended to read as follows."

If a new chapter or section is to be added to this code substantially the following language shall be used: "The Code of Ordinances of the City of Akutan, Alaska, is hereby amended by addition of the following chapter (or section)." The provisions to be repealed, must be specifically repealed by section or chapter number.

1.10.100. Distribution. This code with amendments shall be made available to the public for inspection on request. A copy of this code shall be furnished to the courts as needed or upon the request of the court.

1.10.110. Supplements. Supplements to this code shall be printed and included within this code within 60 days after the council passes the law.

1.10.120. Time ordinances take effect. An ordinance which has been approved by the city council shall be effective 24 hours after passage, unless otherwise stated in the ordinance.

# TITLE 1

## GENERAL PROVISIONS

### Chapter 2 – City Data

#### Sections:

1.20.010. Name of municipality–Form of government.

1.20.020. City Limits.

#### 1.20.010. Name of municipality–Form of government.

- (a) The City of Akutan shall continue as a municipal corporation under the name: "The City of Akutan, Alaska."
- (b) The government of the city shall be that commonly known and designated as the council form.
- (c) The government of the city is a general law second class city under the laws of the state.

#### 1.20.020. City Limits. The boundaries of the City of Akutan are as follows:

Beginning at the northwest corner of Section 18, T70S, R112W, Seward Meridian (S.M.), Alaska;

Thence, westerly along the south boundary of Section 12, T70S, R113W, S.M. to the southwest corner of Section 12, T70S, R113W, S.M.

Thence, northerly along the west boundary of Sections 12 and 1, T70S, R113W, S.M. and Sections 36 and 25, T69S, R113W, S.M. to the northwest corner of Section 25, T69S, R113W, S.M.

Thence, westerly along the south boundary of Section 23, T69S, R113W, S.M. to the southwest corner of Section 23, T69S, R113W, S.M.

Thence, northerly along the west boundary of Sections 23, 14 and 11, T69S, R113W, S.M. to the intersection of the mean high water line of the Bering Sea and the west boundary of Section 11, T69S, R113W, S.M.

Thence, continuing northerly along the west boundary of protracted Sections 11 and 2, T69S, R113W, S.M. to the northwest corner of protracted Section 2, T69S, R113W, S.M.

Thence, easterly along the north boundary of protracted Sections 2 and 1, T69S, R113W, S.M., protracted Sections 6, 5, 4, 3, 2 and 1, T69S, R112W, S.M. and protracted Sections

6, 5 and 4, T69S, R111W, S.M. to the intersection of the mean high water line of Akutan Bay and the north boundary of Section 4, T69S, R111W, S.M.

Thence, continuing easterly along the north boundary of Sections 4, 3 and 2, T69S, R111W, S.M. to the southwest corner of Section 35, T68S, R110W, S.M.

Thence, northerly along the west boundary of Section 35, T68S, R110W, S.M. to the northwest corner of Section 35, T68S, R110W, S.M.

Thence, easterly along the north boundary of Sections 35 and 36, T68S, R110W, S.M. to the northeast corner of Section 36, T68S, R110W, S.M.

Thence, southerly along the east boundary of Section 36, T68S, R110W, S.M. to the southeast corner of Section 36, T68S, R110W, S.M.

Thence, easterly along the north boundary of Section 6, T69S, R110W, S.M. to the northeast corner of Section 6, T69S, R110W, S.M.

Thence, southerly along the east boundary of Sections 6 and 7, T69S, R110W, S.M. to the southeast corner of Section 7, T69S, R110W, S.M.

Thence, easterly along the north boundary of Sections 17 and 16, T69S, R110W, S.M. to the northeast corner of Section 16, T69S, R110W, S.M.

Thence, southerly along the east boundary of Sections 16, 21, 28 and 33, T69S, R110W, S.M. and Section 4, T70S, R110W, S.M. to the intersection of the mean high water line of Trident Bay and the east boundary of Section 4, T70S, R110W, S.M.

Thence, continuing southerly along the east boundary of protracted Sections 4, 9 and 16, T70S, R110W, S.M. to the southeast corner of protracted Section 16, T70S, R110W, S.M.

Thence, westerly along the south boundary of protracted Section 16, T70S, R110W, S.M. to the southwest corner of protracted Section 16, T70S, R110W, S.M.

Thence, southerly along the east boundary of protracted Section 20, T70S, R110W, S.M. to the southeast corner of protracted Section 20, T70S, R110W, S.M.

Thence, westerly along the south boundary of protracted Section 20, T70S, R110W, S.M. to the southwest corner of protracted Section 20, T70S, R110W, S.M.

Thence, northerly along the west boundary of protracted Section 20, T70S, R110W, S.M. to the northwest corner of protracted Section 20, T70S, R110W, S.M.

Thence, westerly along the south boundary of protracted Section 18, T70S, R110W, S.M. and Sections 13, 14, 15 and 16, T70S, R111W, S.M. to the intersection of the mean high

water line of the Pacific Ocean and the south boundary of Section 16, T70S, R111W, S.M.

Thence, continuing westerly along the south boundary of Sections 16, 17 and 18, T70S, R111W, S.M. to the southwest corner of Section 18, T70S, R111W, S.M.

Thence, southerly along the east boundary of Section 24, T70S, R112W, S.M. to the southeast corner of Section 24, T70S, R112W, S.M.

Thence, westerly along the south boundary of Sections 24, 23 and 22, T70S, R112W, S.M. to the southwest corner of Section 22, T70S, R112W, S.M.

Thence, northerly along the west boundary of Section 22, T70S, R112W, S.M. to the northwest corner of Section 22, T70S, R112W, S.M.

Thence, westerly along the south boundary of Sections 16, 17 and 18, T70S, R112W, S.M. to the southwest corner of Section 18, T70S, R112W, S.M.

Thence, northerly along the west boundary of Section 18, T70S, R112W, S.M. to the Point of Beginning.

Containing approximately 147.91 square miles (of which 82.33 is water), all within the Third Judicial District, Alaska.

The boundaries of the city as above described were the effective city limits as of certification on August 8, 2012, by the Commissioner of the Department of Commerce, Community, and Economic Development, completing the Local Boundary Commission annexation process.

(Ord. 13-04, 9/18/12)

TITLE 2

LEGISLATIVE

Chapters

- 1 Ordinances-Resolutions-Technical Codes
- 2 City Council
- 3 Mayor
- 4 Council Meetings
- 5 Council Procedures
- 6 Documents-Reports-Records

## TITLE 2

### LEGISLATIVE

#### Chapter 1 – Ordinances–Resolutions–Technical Codes

- 2.10.010. Acts of the council.
- 2.10.020. Acts required to be by ordinance.
- 2.10.030. Ordinance procedure.
- 2.10.040. Ordinance form and content.
- 2.10.050. Emergency ordinances.
- 2.10.060. Signature.
- 2.10.070. Ordinances confined to single subject.
- 2.10.080. Repeal shall not revive any ordinances.
- 2.10.090. Codes of regulations.
- 2.10.100. Formal acts by resolution.
- 2.10.110. Resolutions–Reading–Hearing–Adoption–Posting.
- 2.10.120. Rules and regulations.
- 2.10.130. Official acts of city officials indemnified.

2.10.010. Acts of the council. The council shall act only by ordinance, or resolution. Law of a general, uniform and permanent nature shall be reduced to ordinance. When the council expresses opinions, principles, facts or propositions, it shall be in the form of a resolution.

2.10.020. Acts required to be by ordinance. In addition to other actions which Alaska Statutes Title 23 (Municipal Government) requires to be by ordinance, the council shall use ordinances to:

- (a) Establish, alter or abolish municipal departments;
- (b) Amend or repeal an existing ordinance;
- (c) Fix the compensation of members of the council;
- (d) Provide for sale of city property valued at more than twenty-five thousand dollars;
- (e) Provide for a fine or other penalty, or establish rules or regulations for violation of which a fine or other penalty is imposed;
- (f) Provide for levying of taxes;
- (g) Make appropriations and supplemental appropriations or transfer appropriations;
- (h) Grant, renew, or extend a franchise;
- (i) Regulate the rate charged by a public utility;

2.10.030. Ordinance procedure.

- (a) A proposed ordinance may be presented for consideration only by a member of the council or by the mayor or by the city administrator at any regular or special meeting of the council. Upon presentation, a proposed ordinance shall be rejected, deferred, reworded, or accepted as introduced. Promptly after acceptance by motion the council shall publish the proposed ordinance and a notice setting out the time and place for a public hearing on the proposed ordinance. The public hearing of a proposed ordinance shall follow publication by at least five days; it may be held at a regular or special council meeting. At the public hearing copies of the proposed ordinance shall be given to all persons present who request them or the proposed ordinance shall be read in full. All interested persons shall have an opportunity to be heard. -If the proposed ordinance is amended after the hearing as to any matter of major substance, the proposed ordinance shall be treated as a newly-introduced proposed ordinance. After the hearing, the council shall consider the proposed ordinance and may adopt it with or without amendment. The council shall print and make available copies of adopted ordinances.
- (b) As used in this section, the term "publish" means that the proposed ordinance and notice of hearing shall be posted in three public places for at least five days, one of which places shall be the Post Office.

2.10.040. Ordinance form and content.

- (a) All ordinances enacted by the council shall be in substantially the following form:
  - (1) The proposed ordinance shall have a heading and number.
  - (2) Title: A short summary of the ordinance's provisions shall be included in a title at the head of the ordinance. The title shall make reference to any penalties imposed by the ordinance which are different than or additional to the general penalties set forth in Chapter 1.
  - (3) Enacting clause: The enacting clause shall read: "BE IT ENACTED BY THE COUNCIL OF THE CITY OF AKUTAN."
  - (4) Substantive part of the ordinance: The provisions of the ordinance will follow the enacting clause.
  - (5) Signatures: Appropriate places shall be provided for the signatures of the mayor and the clerk.
  - (6) Attestation: The enactment and passage dates of the ordinance shall be attested by the clerk.
- (b) Ordinances which amend, add to or repeal sections of the Akutan Ordinance Code shall

refer to the code sections by number.

2.10.050. Emergency ordinances.

- (a) To meet a public emergency the council may adopt ordinances effective on adoption. Every emergency ordinance must contain a statement by the council of why an emergency exists and a statement of the facts about the emergency. The ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of all members present, or the affirmative vote of three-fourths of the total membership, whichever is less, is required for adoption. The council must print and make available copies of adopted emergency ordinances.
- (b) An emergency ordinance may not be used to levy taxes, to grant, renew or extend a franchise, or to regulate the rate charged by a public utility for its services.
- (c) Emergency ordinances are effective for sixty days.

2.10.060. Signature. Each ordinance shall be signed by the mayor at its adoption and attested by the clerk, or in the absence of the mayor by the presiding officer of the council, in the absence of the clerk, by the deputy clerk or a member of the council.

2.10.070. Ordinances confined to single subject. Every ordinance shall as far as is reasonably practicable be confined to one subject unless it is an appropriation ordinance or one codifying, revising, or rearranging existing ordinances. Ordinances for appropriations shall be confined to appropriations. The subject of each ordinance shall be expressed in the title.

2.10.080. Repeal shall not revive any ordinances. The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed.

2.10.090. Codes of regulations. The council may in a single ordinance adopt or amend by reference provisions of a standard published code of regulations. The regular ordinance procedure applies except that neither the code of regulations nor its amendments need be distributed to the public or read in full at the hearings. For a period of fifteen days before adoption of the regulations at least five copies of the code of regulations must be made available for public inspection at a time and place set out in the hearing notice. Only the adopting ordinance need be printed after adoption. The council may sell the adopted code to the public.

2.10.100. Formal acts by resolution.

- (a) Formal acts by the council not required by law to be enacted by ordinance and not being acts of a general and permanent nature may be adopted by resolution. A resolution shall have:
  - (1) The heading "City of Akutan, Alaska";
  - (2) The space for a number to be assigned – "Resolution, No. \_\_\_\_";

- (3) A short and concise title descriptive of its subject and purpose;
  - (4) Short premises or whereas clauses descriptive of the reasons for the resolution, if necessary;
  - (5) The resolving clause, "Be It Resolved:";
  - (6) Provision for signature after the date, and designated lines for the signatures of the mayor and clerk; and
  - (7) An attestation.
- (b) All resolutions adopted by the council whether at the request of a third party, or on the motion of the council, shall conform to the requirements set forth in (a) above.
  - (c) Resolutions shall not be included in any municipal code of ordinances.

2.10.110. Resolutions–Reading–Hearing–Adoption–Posting.

- (a) Every resolution shall be introduced in writing and shall be orally read before any vote for passage is taken.
- (b) On any vote to pass the resolution, all persons interested shall be given an opportunity to be heard. After such hearing, the council may finally pass such resolution with or without amendments.
- (c) After adoption, every resolution shall be posted in full on the city bulletin board. Every resolution, unless it shall specify a later date, shall become effective following adoption. If the resolution is submitted at a city election when state law requires, then after a majority of favorable votes of the city voters has been certified by the council, the resolution may be adopted.

2.10.120. Rules and regulations. Any rule or regulation made by any administrative officer or board or commission shall be posted for ten days following its approval by the city council in three public places, except that regulations pertaining to city personnel shall be posted in the clerk's office and not be posed elsewhere.

2.10.130. Official acts of city officials indemnified.

- (a) The mayor, councilmen, school board members and planning and zoning members shall be defended, indemnified and held harmless against loss as a result of any official action they may take. Official action is defined for purposes of this section as an action or comment or motion or other act made in a meeting where at least a quorum of members is present and the clerk or secretary has declared that the meeting is lawful.
- (b) A city official acting on behalf of the city shall be defended, indemnified and held

harmless against claims, lawsuits and any loss. Acting on behalf of the city shall be defined for purposes of this section as acting in a manner such that the result of the action could be construed as beneficial to the community or that the intent of the action was reasonable under the circumstances or that such act or omission was without malicious intent and was within the scope of their authority or employment.

- (c) In the event the city secures errors and omissions insurance then the city shall pay any deductible amount attributable to any official above named as a result of any claim against the insurance.

TITLE 2

LEGISLATIVE

Chapter 2 – City Council

Sections:

- 2.20.010. City Council–Composition.
- 2.20.020. Qualifications of elected officials.
- 2.20.030. Election of councilmembers–Terms.
- 2.20.040. Oath of office.
- 2.20.050. Compensation of councilmembers.
- 2.20.060. Salaries of elected officers not to be varied.
- 2.20.070. Conflicts of interest.
- 2.20.080. Prohibitions.
- 2.20.090. Vacancies.
- 2.20.100. Filling a vacancy.

2.20.010. City Council–Composition. The council shall consist of seven members elected by the voters at large.

2.20.020. Qualifications of elected officials.

- (a) No person shall hold any elective office or be eligible to seek election thereto, unless he is a qualified elector of the city and has been a resident of the city or of the territory annexed to the city, or which has had a combination of residency in the city and in the annexed territory for a period of not less than three years preceding election day.

A qualified elector of the city is a person who possesses the qualifications set forth in AS 15.05.010 and who has registered to vote pursuant to Chapter 7 of Title 15 of the Alaska Statutes.

- (b) Any elected official who ceases to be a qualified elector immediately forfeits his office.

[Ord. 81-06 §1, 1-20-82]

2.20.030. Election of councilmembers–Terms. An election is held annually on the first Tuesday of October, to choose councilmembers for three-year terms and until their successors are elected and have qualified. The regular term of office begins on the first Monday following the certification of election.

2.20.040. Oath of office.

- (a) All officers elected or appointed before entering upon the duties of office shall affirm in writing the following oath and affirmation:

"I . . . do solemnly swear that I will support the Constitution of the United States and State of Alaska and the laws and ordinances of the City of Akutan, State of Alaska, and that I will honestly, faithfully and impartially perform the duties of the office of . . . So help me God."

(b) The oath is filed with the municipal clerk

2.20.050. Compensation of councilmembers. No compensation is permitted except that per diem payment or reimbursement for expenses are not compensation under this section.

2.20.060. Salaries of elected officers. The council may fix by ordinance the salaries of elected officers before they are elected. The salary of elected officers may not be reduced during a term. If the council determines a reduced salary is necessary, the salary change will not take effect until the current term expires.

[Ord. 12-01, §2, 1-17-12]

2.20.070. Conflicts of interest. A councilmember or other officer or employee of the city shall disqualify himself from participating in any official action in which he has a substantial financial interest.

2.20.080. Prohibitions. No person may be appointed to or removed from office or in any way favored or discriminated against with respect to a city position because of his race, color, sex, creed, religion, national origin or, unless otherwise contrary to law, because of his political opinions or affiliations. Alaska Statutes Title 18.80 is applicable beyond the scope of this ordinance. The council is prohibited from using city funds in any transaction with any person at any time that discriminates against another because of race, color, sex, creed, religion, or national origin.

2.20.090. Vacancies. An elected city office is vacated under the following conditions. The council shall declare an elective office vacant when the person elected:

1. Fails to qualify or take office within thirty days after his election or appointment; or
2. Is physically absent from the city for a ninety-day period, unless excused by council; or
3. Resigns and his resignation is accepted; or
4. Is physically or mentally unable to perform the duties of his office; or
5. Is removed from office; or
6. Misses three consecutive regular meetings unless excused; or
7. Is convicted of a felony or of an offense involving a violation of his oath of office.

2.20.100. Filling a vacancy. If a vacancy occurs in the council, the council by vote of a majority of its remaining members shall designate a person to fill the vacant seat. The person appointed serves until the next regular city election and until his successor qualifies.

## TITLE 2

### LEGISLATIVE

#### Chapter 3 – Mayor

##### Sections:

2.30.010. Mayor as executive.

2.30.020. Presiding Officer.

##### 2.30.010. Mayor as executive.

- (a) The mayor is elected at large at a special election. The council shall meet on the first Monday after certification of each regular election and elect a council member to serve as mayor pro tempore who takes office immediately and exercises the powers and duties of mayor until the permanent mayor takes office. Within 45 days after certification of a regular election, a special election shall be held for the permanent mayor. The permanent mayor takes office on the first Monday following certification of the special election and serves until the first Monday after certification of the regular election that follows the end of the mayor's term.
- (b) The mayor is the chief executive of the city. The Mayor shall preside at council meetings, act as ceremonial head of the city, and sign documents on the city's behalf upon council authorization. The mayor has no veto power. The mayor is a councilmember. The Mayor's term shall be 3 years.

[Ord. 2007-04, §3, 2-9-07; Ord. 12-03, §2, 1-17-12]

- (c) The Mayor shall:
  - (1) Appoint city employees and administrative officers, except as provided otherwise. He may hire necessary administrative assistants and may authorize an appointive administrative officer to appoint, suspend, or remove subordinates in his department;
  - (2) Suspend or remove by written order city employees and administrative officers, except as provided otherwise;
  - (3) Supervise enforcement of city law;
  - (4) Prepare the annual budget and city construction program for the council;
  - (5) Execute the budget and construction program as adopted;
  - (6) Make monthly financial reports to the council on city finances and operations;

- (7) Report-to the council at the end of each fiscal year on the finances and administrative activities of the city;
- (8) Prepare and make available for public distribution an annual report on city affairs;
- (9) Serve as city personnel officer unless the council authorizes him to appoint a personnel officer;
- (10) Execute other powers and duties specified in AS. Title 29 or lawfully prescribed by the council.

2.30.020. Presiding officer. Should the office of the mayor become vacant, or if the existing mayor is disabled or unable to act, the council may appoint a presiding officer, to serve until the mayor resumes his official duties, or until a new mayor is qualified; however, the presiding officer shall not have veto power and shall be a council member.

2.30.030. Compensation of mayor. The council shall establish the salary of the mayor by resolution during the budgetary process and adoption procedures. The salary of mayor may not be reduced during a term. If the council determines a reduced salary is necessary, the salary change will not take effect until the current term expires.

[Ord. 12-02(Am), §2, 1-17-12]

2.30.040 Mayor pro tempore. The city council shall meet on the first Monday after certification of the regular election and elect a council member to serve as mayor pro tempore. The elected council member shall immediately take office and exercise the duties and powers of mayor until the mayor elected at large takes office.

[Ord. 2007-04, §2, 2-9-07]

## TITLE 2

### LEGISLATIVE

#### Chapter 4 – Council Meetings

##### Sections:

- 2.40.010. Meetings public.
- 2.40.020. Regular council meetings.
- 2.40.030. Special meetings.
- 2.40.040. Notice.
- 2.40.050. Executive session.

2.40.010. Meetings public. Meetings of all municipal bodies shall be public. The council shall provide reasonable opportunity for the public to be heard at regular and special meetings.

##### 2.40.020. Regular council meetings.

- (a) All regular meetings of the council shall be held quarterly, on the third Tuesday of each of the following months: September, December, March, and June. Meetings shall commence at 7:00 p.m. on meeting days.

Council hereby authorizes changing the time of the Regular Council meetings from 7:00 PM to 1:00 PM on a trial basis. [Resolution No. 08-01, 9-18-07 (trial basis)]

- (b) The usual place of council meetings shall be at the Bayview Plaza; provided, however, that in the event of any condition which renders the meeting place unfit to conduct any regular meeting of the council, the meeting may be moved to the community building (Café) or the Akutan School.

##### 2.40.030. Special meetings.

- (a) Special meetings of the council are those meetings which are called by the mayor or any two members of the council for a time different than that fixed for the regular council meetings. The location of all special council meetings shall be the same as that authorized for regular meetings.
- (b) Advance notice of at least twenty-four hours preceding a special meeting shall be given each council member. The notice shall specify the time, place and subject matter of the meeting. No business shall be transacted at the meeting which is not mentioned in the notice. Such notice shall be served personally on each member of the council or left at his usual place of business or residence by the city clerk or his designee, or by personal phone call wherein the councilman himself acknowledges notice of special meeting.

2.40.040. Notice. For the purpose of giving notice of meetings, reasonable public notice is given

if a statement containing the date, time and place of the meeting is posted not less than twenty-four hours before the time of the meeting as provided for in 1.10.030(h).

2.40.050. Executive session.

- (a) The following subjects may be discussed in an executive session:
  - (1) Matters the immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit;
  - (2) Subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion.
- (b) The following shall be discussed in executive session when the best interests of the city so require:
  - (1) Negotiations with labor organizations representing city employees;
  - (2) Discussions of pending or threatened lawsuits in which the city has an interest.
- (c) If excepted subjects are to be discussed at a meeting, the meeting must first be convened as a public meeting, and the question of holding executive session to discuss matters that come within the exceptions contained in subsections (a) and (b) of this section shall be determined by a vote of the body. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless pertaining to the main question. No action may be taken at the executive session.

## TITLE 2

### LEGISLATIVE

#### Chapter 5 – Council Procedures

##### Sections:

- 2.50.010. Mayor the presiding officer at council meetings.
- 2.50.020. Meetings–Order of business.
- 2.50.030. Minutes.
- 2.50.040. Council rules–Speaking–Rules of conduct.
- 2.50.050. Motions–Second required.
- 2.50.060. Motions–Disposition–Withdrawal.
- 2.50.070. Motions–Reduction to writing.
- 2.50.080. Motions–Rescinding vote.
- 2.50.090. Voting–Quorum.
- 2.50.100. Duties of the clerk at council meetings.
- 2.50.110. Teleconferencing.

##### 2.50.010. Mayor the presiding officer at council meetings.

- (a) The mayor shall preside at all Meetings of the council. He shall preserve order among the councilmembers, and is responsible for conduct of all meetings according to the rules of the council. He may at any time make such rules as he considers proper to preserve order among the spectators in the city council room during sessions of the council.
- (b) In the temporary absence or disability of the mayor, any member of the city council may call the council to order at any duly called meeting to elect a presiding officer from among its number and the presiding officer shall exercise all the powers of mayor except veto power during such temporary absence or disability of the mayor and may also vote as a councilmember.

##### 2.50.020. Meetings–Order of business. At every regular meeting of the city council the order of business shall be as follows:

- Call to order;
- Roll call;
- Minutes of previous meeting;
- Reports;
- Communications and appearance requests;
- Hearings, ordinances and resolutions;
- Old business;
- New business;

Audience participation;  
Council comments;  
Adjournment.

2.50.030. Minutes. Minutes of all regular and special meetings shall be taken. All minutes of regular and special meetings shall be kept in the journal of the proceedings of the council. The minutes are public record and are to be made available to anyone upon request.

2.50.040. Council rules–Speaking–Rules of conduct.

- (a) A councilmember about to speak shall respectfully address the mayor or presiding officer, and shall not commence to speak until recognized by the mayor or presiding officer. When two or more members request to speak at the same time, the mayor or presiding officer shall determine which one is recognized.
- (b) Every member while speaking shall confine himself to the subject under debate, and shall not refer to any other member of the council except in a respectful manner.

2.50.050. Motions–Second required. All motions shall require a second, unless otherwise provided by special rule.

2.50.060. Motions–Disposition–Withdrawal. After a motion is seconded and stated or read by the mayor or presiding officer, it shall be considered to be in the possession of the council and shall be disposed of by vote, but the councilmember making the motion may withdraw it at any time before the vote, if the second agrees.

2.50.070. Motions–Reduction to writing. Any motion must be reduced to writing if the mayor or presiding officer requires or if any councilmember demands.

2.50.080. Motions–Rescinding vote. Any previous vote on a motion may be rescinded by vote of the majority of the council.

2.50.090. Voting–Quorum.

- (a) Four councilmembers constitute a quorum. Four affirmative votes are required for passage of an ordinance, resolution, or motion.
- (b) The final vote on each ordinance, resolution, or substantive motion is a recorded roll call vote. All councilmembers present shall vote unless the council, for special reasons, permits a member to abstain.
- (c) The mayor or presiding officer shall declare all-votes; he shall declare the result.
- (d) Every member who shall be present when a question is put, where he is not disqualified by personal interest, shall vote, unless the council for special reason excuses him. Applications to be so excused must be made before the vote, and shall be decided

without debate.

2.50.100. Duties of the clerk at council meetings. The city clerk shall give notice of city council meetings, shall attend all meetings of the council and keep the journal of its proceedings, shall authenticate by his signature and record in full in a book or file kept for that purpose all ordinances and resolutions duly indexed and open for public inspection. In case of the temporary absence of the city clerk, the city council may appoint a temporary clerk, with all the powers, duties and obligations of the city clerk.

2.50.110. Teleconferencing. If a quorum is physically present in Akutan, the council may allow members to participate in council meetings by teleconferencing.

[Ord. 94-07, 11-29-94]

## TITLE 2

### LEGISLATIVE

#### Chapter 6 – Documents–Reports–Records

##### Sections:

- 2.60.010. Documents–Assent–Approval–Attestation.
- 2.60.020. Documents to file with the state.
- 2.60.030. Retention, disposal of public records.

2.60.010. Documents–Assent–Approval–Attestation. All legal documents requiring the assent of the city shall be:

- (a) Approved by the city council;
- (b) Signed by the mayor on behalf of the city, or in the mayor's absence, by the presiding officer of the council;
- (c) Attested to thereon by the city clerk, or in the absence of the city clerk, by the deputy clerk.

2.60.020. Documents to file with the state. The city shall file with the State Department of Community and Regional Affairs:

- (a) Maps and descriptions of all annexed or excluded territory;
- (b) A copy of an audit or statement of annual income and expenditures;
- (c) Tax assessment figures as requested.

2.60.030. Retention, disposal of public records. Record Retention Program – Records Retention Schedule, The mayor shall prepare a schedule of records specifying the records to be:

- (a) Retained permanently;
- (b) Destroyed;
- (c) Disposed of routinely in the regular course of public business.

The records retention schedule shall list with sufficient detail for identification records without legal or administrative value or historical interest to be destroyed, and periodically disposed of by the city. Records to be destroyed shall be certified by the city clerk as having no legal or administrative value or historical interest.

## TITLE 3

### ADMINISTRATION

#### Chapter 1 – Responsibility of Officers and Employees

##### Sections:

3.10.010. Conduct in office–Investigations–Oath–Records–Reports.

3.10.020. Employee Handbook.

##### 3.10.010. Conduct in office–Investigations–Oath–Records–Reports.

- (a) The council, the mayor, city administrator, or any person or committee authorized by the council, shall have power to inquire into the conduct of any office, department, or officer of the city and to make investigations in municipal affairs and compel the production of books, papers and other evidence. Failure to obey such orders to produce books or evidence shall constitute grounds for the immediate discharge of any officer or employee of the city.
- (b) All officers of the city, including mayor and councilmembers, shall before entering upon the duties of his office, severally take an oath in writing to honestly, faithfully and impartially perform and discharge the duties of his office and trust, which oath shall be filed with the city clerk.
- (c) All records and accounts of every office and department of the city shall be open to inspection by any person. Except, that records and documents the disclosure of which would tend to defeat the lawful purpose for which they were intended, may be withheld from inspection. Such records as are required by state law or city ordinance to be kept confidential are not open to inspection. Each department head shall be held responsible for the preservation of all public records under his jurisdiction and shall provide a system of filing. No public records, reports, correspondence or other data relative to the business of any department shall be destroyed or removed permanently from the files without the knowledge and approval of the city clerk.

3.10.020. Employee Handbook. Personnel policies and procedures for City employees are outlined in the Personnel Policies and Procedures Handbook. The contents of this handbook have been adopted by the Akutan City Council and will be changed by Council action as required. The most recently approved and adopted version of that handbook is available to all employees in the Akutan city office and should be referred to should any employment questions arise.

## TITLE 3

### ADMINISTRATION

#### Chapter 2 – City Clerk–City Treasurer

##### Sections:

- 3.20.010. Appointment–Term.
- 3.20.020. City clerk.
- 3.20.030. Additional duties of the clerk.
- 3.20.040. Acting clerk.
- 3.20.050. Treasurer.
- 3.20.060. Additional duties of the treasurer.

3.20.010. Appointment–Term. The city clerk shall be appointed by the council. He shall hold office at the pleasure of the council.

##### 3.20.020. City clerk.

- (a) The city clerk shall:
  - (1) Give notice of the time and place of council meetings to the council and to the public;
  - (2) Attend council meetings and keep the journal;
  - (3) Arrange publication of notices, ordinances and resolutions;
  - (4) Maintain and make available for public inspection an indexed file including the city ordinances, resolutions, rules, regulations, and codes;
  - (5) Attest deeds and other documents;
  - (6) Perform other duties specified in this title or prescribed in this title or prescribed by the mayor or by the council.
- (b) The council may combine the office of clerk with that of treasurer.

##### 3.20.030. Additional duties of the clerk.

- (a) The city clerk shall record and certify all actions of the council.
- (b) The city clerk shall have the power to administer all oaths required by law.
- (c) The city clerk shall be custodian of the city seal and the official records of the city.

- (d) The city clerk shall give to the proper officials ample notice of the expiration or termination of any term of office and, when necessary, the conditions or requirements of all bonds, franchises, contracts or agreements.
- (e) The city clerk shall be the city election registrar and shall be responsible for the calling and supervision of all city elections.

3.20.040. Acting clerk. In case of the temporary absence of the city clerk, the council may appoint an acting city clerk, with all the powers and obligations of the city clerk.

[See Resolution 10-09, 12-16-09]

3.20.050. Treasurer.

- (a) There shall be a city treasurer who shall be appointed by the council.
- (b) The treasurer is the custodian of all city funds and shall keep an itemized account of money received and disbursed.
- (c) The treasurer- shall give bond to the municipality in a sum which the council directs.
- (d) The clerk may perform the duties of treasurer.

3.20.060. Additional duties of the treasurer. The treasurer shall:

- (1) Be responsible for all matters pertaining to the maintenance of all accounts of the city, and the maintenance and care of all property used by the city;
- (2) Prepare and submit to the mayor such financial reports and other data as may be required;
- (3) Prescribe and control such procedures as are necessary to protect city funds and property;
- (4) Perform such other duties as the mayor or council may require.

## TITLE 3

### ADMINISTRATION

#### Chapter 3 – City Attorney

##### Sections:

- 3.30.010. City attorney.
- 3.30.020. Duties of city attorney.

3.30.010. City attorney. There may be a city attorney who shall be appointed by the council. He shall hold office at the pleasure of the council.

3.30.020. Duties of city attorney. The city attorney may:

- (1) Be charged with the performance of all legal services of the city, including those of legal advisor to the council, the mayor, and to all departments and offices of the city;
- (2) Upon the request of the city council, take the necessary steps to arrange for the prosecution of violations of the city ordinances;
- (3) Represent the city in all matters, civil and criminal, in which the city is interested;
- (4) Draft any ordinance when required by the city council or mayor;
- (5) Perform such other duties as may be required by the city council or the ordinances of the city;
- (6) Attend meetings of the city council;
- (7) Report to the city council promptly all suits brought against the city;
- (8) Call to the attention of the city council and the mayor all matters of law affecting the city;
- (9) Render all opinions in writing, as far as is practicable;
- (10) Maintain a record of all of his opinions rendered and turn such record over to his successor in office.

## TITLE 3

### ADMINISTRATIVE

#### Chapter 4 – City Administration

##### Sections:

3.40.010. City Administrators.

3.40.020. Duties.

3.40.010. City Administrators. The city council upon recommendation of the mayor shall contract with a person or persons to perform the functions of city administrator. These persons shall serve at the pleasure of the council and in accordance with the terms of their/his contract.

3.40.020. Duties of Administrators. Perform functions specified in the code of ordinances of city, Alaska's Statute Title 29 and other legally permissible and proper duties and functions as the city council and the mayor shall from time to time assign.

[Ord. 81-1, 4-7-81]

TITLE 3

ADMINISTRATIVE

Chapter 5 – Public Safety Director  
(AO 81-03, 6-12-81)

Sections:

- 3.50.010. Director of Public Safety–Appointment, Term.
- 3.50.020. Powers and Duties.
- 3.50.030. Qualifications.

3.50.010. Director of Public Safety–Appointment, Term. There shall be a Director of Public Safety, who shall serve at the pleasure of the city council.

3.50.020. Powers and Duties. Subject to the direction of the city administrator, the director shall:

(a) General Duties:

1. Perform all prescribed duties under the general supervision of the administrator.
2. Annually submit to the administrator proposed budgets for each area of responsibility described below.
3. Maintain complete records of expenditures and other transactions for each area of responsibility described below.
4. Prepare and submit to the administrator proposed rules and regulations relating to each area of responsibility described below. The rules and regulations shall be effective upon approval by the council.
5. Perform such other duties as may be prescribed by the administrator or by the council.

(b) Police Duties:

1. Keep the peace and apprehend and arrest all violators of law.
2. Serve all writs, warrants, executions and other processes properly directed and delivered to him.
3. Direct the activities of the police department.
4. Cause the public rights-of-way of the city to be inspected regularly, and cause all nuisances, obstructions or impediments therein to be removed and offenders to be

prosecuted when necessary to abate such nuisances.

5. Provide for the care and custody of prisoners.

(c) Fire Protection Duties:

1. Provide for the organization and operation of a volunteer fire department.
2. Appoint all other officers and firefighters (both paid and volunteer) subject to approval of the administrator. Such appointment shall be by fair and impartial competitive examination.
3. Assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated, the cause, origin and circumstances of all fires.
4. Provide for suitable drills covering the operation and handling of all equipment essential for efficient department operation, and provide for instruction in first-aid, water supply and other subjects related to fire suppression.
5. Recommend apparatus and equipment as may be required to maintain fire department efficiency, and to provide for reporting fires and emergencies and for notifying the department of such incidents.

(d) Emergency Medical Duties:

1. Provide for emergency care and transportation of the critically ill and injured.
2. Establish a program of instruction in public safety and first-aid procedures including water safety.

(e) Harbormaster Duties:

1. Enforce applicable city rules and regulations relating to water safety and management of marine traffic.

3.50.030. Qualifications. The director shall meet all standards for and shall be certified as a peace officer in accordance with A.S. 18.65 or in accordance with the standards prescribed under the village public safety officer program, except that the administrator may waive particular requirements when deemed necessary in the public interest.

Title 3

ADMINISTRATION

Chapter 6 – Health Service  
[Ord. 83-5, 8-2-83]

Sections:

- 3.60.010. Health service.
- 3.60.020. Health board membership.
- 3.60.030. Health board officials.
- 3.60.040. Vacancies.
- 3.60.050. Meetings.
- 3.60.060. Funds.
- 3.60.070. Functions.

3.60.010. Health service. There is hereby established a health department of the city to provide health services for residents of the City of Akutan and all persons who need to avail themselves of the service.

3.60.020. Health board membership.

- (a) The Akutan health board consists of seven residents of Akutan.
- (b) Members shall be appointed by the mayor for a term of three years, subject to confirmation by the city council. Members first appointed shall draw lots for one-, two- and three-year terms. Appointments to fill vacancies are for the unexpired term. The compensation and expenses of the health board and its staff are paid as directed by the council.

3.60.030. Health board officials. The health board shall elect a chairman to conduct the affairs of the board, a vice chairman to serve as chairman in his absence, a clerk to cause the preparation of the journal of the board's proceedings, and an assistant clerk to serve as clerk in his absence.

3.60.040. Vacancies. A vacancy shall be declared, and filled as above provided, under the following conditions:

- (a) If a member nominated and confirmed to membership fails to qualify and take his office within thirty days;
- (b) If a member departs from the city with the intent to remain away for a period of ninety or more days or moves his residence from the city for a period of ninety or more days;
- (c) If a member's resignation is submitted and accepted by the council;

- (d) If a member is physically unable to attend health board meetings for a period of ninety or more days;
- (e) If a member misses three consecutive, regular meetings unless excused by the board.

3.60.050. Meetings.

- (a) Regular meetings shall be scheduled, advertised and held as authorized by the city council.
- (b) Special meetings may be called by the board chairman or shall be called by him at the request of two or more members of the board. The purpose of special meetings shall be specified in the meeting notice, and only items directly connected with that purpose may be discussed and acted upon.
- (c) The clerk shall cause to be kept minutes and a journal of all meetings which shall be a public record. Minutes and records shall be filed with the municipal clerk.
- (d) Meetings shall be conducted under Robert's Rules of Order and such modified or amended rules as may be adopted by the board and approved by the council.

3.60.060. Funds. All funds received for health services shall be deposited in the general fund of the city in an account that reflects their origin.

3.60.070. Functions. The health board shall perform the following functions:

- (a) Provide for the delivery of health services in cooperation with the Aleutian—Pribilof Islands Association, and other appropriate agencies.
- (b) Provide advice to the city council on the management of the clinic.
- (c) Make recommendations to the council regarding the health policies of the city and concerns relating to health.

TITLE 3

ADMINISTRATIOIN

Chapter 7 – Library Service

Sections:

3.70.010. Library service established.

3.70.010. Library service established. There shall be established a community library service available to residents of the City of Akutan and all other persons who desire its use.

[Ord. 82-3, 9-17-82]

## TITLE 3

### ADMINISTRATIOIN

#### Chapter 8 – Transfer of Airport Harbor and Harbor Facilities Powers [Ord. 90-04]

##### Sections:

3.80.010. Transfer of Airport, Harbor and Harbor Facilities Powers

3.80.010. Transfer of Airport, Harbor and Harbor Facilities Powers.

- (a) Purpose. It is the purpose of this section to transfer airport powers and part of the harbor facilities powers to the Aleutians East Borough so that it may exercise such transferred powers on an areawide basis. It is the further purpose of this section to insure that the City has sufficient powers to permit the City to exercise transferred powers within the City by mutual agreement between the City and the Borough.
- (b) Transfer of Powers. Pursuant to AS 29.35.310, the City of Akutan transfers to the Aleutians East Borough the Power to construct, operate, maintain, expand and regulate airport and harbor facilities within the City that are constructed after the effective date of this ordinance. The powers transferred include such additional powers as may be necessary or convenient to the exercise of the enumerated powers that are transferred. The transfer of powers under this section 3.80.010 does not affect the power of the City to own, operate, maintain and regulate any harbor facility owned, leased or under construction by the City on the effective date of Ordinance 90-04.
- (c) Retention of Powers for Joint Exercise. The City retains so much of the powers set out in subsection (b) as may be needed to permit the City to enter into agreements with the Borough that permit the City to construct, operate, maintain and regulate new harbor facilities and airports within the City.
- (d) Retained Harbor Facilities. For the purpose of subsection (b) of this section, the harbor facilities owned or leased by the City on the effective date of Ordinance 90-04 include the harbor facilities known and described as
  - (1) the Akutan City Dock and uplands support facilities,
  - (2) the Akutan Seaplane Ramp and Turnaround, and
  - (3) the barge situated at the Old Seawest dock.

As are shown on Exhibit A to this ordinance.

(e) For the purpose of this ordinance, “harbor facilities” includes breakwaters, docks, floats, boat ramps, shoreside land and improvements used in direct support of other harbor facilities, and similar facilities and facilities that are ancillary to the foregoing.

TITLE 3

ADMINISTRATIVE

Chapter 9 – Port and Harbor Commission

[Ord 12-05]

Sections:

- 3.90.010. Commission Established.
- 3.90.020. Authority.
- 3.90.030. Powers and Duties.
- 3.90.040. Appointment.
- 3.90.050. Officers.
- 3.90.060. Vacancies.
- 3.90.070. Meetings – Quorum.
- 3.90.080. Record of Meetings.
- 3.90.090. Executive Session.

3.90.010. Commission Established. There is hereby established a Port and Harbor Commission that will consist of five (5) members who shall be appointed by the mayor, with approval of the council, which shall serve in an advisory role to the City Council on matters relating to the city’s port, harbor, airport, and transportation systems, including but not limited to seaport, airport, and land terminals.

3.90.020. Authority. The Port and Harbor Commission shall advise the harbormaster and City Council on all matters regarding supervision and control of Akutan Harbor, docks, airport, and related transportation facilities, including the recommendation of regulations, rates, charges, and fees. The City Council may adopt the Port and Harbor Commission’s proposed regulations, rates, and charges by ordinance.

3.90.030. Powers and Duties. Powers and duties of the Commission shall be as follows:

- A. Recommend to the City Council policies relating to the City’s port, harbor, airport, docks, and transportation facilities.
- B. Review and advise the City Council on areas of public concern, including but not limited to:

1. Akutan Harbor, including all docks, development, design, operation, maintenance, tariffs, fees, and services;
2. Akutan Airport, including terminal facilities operated by the City, design, operation, maintenance, tariffs, and fees;
3. Alaska Marine Highway schedules, operations, services, and dock facilities at Akutan;
4. Hostler and cartage services, tariffs, and fees within City boundaries;
5. Integration of sea, air, and roadway transportation systems with the general, industrial, and commercial development of the City;
6. Akutan City dock and mooring facility, including design, operation, maintenance, tariffs and fees.

3.90.040. Appointment. Commissioners shall be appointed for a term of three (3) years, or until their successors have been appointed and approved. In addition, the mayor shall appoint one (1) council member to serve in a non-voting, ex-officio role. The terms of commissioners shall be staggered so that the term of two members shall expire each year, with the additional term expiring every third year. Terms of the commissioners shall be first established by drawing, 1 for one (1) year term, 2 for two (2) year terms, and 2 for three (3) year terms.

3.90.050. Officers. The Commission will elect from its membership a chair and vice-chair. The chair shall be the presiding officer and shall appoint a secretary responsible for recording minutes of each meeting that shall be a public record. Minutes of commission meetings shall be filed with the municipal clerk.

3.90.060. Vacancies. A vacancy shall be declared and filled as above provided, if:

- A. A commissioner's resignation is submitted and accepted by the council;
- B. A commissioner departs from the city with the intent to remain away for a period of ninety (90) or more days, or moves their residence from the city for a period of ninety or more days;
- C. A commissioner misses three (3) consecutive, regular meetings, unless excused by the commission.

D. The commission secretary shall keep attendance records and notify the mayor when vacancies occur.

3.90.070. Meetings – Quorum. Regular meetings shall be advertised and held monthly at a regularly established time as determined by the commission. Special meetings may be called by the commission chair or by the request of two (2) members. A majority voting membership of three (3) constitutes a quorum. Any act of the commission requires an affirmative vote of a majority of those voting members present.

3.90.080. Record of Meetings. Meetings shall be public and minutes shall be kept. Minutes and records shall be filed with the city clerk and retained as public records.

3.90.090. Executive Session. The Port and Harbor Commission may, after its agenda is otherwise completed, recess for the purpose of discussing, in a closed or executive session, only those subjects permitted by law pursuant to AS 44.62.310 to be discussed in executive session. In all cases, the meeting must be convened as a public meeting and the question of holding an executive session determined by a majority vote of the body. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main subject. No action may be taken at the executive session.

TITLE 4  
ELECTIONS

Chapters:

- 1 City Elections–In General
  - 2 Election Officials
  - 3 Candidates—Nominations
  - 4 Notice of Elections
  - 5 Election Equipment
  - 6 Election Procedures
  - 7 Canvassing of Election Returns
  - 8 Absentee Voting
  - 9 Contest of Election
- (Reserved)  
(Reserved)  
(Reserved)

## TITLE 4

### ELECTIONS

#### Chapter 1 – City Elections—in General

##### Sections:

- 4.10.010. Administration of elections.
- 4.10.020. Voter qualification.
- 4.10.030. Date of general election.
- 4.10.040. Special elections.
- 4.10.050. Expenses
- 4.10.060. Time off for voting.

4.10.010. Administration of elections. The city council shall prescribe the general rules for conducting city elections.

4.10.020. Voter qualification. A person may vote only if he is qualified to vote in state elections and has been a resident of the city for 30 days immediately preceding the *election* and who is registered to vote in state elections and is not disqualified under Article V of the State Constitution.

4.10.030. Date of regular election. There shall be a regular election annually on the first Tuesday of October for the purpose of electing municipal officials whose terms are about to expire or whose seats have become vacant, and to decide such other questions or propositions as may be required by law to be on the ballot.

[ORD. 2007-04, §4, 2-9-07]

4.10.040. Special elections. The city council may, by resolution, call a special election at any time to decide questions that must by law be decided by the voters. The city council must hold a special election to elect the mayor within forty-five (45) days after certification of a regular election. Public notice must be given at least twenty (20) days before a special election is held.

[Ord. 2007-04, §5, 2-9-07]

4.10.050. Expenses. The city shall pay all necessary election expenses, including those of securing places for polls and providing ballot boxes, ballots, voting booths, screens, national and state flags and other supplies, and any wages due judges and clerks. Salaries for the election judges and clerks shall be set by the council. However, all expenses of a recount shall be paid by the candidate or voters contesting the election, unless the results of the election are changed by the recount. If the recount is requested by voters, each of them shall be individually liable for the total amount of such expenses.

4.10.060. Time off for voting. Any qualified voter who does not have time to vote at any city and borough, state or national election may, without loss of pay, take off working time that will enable him to vote.

4.10.070. Majority elections. If no candidate receives in excess of 40 percent of the votes cast for his respective office, the council shall hold a runoff election between the two candidates receiving the greatest number of votes for the office. Notice of a runoff election shall be published at least five days before the election.

## TITLE 4

### ELECTIONS

#### Chapter 2 – Election Officials

##### Sections:

- 4.20.010. Election duties of city clerk–In general.
- 4.20.020. Election judges and clerks.
- 4.20.030. Filling vacancies in election board.
- 4.20.040. Election officials–Oath.
- 4.20.050. Canvass committee. [Repealed]

4.20.010. Election duties of city clerk–In .general. The city clerk or his designee will perform the duties necessary for the administration of city elections. The election duties of the city clerk include, among other duties, obtaining from the State of Alaska a list of voters registered in accordance with Alaska Statutes 15.07.040. The clerk may publish notices urging voter registration and may cooperate with the State of Alaska in encouraging city residents to register.

4.20.020. Election judges and clerks.

- (a) Before each city election, the council shall appoint three judges for each city polling place to constitute the election board for each city polling place. One judge in each polling place shall be designated chairman by the council and shall be responsible for the election in that polling place. The city clerk may appoint up to three additional election clerks at any polling place when necessary to facilitate the orderly conduct of the election or to relieve the judges or clerks of undue hardship.
- (b) Each judge or clerk must be a qualified voter of the city.

4.20.030. Filling vacancies in election board. If an appointed judge or clerk fails to appear and subscribe to the oath on election day or becomes unable to work during the time of the election or canvass, the election board members present shall elect, by a majority voice vote, a qualified voter to fill the vacancy.

4.20.040. Election officials–Oath. The city clerk will choose an election judge from each polling place to appear before the city clerk and take the oath set out in this section. This election official will administer the same oath to all other election judges and clerks at his polling place. The oath will be as follows: "I . . .do solemnly swear that I will honestly and faithfully perform the duties of election. All of this I will perform to the best of my ability, so help me God."

4.20.050. Canvass committee. [REPEALED]  
[Ord. 2007-04, §6, 2-9-07]

## TITLE 4

### ELECTIONS

#### Chapter 3 – Candidates—Nominations

- 4.30.010. Candidates–Qualifications.
- 4.30.020. Declaration of candidacy–Form and filing.
- 4.30.030. Declaration of candidacy–Time for filing.
- 4.30.040. Declaration of candidacy–Record.
- 4.30.050. Declaration of candidacy–Time for withdrawing candidacy.
- 4.30.060. Declaration of candidacy–Notice.

4.30.010. Candidates–Qualifications. No person shall hold any elective city office or be eligible to seek election to any elective office, unless he is a qualified voter of the city.

4.30.020. Declaration of candidacy—Form and filing. A person who wishes to become a candidate for an elected office, shall complete and file a declaration of candidacy. The declaration shall be completed under oath before the city clerk and on a form provided by the city clerk. The declaration shall state definitely:

- (a) The full name of the candidate and the manner in which he wishes his name to appear on the ballot;
- (b) The full residence address of the candidate;
- (c) The full mailing address of the candidate;
- (d) The office for which the candidate declares;
- (e) That the candidate is a qualified voter and resident of the city;
- (f) That the candidate agrees to serve if elected to the office of councilmember for a term of three (3) years.

4.30.030. Declaration of candidacy–Time for filing. A declaration of candidacy shall be filed with the city clerk no earlier than fifty-five (55) days nor later than forty-five (45) days before the election.

[Ord. 2007-04, §7, 2-9-07]

4.30.040. Declaration of candidacy–Record. The city clerk will maintain a record containing the name and address of every person who filed a declaration of candidacy and also the date and time of the filing.

4.30.050. Declaration of candidacy–Time for withdrawing candidacy. A candidate may withdraw his declaration of candidacy through the last day for filing declarations, by submitting a

written notice of withdrawal with the city clerk.

4.30.060. Declaration of candidacy–Notice. At least twenty (20) days before the filing period required in Section 4.30.030 of the code, the clerk shall post notice, in at least three (3) places within the City, of the filing period, the requirements for a declaration of candidacy, and the availability of the declaration of candidacy form therefore.

[Ord. 2007-04, §8, 2-9-07]

## TITLE 4

### ELECTIONS

#### Chapter 4 – Notice of Elections

##### Sections:

- 4.40.010. Notice of election.
- 4.40.020. Contents of election notice.
- 4.40.030. Date of regular election

4.40.010. Notice of election. The city clerk shall give at least thirty days' notice of each regular election and twenty (20) days' notice of each special election by posting notice in three places within the city.

[Ord. 2007-04, §9, 2-9-07]

4.40.020. Contents of election notice. Notices for regular or special elections must contain the following:

- (a) The date of the election;
- (b) The offices to be filled or the propositions to be voted upon;
- (c) The time the polling places will open and close;
- (d) The location of city polling places;
- (e) Whether the election is regular or special.

[Ord. 2007-04, §10, 2-9-07]

4.40.030. Date of regular election. There shall be a regular election annually on the first Tuesday of October for the purpose of electing municipal officials whose terms are about to expire or whose seats have become vacant, and to decide such other questions or propositions as may be required by law to be on the ballot.

[Ord. 2007-04, §4, 2-9-07]

## TITLE 4

### ELECTIONS

#### Chapter 5 – Election Equipment

##### Sections:

- 4.50.010. Election booths.
- 4.50.020. Furnishing instruction cards.
- 4.50.030. Ballots–Printing and inspection.
- 4.50.040. Ballots–Form.
- 4.50.050. Sample ballots.
- 4.50.060. Registration index and original register–Distribution to precinct officials.

4.50.010. Election booths. The city clerk shall provide booths at each polling place, with enough supplies and materials to enable each voter to mark his ballot hidden from observation. At least three sides of each booth shall be placed outside the voting booths within plain view of the judges and clerks, voters, and other persons at the polling place.

##### 4.50.020. Furnishing instruction cards.

- (a) The city clerk will furnish to each election board instructions for the guidance of voters covering the following:
  - (1) How to obtain ballots;
  - (2) The manner for marking them;
  - (3) The method for obtaining information; and
  - (4) How to obtain a new ballot to replace any ballot destroyed or spoiled.
- (b) The clerk will furnish a necessary number of these instruction sheets to the election judges in each voting place.

4.50.030. Ballots–Printing and inspection. In all city elections, the city clerk will be responsible for the printing of ballots. The ballots will be printed and in the possession of the city clerk, at least five days before the election and available for inspection by the candidates or the public.

##### 4.50.040. Ballots–Form.

- (a) A ballot shall show the list of candidates and issues to be decided at the election.
- (b) Before the list of candidates for each office there will be placed the words "vote for not more than three," or "vote for not more than one," or such other number as are to be

elected.

- (c) Under the title of each office and below the printed names of the candidates, there will be printed the number of candidates to be elected to the office.
- (d) Somewhere on the ballot, so as to be clearly visible, will be printed the words:
  - (1) "OFFICIAL BALLOT;"
  - (2) The date of the election; and
  - (3) An example of the signature of the clerk who had the ballots printed.
- (e) The ballots will be printed on plain white paper and numbered in consecutive order. The names of the candidates will be printed in capital letters the same size. On each line on which the name of a candidate is printed and on the line of each blank provided for write-in candidates, a square not less than one-quarter of an inch on each side will be printed.
- (f) The names of candidates shall be printed as they appear upon the petitions filed with the city clerk, except that any honorary or assumed title or prefix shall be omitted.
- (g) Following the names of the offices and candidates, there shall be placed on the ballot all propositions and questions to be voted upon. The words "Yes" and "No" shall be placed below the statement of each proposition and question.

4.50.050. Sample ballots. The city clerk will have a number of sample ballots printed. The sample ballots will be printed on non-white paper and clearly labeled as a "sample ballot." Sample ballots will be delivered to the election board in each voting place.

4.50.060. Registration index and original register—Distribution to precinct officials. Prior to the opening of the polls, the city clerk shall deliver a registration list, and an original register to the election officials in every voting place. The original register will provide enough space to allow voters to sign their name and enter their address. A record shall be kept in the original register of the names of persons who offer to vote but are refused, and a brief statement of basis for being refused the right to vote. The signing of the register is a declaration by the voter that he is qualified to vote.

## TITLE 4

### ELECTIONS

#### Chapter 6 – Election Procedures

##### Sections:

- 4.60.010. Time for opening and closing polls.
- 4.60.020. Distribution of ballots.
- 4.60.030. Preparation of ballot box.
- 4.60.040. Voting procedure.
- 4.60.050. Marking of ballots by voters.
- 4.60.060. Challenging voters.
- 4.60.070. Questioning a voter's ballot.
- 4.60.080. Challenged ballots–Disposition.
- 4.60.090. Ballots–Counting and tallying.
- 4.60.100. Defective and unused ballots.
- 4.60.110. Election certificate.
- 4.60.120. Majority decision of election board.
- 4.60.130. Prohibitions near election polls.

##### 4.60.010. Time for opening and closing polls.

- (a) On the day of any election, each election board shall open the polls for voting at eight o'clock in the morning, shall close the polls for voting at eight o'clock in the evening, and shall keep the polls open during the time between these hours. The election board members shall report to the polling place at 7:30 in the morning of an election day.
- (b) Fifteen minutes before the closing of the polls, a judge or clerk shall announce to all person present the time remaining before the polls close. When the polls are closed, no ballots will be given out except to qualified voters present at the polls and waiting to vote when the polls are announced closed.

##### 4.60.020. Distribution of ballots.

- (a) The city clerk shall deliver the ballots to the election board before the polls are opened on election day. The ballots shall be delivered in separate sealed packages, with the number of ballots enclosed in each package clearly marked on the outside of it. A receipt for each package shall be taken from the election board to which it is delivered, and saved by the city clerk. No ballots shall be taken from the polling place before the closing of the polls.
- (b) The clerk shall keep the following records:

- (1) The number of ballots delivered to the various polling places;

- (2) The name of the persons to whom the ballots are delivered; and
- (3) The time the ballots are delivered.

(c) When the ballots are returned, the clerk shall record the following:

- (1) The number of the ballots returned;
- (2) The time when the ballots are returned;
- (3) The name of the person returning the ballots;
- (4) The condition of the ballots.

4.60.030. Preparation of ballot box. Before receiving any ballots the election board must, in the presence of all persons present at the polling place, open and exhibit the ballot box to be used at the polling place. After showing the box, the box will be sealed and not opened again until the polls are finally closed. At the close of the polls and after deposit into the ballot box of all ballots properly voted upon, the ballot box will be personally opened by the election judges.

4.60.040. Voting procedure.

- (a) A voter shall give the judges and clerks his name, and write his name and residence on the first available line of the registration book. If any judge or clerk present believes the voter is not identifiable, he immediately shall challenge the voter.
- (b) If the voter is not challenged, he shall be given one ballot and shall retire alone to a voting booth. There the voter without delay shall prepare his ballot by marking the boxes opposite the names of candidates of his choice, whether printed on the ballot or written in by him on the blank lines provided for the purpose. The voter also marks the boxes for questions and propositions. Before leaving the voting booth, the voter shall fold his ballot in a manner displaying the number on the ballot and deliver it to one of the judges or clerks, who shall tear the number off and deposit the ballot in the ballot box if the ballot bears the same number as the ballot given to the voter by the judges and clerks.
- (c) A voter who by accident or mistake spoils his ballot shall, upon returning the spoiled ballot to the judges and clerks, be given another ballot. A voter who is blind or otherwise incapable of marking his ballot shall be assisted in doing so by a judge or clerk if he requests such assistance.

4.60.050. Marking of ballots by voters.

- (a) A voter may mark his ballot only by the use of crossmarks, "X" marks, checks, or plus signs that are clearly spaced in the square opposite the name of the candidate the voter desires to designate.

- (b) A failure to properly mark a ballot as to one or more candidates does not itself invalidate the entire ballot.
- (c) If a voter marks fewer names than there are persons to be elected to the office, a vote shall be counted for each candidate properly marked.
- (d) If a voter marks more names than there are persons to be elected to the office, the votes for candidates for that office shall not be counted.
- (e) The mark shall be counted only if it is mostly inside the square provided, or touching the square so as to indicate clearly that the voter intended the particular square to be designated.
- (f) Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates made properly.
- (g) An erasure or correction invalidates only that section of the ballot in which it appears.
- (h) Write-in votes are not invalidated by writing in the name of a candidate whose name is printed on the ballot unless the election board determines, on the basis of other evidence, that the ballot was marked for the purpose of identifying the ballot.
- (i) Write-in votes are not invalidated if the voter fails to mark the square provided if in the opinion of the judges the voter intended to vote for the person whose name was written in as a write-in vote.

4.60.060. Challenging voters. An election judge and election clerk shall challenge, or other qualified voter in the city may challenge a person attempting to vote if the challenger has good reason to believe that the challenged person is not qualified to vote. All challenges shall be made in writing explaining the reason for the challenge. Before voting, a challenged person shall take an oath and sign an affidavit provided by the city clerk attesting to the fact he meets all the qualifications of a voter; that he is not disqualified, and that he has not already voted at the same election. He shall also state the place from which he came immediately before living in the city and the length of time of his residence in the former place. After the challenged person has taken the oath and signed the affidavit, the person may vote. If the challenged person refuses to take the oath or sign the affidavit, the person may not vote.

4.60.070. Questioning a voter's ballot. If his registration is in question, a voter shall be allowed to vote and any election official shall consider the ballot a questioned ballot.

4.60.080. Challenged ballots—Disposition. After a challenged or questioned voter has cast his ballot, the challenged voter will insert the ballot into a small blank envelope and seal it. This envelope shall be placed in the signed oath and affidavit envelope. The oath and affidavit envelope shall be sealed and inserted into a larger envelope. The envelope will be delivered to the city clerk. The city clerk will present these materials to the canvass committee and assist the canvass committee in determining the validity of the challenge.

4.60.090. Ballots—Counting and tallying.

- (a) Immediately after the polls close and the last vote has been cast, the election judges will open the boxes containing the ballots. The ballots will be counted to determine whether the total number of ballots is equal to the total number of persons who voted as indicated in the original registry. If the number of ballots drawn from the ballot box does not match the number of ballots indicated by the registration book, the ballots shall be recounted until the election board finds that there is an unexplained error or that the number of ballots cast matches the number of ballots indicated by the registration tally. If a discrepancy is determined to exist between the number of votes cast and the registration tally, it shall be explained in detail on the tally paper or papers, and the explanation shall be signed by the election judges.
- (b) The counting of the ballots shall be public. The opening of the ballot box at the close of the polls shall be done in full view of any persons present. The public may not be excluded from the area in which the ballots are counted. However, the chairman of the election board shall not permit anyone present to interfere in any way or to distract the appointed officials from their duties, and no one other than appointed election officials may handle the ballots. The judges shall remove the ballots from the ballot box one by one, and tally the number of votes for each candidate and for or against each issue. The ballots shall be inspected for disqualifying marks or defects. The election judges shall cause the vote tally to be continued without adjournment until the count is complete.

4.60.100. Defective and unused ballots. If a voter shall mark more names than there are persons to be elected to any office, or if for any reason it is impossible to determine from his ballot any voter's choice for any office to be filled, the ballot shall not be counted as to that office or issue. A failure to properly mark a ballot as to one or more candidates or issues shall not invalidate the entire ballot. No ballot shall be rejected if the election board can determine the person for whom the voter intended to vote and the office intended to be chosen by the voter. Ballots not counted shall be marked "Defective" on the back, and ballots to which objection has been made shall be marked "Objected To" on the back. An explanation of the defect or objection shall be written on the back of the ballot and signed by the chairman. All such ballots shall be enclosed in an envelope marked on the outside with the label: "defective and objected ballots." All ballots not voted on and all ballots spoiled by voters shall be returned by the judges to the city clerk, who shall give a receipt for them and keep a record of the number and condition of ballots returned to him, indicating when and by which judge each was returned.

4.60.110. Election certificate. After the votes are announced and counted, a certificate will be drawn stating the number of votes each person has received, and designating the office for which he has run. The poll lists and tallies will be attached to the certificate. The certificate will be signed by the election judges. The registration index, original register, tallies or tally papers, oath of judges, oaths of voters, other papers, and the certificate will be placed in an envelope. The envelope will be marked "election returns" and delivered to the city clerk.

4.60.120. Majority decision of election board. The decision of the majority of judges determines the action that the election board shall take regarding any question which arises during the course

of the election.

4.60.130. Prohibitions near election polls. During the hours the polls are open, no person who is in the polling place or within 100 feet of any entrance to the polling place, may attempt to persuade a person to vote for or against a candidate, proposition or question.

## TITLE 4

### ELECTIONS

#### Chapter 7 – Canvassing of Election Returns

- 4.70.010. Canvass committee–Meeting–Postponing canvass.
- 4.70.020. Canvass to be made public.
- 4.70.030. Investigation of challenged ballots.
- 4.70.040. Challenged ballots–Subpoenas.
- 4.70.050. Canvass committee—Report—Contents.
- 4.70.060. Results of election–Public declaration.
- 4.70.070. Certificate of election.

4.70.010. Canvass committee–Meeting–Postponing canvass. The canvass committee will meet on the first Friday after the election and canvass all absentee and challenged ballots executed in the election. The canvass may be postponed from day to day for cause but not exceeding three days in total.

4.70.020. Canvass to be made public.

- (a) The canvass of all absentee challenged and questioned ballots will be made in public by opening the returns, and announcing the results thereof in front of those present.
- (b) Absentee ballots shall be counted by the city clerk and two or more assistants in the following manner:
- (c) All ballot envelopes shall be removed from return envelopes, and placed in a ballot box. The return envelopes shall be delivered to the city clerk. The absentee ballots shall one by one be removed from the ballot box, taken out of the ballot envelopes and counted, in the same manner in which ballots cast at the polls are counted.
- (d) The canvass shall include a review and comparison of the tallies of paper ballots with the election certificates to correct any mathematical error in the count of paper ballots.
- (e) If the city clerk finds an unexplained error in the tally of paper ballots, he may count the ballots from the ballot box.

4.70.030. Investigation of challenged ballots. The canvass committee may request the assistance of the city clerk or the mayor to investigate challenges made to a ballot. The canvass committee will deliver the challenged ballots to the council and submit a report of their finding. The council may accept or reject a challenge. If a challenge is approved by the council, the ballot challenged will not be opened and counted, but will be saved as are other ballots. If a challenge is rejected, the ballot will be counted with the absentee ballots. The city clerk will notify a voter whose ballot is not counted that the challenge against him was upheld.

[Ord. 2007-04, §11, 2-9-10]

4.70.040. Challenged ballots—Subpoenas. The council may order testimony of witnesses and issue subpoenas while investigating challenged ballots. The subpoenas may be enforced by the court upon certification as provided by the state of civil procedure concerning the enforcement of administrative and state agency subpoenas.

4.70.050. Canvass committee—Report—Contents. The canvass committee will submit a report of its findings to the council before noon of the Monday following the election. The report will show:

- (1) The number of ballots cast in the election;
- (2) The names of the persons voted for and the propositions voted upon;
- (3) The offices voted for;
- (4) The number of votes cast for each candidate and the number of votes cast for or against each proposition voted on at the election;
- (5) A proposed disposition of all challenged, absentee, write-in, questioned and voided ballots; and
- (6) Other matters which the canvass committee may determine to be necessary.

4.70.060. Results of election—Public declaration.

- (a) If a contest is not begun under the provisions of Chapter 24 Section 1 through Section 7, the result of the election shall be publicly declared by the council and entered in the minutes of a special meeting of the council on the first Monday following the election.
- (b) If a contest is declared and resolved, the result of the election shall be publicly declared by the council and entered in the minutes of a special meeting of the council within a week after the contest is resolved.

4.70.070. Certificate of election.

- (a) Unless the city council orders an investigation or unless a contest has been previously filed pursuant to Section 4.90.010, after the canvass is complete pursuant to Section 4.70.020, the council shall declare the election valid and certify the election results. The council shall certify results not in question immediately and shall complete investigation or contest procedures as soon as practicable to assure prompt certification of results that are in questions.
- (b) To certify the election results the council shall enter the determination in the minutes along with the following information:

- (1) The total number of poll, absentee, questioned, and personal representative ballots cast in the election;
  - (2) The offices, names, and number of votes counted for each candidate at the election;
  - (3) The propositions voted upon at the election; and
  - (4) The number of votes counted for each proposition voted upon.
- (c) Upon certification of the election by the council, the clerk shall deliver to each person elected to office a copy of the council's certificate of election.

[Ord. 2007-04, §12]

## TITLE 4

### ELECTIONS

#### Chapter 8 – Absentee Voting

[Ord. 2007-04 §13, 2-9-07, Repeal and Reenactment Chapter 4.80]

- 4.80.010. Absentee voting–Eligible persons.
- 4.80.020. Absentee voting–Filing of application
- 4.80.030. Absentee voting–Delivery of ballots.
- 4.80.040. Absentee voting–Casting a vote.
- 4.80.050. Absentee voting–Processing of ballots.
- 4.80.060. Absentee voting–In-person voting.

#### 4.8.010. Absentee voting–Eligible persons.

- (a) Any qualified voter, who expects to be absent from the City or who will be unable to vote by reason of physical disability on the day of any election, may cast an absentee ballot. The right to vote absentee shall be liberally construed.
- (b) Prior to the election, the clerk shall give to the election board of each polling place a list of voters from the City who have been issued absentee ballots. If a voter who was issued an absentee ballot returns to the City on election day, the voter may not vote a regular ballot at the polling place unless the voter first surrenders to the election board of that polling place the absentee ballot issued to the voter. If the absentee voter does not have the absentee ballot to surrender, the absentee voter may vote a questioned ballot. Surrendered ballots collected by an election board shall be returned to the clerk.

#### 4.80.020. Absentee voting–Filing of application.

- (a) A registered and qualified voter may apply to the clerk for an absentee ballot to be voted by mail or facsimile transmission. The application to vote an absentee ballot by mail or facsimile transmission may be made in person, by mail or by facsimile transmission. When the application is received by facsimile transmission, a notation that it was received by facsimile transmission will be made on the absentee ballot application log.
- (b) An application made by mail or facsimile must be received by the city clerk not more than twenty (20) days nor less than three (3) days before a city election is to be held. An application made in person must be filed with the city clerk not more than fifteen (15) days before a city election, and no later than noon on the day before a city election.
- (c) All applications to vote absentee by mail or facsimile transmission shall be in writing on a form provided by the clerk containing at least the following information:
  - (1) The applicant’s place of residence;

- (2) Ballot mailing address or telephone number of the facsimile machine to which the ballot is to be sent;
- (3) The applicant's signature; and
- (4) A voter identifier such as voter number, social security number, or date of birth. While a social security number is the preferred identifier and will be used for identification purposes only, the voter must provide at least one of the forms of voter identification listed above.

4.80.030. Absentee voting—Delivery of ballots.

- (a) Upon timely receipt of an application to vote absentee by mail or facsimile transmission, the clerk shall mail or fax an official ballot and other absentee voting material to the applicant, at the mailing address or facsimile machine given on the application.
- (b) Upon mailing, sending by facsimile or delivering in person an absentee ballot, the clerk shall enter, on the space provided in the voter registration index, the number of the ballot and the date the ballot was mailed, faxed, or delivered. Before the election, the clerk will send the election judges a list of voters who have voted absentee.
- (c) If an absentee ballot is sent to a voter by facsimile transmission, the ballot shall include:
  - (1) A transmittal form;
  - (2) Instructions to the voter with procedures for returning the completed ballot by facsimile transmission or by mail, including a telephone number for a central facsimile machine in the clerk's office to which all ballots returned by facsimile transmission are to be transmitted; and
  - (3) If the person is applying to vote via facsimile transmission, the instructions sent to the voter will include a description of the procedures that a voter returning the ballot must follow if the voter wishes to ensure that the voted ballot is not seen by the clerk or an elected official. The instructions will also inform the voter that if the voter does not follow these instructions, the ballot will not be counted, unless it does not include a transmittal form or is otherwise ineligible.

4.80.040. Absentee voting—Casting a vote.

- (a) At any time on or before the day of the election, a voter may vote the absentee ballot.
- (b) If the ballot is to be returned by mail, the voted ballot shall then be placed in a return envelope and the voter shall sign the certification on the return envelope and have it witnessed in the presence of an authorized official such as:
  - (1) A notary public; U.S. postmaster or authorized postal clerk; commissioned military

officer; judge; justice; magistrate; clerk of court; a duly appointed voter registrar or elected official; or

(2) Two (2) witnesses who are at least eighteen (18) years of age, if an authorized official is not reasonably accessible.

(c) The return envelope provided to the voter will be of a form, size, and weight as determined by the City Clerk. The envelope will have printed on its face an affidavit as follows:

AFFIDAVIT

I \_\_\_\_\_ hereby attest that I am a resident of and a voter in the City of Akutan, Alaska, and I hereby enclose my ballot.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Residence

(SEAL)

SUBSCRIBED AND SWORN before me, this \_\_\_ day of \_\_\_\_\_, at \_\_\_ am/pm (note time zone). I hereby certify that in my presence this affiant enclosed a ballot and handed me this envelope sealed; that he or she signed this envelope, and I acknowledged his or her signature and affidavit, all in accordance with law.

\_\_\_\_\_  
Official's Signature

\_\_\_\_\_  
Title of Official

(d) If the ballot is to be returned by facsimile transmission, the voted ballot shall contain the following statement: "I understand that by using facsimile transmission to return my marked ballot, I am voluntarily waiving my right to a secret ballot to the extent necessary to process my ballot," followed by the voter's signature and date of signature. Additionally, the voted ballot shall be accompanied by a statement provided by the city clerk containing the affidavit enumerated in subsection © of this section, which shall be executed under oath as to the voter's identity and witnesses in the presence of an authorized official such as:

(1) A notary public; U.S. postmaster or authorized postal clerk; commissioned military officer; judge; justice; magistrate; clerk of court; a duly appointed voter registrar or elected official; or

(2) Two (2) witnesses who are at least eighteen (18) years of age, if an authorized official is not reasonably accessible.

- (e) After the absentee voter's signature is witnessed, the voter shall mail or fax the ballot to the clerk. In order to be counted, a ballot that is faxed to the clerk must be received no later than the time at which the polls close on election day. All absentee ballots returned by fax will be hand counted. A ballot that is returned to the clerk by mail must be postmarked on or before election day and received by the clerk no later than the third calendar day following the election.

4.80.050. Absentee voting—Processing of ballots.

- (a) When a completed absentee ballot is received by facsimile transmission, the clerk will note the date of receipt of the absentee ballot application log and, if the ballot is received on election day, the time of receipt. The clerk will then:
  - (1) Remove the ballot portion of the transmission from the portion that identifies the voter;
  - (2) Place the ballot portion in a secrecy sleeve;
  - (3) Seal the secrecy sleeve in an outer envelope of the type used for absentee ballots returned by mail, and seal that envelope;
  - (4) Attach the voter identification portion to the outer envelope; and
  - (5) Forward the sealed outer envelope to the elections board for counting in accordance with this chapter.
- (b) When the clerk receives in the mail a completed absentee ballot that was sent to a voter by facsimile transmission, the clerk will:
  - (1) Remove the ballot portion of the transmission from the portion that identifies the voter;
  - (2) Place the ballot portion in a secrecy sleeve and seal the secrecy sleeve;
  - (3) Place the sealed secrecy sleeve in the envelope in which the ballot was returned, and reseal that envelope;
  - (4) Attach the voter identification portion to the outer envelope; and
  - (5) Forward the sealed outer envelope to the elections board for counting in accordance with this chapter.
- (c) An absentee ballot that was sent to a voter by facsimile transmission and was returned by mail will not be counted if the envelope in which the ballot is returned contains the ballot of more than one voter.

4.80.060. Absentee voting—In-person voting.

- (a) A registered and qualified voter may appear before the clerk during the clerk's business hours to cast his or her ballot. In order to do so, the voter must provide his or her name, residence address, and a voter identifier such as voter number, social security number, or date of birth to the clerk. While a social security number is the preferred identifier and will be used for identification purposes only, the voter must provide at least one of the forms of voter identification listed above.

TITLE 4

ELECTIONS

Chapter 9 – Contest of Election

- 4.90.010. Contest of election.
- 4.90.020. Recount expenses–Appeal.
- 4.90.030. Contest of election–Investigation.
- 4.90.040. Ballot recount.
- 4.90.050. Prohibited practices alleged.
- 4.90.060. Sustained charges–Recount.
- 4.90.070. Determination of tie votes.

4.90.010. Contest of election.

- (a) Any candidate or any ten qualified voters may contest the election of any person and the approval or rejection of any question or proposition.
- (b) A candidate or elector who believes that prohibited practices occurred at an election will appear before the council at the special council meeting held on the first Monday following the election. He will deliver a sworn written notice of contest, which will state with particularity the provisions of the laws which he believes *were* violated and the specific acts he believes to be misconduct. A notice shall read:

"NOTICE OF ELECTION CONTEST"

The undersigned believes that prohibited practices occurred at the election held on

\_\_\_\_\_  
The undersigned states that the following laws were violated:

\_\_\_\_\_  
The undersigned states that the above provisions of the law were violated in the following manner:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Person Contesting

SUBSCRIBED AND SWORN to before me, this \_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for Alaska

4.90.020. Recount expenses–Appeal.

- (a) The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election or the difference between the winning and a losing vote on the result contested is more than two percent.
- (b) No person may appeal or seek judicial review of a city election for any cause or reason unless the person is qualified to vote in the city, has exhausted his administrative remedies before the city council and has commenced, within 10 days after the council has finally declared the election results, an action in the superior court in the city's judicial district. If no such action is commenced within the 10-day period, the election and election results shall be conclusive, final and valid in all respects.

4.90.030. Contest of election–investigation. The city council will order an investigation to be made by the city clerk and/or the mayor, if a notice of contest is received. Investigation proceedings will be public.

4.90.040. Ballot recount. If only a recount of ballots is demanded, the election board where the error allegedly occurred, shall recount the ballots.

4.90.050. Prohibited practices alleged. When the contestant alleges prohibited practices the council will direct the city clerk to produce the original register books for the election.

4.90.060. Sustained charges–Recount. If the charges alleged by the contestant are upheld, the canvassing committee will make a recount and report immediately to the council. The council will then certify the correct election returns as provided in Chapter 22 Section 6(b).

4.90.070. Determination of tie votes. If after a recount and appeal two or more candidates tie in having the highest number of votes for the same office, the mayor shall notify the candidates who are tied. The mayor shall notify the candidates of a reasonably suitable time and place to determine the successful candidate by lot. After the determination has been made by lot, the mayor shall so certify.

TITLE 5

FINANCE

Chapter 1 – Fiscal Policies

Sections

- 5.10.010. Budget and construction program.
- 5.10.020. City obligations.
- 5.10.030. Fiscal year.
- 5.10.040. Funds designated.
- 5.10.050. Audit of city government accounts.

5.10.010. Budget and construction program.

- (a) The mayor shall arrange for the preparation of a budget and construction program. The budget and construction spending proposals shall be submitted as an ordinance.
- (b) After public hearing, the council may approve budgets with or without amendments and shall appropriate the funds required.

5.10.020. City obligations.

- (a) A bond, contract, lease, or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made by ordinance and approved by the voters.
- (b) The council may make supplemental and emergency appropriations. No payment may be authorized or made and no obligation incurred unless an appropriation has been made by ordinance.
- (c) The council may authorize contracts for construction improvements to be financed wholly or partly by the issuance of bonds.

5.10.030. Fiscal year. The fiscal year of the municipality shall begin on the first day of July and end on the last day of June in the following calendar year.

5.10.040. Funds designated. Funds designated for the city:

General Fund.

5.10.050. Professional accounting review of city government accounts.

Prior to the end of each fiscal year the council shall designate a qualified individual who, as of the end of each fiscal year, shall make an independent professional accounting review. Such person

shall have no personal interest, direct or indirect, in the financial affairs of the city or of any of its officers. A copy of the review shall be filed with the State Department of Community and Regional Affairs.

TITLE 5

FINANCE

Chapter 2 – Assets – Disbursements

Sections:

- 5.20.010. Treasury
- 5.20.020. Accounting.
- 5.20.030. Checks.
- 5.20.040. Insufficient fund in bank account.
- 5.20.050. Salary Advances to City Employees

5.20.010. Treasury.

- (a) Operating cash shall be kept in a financial institution to be designated by resolution.

5.20.020. Accounting.

- (a) All accounting functions for all city departments and offices, are the responsibility of the treasurer.
- (b) The treasurer or designee hired by council shall provide on a monthly basis to the council the following statements:
  - (1) Summary statement of cash receipts and disbursements;
  - (2) Reconciliation statement–Banks–Investments–Funds;
  - (3) Statement of expenditures compared with appropriations.

5.20.030. Checks. All checks drawn on the treasury of the city shall be signed by the treasurer and mayor or other authorized signature as designated by the council. All checks prior to issuance shall be approved to be within budget allowances by the council.

5.20.040. Insufficient funds in bank account. No city check may be written at any time when funds are insufficient. Willful violation of this provision and conviction shall result in a fine of not more than five hundred dollars (\$500.00).

5.20.050 Salary advances to city employees. A salaried employee of the City may receive a salary advance for hours or days already worked during the month in which the advance is requested. Under no circumstances may that salary advance exceed that employee's total salary for the month in which the advance is requested. Willful violation of this provision and conviction shall result in a fine of not more than five hundred dollars (\$500.00).

## TITLE 5

### FINANCE

#### Chapter 3 – Budget Form and Scope

##### Sections:

- 5.30.010. Scope of budget.
- 5.30.020. Anticipated revenues.
- 5.30.030. Anticipated revenues compared with other years.
- 5.30.040. Proposed expenditures.
- 5.30.050. Proposed expenditures compared with other years.
- 5.30.060. Budget Summary.

##### 5.30.010. Scope of budget.

- (a) The budget shall include a comparative statement of actual expenditures and actual revenues for the preceding fiscal year and the budgeted current fiscal year.
- (b) Proposed expenditures shall not exceed total anticipated revenues and reserves.

5.30.020. Anticipated revenues. Anticipated revenues shall be composed of "taxes," "licenses and permits," "intergovernmental revenue," "charges for services," "fines and forfeits," "miscellaneous revenue," and "cash reserves, and any other category deemed appropriate."

5.30.030. Anticipated revenues compared with other years. In the anticipated column opposite the items of anticipated revenues there shall be placed the amount of each such item actually received in the preceding fiscal year.

5.30.040. Proposed expenditures. Proposed expenditures shall be itemized. Separate provision shall be included in the budget for at least:

- (1) Interest, amortization of principal and redemption charges on the public debt for which the faith and credit of the municipality is pledged;
- (2) Administration, operation and maintenance of each office, department or agency of the municipality;
- (3) Council's budgetary reserve;
- (4) Expenditures proposed for construction projects including provisions for down payments on capital projects.

5.30.050. Proposed expenditures compared with other years. In a parallel column opposite the

several items of proposed expenditures, there shall be placed the amount of each such item actually spent in the preceding fiscal year and the budget for the current fiscal year.

5.30.060. Budget summary. At the head of the budget there shall appear a summary of the budget, which need not be itemized. Principal sources of anticipated revenues, and kinds of expenditures by department, shall be stated in such a manner as to present to the taxpayers a simple and clear summary of the detailed estimates of the budget.

## TITLE 5

### FINANCE

#### Chapter 4 – Budget Procedures

##### Sections:

- 5.40.010. Budget public record.
- 5.40.020. Publication of notice of public hearing.
- 5.40.030. Public hearing on budget.
- 5.40.040. Further consideration of budget.
- 5.40.050. Adoption of budget–Vote required.
- 5.40.060. Effective date of budget–Certification–Copies made available.

5.40.010. Budget public record. The budget, the budget message, the construction improvement program, and all supporting schedules shall be a public record in the office of the clerk, open to public inspection by anyone. The mayor shall cause to be prepared for distribution to interested persons, copies of the budget and budget message.

5.40.020. Publication of notice of public hearing. The council shall determine the place and time of the public hearing on the budget, and shall post such notice in three places in the city. The council shall include in the notice a summary of the budget and capital improvement program and a statement setting out the time and place for a public hearing. This notice shall be posted at least two weeks prior to the hearing.

5.40.030. Public hearing on budget. At the time and place so advertised, the council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any item thereof.

5.40.040. Further consideration of budget. After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law. The council may not vary the titles, descriptions, or conditions of administration specified in the budget.

5.40.050. Adoption of budget–Vote required. The budget shall be adopted by favorable votes of at least a majority of all the members of the council, preferably by June first and not later than 14 days prior to the new fiscal year.

(AO 11-05 §2, 6-14-11)

5.40.060. Effective date of budget–Certification–Copies made available. Upon adoption of the budget, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be certified by the mayor and the clerk and filed in the office of the clerk. The budget so certified shall be printed or otherwise reproduced, and sufficient copies shall be made publicly available through the clerk's office.

(AO 11-05 §3, 6-14-11)

TITLE 5

FINANCE

Chapter 5.50 Purchasing Procedures  
(Ord. 10-05, 12-15-10)

**Sections:**

- 5.50.010. Definitions.
- 5.50.020. Purpose and Interpretation.
- 5.50.030. Authority of Purchasing Officer.
- 5.50.040. Centralization of Procurement Authority.
- 5.50.050. Standard Specifications.
- 5.50.060. Contract Authority in General.
- 5.50.070. Contracts Enforceable Against the City.
- 5.50.080. Availability of Funds.
- 5.50.090. Execution of Contracts.
- 5.50.100. Council Approval of Contracts.
- 5.50.110. Contract Amendments Council Approval.
- 5.50.120. Multi-Year Contracts.
- 5.50.130. Competitive Sealed Bidding Required exceptions.
- 5.50.140. Solicitation and Acceptance of Bids.
- 5.50.150. Award Only to Qualified Responsive and Responsible Bidder.
- 5.50.160. Waiver of Irregularities.
- 5.50.170. Competitive Sealed Proposals Negotiated Procurement.
- 5.50.180. Open Market Procedure.
- 5.50.190. Proprietary Requirements.
- 5.50.200. Emergency Procurements.
- 5.50.210. Professional Services.
- 5.50.220. Award of Contracts or Purchases Without Competitive Bids.
- 5.50.230. Bonds.
- 5.50.240. Waiver of Formal Bidding Procedures.
- 5.50.250. Appeals.
- 5.50.260. Council Report.
- 5.50.270. Intergovernment Contracts.
- 5.50.280. General Provisions.
- 5.50.290. Grant Administration.

5.50.010. Definitions.

- A. For the purposes of this chapter the following definitions shall apply unless the content clearly indicates or requires a different meaning.
1. “Architectural-engineering-land surveying services” means those professional services within the scope of the practice of architecture engineering or land surveying as defined by Alaska law.
  2. “Certifying Officer” means the Finance Manager of the city or the officer’s designee
  3. “Construction” means the onsite erection alteration extension or repair of improvements to real property including painting or redecorating buildings, highways or other improvements under contract for the city but does not include:
    - (a) routine operation repair or maintenance of existing buildings or improvements which are recurring services nominally performed in connection with the ownership occupancy or use of the building or improvement;
    - (b) building or installation of an improvement to real property by the property owner when the improvement is expressly required by this code.
  4. “Contract” means all types of city agreements regardless of what they may be called for the procurement or disposal of supplies, services, professional services or construction, but does not include collective bargaining agreements, subdivision agreements, water or sewer main extension agreements or other similar agreements in which the owner or a person acting under the direction of the owner of real property agrees to construct improvements of a public nature on property to be dedicated to the city.
  5. “Contract amendment” means any change in the terms of a contract accomplished by agreement of the parties including change orders.
  6. “Department” means any department or office of the city.
  7. “Department Head” means the department director or other chief administrative officer of a department.
  8. “Person” means any individual or any business or non-business association recognized by law whether or not organized for profit or any governmental unit or entity.
  9. “Professional Service” means those advisory consulting architectural engineering research or developmental services which involve the exercise of discretion and

independent judgment together with an advanced or specialized knowledge expertise or training gained by formal studies or experience.

10. "Purchasing officer" means the mayor or his designee.
11. "Services" means those services of a non-professional nature which are described within contract specifications and which are needed or desired by the city.
12. "Supplies" means any tangible personal property.

5.50.020. Purpose and Interpretation.

- A. The purposes of this chapter are:
  1. To implement code provisions requiring that the council by ordinance provide for competitive bidding for goods and services and for exceptions to the bidding process;
  2. To maximize fair and open competition and to discourage collusive bidding for city contracts consistent with the efficient operation of the city government; and
  3. To maximize the purchasing value of city funds.
- B. This title shall be construed and applied to promote the purposes stated in this section.

5.50.030. Authority of Purchasing Officer.

- A. Except as this code provides otherwise the purchasing officer shall:
  1. Procure all supplies services and construction required by the city;
  2. Sell trade or otherwise dispose of surplus supplies belonging to the city;
  3. Maintain all records pertaining to the procurement of supplies services and construction and the disposal of supplies by the city;
  4. Join with other units of government in cooperative purchasing ventures where the best interests of the city would be served;
  5. Compile and maintain, to the extent practicable, bidders' and vendors' lists for supplies, services, professional services and construction utilized by the city;
  6. Compile and maintain a log of all contracts awarded for supplies, services, professional services or construction, together with any amendments to the contracts.

- B. The purchasing officer shall perform any other authorities and responsibilities which this chapter assigns the purchasing officer.

5.50.040. Centralization of Procurement Authority.

Except as this code provides otherwise, all rights powers and authority pertaining to the procurement of supplies, services and construction required by the city are vested in the purchasing officer.

5.50.050. Standard Specifications.

- A. Every using agency shall propose insofar as practicable standard specifications for the supplies, services, professional services and construction that it requires.
- B. The purchasing officer shall adopt standard specifications for supplies, services and construction wherever practicable. The standard specifications adopted by the purchasing officer shall be based upon those proposed by using agencies, modified as necessary to maximize clarity, uniformity and open competition, while effectively serving the needs of the using agencies and the efficient operation of the city government.

5.50.060. Contract Authority in General.

The city may, pursuant to an award in accordance with this chapter, contract with any person to acquire any supplies, services, professional services or construction required by the city.

5.50.070. Contracts Enforceable Against the City.

A contract for supplies, services, professional services or construction, or any amendment to the contract, may not be enforced against the city unless its terms have been approved in accordance with this chapter, and unless the contract or amendment to the contract has been set forth in writing, executed in accordance with this chapter.

5.50.080. Availability of Funds.

A contract for supplies, services or construction may not be approved or executed unless the certifying officer has certified in writing that funds are available for the city's performance under the contract.

5.50.090. Execution of Contracts.

All city contracts for supplies, services, professional services and construction, and any amendments to the contracts shall be signed by the mayor.

5.50.100. Council Approval of Contracts.

- A. A contract or contract amendment for supplies, services, professional services or construction which obligates the city to pay more than \$100,000 may not be executed unless the council has approved a memorandum setting forth the essential terms of the contract. To the extent applicable for particular contracts, the following essential terms shall be set forth:
  - 1. The identity of the contractor;
  - 2. The contract price;
  - 3. The nature and quantity of the performance that the city shall receive under the contract;
  - 4. The using agency; and
  - 5. The time for performance under the contract.
  
- B. If contracts are awarded to more than one bidder pursuant to an invitation for bids, contracts with different bidders shall be considered separately for purposes of determining the application of subsection (a). If any contract to be awarded under a given bid is subject to council approval, the award of other contracts pursuant to the same invitation for bids may, at the discretion of the purchasing officer, be delayed pending council approval.
  
- C. A grant to a governmental or quasi-governmental agency or to a private nonprofit corporation under the provisions of this chapter for more than \$100,000 may not be issued unless the council has approved a memorandum setting forth:
  - 1. The identity of the grantee;
  - 2. The grant amount;
  - 3. The purpose to which grant funds are to be devoted; and
  - 4. The agency charged with administration of the grant.

5.50.110. Contract Amendments; Council Approval.

- (a) Contract amendments shall not be used to avoid procurement by the competitive procedures established under this title.
  
- (b) Except for emergency procurements authorized under this chapter, contracts for supplies, services, professional services and construction may be amended by the purchasing officer with the approval of the council, as set forth in this chapter, only for the following reasons:

- (1) To change the quantity ordered or date of delivery under contract for supplies, where necessary to meet unforeseen city requirements;
- (2) To change the quantity of services or professional services to be rendered, or to change the scope of a project under a contract for services or professional services where necessary to meet unforeseen changes in city requirements;
- (3) To change the scope of a project or the scope of services or professional services under a construction contract to meet unforeseen city requirements, or to change the specifications under a construction contract because unforeseen conditions render the original specifications impracticable;
- (4) To change the time for completing a project under a contract for services, professional services, or construction;
- (5) To correct an error in contract specifications made by the city in good faith or to resolve a good faith dispute between the city and a contract or as to a party's rights and obligations under the contract; and
- (6) To change administrative provisions of a contract without materially altering the contract terms governing the quantity or quality of supplies, services, professional services or construction furnished the city.

5.50.120. Multiyear Contracts.

- A. The city may enter into contracts for a term exceeding one year provided that funds for the city's performance during the fiscal year in which the contract term commences are certified in writing by the finance manager as being available.
- B. The city's payment and performance obligations for succeeding fiscal years after issue of a multiyear contract shall be subject to the availability of funds lawfully appropriated.
- C. Contracts for construction are not to be construed as multiyear contracts; however, lawfully appropriated funds must be available for the term of the contract.

5.50.130. Competitive Sealed Bidding Required: Exceptions.

Unless otherwise authorized under this chapter or other provisions of law, all city contracts in excess of One Hundred Thousand Dollars (\$100,000.00) for supplies, services and construction shall be awarded by competitive sealed bidding.

5.50.140. Solicitation and Acceptance of Bids.

- A. The purchasing officer shall initiate competitive sealed bidding by issuing an invitation for bids. The invitation for bids shall state, or incorporate by reference, all specifications and contractual terms and conditions applicable to the procurement.
- B. Public notice of the invitation for bids shall be published at least once in a newspaper of general circulation in the region or state at least 14 calendar days before the last day on which bids shall be accepted. Notice shall also be posted by the city clerk's office. The contents of the notice shall be sufficient to inform interested readers of the general nature of the supplies, services or construction being procured and the procedure for submitting a bid. The purchasing officer shall mail or otherwise deliver notices to a sufficient number of prospective bidders from a current bidders or vendors mailing list maintained in the purchasing office to afford equitable opportunity for competition. The failure of any person to receive notice under this subsection shall not affect the validity of any award or contract.
- C. The purchasing officer shall establish and maintain a list of contractors who indicate a wish to provide goods or services to the city. Upon an invitation for bids, each contractor on the list with the indicated necessary qualifications to bid shall receive a notice of the invitation.
- D. The purchasing officer may provide for a pre-bid conference to be held at least seven calendar days before the last day for submitting bids. At the pre-bid conference or at other times deemed appropriate by the purchasing office, the terms of an invitation for bids may be modified or interpreted only by written addenda issued by the purchasing officer. Addenda to bids shall be sent to each recipient of the original bid documents. Only a bid acknowledging receipt of all addenda may be considered responsive, unless the addendum, in the opinion of the purchasing officer, would have no material effect on the terms of the bid.
- E. Sealed bids shall be designated as such on the outer envelope and shall be submitted by mail or in person at the place and no later than the time specified in the invitation for bids. Bids not submitted at the proper place or within the time specified shall not be opened or considered and shall be returned to the respective bidders.
- F. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. Any bidder, prior to award, may review bids after the purchasing officer has tabulated or summarized them. The purchasing officer shall tabulate the amount of each bid and shall record other information as may be necessary or desirable for evaluation together with the name of each bidder. The tabulation shall be open to public inspection, and a copy of the tabulation shall be furnished to each bidder upon request.

- G. Bids shall be accepted unconditionally without alteration or correction. For purposes of determining the low bidder and the responsiveness of bids, no criteria except those set forth in the invitation for bids, including all specifications and addenda, may be used.

5.50.150. Award Only to Qualified Responsive and Responsible Bidder.

- A. A contract award under this chapter shall be made only to a qualified, responsive and responsible bidder. The purchasing officer shall determine whether a bidder is qualified, responsive and responsible based on:
  - 1. The skill and experience demonstrated by the bidder in performing contracts of a similar nature.
  - 2. The bidders record of honesty and integrity.
  - 3. The bidder's capacity to perform in terms of facilities, personnel and financing.
  - 4. At all times the interests of the city shall be recognized in awarding bids.

5.50.160. Waiver of Irregularities.

The purchasing officer shall have the authority to waive irregularities on any and all bids, except that timeliness and manual signature requirements shall not be waived.

5.50.170. Competitive Sealed Proposals; Negotiated Procurement.

- A. If the purchasing officer determines that use of competitive sealed bidding is not practicable, the city may procure supplies, services, or construction by competitive sealed proposals under this section.
- B. The purchasing officer shall solicit competitive sealed proposals by issuing a request for proposals. The request for proposals shall state, or incorporate by reference, all specifications and contractual terms and conditions to which a proposal shall respond, and shall state the factors to be considered in evaluating proposals and the relative importance of those factors. Public notice of a request for proposals shall be given as deemed appropriate by the purchasing officer. One or more pre-proposal conferences may be held by the purchasing officer. A request for proposals may be modified or interpreted only in written addenda issued by the purchasing officer.
- C. Sealed proposals shall be designated as such on an outer envelope and shall be submitted by mail or in person at the place, and no later than the time specified in the request for proposals. Proposals not submitted at the place or within the time specified shall not be opened or considered.
- D. Proposals shall be received at the time and place designated in the request for proposals, and shall be opened so as to avoid disclosing their contents to competing proposers

during the process of negotiation. Proposals, tabulations and associated documentation submitted in response to a proposal requested pursuant to this section may not be disclosed to the public or to proposers until the issuance of a written notice of tentative award of a contract to the apparent successful proposer.

- E. In the manner provided in the request for proposals, the purchasing officer may negotiate with those qualified and responsible proponents whose proposals are determined by the purchasing officer to be reasonably responsive to the request for proposals. Negotiations shall be used to clarify and assure full understanding of the requirements of the request for proposals. The purchasing officer may permit proponents to revise their proposals after submission and prior to award to obtain best and final offers. Proponents deemed eligible for negotiations shall be treated equally regarding any opportunity to discuss and revise proposals. In conducting negotiations and requesting revisions, neither the purchasing officer, nor any other city officer or employee shall disclose any information derived from proposals of competing proponents.
- F. Awards shall be made by written notice to the qualified and responsible proponent whose final proposal is determined to be most advantageous to the city. No criteria other than those set forth in the request for proposals may be used in proposal evaluation. If the purchasing officer determines that it is in the best interest of the city to do so, the city may reject any or all proposals.

5.50.180. Open Market Procedure.

- A. The purchasing officer may procure all supplies, services, professional services and construction having an estimated value of not more than one hundred thousand dollars (\$100,000.00) on the open market without formal advertising or other formal bid procedures. The purchasing officer shall approve a written policy for the implementation of this section.
- B. Whenever practicable, at least three informal proposals or quotations shall be solicited for any procurement under this section. The solicitation may be either oral or written, and shall be in a form reasonably calculated to yield the lowest responsive proposal by a qualified and responsible proposer.
- C. Awards, where practicable, shall be made to the lowest responsive, qualified and responsible bidder. The purchasing officer shall keep a record of all open market bids received and awards made on the proposals.
- D. When requested by the council, the purchasing officer shall provide a report to the council of all procurements under this section.

#### 5.50.190. Proprietary Requirements.

- A. The city may award a contract for supplies, services or construction without competition where the purchasing officer determines in writing that the city's requirements reasonably limit the source for the supplies, services or construction to one person.
- B. When requested by the council, the purchasing officer shall provide a report to the council of all procurements under this section.

#### 5.50.200. Emergency Procurements.

The city may award a contract for supplies, services, professional services, or construction without competition, formal advertising or other formal procedure where the purchasing officer determines in writing that an emergency threatening the public health, safety, property or welfare requires that the contract be awarded without delay. A report on an emergency contract shall be made to the council no later than the next regular meeting following award of the contract.

#### 5.50.210. Professional Services.

- A. Except as authorized by this chapter, professional services shall be procured in accordance with the terms of this section.
- B. Persons interested in providing professional services for the city may submit statements of qualifications to the purchasing office.
- C. To the extent practicable, notice of the need for professional services shall be given by the purchasing office. The notice shall describe the services required and shall list the type of information and data required of each person submitting a proposal.
- D. The agency head and the purchasing officer may conduct discussions with any person who has submitted a proposal to determine the person's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other persons.
- E. Award shall be made to the person determined by the agency head and the purchasing officer to be the best qualified, and shall be for an amount of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified person, negotiations shall be formally terminated with that person. If proposals were submitted by one or more other persons determined to be qualified, negotiations may be conducted with the persons, in order of their respective qualification ranking. The contract may be awarded to the person then ranked as best qualified if the amount of compensation is determined to be fair and reasonable.

- F. Legal services may be procured by direct negotiation with an attorney or law firm qualified to handle the type of legal problems presented. No negotiations or contracts for the services of legal counsel may be pursued or awarded without the prior approval in writing of the mayor and city council.

5.50.220. Award of Contracts or Purchases Without Competitive Bids.

- A. Unless otherwise required by the council, contracts and purchases may be made without competitive bidding for the following:
  - 1. For professional or specialized services such as, but not limited to, services rendered by accountants, architects, appraisers, engineers, land surveyors, financial consultants, attorneys, planning consultants, economists, computer programmers and system analysts, insurance consultants and risk analysts, and other specialized consultants, which services shall be purchased as provided in Subsection 5.50.210 Professional Services Contracts.
  - 2. For purchase of insurance.
  - 3. For contractual services purchased from a public utility at a rate determined by law, regulation or ordinance.
  - 4. For supplies, materials, equipment, construction, or contractual services which can be furnished only by a single provider or dealer or which have a uniform price wherever bought.
  - 5. When calling for and obtaining bids on a competitive basis is unavailable, impractical or impossible, including, but not limited to, when rates are set by statute or ordinance, or when like items, equipment or vessels are traded in, or when used items, equipment or vessels are being purchased.
  - 6. For work and services on public works or projects performed by employees of the city
  - 7. When it is advantageous to the city to enter into a contract or purchase with a bidder for the same supplies, materials, equipment, construction or contractual services, such bidder is providing another Alaskan local government, the state of Alaska, or the United States when such supplies, materials, equipment, construction or contractual services are being provided to the other governmental unit on the basis of formal competitive sealed bids submitted, and when the city contract is on substantially the same terms as those bid; or to a contract with or through such other governmental unit so that the benefit of the responsible bid accrues to the city.
  - 8. Supplies, materials, equipment, construction or contractual services which must be purchased from a specific source in order to prevent incompatibility with

previously purchased supplies, materials, equipment, construction or contractual services. For purposes of this paragraph, the term "incompatibility" is defined as the inability to

- a) interconnect, combine, interchange or join; or
  - b) that which causes or necessitates maintenance expertise or training where such acquisition would result in substantial duplication. Any purchase which is to be excluded from competitive bidding by the authority of this paragraph which exceeds one hundred thousand dollars (\$100,000) must be first approved by the council.
9. When competitive procedures have been followed but only one bid is received or no bids are received. In such a case, the purchasing officer may proceed to negotiate with the single bidder as to price, scope of work or other terms or conditions or, if no bids were received, to have the supplies, materials, equipment, construction or contractual services purchased or performed without further competitive bidding or quotation.
10. For high technology procurements including, but not limited to, computer systems, provided such purchases are made in accordance with 5.50.210, Professional Services Contracts.

5.50.230. Bonds.

- A. The purchasing officer may require that persons submitting bids pursuant to this chapter accompany their bids with a bid bond in an amount and in a form acceptable to the purchasing officer. The bond shall be issued by a company qualified by law to do business as a surety in the state of Alaska, or shall be in the form of a cashier's check or cash deposit. A condition of the bond shall be that if the bidder receives the award, the bidder shall enter into a contract with the city.
- B. If a requirement for a performance and payment bond is included in the terms of the invitation to bid, the purchasing officer may require that any person awarded a city contract furnish a performance and payment bond, issued by a company qualified to do business as a surety in the state. The bond shall be in an amount determined by the purchasing officer and in a form approved by the city attorney. The bonds shall, at a minimum, guarantee the full and faithful performance of all contract obligations and the payment of all labor and materials to be used under the contract.
- C. The purchasing officer may grant an exemption from bonds pursuant to AS 36.25.025.

5.50.240. Waiver of Formal Bidding Procedures.

- A. The purchasing officer may waive, in writing, some or all of the formal bidding procedures of this chapter when there is not sufficient time to comply with the waived requirements, or the best interests of the city shall be served by the waiver.

- B. All contracts for which formal procedures are waived under this section shall be reported to the council. The report shall contain the information described in this chapter and shall state the reason for proceeding under this section.

5.50.250. Appeals.

- A. *Bids.* Within five (5) days (Saturdays, Sundays and city holidays excluded) of issuance of a notice of intent to award, an unsuccessful bidder may appeal a bid award by delivering a written protest to the city clerk. The city clerk shall give notice of the appeal within two business days to the Purchasing Officer and all bidders by facsimile or electronically, and shall supplement notice by U.S. Mail.
- B. *Requests for proposals.*
  - 1. Within five (5) days (Saturdays, Sundays and city holidays excluded) of issuance of a notice of intent to award, an unsuccessful proposer may appeal a proposal award by delivering a written protest to the city clerk. The city clerk shall give notice of the appeal within two business days to the Purchasing Officer and all proposers by facsimile or electronically, and shall supplement notice by U.S. Mail.
- C. *Deposit Required.* A written protest under (A) and (B) must be delivered along with an appeal deposit of five (5) percent of the low bid or proposal cost, with a minimum of two thousand five hundred dollars (\$2,500.00). If the protest is upheld by the hearing officer, the deposit will be returned. If the protest is rejected, the deposit will be forfeited to the city.
- D. *Protests.* A protest under (A) or (B) of this section must state which provision of the purchasing code is alleged to have been violated or misapplied by the proposed award. The protest must state the basis for the protest, explaining how the conduct described establishes that an error has occurred. It must also include copies of any relevant documents or other information which the protesting party believes shows that an error has been made.
- E. *Hearing Procedures.*
  - 1. No later than five business days after the clerk's notice of an appeal, the Mayor shall appoint a hearing officer from the City's standing list of hearing officers to hear and decide a bid protest. A hearing shall be scheduled within ten calendar days, and the parties shall be notified by facsimile or electronically of the time, place, and teleconference information.
  - 2. The hearing officer shall conduct the hearing in an informal manner and the decision shall be limited to rejecting all bids or upholding the notice of intent to award the contract based on substantial evidence presented. Substantial evidence means relevant evidence a reasonable mind might accept as adequate to support a

conclusion. If the hearing officer makes an oral decision at the conclusion of the hearing, it shall be supplemented with a written decision within five business days following the hearing.

3. A decision by the hearing officer after a hearing under this chapter is final.

F. *Exclusive Remedy.* Notwithstanding other law to the contrary, Akutan Municipal Code Sections 5.50.010–5.50.290 shall provide the exclusive procedure and remedy for asserting a claim against the City arising in relation to a procurement under this chapter.

G. *Effect of Protest.* If a timely protest is filed, the award will be suspended until the hearing officer has issued a decision.

(Ord. 10-13, 6/29/10)

5.50.260. Council Report.

A. In a contract for the purchase of any supplies, services, professional services or construction, if the purchasing officer waives formal bidding procedures or if the contract is awarded to other than the low bidder, a report on the procurement contract shall be made to the council no later than the next regular meeting following the award of the contract.

B. A report to the council shall include;

1. The identity of the contractor;
2. The contract price;
3. The nature and quantity of the performance that the city shall receive under the contract;
4. The using agency;
5. The time for performance under the contract; and
6. A description of the waiver, emergency or other procedure followed.

5.50.270. Intergovernment Contracts.

Notwithstanding the other provisions of this chapter, the city may enter into procurement agreements with the federal, state or other municipal governments when it is in the best interest of the city to do so.

5.50.280. General Provisions.

- A. The council shall appropriate funds and accept grant offers from state and federal granting agencies.
- B. The council may authorize the mayor or his designee to enter into grant agreements.
- C. The council may authorize the mayor or his designee to enter into contracts with incorporated entities, including organized cities, to assist the city in performing under the terms and conditions of grant agreement.

5.50.290. Grant Administration.

- A. Except as this code provides otherwise, all rights, powers and authority pertaining to grants are vested in the purchasing officer.
- B. The purchasing officer or the purchasing officer's designee shall administer all facets of grants from pre-application through final grant audit.

The purchasing officer or the purchasing officer's designee shall have the responsibility to assure full compliance by the city with the terms and conditions of the grant agreement.

TITLE 5

FINANCE

Chapter 5 – Investment and Collateralization of Public Funds  
(Ord. 05-01, 2-28-05)

Sections:

- 5.60.010. Purpose.
- 5.60.020. Policy.
- 5.60.030. Definitions.
- 5.60.040. Authorized investments.
- 5.60.050. Safekeeping and custody.
- 5.60.060. Delegation of authority.

5.60.010. Purpose. This chapter is intended to govern the investment and collateralization of funds under the control of the city. This chapter does not apply to any funds controlled by a separate trust indenture.

5.60.020. Policy. It is the policy of the city to invest public funds in a manner which, in order or relative importance, will preserve capital, meet the daily cash flow demands of the city, and provide a reasonable market rate of investment. All investments of city funds must conform to the city code of ordinances that govern the investment of public funds.

5.60.030. Definitions.

As used in this chapter:

- A. “Authorized investment” is as defined in section 5.60.040.
- B. “Bank” means a state or federally chartered commercial or mutual bank, savings and loan association, or credit union located in the United States and having insurance of accounts through the appropriate insuring agency of the United States.
- C. “Certificate of deposit” means a non-negotiable certificate of deposit or other depository agreement issued, or to be issued, to the city by a bank.
- D. “City” means City of Akutan, Alaska.
- E. “Government obligations” means interest-bearing obligations of the United States, or for the payment of principal and interest on which the full faith and credit of the United States is pledged.
- F. “Moody’s” means Moody’s Investment Service, its successors and assigns, or, if such organization shall be dissolved or liquidated or shall no longer perform the functions of a

securities rating organization, any other nationally recognized securities rating organization designated by the city finance manger.

G. “Rated bank” means a bank:

1. Whose short-term obligations are rated, at all terms, A-1 or better by S&P, and P1 or better by Moody’s; or
2. Whose letters of credit secure third-party debt issues rated at least “A” by S&P or Moody’s; or
3. Which is a subsidiary of a one-bank holding company, all of whose commercial paper has the highest rating given by S&P or Moody’s or whose long-term debt issues are rated at least “A” or its equivalent by S&P or Moody’s.

H. “S&P” means Standard and Poor’s Ratings Group, its successors and assign, or, if such organization shall be dissolve or liquidated or shall no longer perform the functions of a securities rating organization, any other nationally recognized securities rating organization designated by the city finance manager.

5.60.040. Authorized investments In order to provide maximum security for the investment of city funds and to provide the greatest interest revenue consistent with safety, only the following investments of the city’s funds will be authorized:

- A. Government obligations;
- B. Commercial paper (1) having original maturities of not more than 270 days and rated, at all times, A-1 or better by S&P, and P-1 or better by Moody’s; and (2) bearing interest at a rate at least 25 basis points (0.25%) above the rate of interest on United States Treasury obligations of the same maturity at the time of purchase;
- C. Banker’s acceptances accepted by a rated bank and eligible for rediscount with, or purchase by, Federal Reserve System banks;
- D. Interest bearing obligations of a corporation, or of any state of the United States of America or any political subdivision thereof, which obligations at all times are rated at least AA by S&P or Moody’s; provided that any such obligation of a corporation shall bear interest at a rate at least 25 basis points (0.25%) above the rate of interest on United States Treasury obligations of the same maturity at the time of purchase;
- E. Shares of Securities and Exchange Commission registered money market mutual funds conforming to Rule 2a-7 of the Investment Company Act of 1940 that invest primarily in direct obligations of the United States and repurchase agreements backed by those obligations, and rated in the highest category by S&P and Moody’s;

- F. Certificates of deposit of any rated bank, provided that such certificates of deposit are (1) fully insured by the appropriate insuring agency of the United States; and (2) to the extent not so insured, collateralized with Government Obligations held by a third party custodian, in an amount equal to 102% of the principal and unpaid accrued interest;
- G. Repurchase agreements with primary dealers or rated banks, collateralized with Government Obligations held by a third party custodian, in an amount equal to 102% of the principal and unpaid accrued interest;
- H. In addition to the above, the city may invest its funds pursuant to an investment agreement with an investment pool organized and operated in accordance with the Alaska Investment Pool Act (AS 37.23), Investment Pools for Public Entities).

5.60.050. Safekeeping and custody. All security transactions, including collateral for repurchase agreements, entered into by the city shall be conducted on a delivery-versus-payment basis. Securities shall be held in the city's name by a third party custodian designated by the city finance manager and evidenced by safekeeping receipts and statements.

5.60.060. Delegation of authority. The city finance manager is authorized to appoint custodian banks and external investment managers subject to approval by the city council. The investment manager may be retained to invest city funds in lieu of city staff. The investment manager shall be registered as a financial advisory with the U.S. Securities and Exchange Commission (except for an authorized bank), must hold professional liability insurance of at least \$1,000,000 and must have experience in the management of municipal funds. The investment manager shall provide a monthly report summarizing investment activity in the portfolio.

TITLE 6  
TAXATION

Chapters

1 Sales Tax

## TITLE 6

### TAXATION

#### Chapter 1 -- Sales Tax

##### Sections:

- 6.10.010. Taxes Levied
- 6.10.020. Obligation to pay tax.
- 6.10.030. Custody, reporting and remittance. 6.10.040. Exemptions.
- 6.10.040. Exemptions.
- 6.10.050. Credit.
- 6.10.060. Definitions.
- 6.10.070. Installment Sales.
- 6.10.080. Rulings and regulations.
- 6.10.090. Registration of sellers as tax collectors—Certification of registration.
- 6.10.100. Seller not to assume tax.
- 6.10.110. Tax schedule.
- 6.10.120. Protest of tax.
- 6.10.130. Registration of buyers and sellers entitled to exemption.
- 6.10.140. Confidential material.
- 6.10.150. Duty to keep books.
- 6.10.160. Omissions and civil penalties.
- 6.10.170. Lien.
- 6.10.180. Accelerated returns.
- 6.10.190. Extensions.
- 6.10.200. Criminal penalties.

6.10.010. Taxes levied. There is levied a sales tax of one and one-half percent (1.5%) on all sales and importation of property from outside the city for processing, use or consumption within the city, and on all rents, and on all services made or rendered within the city, measured by the gross sale price of the seller, subject to exemptions in Section 6.10.040.

The tax applies both to raw seafood products delivered by the seller to a buyer in the city and to raw seafood products delivered by means of a tender to a processor of raw seafood products for processing in the city.

(Ord. 13-05, 12-11-12)

6.10.020. Obligation to pay tax where the sale is in the city. The obligation of the tax is upon the buyer, except that in the case of raw seafood products, the tax is upon the seller. Where the property is imported from outside the city for processing, use or consumption within the city, the obligation of the tax is upon the person importing or causing to be imported property into the city, for processing, use or consumption. In the case of raw seafood products the buyer or user

may, if it elects, assume the tax. The seller shall collect the tax on all sales, except raw seafood products, at the time of the sale.

The person causing the importation of property for processing, use or consumption within the city shall collect the tax on all such deliveries, except raw seafood products, at the time of the delivery. With respect to raw seafood products sold in the city, the buyer assumes the responsibility to collect the tax and for raw seafood products brought into the city for processing by canning, freezing, chilling, salting, sorting, packaging or other processing, the person receiving the raw seafood products in the city for such processing has the responsibility to collect the tax.

Collection is enforceable by the seller, or in the case of the buyer or processor of raw seafood products, by the buyer or processor, as a certified tax collector of the city; provided, however, that this shall not limit the liability of the person liable for the tax.

In regard to raw seafood products, the buyer or processor assumes the responsibility to collect the tax. Subsequent provisions of this ordinance relating to the duty of the seller to collect sales taxes shall also apply to the buyers or processors of raw fish products.

If a buyer of raw seafood products in the city has collected sales tax on a particular shipment of raw seafood products and turns the same shipment over to a processor in the city, the processor shall be under no obligation to pay or collect sales tax on that shipment.

6.10.030. Custody, reporting and remittance.

- (a) All sales taxes collected are city monies, and the seller is at all times accountable to the city for such monies, except that in the case of raw seafood products sold, the buyer (or, in the case of seafood products imported for processing, the user) is at all times accountable to the city for such monies.
- (b) Taxes due the city collected by a seller, buyer or user hereunder shall be paid at the expiration of each quarter of each calendar year. Every seller, buyer or user liable for the collection of the tax shall file with the city upon forms furnished by it a return setting forth:
  - (1) Gross sales, or in the case of seafood products imported into the city for processing, gross value, as measured by the gross sales outside of the city;
  - (2) The non-taxable portion separately stating the amount of sales revenue attributable to each class of exemption;
  - (3) Taxes collected;
  - (4) Such other information as may be required by regulation.

The complete return, together with remittance in and for the amount of the tax due,

must be transmitted to the city on or before the last day of the month succeeding the end of each quarter.

- (c) Any person who filed or should have filed a sales tax return for the prior quarter shall file a return, even though no tax may be due. This return shall show why no tax is due and, if the business is sold, the name of the person to whom it was sold.  
[Prior Section (c) repealed date unknown]
- (d) If any seller or buyer or other person collecting sales taxes sells, leases or otherwise disposes of his business, he shall make a final sales tax return within 15 days after the date of the sale; and the purchaser or successor assign shall withhold a sufficient portion of the purchase money to safely cover the amount of such sales tax, penalties and interest as may be due and unpaid to the city until such time as the former owner has produced a receipt from the city showing that all tax obligations imposed by this chapter have been paid; and further provided, if any purchaser of a business fails to withhold from the purchase money as herein provided for he shall be personally liable for the payment of the taxes, penalties and interest accruing and unpaid to the city on account of the operation of the business by any former owner, owners or assigns.
- (e) The mayor is authorized to enter into cooperative agreements with processors and other buyers of raw seafood products under which they pay to the city a percentage of the Alaska fisheries business license taxes paid by them to the State of Alaska and the mayor is authorized to accept information provided by them to the State of Alaska in satisfaction of the above reporting requirements. The percentage of the State tax to be paid to the City shall be the same percentage that would raise revenues equal to that which would be raised by the City under its one half-of one percent sales tax.

6.10.040. Exemptions. The following classes of sales, services and rentals are exempt:

- (1) All sales, rents, and services within the city, except raw seafood products as set out in Section 6.10.010.
- (2) Casual, isolated sales of property and services or the rental of personal or real property not in the regular course of business of the seller. In addition, all rentals of private residences are exempt, except that the sale of business or commercial properties shall not be considered a casual sale.
- (3) Hospital services and medical services performed by licensed medical doctors, dentists, osteopaths, optometrists, podiatrists and chiropractors; and sales of medicinal preparations, drugs or appliances under a written prescription from one of the foregoing.
- (4) Sales, services and rentals to religious and charitable organizations in the conduct of their regular religious and charitable functions and activities as defined by the revenue laws of the United States.
- (5) Sales of food in college and school cafeterias which are operated primarily for teachers

or students and which are not operated for profit.

- (6) Subscriptions to newspapers and periodicals.
- (7) Sales, services and rentals to the United States, the State of Alaska, or any instrumentality or political subdivision of either.
- (8) Dues or fees to clubs, labor unions and fraternal organizations.
- (9) Sales or rent which the city is prohibited from taxing by the Constitution or the laws of the United States or the State of Alaska.
- (10) Catalog sales where the seller does not have an office, agent, representative or salesman in the city.
- (11) Household goods, equipment, appliances and furniture and fishing equipment and gear brought into the city by an owner for personal use and not for resale.
- (12) Sales of construction material and equipment.
- (13) Sales of food, groceries, household goods, clothing, furniture, fishing equipment, boats, household appliances, sports equipment, fuel oil, wheeled vehicles and alcoholic beverages.
- (14) Transportation services.

(Ord. 12-08(S), 7-10-12)

6.10.050. Credit.

Where property is imported, or has been caused to be imported from outside of the city, for rent, use or consumption within the city where a valuable consideration has been paid for such property and a sales tax has been lawfully paid by the seller, buyer or user to another taxing jurisdiction measured by the sale price established by the order or contract of sale, the person liable for the sales tax in the city and the person liable for the collection of that tax shall be entitled to a credit with respect to that transaction in an amount equal to the sales tax paid to the other taxing jurisdiction.

6.10.060. Definitions. When not clearly otherwise indicated by the context, the following words and phrases, as used in this chapter, having the following meanings:

- (1) "Sale" shall include:
  - (a) Every sale of services;
  - (b) Every rental of real or personal property;

- (c) Every sale of the use or play of a coin-operated machine.
  - (d) Every sale of tangible personal property, regardless of quantity or price, whether sold by coin-operated machine or otherwise, except the sale of personal property, other than raw seafood products, as a raw material to a person engaged in manufacturing for sale, when the property becomes an ingredient or component part of the manufactured product or a container thereof or is consumed in the manufacturing process.
  - (e) The importing, or causing to be imported, of property from outside the city for rent, use or consumption within the city where valuable consideration has been paid for such property.
- (2) "Sale" includes every sale or exchange of services, use or title in property. Installment credit and conditional sales are included in the term. The point of delivery is the place of sale, except that with respect to delivery of raw seafood products imported into the city for processing, the place of sale is the point of delivery of the raw seafood products to the processor in the city.
  - (3) "Sales price" means consideration paid by the buyers in terms of money and, in the case of a sale involving an exchange of property, the fair market value of the property exchanged, including delivery or installation costs, taxes, or any other expenses whatsoever, measured by the gross sales of the seller. In the case of seafood products, sale price includes any indirect considerations such as fuel or supplies furnished by the processor or offsets to the cash value for gear furnished.
  - (4) "Buyer" includes persons who are purchasers of personal property, rental space or services.
  - (5) "Seller" includes persons who are vendors of property, persons furnishing services, the lessors of rental space or goods, and all persons making sales.
  - (6) "Coin-operated machine" includes a slot machine, marble machine, juke box, merchandise vending machine, laundry, dry cleaning and any other service-dispensing machine or amusement device of any kind which requires the insertion of a coin to make it operative.
  - (7) "Services" includes all services of every manner and description which are performed or furnished for compensation, except services rendered to an employer by an employee, including but not limited to:
    - (a) Professional services;
    - (b) Services in which a product or sale of property, including personal property made to order;

- (c) Utilities and utility services not constituting a sale of personal property, including sewer, water, electrical and telephone services and repair;
  - (d) The sale of transportation services;
  - (e) Services rendered for compensation by any person who furnishes any such services in the course of his business or occupation;
  - (f) Services wherein labor and materials are used to accomplish a specified result;
  - (g) Any other services including advertising, maintenance, recreation, amusement, and craftsmen service.
- (8) "City" means the City of Akutan.
- (9) "Person" includes individuals and every person recognized in law and every group of persons who act as a unit.
- (10) "Mayor" or "city" means the mayor of the City of Akutan, Alaska, or his designee, or the City of Akutan, Alaska, respectively.

6.10.070. Installment sales. When a sale is made on an installment basis, the sales tax shall be collected from the down payment, or if none, from the first installment, or, if the installment or down payment is less than the tax, then from as many installments as is necessary to pay the tax.

6.10.080. Rulings and Regulations.

- (a) The mayor may take any action necessary or appropriate to the implementation of this chapter by promulgating regulations, which may include the adoption of forms. Such regulations or any procedures adopted by the mayor are effective at the time indicated by him, but are subject to revision or repeal by the city council at the next meeting following their effective date or at any time that the council acts thereon.
- (b) Should a taxpayer under this chapter or a seller, or in the case of raw fish products, the buyer, obliged to collect the tax be in doubt as to the application of this chapter to the actual situation facing him or about to face him, he may apply to the mayor for an informal ruling on this issue. Rulings having general application may, at the direction of the mayor, be promulgated as regulations.

6.10.090. Registration of Sellers as Tax Collectors – Certification of Registration.

- (a) All sellers, except sellers of raw seafood products, and all buyers of raw seafood products shall file with the city an application for a certificate of registration, on a form prescribed by the city, not more than ten (10) days after the effective date of this chapter, the date of commencing business, or the opening of an additional place of business.

- (b) Upon the receipt of a properly executed application, the mayor will issue without charge to the seller or, in the case of raw fish products, the buyer, a certificate of registration, stating the address of the place of business to which it is applicable and authorizing the seller to collect the tax. The certificate must be prominently displayed at the place of business named therein. A seller or buyer who has no regular place of business shall attach such certificate to his stand, truck or other merchandising device.
- (c) The certificate of registration is non-assignable and non-transferable and must be surrendered to the mayor by the seller or buyer to whom it is issued by his ceasing to do business at the location named therein. If the business is continued at the same location but there is a change in its form of organization such as from a single proprietorship to a partnership or corporation, the admission or withdrawal of a partner or any other change, the seller or buyer making such change shall surrender his old certificate to the mayor for cancellation. The successor seller or buyer is required to file a new application for a certificate of registration. Upon receipt of such application, properly executed, a new certificate will be issued to such successor seller or buyer.
- (d) When there is a change of location for the seller's or buyer's place of business, a new certificate of registration is required showing the new address.
- (e) Before issuing a certificate of registration, the mayor may require the applicant to post a bond, furnish a statement of net worth, or furnish additional security to insure the full and prompt payment of taxes to be collected under such certificate when in his judgment it is in the best interest of the city to do so.
- (f) A seller or buyer who obtains or should obtain a certificate of registration in accordance with this chapter hereby consents to the inspection of this Alaska Fisheries Business Tax returns in order to facilitate the accomplishment of the provisions and objectives of this chapter.

#### 6.10.100. Seller Not To Assume Tax.

A seller shall not advertise or hold out or state to the public or to any buyer, directly or indirectly, that the tax or any part thereof imposed by this chapter will be assumed or absorbed by the seller or that it will not be added to the sales price or that it will be refunded or assumed in whole or in part, except that a seafood processor may if it sees fit elect to absorb such tax, in which case it may so advise the seller. The seller, or in the case of the buyer of raw seafood products, the buyer, shall, whenever feasible, separately state the tax to the buyer or seller on each taxable transaction. When not feasible to state separately, the seller or buyer shall prominently display a sign provided by the city indicating the imposition of the tax. Nothing in this section shall prevent the buyer of raw seafood products from assuming the tax; however if the buyer of raw seafood products assumes the tax, the buyer shall separately state the tax assumed on each taxable transaction.

6.10.110. Tax Schedule. The tax to be added to the sales price, charge or rental shall be in accordance with the following schedule:

<u>Price</u>	<u>Tax</u>
\$.01 - 2.00	\$.0
Over \$2.00	\$0.03

Each seller, or in the case of the sale of raw seafood products, each buyer shall be furnished the schedule of tax payable on each taxable amount from dollars \$0.01 to \$100.00. Any one sale of items separately priced shall be taxed upon the separate amounts.

(Ord. 13-05, 12-11-12)

6.10.120. Protest of Tax.

- (a) A seller, or in the case of a buyer of raw seafood products, the buyer, shall determine in the first instance whether a sale is exempt under this chapter. However, if a seller or, in the case of the buyer of raw seafood products, the buyer, incorrectly determines that a sale is exempt, then the person responsible for the collecting of the tax is liable to the city for the tax, just as if he had collected it.
- (b) In the event that the seller or, in the case of raw seafood products, the buyer, determines that a transaction is not exempt, but the buyer, or in the case of raw seafood products, the seller, believes the transaction to be exempt, then the person collecting the tax will furnish to the buyer, or in the case of raw seafood products, the seller, a form of certificate of protest, supplied by the city, which shall be filled out by the person protesting the collection of the tax and delivered to the persons collecting the tax with the disputed tax. The certificate shall show the respective names and addresses of the seller and the buyer, the nature of the claim of exemption and such other information as may be prescribed by the city.
- (c) The seller, or, in the case of the buyer of raw seafood products, the buyer, shall remit to the city all certificates of protest delivered to him as promptly as possible, but in any event no later than 30 days after delivery of a certificate to him, together with any additional information which the seller or buyer believes to be pertinent to the determination of the issue.
- (d) The mayor will rule on each protest and send to the buyer or, in the case of a buyer of raw seafood products, both the seller and the buyer, a notice that his claim has been allowed or disallowed within 30 days of receipt of the certificate by the city. If the claim has been allowed, a refund will be remitted with the notice.
- (e) In the event that the claim is disallowed, the buyer, or in the case of raw seafood products, the seller or the buyer may, within 30 days, request that the claim be referred to the city attorney, if any, for review and then to the mayor for reconsideration. The

decision of the mayor on reconsideration shall *be* rendered in writing and shall be final, subject to judicial review where applicable.

6.10.130. Registration of Buyers and Sellers Entitled to Exemption.

- (a) The city may require by regulation that the seller, other than a seller of raw seafood products, collect the tax on sales from any class of buyer allegedly exempt under section 10.020(3), unless the buyer is registered under paragraph (2) of this section. An unregistered buyer may file a certificate of protest under Section 10.065. The provisions above also apply to buyers of raw seafood products.
- (b) The city may by regulation require that any class of buyer exempt under Section 10.020(3) register with the city as an exempted buyer to avoid payment of tax. Registration shall be upon forms provided by the city and shall include a brief statement of the reason for exemption and such other information as the city may require. Upon registration, the buyer shall be issued a certificate or certificates of exemption which the buyer must show seller to avoid initial payment of the sales tax, or in the case of buyers of raw seafood products, which the buyer must show to avoid payment of the sales tax.

6.10.140. Confidential material.

- (a) Returns filed with the city for the purpose of complying with the terms of this chapter and all data obtained from such returns are confidential, and such returns and data obtained there from shall be kept from inspection by all private persons except as necessary to investigate and prosecute violations of this chapter.
- (b) Nothing contained in this section shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any return or report filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular buyers or sellers, not to prohibit the furnishing of information on a reciprocal basis to other agencies of the State or the United States concerned with the enforcement of tax Laws.

6.10.150. Duty to Keep Books.

- (a) Every seller, or in the case of raw fish products, every buyer, engaged in activity subject to this chapter shall keep and preserve suitable records of all sales made by him and such other books or accounts as may *be* necessary to determine the amount of tax which he is obliged to collect. Every seller or in the case of raw seafood products, every buyer, shall preserve suitable records of sales for a period of three years from the date of the return reporting such sales, and shall preserve for a period of three years all invoices of goods, merchandise purchased for resale, and all such other books, invoices, and records as may be necessary to accurately determine the amount of taxes which the seller was obliged to collect under this chapter or, in the case of buyers of raw seafood products, which the buyer was obliged to pay under this chapter.

- (b) For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax collected or which should have been collected by any seller, or paid by a buyer of raw fish products, the mayor may hold investigations and hearings concerning any matters covered by this chapter and may examine any relevant books, papers, records, or memoranda of any seller and may require the attendance of any seller or buyer, or any officer or employee of a seller or buyer at the hearing.

6.10.160. Omissions and Civil Penalties.

- (a) Failure to obtain certificate. A seller or, in the case of raw fish products, a buyer, who is obliged to obtain a certificate of registration but fails to do so after written notice within the time prescribed herein is subject to civil penalty of five times the amount of any tax due. A seller or, in the case of raw fish products, a buyer, who, after notice, continues to conduct business without obtaining a certificate is subject to a penalty of ten times the amount of any tax due.
- (b) Failure to file a return. A seller or, in the case of raw fish products, a buyer, who fails to file a return as required by this chapter or who fails to remit taxes collected by him, or which should have been collected by him, is subject to a penalty of five percent of the taxes collected, or which should have been collected, per month to a maximum of the higher of 25% or \$300.00. The filing of an incomplete return is equivalent of filing no return.
- (c) Falsification. Falsification or knowing misrepresentation of any record required hereunder subjects the person making such falsification or misrepresentation to a penalty of 100 times any tax due or lost because of such falsification or misrepresentation to a maximum of \$1,000.00.
- (d) Failure to separately state the tax. A seller who fails to separately state the tax due in any sales transaction shall be subject to a penalty equal to the amount collected as a tax.
- (e) Inspection. The failure of a seller or, in the case of a buyer of raw fish products, a buyer, to allow the inspection at reasonable times of records required by this chapter to be kept subjects the seller, or in the case of raw fish products, the buyer, to a penalty of three times any deficiency found or estimated to have occurred by the city in the tax accounting of the seller, or in the case of raw fish products, the buyer.
- (f) Estimation. In the event that the city is unable to ascertain the tax due to be remitted by a seller or buyer by reason of the failure of the seller or buyer to keep accurate books, allow inspection, failure to file a return, or falsification of records, the city may make an estimate of the tax due based on any information available to it. Notice of the estimate of taxes due shall be furnished the seller or, in the case of raw fish products, the buyer, and shall become final for the purposes of determining liability of the seller or buyer to the city in 30 days unless the seller or buyer earlier files an accurate return, supported by satisfactory records, indicating a lesser liability.

- (g) Loss of records. A seller or, in the case of raw fish products, the buyer, shall immediately notify the city of any fire, theft, or other casualty which would prevent his complying with this chapter. Such casualty constitutes a defense to any penalty provided in this chapter, but does not excuse the seller from liability for taxes due. Accidental loss of funds or records is not a defense hereunder.
- (h) Maintenance of suits. Nothing in this section shall prevent the city from filing and maintaining an action to collect any taxes collected or which should have been collected in addition to any penalty assessed.
- (i) Severability clause. If any provision or provisions of this ordinance are declared invalid including, but not limited to, any provisions imposing a tax on a particular transaction or transactions, or exempting a particular transaction or transactions from a tax, the remainder of the ordinance shall continue in effect.

6.10.170. Lien. The tax, penalty and interest imposed by this chapter shall constitute a lien in favor of the city upon all the seller's property within the city, or, in the case of raw fish products, all of the buyer's assets within the city. The lien arises upon delinquency and continues until the liability for the amount is satisfied or the property is sold at foreclosure sale. The lien is not valid as against a mortgagee, pledgee, purchaser or judgment creditor until notice of the lien is filed in the office of the Recorder for the district in which-the property is located in the manner provided for Federal tax liens *in* AS 43.10.090-43.10.150. AS 43.10.090-43.10.150 apply to the tax liens arising under this ordinance. These sections of law are herewith adopted by reference the same as if set forth in full herein.

6.10.180. Accelerated Returns. A seller or, in the case of a buyer of raw fish products, the buyer, who fails to file a tax return or who has been late in filing for two or more quarters may be required by the mayor, after a hearing, to file returns and remit taxes on a monthly basis.

6.10.190. Extensions. For good cause shown, the city may grant extensions on any time limitation described in this chapter. Any application for an extension must be filed before the date specified as the original time limitation.

6.10.200. Criminal Penalties.

- (a) Each of the following acts, when intentional, constitutes a misdemeanor and is punishable by imprisonment for up to 30 days and a fine of up to \$500.00, in addition to any civil penalties assessed:
  - (2) Failure to obtain a certificate of registration.
  - (3) Failure to file a return or failure to remit taxes due.
  - (4) Falsification or misrepresentation of any record filed with the city hereunder or required to be kept hereby, if used to mislead city tax-authorities.

(b) Each act hereunder constitutes a separate offense and each day constitutes a separate offense for continuing crimes or omission or concealment.

TITLE 8

PLANNING  
(Ord. 81-05, 12-2-81)

Chapters

- 1 Planning Commission
- 2 Site Development Permit Procedures
- 3 Board of Adjustment

TITLE 8

PLANNING

Chapter 1 -- Planning Commission  
[13-09, 5-21-13]

Sections:

- 8.10.010. Planning commission established--Purpose.
- 8.10.020. Commission membership.
- 8.10.030. Commission officials.
- 8.10.040. Vacancies.
- 8.10.050. Meetings.
- 8.10.060. Order of business.
- 8.10.070. Office and staff.
- 8.10.080. Formal acts by resolution.
- 8.10.090. Funds.
- 8.10.100. Planning functions.
- 8.10.110. Additional functions of the planning commission
- 8.10.120. Acceptance.

8.10.010. Planning commission established--Purpose. There is hereby established the planning commission for the city to constitute a department of the city and to perform the functions of planning, platting and zoning for the city.

8.10.020. Commission membership.

- A. The planning commission consists of five residents. To the extent possible, members of the commission shall be appointed to represent the following interests: City, Public, Traditional Council, Fisheries, and the Akutan Corporation. The mayor also serves as an ex-officio voting member. The council has determined that serving in this dual capacity is not an incompatible office.
- B. Members shall be appointed by the mayor for a term of three years, subject to confirmation by the council. Members first appointed shall draw lots for one-two- and three-year terms. Appointments to fill vacancies are for the unexpired term. The compensation and expenses of the commission and its staff are paid as directed by the council.

8.10.030. Commission officials. The commission shall elect a chair to conduct the affairs of the commission and a vice-chair to serve in the chair's absence. In the absence of the chair and the vice-chair, the longest serving commissioner shall preside.

8.10.040. Vacancies.

- A. A vacancy shall be declared, and filled as above provided, under the following conditions:
  - 1. If a person nominated and confirmed to membership fails to qualify and take office within thirty days;
  - 2. If a member departs from the city with the intent to remain away for a period of ninety or more days or moves residency from the area for a period of ninety or more days;
  - 3. If a member's resignation is submitted and accepted by the council;
  - 4. If a member is unable to attend commission meetings, either in person or via teleconference as provided in Section 8.10.050(D), for a period of more than ninety days, or is unexcused for three or more consecutive regular meetings.
- B. The city clerk or a designee shall keep attendance records and notify the chair when vacancies occur.

8.10.050. Meetings.

- A. Regular meetings shall be held on the Monday preceding the third Tuesday of each month, unless otherwise re-scheduled. Special meetings may be called by the commission chair or at the request of two members.

[AO 88-02, 2-17-88)

- B. The city clerk or a designee shall cause to be kept minutes and a journal of all meetings which shall be public record. Minutes and records shall be filed with the city clerk.
- C. Meetings shall be conducted under Robert's Rules of Order, and such modified or amended rules as may be adopted by the commission.
- D. A planning commissioner may participate in a meeting by conference telephone or other means of remote communication as long as all persons participating in the meeting are able to hear each other. All participants must be advised of the means of remote communication in use, and the names of the meeting participants must be announced to all participants.

8.10.060. Order of business.

- A. The order of business at regular meetings shall be:
  - 1. Approval of minutes of previous meetings, as amended or corrected;

2. Reading and disposition of correspondence;
3. Old business;
4. New business;
5. Public Comment;
6. Commissioner Comments;
7. Set next meeting date.

B. The order of business at special meetings shall be prescribed by the chair.

8.10.070. Office and Staff.

- A. The commission shall be provided office space suitable for its needs and adequate to file its journals, resolutions, records, reference materials, correspondence and maps, plats and charts, all of which shall constitute public records of the city.
- B. The commission shall be furnished secretarial assistance at each regular meeting to assist in preparing its journals and resolutions, and as required to prepare its correspondence under the direction of the commission chair and designated clerk.

8.10.080. Formal acts by resolution.

- A. All formal actions of the commission shall be by resolution bearing:
  1. The heading "City of Akutan Planning Commission";
  2. The space for the serial number to be assigned - "Resolution, Serial No.";
  3. A short and concise title descriptive of its subject and purposes;
  4. Short premises or whereas clauses descriptive of the reasons for the resolution, if necessary;
  5. The resolving clause "Be It Resolved"; and
  6. Provisions for signature after the text, "Adopted (date) and designated lines for the signatures of the commission chair and the commission administrator or designated clerk.
- B. All resolutions adopted by the commission, whether presented by third parties, or on the motion of the commission, shall conform to that set forth in subsection (A) above.

8.10.090. Funds. All funds of the commission received as fees and charges or otherwise shall be deposited in the general fund of the city as receipts of the activities of the commission.

8.10.100. Planning functions. The planning functions of the planning commission are as follows:

- A. To prepare and submit to the city council for approval at least every five years, plans for the systematic development of the city as a place of residence and business;

- B. To investigate and report to the council upon the location and design of any public building, infrastructure resource or recreation amenity before final action is taken by the city or any department, office or agency;
- C. To investigate and prepare, under such directions and conditions as the council may from time to time request, the commission's recommendations on a capital improvements program, and to review the same periodically;
- D. To investigate and recommend to the council for adoption by ordinance, with such amendments as the commission believes necessary and proper because of local conditions, such published codes of technical regulations as related to the functions of planning, platting, and zoning;
- E. To investigate and prepare, from time to time, and to initiate on its own motion in the absence of directions from the council, reports on the availability of public lands by selection, transfer at less than appraised value, and otherwise, for city purposes. In this regard special attention shall be given to acquisition of lands for public recreation;
- F. To investigate and prepare reports on the location and establishment of indoor and outdoor public recreation facilities. This task may include the development of a Community Recreation Plan to recommend to the council.

8.10.110. Additional functions of the planning commission. The planning commission shall also:

- A. Prepare and recommend to the council
  - 1. A zoning ordinance to implement plans prepared in accordance with Section 8.10.100;
  - 2. A subdivision ordinance;
  - 3. The official zoning map of the city;
  - 4. Modifications to the documents specified in 1 through 3 of this section.
- B. The commission shall publish notice of and hold at least one hearing before submitting its recommendations under (A) of this section to the council.
- C. The commission shall:
  - 1. Act as the platting board;
  - 2. Act upon requests for variances;
  - 3. Act upon appeals of decisions or orders made by the planning administrator or designee;
  - 4. Act upon requests for site plan approval.

D. Subject to AS 29.33.245, no platting request, variance, appeal of administrative decision or site plan approval may be granted except upon an affirmative vote of the majority of the commission.

8.10.120 Acceptance and Consent of Delegation of Powers. Pursuant to AS 29.40.010 (b) and Section 45.05.030 (b) of the Code of the Aleutians East Borough, the City of Akutan accepts and consents to the delegation to the City of the powers and duties of the Borough to plan, plat and regulate the use of land within the City of Akutan.

[Ord. 88-01, 1-20-88]

## TITLE 8

### PLANNING

#### Chapter 8.20

#### SITE DEVELOPMENT PERMIT PROCEDURES

(Ord. 81-05, 12-2-81; Ord. 82-4, 3-3-82; Ord. 13-07, 3-19-13)

Sections:

- 8.20.010 Purpose and intent
- 8.20.020 Definitions
- 8.20.030 Permit required
- 8.20.040 Administration
- 8.20.050 Application and fee
- 8.20.060 Standards for evaluating the application
- 8.20.070 Action on application
- 8.20.080 Modifications
- 8.20.090 Lapse of permit
- 8.20.100 Suspension and revocation of permits
- 8.20.110 Appeal of decision
- 8.20.120 Approval to run with land
- 8.20.130 Regulations uniform

8.20.010. Purpose and intent. The purpose of this section is to require that certain development within the City comply with the comprehensive plan and other plans and policies that are adopted by the City. It is intended that this permit system will support all of the following:

- A thriving, sustainable and desirable community
- Respect for and celebration of the native culture
- Environmental conservation
- Economic development
- Public health and safety

Through compliance with this permit system, the City will also be protected from development that is harmful or damaging. The permit system established through this chapter will also provide a record of development and valuable information relating to property within the City.

8.20.020. Definitions. As used in this chapter:

*Building or structure* means any dwelling (including any manufactured home, travel trailer or dormitory), storage building, commercial or industrial building, office building, church building, marine or air transportation facility (including any dock, wharf, boat launching ramp or aircraft landing facility) or wind-powered generation facility.

*Permanent placement* means a placement that is served by a dedicated electrical, water or septic service or a placement that is intended to remain on or at the site for more than five years.

*Site development permit* means a land use permit issued by the City Administrator or designee following approval of an application. For uses permitted “by right,” a land use permit may be issued after administrative approval following the provisions of Section 8.20.040(A). For uses permitted by Site Plan Approval, a land use permit may be issued after approval by the planning commission as set forth in Section 8.20.040(B).

8.20.030 Permit required.

- A. None of the following activities, operations or uses shall occur within the City until a site development permit has been obtained from the City:
  - 1. Any excavation or placement of fill exceeding three hundred (300) cubic feet of material;
  - 2. Any permanent placement of a building or structure having a total floor space of more than one hundred (100) square feet or a total height of more than thirty (30) feet;
  - 3. Any commercial activity, operation or use;
  - 4. Any industrial activity, operation or use;
  - 5. Any resource extraction operation, including topsoil, sand and gravel;
  - 6. Any archaeological survey or excavation.
- B. The City Council may, by resolution, establish and amend fees for permits related to this chapter. Fees will be commensurate with the cost incurred by the City to review and respond to development permit applications. The fee schedule may include provisions for an escrow account to cover anticipated costs for external professional consulting services. The City Administrator or Designee shall determine the amount of the escrow account required, if any, for each application. Any funds not expended will be returned promptly to the applicant.

8.20.040 Administration. The City Administrator or Designee shall be responsible for the administration of the site development permit procedure, under the authority of the planning commission.

- A. For uses permitted “by right,” a land use permit will be issued by the City Administrator after an administrative review and determination that the proposed development complies with the Zoning Ordinance and all other applicable development requirements.
- B. For uses permitted “by Site Plan Approval,” a land use permit will be issued by the City Administrator after approval by the Planning Commission following the site plan application (Section 8.20.050), review (Section 8.20.060) and approval process (Section 8.20.070) as required.

8.20.050 Application and fee. Application for site plan review shall be filed with the City of Akutan. The application shall include the following, on a form provided by the City:

- A. Name and address of owner and applicant;

- B. Address and legal description of property;
- C. Identification of owner of the property, and if the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner;
- D. A brief description of the proposed use, including information pertinent to the review criteria and findings in Section 8.20.060;
- E. Present zoning district;
- F. A site plan, drawn to scale and sufficiently dimensioned as required showing the following:
  - 1. The date, scale, north arrow, title, name of owner and name of person preparing the site plan;
  - 2. The location and dimensions of boundary lines, easements, and required yards and setbacks identified in Title 7, Chapter 2;
  - 3. The location, height, and intended uses of existing and proposed buildings or structures on the site, and the approximate location of existing buildings and structures on abutting sites within one hundred feet;
  - 4. The location of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, landscaped areas, utility or service areas, fencing and screening, signs, and outdoor lighting;
  - 5. The location of wetlands, watercourses and drainage features;
  - 6. A plan showing existing and proposed topography and, if using fill, a cross-section of the fill;
  - 7. Location of existing and/or proposed sewage disposal system and potable water supply; and
  - 8. Other information as determined by the City Administrator or Designee to be necessary for adequate review of the application;
- G. A copy of all required documents sent to and approved by the State Fire Marshall or a letter from the State Fire Marshall stating why such proposed construction does not require such approval.
- H. A complete application will also include payment of the application fee as established by the City Council and payment for an escrow account, if required, as determined by the City Administrator or Designee.

8.20.060 Standards for evaluating the application. The Planning Commission shall review and evaluate the site plan permit application based on the following criteria:

- A. General Welfare Standard: The use for which the permit is sought will not be detrimental to the public interests, property or improvements.
- B. Nuisance Standard: Any use found to be objectionable or incompatible with the character of the city and its surroundings due to noise, dust, odors or other undesirable characteristics may be prohibited or may be approved with conditions to mitigate such elements.
- C. General Plan Consistency Standard: The permit shall fulfill the objectives of the adopted Akutan Community Plan.
- D. Zoning Consistency Standard: The contemplated use shall conform to state and local zoning laws and appropriate for the site, important or desirable to the public, and will not be detrimental to the public health, safety, or welfare. The proposed use shall meet all of the following:
  - 1. Proposed site design complies with zoning ordinance and other applicable regulations and standards established by the City;
  - 2. Proposed site design is compatible with adjacent sites, in terms of setbacks, open spaces, drainage, site development, and access and circulation features; and
  - 3. Proposed site design minimizes potentially unfavorable effects on existing uses on abutting sites.

8.20.070 Action on application.

- A. The City Administrator or Designee shall review an application within seven (7) days or receipt to determine whether the application is complete. If complete, the Planning Commission shall act on the application within sixty calendar days. Using the Standards for Evaluation set forth in Section 8.20.060, the Planning Commission may act to approve, to approve subject to modification, or to disapprove the site plan. Inaction does not constitute approval.
- B. If approved, the site plan permit will be issued by the City Administrator or Designee.
- C. If approved subject to modifications, the applicant shall be notified in writing and by telephone, when possible, of the modifications required. The site plan permit shall be issued by the City Administrator or Designee after the applicant has agreed, in writing, to the modifications.
- D. If denied, the applicant shall be notified in writing and by telephone, when possible, of the denial and the reasons thereof.

8.20.080 Modifications to an approved site plan.

- A. Once the site plan is approved, no modifications may take place without written consent of the City Administrator or Designee. The applicant shall submit an application for modification of the approved site plan. A change of use at an existing site shall be considered a modification.
- B. Minor revisions or modifications may be approved by the City Administrator or Designee if it is determined that the circumstances or conditions applicable at the time of the original approval remain valid, and the changes would not affect the findings described in Section 8.20.060.
- C. Major modifications will require the filing of an additional application, and will be subject to the process outlined in Sections 8.20.050, 8.20.060 and 8.20.070.

8.20.090 Lapse of permit. Unless a longer time is specifically established as a condition of approval, a site plan approval shall lapse and shall become void in 180 days if actual construction has not commenced on the site before that time. A permit may be considered abandoned if no substantial progress toward completion occurs in any one-year period.

8.20.100 Suspension and revocation of permits. Site plan approval shall be suspended upon violation of any applicable provisions of this title, or if granted subject to conditions, upon failure to comply with those conditions.

8.20.110 Appeal of Decision. Appeal of a decision by the City Administrator or Designee or by the Planning Commission related to the site development permit procedure authorized in this Chapter shall be made to the Board of Adjustment according to the adjustment procedures of Section 8.30.020.

8.20.120 Approval to run with land. Site plan approval pursuant to these provisions shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the application.

8.20.130 Regulations uniform. The regulations authorized by this chapter shall be uniform. The City and other public entities shall comply with local planning and zoning ordinances and other regulations in the same manner and to the same extent as other landowners.

- A. If a public applicant clearly demonstrates an overriding public interest, waiver of local planning authority approval and the compliance requirement may be granted by the City Council. The City Council shall issue specific findings giving reasons for granting any waiver under this section.

## TITLE 8

### PLANNING

#### Chapter 3 – Board of Adjustment

##### Sections:

- 8.30.010. Board of adjustment.
- 8.30.020. Adjustment procedure.
- 8.30.030. Appeals.

##### 8.30.010. Board of adjustment.

- A. The city council is the board of adjustment for the area within the city boundaries. Meetings of the board are held at the call of the mayor. The presiding officer or mayor may administer oaths and compel attendance of witnesses. Meetings and hearings of the board shall be open to the public and the board shall keep minutes of its proceedings as a public record.
- B. The board of adjustment shall hear and decide:
  - 1. Appeals regarding alleged errors in enforcement of zoning ordinances and building codes;
  - 2. Appeals from the decisions of the planning commission on requests for conditional uses;
  - 3. Appeals from the decisions of the planning commission on requests for variances from the terms of the zoning ordinance which are not contrary to the public interest, when a literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the same district.
- C. A variance shall not be granted because of special conditions caused by actions of the person seeking relief or for reasons of pecuniary hardship or inconvenience. A variance shall not be granted which will permit a land use in a district in which that use is prohibited.

8.30.020. Adjustment procedure. An interested party, including but not limited to a city official, may file with the board of adjustment an appeal specifying his objections. Copies are filed with the administrative officer involved and with the city clerk within the time required by the zoning ordinance. The officer shall provide the board with all pertinent records, including his written decision. An appeal to the board stays enforcement proceedings unless the board or a court issues an enforcement order based on a certificate of imminent peril to life or property made by the enforcement officer.

8.30.030. Appeals. Appeals from decisions of the board of adjustment shall be governed by AS § 29.33.130.

TITLE 9  
UTILITIES

Chapters

- 1 Electric Utility
- 2 Sewer and Water Utility
- 3 City Utilities and Services

## TITLE 9

### UTILITIES

#### Chapter 1 – Electric Utility [Ord. 82-6, 10-23-82]

##### Sections:

- 9.10.010. Establishment of electric utility.
- 9.10.020. Application for service.
- 9.10.030. Making connections.
- 9.10.040. Meters.
- 9.10.050. Wiring.
- 9.10.060. Bills.
- 9.10.070. Injury.
- 9.10.080. Penalty.

9.10.010. Establishment of electric utility. The Akutan electric Utility is established. All equipment, generators, buildings, meters, etc. purchased for the use of this utility are the property of the City of Akutan. This property includes, but is not limited to: generators, power plant, fuel tanks, meters, distribution cable, switching gear and transformers.

9.10.020. Application for service. Application for service from the city electricity distribution system shall be made to the city clerk and shall be referred by the clerk to the power plant manager.

9.10.025. Disabled senior citizen application. A resident who has attained the age of 62 years old with a medically documented disability or disabilities may apply for a \$200.00 monthly exemption for electricity provided to their principal place of resident. The exemption shall be on a form as prescribed by the city utility clerk and shall be reviewed at the end of each fiscal year by the city finance manager to make an eligibility determination.  
[Ord. 10-02, 9-15-09]

9.10.030. Making connections. All connections with the city distribution system shall be made at a point to be designated by the power plant manager and under his supervisions.

9.10.040. Meters. All premises served by the city electricity distribution system shall be equipped with an accurate meter, and all charges shall be on the meter rate. Defective or inaccurate meters shall be tested, repaired or replaced by the city.

9.10.050. Wiring. No current shall be turned on into any wiring until it is inspected by the plant manager and found to be in compliance with all safety codes.

9.10.060. Bills. Bills for electric service shall be sent out at such times as may be designated by the council, and the rates shall be such as may be set from time to time by the city council.

9.10.070. Injury. It shall be unlawful to tamper with or injure any part of the city electricity distribution system, or any meter thereon, without authority from the city council.

9.10.080. Penalty. Any person, firm or corporation violating any provision of this article shall be fined not less than five dollars or more than one thousand dollars for each offense.

TITLE 9

UTILITIES

Chapter 2 – Sewer and Water Utility  
[Ord. 82-8, 12-8-82; Ord. 04-01, Ord. 06-02]

Sections:

Article 1. Establishment of the Sewer and Water Utility

9.20.110. Establishment of the Sewer and Water Utility.

9.20.111. Service Areas.

Article 2. Adoption of an Operation and Maintenance Plan

9.20.210. Adoption of an Operation and Maintenance Plan

Article 3. General Provisions; Administration

9.20.310. Administration and enforcement.

9.20.315. Utility operator.

9.20.320. Use of monies collected.

9.20.325. Accounting and disbursement of funds.

9.20.330. Quarterly report.

9.20.335. Authorized Inspection.

9.20.340. Additional Regulations.

9.20.341. Discontinuance of service by customer.

9.20.342. Interruptions of service.

Article 4. Service; Rates

9.20.410. Connection to city water system and sewer system.

9.20.415. Application for water and sewer service and/or connection.

9.20.420. Approval of application; Appeal.

9.20.425. Installation of service lines.

9.20.430. Turning on service.

9.20.435. Maintenance of plumbing system; Responsibility of consumer.

9.20.440. Misuse of water and sewer facilities

9.20.445. Water and sewer service rate structure.

9.20.450. Consequences of non-payment of service charges

9.20.455. Reconnection of service.

9.20.460. Public inspection of rates.

9.20.461. Customer complaints.

9.20.462. Priority of service

Article 5. Prohibitions

9.20.510. Use of water sources other than city water system.

9.20.515. Disposal of sewage and liquid waste.

9.20.520. Operation of individual systems.

- 9.20.525. Illegal Discharges.
- 9.20.530. Alteration of individual systems.
- 9.20.535. Cold weather maintenance.
- 9.20.536. Resale of water or wastewater service.

Article 1. Establishment of the Sewer and Water Utility

9.20.110. Establishment of the Sewer and Water Utility. The Akutan Sewer and Water Utility is established. The City of Akutan accepts ownership of community health facilities as constructed by the Indian Health Service and in accordance with the Memorandum of Agreement between that agency and the City.

9.20.111. Service Area. The City of Akutan water and wastewater utility serves the area included in Unsurveyed Township 70 South Range 112 West of the Seward Meridian Sections 1 through 5 and 8 through 17 and Unsurveyed township 70 South Range 111 West of the Seward Meridian Section 6,7 and 18.

Article 2. Adoption of an Operation and Maintenance Plan

9.20.210. Adoption of an Operation and Maintenance Plan. The City will adopt an Operation and Maintenance Plan for the operation of the utility as provided by the Indian Health Service in connection with the installation of the water and sewer systems.

Article 3. General Provisions; Administration

9.20.310. Administration and enforcement. This ordinance shall be administered and enforced by the City Council. The City Council shall have the authority to establish and regulate monthly utility rates for water supply and sewer collection services and connection fees for all domestic and commercial consumers, but no person shall be bound by any such rate unless it shall have been posted for public inspection for five consecutive days after its adoption at three public places in the City of Akutan, Alaska.

9.20.315. Utility Operator. The utility system shall be operated and maintained by a utility operator. The utility operator shall be selected by the city Council and shall serve at the pleasure of the City Council. Remuneration for the utility operator's services shall be set by the council. The City Clerk shall act as the utility system treasurer.

9.20.320. Use of monies collected. All monies collected for water and sewer utilities will be used strictly for maintenance, extension, repair, capital improvement, and operation of the systems.

9.20.325. Accounting and disbursement of funds. All monies collected for water and sewer utilities will be separately accounted for by the city treasurer and disbursed by action of the City council. Disbursement shall follow regular city rules approved by the Council.

9.20.330. Quarterly report. The City Clerk and Utility System Operators shall develop a written quarterly report for the City council. This report shall itemize all income and disbursements from operation and maintenance of the utility system. This report shall be approved and filed in the City records.

9.20.335. Authorized inspection. The City, through its designated representative or representatives, is hereby authorized to make inspections at reasonable times during daylight hours to determine satisfactory compliance with this ordinance and regulations promulgated hereunder.

9.20.340. Additional regulations. The City Council shall adopt such additional regulations, provisions, and procedures pertaining to water supply and sewer collection services (utility services), as it deems proper.

9.20.341. Discontinuance of service by customer.

- A. Discontinue by customer order: Each customer about to vacate any premises supplied with water, sewer, or waste disposal services by the City shall give at least one week written notice of his or her intentions and state the date the service is to be discontinued. Otherwise, a customer will be responsible for all services supplied to the premises until a written notice is received.
- B. Within one week of the date stated in the notice to discontinue service, a total bill (minus any deposits due to the customer) will be prepared and delivered which is due and payable immediately. The amount of the bill for the current billing period will be determined by prorating the number of days of service received in the given month (including the date of disconnect) divided by the total number of days in the month, times the usual monthly charge for the customer. There will be no charge for disconnection of the utility.

9.20.342. Interruptions of service.

- A. Unscheduled Interruptions: Any day in which unscheduled interruptions last more than 10 hours per day will be considered as a non-chargeable utility day, based on a 30 day month, in determining a customer's monthly water or wastewater bill.
- B. Scheduled Interruptions: The City will provide advance notice for scheduled temporary interruptions in service. The City will make an effort to contact all customers 24 hours in advance of the scheduled interruption in service, stating the probable duration of the interruption in service. Scheduled interruptions will not last more than seven hours per day.

#### Article 4. Service; Rates

9.20.410 Connection to City Water System and Sewer System.

- A. All connections to the City water and sewer systems shall be made at the expense of the user. Costs of the connection and all appropriate regulations including the use of self-help and use of city equipment shall be established by the Council.
- B. All individual water service and sewer connections and repairs, modifications, or disconnections shall be made only under the terms and conditions as set forth in the plumbing code adopted by the State of Alaska in 9 AAC chapter 63 and such further regulations as the City may make.

9.20.415. Application for Water and Sewer Service and/or Connection.

- A. Each application for water and/or sewer service connection shall be in writing to the City Clerk and shall include the following:
  - 1. Legal name and address of the applicant
  - 2. Legal description and sketch of the property and building for which the water and/or sewer service is required.
  - 3. The name and address of the person who will install the service lines from the building to be served to the city water and/or sewer system.
  - 4. A description of the fixtures to be used in the structure or building.
  - 5. An agreement to be responsible for and to pay promptly all charges for the service in accordance with this ordinance.
  - 6. Such additional information as the City Council may require to demonstrate that the proposed connection complies with this ordinance and any applicable regulations promulgated by the City Council.
- B. Any person whose application for connection has been denied or conditionally approved may appeal to the City council at its next regularly scheduled meeting.

9.20.425. Installation of service lines.

- A. All consumer lines to the point of connection to the City water and sewer lines shall be installed by the user, at his own expense, and remain his responsibility for maintenance and repair.
- B. The point of connection shall be the property line in all cases. Where the point of connection is greater than 100 feet from an existing main, the case shall be considered separately by the City Council.
- C. Standards for the installation of domestic fixtures to be served by the City water and sewer systems, water and sewer lines, and all regulated appurtenances as needed to ensure the safe utilization of the City water and sewer system shall conform to the plumbing code adopted by the State of Alaska in 8 AAC Chapter 63, and any other regulations as adopted by the City.

9.20.430. Turning on service. No water from the City water supply shall be turned on for service into any premises by a person except such person or persons as the City council shall authorize to perform this service.

9.20.435. Maintenance of plumbing system; Responsibility of consumer. Each consumer of community water or sewer service shall maintain his individual water and waste facilities in good repair at his own expense. The consumer's responsibility for water and sewer facilities shall begin at the point of connection to the City's water and sewer lines and shall include all facilities from that point throughout the building. In the case of individual water and sewer systems, the consumer shall have complete responsibility for his own system.

9.20.440. Misuse of water and sewer facilities. Water and sewer facilities may be discontinued by the City where defective fixtures or misuse of water and sewer facilities may affect the safe and proper operation of the City water and sewer system; where there is a willful waste of water; where there is a refusal to permit an inspection by the City.

9.20.445. Water and sewer service rate structure.

- A. Each person or firm who is furnished with water and/or sewer service shall pay for the same at the monthly rates set forth in this section. There will be a fee of \$10 per month per household or business for a combination of water service and sewer collection service. Billing for these services will commence with the date of occupancy of the dwelling receiving services. The City shall bill according to the information provided on the "Request Form for City Utilities."
- B. On or about the first day of each month the person or firm subscribing to the service shall be billed directly by the City. Billings will be combined with billings for electric service on the Powerstat System. For persons or firms not using the Powerstat System, payment has to be made directly to the City office no later than the 15<sup>th</sup> day of each month during which service is provided.
- C. Customers will be charged \$25 for returned checks.

9.20.450. Consequences of non-payment of service charges. The water supply may be shut off to any premises for which the water or sewer bill remains unpaid for a period of 60 days after the bill is mailed.

9.20.455. Reconnection of service. When shut off, water shall not be turned on except by properly authorized representatives of the City. There will be a charge of \$10 for reconnection of service.

9.20.460. Public inspection of rates. A current file of all rates adopted by the City Council under this chapter shall be available for public inspection during regular business hours at the City office.

9.20.461. Customer complaints. The City wants to resolve customer complaints as quickly as possible. The City will respond to the substance of each service complaint or other customer

complaint within 20 working days of its receipt. If the City does not resolve a complaint to the customer's satisfaction the customer may refer the matter to the Regulatory Commission of Alaska, 701 West Eighth Avenue, Suite 300, Anchorage, Alaska 99501. The Commission's telephone number is (907)276-6222, toll-free at 1-800-390-2782, or TDD (907) 276-4533.

9.20.462. Priority of Service. Water Service Preference: In the event of a potable water shortage, the City has the right to give preference (including the potential interruption of service) in the matter of furnishing service to customers and interests as public convenience and necessity require. The order of superior preference, with the constraints of the system, is as follows:

1. Clinic (highest priority)
2. Elementary / High School
3. Private residences
4. Businesses and commercial users
5. Other transient users and special contract users (lowest priority)

#### Article 5. Prohibitions

9.20.510. Use of Water Sources Other than City Water System.

- A. It shall be unlawful for any person to construct, maintain, or utilize a source of water supply other than the City water system for drinking and sanitary purposes at any building that is located within 200 feet of lines of the City Water System.
- B. It shall be unlawful for any person to construct or to allow a cross-connection to be constructed between any portion of the City water system, or any portion of customer water facilities connected thereto, and any other source of water.
- C. It shall be unlawful for any person to allow a premises or facility which is serviced by the City water system to be connected to another water system.

9.20.515. Disposal of Sewage and liquid waste. It shall be unlawful for any person to dispose of sewage, liquid wastes, or human excreta from any building located within the City by any method other than through the utilization of the City sewage disposal system.

9.20.520. Operation of Individual Systems. It shall be unlawful for any person to operate or maintain an individual sewage disposal system unless such a system is constructed and maintained in such fashion that it does not contaminate any source of drinking, public, or domestic water supply. Such systems shall comply with the applicable standards of the Alaska Department of Environmental Conservation.

9.20.525. Illegal Discharges. It shall be unlawful for any person to discharge sewage or other domestic wastes on the surface of the ground within the City.

9.20.530. Alterations of Individual Systems. It shall be unlawful for any person to construct, alter, or extend an individual sewage disposal system except by permission of the City Council.

9.20.535. Cold Weather Maintenance. It shall be unlawful for any person using the City water supply to fail to have his use protected from cold weather. All users of City water shall protect their water service lines with insulation to protect them during cold weather.

9.20.540. Resale of Water or Wastewater Service. Resale of a utility service is expressly prohibited except through special contract between the City and the customer.

## TITLE 9

### UTILITIES

#### Chapter 3 – Refuse Disposal

[Ord. 01-01 repealed and reenacted unknown date]

#### Sections:

- 9.30.010. Definitions.
- 9.30.020. Storage of Refuse.
- 9.30.030. Preparation of Refuse.
- 9.30.040. Refuse Collection.
- 9.30.045. Service Billings
- 9.30.050. Disposal of Refuse.
- 9.30.060. Sanitary Landfill Sites.
- 9.30.070. Disposal of Refuse –Prohibitions.
- 9.30.080. Penalties.

9.30.010. Definitions. Whenever used in this chapter, the following words and terms shall have the meaning herein ascribed to them:

- A. “Collector” means any person hired by the City for the removal of refuse as provided by this chapter;
- B. “Garbage” means all putrescible wastes, except sewage and body wastes, including food wastes resulting from the handling, preparation and consumption of food, and includes all such substances from all public and private establishments and residences;
- C. “Refuse or Solid Waste” means garbage, rubbish, ashes, industrial wastes and all other liquid or solid putrescible and non-putrescible wastes, except sewage, from all public and private establishments and residences;
- D. “Rubbish” means all non putrescible solid wastes, consisting of wastepaper, cardboard, wood, tin cans, glass, bottles, bedding, metals, trash, sweepings and all other similar substances which may become nuisances, from all public and private establishments and residences. Rocks, dirt, vehicle bodies and scrap iron are excluded.

#### 9.30.020. Storage of refuse.

- A. No person shall keep on or about his property any refuse unless it is kept in a container of a type approved by the City. Bags shall be leak-proof, durable in quality and, when offered for collection, shall be securely tied or fastened at the top and shall not contain any rips, tears, or holes. Refuse stored in plastic bags should be placed outside only on the day of collection. Bulky rubbish must be bundled and securely tied or boxed.

- B. No person shall, except as provided in this chapter, deposit refuse which may become offensive, noxious or dangerous to the public health, on any private property, public ground or area way, or in any other public place within the city limits.
- C. No person having the care as owner, lessee, agent, or occupant of any premises shall store refuse for collection purposes except in a clean and sanitary manner and in accordance with all other applicable federal, state, and municipal statutes, ordinances, rules and regulations. The City reserves the right to clean such premises, if not properly kept, and to charge the cost thereof to that person, and to prosecute such person for noncompliance with this chapter.

9.30.030. Preparation of refuse.

- A. All refuse shall be drained free from liquids before disposal.
- B. Garbage shall be wrapped in plastic or similar material.
- C. All cans, bottles, or other food containers shall be rinsed free of food particles and drained before disposal.
- D. Toxic, volatile or other hazardous materials must be clearly identified and stored separately from regular garbage or rubbish.

9.30.040. Refuse Collection. All property owners or occupants of premises living within the boundaries of the City of Akutan are required to use the garbage collection and disposal service provided by the City whenever this service is made available. Refuse shall be collected pursuant to schedules established by the Council. All refuse shall be collected and disposed of at intervals sufficient to protect the public health and wellbeing.

9.30.045. Service billings.

- A. There will be a fee of \$10 per month per household or business for a combination of refuse collection service and water service. Billing for these services will commence with the date of occupancy of the dwelling receiving the services. The City shall have the right to determine how and to whom charges are to be billed. Failure to receive a bill or failure to apply for service does not relieve the user of responsibility for the charges.
- B. On or about the first day of each month the person or firm subscribing to the service shall be billed directly by the City. Billings will be combined with billings for electric service on the powerstat system. For person or firms not using the powerstat system, payment has to be made directly to the City office no later than the 15<sup>th</sup> day of each month during which service is provided.

(Ord. )

9.30.050. Disposal of Refuse. All disposal of refuse shall be by municipal incinerator method specifically approved by the City; provided that the methods shall include the maximum

practicable rodent, insect, and nuisance control at the place of disposal. Refuse from large fish processing facilities shall be disposed in a method approved by the State Department of Environmental Conservation and the Environmental Protection Agency, either by incineration or sanitary landfill method. Processing wastes shall be disposed according to applicable federal and state permit requirements and restrictions.

9.30.051. The following wastes may be burned by incineration.

- A. Cardboard, wood and paper;
- B. Household trash, such as food, paper, small plastics, and any regular household trash so long as there is nothing that can explode or create black smoke; and
- C. Small animals if burned immediately.

(Ord. 2001-01, 7-2-01)

9.30.052. The following wastes may not be burned and may not be place in receptacles for regular household garbage.

- A. Anything explosive such as aerosol cans, liquid fuels, pressurized gas cylinders, and old ammunition;
- B. Anything containing toxic metals which includes but is not limited to batteries;
- C. Anything that causes toxic black smoke such as tires, used oil, large plastics, urethane foam insulation, rubber and tar products, cleaners, paints, solvents or other chemicals; and
- D. Materials that contain asbestos.

Materials listed in this section will need to be set out separately and clearly marked.

(Ord. 2001-01, 7-2-01)

9.30.053. Penalties. Any violations of sections 9.30.051 and 9.30.052 regarding waste disposal are punishable by the penalties set out in Section 9.30.080 of this Chapter.

(Ord. 2001-01, 7-2-01)

9.30.060. Sanitary Landfill Sites. No person may dispose of any refuse within the municipal boundaries in a facility not approved by the Alaska Department of Environmental Conservation.

9.30.070. Disposal of Refuse – Prohibitions.

- A. Outside burning of rubbish or other combustible materials is prohibited, except by authorization or special permit from the fire chief.
- B. Dumping of garbage, refuse or rubbish in the Bay is prohibited. Dumping of ashes from incinerated waste is permitted in specifically designated areas only.

- C. Nothing herein contained shall be construed to prevent a person from removing rubbish from his private property and transporting it to an approved disposal area; provided, however, that all City, DEC, and EPA regulations relating to the use of the disposal area are complied with by the persons.

9.30.080. Penalties. Conviction of any violation of the regulations of this chapter shall be a misdemeanor and upon conviction shall be punishable by a fine of not more than Two Hundred and Fifty Dollars (\$250.00). Each day of violation may be deemed a separate violation, and upon conviction thereof shall be punishable by a fine of not more than Two Hundred and Fifty Dollars (\$250.00) for each day of violation.

TITLE 10

PUBLIC LANDS

Chapter 1 -- Acquisition Use and Disposal of Public Lands

Sections:

- 10.10.010. Definitions.
- 10.10.020. Competitive Bidding – Requirements.
- 10.10.030. Real property acquisitions.
- 10.10.040. Exercise of the power of eminent domain.
- 10.10.050. Ownership and Use of City Lands.
- 10.10.060. Disposal of Municipal Lands.
- 10.10.070. Disposals of Public Lands – Methods,
- 10.10.080. Disposals at Fair Market Value.
- 10.10.090. Disposals - Minor Interests in Land.

10.10.010. Definitions.

In this chapter:

- (a) "Minor interest" in lands or real property means any permit or license to use or occupy real property revocable for any reason by its grantor, including a permit, easement or license to use or occupy real property for a period not to exceed 180 days.

10.10.020. Competitive bidding requirements.

- (a) Acquisition: Because of the unique nature of real property, the City need not acquire real property by competitive bidding.
- (b) Disposal: Except as specifically required by the City Council, disposals of interests in city lands or minor interests in city lands need not be accomplished through competitive bidding.

10.10.030. Real property acquisitions.

- (a) The City Administrator or such other person as the Council may designate is authorized to negotiate all acquisitions of real property or interests in real property on behalf of the city.
- (b) Except as allowed under subsections (c) and (d) below, no real property or interest in real property may be acquired by the city unless the acquisition is approved by ordinance of the City Council and under such terms and conditions as the Council may require.
- (c) Notwithstanding (b) of this section, the City Administrator may acquire on behalf of the city any minor interest in real property as the City Administrator deems necessary to the orderly conduct of the City's business.
- (d) All instruments pertaining to the conveyance of real property to the City and requiring execution by the City shall be signed by the Mayor or his designee and attested by the Clerk. No conveyance of real property to the City shall be effective unless accepted in

writing by the Mayor or his designee provided that no such acceptance shall be required to perfect an interest in lands. No such acceptance is required, however, for lands or interests in lands:

- (1) Acquired by foreclosure or by judicial proceedings or settlements including proceedings in eminent domain,
- (2) Acquired pursuant to the selection of state lands under the provisions of AS 29.65 or
- (3) Acquired through the physical appropriation of lands by an act giving rise to a finding of inverse condemnation.

10.10.040. Exercise of the power of eminent domain.

- (a) Subject to the provisions of this section and as allowed by State law, the City may exercise the power of eminent domain, including a declaration of taking in order to acquire real property and any interest in real property for any lawful public purpose.
- (b) Exercise of the power of eminent domain including a declaration of taking must first be approved by ordinance of the council. Before enacting an ordinance authorizing the exercise of the power of eminent domain or declaration of taking, notice shall be given to property owners of the real property to be acquired (as shown in the assessor's records) and to persons known to be in actual possession of the property. Such notice shall be given as follows:
  - (1) Notice shall be in writing to the property owners and tenants and shall be postmarked, hand delivered, or posted on the subject property no fewer than 14 days before the date upon which the council approves the use of eminent domain.
  - (2) The notice shall contain the following:
    - a. The name and description of the project which requires acquisition of the property, including a map of the project area;
    - b. The location and legal description of the effected parcel and identification of the property interests to be acquired; and
    - c. The date, time and location of the first meeting at which the council will consider approval of the authority to use eminent domain if necessary to acquire the property.
- (c) An ordinance authorizing the exercise of power of eminent domain, including a declaration of taking, shall not become effective unless approved by a majority of the qualified voters voting in the next regular city election following passage of that ordinance by the council or at a special election called for the purpose.

10.10.050. Ownership and use of city lands.

- (a) The City may own and use any real property or interest in real property in any manner not prohibited by law. All city property shall be held in the name of the City of Akutan.
- (b) Except as otherwise provided by law and in addition to all other city powers, the City may exercise the same control over city lands and their use as though the city held such property as a private person.

10.10.060. Disposal of city lands - procedures.

Except as provided in .090 of this chapter, governing disposal of minor interests in city lands, all disposals of city lands and interests in lands shall be accomplished as follows:

- (a) No contract, lease, or conveyance pertaining to the disposal of city lands or interest in city lands may be enforced against the city unless that instrument was made in accordance with this title and approved by ordinance of the council.
- (b) Any instrument pertaining to the conveyance of city lands and interests in city lands and requiring execution by the city shall be executed by the Mayor or his designee and attested by the Clerk.

10.10.070. Disposals of public lands - methods.

- (a) In addition to any method not otherwise prohibited by law and as allowed by the council, city lands, and interests in city lands may be disposed of through any of the following methods:
  - (1) By direct negotiation;
  - (2) By competitive sealed bid;
  - (3) By a public outcry auction;
  - (4) Through issue of a request for proposals.
- (b) The city council may authorize the disposal of city lands or interests in city lands in connection with any agreement to compromise and settle litigation under such terms and conditions as the council deems consistent with the public interest.

10.10.080. Disposals at fair market value.

- (a) Except as provided in subsections (b)-(d) of this section, all disposals of city lands or interests in city lands shall be made for the fair market value of the interest disposed as determined by the City Council. The city may accept in exchange for city land any consideration of sufficient value not otherwise prohibited by law.

- (b) The city may dispose of any city lands or interests in city lands to the United States, the State of Alaska, or political subdivision thereof, and incorporated regional or village corporation or other nonprofit corporation or association for less than fair market value of the interest disposed of, upon a finding by the council that the disposal will allow the use of lands for a public purpose beneficial to the city.
- (c) The city may dispose of city lands or interests in city lands to a regional or village corporation or to a private corporation or entity for less than fair market value and under such terms and conditions *as* the council may direct upon a finding by the council that such disposal will further a public purpose and that such purpose can be best accomplished through the disposal proposed.
- (d) This section shall not apply to disposals of minor interests in city lands.

10.10.090. Disposals - minor interests in land.

- (a) The provisions of sections .060-.080 notwithstanding, the City Administrator may negotiate and approve on behalf of the city a disposal of any minor interest in lands as defined under section 10.10.010 of this Title upon the City Administrator's finding that such disposal will further a lawful public purpose of the city. In connection with a disposal of a minor interest in city lands under this section, the City Administrator may impose such terms and conditions as the City Administrator deems necessary to protect the public interest.

TITLE 12

PUBLIC SAFETY

Chapters

- 1 Dog Control
- 2 Minors
- 3 Alcoholic Beverages
- 4 Motorized Vehicles
- 5 Public Nuisances
- 6 Offenses and Miscellaneous Provisions [ 2 Chapter 6s. No legislative history this chapter]
- 6 Akutan Volunteer Fire Department

## TITLE 12

### PUBLIC SAFETY

#### Chapter 1 – Dog Control [AO 81-03, 6-12-81]

##### Sections:

- 12.10.010. Administration.
- 12.10.020. Records.
- 12.10.030. Citation Procedure.
- 12.10.040. Regulations.
- 12.10.050. Number of dogs.
- 12.10.060. Control of Vicious Dogs.
- 12.10.070. Cruelty to Dogs.
- 12.10.080. Quarantine.

12.10.010. Who shall administer. Dog control shall be undertaken by the Public Safety Director, who has the power and duty to enforce the provisions of this Chapter in the field.

12.10.020. Records. As dog control officer, the Public Safety Director shall maintain complete and detailed records of:

1. All dogs brought into custody;
2. The disposition of all dogs taken into custody;
3. Rabies immunizations reported to the Public Safety Office;
4. Investigation of violations under this chapter.

12.10.030. Citation Procedure. The Public Safety Director may serve a citation upon a person for violating a provision of this chapter, or a term, condition or limitation of a license issued hereunder, or a municipal regulation promulgated under this chapter.

12.10.040. Regulations. Pursuant to Chapter 62 of Title 44 of the Alaska Statutes, a Public Safety Director may promulgate regulations necessary and convenient to the administration of this chapter, including but not limited to:

1. Providing the form, recording and control of citations to be used under Section 12.10.040, and the form and control of citation books.
2. Interpreting the provisions of this chapter.

12.10.050. Number of Dogs. No more than two dogs are permitted to be owned by each

household in the community, except in cases of puppies which are not old enough to be separated from their mother. The council may, by resolution, authorize ownership of more than two dogs in a household.

12.10.060. Control of vicious dogs. A person who owns a vicious dog shall at all times either confine the dog in a building or a secure enclosure, or otherwise secure the dog, as with a muzzle, so it cannot injure other persons or their property. If a dog or pack of dogs is reported as vicious, owners will receive from the Public Safety Director written warning to control their dogs.

If after the second warning, said dog or dogs is still uncontrolled it shall be destroyed by the Public Safety Director. For the purpose of this ordinance, any dog shall be deemed vicious which has bitten a person or domestic animal without molestation; or which by its actions, gives indication that it is able to bite any person or domestic animal without molestation; or which is found causing damage to property.

12.10.070. Cruelty to dogs. No person may:

1. Intentionally kill a dog, except the humane disposition of a dog as authorized by law where necessary to protect a human being or domesticated animal from death or bodily injury; or the humane destruction of an animal by its owner or the owner's authorized agent.
2. Intentionally injure, torment, poison, provoke or otherwise abuse a dog;
3. Maintain a dog without providing food, water and shelter adequate to preserving the dog's health, or abandon a dog so that it will not be provided proper food, water, shelter, and care.
4. Maintain a dog showing symptoms of infections or contagious disease without keeping the dog confined in a building or secure enclosure and under proper care.

12.10.080. Quarantine. Whenever notice of a dog quarantine shall be posted by the city council, no person shall, during the period of such quarantine, permit any dog of which he is the owner, caretaker or custodian, to be unconfined, except under the conditions specified in such notice.

12.10.090. Female Dogs in Heat. A person who owns a female dog in heat shall keep the dog under restraint in such a manner that it cannot come into contact with a male dog except for planned breeding purposes. If a female dog in heat is not restrained the owner will receive from the Public Safety Officer written warning to restrain the animal. If after the second warning said dog (or dogs) is still unrestrained it shall be destroyed by the Public Safety Officer. The Public Safety Officer shall issue notice for a twenty five dollar (\$25.00) fine payable to the City of Akutan. After payment of this fine, if the dog still remains unrestrained, the dog shall be destroyed by the Public Safety Officer.

[AO 83-01, 3-2-83]

TITLE 12

PUBLIC SAFETY

Chapter 2 – Minors

Sections:

12.20.010. Minors–Curfew.

12.20.010. Minors–Curfew. It shall be unlawful for any child under the age of sixteen years to be upon the public streets or in any public place between the hours of ten P.M. and six A.M. of the following day on days when school will be held, except under the direct supervision of a parent or guardian. On days when school will not be held the following day the hours of curfew shall be 12:00 midnight to six A.M.

[81-03, 6-12-81]

TITLE 12

PUBLIC SAFETY

Chapter 3 - Alcoholic Beverages

Sections:

- 12.30.010. Alcoholic beverages; closing hours.
- 12.30.020. Reimbursement For Costs of Protective Custody.

12.30.010. Alcoholic beverages; closing hours. Licensed premises dispensing alcoholic beverages shall be closed for the sale, service and consumption of intoxicating beverages between the hours of 2:00 A.M. to 6:00 P.M. on Tuesday through Friday, between the hours of 3:00 a.m. to 6:00 p.m. on Saturday, and between 3:00 a.m. Sunday to 6:00 p.m. Monday. Weekend hours shall also apply on holidays.

[AO 81-03, 6-12-81; AO 82-02, 3-3-82; AO 88-03, 4-19-88; AO 90-01, 6-11-90]

12.30.020. Reimbursement For Costs of Protective Custody. All persons taken into protective custody by the City of Akutan under Alaska Statutes Title 47 shall be financially responsible to the City for the actual cost of their custody. Those costs shall be as determined by the City Council and as set forth in a fee schedule made available to the public at City offices.

TITLE 12

PUBLIC SAFETY

Chapter 4 – Motorized Vehicles  
[AO 82-02, 3-3-83]

Sections:

- 12.40.010. Hours of Motorized Vehicle Use.
- 12.40.020. Speed Limit.

12.40.010. Hours of Motorized Vehicle Use. No person shall operate a motorized vehicle within the city limits between the hours of 10:00 p.m. and 9:00 a.m. of the following day. Motorized vehicles used after dark can only be operated with proper headlights and warning lights.

[84-05]

12.40.020. Speed Limit. No person shall drive a motorized vehicle, upon a boardwalk or any other place within the city limits, at a speed greater than fifteen (15) miles per hour, or no greater than the speed limit that is posted. Posted speed limits shall be established by resolution of the City Council.

[AO 84-05]

TITLE 12

PUBLIC NUISANCES

Chapter 5 - Public Nuisances

Sections:

12.50.010. Public Nuisances Prohibited.

12.50.010. Public Nuisances Prohibited.

- (a) It is unlawful for any person to cause or maintain a public nuisance within the City of Akutan.
- (b) In this Chapter the term "Public Nuisance" means any use or occupancy of land or water or any activity on land or water which constitutes a public nuisance at common law or under the laws of the State of Alaska.
- (c) Upon a finding by the City Council that a Public Nuisance exists, the penalties and remedies set forth in Section 7.10.090 of this Code shall apply.

TITLE 12

PUBLIC SAFETY

Chapter 6 – Offenses and Miscellaneous Provisions

Sections:

- 12.60.010. Illegal acts generally; definitions.
- 12.60.020. False crime reports, false fire alarms.
- 12.60.030. Minors–Abusing, endangering.
- 12.60.040. Alcoholic liquor; sale, gift, delivery to designated person prohibited.

12.60.10. Illegal acts generally; definitions. It shall be unlawful for any person to:

1. Engage in any illegal occupation or business;
2. Discharge any firearm or air rifle, or intentionally point or aim any firearm or other dangerous weapon, loaded or otherwise, at any person;
3. Make an immoral exhibition or exposure of his person;
4. Maliciously destroy or injure any public property or private property not his own;
5. Create a disturbance in a public place or at any lawful assembly;
6. Commit assault and battery;
7. Make any breach of the peace;
8. Attend or frequent any place in which an illegal business is permitted or conducted;
9. Solicit a person for the purpose of committing any illegal act;
10. Restrict arrest by a VPSO or other law enforcement personnel or assist a person in custody of a VPSO or other law enforcement personnel to escape;
11. Steal any property of a value not exceeding \$100.00. Provided, however, that the City may, at its option, treat as petit larceny the theft of a sum greater than \$100.00.
12. Sell cigarettes or tobacco in any form to children under nineteen years;
13. No person shall, and it shall be unlawful for any person who has been confined to the City jail, or any city facility provided for prisoners, to escape from said jail or facility. It

shall also be unlawful for any person to aid or abet or in any way contribute in any manner to the aid of any person to escape or attempt to escape from said City jail or facility provided for prisoners.

14. Make, cause or continue, or cause to be made or continued, any unnecessary or unusual noise which either annoys, injures or endangers the comfort, repose, health or safety of others during any time of night or day;
15. No owner, lessee, agent, tenant or occupant shall allow or permit any debris, junk or indiscriminate storage of machinery, equipment parts, wrecked, junked or abandoned machinery, lumber or other material or any accumulation of garbage, manure, offal, rubbish, stagnant water or any filthy liquid or substance or anything that is or may become putrid or offensive to be or remain upon his yard, lot or premises, or upon any yard, lot or premises owned or controlled by him.

12.60.020. False crime reports, false fire alarms. It shall be unlawful for any person to register, make, render or report any false alarm, report or complaint to either the fire department or the VPSO.

12.60.030 Minors–Abusing; endangering. It shall be unlawful for any person to willfully cause or permit any child to suffer, or inflict thereon unjustifiable physical pain or mental suffering, or, having the care or custody of any child, to cause or permit the life or limb of such child to be endangered, or the health of such child to be injured, or to willfully cause or permit such child to be placed in such situation that its life or limb may be endangered, or its health likely to be injured.

12.60.040. Alcoholic liquor; sale, gift, delivery to designated person prohibited. No person shall sell, furnish, give or deliver any alcoholic liquor to any person:

- (a) Who is intoxicated.
- (b) Who is under the age of twenty-one years.
- (c) Who is a habitual drunkard or a habitual user of drugs.

At licensed premises dispensing alcoholic beverages the burden shall at all times be upon the licensee and his employees to determine the age and sobriety of any patron.

TITLE 12

PUBLIC SAFETY

Chapter 6 – Akutan Volunteer Fire Department  
(AO 03-01, 6-17-03)

Sections:

- 12.60.010. Fire Department Established.
- 12.60.020. Volunteer Fire Department.
- 12.60.030. Fire Chief.
- 12.60.040. Rules and Regulations.
- 12.60.050. Training and Records.

12.60.010. Fire Department Established. There shall be a Fire Department in and for the City to be known as the “Akutan Volunteer Fire Department.” It shall consist of a Fire Chief and Assistant Chief(s), and as many other officers and firefighters as may be deemed necessary for the effective operation of the Department.

12.60.020. Volunteer Fire Department.

- (a) Organization. Members of the Fire Department may organize into a voluntary association with the election of their own officers and by-laws.
- (b) Limitation of Powers of Volunteer Department. The functions and duties of the officers of the Volunteer Department shall not interfere with those of the regular department officers who are charged with responsibility for all fire service activities of the department. The voluntary association shall in no way limit the power of the Fire Chief. All property used by the Fire Department is and remains the property of the City and all expenses of the Fire Department shall be paid by check upon proper voucher by the regular City authorities.

12.60.030. Fire Chief.

- (a) Appointment. The Fire Chief shall be appointed by the Council and shall be responsible to that body. The appointment shall be for an indefinite period of time and with tenure of office depending upon good conduct and efficiency. The Fire Chief shall be technically qualified through training and experience and shall have the ability to command.

The Fire Chief shall be removed only for just cause and after a public hearing before the Council. When at all possible, the current VPSO will be appointed the Fire Chief.

- (b) Records. The Fire Chief shall see that complete records are kept of all apparatus, equipment, personnel, training, inspections and fires and of other department activities.
- (c) Reports. Current records and comparative data for previous years and recommendations for improving the effectiveness of the Department shall be included in a report to the City Council. Other reports concerning the Department in general, giving suggestions and recommendations for major improvements, and listing other data so as to maintain a complete record of the activities of the Department shall also be prepared.

12.60.060. Equipment.

- (a) The Fire Chief shall be responsible to the council for recommending such apparatus or other firefighting equipment as may be required to maintain fire department efficiency, and for providing suitable arrangements and equipment for reporting fires or emergencies, and for notifying all members of the Department to assure prompt response to such incident.
- (b) The Fire Chief or the Chief's representative shall have power to assign equipment for response to calls for outside aid where agreements are in force and in other cases only when the absence of such equipment will not jeopardize protection of this City.
- (c) No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the Department.
- (d) No person shall enter any place where fire apparatus is housed or handle apparatus or equipment belonging to the Department unless accompanied by, or have the special permission of, an officer or authorized member of the Department.

TITLE 13

PUBLIC PEACE, MORALS AND WELFARE

Chapters

- 1 Offenses Against Property
- 2 Abuse of VHF Radio Channel
- 3-5 [Missing Chapters]
- 6 Collection of Fees, Penalties.

## TITLE 13

### PUBLIC PEACE, MORALS AND WELFARE

#### Chapter 1 – Offenses Against Property

##### Sections:

13.10.010. Injury to Public Property or Public Utilities.

13.10.020. Abuse of VHF Radio Channel.

13.10.010. Injury to Public Property or Public Utilities. It is unlawful for any person to willfully obstruct or injure any public property including the public boardwalks; or in any way break down, injure or destroy any post or pole used in connection with any system of electric lighting, .telephone or telegraph system, or break-down and-destroy or .injure and deface any electric light, telegraph or telephone. instrument; or in any way cut, break or injure the wires of any apparatus belonging thereto; or to willfully tap, cut, injure, break, disconnect, connect, make any connection . with, or destroy any of the wires, mains, pipes, conduits, Meters' or other apparatus belonging to, or attached to the power plant distributing system of any electric light -plant, electric motor bulk fuel plant.or water plant; or to aid or abet any other person in doing so.

Any willful destruction or injury of public property or public utilities shall be punishable by a fine as established by the City Council, which shall, within reason, include the cost of replacing the public property or utility, or any part thereof which was destroyed.

## TITLE 13

### PUBLIC PEACE, MORALS AND WELFARE

#### Chapter 2 – Abuse of VHF Radio Channel

##### 13.20.010. Abuse of VHF Radio Channel.

Channel 6 on the VHF Radio is a marine radio channel to be used only for vessel communication and important messages. Any person found abusing this channel while intoxicated, using foul language or otherwise obstructing the use of this channel for marine purposes (such as blocking the channel with music) shall be fined an amount of \$50.00 per occurrence. Fees for such abuse will be collected by the VPSO, and donated to the Student Fund at Akutan School.

[AO 90-02, 6-11-90]

TITLE 13

PUBLIC PEACE, MORALS AND WELFARE

[Chapters 3-5 Missing]

## TITLE 13

### PUBLIC PEACE, MORALS AND WELFARE

#### Chapter 6 - Collection of Fees, Penalties

##### **Section:**

13.06.010. Collection of Fees, Penalties

13.06.010. Collection of Fees, Penalties.

The city of Akutan has imposed fees and/or penalties upon persons for various purposes, such as: creating a public nuisance, misuse of radios, offenses against property, speeding violations, etc. These fees and penalties are payable upon receipt of billings by the VPSO, VPO or City employees.

If the person-owing the fee or penalty makes no payment or arrangements for payment, the-City may collect such fees or through other means, such as: payroll deductions, collection through the Power Stat payment system, or attaching a person's permanent fund dividend or other property.

# AKUTAN MUNICIPAL CODE

## VOLUME I

Adopted: 1979

Effective: 1979

---

Published by Akutan Administration

### CURRENT OFFICIALS AND ADMINISTRATIVE STAFF

of the

CITY OF AKUTAN

May 21, 2013

---

Joseph Bereskin, Sr.

*Mayor*

---

Dave Abbasian

Darryl Pelkey

Demetri Tcheripanoff

Kay Bereskin

Lydia Vincler

Matthew Bereskin

*Council Members*

---

Hermann Tuna Scanlan

*City Administrator*

---

Michael Gatti

*Municipal Attorney*

---

Karen Vincler

*Municipal Clerk*

---

Susan Lutz

*Assistant City Administrator*

*Deputy Clerk (Anchorage Office)*

*Planning & Zoning Administrator*

---

# AKUTAN MUNICIPAL CODE

AKUTAN, ALASKA

SUPPLEMENT HISTORY TABLE NO. 8

## ORDINANCES AKUTAN MUNICIPAL CODE COMPARATIVE TABLE

This table gives the location within the Code of those ordinances adopted since the adoption of the Akutan Municipal Code in 1979 which are included herein.\*

Akutan Ordinance No.	Section	Effective Date	Section Akutan Municipal Code
81-1 City Administrators	1	4/7/81	3.40
81-4 Public Safety	1	1/20/82	Title 12
81-5 Planning Commission	1	12/2/81	Title 8 [Ch. 8.10]
81-6 Qualifications Elected Officials	1	1/20/82	2.20.020
82-2 Alcoholic Liquor; Motorized Vehicles	1	3/3/82	12.30.010; 12.40.010
82-3 Library Service	1	4//82	3.70.010
82-4 Land Use Permit	1	3/3/82	8.20.010
82-6 Electric Utility	1	10/23/82	9.10
82-8 Sewer and Water	1	8/12/82	9.20
83-1 Dog Control	1	3/1/83	12.10.090
83-5 Health Service	1	8/2/83	3.60
84-1 Injury to Public Property	1	3/30/84	13.01
84-4 Salary advances	1	?	5.20.050
84-5 Motorized vehicles	1	?	12.40
90-01 Alcoholic beverages; closing hours	1	6/11/90	12.30.010
90-02 Abuse of VHF Radio Channel	1	6/11/90	13..20.010
91-05 Harbor Regulations – Discharge of oil and hazardous substances	1		11.20
91-04 Transfer of Airport Harbor Powers			3.80
93-01 and 93-02 (to P&Z per minutes of 5-4-93; no copies of documents or record of passage)			

Akutan Ordinance No.	Section	Effective Date	Section Akutan Municipal Code
01-01 Refuse Disposal	1	7/2/01	9.30.051, 052, 053
02-01 Use of Skiff Moorage Facilities	2	3/6/02	11.030
03-01 Akutan Volunteer Fire Dept.	1	6-17-03	12.60
04-01 Utilities			Title 9, sections 010-030 amended; sections 310-535 enacted
05-01 Investment and Collateralization of Public Funds	1	2/28/05	5.60
04-01 Electric Utility	1	4/8/04	9.10.010–030 9.20.310–535
06-02 Sewer and Water Utility	1	2/24/06	9.20.110; 341, 342, 445(c), 461, 536
07-04 Mayor	2,3	02/09/07	2.30.010; 2.30.040
07-04 Elections	4-13	02/09/07	4.10.030; 040, 050 4.30.030; 060 4.40.010; 020 4.70.030; 070 4.80
07-05 Purchasing [never codified] See 10-05	1	4/24/07	5.50
<i>Resolution 08-01</i> Time of Regular Council Meetings (trial basis)		9/18/07	2.40.020(a)
10-02 Electricity Exemption	2	9/15/09	9.10.025
10-05 Repeal, Reenact Purchasing Code	2	4/8/10	5.50 ( <i>implied repeal 07-05</i> )
10-13 Purchasing Appeals	2	6/29/10	5.50.250
11-05 Adoption of Budget	2	6/14/11	5.40.050
11-05 Effective date of budget– Certification–Copies made available	3	6/14/11	5.40.060
12-01 Salaries of Elected Officials	2	1/17/12	2.20.060
12-02 (Amended) Compensation of	2	1/17/12	2.30.030

Akutan Ordinance No.	Section	Effective Date	Section Akutan Municipal Code
the Mayor			
12-03 The Mayor as Executive	2	1/17/12	2.30.010
12-05 (Am) Port & Harbor Commission	2	3/20/12	3.90
12-08(S) Sales Tax Exemptions	2	7/10/12	6.10.040
13-04 City Limits	2	9/18/12	1.20.020
13-05 Sales Tax	2	12/11/12	6.10.010; 6.10.110
13-07 Site Development Permit Procedures	2	3/19/13	8.20 [Repeal and Reenact]
13-09 Planning Commission	2	5/21 /13	8.10