

## TITLE 1 GENERAL PROVISIONS

### Chapters:

1.01 GENERAL PROVISIONS

1.02 ORDINANCES

1.03 RESOLUTIONS AND TECHNICAL CODES

1.04 CITY INFORMATION

## **CHAPTER 1.01**

### **GENERAL PROVISIONS**

- 1.01.01** Code cite and designation
- 1.01.02** Definitions
- 1.01.03** Effect of repeal of ordinances
- 1.01.04** Severability
- 1.01.05** General penalty
- 1.01.06** Violations of laws of Alaska
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- 1.01.11** grammatical interpretation

#### **1.01.01. Code cite and designation**

The ordinances in the following chapters and sections shall be called the Code of Ordinances of the City of Kachemak, Alaska.

#### **1.01.02. Definitions**

The following definitions apply to the following words or terms used in this code unless the plain meaning requires otherwise:

1. City: The City of Kachemak, Alaska;
2. Clerk: The city clerk-treasurer;
3. Code: The Code of Ordinances, City of Kachemak, Alaska;
4. Council: The City Council of Kachemak;
5. Person: A corporation, company, partnership, firm, association, business/trust, or society, as well as a natural person;
6. Publish: Appearing at least once in a newspaper of general circulation distributed within the city, or if there is none, posting in three public places in the city for at least five days;
7. State: The state of Alaska;
8. Voter: A United States citizen who is qualified to vote in state elections, has been a resident of the City for 30 days immediately preceding the election, is registered to vote in state elections, and has not been convicted of a felony involving moral turpitude unless that citizen's civil rights have been restored.

### **1.01.03. Effect of repeal of ordinances**

For any ordinance which has been repealed, a violation of that ordinance which occurred before its repeal is enforceable as if the ordinance had not been repealed, and any rights or remedies existing at the time of the ordinance's violation are preserved to anyone claiming them.

### **1.01.04. Severability**

Every ordinance or chapter of this code which does not contain a severability clause shall be read as though it contains the following severability clause: "If any part of this code is invalidated, the remainder which is not invalidated is valid."

### **1.01.05. General Penalty**

- A. Every act prohibited by ordinance of this city is unlawful. Unless another penalty is expressly provided, every person convicted of a violation of any provision of this code, or any rule or regulation adopted or issued thereby, shall be punished by a fine not to exceed \$500.00, or imprisonment not to exceed 30 days, or both. Each act of violation and every day upon which such violation occurs constitutes a separate offense.
- B. The penalty provided by this section shall apply to any amendments to this code, whether or not such penalty is re-enacted in the amendment ordinance, unless another penalty is expressly provided.

### **1.01.06. Violations of laws of Alaska**

Violations of state law shall be violations of this code, except where the state has exclusive jurisdiction over the offense.

### **1.01.07. Changes to code**

- A. All ordinances passed after the adoption of this code shall be numbered according to the numbering system of this code.
- B. Repealed provisions of this code shall be excluded from the code. The provisions to be repealed must be specifically repealed by section or chapter number.

- C. Amendments to this code shall be made by specific reference to the section number and chapter number so amended
- D. If a new chapter or section is to be added to this code, specific reference to the new section number and new chapter number shall be made.

#### **1.01.08. Distribution**

This code shall be made available to the public at a cost of 25 cents per page to cover the cost of reproducing the Code. A copy of this code shall be furnished to any court as needed or upon its request.

#### **1.01.09. Incorporating changes into the code**

Changes to this code shall be typed or printed and included within this code within 90 days after passage.

#### **1.01.10. Time ordinances take effect**

Every ordinance takes effect upon adoption by the council unless otherwise stated in the ordinance.

#### **1.01.11. Grammatical interpretation**

The following grammatical rules apply to this code:

1. Any gender includes the other gender;
2. The singular number includes the plural and the plural includes the singular;
3. The present tense includes the past and future tenses, and vice versa, unless clearly inappropriate;
4. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language;
5. Common words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

## **CHAPTER 1.02**

### **ORDINANCES**

- 1.02.01** Acts of the council.
- 1.02.02** Acts required to be by ordinance.
- 1.02.03** Ordinance procedure.
- 1.02.04** Ordinance form and content.
- 1.02.05** Emergency ordinance.
- 1.02.06** Ordinance confined to single subject.
- 1.02.07** Requirements for passage.

#### **1.02.01. Acts of the council.**

The council shall act only by ordinance, resolution, or motion. Law of general, uniform, and permanent nature shall be written as an ordinance.

#### **1.02.02. Acts required to be by ordinance.**

- A. In addition to other actions which state law requires to be by ordinance, the council shall use ordinances to:
  - 1. Establish, alter, or abolish city departments including Local Improvement Districts;
  - 2. Amend or repeal an existing ordinance;
  - 3. Fix the compensation of councilmembers;
  - 4. Provide for the sale of city property;
  - 5. Provide for a fine or other penalty, or establish rules or regulations for violation of which a fine or other penalty is imposed;
  - 6. Adopt, amend, or change the city budget;
  - 7. Make appropriations and supplemental appropriations or to transfer appropriations;
  - 8. Grant, renew, or extend a franchise;
  - 9. Regulate the rate charged by a public utility;
  - 10. Approve the transfer of a power to a borough;
  - 11. Adopt, modify, or repeal the comprehensive plan, zoning, and subdivision ordinances, building and housing codes, and the official map;
  - 12. Provide for the retention or sale of tax-foreclosed property;

13. Exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of city public works projects within the limitations set out in AS 36.25.025.
  14. Provide for the levying of taxes
- B. The budget ordinance is a non-code ordinance and need not be included in this code.

#### **1.02.03. Ordinance procedure**

- A. A proposed ordinance is introduced in writing by the mayor or other councilmember, or by a committee of councilmembers, at any lawful council meeting.
- B. After the ordinance is introduced, the council votes on whether to set the time and place for a public hearing on the ordinance. If there are at least four votes in favor of setting a public hearing, then the council shall publish a summary of the proposed ordinance with a notice setting out the time and place for a public hearing on the proposed ordinance. The public hearing on the proposed ordinance shall follow the date the notice was published by at least five days. The public hearing may be held at any lawful council meeting.
- C. 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 persons shall have an opportunity to be heard at the public hearing. After the hearing, the council shall consider the proposed ordinance and may adopt it with or without amendment. The council shall type or print and make available copies of the adopted ordinance.
- D. If the proposed ordinance is amended after the public hearing, and the amendments are so substantial they change the ordinance's basic character, the proposed ordinance shall be treated as a newly-introduced proposed ordinance.

#### **1.02.04. Ordinance form and content**

- A. All ordinances enacted by the council shall be in substantially the following form:
1. The heading " City of Kachemak"; "Kachemak, Alaska";
  2. The ordinance number;
  3. The title, which summarizes the ordinance's provisions and includes any penalty imposed;
  4. The enacting clause, which shall read: "BE IT ENACTED BY THE KACHEMAK CITY COUNCIL AS FOLLOWS:";
  5. The provisions of the ordinance;
  6. The dates of introduction (first reading), public hearing, and adoption;
  7. Space for the signature of the mayor;
  8. Space for the clerk's signature to verify the signature of the mayor;

- B. The form appearing at the end of this chapter illustrates the form set out in this section and is suggested for use by councilmembers;

#### **1.02.05Emergency ordinances**

- A. The council may adopt emergency ordinances to meet a public emergency. Every emergency ordinance must contain a statement by the council why an emergency exists and a statement of the facts which describes 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 council membership, whichever is less, is required for adoption. The council must type or 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 60 days.

#### **1.02.06Ordinances confined to single subject**

Every ordinance shall 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 summarized in the title.

#### **1.02.07. Requirements for passage**

- A. At least four affirmative votes are required for the passage of an ordinance.
- B. Each member present shall vote on every question, unless required to abstain from voting on a question by law.
- C. The final vote of each member on each ordinance, resolution, or substantive motion shall be recorded "yes" or "no," except that if the vote is unanimous it may be recorded "unanimous."

(Chapter 1.02.04A)

CITY OF KACHEMAK  
KACHEMAK, ALASKA

ORDINANCE NO.

AN ORDINANCE \_\_\_\_\_  
\_\_\_\_\_

BE IT ENACTED BY THE KACHEMAK CITY COUNCIL AS FOLLOWS:

Section 1. \_\_\_\_\_  
\_\_\_\_\_

Section 2. \_\_\_\_\_  
\_\_\_\_\_

Section 3. \_\_\_\_\_  
\_\_\_\_\_

PASSED AND APPROVED BY THE KACHEMAK CITY COUNCIL THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CLERK

FIRST READING (INTRODUCTION): \_\_\_\_\_

PUBLIC HEARING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_



## **CHAPTER 1.03**

### **RESOLUTIONS AND TECHNICAL CODES**

**1.03.01**acting by resolution.

**1.03.02**Procedures for resolutions.

**1.03.03**Requirements for passage.

**1.03.04**Rules and regulations.

**1.03.05**Codes of regulations.

#### **1.03.01acting by resolution**

- A. Opinions, principles, facts, or propositions may be presented in the form of a resolution.
- B. A resolution shall be in substantially the following form:
  - 1. The heading "City of Kachemak", "Kachemak, Alaska";
  - 2. The resolution number;
  - 3. A short title descriptive of the resolution's subject and purpose;
  - 4. "WHEREAS" clauses describing the statements of fact that show why there is a need for resolution;
  - 5. The resolving clause "BE IT RESOLVED:" Stating the opinions or course of action the council feels should be taken;
  - 6. The date of passage;
  - 7. Space for the signature of the mayor.
  - 8. Space for the clerk's signature verifying the signature of the mayor.
- C. Resolutions shall not be included in the code, but shall be kept separately by the clerk in a file available for public inspection.
- D. The form appearing at the end of this chapter illustrates the form set out in this section and is suggested for use by councilmembers.

#### **1.03.02Procedures for resolutions**

- A. Every resolution shall be introduced in writing by the mayor or other councilmember, or by a committee of councilmembers, at any lawful council meeting.
- B. After adoption, every resolution shall be posted on the city bulletin board or in other places as the council may direct.
- C. Every resolution shall become effective upon adoption unless a later date is specified in the resolution.

- D. If state law requires a resolution to be submitted to city voters, then the resolution may be adopted after the results of the election are certified.

### **1.03.03 Requirements for passage**

- A. At least four affirmative votes are required for the passage of a resolution.
- B. The final vote on each resolution is a recorded roll call vote, except that if the vote is unanimous it may be recorded "unanimous."

### **1.03.04. Rules and regulations**

Any rule or resolution made by any administrative officer or board or commission shall be posted for ten days in three public places following its approval by motion by the council.

### **1.03.05. Codes of regulations**

The council may in a single ordinance adopt or amend by reference provisions of a standard code of regulations. The date or edition of the standard published code of regulations shall be included in the adopting ordinance. 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 15 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 adoption ordinance need be printed after adoption. The City may sell the adopted code to the public.

(Chapter 1.03.01B)

CITY OF KACHEMAK  
KACHEMAK, ALASKA

RESOLUTION NO.

A RESOLUTION \_\_\_\_\_

WHEREAS, \_\_\_\_\_

\_\_\_\_\_

WHEREAS, \_\_\_\_\_

\_\_\_\_\_

BE IT RESOLVED: \_\_\_\_\_

\_\_\_\_\_

PASSED and APPROVED by the KACHEMAK CITY COUNCIL THIS \_\_\_\_\_ day of \_\_\_\_\_ 19  
\_\_\_\_\_.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CLERK

## **CHAPTER 1.04**

### **CITY INFORMATION**

**1.04.01** Name of city and form of government.

**1.04.02** City limits.

**1.04.03** City seal described.

**1.04.04** Seal adoption declared.

**1.04.05** Use of seal.

#### **1.04.01 Name of city and form of government**

- A. The City of Kachemak shall continue as a municipal corporation and political subdivision of the State as a second class city.
- B. The government of the city shall be that commonly known and designated as the council-mayor form of government.

#### **1.04.02 City limits**

The boundaries of the city as described below are the effective city limits:

"Situated on the north shore of Kachemak Bay, within Township 6 South, Range 13 West, Seward Meridian, Alaska. Being more particularly described as beginning at Corner One, at the corner of Sections 1 and 12, Township 6 South, Range 13 West, Seward Meridian, Alaska, and corner of Sections 6 and 7, Township 6 South, Range 12 West, S.M.; thence north along Range line, between Sections 1 and 6, a distance 1319.8 feet to the south one sixteenth corner of Sections 6 and 1 to Corner Two; thence S 89° - 56'W, along the south one sixteenth line of Section 1, a distance of 5283.3 feet to the south one sixteenth corner of Sections 1 and 2 to Corner Three; thence S. 0° -01' E. between Sections 1 and 2, a distance of 1318.3 feet to the Corner of Sections 1, 2, 11, and 12 to Corner Four; thence S 89° -53' W. between Sections 2 and 11, a distance of 5285.9 feet to the corner of Sections 2, 3, 10, and 11 to Corner Five; thence South 0° - 03' E between Sections 10 and 11, a distance of 2635.5 feet to the quarter corner of Sections 10 and 11 to Corner Six; thence S 89° -04'W along centerline of Section 10, a distance of 2639.7 feet to the center of Section 10 to Corner 7; thence S 0° -07' E, along centerline of Section 10, to the center of the East Road right of way to Corner 8; thence northeasterly along the centerline of the East Road right of way to the intersection of East Road and the section line between Sections 11 of East Road and the section line between Sections 11 and 12 to Corner 9; thence south along section line between Sections 11 and 12 to the Meander Corner of Sections 11 and 12 on the line of Mean High Water of Kachemak Bay to Corner 10; thence northeasterly along Kachemak Bay to Corner 10; thence northeasterly along the line of Mean High Water of

Kachemak Bay to the Meander Corner of Sections 12 and 7 on the Range line between Ranges 12 and 13 to Corner 11; thence north along range line between Sections 12 and 7; a distance of 1,167.2 feet to the POINT OF BEGINNING:"

As for mileage figures, the City of Kachemak starts approximately 2 1/2 miles from the beginning of the East Road and ends at approximately mile 5.

#### **1.04.03City seal described**

The City of Kachemak seal is approximately one and one half inches in diameter. Written on top of the outer circle is "Kachemak City Alaska, Inc.", and on the underside of the outer circle is "\*\*\*Alaska\*\*\*". Centered inside the outer circle is another circle approximately one inch in diameter which has three lines: "Corporate", "Seal", and "1971".

#### **1.04.04Seal adoption declared**

The seal described in 1.04.03 is hereby adopted and declared the official seal of the City.

#### **1.04.05Use of seal**

The city seal shall be used as evidence of the official nature of city acts or documents. The seal is to be kept and used by the clerk.

## **Title 2**

### **City Administration**

#### **Chapters:**

- 2.01** Mayor
- 2.02** City Council
- 2.03** City Council Meetings
- 2.04** City Council Procedures
- 2.05** City Clerk
- 2.06** Responsibility of Officers and Employees
- 2.07** Documents and Records
- 2.08** Personnel Policy Requirements

## **Chapter 2.01 Mayor**

- 2.01.01** Duties of Mayor as executive.
- 2.01.02** Qualifications
- 2.01.03** Compensation of Mayor
- 2.01.04** Oath of Office
- 2.01.05** Mayor's Vote
- 2.01.06** Term of Office
- 2.01.07** Vacancy
- 2.01.08** Vice-Mayor
- 2.01.09** Mayor is an Ex-Officio Officer.

### **2.01.01 Duties of Mayor**

- A. The Mayor is chief executive officer of the City. The Mayor shall preside at Council meetings, act as ceremonial head of the City, and sign documents on behalf of the City upon Council authorization;
- B. The Mayor is chief administrative officer of the City. The Mayor shall perform the administrative duties listed below;
  - 1. The Mayor shall notify the Council of the need to hire city employees, other administrative staff, or personnel and schedule a Council work session to review and approve the request to develop or amend the job description.
  - 2. All employee performance reviews will be approved by the Council.
  - 3. Suspend or termination and compensation changes for City employees and administrative officers, unless otherwise provided in this code or by AS 29.20.250, upon Council approval.
  - 4. Obey and Supervise enforcement of City law.
  - 5. Prepare the annual budget and capital improvements program for the Council.
  - 6. Make monthly financial reports to the Council on City finances and operations and approve over expenditures.
  - 7. Report to the Council at the end of each fiscal year on the finances and administrative activities of the City.
  - 8. Serve as City personnel officer unless the Council authorizes the Mayor by motion to appoint a personnel officer.
  - 9. Execute other powers and duties specified in Title 29 or lawfully prescribed by the Council.



### **2.01.02 Qualifications**

- A. The Mayor shall be a qualified City voter.
- B. If the Mayor ceases to be eligible to be a City voter, he or she is no longer Mayor or Councilmember;
- C. The Mayor shall have been a resident of the City for one year immediately prior to the date of the election.

### **2.01.03 Compensation of Mayor**

Compensation for the Mayor shall be \$600 per month, until changed by the Council by ordinance. **(Ordinance 01-05 - Codified 7/11/2001) see 2.02.06.**

### **2.01.04 Oath of Office**

The Mayor, as a Council Member, shall affirm in writing the oath of office required of other Council Members in 2.02.05 of this code.

### **2.01.05 Mayor's Vote**

The Mayor is a Council Member and may vote on all matters. The Mayor does not have the veto power.

### **2.01.06 Term of Office**

The Mayor is elected by and from the Council for a term of one year and until a successor is elected and has qualified. After the election is certified at the first regular meeting after the election of the Council shall elect a Mayor who takes office immediately.

### **2.01.07 Vacancy**

A vacancy in the office of Mayor is filled by and from the Council.

### **2.01.08 Vice-Mayor**

The Council shall elect a Vice-Mayor from among its membership to serve in the temporary absence of Mayor.

### **2.01.09 Mayor is Ex-Officio Officer**

The Mayor is an Ex-Officio Officer of every committee or department organized under this code barring conflict of interest.

## **Chapter 2.02**

### **City Council**

- 2.02.01** Composition of Council
- 2.02.02** Qualifications of Councilmembers
- 2.02.03** Election of Councilmembers
- 2.02.04** Terms of Councilmembers
- 2.02.05** Oath of Office
- 2.02.06** Compensation of Councilmembers
- 2.02.07** Conflicts of Interest
- 2.02.08** Vacancies
- 2.02.09** Filling a Vacancy

#### **2.02.01 Composition of Council**

The Council shall consist of seven members elected by the voters at large.

#### **2.02.02 Qualifications of Councilmembers**

- A. A Council Member shall be a qualified City voter.
- B. A Councilmember who ceases to be eligible to be a City voter immediately forfeits his or her office.
- C. In order to serve as a Council Member, a person must be a resident of the City for 1 year **(Ordinance 2011-08 - Adopted 10/12/2011)** immediately prior to the date of the election.

#### **2.02.03 Election of Councilmembers**

An election will be held annually on the first Tuesday in October to choose Council Members according to the schedule provided in section 4 of this chapter.

#### **2.02.04 Term of Councilmembers**

Councilmembers shall be elected as follows:

1. SEAT A, 3 YEARS. Term expires in 2022, 2025, 2028, 2031 etc.
2. SEAT B, 3 YEARS. Term expires in 2023, 2026, 2029, 2032 etc.
3. SEAT C, 3 YEARS. Term expires in 2021, 2024, 2027, 2030 etc.
4. SEAT D, 3 YEARS. Term expires in 2022, 2025, 2028, 2031 etc.
5. SEAT E, 3 YEARS. Term expires in 2021, 2024, 2029, 2032 etc.
6. SEAT F, 3 YEARS. Term expires in 2023, 2026, 2029, 2032 etc.
7. SEAT G, 3 YEARS. Term expires in 2022, 2025, 2028, 2031 etc.

#### **2.02.05 Oath of Office**

- A. All Council Members before entering upon the duties of office shall affirm in writing the following oath and affirmation: “I \_\_\_\_\_, do solemnly swear that I will support and defend the constitution of the United States, the constitution of the State of Alaska, and ordinances of the City of Kachemak, Alaska, and that I will honestly, faithfully, and impartially perform the duties of the office of Council Member to the best of my ability.”
- B. The oath is filed with the Clerk.

#### **2.02.06 Compensation for Mayor and Councilmembers**

- A. Compensation shall be provided as reimbursement to elected officials only in the performance of services necessary to the administrative functions and responsibilities of the City. The Council may change the compensation of elected officials by ordinance only. As of November 1, 2006, elected officials of the City of Kachemak will no longer be eligible for participation in the Public Employees Retirement System.

**(Ordinance 2006-09 Adopted 11/8/06)**

1. Compensation for the Mayor shall be \$600 per month, until changed by the Council by ordinance.

**(Ordinance 01-05 Adopted 7/11/2001)**

- B. The Mayor and/or Council Members are eligible for employment by the City for projects involving repairs, maintenance, and/or improvements of the City under the provisions of this section. Compensation for repair/maintenance/improvement projects in excess of \$1,500 must be advertised for competitive bid/request for proposal by the City. Repair/maintenance/improvement projects under \$1,500, but more than \$250 require a comparison of cost from at least two supplies/providers, and may be awarded by the Council to anyone, including Council Members who hold a valid Business License. Minor contracts may include materials and labor and can be awarded by the Council through the Resolution process at Council’s discretion. Compensation for

repairs/maintenance/improvements under \$250 may be awarded to anyone, including Council Members, without a bid, and must be at no greater a rate than a reasonable one based on the amount and quality of work performed, and must be approved by motion of the Council.

- C. Travel reimbursement. All elected or appointed officers and employees of the City required to travel on official business outside the City shall be reimbursed for their travel expenses. Reimbursement for travel and payment methods shall be approved by the Council through a resolution. **(Ordinance 86-6 Adopted 8/27/86).**

#### **2.02.07 Conflicts of Interest**

- A. A City Council Member with a substantial financial interest in an Official Action will be taken by the Council as a conflict of interest.
- B. Procedure for declaring. A City Council Member with a conflict of interest under 2.02.07(A) shall so declare to the Mayor and ask to be excused from voting on the matter. However, a City Council Member with a conflict of interest, regardless of whether excused from voting, shall be allowed to participate in discussion about the matter.
- C. Presiding officer to rule. The Mayor or, in his/her absence, other presiding officer, shall rule on request by a City Council Member to be excused from voting on a matter because of a declared conflict of interest.
- D. Governing body may override. A decision of the Mayor or other presiding officer under 2.02.07(C) may be overridden by a majority vote of the City Council.
- E. City employees and other City officials. A City employee, or a City official other than a member of the City Council, may not participate in an official action in which he/she has a substantial financial interest.

**(Ordinance 86-5 Adopted 8/27/86)**

#### **2.02.08 Vacancies**

- A. An elected City office is vacated under the following conditions. The Council shall declare an office vacant when the person elected:
  - 1. Fails to qualify or take office within 30 days after election or appointment, unless excused by the Council; or
  - 2. Is physically absent from the City for a 90-day period, unless excused by the Council; or
  - 3. Resigns and the resignation is accepted; or
  - 4. Is physically or mentally unable to perform the duties of office as determined by two-thirds vote of the Council; or
  - 5. Has more than three unexcused absences from Council meetings (regular or special) within a calendar year (October to October – to correspond with municipal election dates). If the Council Member is absent unexcused by the Council for three meetings within this period of time, he/she will

forfeit his/her seat on the Council and the Council will then appoint a qualified voter to fill the remaining portion of his/her term. It will be the responsibility of the Kachemak City Council to decide whether an absence is an excusable one, and to act accordingly.

**(Ordinance 88-0 Adopted 2/10/88)**

6. Is convicted of a felony or of an offense involving a violation of his or her oath of office; or
  7. No longer physically reside in the City of Kachemak and the Council by two-thirds vote declares the seat vacant; or
  8. Is convicted of a violation of AS 15.13; or
  9. Is convicted of a felony or misdemeanor described in AS 15.56 and two-thirds of the Council concur in expelling the person elected.
- B. The Kachemak City Clerk shall attempt to notify Council Members of all special meetings at least 24 hours prior to the meeting. Inability to contact a Council Member constitutes an excused absence.
- C. An unexcused absence shall be defined as; a Council Member not serving notice of his/her absence to the Clerk for regular meetings, or after contact for a special meeting. Notice must be served prior to the meeting in question.

## **2.02.09 Filling a vacancy**

Filling a vacancy on the Council shall be consistent with Alaska Statute 29.20.180.

- A. If a vacancy occurs on the Council, the remaining Council Members shall, within 30 days, appoint a qualified person to fill the vacancy. If less than 30 days remain in the term, a vacancy may not be filled.
- B. Notwithstanding (A) of this section, if the council is reduced to fewer than a quorum, the remaining members shall, within seven days, appoint a number of qualified persons to constitute a quorum.
- C. A person appointed under this section serves until the next regular election, when a successor shall be elected to serve the balance of the term.

## **Chapter 2.03**

### **City Council Meetings**

- 2.03.01** Public Meetings
- 2.03.02** Regular Council Meetings
- 2.03.03** Special Meetings, Emergency Meetings
- 2.03.04** Notice
- 2.03.05** Executive session
- 2.03.06** Teleconference Participation in Meetings

#### **2.03.01 Public Meetings**

- A. Meetings of the Council shall be public. The only exception to the requirement of public Council meetings is when an executive session is lawfully justified, as provided in section 5 of this chapter.
- B. The Council shall provide a reasonable opportunity for the public to be heard at regular and special meetings. Time limits are as follows, but additional time may be granted by the Mayor upon motion and approval of the Council:
  - 1. Formal presentations made at the request of the Mayor or Council shall not be limited.
  - 2. Formal presentations made by arrangements with the City Council at least 48 hours before the meeting shall be limited to 10 minutes per topic regardless of the number of persons participating in the presentation.
  - 3. Public testimony made without prior arrangement shall be limited to 3 minutes per person per topic.
  - 4. Time limits in this section do not include time used in responding to questions from the Council Members.

#### **2.03.02 Regular Council Meetings**

- A. The Council shall meet on the second Wednesday of each month. In the event of special circumstances the meeting time or date may be rescheduled, provided reasonable notice is given.
- B. The usual place of Council meetings shall be at the Kachemak City Hall. In the event of any condition which renders the meeting place unfit to conduct meetings of the Council, the meeting shall be moved to such other place as the Council may choose, provided reasonable notice is given.

C. Code of Conduct Behavioral Expectations is intended to assure the public that the City Council of Kachemak and its individual members uphold the highest level of integrity and ethical standards as they ensure public access to competent, safe and ethical practices. Code of Conduct Behavioral Expectations is intended to assure the public that the City Council of Kachemak and its individual members uphold the highest level of integrity and ethical standards as they ensure public access to competent, safe and ethical practices listed below; Demonstrate professional civility to fellow Council Members, staff and public in all matters. Avoid emotional outbursts or anything that could be considered threatening or intimidating at all times. Respect and adhere to rules of the Council policies and guidelines. Ensure each matter is dealt with in a fair, equitable and impartial manner. Courteously accept decisions made by the majority of the Council, regardless of a possible conflicting opinion. Strive beyond the norm to avoid any actual or perceived conflict of interest that may compromise the integrity of the Council.

1. Demonstrate professional civility to fellow Council Members, staff and public in all matters.
2. Avoid emotional outbursts or anything that could be considered threatening or intimidating at all times.
3. Respect and adhere to rules of the Council policies and guidelines.
4. Ensure each matter is dealt with in a fair, equitable and impartial manner.
5. Courteously accept decisions made by the majority of the Council, regardless of a possible conflicting opinion.
6. Strive beyond the norm to avoid any actual or perceived conflict of interest that may compromise the integrity of the Council.

**(Ordinance 2023-14 Adopted 1/10/24)**

### **2.03.03 Special Meetings, Emergency 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 regular Council meetings. The location of all special Council meetings shall be the same as that authorized for regular Council meetings.
- B. Advance notice of at least 24 hours shall be given to each Council Member before a special meeting. No business shall be transacted at the meeting which is not mentioned in the notice. Such notice shall be given personally to each member of the Council or left at his or her usual place of business or residence by the Clerk.

D. In an emergency, a special meeting called on less than 24 hours' notice is a legal meeting if all members are present or if there is a quorum and all absent members have waived (excused) in writing the required notice. A waiver may be made either before or after the meeting is held. Waivers shall be attached to and made part of the minutes of the meeting.

#### **2.03.04 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 in at least three public places not less than 24 hours before the time of the meeting. This section does not alter or supersede any other notice requirements which may be provided in state law.

#### **2.03.05 Executive Session**

A. Only 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 City.
2. Subjects that tend to prejudice the reputation and character of any person, provided the person(s) 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 any of the above subjects are to be discussed in executive session, the session must first be convened as a public meeting. During the public meeting, the Council shall vote on a motion whether to hold an executive session. No subjects may be considered at the executive session except those mentioned in the adopted motion calling for the executive session and which concern subsections "A." and "B," above unless relating to the main question. No action may be taken at the executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

Only after the executive session is over and the meeting is once again before the public may the Council take action on what was discussed in the executive session except as addressed in 2.03.05.



### **2.03.06 Teleconference Participation in Meetings**

This section governs the telephonic participation of the Mayor and members of the Council at all meetings of the City Council.

- A. All Council Members and the Mayor should make all reasonable efforts to be physically present for every meeting. However, physical presence may be waived and the Mayor and any member (s) may participate in a Council meeting by teleconference, subject to the procedures and limitations provided in this chapter.
  - 1. Teleconference participation may not be used as a regular means of attendance at meetings.
  - 2. Participation by teleconference may be denied whenever the physical presence of the individual is considered essential to effective participation in the meeting or to the proper conduct of the business to be addressed at the meeting. If teleconferencing is denied, the individual will be listed as absent.
- B. Teleconferencing is a means used for remote participation by an official for a meeting of the City Council which must enable the remote official, for the duration of the meeting to clearly hear the Mayor, all Council Members, the City Clerk and the public testimony and to be clearly heard by the Mayor, all Council Members, the City Clerk and the public in attendance.
- C. A Mayor or Council Member who cannot be physically present for a regularly scheduled Council meeting shall notify the City Clerk, at least two days prior to the scheduled meeting time, of his or her request to participate in the meeting by telephonic means of communication.
  - 1. This does not apply to special meetings, emergency meetings of the City Council called under Section 2.03.03 of this Code.
  - 2. A Council Member or Mayor who requests to participate in a special or emergency meeting of the City Council must notify the City Clerk before the time scheduled for the start of the meeting.
- D. A person participating by teleconference shall, while actually on the teleconference, be deemed to be present at the meeting for all purposes. The person shall make every effort to participate in the entire meeting.
- E. If the Mayor participates telephonically, the Vice-Mayor or senior Council Member in the Vice-Mayor's absence, shall preside over and perform all the functions of the Mayor at the meeting.

- F. The City Clerk shall note in the journal of the proceedings of the City Council all members appearing telephonically.
  - G. To the extent practicable, materials to be considered by the Council shall be made available to those attending by teleconference.
  - H. Each Council Member and the Mayor may attend a maximum of three regularly scheduled meetings by teleconference during the 12 month period commencing November of each year.
    - 1. A Council Member may participate telephonically in a special or emergency meeting of the City Council without this participation counting against the maximum of three for regular scheduled meetings.
  - I. Each Council Member and the Mayor may attend additional regularly scheduled meetings by teleconference as a special exception if expressly approved for good cause in each instance by a vote of the Council. Good causes may include, but are not limited to, absence required for extended medical care needed for the individual or the individual's immediate family.
  - J. No Council Member or the Mayor shall attend an executive session of the City Council by telephonic means.
- (Ordinance 2019-05 Adopted 11/12/19)**

**Chapter 2.04**  
**City Council Procedures**

- 2.04.01** Mayor Presides at Council Meetings
- 2.04.02** Order of Business
- 2.04.03** Minutes
- 2.04.04** Speaking – Rules of Conduct
- 2.04.05** Second Required for Motions
- 2.04.06** Disposition of Motions
- 2.04.07** Reducing Motions to Writing
- 2.04.08** Changing Vote on Motion
- 2.04.09** Additional Procedures
- 2.04.10** Voting Requirements

**2.04.01 Mayor Presides at Council Meetings**

- A. The Mayor shall preside at all meetings of the Council. He or she shall preserve order among Council Members and is responsible for the efficient conduct of all meetings according to the rules of the Council. The Mayor may at any time make such other rules as are considered reasonable and proper to preserve order among the attending public during sessions of the Council.
- B. The Council shall select a Vice-Mayor from among the Council who will preside in the Mayor's absence or disability.
- C. In the temporary absence or disability of the Mayor or Vice-Mayor, any member of the Council may call the Council to order at any properly-called meeting to elect an acting Mayor from among its members. The acting Mayor shall exercise all the powers of the Mayor only during such temporary absence or disability of the Mayor or Vice-Mayor.

#### **2.04.02 Order of business**

The order of business at every meeting of the Council shall be as follows:

1. Call to Order
2. Pledge of Allegiance
3. Approval of the Agenda
4. Approval of the Minutes of previous meeting(s)
5. Committee Reports
6. Announcements/Visitors
7. Public Hearings
8. Ordinances
9. Resolutions
10. Mayor's Report
11. Clerk's Report
12. Pending Business
13. New Business
14. Comments of the Public
15. Comments of the Council
16. Informational Materials
17. Adjournment

#### **2.04.03 Minutes**

Minutes of all regular and special meetings shall be taken. All minutes shall be kept in the Council Meeting Journal. The minutes are available to the public for inspection and copies may be sold at cost.

#### **2.04.04 Speaking –Rules of Conduct**

- A. Before speaking, a Council Member must first respectfully address the Mayor or other presiding officer for permission to speak. A Council Member must then be recognized by the Mayor or presiding officer before speaking. When two or more members request to speak at the same time, the Mayor or other presiding officer shall determine which one is recognized.
- B. When speaking, a Council Member shall discuss only the subject under discussion. A Council Member shall not refer to any other Council Member except in a respectful manner.

#### **2.04.05 Second Required for Motions**

All motions require a second, unless otherwise provided by special rule

#### **2.04.06 Disposition of Motions**

After a motion is seconded and stated or read by the Mayor or other Presiding Officer, it shall be considered to be in the possession of the Council and shall be disposed of by vote. However, the Council Member making the motion may withdraw it at any time before a vote is taken if the member who made the second agrees.

#### **2.04.07 Reducing Motions to Writing**

A motion must be made in writing if any Council Member demands.

#### **2.04.08 Changing Vote on Motion**

Any previous vote on a motion may be changed by majority vote of the Council.

#### **2.04.09 Additional Procedures**

Robert's Rules of Order Revised governs the conduct of Council meetings to the extent this chapter does not provide otherwise.

#### **2.04.10 Voting Requirements**

- A. Four Council Members constitute a quorum. A quorum is necessary for the Council to conduct any business.
- B. At least four affirmative or “yes” votes are required for passage of an ordinance, resolution or motion.
- C. The final vote on each ordinance, resolution, or substantive motion is a recorded roll call vote, except that if the vote is unanimous of all Council Members present it may be recorded “unanimous”. Except when a conflict of interest requires that a person not vote, all Council Members present shall vote.
- D. The Mayor or Presiding Officer shall declare all votes and the result.

## **CHAPTER 2.05**

### **City Clerk**

**2.05.01** Appointment and Term

**2.05.02** Duties of Clerk

**2.05.03** Acting Clerk

**2.05.04** Treasurer

#### **2.05.01 Appointment and Term**

A. The Clerk shall be appointed by the Council.

B. The Clerk shall hold office at the pleasure of the Council.

#### **2.05.02 Duties of the Clerk**

The Clerk shall:

1. Give and post notice of the time and place of Council meetings both to the Council and to the public.
2. Attend Council meetings and keep the minutes in the journal.
3. Arrange publication and posting of notices, ordinances, and resolutions, rules, regulations, and codes.
4. Maintain and make available for the public inspection City ordinances, resolutions, rules, regulations, and codes.
5. Attest deeds, ordinances, resolutions, and other documents.
6. Record and certify actions of the Council.
7. Have the power to administer oaths.
8. Be custodian of the City Seal and the official records of the City.
9. Be the City elections registrar and be responsible for calling and supervising all City elections.
10. Perform other duties specified by this Code, State Law, or the Council.

#### **2.05.03 Acting Clerk**

The Council may appoint an acting Clerk in case of the temporary absence of the Clerk. The acting Clerk has all the powers, duties, and obligations of the Clerk.

#### **2.05.04 Treasurer**

- A. The Clerk is the City Treasurer.
- B. As treasurer, the Clerk shall:
  - 1. Keep custody of all City funds.
  - 2. Keep an itemized account of money received and disbursed.
  - 3. Arrange maintenance of property used by the City.
  - 4. Assist the Mayor to then compile the annual budget of the City.
  - 5. Prepare and submit to the Mayor such financial reports and other data as may be required.
  - 6. Prescribe and control such procedures as are necessary to protect City funds and property.
  - 7. Before such other duties as the Mayor, Council, or state law may lawfully require.

#### **2.05.05 Wage Review for City Clerk and Employees**

A Committee of at least three Council Members (including the Mayor) shall meet at least once a year and review wages of the City Clerk and the Employees. The Committee will then report to Council the amount of a wage or bonus they recommend. An Executive Session may be called under Section 2.03.05.

**(Ordinance 2015-02 Adopted 3/11/15)**

**Chapter 2.06**  
**Responsibility of Officers and Employees**

- 2.06.01** Conduct in office
- 2.06.02** Oath of office
- 2.06.03** Records open
- 2.06.04** Indemnification
- 2.06.05** Financial disclosure requirements

**2.06.01 Conduct in office**

The Council or the Mayor shall have power to inquire into the conduct of any office, department, officer, or employee of the City, make investigations into City affairs, and compel the production of books, papers, and other evidence shall constitute grounds for immediate discharge of any officer or employee of the City.

**2.06.02 Oath of Office**

Every officer of the City shall, before entering upon the duties of office, take an oath in writing to honestly, faithfully, and impartially perform and discharge the duties of his or her office. This oath is provided in Chapter 2.02.05, of this code.

**2.06.03 Records Open**

All records and accounts of every office department of the City shall be open to 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 ordinance to be kept confidential are not open to inspection. Each department head shall be responsible for the safe-keeping of all public records, 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 Clerk.

**2.06.04 Indemnification**

- A. Indemnification from personal liability: The City hereby indemnifies and holds harmless from personal liability, all elected and appointed officials and employees of the city, including members of boards and commissions, who, at the time of events that precipitated any lawsuit in which they have been named as defendant in the same, were acting in good faith and in the course and furtherance of City business. Such indemnification shall include the costs of defending any such official or employee provided the City shall retain the right to select counsel for the purpose of such defense.



- B. Period of indemnification and persons covered: The period of indemnification shall include incidents which arise during the entire period within which any elected or appointed official or employee shall have been serving in an official capacity for or employed by the City of Kachemak. This period shall include lawsuits filed prior to the date of this ordinance as well as those filled subsequent to its passage and shall further apply to those named as defendant who may no longer be officials of or employed by the city, so long as they were serving in such capacity at the time of the alleged act or omission.
- C. Exclusions: Persons acting in bad faith or outside the regular scope of City business or who are charged with a criminal offense are specifically excluded from indemnification under this ordinance.

**(Ordinance 90-02 Adopted 6/19/91)**

#### **2.06.05 Financial disclosure requirements**

- A. By vote of the electorate, the City of Kachemak is exempt from the provisions of Alaska law relating to financial disclosure of candidates and holders of municipal offices.

**(Ordinance 75-02 Adopted 7/8/75).**

- B. By vote of the electorate, the City of Kachemak is exempt from the provisions of Alaska law relating to election campaign fund disclosure or to reporting of contributions and expenditures in election campaigns.

**(Ordinance 75-02 Adopted 7/8/75)**

**Chapter 2.07**  
**Documents and Records**

**2.07.01** Document approval

**2.07.02** Documents to file with the state

**2.07.03** Attested by the Clerk

**2.07.01 Document approval**

All legal documents requiring the assent of the City shall be:

1. Approved by the Council
2. Signed by the Mayor on behalf of the City
3. Attested by the Clerk

**2.07.02 Documents to file with the state**

The City shall file the following documents with the Department of Community and Regional Affairs.

1. Maps and descriptions of all annexed or excluded territory.
2. A copy of an audit or statement of annual income and expenditures.
3. Tax assessment and tax levy figures as requested.
4. Reports relating to long-term debt as provided in AS 44.19.205.
5. A copy of the current annual City budget.
6. A summary of the optional property tax exemptions authorized in the City, together with the City's estimate of the revenues lost to it by operations of each of the exemptions.

**2.07.03 Retention, disposal of public records**

The Mayor shall approve a records retention and disposal schedule which indicates how long City records, documents, correspondence and other papers shall be kept before disposal.

**Chapter 2.08**  
**Personnel Policy Requirements**

**2.08.01** Merit System

**2.08.02** Promotion

**2.08.03** No Discrimination

**2.08.04** City Residents

**2.08.05** Nepotism

**2.08.01 Merit system**

Hiring and promotion of City employees shall be made on the basis of merit and ability.

**2.08.02 Promotion**

When well-qualified individuals are available, appointments to fill vacancies shall be by promotion from among the City staff.

**2.08.03 No discrimination**

There shall be no discrimination in the employment procedure, including appointment, promotion, demotion, suspension, or removal on the basis of race, political affiliation, national origin, sex, or other unmerited reasons.

**2.08.04 City Residents**

Other qualifications being equal, preference in hiring or promotion may be given to residents to the City area.

**2.08.05 Nepotism**

- A. No person may be employed in a position supervised by a family member. If an employee and his supervisor should marry, they shall determine who will continue with the department and who will terminate or transfer. "Family member" means spouse, father, mother, brother, sister, or child.
- B. The Council, by resolution, may provide for exceptions on a case-by-case basis.



## TITLE 3. FINANCE AND BUDGET

### Chapters:

- 3.01 FISCAL POLICIES
- 3.02 BUDGET FORM AND SCOPE
- 3.03 BUDGET PROCEDURES
- 3.04 PURCHASING
- 3.05 LEVYING OF TAXES

## **CHAPTER 3.1**

### **FISCAL POLICIES**

**3.01.01** Budget and capital improvements program.

**3.01.02** City obligations.

**3.01.03** Fiscal year.

**3.01.04** Statement of annual income and expenditures, audit.

**3.01.05** Check writing policy.

**3.01.06** Expenditures requiring a competitive bid process.

#### **3.01.01 Budget and capital improvements program**

- A. The mayor, with the assistance of the clerk, shall prepare the budget and capital improvements program of the city for the council. The budget and capital improvements program shall be submitted as an ordinance.
- B. After public hearing, the council may approve the budget and capital improvements program with or without amendments and shall appropriate the funds required.
  - 1. The Council may not expend any funds for capital outlay items or for capital expenditure projects unless a Public Hearing is held on the specific allocation, and the specified amount to be allocated.
  - 2. If the specific allocation/project has already been heard by the public through the Budget Ordinance Process, it is not necessary to hold any additional public hearings on the allocation/project in question.
  - 3. When funds for capital outlay or capital expenditure projects are taken from the contingency budget item, the Council shall be required to reallocate the funds in the form of an ordinance amending the budget ordinance for that fiscal year. (Ordinance 83-3).

#### **3.01.02 City obligations**

- A. The City may incur general obligation bond debt only after a bond authorization ordinance is approved by a majority vote at an election. (AS29.47.190)

- B. A contract, lease, or other obligation requiring the payment of funds from the appropriation of a later fiscal year shall be made by ordinance.
- C. 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.
- D. The council may authorize contracts for capital improvements to be financed wholly or partly by the issuance of bonds.

### **3.01.03. Fiscal year**

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

### **3.01.04. Statement of annual income and expenditure, audit**

- A. The mayor is responsible for preparing a statement of annual income and expenditure and delivering the statement to the council before October 1 of each year.
- B. The council may require that an audit be conducted in place of or in addition to the statement of annual income and expenditures. The audit shall be completed and transmitted to the council on or before June 30 of the year following the year for which the audit has been prepared, unless the council by resolution specifies another date.

### **3.01.05 Check writing policies**

All checks written on city funds shall be prepared by the Clerk and signed by two persons who shall have been designated by the City Council as signatories on the account and who shall be any two of the following persons: Mayor; Vice-Mayor; (2) City Councilmembers; and the City Clerk. (Ordinance 81-3).

### **3.01.06 Expenditures requiring a competitive bid process**

Expenditures by the City for capital outlay and/or capital expenditure projects of \$2,500 or more are required to be awarded only through a bid process except as stated in 3.01.06A. The bid process may be informal, or a request for proposal, or a public bid. The authority for determining which of these processes shall be employed rests with the City Council.

- A. Exception: If the Council determines it is in the best interest to the City of Kachemak to act quickly, it may by unanimous vote of all Council members present, approve projects of up to \$5,000 without competitive process. (Ordinance 97-05).

**3.01.07. Investment Program**

- A. The program shall consist of a "Cash available" amount of approximately \$50,000 or more as conditions warrant at the discretion of the City Clerk and Mayor. These funds are to be held at one or more local banks.
- B. In addition, one or more collateralized CDs will be held at one or more local banks comprising approximately 20% or more of investable funds. By ordinance of Council, approximately \$400,000 of Kachemak's investment account will be loaned to the Kachemak Natural Gas Distribution Project at the market rate of interest paid to other lending sources for the same purpose and be repaid to the City of Kachemak in ten years or less. (Ordinance 2012-10).
- C. The Homer Foundation has established a "Repair and Replacement Fund Policy" and the City of Kachemak has a "Fire Truck Replacement Fund" that is invested at a very low rate of interest, that council, by resolution can invest in that fund.
- D. It is the intent of Council that income from these investments accrue to the general fund and any capital gains be reinvested annually in the principal of the funds for growth.
- E. Moneys in the Utility fund may be invested in a separate Vanguard GNMA fund account with both principal and interest to be reinvested in that fund. When required, these funds may be made by Council for utility uses.
- F. The initial invested amounts will be done by resolution.

(Ordinance 2013-02)





## **CHAPTER 3.02**

### **BUDGET FORM AND SCOPE**

**3.02.01** Scope of budget.

**3.02.02** Anticipated revenue.

**3.02.03** Proposed expenditures

**3.02.04** Capital expenditures.

**3.02.05** Emergency Road Grants

#### **3.02.01 Scope of budget**

- A. The budget shall be a complete financial plan for all of the operations of the city, showing anticipated revenues, proposed expenditures, and reserves.
- B. The budget shall include a comparative statement of actual expenditures and actual revenues for the preceding fiscal year.
- C. Proposed expenditures shall not exceed anticipated revenues and reserves.

#### **3.02.02 Anticipated revenues**

Anticipated revenues shall be composed of all sources of income to the city, and itemized as to individual source.

#### **3.02.03 Proposed expenditures**

Proposed expenditures shall be itemized. Separate provisions 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 city is pledged;
- 2. Administration, operation, and maintenance of each office, department, or agency of the city;
- 3. The council's budgetary reserve;
- 4. Expenditures proposed for capital improvements;
- 5. Others as required by acceptable accounting procedures and which will fairly and adequately inform the public as to the contents of the budget.

#### **3.02.04 Proposed Grant Expenditures**

- A. The City Council may choose annually to appropriate an amount up to \$10,000 or 0.5 mil of real property taxation, whichever be greater, to fund this grant program.
- B. Grants will be awarded each fiscal year.
- C. Starting in FY96, the availability of these grants will be advertised once per year, 30 or more days prior to awarding of the grants, in a newspaper of local circulation.
- D. Grants may be awarded with or without being tied to a specific project or purpose.
- E. Grant recipients must:
  - 1. Be **either** a registered non-profit organization, **or**, a public entity such as a city or department thereof.
  - 2. If a registered non-profit organization, have headquarters located within Postal Zip Code 99603.
  - 3. Provide infrastructure or public service commonly used by residents of the City of Kachemak, and generally considered to be of value to the community.
  - 4. Guarantee that the entire amount of the grant will be applied to a particular project, if specified, without reduction by any administrative charges.
  - 5. Submit a form available from the Clerk of the City of Kachemak describing briefly the recipient's intended use of the proposed grant and its benefit to residents of Kachemak.
  - 6. Be nominated by at least one member of the Kachemak City Council.
  - 7. Be approved as a suitable nominee by at least four members of the Kachemak City Council.
- F. Grant amounts will be suggested by the nominating council member, finalized after nominations are closed.
- G. To be awarded, a grant must receive the vote of at least four council members. (Ordinance 01-03)

### **3.02.05 Matching Grants within the City of Kachemak**

The City Council may appropriate up to \$35,000 each year for matching grants to reimburse residents of the City for improvements and maintenance made to existing roads within the City of Kachemak.

- A. Kachemak's share of the Grant Amount shall:
  - 1. Not exceed \$1400 per grant.
  - 2. Not exceed 67% of the total cost of the project.
  - 3. Be spent after June 30 of the calendar year in which the application was approved and no later than October 31 of the following year; be paid as reimbursement, upon presentation of receipts or other evidence of expenditures made on the completed project or paid directly to the contractor after the project is completed and local share has been paid. In-kind contributions of materials or machine use, but not of administrative

time, may be used as part of the match. Cost of equipment purchase will not be reimbursed.

B. Qualifying Projects must:

1. Be improvements, repairs, or maintenance to roads already existing on platted rights-of-way within the City of Kachemak at the time of the application. (Not for construction of new roads.
2. Be of benefit to five or more properties within the City. Exception may be made if the Council deems it to be in the best interest of the City to do so.
3. Be open to use by the public. (Not for improvement of private roads.)
4. Grant application amount shall not be greater than \$2,100 (\$1,400 Kachemak's portion plus \$700 property owners share), but at Council's discretion more than one grant may be allowed for roads or road segments.
5. Priority will be given to projects important to the public safety, and to roads which have not recently been improved under this grant program.

C. Applications must:

1. Be made on the form appended hereto, with maps attached.
2. Be received by April 1 of the year in which the proposed project is to be completed. Council may extend grant program deadline if they make changes, or deem additional time is needed by grant applicants.
3. Be signed by individuals responsible for completion of the project. (i.e.: officers of a home-owners' association, or other neighborhood group.)
4. Be approved by the City Council acting as a whole, no later than the Regular Meeting of the City Council in May of the year received.

D. Acceptance must:

1. Be made prior to reimbursement, on the form appended hereto; which includes a waiver of any liability on the part of the City of Kachemak for claims related to design, construction, safety or any other aspect of the project. (See Ordinance 09-07)
2. Be signed by individuals responsible for completion of the project. (i.e.: officers of a home-owners' association or other neighborhood group.)

E. Appeals: Mayor and City Clerk have authority to negotiate or reject unreasonable requests for reimbursement. If rejected, the applicant can appeal to Council for a final determination.

F. Advertising: The City will advertise this grant program in a local newspaper of general circulation at least three times during February-March each year.



**ORDINANCE 09-07**, (Referred to in Title 3.02.05, section D, subsection 1 of the City of Kachemak Code)

**CAPITAL PROJECT GRANT APPLICATION FORM** (Due by April 1)

1. Name(s) of road(s) to be improved: (Also mark on map we provided, and attach.)
2. Nature of project proposed:
3. Number of properties within Kachemak which will benefit from proposed improvements:
4. Name of group making application:  
  
Name of and phone number of contact person(s):
5. Expected cost of project:
6. Explain nature and value of in-kind services, if any, to be included in cost for matching purposes:
7. Amount of grant applied for (not to exceed 67% of the cost of the project, or \$1,400, whichever is less):
- 8.

\_\_\_\_\_  
Signature of Applicant

9. Approved by Kachemak City Council this

\_\_\_\_\_ Day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_, Mayor  
Signature

**ORDINANCE 09-07**, (Referred to in Title 3.02.05, section D, subsection 1 of the City of Kachemak Code)

**CAPITAL PROJECT GRANT ACCEPTANCE FORM** (To be presented for payment)

I (We) the undersigned, guarantee that the work evidenced by attached bills, receipts and described in-kind services is legitimate and was all fully applied to the project described in the attached application.

And, I (We) agree not to hold the City of Kachemak, and/or Kachemak City Council members or any agents of the City of Kachemak liable for any damages either to person or to property resulting from performance of any work funded or partially funded or in any way connected with the project described in the application above. I (We) further agree that the City of Kachemak, and/or Kachemak City Council Members or any agents of the City of Kachemak will not be held liable for any defect in the quality of design, workmanship, materials or for any outstanding costs associated with any project as part of the performance from any grant moneys received.

Signatures:

For \_\_\_\_\_ (name of group)

\_\_\_\_\_ (title, if any)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Kachemak City: \_\_\_\_\_, Mayor

State of Alaska - Third Judicial District

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared \_\_\_\_\_, to me known and known to me to be the person named in the foregoing instrument and acknowledged to me that he/she executed the same freely and voluntarily for the uses and purposes therein mentioned.

Witness my hand and official seal the day and year in this certificate first written above

\_\_\_\_\_  
Notary public for Alaska

My commission expires: \_\_\_\_\_



### **3.02.05          Emergency Road Grants**

The Mayor of Kachemak may approve a grant up to \$5,000 for an emergency repair on a Kachemak road, with a 4:1 match (\$4,000 maximum) by the City of Kachemak. Once a road emergency has been identified, the residents of the road will notify the City of Kachemak and the Mayor/Council will verify that a road emergency exists. For purposes of section of code the definition of emergency for road appropriations would be limited to situations where an unexpected event had rendered a road unusable or unsafe by residents and emergency vehicles, and situations where an unexpected event has caused damage which is likely to get much worse if not repaired immediately.

When the repair is completed, the road group will pay their portion and pass the invoice and proof of payment to the City Clerk who will pay Kachemak's portion directly to the contractor.

If the road repairs are estimated to be above \$5,000 Council will determine the amount of the grant and match by resolution.

Any determination by the Mayor can be appealed to the Council at the next regular Council meeting.  
(Ordinance 2010-05)

## **CHAPTER 3.03**

### **BUDGET PROCEDURES**

**3.03.01** Budget public record.

**3.03.02** Publication of notice of public hearing.

**3.03.03** Public hearing on budget.

**3.03.04** further consideration on budget.

**3.03.05** Adoption of budget-vote required.

**3.03.06** Review and revision of annual budget.

#### **3.03.01 Budget public record**

The budget, the budget message, the capital improvements program, and all supporting schedules shall be open to public inspection. Copies shall be available for distribution to interested persons.

#### **03.03.02 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 at least two weeks prior to the hearing. The council shall include in the notice a summary of the budget and capital improvements program and a statement setting out the time and place for a public hearing.

#### **3.03.03 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 time all interested persons shall be given as opportunity to be heard.

#### **3.03.04 further consideration of budget**

After the conclusion of the public hearing on the budget, 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 shall then appropriate the funds required after the budget is approved.

### **3.03.05 Adoption of budget-vote required**

The budget shall be adopted by majority vote of the council by June 30.

### **3.03.06 Review and revision of annual budget**

The adopted budget for a fiscal year shall be reviewed by the city council no later than January 31 of the fiscal year during which it is in effect. The council may determine what, if any, revisions may be necessary in the annual budget, and propose a newly revised annual budget. That newly revised annual budget is subject to the same procedures for passage as is the annual budget; outlined in Sections 2 through 5 of this Chapter. (Ordinance 81-4).

## **CHAPTER 3.04**

### **PURCHASING**

**3.04.01**Purchasing agent.

**3.04.02**Scope of authority.

#### **03.04.01      Purchasing agent**

- A. There shall be a purchasing agent for the city to make all purchases of supplies, materials, equipment, and contractual services for the offices, departments, and agencies of the city government.
- B. The mayor is the purchasing agent for the city. However, the mayor may designate the clerk or other city employee to be the city purchasing agent, subject to council approval by resolution.

#### **03.04.02      Scope of authority**

- A. The purchasing agent shall have the power and duty to purchase or contract for supplies and contractual services needed by any agency of the city and sell surplus personal property of such agencies, in accordance with the ordinances of the city and such rules and regulations as shall be prescribed by the mayor and approved by the council.
- B. The purchasing agent shall recommend joint purchases with other units of government when the best interests of the city would be served.

## **CHAPTER 3.05**

### **LEVYING TAXES**

- 3.05.01**Effective Date.
- 3.05.02**Assessment Evaluation.
- 3.05.03**Exemptions.
- 3.05.04**Uses.
- 3.05.05**Penalties and Interest.
- 3.05.06**Validity

#### **3.05.01Effective Date**

From and after the 8th day of the month of June of the year 1976 there shall be levied a real property tax in the amount not to exceed 2 mills of the assessed evaluation of all real property with the City of Kachemak. This mill levy will be set by resolution annually, before June 30. (Ordinance 94-01)

#### **3.05.02Assessment Evaluation**

The assessment of the Kenai Peninsula Borough will be accepted as the assessed evaluation of the real property within the City of Kachemak.

#### **3.05.03Exemptions**

Exemptions will include those of the Kenai Peninsula Borough, including religious organizations, non-profit organizations, etc.

#### **3.05.04Uses**

The proceeds of all real property taxes described by this ordinance shall be deposited and kept in the general fund for the operating expenses of the City of Kachemak and for the acquisition and maintenance of a community building and the establishment and maintenance of a fire department and whatever city services shall be deemed necessary by the Kachemak City Council.

#### **3.05.05Penalties and Interest**

Penalties and interest will as per those imposed by the Kenai Peninsula Borough.

### **3.05.06 Validity**

If any section, subsection, clause, sentence, or phrase of this ordinance is held to be invalid, the decision shall not affect the validity of the meaning of the remaining portion of this ordinance. (Ordinance 76-3).

## TITLE 4. CITY PROPERTIES

### Chapters:

- 4.01 REAL PROPERTY ACQUISITION.
- 4.02 EMINENT DOMAIN AND ADVERSE POSSESSION.
- 4.03 REAL PROPERTY SALES BY CITY.
- 4.04 LEASE OF CITY LANDS.
- 4.05 DISPOSITION OF CITY-OWNED PERSONAL PROPERTY.
- 4.06 USES



## **CHAPTER 4.01**

### **REAL PROPERTY ACQUISITION**

- 4.01.01** Acquisition and ownership.
- 4.01.02** Real property defined.
- 4.01.03** Procedural requirements.
- 4.01.04** Ownership.
- 4.01.05** Rights and powers of city.
- 4.01.06** Dedication by plat.
- 4.01.07** Sites for beneficial new industries.
- 4.01.08** Federal and state aid.
- 4.01.09** Real property as security.

#### **4.01.01 Acquisition and ownership.**

The city may acquire, own, and hold real property inside or outside the city boundaries by purchase, gift, devise, grant, dedication, operation of law, tax or lien foreclosure, adverse possession, condemnation or declaration of taking, annexation, or by any other lawful means or conveyances.

#### **4.01.02 Real property defined**

As used in this chapter, "real property" includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title, or interest in land or a building.

#### **4.01.03 Procedural requirements**

- A. The city may acquire, own, and hold real property by warranty or quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract of sale of real property, plat dedication, lease, tax deed, will, or any other lawful means of conveyance or grant. Real property shall be held in the name of "City of Kachemak, Alaska."
- B. Any instrument requiring execution by the city shall be signed by the mayor and attested by the clerk. The form of any conveyance shall be approved by the city attorney.
- C. Upon a specific resolution of the council, the mayor may act on its behalf in the acquisition of real property or interest in real property when that property to be acquired is for a valuable consideration or as part of a program of grants under which the city may receive only a limited amount of acreage. The resolution shall set forth the terms, conditions, and manner of acquisition.

- D. No council approval is necessary to acquire any easement, right-of-way, permit, license, or other interest in real property if necessary for a utility or public improvement where the utility or public improvement has been authorized and approved by the council.
- E. Prior to approval, the mayor is to furnish the council with an abstract of title, an appraisal of the real property, and a review of any problems in acquisition, but the failure to furnish the council any such materials shall not affect the validity of any acquisition or purchase of real property by the city.
- F. Unless otherwise provided by the council, the city shall purchase marketable title in real property. Unless otherwise provided by ordinance or resolution, or upon council approval of a purchase, the mayor is authorized to obtain title insurance, to execute any instruments, and to take all steps necessary to complete and close the purchase and acquisition of the real property.

#### **4.01.04Ownership**

- A. The city may acquire and hold real property as sole owner or as tenant in common or other lawful tenancy, with any person or governmental body for any public purpose. The city may hold real property in trust for any public purpose.
- B. The council may approve and authorize the purchase of real property by contract of sale, deed of trust, or mortgage.

#### **4.01.05Rights and powers of city**

The city shall have and may exercise all rights and powers in the acquisition, ownership, and holding of real property as if in the city were a private person.

#### **4.01.06Dedication by plat**

The city may not acquire any real property by means of a dedication by plat unless the dedication is the real property is accepted in writing and signed by the mayor and approved by council motion.

#### **4.01.07Sites for beneficial new industries**

The city may acquire, own, and hold real property, either inside or outside the city boundaries, as sites available for new industries which will benefit the city.

#### **4.01.08 Federal and state aid**

The city may apply for, contract with, and do all things necessary to cooperate with the United States Government and the State for the acquisition, holding, improvement, or development of real property inside and outside the city boundaries.

#### **4.01.09 Real property as security**

The council may pledge, mortgage, or otherwise secure real property of the city for the payment of the bonded or other indebtedness when required, as authorized by law.

## **CHAPTER 4.02**

### **EMINENT DOMAIN AND ADVERSE POSSESSION**

**4.02.01** Eminent domain.

**4.02.02** Ordinance and vote required.

**4.02.03** adverse possession.

#### **4.02.01 Eminent domain powers-Assumed**

Pursuant to AS 29.35.030, the Common Council of the City of Kachemak assumes the powers of eminent domain and declaration of taking for all purposes allowed under the laws of the State of Alaska and the procedures set forth in AS 09.55.250--AS 09-55.460 and the Alaska Rules of Civil Procedure.

- A. Finding declaration of need. The Common Council of the City of Kachemak specifically finds that a dangerous health condition exists within the City because of the lack of adequate sewer facilities, which condition will be remedied by the construction of a municipal sewer system, with contracts to be let approximately the 15th day of March, 1989, and that the powers of eminent domain and declaration of taking are necessary for the acquisition of easements for the construction of said system. (Ordinance 89-1).

#### **4.02.02 Ordinance and vote required**

The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or special election called for that purpose. A majority vote is required for approval of the ordinance.

#### **4.02.03 adverse possession**

The city cannot be divested of title to real property by adverse possession.

## **CHAPTER 4.03**

### **REAL PROPERTY SALES BY CITY**

- 4.03.01**Power to dispose of real property
- 4.03.02**Sale or disposal
- 4.03.03**Rights and powers
- 4.03.04**Property exchanges
- 4.03.05**Grants for federal and state programs
- 4.03.06**beneficial new industries
- 4.03.07**Change of use
- 4.03.08**Utilities
- 4.03.09**Release of easements
- 4.03.10**Public sale requirements
- 4.03.11**Sale procedure--land value under \$25,000
- 4.03.12**Sale procedure--land value \$25,000 or more
- 4.03.13**Preference rights
- 4.03.14**Future interests and after-acquired title
- 4.03.15**Minimum acceptable offer
- 4.03.16**Exceptions to minimum acceptable offer
- 4.03.17**Conditions of sale
- 4.03.18**Council action
- 4.03.19**Purchase agreement
- 4.03.20**Employment of broker
- 4.03.21**Reservation of easements and right-a-way
- 4.03.22**Mayor Regulations
- 4.03.23**Tax foreclosure land
- 4.03.24**Public use requirement
- 4.03.25**Termination of repurchase right
- 4.03.26**Repurchase by former record owners

#### **4.03.01Power to dispose of real property**

The city may sell, convey, exchange, transfer, donate, dedicate, direct, or assign to use, or otherwise dispose of city-owned real property, by any lawful means or conveyances.

#### **4.03.02Sale or disposal**

- A. The city may sell or dispose of real property by warranty or quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract of sale of real property, plat dedication, lease, tax deed, will, or any other lawful method or mode of conveyance or grant.
- B. Any instrument requiring execution by the city shall be signed by the mayor and attested by the clerk. The form of any instrument shall be approved by the city attorney.

#### **4.03.03Rights and powers**

- A. The city shall have and may exercise all rights and powers in the sale and disposal of real property as if the city were a private person.
- B. The city may sell or dispose of any real property, including property acquired or held for or devoted to a public use, when in the judgment of the council it is no longer required for municipal purposes.

#### **4.03.04Property exchanges**

The council may approve after public notice the conveyance and exchange of a parcel of city property for an equivalent parcel of property owned by another person subject to such conditions as the council may impose on the exchange, whenever in the judgment of the council it is advantageous to the city to make the property exchange.

#### **4.03.05Grants for federal and state program**

The Council may grant or devote real property no longer held for public purpose to the United States, the State, a political subdivision, or an agency of any of these governments, for a consideration agreed upon between the City and the grantee without a public sale if the grant or devotion is advantageous to the City. Any approval of a federal or state program providing for the participation or cooperation of the City by grant or devotion of the real property is a sale of that real property for the consideration stated in the program.

#### **4.03.06beneficial new industries**

- A. The City may sell, lease, or dispose of sites acquired for new industries benefiting the City, upon the terms and conditions as the council considers advantageous to the City, to a person who agrees to install, maintain, and operate a beneficial new industry.

- B. The requirements of AS 29.48.260(c) must be followed in any action by the City relating to beneficial new industries.

#### **4.03.07 Change of use**

Real property acquired or purchased for one city purpose may be appropriated, transferred, assigned, or directed without public sale to another city purpose, whenever the council determines that the purpose for which the property was acquired or purchased no longer exists, or the property is no longer used or useful for the purpose. No formal conveyance is necessary to dispose of the real property to another city purpose, and the disposition may be made to another purpose with or without legal consideration for the disposition.

#### **4.03.08 Utilities**

The City may sell, convey, or otherwise dispose of real property no longer used or useful in the operation of a city-owned utility. Real property no longer needed for the purpose for which the real property was acquired or purchased, or utility property no longer used or useful in the operation of the city-owned utility, is no longer property, owned, held for or devoted to public use, and thus may be sold or disposed of as provided in this Title if the council determines the real property is not useful to the City for any other purpose.

#### **4.03.09 Release of easements**

The mayor may at any time, subject to the provisions of 4.03.11 and 4.03.12, convey, quitclaim, release, cancel, or otherwise relinquish any real property easement, right-of-way, permit, or license the City may have or hold for the purpose of installing, constructing, or maintaining a public improvement, whenever the interest is no longer used or useful for that purpose.

#### **4.03.10 Public sale requirements**

Unless otherwise provided in this Chapter, real property no longer used or useful for a public use or purpose shall be sold to the highest bidder at a public sale. Public sale shall not be required where the real property of the City is subject to any term or condition restricting or limiting the ability of the City to obtain the fair market value of the property.

#### **4.03.11 Sale procedure--land value under \$25,000**

Real property of the City valued under twenty-five thousand dollars, except as provided otherwise in this Chapter, and except land acquired by tax foreclosure, shall be sold or otherwise permanently disposed of as provided below.

- A. An estimated value of the property shall be made by a qualified appraiser or the assessor.
- B. The parcels of land to be sold shall be reviewed by the City planning commission, as may be otherwise provided in this Code, which shall make recommendations to the mayor concerning desirable uses of the property, including projected need, if any, of the land for present or future recreational or other public use. However, review and recommendation by the planning commission is not required if special circumstances warrant, as determined by the council, or if such planning commission review and recommendation has been made within six months prior to submission to the council.
- C. After review of the planning commission's recommendations, if any, the mayor may, if in his or her opinion it is in the best interests of the City to do so, recommend to the council that such parcels of land be sold. Such recommendation shall set out the development of the property, if the mayor determines such a plan to be necessary; the estimated value of the property as made by the assessor or a qualified appraiser; and the recommended terms and conditions of the sale.
- D. After receiving the recommendations, the council may, by resolution, direct the sale or lease of such lands under such terms and conditions as it requires.
- E. Notice of disposition and the manner in which the land is to be disposed of shall be published in a newspaper of general circulation within the City once each week for two successive weeks not less than 30 days prior to the date of disposal.
- F. Notice also shall be posted in at least three public places within the City for at least 30 days prior to the disposal.
- G. Notice may also be given by other means considered reasonable by the mayor or council.
- H. The notice must contain a brief description of the land, its area and general location, proposed use, term, computed annual minimum rental or minimum offer, limitations, if any, and time and place set for the auction or bid opening, if applicable.
- I. The procedure for disposal shall be in a manner provided by resolution of the council.

#### **04.03.12 Sale procedure--land value \$25,000 or more**

Sale or other permanent disposition of land valued at twenty-five thousand dollars or more shall be in the manner prescribed in 4.03.11 with two exceptions as provided below.

- A. Council action under 4.03.11(I), shall be by ordinance instead of by resolution.
- B. No disposition of land valued at twenty-five thousand dollars and over shall be valid unless ratified by a majority of the qualified voters voting at a regular or special election at which the question of the ratification of the ordinance is submitted. Thirty days' notice shall be given of the election and during that period the council shall have published at least once a week in a newspaper of general circulation distributed within



the City a notice stating the time of the election; the place of voting; a description of the property to be sold, leased, or disposed of; a brief statement of the terms and conditions of the sale; the consideration, if any; and the title and date of passage of the ordinance. Notice shall also be given by posting a copy of the notice in at least three public places in the City at least 30 days before the election. If no newspaper of general circulation is distributed within the City, the notice given by posting is sufficient for the purposes of this Subsection.

#### **4.03.13 Preference rights**

Upon recommendation of the mayor, the council may authorize the granting of preference rights for exercise at any specific sale. A preference right, if authorized, shall entitle a bona fide occupant of a sale parcel to purchase the parcel by meeting the highest bid offered for the parcel. In the event that no bids are received for a sale parcel which is subject to a preference right, the preference right holder may elect to purchase the parcel at its listed appraised value. For any specific sale, the council may prescribe additional terms and conditions regarding the exercise of preference rights.

#### **4.03.14 Future interests and after-acquired title**

Upon recommendation of the mayor, the council may authorize the sale of after-acquired title or future interests in real property to which the City is or may in the future become entitled. In exercising this power, the council resolution must contain a specific disclaimer of any warranty of title.

#### **4.03.15 Minimum acceptable offer**

The minimum acceptable offer for any land sold or leased under the provisions of 4.03.11 and 4.03.12 shall be the appraised value determined under 4.03.11(A). If there are no acceptable offers, the mayor may negotiate for the sale or lease of the land, but the council must, by resolution, approve the terms and price of any such negotiated sale or lease before such sale or lease shall be binding upon the City.

#### **4.03.16 Exceptions to minimum acceptable offer**

- A. Exceptions to the requirement for a minimum acceptable offer of market value may be made as provided below.
  - 1. The council finds that a particular disposition will be in the public interest, as public interest is defined below in this Section.
  - 2. real property was acquired under a tax foreclosure, in which case the council, by resolution, may reduce the minimum acceptable offer to an amount not less than

the sum of all back taxes, penalties, and interest due or which would have been due if the property had remained in private ownership up to the date of the sale, plus all costs of foreclosure, sale, and development incurred by the City.

- B. Public interest for the purposes of 4.03.16(A)1 shall include a public or quasi-public purpose and use and shall also include exchanges of property to facilitate the solution of problems involving the boundary lines of public property. Public interest shall not include a purpose to return property to private ownership, or to return property to the tax rolls, or to make property available for a desirable private enterprise or development, or other similar purposes.
- C. Upon a council determination of a public interest, a negotiated bid may be accepted by the council by resolution in place of public bidding.

#### **4.03.17 Conditions of sale**

- A. The council shall set forth the terms and conditions of the public sale in the resolution or ordinance authorizing the sale of real property. The council may reserve the right to reject any and all bids received at the public sale, if the highest bid is below the fair market value and cost of the sale or if it is not made by a responsible bidder. The resolution or ordinance shall provide if the sale is for cash, or cash deposit and purchase agreement.
- B. The mayor shall prescribe the form of the purchase agreement. The council shall approve all public sales of real property and shall approve any purchase agreement prior to its execution by the City. The approval of any public sale by the council authorizes the mayor to take all steps and execute all instruments to complete and close the sale. The mayor or his designee shall conduct the sale and shall give to the buyer a receipt of all moneys received by the City. A purchaser at a public sale who fails to make such other cash payments within the times required by the resolution or ordinance shall forfeit any cash deposit paid to the City.

#### **4.03.18 Council action**

No action of the council to dispose of any city interest in real property dedicated to public use shall be final until the resolution or ordinance to do so has been on file in the office of the clerk for 30 days. Prior to any council action on the sale of real property, the mayor shall make his or her recommendation to the council as to any change of use or merits of the sale or disposition of the real property.

#### **4.03.19Purchase agreement**

A purchaser of real property from the City may purchase the real property by purchase agreement if provided in the resolution or ordinance for the sale. Unless otherwise provided in the resolution or ordinance for the sale, a purchase agreement shall be in the form of a deed of trust. The purchase agreement shall be executed by the mayor and attested by the clerk, and shall be approved as to form by the city attorney.

#### **4.03.20Employment of a broker**

The City may employ a broker for the sale of real property and may pay the broker a commission for the sale. The employment shall be in the resolution for the sale of the real property and any contract of employment shall be first approved by the council unless the council authorizes the mayor to execute the contract without the council's approval.

#### **4.03.21Reservation of easements and right-of-way**

The City may reserve any easement and right-of-way to be used for public improvements and purposes before selling or disposing of city-owned real property. The council may make such restrictions, limitations, reservations, reversions, or other covenants the council may find advantageous to the City even if the fair market value of the property is affected. The effect of these reservations may be considered in determining the fair market value of the property.

#### **4.03.22Mayor Regulations**

The mayor may provide by regulation for the procedures and forms as to applications, surveys, appraisals, auction, bidding, form of substance of purchase agreement, or any other matter involving the sale or disposition of city property not inconsistent with and to implement the intent and purpose of this Title. The absence of a regulation or an inconsistent resolution shall not invalidate any public sale procedure, or conveyance executed by the City, where the requirements of this Title have been otherwise satisfied.

#### **4.03.23Tax foreclosure land**

Real property acquired by tax foreclosure may be disposed of in the same manner as other real property of the City except as provided in 4.03.24, 4.03.25, and 4.03.26.

#### **4.03.24Public use required**

Any real property acquired by tax foreclosure may be devoted to public use by the City after review and recommendation by the planning commission, if one exists, and approval of the council by a resolution declaring such real property devoted to public use or declaring that such real property is reserved for a projected city requirement, and stating such use or requirement.

#### **4.03.25 Termination of repurchase right**

Where the property was acquired by tax foreclosure, the right of repurchase of the record owner at the time of foreclosure shall be terminated upon passage of a resolution in accordance with 4.03.24 except that such termination shall not be effective until notice and passage of the time specified in 4.03.26 have been met.

#### **4.03.26 Repurchase by former record owners**

The former record owner shall have such rights of repurchase as are provided by statute. Notice of intended sale, devotion to public use, reservation for a future city requirement, other permanent disposition or lease shall be given to those who were record owners at the time of tax foreclosure by registered or certified mail sent to the address of the record owner as such address appeared on the tax roll at the time of foreclosure. Such notice shall be given not less than 20 days before the intended sale, contract of sale, devotion or reservation for public use, or other disposition or lease is made and shall advise the record owner of the right to repurchase as authorized by statute.

## **CHAPTER 4.04**

### **LEASE OF CITY LANDS**

- 4.04.01** Property available for leasing.
- 4.04.02** Term of lease.
- 4.04.03** Appraisals.
- 4.04.04** Lease auction.
- 4.04.05** Lease procedures.
- 4.04.06** Fair rental value.
- 4.04.07** Adjustment of rental.
- 4.04.08** Transfer of lessee's interest.
- 4.04.09** Renewal of lease.
- 4.04.10** Improvement and chattels.
- 4.04.11** Inspection of leased premises.
- 4.04.12** Easements and rights-of-way.
- 4.04.13** Condemnation of premises--lease termination.
- 4.04.14** Lease rental credit.
- 4.04.15** Conditional lease.
- 4.04.16** Mayor Regulations.

#### **4.04.01 Property available for leasing**

All real property, including tide, submerged, or shore lands, which the City owns, or in which the City has right, title, and interest, or to which the City may become entitled, may be leased as provided in this Chapter. The term "property" as used in this Chapter includes any and all interests in real property.

#### **4.04.02 Term of lease**

No lease shall be for a term of more than 21 years unless the council shall determine from the purpose, use of the premises, and nature of improvements which may be placed on the premises that a longer term would benefit the City and would be consistent with city planning. A lease having a term of greater than five years shall first be approved by the council. Any renewal period or option to renew the lease period shall be included in the term of the lease in computing the five-year period of time.

#### **4.04.03 Appraisals**

- A. No property shall be leased or a renewal lease issued unless the property to be leased has been appraised by the City within one year prior to the date contemplated for the beginning of the lease.
- B. No appraisal is required if the fair rental value of the property does not exceed two hundred fifty dollars per year and the term of the lease is one year or less, or if the property has been assessed by a tax assessor during the year in which the property is to be leased.
- C. An independent appraisal shall not be required unless directed by the council, or otherwise required by this Chapter.

#### **4.04.04 Lease auction**

Unless otherwise provided in this Chapter, property shall be leased to the highest responsible bidder at a lease auction.

#### **4.04.05 Lease procedure**

The provisions of 4.03.11 and 4.03.12 of this Code on the method of disposition of city-owned property shall apply to all leases of city land authorized by this Chapter.

#### **4.04.06 Fair rental value**

- A. Property shall be leased for a fair rental value. Fair rental value is the rental computed from the appraised fair rental value of the property and means the highest price described in terms of money for which the property would rent, if exposed for rent for a reasonable time in the open market, for the use permitted by the City.
- B. With approval by the council, the lease of property may be made for a rental less than the fair rental value to a state or federal agency, state political subdivision, or nonprofit organization as may be determined by the mayor to be fair and proper. The mayor shall consider the public interest and the nature of the public use or function of the leased premises.
- C. Fair rental value shall not be required where the property interest of the City is subject to any term or condition restricting or limiting the ability of the City to obtain the fair rental value of the property.

#### **4.04.07 Adjustment of rentals**

A lease having a term of more than two years shall provide for adjustment of rentals at specified intervals during the term of lease, and the intervals shall be every two years unless the lease provides for a longer interval, not to exceed six years. This Section shall be incorporated in each lease by reference and enforceable as if fully set forth in the lease.

#### **4.04.08 Transfer of lessee's interest**

A lessee may sublease or assign the lease only upon approval of the transfer by the City in writing.

#### **4.04.09 Renewal of lease**

The renewal or extension of the lease shall be considered as a new lease unless renewal or extension is provided for in the lease. Upon a showing of hardship or for good cause the mayor, at his or her option, may renew or extend the lease for a period not to exceed one year without notice, auction, or council approval.

#### **4.04.10 Improvements and chattels**

- A. The lease shall provide the terms, conditions, and limitations of the removal or reversion of the improvements or chattels upon the lease premises after termination of the lease. The retiring lessee may, with the consent of the mayor, sell the improvements to the succeeding lessee. If the improvements or chattels are not removed within the time set forth in the lease, the improvements and chattels may, upon reasonable notice to the lessee, be sold at public sale to be provided by regulations of the mayor.
- B. Proceeds of the sale shall be first applied to the city's costs and expenses of maintaining, removing, and selling the improvements and chattels and to rentals for the period of non-removal. The City may bid at the sale and may be credited with the value of the city's costs, expenses, and rentals due resulting from the non-removal of the improvements or chattels. The City shall have all other rights, both legal and equitable, any other purchaser would have or acquired by reason of the sale.

#### **4.04.11 Inspection of leased premises**

The lessee shall allow an authorized representative of the City to enter the leased premises for inspection at any reasonable time.

#### **4.04.12 Easements and rights-of-way**

The City expressly reserves the right, without compensation or adjustment in rentals to the lessee, to grant surface underground or overhead utility easements or rights-of-way in or upon the leased property, if the exercise of the right will not unreasonably interfere with the lessee's improvements placed upon the property and with the lessee's use of the property.

#### **4.04.13 Condemnation of premises--lease termination**

Upon condemnation of the premises any part of the premises, including inverse condemnation, by any agency of the State, borough, or Federal government, the lease shall terminate without any liability to the City. The City shall not be liable in damages or pay any compensation to the lessee as a result of the condemnation terminating the lease.

#### **4.04.14 Lease rental credit**

When authorized in writing by the mayor prior to the beginning of any work, the lessee may be granted credit against current or future work, provided the work, accomplished on or off the leased premises, results in increased valuation of the leased premises or of other city-owned property. The authorization may stipulate the type of work, standards of construction, and maximum allowable credit for the specific project.

#### **4.04.15 Conditional lease**

- A. The City may issue a conditional lease on property it reasonably expects it will own or will acquire title to prior to the actual receipt of title. Leases issued on a conditional basis may be terminated in whole or part in the event that the City is denied title to the property under lease. Pre-paid lease rentals on property to which title is denied the City shall be refunded.
- B. The City shall not be liable for any claim for damages that may be done to the property by the lessee, or liable for any claims of any third party or the lessee, or for any claims that may arise from ownership. In the event the City does not receive title to the property under lease, the conditional lease shall then have the same standing, force, and effect as a unconditional lease issued under this Chapter.

#### **4.04.16 Mayor Regulation.**

The mayor may provide by regulations for the procedures and form as to applications, surveys, appraisals, auction, bidding, form, and substance of lease termination, forfeiture, or any other matter involving the leasing of city property to implement the intent and purpose of this Chapter. The absence of a regulation shall not invalidate any auction procedure or lease executed



or to be executed by the City, where the requirements of the Chapter have been otherwise satisfied.

## **CHAPTER 4.05**

### **DISPOSITION OF CITY-OWNED PERSONAL PROPERTY**

**4.05.01** Personal property disposition by value.

**4.05.02** Sale of surplus or obsolete goods.

**4.05.03** Surplus stock.

**4.05.04** Declaration of obsolescence.

**4.05.05** Mayor as purchasing agent.

#### **4.05.01 Personal property disposition by value**

- A. Personal property, other than surplus stock, that is valued at less than one thousand dollars may be disposed of upon such notice and terms considered reasonable by the mayor. The mayor shall take into consideration the value of the article, the reason for disposal, and the general preference of disposal by competitive bid. The mayor shall report disposal to the council if so requested.
- B. Personal property valued at more than one-thousand dollars, but less than twenty-five thousand dollars, shall be disposed of in the manner provided for land valued under twenty-five thousand dollars as provided in Chapter 4.03 of this Code.
- C. Personal property valued at more than twenty-five thousand dollars shall be disposed of in the manner provided for land valued over twenty-five thousand dollars as provided in Chapter 4.03 of this Code.

#### **4.05.02 Sale of surplus or obsolete goods**

The mayor may sell the following without giving an opportunity for competitive bidding:

- A. surplus or obsolete supplies, materials, or equipment whose total value does not exceed one thousand dollars in a single transaction;
- B. Supplies, materials, or equipment when sold at a price at least as great as that paid by the City for the same.

#### **4.05.03 Surplus stock**

- A. All agencies shall submit to the mayor, at such times and in such form as he or she shall prescribe, reports showing stock of all supplies which are no longer used or which have become obsolete, worn out, or scrapped.
- B. The mayor shall have the authority to transfer surplus stock to other agencies and provide for proper fiscal transfer of such.
- C. The mayor with approval of the council shall have the authority to sell all supplies or equipment which have become unsuitable for public use, or to exchange the same for, or trade in, the same on any new supplies or equipment.
- D. Sales of surplus city supplies or equipment appraised at over one thousand dollars under this Section shall be made to the highest responsible bidder.
- E. The mayor, or a person chosen by the council to act on the city's behalf, shall conduct the sale and issue the certificates of sale to the purchaser of surplus city supplies or equipment.

#### **4.05.04 Declaration of obsolescence**

No surplus or obsolete supplies, materials, or equipment of a value of more than one thousand dollars may be sold until the council has declared them obsolete or surplus.

#### **4.05.05 Mayor as purchasing agent**

The powers and duties of the mayor in this Chapter shall be exercised by the city purchasing agent if one is designated as provided in Chapter 3.04 of this Code.

## **CHAPTER 4.06**

### **USES**

#### **4.06.01 Activities prohibited**

- A. Smoking within municipal buildings: The smoking of cigarettes, pipes, cigars, and the burning of substances intended to be inhaled, within municipal buildings is prohibited.
- B. Smoking near doors and windows: The smoking of cigarettes, pipes, cigars, and the burning of substances intended to be inhaled, within 20 feet of doors and windows of municipal buildings is prohibited. (Ordinance 92-02)

## TITLE 5 CITY ELECTIONS

### Chapters:

- 5.01 CITY ELECTION INFORMATION AND REQUIREMENTS
- 5.02 CITY ELECTION ADMINISTRATION
- 5.03 VOTING PROCEDURE
- 5.04 TALLYING PROCEDURES
- 5.05 REVIEW OF ELECTION RETURNS
- 5.06 INITIATIVE AND REFERENDUM
- 5.07 RECALL

## **CHAPTER 5.01**

### **CITY ELECTION INFORMATION AND REQUIREMENTS**

- 5.01.01** Clerk is supervisor of elections.
- 5.01.02** Voter qualifications.
- 5.01.03** General elections.
- 5.01.04** Notice requirements for general election.
- 5.01.05** Special elections.
- 5.01.06** Notice requirements for special elections.
- 5.01.07** 40 percent requirement.
- 5.01.08** Runoff elections.
- 5.01.09** Notice requirements for runoff elections.
- 5.01.10** Tie votes.
- 5.01.11** Qualifications for City Council.
- 5.01.12** Filing for office.
- 5.01.13** Election judges.
- 5.01.14** Election place and hours.
- 5.01.15** "Questioned Ballots."
- 5.01.16** "Defective Ballots."
- 5.01.17** "Absentee Ballots."
- 5.01.18** contesting an election.
- 5.01.19** Election materials.

#### **5.01.01 Clerk is supervisor of elections**

The clerk is the supervisor of elections for the City. The clerk may establish written regulations for council approval for all additional procedures necessary to carry out the provisions of any election ordinance passed by the council.

#### **5.01.02 Voter qualifications**

A person shall be qualified to vote in City elections who:

- A. Is a United States citizen who is qualified to vote in State elections;
- B. Has been a resident of the City of Kachemak for at least 30 days immediately preceding the election;
- C. Is registered to vote in state elections at a residence address within the City of Kachemak at least 30 days before election day; and
- D. Is not disqualified to vote under Article V of the constitution of the State of Alaska which provides that:

"No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. No person may vote who has been

judicially determined to be of unsound mind unless the disability has been removed."

#### **5.01.03 General elections**

- A. The regular general election for council members or other elected officials shall be held every year on the first Tuesday in October. Questions or propositions may be placed on the ballot at this time.
- B. The date of the regular election may be changed by ordinance.

#### **5.01.04 Notice requirements for general elections**

Notice of a general election must be posted in three public places at least 30 days before a general election and published in a newspaper of general circulation if there is one in the area, and shall contain the following, as is appropriate:

- 1. Whether the election is general, special, or runoff;
- 2. Date of the election;
- 3. Location of the city polling place;
- 4. Time the polling place will open and close;
- 5. Offices to be filled;
- 6. Statement describing voter qualifications;
- 7. Time for filing declarations of candidacy and nominating petitions;
- 8. Statement of any questions or propositions to be placed on the ballot.

#### **5.01.05 Special elections**

- A. If a petition submitted by voters for an initiative, referendum or recall election is certified sufficient by the City Clerk and submitted to the City Council, the Council shall resolve that a special election be held on the question no less than 45 days nor more than 75 days following submission of the petition to the Council.
- B. If a special election is required by act of the City Council, the City Council shall resolve that a special election on the question proposed by the Council's ordinance or resolution be held no less than 20 days nor more than 75 days following the Council's action.
- C. If the regular general election held each year on the first Tuesday of October occurs within seventy-five (75) days of the date of submission of a petition by voters for an initiative, referendum, or recall election, or if the regular general election occurs within seventy-five (75) days of Council action which requires election then no special election may be scheduled and the question of proposition shall be placed on the regular election ballot.

#### **5.01.06 Notice requirements for special elections**

Notice shall be posted in three public places at least 20 days before a special election and published in a newspaper of general circulation if there is one in the area, and shall contain the following, as is appropriate:

1. Whether the election is general, special, or runoff;
2. Date of the election;
3. Location of the city polling place;
4. Time the polling place will open and close;
5. Offices to be filled;
6. Statement describing voter qualifications;
7. Time for filing declarations of candidacy and nominating petitions;
8. Statement of any questions or propositions to be placed on the ballot.

#### **5.01.0740 percent requirement**

Every candidate must receive more than 40 percent of the ballots cast for his or her respective office in order to win the election. A runoff election is required if a candidate does not receive more than 40 percent of the ballots cast for his or her respective office.

#### **5.01.08Runoff elections**

- A. If no candidate receives more than 40 percent of the ballots cast for his or her respective office, the council shall hold a runoff election between the two candidates receiving the greatest number of ballots. In a runoff election, the candidate receiving more votes than the other is the winner.
- B. Runoff elections must be held within two weeks from the date the council certifies the election
- C. Write-in votes are not counted for runoff elections.

#### **5.01.09. Notice requirements for runoff elections**

Notice of a runoff election shall be posted in three public places for at least five days before the election is held; or published in a newspaper of general circulation if there is one in the area, and shall contain the following, as is appropriate:

1. Whether the election is general, special, or runoff;
2. Date of the election;
3. Location of the city polling place;
4. Time the polling place will open and close;
5. Offices to be filled;
6. Statement describing voter qualifications;
7. Time for filing declarations of candidacy and nominating petitions;



8. Statement of any questions or propositions to be placed on the ballot.

#### **5.01.10 Tie votes**

In the event of a tie vote, and after a recount of ballots that confirms the tie vote, the council shall request that the tied candidates appear before the council at the first meeting after the election to draw straws or flip a coin to determine the winner. If one or more of the tied candidates does not appear before the council, the presiding officer shall direct the clerk or other non-interested person to draw straws or flip a coin to determine the winner.

#### **5.01.11 Qualifications for City Council**

A person filing for election to a city council seat must be:

- A. A United States citizen who is qualified to vote in State elections;
- B. A resident of the City of Kachemak for at least 1 year immediately preceding the election; (changed 2011)
- C. Registered to vote in state elections at a residence address within the City of Kachemak at least 30 days before election day; and
- D. Not disqualified to vote under Article V of the constitution of the State of Alaska which provides that:

"No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed."

#### **5.01.12 Filing for office**

- A. A person who wishes to become a candidate for an elective office shall complete and file a declaration of candidacy with the clerk. Declarations of candidacy must be filed no sooner than 45 days and no later than 20 days before the election.
- B. A person filing for a City Council seat must meet the qualifications of section 5.01.11 of this chapter.

#### **5.01.13 Election judges**

- A. The council shall choose not less than three city voters as judges to be the election board at each polling place and select one of those judges to chair the board. The judges shall not be council members or candidates for office.
- B. Each judge shall sign the following oath and file it with the clerk on or before Election Day.

"I, do solemnly swear that I am a qualified voter residing in the City of Kachemak, Alaska; that I support and defend the Constitution and Laws of the United States, the Constitution and the Laws of the State of Alaska, and the Ordinances of the City of Kachemak, Alaska; that I will honestly, faithfully, and impartially perform the duties of Judge of election according to law; and that I will assiduously endeavor to prevent fraud, deceit, or abuse in connection the election, to the best of my ability, so help me God."
- C. If a judge is unable to work election day, the remaining judges at the polling place shall choose a qualified voter to fill the vacancy.
- D. Pay of the election judges shall be determined by the Council.

#### **5.01.14 Election place and hours.**

- A. Elections will be held at the Kachemak Community Hall. If for some reason beyond the control of the Council this location is unusable, the Council may, by resolution, designate a different location. Due public notice shall be made of any emergency relocation, and no voter will be denied the opportunity to vote because of any such relocation.
- B. The polls will be open from 7:00 a.m. until 8:00 p.m. on Election Day. Election board members shall report to the polling place by 6:30 a.m. on an election day.
- C. Fifteen minutes before the closing of the polls, an election judge shall announce to all persons present the time remaining before the polls close. A judge shall announce the time when 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.

#### **5.01.15 "Questioned Ballots"**

If a voter's name is not on the "Master Voter Registration List" or there is some other question regarding a voter's eligibility, and the voter believes that he or she is registered to vote, then the voter shall sign an "Oath and Affidavit of Eligibility" and cast a "Questioned Ballot." See 5.03.02 in this Title.

#### **5.01.16 "Defective Ballots"**

If there are any ballots that are not clearly marked and the judge cannot determine who the voter intended to vote for, they shall be placed in an envelope marked "Defective Ballots."

#### **5.01.17 "Absentee Ballots"**

Any qualified voter who expects to be absent from the City on election day or who is unable to go to the voting polls because of physical disability may cast an "Absentee Ballot." An "Absentee Ballot" may be obtained from the clerk. See 5.03.05 in this Title.

#### **5.01.18contesting an election**

- A. Any qualified city voter who wishes to contest an election may do so in writing before or during the next regular council meeting, prior to the issuance of the "Certificate of Election." The name of the voter contesting the election, the reason for the contest, and the council's decision shall be entered into the minutes of the meeting.
- B. The council may order an investigation or a recount of the ballots or declare the election invalid and order a new election.
- C. Any contestant who demands a recount shall pay all costs and expenses of the recount if the recount fails to change the result or if the difference between the winning and losing vote is more than two percent.
- D. A person may appeal the decision of the Council to the Superior Court, however 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 Anchorage. 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.

#### **5.01.19Election materials**

The clerk shall keep election materials in the permanent files except as provided in section 5.05.07 of this Title.

## **CHAPTER 5.02**

### **CITY ELECTION ADMINISTRATION**

**5.02.01** Declaration of candidacy.

**5.02.02** Election notices.

**5.02.0** Voter registration duties of the clerk.

**5.02.04** Ballots.

**5.02.05** Election Day preparation.

#### **5.02.01 Declaration of candidacy**

- A. At least 3 days before nominations are open for each regular election, the clerk shall post in 3 public places and shall publish in a newspaper of general circulation if there is one in the area, a notice of offices to be filled at the election and the manner of making nominations.
- B. Declaration of candidacy forms shall be prepared by the clerk at least 45 days before the election. The declaration shall have spaces for the following: the candidate's full name; the office for which the candidate is running; that the candidate is a qualified city voter and a resident of the City for the required length of time for the office sought; the date the declaration is filed, and a statement that if elected, the candidate will serve the full term of office. The declarations of candidacy must be filed no sooner than 45 days and no later than 20 days before the election. See section 5.01.12 of this Title.
- C. The clerk shall keep the completed declarations of candidacy in the city files.

#### **5.02.02 Election notices**

- A. Notices that an election will be held shall be prepared and posted by the clerk and shall contain the following, as is appropriate:
  - 1. whether the election is general, special, or runoff;
  - 2. date of the election;
  - 3. location of each city polling place
  - 4. time polling places will open and close;
  - 5. offices to be filled;
  - 6. a statement describing voter qualifications;
  - 7. times for filing declarations of candidacy;
  - 8. A statement of any questions or propositions to be placed on the ballot.
- B. Notices for a general election must be posted 30 days prior to the election; for special elections, 20 days notice is required; for runoffs, five days.

### **5.02.03 Voter registration duties of the Clerk**

The clerk shall post notice 60 days before a general election encouraging residents to register to vote. The clerk shall order a "Master Voter Registration List" from the State Elections Supervisor approximately 30 days before the election.

### **5.02.04 Ballots**

The clerk shall be responsible for typing or printing ballots at least 15 days before the date set for a general or special election. Ballots must be prepared three days prior to a runoff election. There shall be at least three ballots with the word "SAMPLE" printed on them to be posted in the clerk's office until election day and then given to the judges at each polling place. The form for ballots is as follows:

1. printed on plain white paper, stating at the top whether it is general, special, or runoff election;
2. instructions on how to mark the ballots;
3. the list of candidates and the offices they are running for;
4. lines for write-in candidates (except in runoff elections);
5. a blank, box, or square for marking a vote next to each name or blank line for write-in candidates; and
6. The questions or propositions to be voted on, if any.

### **5.02.05 Election Day preparation**

- A. Before the polls open on Election Day, the election supervisor shall deliver the ballots and sample ballots prepared pursuant to 5.02.04 to an election board member at each polling place. The ballots shall be delivered in separate sealed packages, with the number of ballots enclosed in each package clearly marked on the outside of the package. A receipt for each package shall be given to the election supervisor. No ballots shall be taken from the polling place before the closing of the polls.
- B. The election supervisor shall keep the following records: The number of ballots delivered to the polling place; the time the ballots are delivered and the name of the person to whom the ballots are delivered; and the receipt given for the ballots by the election board.
- C. When the ballots are returned, the election supervisor shall record the following: The number of ballots returned, the time when the ballots are returned; the name of the person returning the ballots; and the condition of the ballots.
- D. The election supervisor shall also furnish the election board judges at each polling place with voting booths and ballot box (with lock or sealing materials); and the following materials: The updated Master Voter Registration List; a Blank Register; envelopes bearing the Oath and Affidavit of Eligibility for questioned ballots; an envelope for the collection of spoiled ballots and an envelope for the collection of questioned ballots; copies of the Notice of Election and the City's elections ordinances; a sufficient number of

Instruction sheets; a sufficient supply of pens, pencils, and envelopes; and tally sheets and forms for the Report of Preliminary Election Results.

- E. Before the first ballot is cast, the judges will inspect the ballot box to make sure it is empty and then seal or lock it and not open it until after the final ballot is cash

## **CHAPTER 5.03**

### **VOTING PROCEDURES**

**5.03.01** Voting procedures--regular ballot.

**5.03.02** Voting procedures--questioned ballot.

**5.03.03** Voting procedures--absentee ballot.

**5.03.04** Voting procedures--spoiled ballot.

**5.03.05** Assisted voting.

**5.03.06** Prohibited acts.

#### **5.03.01 Voting procedures--regular ballot**

- A. A voter shall give the judges his name. One of the judges checks the "Master Voter Registration List," if the voter's name is on the list, then he or she will sign his or her name in the blank register. The signing of the register is a declaration by the voter that he is qualified to vote. If the voter is not known to any judge present, the judge may require the voter to produce a state voter registration card or other identification. If, in the opinion of the judge, there is doubt as to whether the person is registered to vote, he shall immediately question the voter.
- B. If the voter is not questioned, the judge shall give the voter a single ballot and note the number in the register next to the voter's name. The voter then goes to a voting booth and marks the ballot.
- C. Before leaving the voting booth, the voter shall fold the ballot in a manner displaying the number on the ballot and deliver it to one of the judges, who shall, without unfolding the ballot or allowing any person to see how it is marked, remove the number stub, depositing the stub into the ballot stub container, then return the ballot to the voter. The voter shall then deposit the ballot in the ballot box in the presence of the judges.
- D. If a voter is questioned, the voter may cast a questioned ballot pursuant to section 5.03.02 of this chapter.

#### **5.03.02 Voting procedures--questioned ballots**

- A. Every election judge shall question, and any other person qualified to vote in the City may question a person attempting to vote if the questioner has good reason to suspect the questioned person is not qualified to vote. All questions regarding a person's qualifications to vote shall be made in writing setting out the reason the person has been questioned.
- B. If a voter's name is not on the "Master Voter Registration List" and the voter believes that he or she is a registered city voter, then a "Questioned Ballot" is cast. The procedure is listed as follows:
  - 1. the voter shall sign their name in the "Blank Register for Questioned Ballots;" then fill out and sign an envelope bearing the "Oath and Affidavit of Eligibility," stating that he or she is a registered state voter, a resident of the city, has not voted in the same election, and is otherwise qualified to vote. After the questioned person

has executed the Oath and Affidavit of Eligibility the person may cast a questioned ballot. If the questioned person refuses to execute the Oath and Affidavit of Eligibility, the person may not vote.

2. A voter who casts a questioned ballot shall vote their ballot in the same manner as prescribed for other voters.
3. After the election judge removes the numbered stub from the ballot, and places it in an envelope marked, "Stubs from questioned ballots," the voter shall insert the ballot into a small envelope with no markings except the word "Ballot" on it, seal it, and put the small envelope into a larger envelope on which the statement the voter previously signed is located. The larger envelope shall be sealed and deposited in the ballot box.
4. When the ballot box is opened, the unopened questioned ballot envelopes will be segregated, counted, and compared to the questioned ballot register, then sealed in a large envelope for questioned ballots. The large envelope containing all the questioned ballots will be delivered to the City Clerk along with other election materials and the ballot statement when the election board completes the tally and account of ballots. The merits of the question shall be determined by the City Council, when it meets as the election canvass committee.

#### **5.03.03 Voting procedure--absentee ballots**

- 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.
- B. An "Absentee Ballot" is the same as a regular ballot and may be applied for in person or by mail on an application form provided by the clerk. An "Absentee Ballot" may not be issued sooner than 15 days before the election. The clerk or designee may deliver an "Absentee Ballot" to a disabled person in the City until the polls close on Election Day. Upon issuing an absentee ballot to a voter, either by mailing or by personal delivery, the Clerk shall enter in the blank register for absentee ballots the following information: number of ballot issued; name of voter to whom it was issued; and date ballot was issued. The clerk mails or gives the absentee voter the materials listed below:
  1. A regular ballot.
  2. A small envelope with no other markings except "Ballot" on it.
  3. If the "Absentee Ballot" is going to be returned by mail, then the clerk must furnish a stamped and addressed return envelope. The return envelope containing the "Absentee Ballot" must be postmarked no later than Election Day.
  4. The clerk should check to see if the person requesting the "Absentee Ballot" is on the "Master Voter Registration List." If not, then the clerk should have the voter sign an "Oath and Affidavit of Eligibility" and determine if the person is eligible to vote.
- C. The City Clerk as election supervisor shall retain all absentee ballots received until the City Council meets as the election review committee to canvass the election. At this time the Clerk shall deliver all absentee ballots received to the election canvass committee to be counted and included in the final vote tally of the election. To be counted, an absentee voter's ballot must be executed before the polls close in the City or be postmarked no later



than election day, and be received by the Clerk prior to the time the ballots are reviewed by the election canvass committee.

#### **5.03.04 Voting procedures--spoiled ballot**

If a voter improperly marks or otherwise damages a ballot, and discovers the mistake before the ballot is placed into the ballot box, he shall return it to an election official, concealing from view the manner in which it is marked, and request a new ballot. The election official shall write the words "Spoiled Ballot" on the outside of the folded ballot, record its number, and place it in the envelope marked "Spoiled Ballots" for return to the City Clerk. The official shall then issue a new ballot to the voter. A voter may request replacement of a spoiled ballot no more than three (3) times.

#### **5.03.05 Assisted voting**

A qualified voter who cannot read, mark the ballot, sign his name or who otherwise needs assistance may request an election judge or a person of his choice to assist him. If the election judge is requested, the judge will assist the voter. If any other person is requested, the person shall state upon oath before the election judge that he or she will not divulge the vote cast by the person who they are assisting or change the voting wishes of the person they are assisting.

#### **5.03.06 Prohibited acts**

- A. Prohibiting the leasing of the polling place with ballot. No voter may leave the polling place with the official ballot that he received to mark.
- B. Prohibiting the exhibition of marked ballots. No voter may exhibit his ballot to an election official or any other person so as to enable any person to ascertain how the voter marked his ballot.
- C. Prohibiting the identification of ballots. No election official may, while the polls are open, open any ballot received from a voter, or mark a ballot by folding or otherwise so as to be able to recognize it, or otherwise attempt to learn how a voter marked his ballot, or allow the same to be done by another person.
- D. Prohibiting the count of exhibited ballots. No election official may allow a ballot which he knows to have been unlawfully exhibited by the voter to be placed in the ballot box. A ballot unlawfully exhibited shall be recorded as a spoiled ballot and destroyed.
- E. Prohibition of political discussion by election board. During the hours that the polls are open, no judge or clerk may discuss any political party, candidate, or issue while on duty.
- F. Prohibition of political persuasion near election polls. During the hours that polls are open, no person who is in the polling place or within 200 feet of any entrance to the polling place may attempt to persuade a person to vote for or against a candidate, proposition, or question. The election judges shall post warning notices of the required distance in the form and manner prescribed by the supervisor of elections.

## **CHAPTER 5.04**

### **TALLYING PROCEDURE**

**5.04.01** Tallying procedures.

**5.04.02** Rules for counting hand marked ballots.

**5.04.03** Preliminary election results.

#### **5.04.01 Tallying procedures**

- A. After the polls close at 8 pm and the last vote has been cast the elections judges will begin the tallying procedure. Ballots may not be counted before the polls close. The counting of the ballots shall be in public.
- B. 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 election chairman shall not permit anyone present to interfere in any way or to distract the officials from their duties, and no one other than appointed election officials may handle the ballots.
- C. Before counting ballots, the election board judges shall check to make sure that the number of voter's names signed in the "Blank Register" and the "Blank Register for Questioned Ballots" are equal to the number of ballots in the ballot box. The election board shall account for all ballots by completing a ballot statement containing: (1) the number of official ballots received; (2) the number of official ballots voted; (3) the number of official ballots spoiled; (4) the number of official ballots unused and destroyed. If any discrepancies in numbers of ballots received and ballots accounted for are found, the ballots shall be recounted until the election board finds that the number of ballots accounted for are the same as the number received or that there is an unexplained error. If a discrepancy is determined to exist between the ballots received and those accounted for, it shall be explained in detail on the ballot statement and the explanation signed by the election judges.

#### **5.04.02 Rules for counting hand-marked ballots**

- A. The election board shall count hand-marked ballots according to the following rules:
  - 1. A voter may mark his ballot only by the use of cross-marks, "X" marks, diagonal, horizontal or vertical marks, solid marks, stars, circles, asterisks, checks or plus signs that are clearly spaced in the square opposite the name of the candidate the voter desires to designate.
  - 2. A failure to properly mark a ballot as to 1 or more candidates does not itself invalidate the entire ballot.

3. 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.
  4. 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.
  5. The mark specified in 5.04.02(1) of this section shall be counted only if it is substantially inside the square provided, or touching the square so as to indicate clearly that the voter intended the particular square marked.
  6. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly made.
  7. An erasure or correction invalidates only that section of the ballot in which it appears.
  8. 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 so marked for the purpose of identifying the ballot.
  9. In order to vote for a write-in candidate, the voter must write in the candidate's name in the space provided and mark the square opposite the candidate's name in accordance with 5.04.02(1) of this section. Write-in votes are not invalidated if the voter fails to mark the square provided if in the opinion of the judges the voter intends to vote for the person whose name was written-in as a write-in vote.
- B. The rules set out in this section are mandatory and there shall be no exceptions to them. A ballot may not be counted unless marked in compliance with these rules.
- C. The ballots shall be tallied by one of the judges announcing what the ballot shows and the other judges marking it down on the tally sheet. "Questioned Ballots" shall not be opened at this time, but the number of "Questioned Ballots" shall be tallied. The chairman of the election board shall write the word "Defective" on the back of each ballot which the election board determines should not be counted, in whole or in part, for any of the reasons (other than failure of the voter to mark any choice with respect to a particular office or proposition) stated in subsection (A) of this section. If only a portion of the ballot is invalid, the valid votes shall be counted and the chairman shall specify on the back of the ballot exactly which portion or portions have not been counted.
- D. When the count of ballots is completed, the election board shall make a certificate in duplicate of the results using the Report of Preliminary Election Results form. The report shall include the number of votes cast for each candidate, for and against each proposition, yes or no on each question and any additional information the election board deems relevant or prescribed by the election supervisor. All members of the election board shall sign both copies of the report. The election board shall immediately upon completion of the report deliver to the election supervisor the original report and the Master Voter Registration List, register of voters, tallies, oaths of judges, Oaths and Affidavits of Eligibility, questioned ballots, defective ballots, spoiled ballots, and other election documents in one sealed package, in a separate sealed package, all ballots properly cast. The chairman of the election board shall keep the duplicate of the report of election in a safe place and present it to the election canvass committee at the next regular council meeting following the election when the committee meets.

#### **5.04.03 Preliminary election results**

- A. Immediately after the polls close and the last ballot has been cast, the election board judges will tally the ballots in public and prepare a report of election results which shall be signed by each judge present. The report shall be attached to the tally sheets and submitted to the clerk along with all other elections materials.
- B. The clerk shall post a copy of the report of election results at Kachemak City Hall within 24 hours after the preliminary election results are known. The notice shall include:
  - 1. the time and place of the council meeting to be convened to consider the election results;
  - 2. that the results are not final until the council formally certifies the election;
  - 3. That any qualified city voter may contest the election on or before that meeting.

## **CHAPTER 5.05**

### **REVIEW OF ELECTION RETURNS**

|                |   |
|----------------|---|
| <b>5.05.01</b> | Canvass committee.                        |
| <b>5.05.02</b> | Procedure for questioned ballot review.   |
| <b>5.05.03</b> | Procedure for absentee ballot review.     |
| <b>5.05.04</b> | counting absentee and questioned ballots. |
| <b>5.05.05</b> | certifying results.                       |
| <b>5.05.06</b> | Certificate of election.                  |
| <b>5.05.07</b> | Retention of election records.            |

#### **5.05.01 Canvass committee**

- A. At the next regular council meeting following the election, the City Council shall act as the canvass committee and review all absentee and questioned ballots.
- B. The clerk shall submit to the Council the preliminary election results, the Master Voter Registration List, registers, regular ballots, "Questioned Ballots", defective ballots, spoiled ballots, absentee ballots, and oaths and affirmations of election officials.

#### **5.05.02 Procedure for questioned ballot review**

- A. The City Clerk shall contact the State Division of Elections to determine if persons casting questioned ballots because of failure of their names to appear on the Master Voter Registration List were in fact registered to vote in state elections. The City Clerk shall record the names of these questioned voters who were registered to vote and shall submit their names as registered to vote when their questioned ballots are examined with other questioned ballots.
- B. The canvass committee shall examine each questioned ballot envelope and shall determine whether the person casting each questioned ballot was registered and eligible to vote. In making this determination, the Council may request the assistance of the Clerk, and shall hear the testimony of the voter who cast the questioned ballot and of any other city resident who has information useful to the decision.
  1. A questioned ballot may not be counted if:
    - a. the voter has failed to properly execute the certificate;
    - b. an official authorized by law to attest the certificate failed to execute the certificate;
    - c. The voter did not enclose the marked ballot inside the small envelope.
  2. Any person present at the questioned ballot review may challenge the name of a questioned voter when read from the voter's certificate on the back of the large

envelope if he has good reason to suspect that the questioned voter is not qualified to vote, is disqualified, or has voted at the same election. The person making the challenge shall specify the basis of the challenge in writing. The canvass committee by majority vote may refuse to accept and count the questioned ballot of a person properly challenged under grounds listed in (1) of this subsection.

3. If a questioned ballot is rejected, the "Oath and Affidavit of Eligibility" envelope shall not be opened. The City Clerk shall send a copy of the statement of the challenge to the questioned voter. The Clerk shall place all rejected questioned ballots in a separate envelope with statements of challenge. The envelope shall be labeled "rejected questioned ballots" and be retained with the other election materials.
4. If a questioned ballot is not rejected, the large envelope shall be opened and the small envelope containing the questioned ballot shall be placed in a ballot box and mixed with other small envelopes containing reviewed questioned and absentee ballots.

#### **5.05.03 Procedure for absentee ballot review**

- A. The canvass committee shall examine each absentee ballot return envelope. Upon the committee's satisfaction that:

1. the voter is registered to vote;
2. is a resident of Kachemak City;
3. the voter did not vote in person;
4. certified and cast his ballot as required; and
5. the ballot was cast before the close of the polls in the City of Kachemak;

the return envelope shall be opened and the envelope containing the absentee ballot shall be placed in the ballot box and mixed with other small envelopes containing the reviewed questioned and absentee ballots.

If the canvass committee determines that an absentee voter did not meet all the qualifications as set forth in 05.05.02(A) the committee by majority vote may refuse to accept and count the absentee ballot. The return envelope shall not be opened but rather the reasons for rejection shall be noted on the envelope. The City Clerk shall place all such rejected absentee ballots in an envelope marked "rejected absentee ballots" to be retained with other election materials. The City Clerk shall notify the voter in writing why his absentee ballot was rejected.

#### **5.05.04 counting absentee and questioned ballots**

The questioned and absentee ballots shall be removed one by one from the ballot box, taken out of the ballot envelopes, and then counted by the committee in the same manner in which ballots cast at the polls are counted.

#### **5.05.05certifying results**

If no contest of the election is begun under the provisions of section 5.01.19 of this title and after all questioned, absentee, and defective ballots are counted or rejected, the City Council shall:

- A. Certify a report that shows:
  - 1. total number of ballots cast in the election;
  - 2. names of persons voted for (including write-ins);
  - 3. propositions voted upon;
  - 4. offices voted for;
  - 5. number of votes cast for each candidate;
  - 6. Any other matters which the committee deems necessary to preserve a complete record of the election.
- B. Record the results of the election in the minutes of the meeting;
- C. Authorize the results to be certified;
- D. Publicly declare the results of the election.

#### **5.05.06Certificate of election**

Upon authorization of certification of the election results by the City Council the City Clerk shall prepare two original Certificates of Election for each office, proposition, or question considered. The certificates shall be signed by the Mayor and attested by the Clerk. One original of each Certificate of Election shall be given to the successful candidate or the sponsor of the successful questions or propositions names thereon, and the other original of each certificate shall be kept by the City.

#### **5.05.07Retention of election records**

The City Clerk shall preserve all election certificates, tallies and registers in the City's permanent files. All ballots and stubs may be destroyed one year after the certification of the election unless an appeal of the election has been filed, in which case the ballots and stubs may be destroyed one year after conclusion of the appeal unless stayed by an order of the Court.

## **CHAPTER 5.06**

### **INITIATIVE AND REFERENDUM**

|                |                           |
|----------------|---------------------------|
| <b>5.06.01</b> | Reservation of powers.    |
| <b>5.06.02</b> | Application for petition. |
| <b>5.06.03</b> | Contents of petition.     |
| <b>5.06.04</b> | required signatures.      |
| <b>5.06.05</b> | Sufficiency of petition.  |
| <b>5.06.06</b> | Protest.                  |
| <b>5.06.07</b> | new petition.             |
| <b>5.06.08</b> | Initiative election.      |
| <b>5.06.09</b> | Referendum election.      |
| <b>5.06.10</b> | Effect.                   |

#### **5.06.01 Reservation of powers**

The powers of initiative and referendum may be exercised by city residents as provided by this Chapter or otherwise in accordance with state law. The powers of initiative and referendum do not extend to matters restricted by Section 7, Article XI of the State Constitution. That Section provides: "The initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation. The referendum shall not be applied to dedications of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety."

#### **5.06.02 Application for petition**

- A. An initiative or referendum is proposed by filing an application with the City Clerk containing the ordinance or resolution to be initiated or the ordinance or resolution to be referred and the name and address of a contact person and an alternate to whom all correspondence relating to the petition may be sent. An application shall be signed by at least 10 voters who will sponsor the petition. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk. Within two weeks the clerk shall certify the application if the clerk finds that it is in proper form and, for an initiative petition that the matter
  - 1. is not restricted by AS 29.26.100;
  - 2. includes only a single subject;
  - 3. is related to a legislative rather than to an administrative matter; and
  - 4. Would be enforceable as a matter of law.
- B. A decision by the clerk on an application for petition is subject to judicial review.

#### **5.06.03 Contents of petition**



- A. Within two weeks after certification of an application for an initiative or referendum petition, a petition shall be prepared by the City Clerk. Each copy of the petition shall contain:
  - 1. a summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred;
  - 2. the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsors;
  - 3. the date on which the petition is issued by the clerk;
  - 4. notice that signatures must be secured within 90 days after the date the petition is issued;
  - 5. spaces for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing addresses of each signer;
  - 6. a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and
  - 7. Space for indicating the total number of signatures on the petition.
- B. If a petition consists of more than one page, each page shall contain the summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred.
- C. The clerk shall notify the contact person in writing when the petition is available. That person is responsible for notifying sponsors. Copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed.

#### **5.06.04 required signatures**

- A. The necessary signatures on a petition shall be secured within 90 days after the date the clerk issues the petition. The statement provided under AS 29.26.120(a) (6) shall be signed and dated by the sponsor. The petition shall be signed in ink or indelible pencil.
- B. Every petition for either the initiative or referendum in the City shall be signed by a number of qualified voters residing within the City equal to 25% of the votes cast in the last general election in the City except as provided for in AS 29.26.130(e).
- C. When signing a petition, each voter shall write or print after his or her signature the date of signing the petition and his or her residence address.
- D. Illegible signatures, unless accompanied by a legible printed name, shall be rejected by the clerk.
- E. A petition signer may withdraw his or her signature upon written application to the clerk within ten days after the petition has been filed with the clerk.

#### **5.06.05 Sufficiency of petition**

- A. All copies of an initiative or referendum petition shall be assembled and filed as a single instrument. Within 10 days after the date the petition is filed, the clerk shall:
  - 1. certify on the petition whether it is sufficient; and
  - 2. If the petition is insufficient, identify the insufficiency and notify the contact person by certified mail.
- B. A petition that is insufficient may be supplemented with additional signatures obtained and filed before the 11th day after the date on which the petition is rejected.
- C. A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (b) of this section. Within 10 days after supplementary filing, the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

#### **5.06.06Protest**

If the clerk certifies the petition as being insufficient, a signer of the petition may file a protest with the Mayor within seven days after the certification. The Mayor shall present the protest at the next regular meeting of the council, which shall hear and decide the protest.

#### **5.06.07new petition**

Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition.

However, a new petition on substantially the same matter may not be filed sooner than six months after a petition is rejected.

#### **5.06.08Initiative election**

- A. Unless substantially the same measure is adopted, when a petition seeks an initiative vote the clerk shall submit the matter to the voters at the next regular election occurring no sooner than 45 days after certification of the petition. If no regular election occurs within 75 days after certification of a petition, the council shall hold a special election within 75 days, but not sooner than 45 days after certification.
- B. The ordinance or resolution shall be published in full in the notice of election but may be summarized on the ballot to indicate clearly the proposal submitted.
- C. If a majority of those voting favor the ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution.
- D. The council may at any time not less than 10 days from the date of election adopt an ordinance or resolution to implement the petition. In that event an election shall not be held.
- E. Procedures for conducting an initiative election are those of a special election.

#### **5.06.09 Referendum election**

- A. Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote the clerk shall submit the matter to the voters at the next election occurring no sooner than 45 days after certification of the petition. If no election occurs within 75 days of certification of a petition, the council shall hold a special election within 75 days, but not sooner than 45 days after certification.
- B. If a petition is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension the council may not enact an ordinance or resolution substantially similar to the suspended matter.
- C. If the council repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.
- D. If a majority of those voting favor the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election.
- E. Procedures for conducting a referendum election are those of a special election.

#### **5.06.10. Effect**

- A. The effect of an ordinance or resolution may not be modified or negated within two years after its effective date if adopted in an initiative election or if adopted after a petition that contains substantially the same measure has been filed.
- B. If an ordinance or resolution is repealed in a referendum election or by the governing body after a petition that contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the governing body for a period of two years.
- C. If an initiative or referendum measure fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six months after the election results are certified.

## **CHAPTER 5.07**

### **RECALL**

- 5.07.01** Recall.
- 5.07.02** Grounds.
- 5.07.03** Petition.
- 5.07.04** Examination for sufficiency.
- 5.07.05** Supplemental petition.
- 5.07.06** new petition.
- 5.07.07** Submission.
- 5.07.08** Election.
- 5.07.09** Form of recall ballots.
- 5.07.10** Election procedure.
- 5.07.11** Majority required.
- 5.07.12** Effect.
- 5.07.13** Election of successor.

#### **5.07.01 Recall**

An official who is elected or appointed to an elective City office may be recalled by the voters after the official has served the first 120 days of the term for which elected or appointed.

#### **5.07.02 Grounds**

Grounds for recall are misconduct in office, incompetence, or failure to perform prescribed duties.

#### **5.07.03 Application for recall petition**

- A. An application for a recall petition shall be filed with the City Clerk and shall contain the following:
  - 1. the signatures and residence addresses of at least 10 City voters who will sponsor the petition;
  - 2. the name and address of the contact person and an alternate to whom all correspondence relating to the petition may be sent; and
  - 3. A statement in 200 words or less of the grounds for recall stated with particularity.
- B. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the Clerk.

#### **5.07.04 Recall petition.**

- A. If the clerk determines that an application for a recall petition meets the requirements of section 5.07.03, the clerk shall prepare a recall petition. All copies of the petition shall contain:
1. the name of the official sought to be recalled;
  2. the statement of the grounds of recall as set out in the application for petition;
  3. the date the petition is issued by the clerk;
  4. notice that signatures must be secured within 60 days after the date the petition is issued;
  5. spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing addresses of each signer;
  6. a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and
  7. Space for indicating the number of signatures on the petition.
- B. The clerk shall notify the contact person in writing when the petition is available. That person is responsible for notifying sponsors. Copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed.

#### **5.07.05 Sufficiency of petition**

- A. The copies of a recall petition shall be assembled and filed as a single instrument. A petition may not be filed within 180 days before the end of the term of office of the official sought to be recalled. Within 10 days after the date a petition is filed, the clerk shall:
1. certify on the petition whether it is sufficient; and
  2. If the petition is insufficient, identify the insufficiency and notify the contact person by certified mail.
- B. A petition that is insufficient may be supplemented with additional signatures obtained and filed before the 11th day after the date on which the petition is rejected if:
1. the petition contains an adequate number of signatures, counting both valid and invalid signatures; and
  2. The supplementary petition is filed more than 180 days before the end of the term of office of the official sought to be recalled.
- C. A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (b) of this section. Within 10 days after the supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

#### **5.07.06new recall petition application**

A new application for a petition to recall the same official may not be filed sooner than six months after a petition is rejected as insufficient.

#### **5.07.07Submission**

If a recall petition is sufficient, the clerk shall submit it to the council at the next regular meeting or at a special meeting held before the next regular meeting.

#### **5.07.08Election**

- A. If a regular election occurs within 75 days but not sooner than 45 days after submission of the petition to the council, the council shall submit the recall at that election.
- B. If no regular election will occur within 75 days, the council shall hold a special election within 75 days but not sooner than 45 days after a petition is submitted to the council.
- C. If a vacancy occurs in the office for which a sufficient recall petition has been filed, the petition shall not be submitted to the voters. The council may not appoint to the same office an official who resigns after a sufficient recall petition is filed naming that official.

#### **5.07.09Form of recall ballots**

A recall ballot contains:

- 1. the grounds for recall as stated in 200 words or less in the recall petition;
- 2. a statement by the official named on the recall petition of 200 words or less, if the statement is filed with the clerk for publication and public inspection at least 20 days before the election;
- 3. The following question: "Shall (name of person) be recalled from the office of (office)?  
Yes [ ]  
No [ ]".

#### **5.07.10Election procedure**

Procedures for conducting a recall election are those of a special election.

#### **5.07.11Majority required**

A majority vote on the question is required to recall an officer.

#### **5.07.12Effect**

- A. If a majority vote favors recall, the office becomes vacant upon certification of the recall election.
- B. If an official is not recalled at the election, an application for a petition to recall the same official may not be filed sooner than six months after the election.

#### **5.07.13Successors**

- A. If an official is recalled from the council, the office of that official is filled in accordance with Title 2.02.09 of this Code.
- B. A person who has been recalled may not be appointed under (A) of this section to the office from which the person was recalled. A person appointed under (A) of this section serves until the next regular election, when a successor is elected to serve the balance of the term.

## TITLE 6. PUBLIC UTILITIES

### Chapters:

- 6.01 GENERAL PROVISIONS
- 6.02 WATER RULES AND REGULATIONS
- 6.03 SEWER RULES AND REGULATIONS
- 6.04 EXTRATERRITORIAL CONNECTIONS TO THE KACHEMAK SEWAGE  
COLLECTION SYSTEM (Repealed Ordinance 2011-07)



## **CHAPTER 6.01**

### **GENERAL PROVISIONS**

|                |                                  |
|----------------|----------------------------------|
| <b>6.01.01</b> | Purpose                          |
| <b>6.01.02</b> | Definition                       |
| <b>6.01.03</b> | Nondiscrimination                |
| <b>6.01.04</b> | Additional Rules and Regulations |

#### **6.01.0 Purpose**

It is the intent of this title to establish rules and regulations ensuring that utility service is provided to the municipality or its occupants in a fair and regular manner.

#### **6.01.02 Definition**

For the purpose of this title, the word "Utility" has the meaning set forth at AS 42.05.990(4) but does not include:

- A. A utility that is subject to regulation under AS 42.05;
- B. A utility that is exempted from regulation under AS 42.05.711(a) or (d)-(k); or
- C. A utility that is exempted under regulations adopted under AS 42.05.810 from complying with all or part of AS 42.05.010 - 42.05.721.

#### **6.01.03 Nondiscrimination**

A public utility may not, as to service, make or grant an unreasonable preference or advantage to any person to an unreasonable prejudice or disadvantage. A public utility may not establish, maintain, or provide an unreasonable difference as to service, but nothing in this section prohibits the establishment of reasonable classifications of service or requires unreasonable investment in facilities.

#### **6.01.04 Additional Rules and Regulations**

In addition to the rules and regulations in this title, Kachemak has adopted the appropriate existing and future rules and regulations relating to sewer operations and use constraints that are contained in Title 14 of the City of Homer Code of Ordinances (Ordinance 92-03), but not those rules and regulations relating to cost reimbursement for developers (Ordinance 96-09).

## **CHAPTER 6.02**

### **WATER RULES AND REGULATIONS**

- 6.02.01** Definitions.
- 6.02.02** Notice of fees and charges.
- 6.02.03** Notice of connections and extensions.

#### **6.02.01 Definitions**

For the purposes of this chapter, the following words and phrases shall have the meaning set forth below:

- A. "Water connection" means that part of the water system between the water main and the abutting property.
- B. "Water extension" means that part of the water distribution system extending from the water connection into the premises served.
- C. "Water main" means that part of the water distribution system intended to serve more than one water connection.

#### **6.02.02 Notice of fees and charges**

A water utility shall give written notice to the Kachemak City Clerk of its intention to impose fees and charges upon Kachemak occupants, by delivering to the City Clerk a written schedule of the fees and charges intended to be imposed. Furthermore, a revised and current schedule of fees and charges shall be delivered to the City Clerk whenever a fee or charge is added or changed and within thirty (30) days of the addition or change. No water connection or water extension shall be installed unless the most current written schedule of fees and charges has already been delivered to the City Clerk.

#### **6.02.03 Notice of connections and extensions**

A water utility shall give notice to the Kachemak City Clerk of its intention to install a water connection or water extension prior to doing so, and when the water connection or water extension is completed, shall, within thirty (30) days of completion, notify the City Clerk in writing that it is completed.

## **CHAPTER 6.03**

### **SEWER RULES AND REGULATIONS**

- 6.03.01** Definitions.
- 6.03.02** connection to sewage collection system required.
- 6.03.03** construction requirements.
- 6.03.04** Sewer service connections.
- 6.03.05** Abandonment of private sewage disposal systems.
- 6.03.06** General discharge prohibitions.
- 6.03.07** Permit required.
- 6.03.08** Assessments for property within the City of Kachemak.
- 6.03.09** Payment of user fees.
- 6.03.10** User fee a charge upon the land.
- 6.03.11** Enforcement of user fee payments.
- 6.03.12** Disposition of revenue.
- 6.03.13** Septic tank pumping.
- 6.03.14** City of Kachemak as regulating authority.
- 6.03.15** Penalties; civil and criminal.
- 6.03.16** Falsifying information.
- 6.03.17** Written notice of violation.
- 6.03.18** Appeals.
- 6.03.19** Delegation of authority.
- 6.03.20** Right of revision.
- 6.03.21** Sewer disconnection, reconnection, and penalties.

#### **6.03.01 Definitions**

For the purposes of this chapter, the following words and phrases shall have the meaning set forth below:

- A. "Dwelling group" means a group or row of detached or semi-detached dwellings occupying a parcel of land in one ownership and having a yard or court in common, including bungalow courts, but not including automobile courts.
- B. "LID" means a local improvement district situated within the boundaries of the City of Kachemak and formed for the purpose of constructing any part of the POTW or the SCS.
- C. "Mobile home park" means land or premises used for occupancy by trailers, mobile homes, and modular structures of a permanent or semi-permanent nature.
- D. "Multiple dwelling" means a building occupied by three or more families, each living independently as a separate housekeeping unit, including apartment houses, apartment hotels, and flats.
- E. "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns, including any person or entity contracting with either the City of Homer or the City of Kachemak, or both, for sewage service.
- F. "Premises" means a parcel of land, lot, building, or establishment.

- G. "Publicly owned treatment works (POTW)" means a treatment works funded, operated, and regulated by a municipality or by two or more municipalities jointly, in this instance Homer and Kachemak. This definition includes any sewers that convey sewage and any other wastewater present to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, POTW shall also include any sewers that convey sewage and other wastewater present to the POTW from persons outside Homer or Kachemak who are users of the municipalities' POTW.
- H. "POTW treatment plant" means that portion of the POTW designed to provide treatment to sewage and other wastewater.
- I. "Sewage" means a combination of liquid and water carried industrial, commercial, or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, excluding any ground water, surface water, and storm water, which is permitted to enter the POTW.
- J. "Sewage collection system (SCS)" means that portion of the POTW situated within the corporate boundaries of Kachemak.
- K. "Sewer" means, for the purposes of this chapter, a pipe or conduit for carrying sewage, and to which storm, surface, and ground waters are not intentionally admitted.
- L. "Sewer connection" means that part of the sewage collection system between the sewer main and the abutting property.
- M. "Sewer extension" means that part of the sewage collection system extending from the sewer connection to the septic tank.
- N. "Sewer main" means that part of the sewage collection system intended to serve more than one sewer connection.
- O. "Sewer service connection" means that portion of sewer line between the septic tank and the facility served.
- P. "The City" means the City of Kachemak.
- Q. "Two-family dwelling" means a building occupied by two families exclusively, living independent of each other.
- R. "User" means any person who contributes, causes, or permits the contribution of sewage or other wastewater into the POTW.
- S. "Wastewater" means any sewage, ground water, surface water, and storm water, individually or combined, whether treated or untreated.

#### **6.03.02 Connection to sewage collection system required**

- A. It shall be unlawful for any person to place, deposit, discharge, or permit to be placed, deposited, or discharged, any sewage, wastewater, or other polluted water on any public or private property or in any natural outlet within the City of Kachemak (the City) or in any area under the jurisdiction of said city except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
- B. Except as provided in part C of this section, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal or treatment of sewage within or upon any premises located within a Local Improvement District (LID) formed for the construction of any part of the sewage collection system (SCS), other than an approved septic tank connected to the SCS in accordance with subsequent provisions of this chapter.

- C. The owner or occupant of all structures or properties used for human occupancy situated within the LID equipped with well, cistern, spring, or other on-site water supply is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the SCS in accordance with the provisions of this chapter, within ninety (90) days after the date of official notice to do so. All structures used for residential, commercial, industrial, or other business purposes are also subject to this requirement unless specifically exempt by DEC standards as not required to provide sewage disposal. Properties having no well, cistern, spring, or other on-site water supply are exempt from this section.

### **6.03.03 Construction requirements**

- A. All septic approved tanks initially and subsequently installed within the LID shall be considered part of the SCS and meet standards specified by the Kachemak City/Bear Creek LID, and provisions of this chapter.
- B. The installation of septic tanks and the connecting of lines to the SCS shall be performed by a Homer/Kachemak approved licensed contractor.
- C. Each property within the LID shall have no less than one SCS septic tank serving inhabited improvements. Additional structures on the property may be connected to the same tank if the topography of the property allows, and use of the tank remains in compliance with this chapter.
- D. Septic tanks shall be installed on a level compacted base at a depth to provide a minimum of four (4) feet of soil cover to finish grade. Septic tank clean-out covers shall be installed at grade level and be approved by Homer/Kachemak. Clean-out stand pipes shall be a minimum of four (4) inches in diameter. Sewer extension, connection, and service connection lines shall be installed at a depth to provide a minimum of five (5) feet of soil cover to finish grade.
- E. Except as otherwise required by subsequent provisions of this chapter, lines connected to the SCS shall be a minimum of three (3) inches in diameter and be laid on a compacted base to insure a one to three percent grade fall. All connections shall be made gastight and watertight, and shall be made under the supervision of the POTW inspector.

### **6.03.04 Sewer service connections**

- A. Sewer service connections from the facility served to the SCS septic tank are the responsibility of the land/property owner and must be approved in advance by the POTW inspector. Construction of a sewer service connections shall not commence without first making application to the City of Kachemak. Upon completion of the sewer service connection the owner shall, within thirty (30) days of completion, notify the Kachemak City Clerk in writing that it is completed, and also provide at that time an accurate drawing clearly showing the location of the sewer service line.
- B. The sewer service line shall be a minimum of four (4) inches in diameter with a minimum bury of four (4) feet. If cases require a shallower depth, the minimum bury may be less provided adequate insulating board is placed above the line.
- C. The sewer service pipe shall continue at a grade of one (1) percent from the facility served to the septic tank. Greater grade fall should be facilitated by step-downs.

- D. The bottom of the sewer service line excavation shall be uniformly graded and free of dips, bumps, and large rocks. Back filling shall be done in such a manner as to assure that neither large rocks nor frozen lumps fall on the pipe.

#### **6.03.05 Abandonment of private sewage disposal systems**

All unapproved septic tanks, cesspools, or vaults used for sewage disposal within the LID shall be abandoned, cleaned of sludge, and filled with suitable material or destroyed, or removed entirely, immediately following connection to the SCS.

#### **6.03.06 General discharge prohibitions.**

- A. No person shall contribute or cause to contribute, directly, or indirectly, any pollutant, substance, or wastewater which interferes with the normal operation or performance of the POTW, including, but not limited to:
  - 1. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW.
  - 2. Solid or viscous substances which may cause obstruction to the flow within the POTW.
  - 3. Sewage of such a quantity, quality, or other nature as to impair the strength or the durability of the sewer structures, equipment or treatment works, either by chemical or by mechanical action.
  - 4. Sewage of such a nature and delivered at such a rate as to impair the hydraulic capacity of the POTW, or any part thereof.
  - 5. Any wastewater containing toxic pollutants or hazardous wastes as defined by the Resource Conservation and Recovery Act whether or not they are considered to be hazardous after entering the POTW.
- B. No person shall intentionally contribute, cause to contribute, or allow to be contributed persistently rain water, surface run-off, underground seepage, or storm water into the SCS.

### **6.03.07 Permit required**

It shall be unlawful for any person to uncover, make any connections with or opening into, use, alter, or disturb any part of the SCS, including the gravity and force mains, without first obtaining a written permit from the City of Kachemak.

### **6.03.08 Assessments for property within the City**

- A. Properties in the City situated within a LID shall pay a prorated share of the capital cost of its construction based on lot area and extent of improvements.
- B. The assessment shall be a charge on the land and be a continuing lien upon the property until paid, and is prior and paramount to all liens except municipal tax liens, and may be enforced as provided in AS 29.45.320 - 29.45.470 for enforcement of property tax liens. If, at any time, a property subject to assessment is divided into smaller parcels after its relative share of the construction costs have been determined, the newly formed parcels shall be each assigned, by the City, a pro-rata share of the original total assessment for the property before re-division, according to parcel area and location of both property and SCS improvements. Such re-division of a property already subject to assessment shall require that, when any newly created parcel is sold or falls under new ownership, the pro-rata share of the original assessment assigned to it by the City, not already paid, shall become due and payable in full, and be paid to the City at the closing of the sale or signing of the assignment of ownership. Exception: If all newly formed parcels are sold or assigned to one person in one transaction the payment agreement for the original assessment for the whole property may remain unchanged.
- C. Properties in the City situated outside a LID, but connecting to a LID, shall not be assessed for any portion of the capital cost of LID construction. Such properties will however, pay as a separate cost payable directly to suppliers of services and materials, the cost of any additional sewer connections required to serve those properties.
- D. Properties in the City connecting to sewer lines constructed by a developer who was not assessed for any portion of LID capital costs shall not be required to reimburse that developer for any capital costs.
- E. No City funds will be expended on construction of additional sewer connections without formation of a LID for that purpose. (Ordinance 96-08)

### **6.03.09 Payment of user fees**

#### **6.03.090. Payment of user fees.**

- A. All property connected to the SCS within the City of Kachemak shall be charged a user fee determined according to the Intergovernmental Agreement for Wastewater Utilities Facilities and Service between the Cities of Homer and Kachemak. The user fee shall be billed monthly and shall include the cost of pumping the SCS septic tanks every three years. As of January 1, 2019 the user fee for unmetered customers is \$ 78.95 (plus sales tax if applicable) per month, per tank connected. If a property is connected to the SCS but does not require pumping the monthly user fee will be \$72.20 (plus sales tax if applicable).

B. If a property elects to install a water meter to measure sewer usage, their sewer rate will be variable based on Homer's Resolution 15-074(A-2).  
(Ordinance 2016-06)

C. Payment of user fees are due by the 10th day of the month following the period for which service was provided. A late charge of \$3 per month shall be assessed on all bills not received by the 15th day of the month due and for each month remaining unpaid.

D. The property owner is responsible for paying the user fees for his property, although, if the property is rented, the City may accept the payments from the renter. If the renter fails to make any payment, subsequent payments shall thereafter be required directly from the property owner. If the arrears are paid and the next six (6) payments are timely, the City may accept payments once again from a renter of the property upon written request of the property owner.

E. The user fee for being connected to the SCS shall be a continuous and regular monthly charge against the property even if the property does not actually discharge into the SCS.

#### **6.03.10 User fee a charge upon the land**

- A. Although the user fee is a personal obligation to the City by the person owning the property, it shall also be, together with interest, late charges, costs, and reasonable attorney's fees resulting from non-payment, a charge on the land and a continuing lien upon the property against which the charge is made, with all amounts due, from time to time, payable in full when due without notice or demand, and without set-off or deduction.
- B. If user fees and costs remain delinquent and the property is sold, ownership assigned, or title to the property changes by way of foreclosure, said delinquent fees and costs shall be paid in full to the City at closing of the sale, upon the signing of the assignment of ownership, or upon completion of the foreclosure. If for any reason payment of the delinquent amounts fails to be made to the City at that time, the delinquent amount shall become an obligation of the person taking title, and shall be collected as provided in this chapter.

#### **6.03.11 Enforcement of user fee payments**

- A. User fee payments remaining unpaid after 75 days after original billing therefore, together with interest, late charges, costs, and reasonable attorney's fees, are hereby declared delinquent for the purposes of collection by way of an action at law in civil court. Any claim by or award to the City shall be recorded as a lien against the property against which the user fees and costs were charged, without regard to the actual user or person billed for the user fees and costs resulting from the property's connection to the SCS. Interest and late fees shall continue to accrue until the entire amount due is paid to the City.
- B. If any property against which user fees have been declared delinquent is generating income such as rental income, the City may petition the court to appoint a receiver to apply said income to the delinquent fees and costs owed the City until paid in full, and thereafter to current user fee charges, if current payments are not timely made.



- C. As an additional remedy the City may seek to recover amounts declared delinquent by way of legal attachment of the Permanent Fund Dividends of the person liable for the delinquent amounts as provided in this Chapter, until all amounts due are paid in full.
- D. In the event unpaid fees remain one year after original billing, the Kachemak City Council may, at its discretion, order the connection to the SCS of the property involved, along with any connection to municipal water to the property involved, to be disconnected and sealed, all costs of which shall become a further charge upon the property and further personal obligation of the person owning the property at the time of disconnection. Any costs of reconnection shall be entirely at the expense of the property owner.
- E. Before any property disconnected as described in this section may be reconnected to either water or the SCS, all amounts owing to the City as charged against the property or the person owning the property shall first be paid in full to the City, together with all costs of the disconnect and reconnect that the City may have incurred.

### **6.03.12Disposition of revenue**

Payment of all sewer user fees due the City of Homer shall be paid monthly on or before the tenth day of the month following the month for which service was rendered. Payment of the full amount due Homer shall be made by Kachemak City regardless of the fact that fees have not yet been collected from individual users. However, the amount per tank connected paid to Homer shall never exceed the amount paid by a user of the same class in Homer less \$3.00 which is retained by the City of Kachemak to cover the cost of billing. (Ordinance 00-02 substitute)

### **6.03.13Septic tank pumping**

- A. No septic tank pumping shall occur when the ground is typically snow covered or frozen so as to impair efficient performance of the pumping operation, nor when load limit restrictions are in effect on state roadways, except when a situation exists that a septic tank is overflowing with solids as to risk impairing the operation of the SCS, or other harm to the POTW is imminent. Pumping shall be performed by a pumping contractor approved in advance by Homer/Kachemak City.
- B. The frequency of septic tank pumping shall normally be every two years for each tank to prevent build-up of compacted solids, even if it receives so little use as to contain only a small amount of solids after that period of time. Tanks being at risk of discharging solids into the SCS at the time of normal pumping shall be pumped approximately twelve (12) months later at the property owner's expense, proof of which shall be delivered to the City within thirty (30) days after the pumping has been accomplished, together with an estimate made by the pumping contractor as to the depth of solids then removed from the tank. If the tank again is at high risk of discharging solids into the SCS at that time, the tank shall be pumped every six (6) months at the property owners's expense, proof of which shall be provided to the City as herein required, together with the pumping contractor's estimate of existing solids, except that regular scheduled pumping shall replace one (1) pumping every two (2) years. If pumping is required at yet a greater frequency than every six months, a second tank shall be installed at the property owner's expense to prevent overflow of solids into the SCS. Failure of the person owning the property requiring extra pumping to comply with this chapter shall be found by the City to be in violation of this chapter and be subject

to the penalties therein provided, with each day of failure to comply deemed as a separate offense.

- C. The frequency of pumping and the number of septic tanks required by this chapter for any property served shall be dependent entirely upon the quantity and quality of the discharge load entering the SCS at the tank end of the sewer service connection of that property. The weight of a concrete tank prohibits increasing the size of the tank, and the number of persons residing on any particular property varies too greatly from time to time within any single family, two family, or multiple dwelling, or dwelling group, and from owner to owner, to be relied upon as a constant for classifying load requirements. Increasing the number of tanks, and thereby increasing the maintenance costs of the SCS shall be avoided whenever the alternative of increasing pumping frequency can be reasonably employed.
- D. Normally scheduled pumping for each SCS septic tank shall occur once every two (2) years, the cost of which shall be included in and paid from the user fees applicable to that period of time for each property served.

#### **6.03.14 Kachemak City as regulating authority**

The City of Kachemak shall have full authority to act and perform such functions as are provided in this chapter, and shall be the final authority with respect to the use of, expansion of, and connection to any part of the POTW located within its boundaries, and with respect to any redesign or modification of the POTW effecting the operation of the SCS.

#### **6.03.15 Penalties; civil and criminal**

A. Civil penalties:

- 1. Any person who violates any provision of this chapter, or any order, rule, regulation or permit issued thereunder, shall be subject to a civil penalty of not more than five thousand dollars (\$5,000) per day for each day during which such violation occurs or continues.
- 2. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporter's fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder.

B. Criminal penalties:

- 1. Any person who violates any provision of this chapter, or any order, rule, regulation, or permit issued thereunder, shall, upon conviction, be punished by a fine of not more than five thousand dollars (\$5,000), or by imprisonment for not more than six (6) months, or by both.
- 2. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

#### **6.03.16 Falsifying information**

It is unlawful for any person to knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed with the City or required to be maintained or provided pursuant to this chapter, or to knowingly falsify, tamper with, or render inaccurate any monitoring device or method required under this chapter.



#### **6.03.17 Written notice of violation**

Whenever the City finds that any person violated, or is violating this article or the rules and regulations promulgated hereunder, or any prohibition, limitation or requirement contained in any agreement entered into with the City by such a person, the City may serve upon such person written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the City by such person. If the response received by the City from such person is not satisfactory to the City, the City shall proceed with such remedies as are further provided by this chapter.

#### **6.03.18 Appeals**

- A. Any person who is dissatisfied with any action of the City Clerk or other designated City official under this chapter in which the person may be affected, may, within thirty (30) days from the date of such action, appeal to the City Council by giving notice thereof to the City Clerk.
- B. The City Council shall have full power to review any action on the part of the City Clerk or other official under this chapter, and the determination of the City Council shall be final.

#### **6.03.19 Delegation of authority**

The City of Kachemak shall have the power to delegate its authority, or any part thereof reserved under this chapter, to any other government entity as the City shall deem appropriate. Delegation of its authority by the City shall be by written agreement only with the entity receiving said authority, and the responsibility for actions taken under the authority so delegated shall transfer with it.

#### **6.03.20 Right of revision**

The City reserves the right to establish more stringent limitations or requirements on discharges to the POTW if deemed necessary to protect its continued and efficient operation.

#### **6.03.21 Sewer disconnection, reconnection, and penalties**

- A. If an owner certifies structure will be unoccupied for 90 days or longer the structure may be disconnected from the Kachemak Sewer System. The disconnect will be effective on the last day of the month of the requested date and a one month sewer fee will be charged for the disconnect.
- B. To reconnect to the sewer system the owner must apply in person or by telephone within 72 hours of re-occupying the structure. The reconnect will be effective the first day of the month in which it is requested. There is no charge for reconnect. Reconnect date can be set at time of disconnect.
- C. Penalty for failure to reconnect will be one month's sewer charge for violations of 30 days or less; if violation exceeds 30 days, penalty will equal all sewer bills missed since disconnect.



## TITLE 7. LOCAL IMPROVEMENT DISTRICTS (Ordinance 87-3, and 88-2)

### Chapters:

7.01 GENERAL PROVISIONS

7.02 KACHEMAK CITY/BEAR CREEK DRIVE SEWER LOCAL IMPROVEMENT  
DISTRICT

## **CHAPTER 7.01**

### **GENERAL PROVISIONS**

#### **7.01.01 Purpose**

It is the intent of this title to clarify the rules and regulations of the City of Kachemak as a whole by keeping those rules and regulations specific only to a L.I.D within the City of Kachemak to Title 7 of the City of Kachemak Code.

## **CHAPTER 7.02**

### **KACHEMAK CITY/BEAR CREEK DRIVE SEWER LOCAL IMPROVEMENT DISTRICT**

**7.02.01** Establishment of the Kachemak City Bear Creek Drive Local Sewer Improvement District

**7.02.02** Priorities and Debt Payments of the Kachemak City/Bear Creek Drive Sewer Local Improvement District

**7.02.03** Assessment roll, establishing time of payments, penalties, and rate of interest on the Kachemak City Bear Creek Drive Local Improvement District

#### **7.02.01 Establishment of the Kachemak City Bear Creek Drive Local Sewer Improvement District**

The Kachemak City Bear Creek Drive Local Sewer Improvement District was created by Ordinance 87-3 which was passed December 9, 1987. Ordinance 87-3:

- A. Established the Kachemak City/Bear Creek Drive Local Sewer Improvement District, consisting of the property described as:  
That portion of the SW 1/4, Section 10 together with the W 1/2 of the W 1/2, Section 11, T 6S, R 13W, Seward Meridian, lying north of the centerline of the East End Road, Kachemak City, Alaska.
- B. Set the maximum cost of Kachemak City/Bear Creek Drive Sewer Local Improvement District improvements at \$800,000. Kachemak Ordinance 92-02 established the July 1, 1987 shall be the date after which the Kachemak City Bear Creek Drive Local Sewer Improvement District shall be responsible for all costs and debts incurred by the City of Kachemak due to construction of the Kachemak City Bear Creek Drive Local Sewer system improvements. Any payments after July 1, 1987 for the benefit of the Kachemak City Bear Creek Drive Local Sewer Improvement District, not recovered by grants, shall be reimbursed to the City of Kachemak out of the Kachemak City Bear Creek Drive Local Sewer Improvement District assessment payments. Any payments made before July 1, 1987 by the City of Kachemak for the benefit of the City of Kachemak wastewater collection system shall be borne by the City of Kachemak.
- C. Directed that after project completion and the cost of the improvements computed, the City shall prepare an assessment roll for the special assessment district.

- D. Directed that costs of the improvements to be assessed shall be prorated as shown in the Assessment Formula of Ordinance 87-3 and Ordinance 88-2:

Assessments per direct benefit units (improved), direct benefit units (unimproved) and indirect benefit units as per the Assessment Formula, will be levied upon receipt of the benefit by either the Local Improvement District (for local improvements), connection to the sewer system on permission-to-enter basis, or by special agreement. For purposes of definition: In order for a lot to be considered improved, the improvement requiring sewage disposal must have been initiated by September 27, 1988. (Ordinance 88-2)
- E. Required that any improved property requiring wastewater disposal in the Kachemak City/Bear Creek Drive Local Sewer Improvement District will be required to hook up to the sewer system within this district. Any direct benefit unit (unimproved) will not have a septic system installed at the time of the initial sewerage system construction. However, at such time that this lot is improved to require sewage disposal, as per DEC standards, an approved septic tank and service connection line will be required to be installed by the homeowner at his/her expense and subject to inspection by Kachemak City's designated agent. The septic tank and service connection will become integral to the Kachemak City/Bear Creek Drive Local Sewer Improvement District.  
(Ordinance 88-2 and Ordinance 89-3).
- F. Shall be consistent with the provisions of Title 29, Chapter 46 of the Alaska Statutes.

**7.02.02      Priorities and Debt Payments of the Kachemak City/Bear Creek Drive Sewer Local Improvement District**

- A. Interest on debts of the Kachemak City/Bear Creek Drive Sewer Local Improvement District to the City of Kachemak be calculated at the rate of 5.0% from June 16, 1995 onward, and paid in 15 equal annual installments with the first payment due on or before July 1, 1995. Additional payments to principal may be made without penalty.
- B. The priority of payments by the Kachemak City/Bear Creek Drive Sewer Local Improvement District to retire its debts will be **first**, to make payments on its \$450,000 debt to the State of Alaska Department of Environmental Conservation Clean Water Fund Loan on schedule, and **second**, to make payments on its debt to the City of Kachemak on schedule. **Third**, additional payments to principal may be made if deemed prudent, but such payments will be made first to the City of Kachemak, and second to State of Alaska Department of Environmental Conservation Clean Water Fund Loan.
- C. In the case that all financial obligations of the Kachemak City/Bear Creek Drive Sewer Local Improvement District have been fully met and further revenues accrue to the Kachemak City/Bear Creek Drive Sewer Local Improvement District capital account, the City of Kachemak may, at the discretion of the City Council, choose to make a reassessment allocating said excess to the property owners of record at the date of reassessment according to the formulas used to calculate the original assessment.
- D. In the case that payments to principal are made and it later becomes necessary for the Kachemak City/Bear Creek Drive Sewer Local Improvement District to borrow money from the City of Kachemak to make payments to the State of Alaska Department of Environmental Conservation Clean Water Fund Loan, such funds will be loaned to the Kachemak City/Bear Creek Drive Sewer Local Improvement District at 5.0% interest per annum.



**7.02.03      Assessment roll, establishing time of payments, penalties, and rate of interest on the Kachemak City Bear Creek Drive Local Improvement District**

- A. In compliance with AS 29.46.080, which requires the Council to fix the times of payment, penalties on delinquent payments, and the rate of interest on the unpaid balance of the assessment, the Council sets forth these payment requirements:
1. All payments, whether a payment in full or a first installment, are due on or before 5:00 pm of the 15th of June, 1995. For an assessment to be allowed to be paid in installments the record owner must first sign a 15-year payment contract with the City of Kachemak whereby the assessment may be paid in 15 equal annual installments including interest at 5.0 percent per annum on the unpaid balance, with the first installment due and payable on or before 5:00 pm June 15, 1995 and each installment thereafter due on or before June 15 each year; or whereby the assessment may be paid in 60 equal quarterly installments including interest at 5.0 percent per annum on the unpaid balance, with the first installment due and payable on or before 5:00 pm June 15, 1995 and each installment thereafter due on or before the 15th of September, December, March and June of each year, until the assessment is fully paid. Interest on installment contracts will begin accruing on June 16, 1995. There will be no penalty for early payment of assessments being paid through installment contracts. Any payment, whether in full or an installment, not paid by the date due shall be considered delinquent and in default and shall have added a penalty of 10 percent, which penalty and the principal amount of the payment in default shall both draw interest beginning on the date the payment was due at the rate of 10.5 percent per annum until paid. Also, a charge of three dollars (\$3) shall be added to each assessment payment to cover administrative costs. The unpaid assessment will become a lien on the property.
  2. If, at any time, a property subject to assessment is divided into smaller parcels after its relative share of the construction costs have been determined, the newly formed parcels shall be each assigned, by the City, a pro-rata share of the original total assessment for the property before re-division, according to parcel area and location of both property and SCS improvements. Such re-division of a property already subject to assessment shall require that, when any newly created parcel is sold or falls under new ownership, the pro-rata share of the original assessment assigned to it by the City, not already paid, shall become due and payable in full, and be paid to the City at the closing of the sale or signing of the assignment of ownership. Exception: If all newly formed parcels are sold or assigned to one person in one transaction the payment agreement for the original assessment for the whole property may remain unchanged.
- B. The Assessment Roll as presented by the City Clerk, and reviewed and corrected where necessary, is the official Assessment Roll for the Kachemak City/Bear Creek Local Improvement District. (See Ordinance 94-07(S)).

## TITLE 8. HEALTH & SAFETY

### Chapters:

#### 8.01 FIREWORKS CONTROL

## **Chapter 8.01**

### **Fireworks Control**

|                |                                    |
|----------------|------------------------------------|
| <b>8.01.01</b> | Title                              |
| <b>8.01.02</b> | Definitions                        |
| <b>8.01.03</b> | Sale prohibited                    |
| <b>8.01.04</b> | Use prohibited                     |
| <b>8.01.05</b> | Exceptions for authorized displays |
| <b>8.01.06</b> | Use permits                        |
| <b>8.01.07</b> | Miscellaneous provisions           |
| <b>8.01.08</b> | Penalties                          |

#### **8.01.01 Title**

#### **8.01.02 Definitions**

- A. "fireworks" shall mean fireworks as defined by AS 18.72.050 as it now exists or may from time to time be amended or changes by the legislature.
- B. "Display" shall mean the detonation of fireworks at any time.
- C. "Professional pyrotechnician" shall mean an individual who has been licensed by the division of Alcohol, Tobacco and Firearms to us Class A, Class B, and Class C fireworks.

#### **8.01.03 Sale prohibited**

No person, business, corporation, association, club or organization shall sell, expose for sale or offer for sale any fireworks within the corporate limits of the city except as other provided by this section of the City of Kachemak code.

#### **8.01.04 Use prohibited**

No person, business, corporation, association, club or organization shall use or explode any fireworks, except as otherwise provided by this section of the City of Kachemak code.

#### **8.01.05 Exceptions for authorized displays**

Fireworks may be used for public displays by the municipality, fair associations, amusement parks, and other organizations. Or groups holding the current permit issued by the mayor as provided elsewhere in this section.

#### **8.01.06 Use permits**

- A. The City Mayor and his/her designee may issue a fireworks use permit by council resolution to municipalities, fair associations, amusement parks, and other organizations, or groups for public fireworks displays provided that the display is to be conducted by a professional pyrotechnician during the calendar year thirty days from date of application showing:
  - 1. The dates and locations of the proposed displays.
  - 2. That all appropriate or required state licenses and certificates have been procured;
  - 3. That a cash or corporate security bond has been filed with the City in the amount of at least \$1500 to insure payment of damages to persons or property caused by the display. The bond requirement may be waived if the holder of the permit has in effect an insurance policy which accomplishes the same purpose as the bond;
  - 4. That the appropriate fire departments have been notified and invited to be in attendance for fire control purposes;
  - 5. That the state fire marshal has issued the necessary permit;
  - 6. The name and address of the applicant, and the name and address of the professional pyrotechnician or company who will be conducting the display.

#### **8.01.07 Miscellaneous provisions**

- A. No permit shall be issued for more than three displays per calendar year.
- B. No permit is transferable

#### **8.01.08 Penalties**

Upon conviction, each violation of this ordinance shall be punished under the general provisions of the state of Alaska.

## TITLE 9. ROADS

### Chapters:

- 9.01. ROADS
- 9.02. SPEED LIMITS AND ROAD SIGNS
- 9.03. RIGHTS OF WAY

## **CHAPTER 9.01**

### **ROADS**

#### **9.01.01 Roads**

All new roads in the City of Kachemak must meet or exceed the design requirements of Kenai Peninsula Borough **Chapter 14.06, Road Construction Standards** in effect at the time. (Ordinance 2011-01)

## **CHAPTER 9.02**

### **SPEED LIMITS AND ROAD SIGNS.**

#### **9.02.01      Speed limits and road signs**

- A. The speed limit on unpaved roads not maintained by the State of Alaska and within the City of Kachemak shall be 15 miles per hour unless otherwise posted, and;
- B. No speed limit higher than 25 miles per hour may be posted on such roads, and;
- C. The above stated limits will apply to all motor vehicles whether or not legally licensed, and;
- D. Official or home-designed signs may be placed within or adjacent to the road right-of-way to advise motorists of speed limits or other traffic concerns, provided that:
  - 1. Signs may not block visibility for traffic using or entering the road, and;
  - 2. Signs may not be larger than 4 feet by 4 feet, or single out particular sorts of traffic, or violate common standards of decency, and;
  - 3. Signs placed on private property must be placed with permission of the land-owner, and;
  - 4. Signs must be placed by the homeowners association, subdivision road maintenance group, or any other group representing a simple majority of Kachemak City residents on the road in question at the time of request, and;
  - 5. Any group placing or removing signs will notify the Kachemak City Clerk of description and location of signs within 10 days.
- E. Official signs may be provided by Kachemak City to be installed by and at the expense of residents in accordance with the above provisions. (Ordinance 2006-08).

## **Chapter 09.03**

### **RIGHTS OF WAY IN THE CITY OF KACHEMAK INCLUDING DRIVEWAY CONSTRUCTION PERMITS**

|                |  |
|----------------|--|
| <b>9.03.01</b> | Purpose  |
| <b>9.03.02</b> | Applicability.                                   |
| <b>9.03.03</b> | Definitions.                                     |
| <b>9.03.04</b> | Permit--Required.                                |
| <b>9.03.05</b> | Permit--Application.                             |
| <b>9.03.06</b> | Applicant's responsibility -- Generally.         |
| <b>9.03.07</b> | Applicant's responsibility--For construction.    |
| <b>9.03.08</b> | Maintenance responsibility.                      |
| <b>9.03.09</b> | Driveways, road approaches — Public Property.    |
| <b>9.03.10</b> | Building setback requirement.                    |
| <b>9.03.11</b> | Design requirements.                             |
| <b>9.03.12</b> | Other requirements.                              |
| <b>9.03.13</b> | As built plans required for street construction. |
| <b>9.03.14</b> | Violations – Penalty                             |
| <b>9.03.15</b> | Permitting in rights of way                      |

#### **9.03.01 Purpose**

The fundamental objectives of this chapter are threefold:

- A. To provide maximum protection to the public through the orderly control of traffic moving onto and off of a road or street;
- B. To provide a uniform practice in the design and construction of entrances and exits; and
- C. To provide the necessary drainage.

These objectives and the regulations which follow in this chapter constitute the City's policy concerning entrances and exits on to roads and streets, and include the requirements for the construction within a dedicated right-of-way.

#### **9.03.02 Applicability**

The requirements of this chapter are applicable to all commercial and industrial establishments, service areas, and private residences having access to and/or through a City right-of-way, insofar as the requirements for drainage, geometric design, signs, type and quality of workmanship, material used and work performed in the areas providing ingress and egress to the property are concerned.

#### **9.03.03 Definitions**

For the purposes of this chapter the following terms shall be defined as follows:

- A. "Driveway" or "Approach" means that section of the roadway or alley right-of-way between the pavement edge or edge of shoulder and the property line which is



- designed and used for the movement of traffic between the roadway and the adjacent property.
- B. "Stabilized Material" means classified materials as defined by Alaska State Standard Specifications, most recent Edition and made a part of this Ordinance by reference.
  - C. "Street" or "Road" means any dedicated public right-of-way twenty-one or more feet in width, which may or may not be in use as a traveled way.

#### **9.03.04 Permit — Required**

- A. Any owner of property desiring to gain access, or to enlarge or change the location of an existing access to a road or street shall do so only in strict accordance with the provisions of a permit issued by the City. Written application must be made to secure such a permit from the City through the City Clerk. Each application for a permit shall be accompanied by a fee in an amount determined by Council Resolution. The council shall contract with an Engineer or other qualified person to check the permit
- B. Control of the location and construction of driveways is under the supervision of the City at all times. In granting a permit the City waives none of its powers or rights to direct the removal, relocation, and/or proper maintenance in the future of any driveway within the right-of-way of the City roads, streets, or trails. Any permit granted will be construed as regulatory and not contractual. Such permits are revocable by the City whenever the use and presence of a driveway or approach unduly interferes with the required use of that portion of the right-of-way occupied by the driveway or constitutes a hazard to traffic.

#### **9.03.05 Permit — Application**

Any owner or user or the agent of the owner or user of property abutting City roads or streets, before beginning any construction, shall make application for a permit from the City for construction within any dedicated right-of-way for any purpose. All applications shall be submitted to the City Clerk who shall transmit the application to the Mayor/Engineer for approval. The application must include the following:

- A. A plan showing:
  - 1. Complete details on the property in question, including the location of property lines and all existing driveways and buildings;
  - 2. Any drive that is to be altered or closed shall be so indicated;
  - 3. All buildings, etc., should be shown in their correct location.
  - 4. Complete details on drainage: All driveways and buffer areas should be constructed so as not to impair the drainage within the street or road right-of-way nor alter the stability of the roadway subgrade and at the same time not impair or materially alter drainage of the adjacent areas.
- B. Evidence of plan acceptance, including line, grade and proposed drainage, by the Engineer on contract to the City, or the City Mayor.
- C. After work begins it shall be the responsibility of the contractor or subdivider to notify the City Clerk's Office when the work is complete or as directed by the Engineer or Mayor on the permit.

#### **9.03.06 Applicant's responsibility – General.**

The applicant must perform all work in accordance with the permit, and shall indemnify and save harmless the City, its officers, employees, and City contractors (i.e. Engineer), from all liability, judgment, costs, expenses, and claims or damages, or alleged damages, of any nature whatsoever, to any person or property arising out of the design, performance or nonperformance of the work.

#### **9.03.07 Applicant's responsibility – For construction**

The applicant shall assume the following construction responsibilities:

- A. Furnish all materials, including any necessary signs.
- B. All work and material shall meet the standards of the City as set forth by the Kenai Peninsula Borough.
- C. All driveways and street approaches will be inspected as required by the Engineer/Mayor. The City has the right to stop work until such time as any objectionable conditions are corrected. All cost of material and labor shall be borne by the applicant.
- D. No alteration shall be made without securing a new permit.

#### **9.03.08 Maintenance responsibility**

The cost of maintaining the work specified herein shall be borne by the applicant, his grantees, successors and assignees.

#### **9.03.09 Driveways, road approaches – Public Property**

All driveways or road approaches, constructed under permit within any street or road are public property, but all cost and liability in connection therewith, and the maintenance thereof, shall be at the sole expense of the owner of the property served thereby.

#### **9.03.10 Building setback requirement**

There shall be a minimum twenty foot building setback required which shall apply to any property line abutting any street or road. This section shall not apply where there is another applicable setback requirement in excess of twenty feet.

#### **9.03.11 Design Requirements**

The design standards are based on the type of road, rights of the road user and abutting property owners:

- A. Driveways shall be located to the best advantage with regard to the street or road alignment, profile, sight distance conditions, etc.
- B. May not be constructed within thirty feet of an intersection.
- C. The radii of a private driveway entrance may not extend beyond the applicant's property line.
- D. Culvert ends shall be a minimum of 5 feet from the nearest property line perpendicular to the run of culvert.

### **09.03.12 Other Requirements**

- A. Cul de sacs: Cul de sacs must have a turnaround, with a minimum radius to the outer edge of road surface or shoulder of thirty-eight feet.
- B. Driveway culverts: Driveway culverts, if necessary, will be a minimum of eighteen inches in diameter and a minimum of 20 feet long, unless a larger size is specified by the Mayor/Engineer.
- C. Restoration of existing streets and rights-of way: Contractors must restore streets and roads to the grade and condition originally found, and replace gravel, paving or sealcoating, ditches, culverts, fences, signs, and other improvements, unless otherwise authorized in writing by the City. Failure to do so will be cause for the City to accomplish the required work, and to collect damages from the contractor or his surety. All work within any street or road shall comply with the standards set forth by the State of Alaska, Kenai Peninsula Borough Code Chapter 14.06 Road Standards.
- D. No person or entity shall remove, injure, tamper with, destroy, break or deface in any way any public property, or property of a public utility, lawfully placed in the right-of-way or in any way interfere with the lawful use therefore by the utility without first having obtained the written consent of the appropriate authority or public utility.
- E. No structure for a business enterprise, serving vehicles or providing services or entertainment to customers while in said vehicles, shall be located so as to cause traffic congestion within the street or road. The driving surface of the driveway will be a minimum of 16 feet wide with a minimum radius of 25 feet at the intersection of the public right of way. The driveway beyond the street or road must be sufficient length and width to accommodate emergency vehicles and have a design to provide for the safe and expeditious handling of traffic thereon as determined by the City.
- F. No lights, signs, signals, or other structures shall be located adjacent to the road or street within the vicinity thereof which will distract the attention of, and thus impair the safety of the traveling public.
- G. All driveways and approaches shall be so constructed that vehicles approaching or using them will be able to obtain adequate sight distance in other directions along the road or street in order to maneuver safely and without interfering with road or street traffic.

### **9.03.13 As built plans required for street construction**

Before final approval will be granted a drawing shall be submitted. The drawing shall show the details of construction such as:

- A. Culvert size;
- B. Width of roadway;
- C. Location of underground utilities;
- D. Right-of-way monuments;
- E. Profile of finish grade;
- F. Any other pertinent data.

#### **9.10.14 Violations – Penalty**

Any violation of this chapter or encroachment onto a public right-of-way by a non-compliant driveway or other private improvement is unlawful. The City Council may, by majority vote, declare any such violation or encroachment not in the public interest and require the property owner to cure the problem within 30 days of notification. Should the property owner fail to do so, the City may assess a fine not exceeding \$300 for each day the violation continues unabated.

Any questions as to the applicability of this ordinance to a particular parcel of land or right of way may be addressed to the mayor.

#### **9.03.15 Permitting in rights of way**

The City of Kachemak will require permits and conditions before any utility works within the rights of way, and all proper safety and construction standards must be adhered to. (Ordinance 2013-01)

CITY OF KACHEMAK  
KACHEMAK, ALASKA  
ORDINANCE 2013-01

AN ORDINANCE OF THE CITY OF KACHEMAK ALASKA ESTABLISHING A  
SYSTEM OF PERMITTING FOR WORK IN THE RIGHT OF WAYS IN THE CITY  
OF KACHEMAK

WHEREAS, new utilities are going to be installed within the City of Kachemak; and

WHEREAS, to date there has been little activity that has placed utilities within the  
right of way; and

WHEREAS, the City of Kachemak has an interest in having utilities properly placed,  
spaced, and contained within the right of way; and

WHEREAS, proper safety and construction standards must be adhered to.

The City of Kachemak will have permits and conditions before any utility works  
within the City of Kachemak right of way. (ord. 2013-01)

ADOPTED BY THE COUNCIL OF THE CITY OF KACHEMAK ON THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_, 2013.

CITY OF KACHEMAK

\_\_\_\_\_  
Philemon D. Morris, Mayor

ATTEST:

\_\_\_\_\_  
Helyn I. Schoepke, City Clerk

First Reading:\_\_\_\_\_

Public Hearing\_\_\_\_\_

Second Reading\_\_\_\_\_

|           |           |                          |
|-----------|-----------|--------------------------|
|           | TITLE 10. | LAND USE AND DEVELOPMENT |
| chapters: |           |                          |
| 10.01     |           | LAND SUBDIVISION         |

#### **10.01.01 Land Subdivision.**

October 2, 2007 the voters of Kachemak City advised the Kachemak City Council to instruct the Kenai Peninsula Borough to require a minimum lot size of 40,000 square feet in the City of Kachemak, regardless of the availability of public water and sewer, subject to allowing those smaller lots currently platted. Unless this section of the code is repealed, the City of Kachemak will protest to the Kenai Peninsula Borough (the platting authority of the City of Kachemak) all land subdivisions in the City of Kachemak that will create lots under 40,000 square feet, after December 12, 2008.

Ordinance 2009-03 City of Kachemak accepts limited platting powers from the Kenai Peninsula Borough for the purpose of establishing a minimum lot size of 40,000 square feet.