



City of Kaktovik Code of Ordinances

Printed date: _____

Code last updated ~2016. See clerk's copy of additional code ordinances passed since then.

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Chapter 1.01

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Section 1.01.010 Adoption.

As required by A.S. 29.25.050, there is adopted the "City of Kaktovik Code of Ordinances." (Ordinance No. 88-01.)

Section 1.01.020 Title – citation – reference.

This Code Shall be known as the "City of Kaktovik, Code of Ordinances." It shall be sufficient to refer to this code as the "City of Kaktovik Code" in any prosecution for the violation of any provision hereof or in any proceeding at law or in equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion hereof (pursuant to section 2.12.092) as an addition to, amendment to, correction or repeal of the "City of Kaktovik, Code of Ordinances." Further reference may be had to the titles, chapters, sections and subsections of the "City of Kaktovik, Code of Ordinances," and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code. (Ordinance No. 88-01.)

Section 1.01.030 Contents of code.

This code consists of all the general and permanent ordinances of the city of Kaktovik, Alaska, including all of the regulatory and penal ordinances and certain of the administrative ordinances of the city, codified pursuant to the requirements of A.S. 29.25.050. (Ordinance No. 88-01.)

Section 1.01.040 [Reserved.]

Section 1.01.050 Reference applies to all amendments.

Whenever a reference is made to this code as the "city of Kaktovik, Code of Ordinances," or as the "City of Kaktovik Code" or to any portion hereof, or to any ordinance of the city of Kaktovik, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ordinance No. 88-01.)

Section 1.01.060 Title, chapter and section headings.

Title, chapter and section headings contained in this code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section of this code. (Ordinance No. 88-01.)

Section 1.01.070 Reference to specific ordinances.

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code. (Ordinance No. 88-01.)

Section 1.01.080 Effect of code on past actions and obligations.

Neither the adoption of this code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the City of Kaktovik shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ordinance No. 88-01.)

Section 1.01.090 Effective date.

This code shall become effective on the date the ordinance adopting this code as the "City of Kaktovik Code of Ordinances" becomes effective. (Ordinance No. 88-01.)

Section 1.01.100 Constitutionality; severability.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council hereby declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect. (Ordinance No. 88-01.)

Section 1.01.110. Effect of repeal of ordinances.

The repeal of any ordinance does not limit or affect any right or remedy available to the city or any other party and arising out of a violation of that ordinance which, occurred before its repeal. (Ordinance No. 88-01.)

Section 1.01.110. Effect of repeal of ordinances.

The repeal of any ordinance does not limit or affect any right or remedy available to the city or any other party and arising out of a violation of that ordinance which, occurred before its repeal. (Ordinance No. 88-01.)

Section 1.01.120. Changes to code.

- A. All permanent and general ordinances passed after the adoption of this code shall be assigned one or more section numbers according to the numbering system of this code.
 - B. Repealed provisions of this code shall be excluded from the code
- (Ordinance No. 88-01.)

Section 1.01.130 Distribution and publication of code.

This code shall be made available to the public. The cost of reproducing all or parts of this code may be charged to anyone requesting copies. A copy of this Code shall be furnished to any court as needed or upon its request. (Ordinance No. 88-01.)

Chapter 1.04

GENERAL PROVISIONS

Sections:

- 1.04.010 Definitions.
- 1.04.020 Title of office.
- 1.04.030 Interpretation of language.

Section 1.04.010 Definitions.

The following words and phrases, whenever used in the ordinances of the city, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

- A. "Borough" means the North Slope Borough.
- B. "City" means the City of Kaktovik, Alaska, or the area within the territorial limits of the City of Kaktovik, Alaska.
- C. "Clerk" means the city clerk.
- D. "Council" means the city council of Kaktovik, Alaska. "All its members" or "all council members" means the total number of council members holding office.
- E. "Law" denotes applicable federal law, the Constitution and statutes of the state of Alaska, the ordinances of the city of Kaktovik and, when appropriate, any and all rules and regulations which may be promulgated thereunder.
- F. "May" is permissive.
- G. "Month" means a calendar month.
- H. "Must" and "shall" are each mandatory.
- I. "No person shall" means that the described conduct is prohibited.
- J. "Oath" includes an affirmation or declaration. In all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" or "declare" and "affirmed" or "declared."
- K. "Owner," applied to a building, land, or personal property, includes any part owner, joint owner, tenant in common, joint tenant, or tenant by the entirety, of the whole or a part of

such building, land, or personal property.

- L. "Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.
- M. "Personal property" means a person's tangible personal property which may be seen, weighed, measured by the physical senses and is capable of being possessed or owned singly or in part, and includes money, goods, chattels, things in action and evidences of debt.
- N. "Preceding" and "following" mean next before and next after, respectively.
- O. "Property" includes real and personal property.
- P. "Real property" includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, any right existing pursuant to § 14 (c) (3) of the Alaska Native Claims Settlement Act, 43 U.S.C. § 1613 (c) (3), 85 Stat. 688, as amended, and any other right, title or interest in land or a building.
- Q. "Sidewalk" means that portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians.
- R. "State" means the state of Alaska.
- S. "Street" includes all streets, roads, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this city which have been or may, after the effective date of the ordinance codified in this chapter, be dedicated and open to public use, or such other public property so designated in any law of this state.
- T. "Tenant" and "occupant," applied to a building or land, include any person who occupies the whole or part of such building or land, whether alone or with others.
- U. "Written" includes printed, typewritten, mimeographed, multigraphed or otherwise reproduced in permanent visible form.
- V. "Year" means a calendar year.

(Ordinance No. 88-01.)

Section 1.04.020 Title of Office.

Whenever used in the ordinances of the city, the title of any officer, employee, department, board or commission means that officer, employee, department, board, or commission of the city.
(Ordinance No. 88-01.)

Section 1.04.030 Interpretation of language.

The following grammatical and interpretative 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.

(Ordinance No. 88-01.)

Chapter 1.08

INCORPORATION

Sections:

1.08.010 Status of municipality.

Section 1.08.010 Status of municipality.

The city shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Kaktovik, Alaska." It shall succeed to and possess all the property, rights, privileges, franchises, powers and immunities now belonging to the corporation under the laws of the state, and shall be liable for all debts and other obligations for which the corporation is legally bound. (Ordinance No. 88-01.)

Chapter 1.12
[RESERVED]

Chapter 1.16

CITY SEAL

Sections:

1.16.010 City Seal – described and adopted.

Section 1.16.010 City Seal – described and adopted.

The official seal of the city shall be a circle upon which shall be printed the words, “The city of Kaktovik, Alaska.” The seal is adopted and declared to be the corporate seal of the city, and shall be used to authenticate all acts of the municipal corporation.

(Ordinance No. 88-01.)

Chapter 1.20
CITY POWERS

Sections:

1.20.010 Designated.

1.20.020 Discrimination prohibited.

Section 1.20.010 Designated.

The city shall have all the powers, function, rights and privileges, franchises and immunity of every name and nature whatever, which a city of the second class may bear under the Constitution and laws of the state. (Ordinance No. 88-01.)

Section 1.20.020 Discrimination prohibited.

It is unlawful for the city or any elected officer, appointed official, or city employee in the course of his or her duties

1. To refuse, withhold from, or deny to, a person any services, goods, facilities, advantages, or privileges because of race, religion, creed, sex, color, or national origin;
2. To publish, circulate, issue, display, post, or mail a written or printed communication, notice, or advertisement which states or implies that any city services, goods, facilities, advantages, or privileges will be refused, withheld from, or denied to a person of a certain race, religion, creed, sex, color, or national origin, or that the participation, application, or attendance of a person belonging to a particular race, religion, creed, sex, color, or national origin is unwelcome, not desired, or solicited.

(Ordinance No. 88-01.)

Chapter 1.24

Public Records

Sections:

- 1.24.010 Definitions.
- 1.24.020 Ownership and custody of records.
- 1.24.030 Duties of city clerk.

- 1.24.040 Public records; Inspection and copying.
- 1.24.050 Confidential records.
- 1.24.060 Retention and disposal.

Section 1.24.010 Definition.

As used in this chapter, "record" means any document, record, paper, letter, file, book, account, photograph, microfilm, microfiche, map, drawing, chart, card, magnetic media or computer print-out, or other document of any material, regardless of physical form or characteristic, created or acquired under law or in connection with the transaction of official business and preserved or appropriate for preservation by the city, as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the city or because of the information value in them. "Record" does not include extra copies of documents made or preserved solely for convenience of reference, or for public distribution. (Ordinance No. 88-01.)

Section 1.24.020 ownership and custody of records.

- A. All records shall be and remain city property. Records shall be delivered by outgoing officials and employees to their successors as required by section 2.24.040 and shall be preserved, stored, transferred, destroyed, and otherwise managed, only in accordance with the provisions of this chapter or as otherwise managed, only in accordance with the provisions of this chapter or as otherwise provided for by law.
- B. City records, or copies of city records which have been certified by the clerk, shall be prima facie evidence of their contents.

(Ordinance No. 88-01)

Section 1.24.030 Duties of City Clerk.

The clerk shall be responsible for the administration and maintenance of the public records. The clerk shall:

1. Compile and maintain an inventory of the public records, including those in the custody of other city officials and employees, those which have been placed in storage or

- destroyed, and those which are confidential;
2. Establish and maintain a system for filing and retrieval of records, including procedures for keeping track of, retrieving, and refiling records which are temporarily removed from the permanent files for use by the clerk, other city officials or employees, or members of the public;
 3. Develop a general schedule for the relocation of inactive records to a centralized location for storage, recording or duplication, or to the Alaska Department of Community and Regional Affairs as provided by A.S. 40.21.090, and for the destruction of records pursuant to section 1.24.060, while protecting the confidentiality of those records which are not open to public inspection pursuant to section 1.24.050;
 4. Establish and maintain a system to allow inspection and copying of public records by members of the public, while maintaining the confidentiality of those records which are not open to inspection pursuant to section 1.24.050; and
 5. Secure and maintain at least one copy of the Alaska Statutes and one copy of the North Slope Borough Code, and make them available for public inspection.

(Ordinance No. 88-01)

Section 1.24.040 Public records; Inspection and copying.

- A. Except as provided in 1.24.050, city records are public records.
- B. Public records are open to inspection by the public during the clerk's regular office hours, subject to reasonable rules relating to time, place, and manner of inspection, to be established by the clerk. The clerk shall give on request and payment of costs a copy or certified copy of portions of the public record.

(Ordinance No. 88-01.)

Section 1.24.050 Confidential records.

- A. Except as otherwise provided by law, confidential records shall not be made available to the public or to any city officer, official or employee whose duties do not require access to the record in question.
- B. The following city records are confidential:
 1. Records of vital statistics and adoption proceedings, which shall be treated in the manner required by A.S. 18.50;
 2. Records pertaining to juveniles;
 3. Medical and related public health records;
 4. Personnel records, except as provided in 3.06.100;
 5. Other records required by federal or state law or regulation or by ordinance to be kept confidential.

(Ordinance No. 88-01)

Section 1.24.060 Retention and disposal.

- A. All city records shall be retained until the council, in writing, authorizes their disposal.
- B. The clerk shall propose and the council shall by resolution or ordinance approve a records retention and disposal schedule dictating how long various categories of routine records shall be kept before they no longer have legal, administrative, or historical value and may be destroyed by the clerk. The clerk may dispose of routine records pursuant to the retention schedule.
- C. The clerk shall periodically review the city records, including inactive documents in storage, to determine whether he or she considers any to be without legal, administrative or historical value. When the clerk identifies such records, he or she may propose to the council that such records be destroyed. The clerk's proposal to the council shall include lists of these records sufficiently detailed to identify the records and to permit the council to determine whether the records retain any legal, administrative, or historical value, and shall also include the proposed means of disposal. If the council finds that certain records so identified by the clerk are without legal, administrative, or historical value, it may authorize their disposal and specify the means by which they may be disposed of. with such authorization, the clerk may dispose of the specified records in the manner approved by the council.
- D. The clerk shall file a descriptive list of the records disposed of and a record of the disposal itself. The clerk shall provide copies of these documents to the council.

(Ordinance No. 88-01.)

Chapter 1.28

PENALTIES; ENFORCEMENT

Sections:

- 1.28.010 Penalties.
- 1.28.015 Enforcement by public safety officers
- 1.28.020 Enforcement by city attorney.
- 1.28.030 Separate violations
- 1.28.040 Civil or criminal enforcement action.
- 1.28.050 Penalty Surcharge authorization and collection.

Section 1.28.010 Designated.

The council shall prescribe the penalties for violations of the city ordinances. Where no specific penalty is provided a violation of an ordinance shall constitute an infraction as defined by A.S. 11.81.250(a) (6) and shall be punishable by a maximum fine of three hundred dollars. (Ordinance No. 88-01 and 99-03.)

A. Where specified, the following schedule of Infraction Types and Fines shall apply:

1. The fine for Type One Infraction is: \$100.00
2. The fine for Type Two Infraction is: \$200.00
3. The fine for Type Three Infraction is: \$300.00
4. The Council may designate projects on which a violator may work at the rate of ten dollars (\$10.00) per hour, in order to work off the amount of any fine imposed.

(Ordinance No. 99-03.)

Section 1.28.015 Enforcement by public safety officers.

- ##### A. Authority is hereby granted to the Alaska State Troopers and North Slope Borough Police Department officers, and Animal Control Officers to enforce the provisions of this code. (Ordinance No. 88-01 and 99-03.)

Section 1.28.020 Enforcement by city attorney.

The city attorney, or such other counsel as may be engaged by the city attorney at the direction of the council, shall prosecute on behalf of the city such civil and criminal enforcement actions as the council may deem appropriate. (Ordinance No. 88-01.)

Section 1.28.030 Separate violations.

Each day that a violation of an ordinance continues constitutes a separate violation. (Ordinance

No. 88-01.)

Section 1.28.040 civil or criminal enforcement action.

The city may enforce its ordinances by civil and criminal proceedings as follows:

1. Maintain a civil action to obtain temporary, preliminary, or permanent injunctive relief restraining the violation of any ordinance, rule, or regulation. Such an action may be brought notwithstanding the availability of any other remedy.
2. Maintain a civil action for damages suffered by the city or its citizens as a result of the violation of any city ordinance, rule or regulation or right or privilege granted under state or federal constitution, law, or regulation.
3. Maintain a civil action to collect a civil penalty of not more than \$1,000 for the violation of any ordinance.
4. Maintain an action prosecuting as an infraction the violation of any city ordinance for which no greater penalty is established.
5. Maintain a criminal action prosecuting as a misdemeanor the violation of any city ordinance the violation of which is defined as a misdemeanor. Any person convicted of a misdemeanor violation of an ordinance may be punished by a fine of not more than \$1,000 and imprisonment for not more than 90 days.

(Ordinance No. 88-01.)

Section. 1.28.050 Penalty Surcharge Authorization and Collection.

The surcharge required to be imposed pursuant to A.S. 12.55.039 is authorized and shall be imposed as a surcharge on penalties imposed for the violation of an ordinance, code provision, or regulation of the City of Kaktovik brought under a citation or criminal complaint for any defendant as described in A.S. 12.55.039(a) that would require a proceeding in the Alaska Court System if the defendant were to enter a plea of not guilty. The Court may impose and collect the surcharge on all penalties imposed by the court where fines and bail forfeitures are paid to the court. For all criminal proceedings in which the fine or bail forfeiture is collected by the city, the surcharge imposed shall be collected by the city with the payment of the fine or forfeited bail and regularly paid over to the appropriate agency of the state less any collection and administration fee or reimbursement authorized by the state to be retained by the city.

(Ordinance No. 98-07.)

Chapter 1.32

RIGHT OF ENTRY FOR INSPECTION

Section:

1.32.010 Right of entry to enforce city law.

Section 1.32.010 Right of entry to enforce city law.

Whenever necessary to make an inspection to enforce any ordinance or resolution, or whenever there is reasonable cause to believe there exists an ordinance or resolution violation in any building or upon any premises within the jurisdiction of the city, any authorized official of the city may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed by ordinance; Provided, that except in emergency situations or when consent of the owner and/or occupant to the inspection has been otherwise obtained, the owner shall be given 24 hours' notice, in person or by written notice delivered to the owner's residence, of the authorized official's intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon the issuance of a search warrant by a duly authorized judicial officer.

(Ordinance No 88-01.)

TITLE 2
ADMINISTRATION

Chapters:

- 2.04 Mayor.
- 2.08 City council.
- 2.12 City Council Procedures.
- 2.16 [Reserved.]
- 2.20 Appointive Officers.
- 2.24 Assuming and Leaving Office.
- 2.26 Conflicts of Interest.
- 2.28 Department of Recreation.
- 2.32 [Reserved.]
- 2.36 Elections.
- 2.40 Informal Appeals to the city Council.
- 2.44 Formal Hearing Procedures.

Chapter 2.04
MAYOR AND VICE-MAYOR

Sections:

- 2.04.010 Duties generally.
- 2.04.020 Election; Qualifications; Term.
- 2.04.030 Vacancies.
- 2.04.040 Vote in council.
- 2.04.050 Veto.
- 2.04.060 Compensation.
- 2.04.070 Vice-Mayor.

Section 2.04.010 Duties generally.

- A. The Mayor is the chief executive officer of the City. The mayor acts as ceremonial head of the city government, presides at council meetings, and executes documents on behalf of the City upon council authorization
- B. The Mayor is the chief administrative officer of the City. As chief administrator the Mayor shall:
 1. appoint, suspend, or remove city employees and administrative officers, as provided in chapter 2.20 and title 3, unless otherwise provided in this Code; hire necessary administrative assistants, if so desired; and authorize an appointive administrative officer to appoint, suspend, or remove subordinates in his or her department, if so desired;
 2. supervise enforcement of city law and carry out the directives of the council;
 3. prepare and submit the annual budget and capital improvements program to the council for its consideration, and execute the budget and capital improvements program as adopted;
 4. make monthly financial reports and other reports on city finances and operations as required by the council;
 5. report to the council at the end of each fiscal year on the finances and administrative activities of the City;
 6. prepare and make available for public distribution an annual report on city affairs;
 7. exercise custody over all real and personal property of the city, as provided in title 13;
 8. serve as city personnel officer, as provided in title 3, unless the council authorizes the Mayor by resolution or ordinance to appoint a personnel officer;
 9. serve as an ex-officio member of every committee or department organized under this Code; and
 10. perform other duties required by law or by the council.

(Ordinance No. 88-02.)

Section 2.04.020 Election; Qualifications; Term.

- A. The mayor and vice-mayor are elected by and from the council for a term of one year, and serve until a successor is elected and has qualified. The council shall meet on the first Monday after certification of the regular election and elect a mayor and vice-mayor.

The mayor and vice-mayor shall take office immediately.

- B. The mayor and vice-mayor shall be qualified city voters and members of the council. If the mayor or vice-mayor ceases to be eligible to be a city voter, or ceases to be a member of the council, he or she is no longer mayor or vice-mayor, regardless of the term for which he or she was elected.
- C. The mayor and vice-mayor shall have been residents of the City of Kaktovik for one year immediately prior to the date of the election.
- D. The mayor and vice-mayor, as council members, shall affirm in writing the oath of office prescribed by section 2.24.010.

(Ordinance No. 88-02.)

Section 2.04.030 Vacancies.

- A. A vacancy in the office of mayor or vice-mayor is filled by and from the council. A mayor or vice-mayor appointed under this subsection serves the balance of the term to which appointed, except that the mayor or vice-mayor may serve only while a member of the council and a qualified city voter.
- B. The council shall, by two-thirds concurring vote, declare the office of mayor or vice-mayor vacant only when:
 - 1. The person elected resigns, and the resignation is accepted by the council; or
 - 2. The council, pursuant to section 2.08.070, declares the person's council seat vacant.
- 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 mayor only during such temporary absence or disability of the mayor or vice-mayor.

(Ordinance no. 88-02.)

Section 2.04.040 Vote in council.

The mayor and vice-mayor are council members and may vote on all matters.
(Ordinance No. 88-02.)

Section 2.04.050 Veto.

The mayor does not have the veto power.
(Ordinance No. 88-02)

Section 2.04.060 Compensation.

- A. The Mayor of the city shall receive compensation in the amount of \$150 per regular meeting except where there is no quorum to open the meeting; \$75 per special meeting

- except where there is no quorum to open the meeting. (Ordinance No. 02-05.)
- B. The annual compensation fixed by law for the mayor is in full for all services rendering him in any official capacity or employment whatsoever during his respective term of office, and shall be paid throughout his respective term of office unless the office becomes vacant. (Ordinance No. 88-02)

Section 2.04.070 Vice-Mayor.

The vice-mayor shall perform the duties of the mayor in the temporary absence of the mayor. (Ordinance No. 88-02.)

Chapter 2.08

CITY COUNCIL

Sections:

- 2.08.010 Established; composition.
- 2.08.015 Qualifications of council members.
- 2.08.020 Election; term.
- 2.08.030 Powers.
- 2.08.040 Regular meetings.
- 2.08.050 Special meetings.
- 2.08.055 Notice of meetings.
- 2.08.060 Compensation.
- 2.08.070 Vacancies.
- 2.08.080 Filling vacancies.

Section 2.08.010 Established; composition.

The legislative power of the city is vested in the city council. The council shall consist of seven members elected by the voters at large. (Ordinance No. 88-03.)

Section 2.08.015 Qualifications of council members.

- A. A council member shall be a qualified city voter. A council member who ceases to be eligible to be a city voter immediately forfeits his or her office.
- B. In order to serve as a council member, a person must be a resident of the city for 90 days immediately prior to the date of the election.
- C. All council members, before entering upon the duties of office shall affirm in writing the oath or affirmation provided by section 2.24.010.
(Ordinance No. 88-03.)

Section 2.08.020 Election; term.

- A. A council member is elected for a three-year term and serves until a successor qualifies.
- B. The regular term of office begins on the first Monday following certification of the election.
- C. City council members shall be elected at the regular election held annually on the first Tuesday in October. A council member shall be elected to Seat A at the 1988 regular

election and at the regular election in every third year following 1988 (1991, 1994, etc.); a council member shall be elected to Seat B at the 1989 regular election, and shall serve a transitional term of two years only; a council member shall thereafter be elected to Seat B at the 1991 regular election and at the regular election in every third year following 1991 (1994, 1997, etc.); council members shall be elected to Seats C and D at the 1989 regular election and at the regular election in every third year following 1989 (1992, 1995, etc.); and council members shall be elected to Seats E, F, and G at the 1990 regular election and at the regular election in every third year following 1990 (1993, 1996, etc.) (Ordinance No. 88-03.)

Section 2.08.030 Powers.

The council shall have and may exercise all legislative and adjudicative powers provided by law. (Ordinance No. 88-03.)

Section 2.08.040 Regular meetings.

- A. The council shall meet on the second Tuesday of each month at 7:00 p.m. (Ordinance No. 02-03.)
- B. The usual place of council meetings shall be the Community Building, Kaktovik, Alaska.
- C. In the event that the council becomes aware in advance that a quorum will not be present -at a future regular meeting, or if any condition renders the meeting place unfit to conduct meetings of the council, the meeting may be rescheduled for such other day or time or moved to such other place as the council may choose, provided reasonable notice is given to council members and to the public. (Ordinance No. 88-03 .)

Section 2.08.050 Special Meetings.

- A. Special meetings of the council may be called for a time different than that fixed for regular council meetings by the mayor or by any three members of the council. The location of all special council meetings shall be the same as that authorized for regular meetings.
- B. Advance notice of at least 24 hours shall be given each council member before a special meeting is held. The notice may be written or oral and shall specify the time, place, and business of the 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 or the clerk's designee.
- C. In an emergency, a special meeting called on less than 24 hours notice is a legal meeting if all members are present or if a quorum is present and all absent members have waived in writing the required notice. A waiver may be made either before or after the special meeting is held. Waivers shall be attached to and made a part of the minutes of the meeting. (Ordinance No. 88-03.)

Section 2.08.055 Notice of meetings.

Reasonable notice shall be given to the public of all regular and special council meetings. Public notice of a meeting is reasonable if a statement containing the date, time, and place of the meeting, and the purpose of the meeting if it is a special 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. (Ordinance No. 88-03.)

Section 2.08.060 Compensation.

- A. Each council member shall receive compensation of \$100 per regular or special meeting attended. (Ordinance No. 02-04.)
- B. No compensation shall be paid for any meeting at which there is no quorum present to open the meeting.
- C. The council may change the compensation of council members at any time by ordinance, except that if the mayor is paid a salary that salary may not be reduced during a term of office. All council members shall be compensated at the same rate for their service as council members.
- D. Permanent Employment of Elected Officials.
 - 1. General Provisions. City councilmembers may be employed by the City of Kaktovik but only as provided by ordinance.
 - 2. Permanent Employment of Elected Officials. Applications for city employment shall be reviewed and employees hired by the city council solely on the basis of merit. A city council member shall be hired for city employment only if the qualifications of the city council member are better than the qualifications of all other applicants.
 - 3. When a city councilmember applies for city employment, all applications for the position shall be reviewed by the city council at a regular meeting or a city council special meeting.
 - 4. The city council meeting authorized under subsection 3 above shall be open to comment from the public.
 - 5. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.
 - 6. Repealer Clause. This ordinance repeals and reenacts Section 2.08.060D of the City of Kaktovik Code of Ordinance.

(Ordinance No. 91.04)

Section 2.08.070 Vacancies.

The council shall declare a council seat vacant when the person elected:

- 1. Dies;
- 2. Fails to qualify or take office within 30 days after election or appointment;

3. Is physically absent from the city for 90 consecutive days unless excused by the council;
4. Resigns and the resignation is accepted;
5. Is physically or mentally unable to perform the duties of office as determined by two-thirds vote of the council;
6. Is convicted of a felony or of an offence involving a violation of the oath of office.
7. Is convicted of a felony or misdemeanor described in A.S. 15.56 or in Section 2.36.380 and two-thirds of the council members concur in expelling the person elected;
8. Is discharged from the council pursuant to section 2.26.050 for repeated failure to disclose potential conflicts of interest or for participating in an action when the member has a conflict of interest;
9. Is convicted of a violation of A.S. 15.13;
10. no longer physically resides in the city, and the council by two-thirds vote declares the seat vacant;
11. misses three consecutive regular council meetings, unless excused; or
12. has been recalled by the voters.

(Ordinance No. 88-03.)

Section 2.08.080 Filling Vacancies.

- A. If a vacancy occurs in the council, the council, by vote of a majority of its remaining members shall, within 30 days, appoint a person to fill the vacant seat. If less than 30 days remain in the term of the vacant seat at the time that the vacancy occurs, the vacancy shall not be filled.
- B. Notwithstanding subsection (A) of this section, if the membership of the council is reduced to fewer than four members, the remaining members shall, within seven days, appoint as many qualified persons as are necessary to increase the membership of the council to four.
- C. If all seven council seats become vacant at one time, the governor shall appoint three qualified persons to the council. The governor's appointees shall appoint additional members as provided in subsection (B) of this section.
- D. A person appointed to fill a vacancy serves until the next regular city election, when a successor shall be elected to serve the balance of the term, and until the successor has qualified.

(Ordinance No. 88-03.)

Chapter 2.12

CITY COUNCIL PROCEDURES

Sections:

- 2.12.010 Presiding officer.
- 2.12.020 Public meetings.
- 2.12.030 Executive sessions.
- 2.12.040 Agenda.
- 2.12.050 Quorum.
- 2.12.060 Absence of quorum.
- 2.12.070 Call to order.
- 2.12.080 Order of business.
- 2.12.090 Ordinances When required.
- 2.12.092 Ordinances Codification.
- 2.12.094 Ordinances Procedure.
- 2.12.096 Ordinances Form.
- 2.12.100 Ordinances Emergency.
- 2.12.110 Resolutions When used.
- 2.12.112 Resolutions Permanent file.
- 2.12.114 Resolutions Procedure.
- 2.12.116 Resolutions Form.
- 2.12.120 Voting.
- 2.12.130 Rules of order.

Appendix of Forms following section 2.12.130:

- Form 2.12-A Ordinance.
- Form 2.12-B Resolution.

Section 2.12.010 Presiding officer.

- A. The mayor shall preside at all meetings of the council. If the mayor is not present or is personally disqualified on account of a conflict of interest, the vice-mayor shall preside. If both the mayor and the vice-mayor are absent or disqualified, any member of the council may call the council to order at any properly called meeting to elect another council member as president pro tempore to preside at that meeting only.
- B. The presiding officer shall preserve order among council members and is responsible for the efficient conduct of all meetings according to the rules of the council. The presiding officer may at any time make such other rules as he or she considers reasonable and proper to preserve order among the attending public during sessions of the council.
(Ordinance No. 88-03.)

Section 2.12.020 Public meetings.

- A. All meetings of the council shall be public. The only exception to the requirement of public council meetings is when an executive session is permitted by section 2.12.030.
- B. The council shall provide reasonable opportunity for the public to be heard at all regular and special meetings.
- C. This section does not apply to special meetings called solely to discuss and decide ([adjudicatory proceedings]), if the public and the affected parties have been given an opportunity to be heard on the same topic at a prior meeting.

(Ordinance No. 88-03.)

Section 2.12.030 Executive sessions.

- 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, except that the person may request a public discussion.
- B. The following subjects 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; and
 - 3. Matters required by federal or state law or by city ordinance to be confidential.
- C. If any of the above subjects are to be discussed at a council meeting, the meeting must first be convened as a public meeting. During the public meeting, the council shall vote on a motion to hold an executive session on a particular matter or matters of the type described in subsections (A) and (B) of this section. No subjects may be considered during the executive session except those matters mentioned in the adopted motion calling for the executive session, or related subjects which must be discussed in order to fully consider the matters mentioned in the motion.
- D. No action may be taken at the executive session. Only after the executive session is over and the meeting is once again before the public may the council take action on the matters discussed in the executive session.

(Ordinance No. 88-03.)

Section 2.12.040 Agenda.

The clerk shall prepare the agenda for each council meeting after consulting with the mayor. The clerk shall distribute the agenda to all council members at least 24 hours prior to the meeting.

Section 2.12.050 Quorum.

Four council members constitute a quorum. A council member who is excused from voting on a question due to a conflict of interest pursuant to section 2.26.030 shall be considered present for purposes of constituting a quorum. A quorum is necessary for the council to conduct any business. (Ordinance No. 88-03.)

Section 2.12.060 Absence of quorum.

In the absence of a quorum, as many members as are present may recess or adjourn the meeting to a later date. (Ordinance No. 88.03.)

Section 2.12.070 Call to order.

The mayor or, in the mayor's absence, the vice-mayor, shall call the council to order at the time stated in the notice of the meeting and, if a quorum is present, proceed with the order of business. (Ordinance No. 88-03.)

Section 2.12.080 Order of business.

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

1. call to order;
2. roll call;
3. minutes of previous meeting(s);
4. reports;
5. communications and public appearance requests;
6. hearings, ordinances, and resolutions;
7. old business;
8. new business;
9. public participation;
10. council comments;
11. adjournment.

(Ordinance No. 88.03.)

Section 2.12.090 Ordinances – When required.

- A. The council may act only by ordinance, resolution, or motion. Laws of a general, uniform, and permanent nature shall be adopted by ordinance. Statements of opinions, principles, facts, or propositions may be made by adoption of a resolution.
- B. In addition to other actions which state law requires to be taken by ordinance, the council shall use ordinances to:
 1. Establish, alter, or abolish city departments;
 2. Amend or repeal an existing ordinance;
 3. Fix the compensation of council members and other city officers and employees;
 4. Provide for the sale or exchange 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 the city budget;
7. Make appropriations, including supplemental appropriations or transfer of appropriations;
8. Provide for the levying of taxes;
9. Grant, renew, or extend a franchise;
10. Regulate the rate charged by a public utility;
11. Approve the transfer of a power to the borough;
12. Adopt, modify, or repeal building and housing codes;
13. Provide for the retention or sale of tax-foreclosed property; and
14. 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 A.S. 36.25.025.

(Ordinance No. 88.03.)

Section 2.12.092 Ordinances – Codification.

- A. At the time of or after adoption, each ordinance shall be made a part of and assigned a permanent subsection or section number or numbers specifying its placement in this code: a notation of the date of adoption and the number of the ordinance by which it was adopted shall be added to the end of each subsection or section, as appropriate; and it shall be entered by the clerk into the official city copy of this Code. This subsection does not apply to appropriation or budget ordinances.
- B. An amendment to any of the provisions of this Code shall be made by adoption of an ordinance specifically referring to the section number (s) of such provisions in the following language: "That _____ section of the Kaktovik Code is hereby amended to read as follows: [insert full text of provision as amended]."
- C. An amendment of this Code which adds a new provision shall be made by adoption of an ordinance specifically assigning a new subsection or section number or numbers to the new provision(s) in the following language: "That the Kaktovik Code is hereby amended to add section _____, which shall read as follows: [insert full text of new provision]."
- D. An amendment of this Code which repeals and deletes a section, chapter, or title shall be made by adoption of an ordinance specifically repealing each section, chapter, or title by number.

(Ordinance No. 88-03.)

Section 2.12.094 Ordinances -- Procedure.

- A. A proposed ordinance shall be introduced in writing, in the form prescribed by Section 2.12.096, by the mayor or any other member of the council, or by a committee of council members, at any lawful council meeting.
- B. After an ordinance is introduced, the council may approve a motion to set the time and place for a public hearing on the ordinance. At least four affirmative votes are required to approve such a motion.
- c. When a proposed ordinance has been set for public hearing, the council shall direct the clerk to make public a summary of the ordinance, together with a notice of the time and place of the hearing. The summary and notice shall be posted in at least three public places in the city at least five days before the public hearing.
- D. At the public hearing, copies of the ordinance shall be available for all persons

present, or the ordinance shall be read in full. All persons shall have the 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, except that if the amendments are so Substantial that they would change the basic character of the proposed ordinance, the proposed amended ordinance shall be treated as a newly introduced proposed ordinance and set for public hearing. If the ordinance is adopted, the council shall direct the clerk to type or print the ordinance in its final form and make copies available to the public.

- E. At least four affirmative votes are required for the adoption of an ordinance.
- F. Upon adoption, each ordinance shall be signed by the mayor, and attested by the clerk.
- G. An ordinance takes effect upon adoption, or at a later date specified in the ordinance.

(Ordinance No. 88-03.)

Section 2.12.96 Ordinances – Form.

- A. All ordinances adopted by the council shall be in substantially the following form (which is illustrated by form 2.12-A):
 - 1. the heading "CITY OF KAKTOVIK, ALASKA";
 - 2. the ordinance number;
 - 3. the ordinance title, summarizing the ordinance's provisions and stating whether any penalty is imposed;
 - 4. the enacting clause, which shall read: "BE IT ENACTED BY THE KAKTOVIK CITY COUNCIL AS FOLLOWS:";
 - 5. the provisions of the ordinance, including the effective date, if the ordinance is not to take effect upon adoption;
 - 6. the dates of introduction (first reading), public hearing, and adoption;
 - 7. space for the signature of the mayor; and
 - 8. space for the clerk's signature attesting to the mayor's signature.
- B. Every ordinance shall be confined to a single subject, unless it is an appropriations ordinance or an ordinance codifying, revising, or rearranging existing ordinances. Appropriations ordinances shall be confined to appropriations. (Ordinance No. 88-03.)

Section 2.12.100 ordinances --Emergency.

- A. To meet a public emergency, the council may adopt an emergency ordinance effective upon adoption. Each emergency ordinance shall contain a finding by the council that an emergency exists and a statement of the facts upon which that finding is based. An emergency ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of all council members present, or the affirmative vote of six council members, whichever is less, is required for the adoption of an emergency ordinance. Except as specified in this section, the requirements of sections 2.12.090 through 2.12.096 apply to 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. An emergency ordinance is effective for 60 days unless the ordinance specifies a

shorter period of time during which the ordinance is to remain in effect.
(Ordinance No. 88-03.)

Section 2.12.110 Resolutions – When Used.

Formal acts of the council which are not required by state law or this Code to be enacted by ordinance and which are not of a general and permanent nature may be adopted by resolution. Opinions, principles, facts, or propositions may be stated in the form of a resolution. (Ordinance No. 88-03.)

Section 2.12.112 Resolutions -- Permanent File.

Resolutions shall not be included in this Code, but shall be kept by the clerk in a permanent file available for public inspection.
(Ordinance No. 88-03.)

Section 2.12.114 Resolutions -- Procedure.

- A. A proposed resolution shall be introduced in writing, in the form prescribed by section 2.12.116, by the mayor or any other member of the council, or by a committee of council members, at any lawful council meeting.
- B. The proposed resolution shall be read aloud at the time of introduction. Before the council votes on the motion to adopt the resolution, all interested persons present shall have the opportunity to comment.
- C. Adoption of a resolution must be approved by at least four affirmative votes.
(Ordinance No. 88.03.)

Section 2.12.116 Resolutions --Form.

All resolutions adopted by the council shall be in substantially the following form (which is illustrated by Form 2.12-B):

- 1. the heading "CITY OF KAKTOVIK, ALASKA";
 - 2. the resolution number;
 - 3. a short title, descriptive of the resolution's subject and purpose;
 - 4. short premises or "WHEREAS" clauses, stating the facts underlying or describing the reasons for the resolution;
 - 5. the resolving clause "BE IT RESOLVED" stating the opinions, principles, findings of fact, propositions, or course of action the council believes should be taken;
 - 6. the date of adoption;
 - 7. space for the signature of the mayor; and
 - 8. space for the clerk's signature attesting to the mayor's signature
- (Ordinance No. 88-03.)

Section 2.12.120 voting.

A. The final vote on each ordinance, resolution, or substantive motion is a recorded roll call vote. Each member present shall vote on every question, unless required by law to abstain from voting on a question.

B. The mayor or presiding officer shall declare all votes and the result.
(Ordinance No. 88-03.)

Section 2.12.130 Rules of Order.

A. Before speaking, a council member shall 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.

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

D. After a motion is seconded and stated or read by the 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.

E. A motion must be made in writing if any council member so requests.

F. Any previous decision on a motion may be changed by majority vote of the council on a motion made later at the same meeting. Subject to the requirements of section 2.12.114, a resolution may be repealed or modified at any time by adoption of a new resolution. Subject to the requirements of section 2.12.094 or 2.12.100, an ordinance may be repealed or modified at any time by adoption of a new ordinance.

G. Except as otherwise specified by state statute or city ordinance, all meetings shall be conducted according to Robert's Rules of Orders. The council may, when no member objects, proceed informally in dealing with non-controversial matters.

H. The clerk shall keep minutes of all regular and special meetings, and shall maintain a council meeting journal which shall include agendas and minutes of all meetings, together with copies of all resolutions and ordinances introduced, whether or not adopted. The council meeting journal is a public record. The council journal shall be available to the public for inspection and copies of pages from the journal may be made available without charge or sold at cost.

(Ordinance No. 88-03.)

CITY OF KAKTOVIK, ALASKA
ORDINANCE NO. _____ - _____
(Form 2.12-A) (Sample)

AN ORDINANCE _____

BE IT ENACTED BY THE KAKTOVIK CITY COUNCIL AS FOLLOWS:

Section 1. _____

Section 2. _____

Section 3. _____

DATE INTRODUCED: _____

DATE OF PUBLIC HEARING: _____

PASSED and APPROVED by the Kaktovik City Council on this _____ Day of _____,
20 _____

MAYOR

ATTEST:

CLERK

CITY OF KAKTOVIK, ALASKA
RESOLUTION NO. _____ - _____
(Form 2.12-B) (Sample)

A RESOLUTION _____

WHEREAS, _____

_____, and

WHEREAS, _____

_____, now, therefore,

BE IT RESOLVED: _____

_____, and

BE IT FURTHER RESOLVED: _____

_____.

PASSED and APPROVED by the Kaktovik City Council on this _____ Day of _____,
20_____

MAYOR

ATTEST:

CLERK

Chapter 2.16

[RESERVED]

Chapter 2.20

APPOINTIVE OFFICES

Sections:

- 2.20.010 Appointive officials.
- 2.20.020 Appointment; Term; Bonds.
- 2.20.030 City clerk.
- 2.20.040 city attorney.
- 2.20.050 City Administrator .
- 2.20.060 Boards and commissions.

Section 2.20.010 Appointive officials.

- A. The appointive officials of the city are the city clerk/treasurer and the city attorney. Such additional appointive offices as may be considered necessary shall be established by ordinance; each administrative department shall be supervised by an appointive officer or by the mayor.
- B. The council and the mayor shall each have the power to inquire into the conduct of any office, department, officer, or employee of the City, make investigation into city affairs, and compel the production of books, papers, and other evidence. Failure to obey such orders to produce books or evidence shall constitute grounds for the immediate discharge of any city officer or employee.
- C. All records and accounts of every office and department of the City shall be open to the public as provided in section 1.24.040. If any appointed officer has or expects to have in his or her possession records or documents the disclosure of which would tend to defeat the lawful purpose for which they were intended, such officer shall request through the mayor that the council, by ordinance, designate such records as confidential. Each department head shall be held responsible for the safekeeping of all public records under his or her responsibility. No public records, reports, correspondence, or other data relative to the business of any department shall be destroyed or removed permanently from the files except as provided in section 1.24.060.

(Ordinance No. 88-04.)

Section 2.20.020 Appointment; Term; Bonds.

- A. Appointative officials are appointed by the mayor, and must be confirmed by the city council before taking office. Appointed officers serve at the pleasure of the mayor.
- B. Appointative officials are appointed and serve for indefinite terms.

- C. The city clerk is required, and other appointive officials may be required, to be bonded pursuant to section 2.24.020 (Ordinance No. 88-04.)

Section 2.20.030 City clerk.

- A. An individual appointed as clerk must be eligible for appointment as a notary public under A.S. 44.50.
- B. The clerk shall be appointed for an indefinite term.
- C. The clerk shall:
1. Give notice of the time and place of council meetings to the council and the public;
 2. Attend and keep the minutes of council meetings;
 3. Arrange publication and posting of notices, ordinances, and resolutions;
 4. Maintain and make available for public inspection an indexed file containing city ordinances, resolutions, rules, regulation, codes, and other public records;
 5. Attest deeds, ordinances, resolutions, and other documents;
 6. Act as city election registrar, and call and supervise city elections;
 7. Perform other duties specified by state law or city ordinance or assigned by the mayor or the council; and
 8. Apply within 15 days after appointment as clerk for appointment as a notary public, and serve as a notary public at all times during his or her term as clerk. The costs related to applying to be appointed as, and serving as, a notary public shall be paid by the city.
- D. The clerk shall act as city treasurer, and in that capacity shall:
1. Keep custody of all city funds;
 2. Keep an itemized account of money received and disbursed; and pay money on vouchers drawn against appropriations;
 3. Keep custody of and maintain all property used by the city;
 4. Assist the mayor in compiling the annual budget of the city;
 5. Prepare and submit to the mayor and council such financial reports and other data as may be required or requested;
 6. Prescribe and control such procedures as are necessary to protect city funds and property;
 7. Be responsible for filing state and federal applications for revenue sharing programs;
 8. Perform other duties specified by state law or city ordinance or assigned by the mayor or the council; and
 9. Give bond to the city in a sum that the council directs. Premiums on the bond will be paid by the city.

E. The mayor may appoint an acting clerk to perform the duties of the clerk in the temporary absence of the clerk.

(Ordinance No. 88-04.)

Section 2.20.040 City attorney.

There shall be a city attorney who shall be an officer of the city appointed by the mayor subject to approval by the council for an indefinite term, and who shall be the chief legal advisor of the council, the mayor and all other offices, departments and agencies of the city government in matters relating to their official powers and duties. The attorney shall represent the city in civil and criminal proceedings in the courts, and shall perform all services incident to this position, which may be required by law or ordinance.

(Ordinance No. 88-04.)

Section 2.20.050 City Administrator.

- A. As Administrative Officer, the City Administrator shall, upon consultation with the Mayor.
 - 1. Supervise employees and carry out the directives of the city council.
 - 2. Assist the Mayor in preparing the annual budget and capital improvements program to the council for its consideration, and execute the budget and capital improvements program as adopted.
 - 3. Make monthly financial reports and other reports on city finances and operations as required by the council.
 - 4. Report to the council at the end of each fiscal year on the finances and administrative activities of the city.
 - 5. Exercise custody over all real and personal property of the city.
 - 6. Serve as an ex-officio member of committees or departments organized under this code.
 - 7. Perform other duties required by law or by the council.

B. The City Administrator will be employed at the pleasure of the mayor
(Ordinance No. 02-01)

appointed by the mayor and confirmed by the council

Section 2.20.060 Boards and commissions.

The council may by ordinance establish advisory, administrative, technical, or quasi-judicial boards or commissions. The members of boards and commissions shall be appointed by the mayor, subject to confirmation by the city council. Members of boards and commissions serve at the pleasure of the mayor. Such boards and commissions shall perform such functions and make such reports as the council may by ordinance or resolution direct, and may be dissolved by ordinance.

Chapter 2.24

ASSUMING AND LEAVING OFFICE

Sections:

- Section 2.24.010 Oath of office.
- Section 2.24.020 Bond.
- Section 2.24.030 Resignation.
- Section 2.24.040 Delivery of office.

Section 2.24.010 Oath of office.

- A. Before taking office or employment, unless another oath or affirmation is specifically required for the office by state law or this code, all elected officials, appointed officers, and employees shall swear to or affirm the following oath or affirmation:

I, _____, do solemnly swear [or affirm] that I will support and defend the constitution of the United States, the Constitution of the state of Alaska, and the ordinances of the City of Kaktovik, Alaska, and that I will honestly, faithfully, and impartially perform the duties of the office of _____ to the best of my ability.

- B. The oath or affirmation shall be sworn to or affirmed, and signed, by the officer or official before a notary public or a witness who is a qualified voter, and shall then be filed with the clerk.

(Ordinance No. 88-05, Ordinance No.10-02.)

Section 2.24.020 Bond.

- A. The council may by resolution or ordinance require city officers, appointed officials, or employees in addition to the clerk to be individually bonded. All city officers, officials, and employees not individually bonded shall be covered by a blanket bond. The city shall pay the premiums for all bonds required by this section.
- B. The official bond of a city officer, official, or employee when required by ordinance or resolution shall be in a form joint and several, and made payable to the city in the penal sum and with the conditions required by law.

(Ordinance No. 88-05.)

Section 2.24.030 Resignation.

Resignations of city officers and appointed officials shall be made in writing and filed with the clerk, who shall immediately notify the mayor and council.

(Ordinance No. 88-05.)

Section 2.24.040 Delivery of office.

Whenever an officer, appointed official, or employee leaves city office or employment for any reason, he or she shall promptly deliver to his or her successor in the office or to the mayor all city property, including books, working papers, records, money, equipment, and effects, which are in his or her custody, possession, or control.
(Ordinance No. 88-05.)

Chapter 2.26

CONFLICT OF INTEREST

Sections:

- 2.26.010 Prohibitions.
- 2.26.020 Financial interests which may be conflicts of interest.
- 2.26.030 Conflicts of interest and disclosure – City council members.
- 2.26.040 Conflicts of interest and disclosure – City officers and employees.
- 2.26.050 Violations.

Section 2.26.010 Prohibitions.

- A. No elected official, appointed city officer, or city employee shall use his office or official position for the primary purpose of obtaining financial gain for himself or his spouse, child, mother, father or business with which he is associated or owns stock.
- B. No elected official, appointed city officer, or city employee shall participate in any official action in which he has a substantial financial interest. Prohibited participation includes voting as a council member, taking part in council debate, soliciting the vote of a council member, or encouraging any city official or officer to act in a certain way in regard to a subject.
- C. No elected official, appointed city officer, or city employee may accept from any other elected official, appointed city officer, or city employee, or any other person, money, gifts, promises of future benefits, or any other thing of value, for performing any function or service that is a normal part of his or her duties, or in exchange for voting or acting in any particular way on any matter that comes before him or her in the course of his or her duties. This subsection does not preclude any person from accepting any award or bonus authorized by the council to be given for meritorious service.
- D. No elected official, appointed city officer, or city employee, and no other person, shall give or offer to give to any elected official, appointed city officer, or city employee, money, gifts, promises of future benefits, or any other thing of value, for performing any function or service that is a normal part of his or her duties, or in exchange for voting or acting in any particular way on any matter that comes before him or her in the course of his or her duties. This subsection does not preclude any person from voting for or participating in granting any award or bonus authorized by the council to be given for meritorious service.

(Ordinance No 88-05.)

Section 2.26.020 Financial interests which may be conflicts of interest.

The following is a list of examples of financial interests substantial enough that any council member, appointed officer, or city employee who comes under any of the categories listed below

should not vote or act on any matter so affected. The categories below are not meant to be a complete listing of all possible conflicts of interest. Any instances not covered below should come before the council for a vote as the individual matters arise. A council member, appointed officer, or city employee should abstain from voting or refrain from acting if:

1. He or she (or a member of his or her immediate family) individually, jointly, or in partnership with another has an immediate interest in land or buildings, other than his or her residence, that will be affected by the vote or action.
2. He or she (or a member of his or her immediate family) is party to or beneficiary of a contract for a sum of \$1,000 or more that will be affected by the vote or action.
3. He or she (or a member of his or her immediate family) is individually, jointly, or in partnership with another the owner of a business, or has an interest in a business of \$1,000 or more that will be affected by the vote or action.
4. He or she (or a member of his or her immediate family) is a member of a board of directors or governing body or an officer of, or holds a management position with an organization that has financial dealings of \$1,000 or more with the city that will be affected by his or her vote or action.

(Ordinance No. 88-05.)

Section 2.26.030 Conflicts of interest and disclosure – City council members.

- A. Each city council member shall disclose any financial interest he or she may have in any matter that has come before the council for a vote. If the member believes that the financial interest is substantial, he or she shall ask to be excused from voting on the matter.
- B. The mayor shall rule on the request of a council member to be excused from voting on a matter in which the member has or believes he or she has a substantial financial interest, unless the mayor is the member making the request or has the same or a similar or related financial interest in the same matter, in which case the council shall designate another council member who has no financial interest in the matter to rule on the request.
- C. The decision of the mayor (or designated council member) on the member's request to be excused from voting may be overridden by a majority vote of the council. Neither the council member making the request, nor any other council member who has disclosed a similar or related interest in the same matter, may rule on any member's request to be excused from voting on the matter or vote on the question of overriding such a ruling.
- D. If any resident of the city believes that a council member may have an undisclosed conflict of interest, the resident may request a confidential meeting with the mayor (or, in the event that a claimed potential conflict of interest involves the mayor, any other council member chosen by the resident requesting the meeting) and the council member who may have a conflict of interest. If, as a result of the confidential meeting, the council member with the potential conflict or the mayor decides that the financial interest must be disclosed to the council, the council member shall disclose the interest to the council as provided in section 2.26.030(B) above.
- E. A council member who has a substantial financial interest in a matter before the council, and who has been excused from voting on that matter, may not participate as a council

member in the debate on the matter, although he or she may participate in discussion to the same extent as a member of the general public. If the matter is discussed by the council in executive session, the member shall be excluded during the executive session.

- F. If a conflict of interest is discovered after an official action has been undertaken or completed the city council may by a majority vote, excluding the vote of any affected member, resolve to rescind the official action or to take any other remedial steps necessary.

(Ordinance No. 88-05.)

Section 2.26.040 Conflicts of Interest and Disclosure – City Officers and Employees.

- A. Each city officer and employee shall disclose to the mayor or the city council any financial interest he or she may have in any matter that has come before the officer or employee for action in the course of his or her duties. If either the officer or employee making the disclosure, the mayor, or a majority of the members of the council conclude that the financial interest in question is substantial, then the officer or employee shall not act or participate in taking action on the matter.
- B. Any resident of the city who thinks that a city officer or employee may have an undisclosed conflict of interest may request a confidential meeting with the mayor (or, in the event that a claimed potential conflict of interest involves the mayor, any other council member chosen by the resident requesting the meeting) and the officer or employee who may have a conflict of interest. If, as a result of the confidential meeting, the officer or employee with the potential conflict concludes that he or she should refrain from acting on the matter, or the mayor (or other chosen council member) directs the officer or employee to refrain from acting on the matter, all proceedings of the meeting with the resident and the mayor (or other chosen council member) will remain confidential. If neither the officer or employee nor the mayor (or other chosen council member) decides that the officer or employee must refrain from acting, the resident may request the council to consider the matter at its next regular meeting.

(Ordinance No. 88-05.)

Section 2.26.050 Violations.

- A. Any council member, city officer, or city employee who violates this ordinance by knowingly refusing to disclose a financial interest as required by this chapter may be suspended from the councilor from his or her city office or employment. Such suspensions shall be for a period up of ninety days, and shall be made upon a two-thirds majority vote of the council. Any council member, officer, or employee who is suspended for this reason more than once in any twelve month period may be discharged from the councilor from his or her office or job. Such discharge shall be made upon a two-thirds majority vote of the council.
- B. Any person who wilfully violates any provision of section 2.26.010 shall be guilty of an infraction.

- C. Any city council member or appointed city officer who wilfully violates any provision of section 2.26.010 shall be deemed to have violated his or her oath of office and shall be subject to immediate discharge from the council or from office by two-thirds vote of the council. Any willful violation of any provision of section 2.26.050 by any city employee shall be cause for immediate termination of employment.
- D. No council member may vote on any question of his or her own suspension or discharge. (Ordinance No. 88-05.)

Chapter 2.28

DEPARTMENT OF RECREATION

Sections:

- 2.28.010 Department Established.
- 2.28.020 Director -- Appointment.
- 2.28.030 Director -- Duties.
- 2.28.040 – Temporary Recreation Department Employee Compensation

Section 2.28.010 Department Established.

There is created a department of recreation as a city department. The director of the department of recreation is the head of the department.

(Ordinance No. 88-06.)

Section 2.28.020 Director – Appointment.

The director shall be appointed in the manner provided by section 2.20.020.

(Ordinance No. 88-06.)

Section 2.28.030 Director – Duties.

- A. The director, subject to the supervision and control of the mayor, shall have charge of and direct the recreational programs, activities, and facilities sponsored, carried on, or maintained by the city, including any parks, playgrounds, or other facilities and any municipal equipment used in connection therewith.
- B. The director shall advise the mayor and the city council in matters of recreation policy regarding:
 - 1. Development and management of parks and open space areas;
 - 2. Recreation programs and activities;
 - 3. Budgetary and other fiscal matters relating to recreation; and
 - 4. Development of a five-year recreation plan.
- C. The director shall investigate, and advise and make recommendations to the mayor and city council as to, feasible projects that will further the development and enhancement of parks and open spaces and the program of recreational activities. The director shall report to the mayor and city council at such times as the mayor or council may direct, but not less often than annually. The director's recommendations to the mayor and city council shall include at least the following information:

1. Identified need;
 2. Goal;
 3. Objective(s);
 4. Method(s) to achieve objective(s);
 5. Financial strategy and costs;
 6. How the recommendation relates to the five-year recreation plan.
- D. The director shall investigate, and advise and make recommendations to the mayor and city council as to, suitable locations for statues, monuments, historical markers or other objects of an historical nature which may be placed in public areas or parkways in the city or which are worthy of public protection.
- E. The director shall plan, establish and coordinate city recreational programs, and any other recreational activities approved by the city council which use public facilities.
- F. The director shall present a brief written report on the status of the city's recreation program to the city clerk each month for distribution to the city council, including information on the following:
1. Total income and expenses of the recreation program for the prior month, and anticipated major expenses;
 2. public use of the recreation facilities and equipment;
 3. State of repair or the recreation facilities and equipment;
 4. Any complaints by the public about the recreation program, facilities, or equipment; and
 5. Other information about the recreation program which the director considers of interest to the council.
- G. The director shall make such additional written and oral reports as the mayor or city council may request.

(Ordinance No. 88-06.)

²⁸
Section 2.12.040 Temporary Recreation Department Employee Compensation

Each Recreation Department employee hired on a temporary basis to assist the Director shall be compensated at the rate of \$17.00 per hour for hours worked as an employee of the City of Kaktovik Recreation Department.

(Ordinance No. 95-96.)

2.28.040
 1/1/96

Chapter 2.32

[RESERVED]

Chapter 2.36

ELECTIONS

Sections:

Article I: General

- 2.36.010 Voter qualifications.
- 2.36.020 Residence criteria.
- 2.36.030 Precincts and voting places.
- 2.36.040 Supervision by city clerk.
- 2.36.050 Election board; judges; clerks.
- 2.36.060 Oath of election officials.
- 2.36.070 Offenses.

Article II: Preparation for Election Day

- 2.36.080 Date of regular election.
- 2.36.090 Special elections.
- 2.36.100 coincidence with other elections.
- 2.36 . 110 Election place and hours.
- 2.36.120 Notices of election.
- 2.36.130 Nominations for office.
- 2.36.140 Declaration of candidacy Form.
- 2.36.150 Declaration of candidacy Filing.
- 2.36.160 Declaration of candidacy withdrawal.
- 2.36.170 Ballots --Form.
- 2.36.180 Ballots -- Preparation.
- 2.36.190 Other materials.

Article III: Election Day Procedures

- 2.36.200 Distribution of ballots.
- 2.36.210 Distribution of other election materials.
- 2.36.220 Voting General procedure.
- 2.36.230 Voting Spoiled ballots.
- 2.36 . 240 Voting Questioned ballots.
- 2.36.250 Voting Absentee voters.
- 2.36.260 Return of spoiled and unused ballots.
- 2.36.270 Ballot count Commencement.
- 2.36.280 Ballot count watchers.
- 2.36.290 Ballot count General procedure.
- 2.36.300 Ballot count Rules.
- 2.36.310 Ballot count Completion.

Article IV: Absentee Voting

- 2.36.320 Persons eligible.
- 2.36.330 Ballot application; Filing.
- 2.36.340 Ballot and envelope form.

Article V: Post-Election Procedure

- 2.36.360 Posting result certificate.
- 2.36.370 Final canvass by city council.
- 2.36.380 Runoff elections.
- 2.36.390 Recounts.
- 2.36.400 Contest.
- 2.36.410 Contest – Appeal.

Article VI: Initiative, Referendum, and Recall

- 2.36.420 Initiative and referendum.
- 2.36.430 Recall.
- 2.36.440 Petition Application.
- 2.36.450 Petition Preparation.
- 2.36.460 Petition Circulation and filing.
- 2.36.470 Petition Certification; protest.
- 2.36.480 Election.

Forms following Section 2.36.480

- Form 2.36-A Oath of Election Official.
- Form 2.36-B Notice of Election.
- Form 2.36-C Official Ballot.
- Form 2.36-D Tally Sheet.
- Form 2.36-E Report of Preliminary Election Results.
- Form 2.36-F Oath and Affidavit of Eligibility.
- Form 2.36-G Application for Absentee Ballot.
- Form 2.36-H Absentee Ballot Return Envelope.
- Form 2.36-I Declaration of Candidacy .
- Form 2.36-J Certificate of Election --Officer.
- Form 2.36-K Certificate of Election --Ballot Proposition.
- Form 2.36-L Affidavit of Election Contest.

ARTICLE I: GENERAL

Section 2.36.010 Voter qualifications.

A person shall be qualified to vote in a city election who:

1. is a united states citizen qualified to vote in state elections;
2. has been a resident of the city of Kaktovik for 30 days immediately preceding the election;
3. is registered to vote in state elections;
4. has not been convicted of a felony involving moral turpitude without later restoration of voting rights pursuant to A.S. 15.05.030; and
5. has not been judicially determined to be of unsound mind, unless the disability has been removed.

(Ordinance No. 88-07.)

Section 2.36.020 Residence criteria.

When determining residence for the purpose of qualifying voters the following criteria will apply:

1. No person may be considered to have gained a residence solely by reason of his presence nor may he lose it solely by reason of his absence while in the civil or military service of the state or of the united states, or of his absence because of marriage to a person engaged in the civil or military service of the state or the united states, while a student at an institution of learning, while in an institution of learning, while in an institution or asylum at public expense, while confined in public prison, while engaged in the navigation of waters of the state, of the united states or of the high seas, while residing upon an Indian, Native Alaskan, or military reservation, or while residing in the Alaska pioneers' Home.
2. The residence of a person is that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention to return. If a person resides in one place, but does business in another, the former is his place of residence. Temporary construction camps do not constitute a dwelling place.
3. A change of residence is made only by the act of moving joined with the intent to remain in another place. There can only be one residence.
4. A person does not lose his residence if he leaves his home and goes to another country, state or place in Alaska for temporary purposes only and with the intent of returning.
5. A person does not gain residency by coming to the city without the present intention to establish his permanent dwelling in the city.
6. A person loses his residence in the city if he votes in an election of another city or state, either in person or by absentee ballot, and will not be eligible to vote in this city's municipal elections until he again qualifies under this chapter.
7. The term of residence is computed by including the day on which the person's residence begins and excluding the day of election.
8. The address of a voter as it appears on his official state voter registration card is

presumptive evidence of the person's voting residence. If the person has changed his voting residence, this presumption is negated only by the voter executing an affidavit on a form prepared by the director setting out his new voting residence.

(Ordinance No. 88-07.)

Section 2.36.030 Precincts and voting places.

Election precincts for City elections shall be the same as those established for state elections, except that all areas of state election precincts located outside the city limits are excluded. Currently, the City of Kaktovik is entirely within the Kaktovik election precinct. The city council shall establish the location of voting places for each precinct by resolution.

(Ordinance No. 88-07.)

Section 2.36.040 Supervision by city clerk.

- A. The clerk is the supervisor of elections for the city of Kaktovik. The clerk may propose written regulations for approval by the council for all additional procedures necessary to carry out the provisions of any election ordinance passed by the council.
- B. The clerk shall pay all necessary election expenses, including those of securing polling places and providing ballot boxes, ballots, voting booths or screens and other supplies.

(Ordinance No. 88-07.)

Section 2.36.050 Election board; judges; clerks.

- A. There shall be an election board for each election precinct. The council shall, by resolution adopted at least ten days prior to each regular or special election, appoint three judges to serve as the election board, and designate one of the judges to chair the board.
- B. Judges shall not be council members, candidates for office, or members of candidates' immediate families (parents, children, brothers or sisters, or husbands or wives of candidates).
- C. If any judge fails or refuses to perform the duties of election judge on or during election day, the remaining judges shall choose a qualified voter to serve in his or her place. If more than one replacement judge is required to be chosen at any one time, the city clerk, together with the remaining judge (if any) shall choose qualified voters to serve in the place of the absent judges.
- D. The city clerk may, at the request of the judges and if necessary to conduct an orderly election or to relieve the judges of undue hardship, appoint up to three election clerks to assist the judges. Persons appointed as election clerks must be qualified to serve as judges.
- E. Each election judge or clerk shall sign the oath specified in Section 2.36.060 of this code and file it with the clerk on or before election day.

(Ordinance No. 88-07.)

Section 2.36.060 Oath of election officials.

- A. The city clerk shall give the following written oath to all election judges and election clerks on or before election day:

I, _____, do solemnly swear (affirm) that:

I will honestly, faithfully, and impartially perform the duties of election judge (clerk) to the best of my ability;

I will not receive any ballot or votes from any person who I do not firmly believe to be entitled to vote at this election, according to the laws of this state and the ordinances of this City, nor will I refuse to receive a ballot or vote from, or do anything to hinder the casting of a ballot or vote by, any person who I believe is entitled to vote at this election; and

I am familiar with the city's elections ordinances and elections procedures.

- B. A form for administration of this oath is included in the forms appendix as Form 2.36-A. (Ordinance No. 88-07.)

Section 2.36.070 Offenses.

It is unlawful for any person, firm or corporation to do or to attempt to do any of the following acts, and any person, firm or corporation who does or attempts to do any of the following acts is guilty of a misdemeanor and shall be subject to a fine of up to five hundred dollars and/or imprisonment for up to thirty days:

1. To directly or indirectly use or threaten to use force, coercion, violence or restraint, or inflict or threaten to inflict damage, harm or loss, upon or against any person to induce or compel the person to vote or refrain from voting for any candidate in any election or for any election proposition or question.
2. To give, or promise to give, or offer any money or valuable thing to any person, with the intent to induce him to vote for or restrain him from voting for any candidate at any election or election proposition or question.
3. To write, print or circulate any letter, circular, placard, poster or other publication relating to any election or to any candidate at any election or to any election proposition or question without the same bearing on its face the name and address of the author, printer and publisher thereof;
4. To willfully write, print, circulate or broadcast any statement containing any false

charge or comment relating to any candidate at any election or to any election proposition or question or reflecting on the character, morality or integrity of any candidate at any election.

5. To possess any official ballot outside of the voting room; provided, that this subsection shall not apply to election officials or other properly authorized persons having such possession in the course of their official duties, or to any absentee voter with respect to the single ballot issued to the voter by the city clerk;
6. To possess any counterfeit of an official ballot.
7. Having been contracted or employed by the city to print or reproduce in any manner any official ballot, to willfully appropriate to him or herself, nor to give or deliver to, or knowingly permit to be taken by anyone other than a person authorized by the city clerk, any official ballots, or knowingly print or reproduce or cause to be printed or reproduced any official ballots in any other form or with any other content other than that prescribed by ordinance or as directed by the city clerk;
8. To refuse to allow an employee reasonable time off for the purpose of voting when the employee does not have a reasonable amount of time to vote before or after work, or after allowing the time off, to deduct the time from the compensation of the employee;
9. To vote more than once at the same election.
10. To vote in the name of another person or in any name other than his or her own.
11. To sign any name other than his or her own to a petition proposing an initiative, referendum or recall;
12. To willfully conceal, withhold, wrongfully change, mutilate, or destroy the election return;
13. While the polls are open, to open any ballot received from a voter at any election, or to mark any ballot by folding or otherwise so as to be able to recognize it, or otherwise attempt to learn how any voter marked his or her ballot, or allow the same to be done by any other person;
14. To willfully delay the election returns.
15. To induce by force, threat, intimidation, or offer of a reward any election official to fail in his or her duty.
16. To willfully make a false affidavit or swear falsely under oath required in connection with any election or registration for voting or falsely affirm in lieu of so swearing.
17. To willfully fail to perform any election duty or knowingly do any unauthorized act with the intent to affect the election or its results.
18. To willfully change or cause to be changed any official election documents, including ballots, tallies and returns, or attempts to do the same.
19. To willfully permit or make any false count or report of the election returns.
20. To persuade a person to vote for or against any candidate, question, or proposition on the ballot within 100 feet of any entrance to the polling place during the hours the polls are open.

(Ordinance No. 88-07.)

Article II: PREPARATION FOR ELECTION DAY

Section 2.36.080 Date of regular election.

The regular 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. (Ordinance No. 88-07.)

Section 2.36.090 Special elections.

The city council may call a special election to decide any question that must by law be decided by the voters at any time; provided, that the election date must be preceded by at least twenty days' public notice. (Ordinance No. 88-07.)

Section 2.36.100 Coincidence with other elections.

Nothing in this chapter shall prohibit holding a city election on the same day and by the same election personnel as a state, borough or other public election, or submitting a city question at such an election. (Ordinance No. 88-07.)

Section 2.36.110 Election place and hours.

- A. Elections shall be held at the place or places specified by the council and stated in the Notice of Election
 - B. The polls shall be open from 8:00 a.m. until 8:00 p.m. on election day. Fifteen minutes before the time of closing the polls, the election board shall announce the present time and the time at which the polls will close. At 8:00 P.m., the election board shall announce the time and that the polls are closing. All voters in line to vote at 8:00 p.m. shall be allowed to vote, but no person arriving at the polling place after 8:00 p.m. may be allowed to vote
- (Ordinance No. 88-07.)

Section 2.36.120 Notices of election.

- A. Notice that an election will be held shall be prepared and posted by the clerk and

shall contain all of the following which apply:

1. Whether the election is regular, 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.

The clerk shall use Form 2.36-B to prepare the Notice of Election.

- B. Notice of a regular election must be posted in three public places for 30 days before the election and published in a newspaper of general circulation in the city, if any.
 - C. Notice of a special election shall be posted in three public places at least 20 days before the election and published in a newspaper of general circulation in the city, if any.
 - D. Notice of a runoff election shall be posted in three public places at least five days before the election and published in a newspaper of general circulation in the city, if any.
- (Ordinance No. 88-07.)

Section 2.36.130 Nominations for Office.

Nominations for elective office shall be made only by declaration of candidacy.
(Ordinance No. 88-07.)

Section 2.36.140 Declaration of candidacy – Form.

- A. Declaration of candidacy forms shall be prepared by the clerk using form 2.36-I at least 40 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 has been 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.
(Ordinance No. 03-03.)
- B. The Clerk shall keep the completed declarations of candidacy in the city files.
(Ordinance No. 88-07.)

Section 2.36.150 Declaration of candidacy – Filing.

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 may be filed no sooner than 40 days and no later than 20 days before the election.
(Ordinance No. 03-04)

Section 2.36.160 Declaration of candidacy – Withdrawal.

Any candidate who has filed a declaration of candidacy may withdraw his or her candidacy not later than the last day for filing declarations of candidacy by filing with the city clerk a written

notice of withdrawal.
(Ordinance No. 88-07.)

Section 2.36.170 Ballots – Form.

- A. The clerk shall design the ballots to facilitate fairness, simplicity, and clarity in the voting procedure, to reflect most accurately the intent of the voter, and to expedite the administration of the election. The ballots shall:
1. Be printed on plain white paper, stating at the top whether the election is a regular, special, or runoff election.
 2. Include instructions on how to mark the ballots.
 3. List the offices for which votes may be cast. The name of each office shall be followed by the names of all candidates for that office, listed in a random order, and by a black line or liens for write-in candidates (except in runoff elections). In regular and special elections, the number of blank lines provided for each office shall be equal to the number of persons who are to be elected to the office. A blank or box for marking a vote shall be located next to each name and each blank line.
 4. List the questions or propositions to be voted on, if any. Each question or proposition shall have two blank lines or boxes next to or following the test of the question or proposition, one marked “Yes” or “For” and the other “No” or “Against” as appropriate.
- B. In preparing the ballot, the clerk shall use Form 2.36-C as a guide, adding and/or deleting such ballot sections as appropriate.

(Ordinance No. 88-07)

Section 2.36.180 Ballots – Preparation.

The clerk shall have ballots typed or printed at least 5 days before the date set for a regular or special election. Ballots must be prepared three days prior to a runoff election. There shall be at least three ballots, typed or printed on colored paper, 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.

(Ordinance No. 88-07.)

Section 2.36.190 Other materials.

- A. At least 10 days prior to the day of the election, the clerk shall prepare the following materials:
1. An updated Master Voter Registration List, containing the names, in alphabetical order, of all registered voters eligible to vote in the election;
 2. a Blank Register in which the voters may print and sign their names and print their residence addresses, and in which the election official may note the number of the ballot issued to the voter;
 3. tally sheets, an example of which is illustrated by Form 2.36-D;
 4. a form for the Report of Preliminary Election Results, prepared using Form 2.36-E;
 5. envelopes bearing the Oath and Affidavit of Eligibility for questioned ballots.

- prepared using Form 2.36-F;
6. two large envelopes for each polling place, one marked "Spoiled Ballots" and the other marked "Questioned Ballots;"
 7. copies of the Notice of Election, the city's elections ordinances, and A.S. 15.15.080 through 15.15.370;
 8. applications for absentee ballots, prepared in accordance with Form 2.36-G; and
 9. ballot envelopes and return envelopes for absentee ballots, prepared in accordance with section 2.36.340.
- B. The clerk shall prepare for each polling place instructions for the guidance of voters covering the following:
1. How to obtain a ballot;
 2. How to mark a ballot;
 3. How to obtain additional information; and
 4. How to obtain a new ballot to replace any ballot destroyed or spoiled.
- C. After the election, the clerk shall keep all election materials in the permanent city files.

(Ordinance No. 88-07.)

ARTICLE III: ELECTION DAY PROCEDURE

Section 2.36.200 Distribution of ballots.

- A. Before the polls open on election day, the clerk shall deliver the ballots and sample ballots prepared pursuant to section 2.36.180 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 signed by the election board to which the package is delivered and given to the clerk. No ballots shall be taken from the polling place before the closing of the polls.
- B. The clerk shall keep the following records:
1. The number of ballots delivered to the polling place;
 2. The name of the person to whom the ballots are delivered; and
 3. The time the ballots are delivered; and
 4. The receipt given for the ballots by the election board.
- C. When the ballots are returned, the clerk shall record the following:
1. The number of the ballots returned;
 2. The time when the ballots are returned;
 3. The name of the person returning the ballots; and
 4. The condition of the ballots.

(Ordinance No. 88-07.)

Section 2.36.210 Distribution of other election materials.

- A. On election day, the clerk shall also furnish the election board judges at each polling place with a voting booth and ballot box (with lock or sealing materials); and the following materials prepared pursuant to section 2.36.190: 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, the city's elections ordinances, and A.S. 15.15.080 through 15.15.370; a sufficient number of Instruction Sheets; and a sufficient supply of pens, pencils, and envelopes.
 - B. The clerk shall supply the election board chairperson with tally sheets and forms for the Report of Preliminary Election Results, either before or on election day.
 - C. Judges shall report to the polling place 30 minutes before the opening of the polls. Before the first ballot is cast, the judges will inspect the ballot box to make sure it is empty and then seal it or lock it and not open it until after the final ballot is cast and the polls have closed.
- (Ordinance no. 88-07.)

Section 2.36.220 Voting – General procedure

- A voter shall give the judges or clerks his name, and print and sign his name and write his residence address on the first available line of 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 or clerk present, the judge or clerk may require the voter to produce a state voter registration card or other identification. If, in the opinion of the judge or clerk, there is doubt as to whether the person is registered to vote, he/she shall immediately challenge the voter.
- B. If the voter is not challenged, the judge or clerk shall give the voter a single ballot and note its number in the register next to the voter's name. The voter shall then retire alone to a voting booth. There the voter without delay shall prepare his ballot by marking the boxes opposite the names of candidates of his choice, whether printed on the ballot or written in by him on the blank lines provided for the purpose. The voter also marks the boxes to indicate his vote for or against questions and propositions. Before leaving the voting booth, the voter shall fold his ballot in a manner displaying the number on the ballot and deliver it to one of the judges or clerks, who shall, without unfolding the ballot or allowing any person to see how it is marked, tear the number off and deposit the ballot in the ballot box if the ballot bears the same number as the ballot given to the voter by the judges and clerks.
 - C. If a voter is challenged, the voter may cast a questioned ballot pursuant to section 2.36.180.

(Ordinance No. 88-07.)

Section 2.36.230 Voting -- spoiled ballots.

If a voter improperly marks or otherwise damages a ballot, and discovers his mistake before the ballot is placed into the ballot box, he shall return it to the election officials, 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, records its number, and place it in an envelope with the other spoiled ballots for return to the city clerk. The judge or clerk shall then issue a new ballot to the voter as provided in section 2.36.220 (A). A voter may request replacement of a spoiled ballot no more than three (3) times.
(Ordinance No. 88-07.)

Section 2.36.240 Voting – Questioned ballots.

- A. If a voter's name is not on the Master Voter Registration List or a voter's eligibility to vote is challenged or there is some other question regarding a voter's eligibility, and the voter believes that he or she is registered and eligible to vote, then the voter shall sign an envelope bearing the Oath and Affidavit of Eligibility and cast a questioned ballot.
- B. To cast a questioned ballot, a voter shall sign the register and be given and shall mark, fold, and return a ballot as provided in section 2.36.220(A) and (B), except that the judge or clerk shall not place the folded ballot into the ballot box.
- C. After tearing the number off the questioned ballot, the judge or clerk shall hand the ballot back to the questioned voter with a blank envelope. The questioned voter will insert the ballot into the blank envelope and seal it. This envelope shall be placed in the signed oath and affidavit envelope. The oath and affidavit envelope shall be sealed and inserted into a larger envelope with other questioned ballots. The large envelope containing all the questioned ballots cast at the polling place shall be delivered to the city clerk when the polls close. The clerk shall give the election board a receipt listing the total number of questioned ballots delivered and the names of the persons who cast them.
- D. The city clerk shall present the envelope containing all of the sealed oath and affidavit envelopes containing the questioned ballots to the city council at the meeting held pursuant to section 2.36.370.

(Ordinance No. 88-07.)

Section 2.36.250 voting --Absentee voters.

If a voter issued an absentee ballot returns to the city on election day, he shall not vote at the polling place unless he first surrenders to the election board the absentee ballot, ballot envelope, and return envelope issued to him. Unused absentee ballots, ballot envelopes and return envelopes shall be returned to the city clerk by the election board with other ballots not used at the polling place.

(Ordinance No. 88-07.)

Section 2.36.260 Return of unused and spoiled ballots.

After the polls have closed, all ballots not voted (including absentee ballots returned by voters who choose to vote in person at the polling place) and all spoiled ballots shall be returned by the judges to the city clerk, who shall give a receipt therefor and keep a record of the number and character of ballots returned to him, indicating when and by which judge each was returned.

(Ordinance No. 88-07.)

Section 2.36.270 Ballot count -- Commencement.

- A. When the polls are closed and the last vote has been cast, the election board and clerks shall immediately open the ballot box and to count the ballots to determine whether the total number of ballots is equal to the total number of persons (including absentee voters) who voted, as indicated by the register. If the number of ballots found in the ballot box does not match the number of voters indicated by the register, the election board shall recount the ballots until the board finds that the number of ballots is equal to the number of voters indicated by the register, or that an unexplained discrepancy exists. If such a discrepancy exists, a detailed explanation of the nature of the discrepancy shall be written on the tally sheet and signed by each of the election judges.
 - B. All aspects of the ballot count, including the opening of the ballot box, the counting of the ballots in the box, and the tallying of the votes, shall be done in public and in full view of all persons present. The public may not be excluded from the area in which these activities are conducted; provided, however, that the judges shall not permit any person to in any way interfere with or distract the election officials from the performance of their duties.
 - C. In all cases the election board shall cause the count to be continued without adjournment until the count is complete.
- (Ordinance No. 88-07.)

Section 2.36.280 Ballot Count --Watchers.

If it becomes necessary for the election board to exclude the public at large from circulating freely among the ballot counters because the number of persons interested in observing the vote is larger than may be accommodated without seriously disrupting the ballot counting process, and to restrict the public to another portion of the room in which the ballots are being counted, any candidate for elective city office or organization or organized group sponsoring or opposing an initiative, referendum, or recall may appoint a watcher. State law relating to watchers in state elections shall govern the watchers in city elections insofar as it is applicable.

(Ordinance No. 88-07.)

Section 2.36.290 Ballot count – General procedure.

- A. The clerk may issue rules prescribing the manner in which the ballot count is accomplished so as to assure accuracy in the count and to expedite the process.
- B. The election board shall account for all ballots by specifying on tally sheets (1) the number of ballots received from the clerk; (2) the number of ballots voted; (3) the number of spoiled ballots returned to the clerk; (4) the number of questioned ballots delivered to the clerk; and (5) the number of unused ballots returned to the clerk.
- C. The election board shall count the ballots in a manner that allows watchers to see the ballots when opened and read.
- D. No person other than appointed election judge and clerks who have executed the oath provided by section 2.36.060 shall be permitted to handle the ballots. No person

handling any ballot after it has been taken from the ballot box and before it is sealed in the package with the other ballots at the conclusion of the board's ballot count may have a marking device in hand or remove a ballot from the immediate vicinity in which the ballots are being counted.

(Ordinance No. 88-07.)

Section 2.36.300 Ballot count -- Rules.

A. The election board shall count the ballots according to the following rules:

1. A voter may mark his ballot with 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 or choice the voter desires to designate. The voter's mark 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 to be designated.
2. A voter is not required to cast a vote for every office or on every proposition included on the ballot. No vote shall be tallied for those offices or propositions for which choice is marked by the voter.
3. A failure to properly mark a ballot as to one or more offices or propositions does not itself invalidate the entire ballot.
4. If a voter marks fewer names than there are persons to be elected to an office, a vote shall be counted for each candidate properly marked.
5. If a voter marks more names than there are persons to be elected to any office, no vote shall be counted for any candidate for that office shall be counted. If a voter marks both "for" and "against" or "yes" and "no" for a proposition or question, no vote on that proposition or question shall be recorded.
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. 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 (1) of this subsection. A write-in vote is 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.

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 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. If a particular objection is made to the counting of all or any part of a ballot, but the election board determines that the votes shown should be counted, the chairman of the

election board shall write the words "Objected to" on the back of the ballot and specify the portion or portions of the ballot to which the objection applies.

- E. All defective ballots and all ballots objected to shall be sealed in a single envelope marked "Defective Ballots," which shall be delivered to the city clerk.
- F. All decisions regarding the validity of all or any portion of a ballot or any other question arising during the course of the election or the ballot count shall be made by majority vote of the election judges.

(Ordinance No. 88-07.)

Section 2.36.310 Ballot Count – Completion.

When the count of ballots is completed, and in no event later than the day after the election, the election board shall make a certificate in duplicate of the results using the Report of Preliminary Election Results, Form 2.36-E. The report includes the number of votes cast for each candidate, for and against each proposition, yes or no on each question, and any additional information prescribed by the clerk. Both copies of the certificate shall be signed by each election judge. The election board shall, immediately upon completion of the certificate, deliver to the clerk one of the two original certificates, the Master Voter Registration List, the Register of voters, the tally sheets, the envelope containing the defective and objected-to ballots, and other election documents in one sealed package and, in a separate sealed package, all ballots properly cast.

(Ordinance No. 88-07.)

ARTICLE III: ABSENTEE VOTING

Section 2.36.320 Persons Eligible.

Any qualified voter who expects to be absent from the city on election day or who is unable to go to the polls because of physical disability may cast an absentee ballot. An absentee ballot may be obtained by application to the clerk. (Ordinance No. 88-07.)

Section 2.36.330 Ballot application; Filing.

- A. A person who is eligible to cast an absentee ballot may apply to the clerk in person or by mail for a ballot. Applications for absentee ballots shall be made using Form 2.36-G or by letter containing all of the information required to complete that form.
- B. An application made by mail must be received by the clerk not more than twenty days and not less than three days before the day of the election. An application made in person must be filed with the clerk not more than twenty days before the day of the election and no later than noon on the day preceding the election.
- C. Upon timely receipt of application for an absentee ballot, the clerk shall file the application and then verify the residence of the applicant by any means the clerk deems proper.
(Ordinance No. 88-07.)

Section 2.36.340 Ballot and envelope form.

The ballot provided to absentee voters shall be identical to the ballots to be used on election day. The ballot envelope and the return envelope shall be of heavy opaque paper. The ballot envelope shall be marked "Ballot Envelope" and have no other marks upon it. The material set out in Form 2.36-H shall be printed on the return envelope. (Ordinance No. 88-07.)

Section 2.36.350 Absentee voting procedure.

- A. The clerk shall provide each eligible absentee voter with an official ballot prepared in accordance with section 2.36.090, together with a ballot envelope and a prepaid return envelope. The ballot provided to absentee voters shall be identical to the ballot prepared for regular voters.
- B. The clerk shall not issue an absentee ballot sooner than 10 days before the election.
- C. No absentee voter's ballot shall be mailed to any address in the city. Any voter present in the city who requires an absentee ballot shall personally obtain the ballot from the clerk.
- D. The clerk may deliver an absentee ballot to a disabled person living within the city at any time until the polls close on election day.
- E. Upon issuing an absentee ballot to a voter, either by mailing or by personal delivery, the clerk shall enter in the blank register the following information: the number of the ballot issued, the name of the voter to whom it was issued, and the date on which the ballot was issued.

- F. If the absentee voter's ballot is personally delivered, the absentee voter shall secretly mark the ballot in the presence of the clerk, in a manner which permits the clerk to be certain that the voter personally marked the ballot, but which does not permit the clerk to see how the voter votes. The voter shall fold the ballot and seal it in the ballot envelope, and seal the ballot envelope inside the return envelope. The voter shall then complete and swear to the affidavit printed on the face of the return envelope and deliver it to the clerk. The clerk shall certify to the affidavit on the return envelope, write or stamp his name across its seal, and retain the envelope in his custody to be delivered to the council for canvassing.
 - G. Any voter issued an absentee ballot may, at any time prior to closing of the polls on the day of the election for which it is issued, appear at the office of the city clerk, and there cast his ballot in the following manner: The voter first shall show the city clerk that his ballot has not been marked, then shall mark the ballot with pen and ink or indelible pencil in the presence of the city clerk, in such a manner that the city clerk cannot see how it is marked. The voter shall fold the ballot and place it in the ballot envelope, then place the ballot envelope in the return envelope. Then the voter shall complete and swear to the affidavit printed on the face of the return envelope, and deliver it, properly sealed, to the city clerk. The city clerk shall certify to the affidavit printed on the return envelope, write or stamp his name across its seal, and retain the envelope in his custody to be delivered to the council for canvassing.
 - H. At any time on or before the day of the election, any voter issued an absentee ballot may appear before any person authorized by law to administer oaths, and in the presence of such officer cast his ballot in the same manner he would cast it in the office of the city clerk under this section. After writing or stamping his name across the seal of the return envelope, the officer shall return it to the voter who shall mail it to the city clerk.
 - I. To be counted, an absentee ballot must be postmarked on or before the date of the election, or returned to the clerk before the close of the polls on election day. An absentee ballot received by the city clerk after the time at which the clerk delivers the ballots to the council for canvass shall not be counted.
- (Ordinance No. 88-07.)

ARTICLE V: POST-ELECTION PROCEDURE

Section 2.36.360 Posting result certificate.

- A. The clerk shall post copies of the certificate of Preliminary Election Results results in three public places the day after the 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 do not reflect the votes of absentee and questioned ballots and are not final until the council formally certifies the election; and
 - 3. That anyone has the opportunity to contest the election at the meeting.
- (Ordinance No. 88-07.)

Section 2.36.370 Final canvass by city council.

- A. The city council shall meet on the first Monday after the election and canvass all absentee ballots received after the close of the polls, and all questioned and defective ballots cast in the election. If the council is unable to obtain a quorum or complete the count on the Monday after the election, the canvass will be continued the following day and each day thereafter until completed.
- B. The city clerk shall submit to the council the election board's Report of Preliminary Election Results, the master voter registration list, the register, all regular ballots, oath and affidavit envelopes containing questioned ballots, defective and objected-to ballots, spoiled ballots, absentee ballots, and oaths and affirmations of election officials.
- C. The council 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 council's decision. If the council determines that the voter was eligible to vote, the oath and affidavit envelope shall be opened and the ballot removed. If the council upholds the challenge, the decision shall be noted in the minutes and the oath and affidavit envelope shall not be opened, but shall be saved with the other election materials.
- D. The ballot envelopes containing the absentee ballots shall be opened, and the ballots placed with the questioned ballots which the council has determined should be counted.
- E. The council, with the assistance of the clerk, shall count the votes of the questioned and absentee ballots collected pursuant to subsections (C) and (D) of this section.
- F. Council members shall examine the defective ballots to see whether the ballot should be counted and, if so, whether they can determine for whom the voter intended to vote.
- G. After a final determination is made by the council, the election results shall be read into the minutes. The statement of results read into the minutes shall include the following:
 - 1. the total number of ballots cast at the election;
 - 2. for each office voted on, the name of the office, the names of the candidates (including write-in candidates voted for, and the number of votes cast for each;
 - 3. each proposition or question voted on, and the number of votes cast for and against each;
 - 4. the disposition of all questioned and defective ballots; and
 - 5. any other matter which the council deems necessary to preserve a complete record of the election.
- H. The clerk shall provide Certificate of Election forms to the council for each office and each proposition or question presented at the election. Such forms are illustrated by Forms 2.36-J and 2.36-K. When the council has made its final determination, the clerk shall fill out, and the clerk and mayor shall sign, two certificates of election for each office, proposition, or question considered. One original of each Certificate of Election shall be given the successful candidate or the sponsor of the successful questions or propositions named thereon, and the other original of each certificate shall be kept by the city.

(Ordinance No. 88-07.)

Section 2.36.380 Runoff elections.

- A. In order to win election to the city council at a regular or special election, a candidate must receive more than 40 percent of the votes cast for the particular council seat, and more votes than any other candidate for the same office.
- B. If no candidate receives more than 40. percent of the ballots cast for an office at a regular or special election, the council shall hold a runoff election for that office between the two candidates receiving the greatest number of votes. write-in votes are not counted for any purpose in a runoff election.
- C. In a runoff election, the candidate receiving more votes than the other is the winner. In the event of a 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.
- D. A runoff election shall be held within three weeks after the date on which the council certifies the election for which a runoff is required.
- E. The results of runoff elections shall be determined by the same procedure as in other elections.

(Ordinance No. 88-07.)

Section 2.36.390 Recounts.

- A. Any defeated candidate or any ten qualified voters who believe that a mistake has been made by an election official or by the council in counting or tabulating the votes in any election may make an application in writing to the council for a recount of the votes for any particular office or on any particular question. The application must be filed with the city clerk within twenty-four hours, excluding any Saturday, Sunday or holiday, after the council declares the results of the vote being questioned. In case of a tie vote between two or more candidates, the council shall recount the votes without any application therefor.
- B. The person or persons applying for a recount shall pay to the city any expenses or costs incurred in the recount if the difference between the winning and a losing vote on the result contested is more than two percent, if the recount fails to reverse any result of the election.
- C. The council shall begin the recount within twenty-four hours after receiving the application, excluding any Saturday, Sunday or holiday, shall proceed with it as rapidly as practicable, and shall declare the results thereof. The city clerk shall promptly issue another election certificate if a change in the results requires it.

(Ordinance No. 88-07.)

Section 2.36.400 Contest.

- A. Any defeated candidate or any ten qualified voters who believe that prohibited practices have occurred, or that the election was conducted in a manner which did not comply with the requirements of this chapter and which affected the outcome with the requirements of

this election, may contest the election by filing an Affidavit of Election Contest (Form 2.36-L) at the council meeting at which the ballots are canvassed, prior to the issuance of the Certificates of Election. The name of the persons (s) 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, as to one or more offices or propositions or in its entirety, invalid, and order a new election.

(Ordinance No. 88-07.)

Section 2.36.410 Contest – Appeal.

If the council rejects an election contest and certifies the election, any candidate or voter who filed an Affidavit of Election Contest may appeal the council's decision to the state Superior Court within ten days after the council's decision on the contest. Otherwise, the results are conclusive, final, and valid in all respects.

(Ordinance No. 88-07.)

ARTICLE VI: INITIATIVE, REFERENDUM, AND RECALL

Section 2.36.420 Initiative and referendum.

- A. The powers of initiative and referendum may be exercised by city residents as provided by this chapter or otherwise in accordance with state law.
- B. The powers of initiative and referendum do not extend to matters restricted by Section 71 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."
- C. An application for an initiative or referendum petition shall be prepared, filed, and certified as provided in this section and section 2.36.440.
- D. A petition for initiative or referendum shall be prepared, filed, and certified as provided in this section and Sections 2.36.450 through 2.36.470.
- E. An application for initiative petition, and a petition for initiative, shall:
 - 1. embrace only a single comprehensive subject not restricted by subsection (B) of this section; and
 - 2. relate to a legislative rather than to an administrative matter.
- F. An application for initiative or referendum petition shall set out fully the ordinance or resolution sought to be enacted or referred. A petition for initiative or referendum shall set out fully the ordinance or resolution sought to be enacted or referred, and, in addition, shall set out a summary of the ordinance or resolution sought to be initiated or referred.

- G. When the clerk certifies as sufficient an initiative petition which seeks enactment of an ordinance or resolution within the powers of the council and not otherwise restricted by subsection (B) of this section, or a referendum petition, the clerk shall present it to the council at its next meeting. The council may reject the petition if the subject matter of the initiative or referendum is within the restrictions of subsection (B) of this section.
 - H. Unless the council adopts substantially the same ordinance or resolution proposed in an initiative petition, or repeals the ordinance or resolution against which a referendum petition is directed, the clerk shall submit the matter to the voters at the next regular election occurring no sooner than 45 days after certification of the election.
 - I. If the council adopts substantially the same ordinance or resolution proposed by an initiative petition, or repeals the ordinance or resolution proposed by a referendum petition to be repealed, the petition is void and an election shall not be held on the matter initiated or referred.
 - J. The ordinance or resolution proposed by the petition to be enacted or repealed shall be published in full in the notice of election but may be summarized on the ballot to indicate clearly the proposal submitted.
 - K. If a majority of those voting favor an initiated ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution. If a majority of those voting favor the repeal of a referred ordinance or resolution, it is repealed effective upon certification of the election; otherwise, the matter referred remains in effect, or, if it has been suspended, becomes effective upon certification of the election.
 - L. If a sufficient petition for referendum is filed 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 measure, but may repeal the suspended ordinance or resolution.
 - M. 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 containing substantially the same measure has been filed. The council may not, for a period of two years, adopt legislation substantially similar to an ordinance or resolution repealed in a referendum election or repealed by the council after a petition containing substantially the same measure has been filed.
 - N. 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.
- (Ordinance No. 88-07.)

Section 2.36.430 Recall.

- A. Any official elected or appointed to an elective municipal office may be recalled by the voters after he or she has served 120 days of the term for which elected or appointed.
- B. Grounds for recall are misconduct in office incompetence, or failure to perform prescribed duties.
- C. An application for a recall petition shall be prepared, filed, and certified as provided in this section and section 2.36.440.

- D. A petition for recall shall be prepared, filed, and certified as provided in this section and Sections 2.36.450 through 2.36.470.
 - E. A petition for recall may not be filed or supplemented within 180 days before the end of the term of office of the official sought to be recalled.
 - F. An application for a recall petition, and a recall petition, shall each contain:
 - 1. the name (s) of the officer or officers to be recalled, and
 - 2. a statement in 200 words or less of the grounds for the recall, stated with particularity.
 - G. A recall ballot shall contain:
 - 1. the grounds for recall as stated in the recall petition;
 - 2. a statement of 200 words or less by each officer who is subject to recall, if such a 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 []".
 - H. If a vacancy occurs in the office for which a recall petition has been filed, prior to the date of the recall election, the petition shall not be submitted to the voters.
 - I. If the voters recall an officer, the council shall schedule a special election for a successor to fill the unexpired term. The election shall be held at least 10 but not more than 45 days from the date of the recall election. However, if a regular or previously scheduled special election occurs within 75 days of the recall election, the successor to the recalled official shall be chosen at that regular or special election. The procedures and requirements for the regular election for the office from which the incumbent is recalled apply to the election conducted under this Section.
 - J. If all members of the governing body are recalled, the governor shall appoint three qualified persons to the governing body. The appointees shall appoint additional members to fill remaining vacancies in accordance with A.S. 29.26.350.
- (Ordinance No. 88-07.)

Section 2.36.440 Petition – Application.

- A. A petition for initiative, referendum, or recall is proposed by filing an application with the clerk.
 - B. An application shall contain:
 - 1. the matters required by section 2 . 36 . 420 (E) and (F) or Section 2.36.430(F);
 - 2. the address to which all correspondence relating to the proposed petition may be sent
 - 3. the signatures and residence addresses of 10 qualified voters who will sponsor the petition.
 - C. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk.
 - D. Within two weeks after the filing of the application, the clerk shall certify the application if the clerk finds that the application complies with this section and either Section 2.36.420(E) and (F) or Section 2.36.430(F), as appropriate. An application for initiative petition shall not be certified unless the clerk finds an addition that it would be enforceable as a matter of law.
- (Ordinance No. 88-07.)

Section 2.36.450 Petition – Preparation.

- A. Within two weeks after certification of an application for petition, the clerk shall prepare a petition.
 - B. Each copy of the petition shall contain, in addition to the items specified in Section 2.36.420(F) or 2.36.430(F), the following:
 - 1. The date on which the petition is issued by the clerk;
 - 2. (a) if the petition is an initiative or referendum petition, notice that the signatures on the petition must be secured within 90 days from the date the petition is issued; or (b) if the petition is a recall petition, notice that the signatures on the petition must be secured within 60 days from the date the petition is issued;
 - 3. 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;
 - 4. 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
 - 5. space for indicating the total number of signatures on the petition.
 - C. If the petition consists of more than one page, each page shall contain the summary of the ordinance or resolution to be initiated, the ordinance or resolution to be referred, or the name(s) of the officer(s) to be recalled.
 - D. Copies of the petition shall be provided to each sponsor by the clerk.
- (Ordinance No. 88-07.)

Section 2.36.460 Petition – Circulation and filing.

- A. The clerk shall determine the number of signatures required on a petition and inform each sponsor. The petition shall be signed by a number of qualified voters equal in number to 25 percent of the number of votes cast in the last regular election held in the city before the petition was issued.
 - B. The signatures on an initiative or referendum petition shall be secured within 90 days after the date the clerk issues the petition. The signatures on a recall petition shall be secured within 60 days after the date the clerk issues the petition. Signatures shall be in ink or indelible pencil.
 - C. When signing a petition, each voter shall, after his or her signature, print his or her name and write or print the date of signing the petition and his or her residence and mailing address.
 - D. All copies of a petition shall be assembled and filed with the clerk as a single instrument.
 - E. An initiative or referendum petition may not be filed if a substantially similar petition has been defeated by the voters within the preceding six months. A recall petition may not be filed if a petition seeking the recall of the same official has been defeated by the voters within the preceding six months.
- (Ordinance No. 88-07.)

Section 2.36.470 Petition --certification; protest.

- A. When a petition has been filed, the clerk shall within 10 days certify on the petition whether it is sufficient, and, if it is insufficient, identify the insufficiency and notify the sponsors at the address provided on the petition by certified mail.
 - B. To determine whether the petition is sufficient, the clerk shall first determine whether the petition complies with the applicable requirements of sections 2.36.420 through 2.36.460. In determining whether the petition bears the required number of signatures, illegible signatures shall not be counted unless accompanied by a legible printed name, and signatures not accompanied by a legible residence address shall not be counted. The clerk shall count only those signatures which can be determined, from the information on the petition and other information known or available to the clerk, to be the signatures of qualified voters. Illegible signatures, unless accompanied by a legible printed name, shall be rejected by the clerk. The clerk shall certify on the petition within 10 days of the filing date whether it is accepted or rejected. Until the petition is accepted, a petition signer may withdraw his or her signature upon written application to the clerk.
 - C. 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. A recall petition may not be supplemented unless it contains an adequate number of signatures, counting both valid and invalid signatures.
 - D. A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under subsection (C) of this section. within 10 days after a supplementary filing, the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.
 - E. Failure to secure sufficient signatures does not preclude the filing of a new initiative, referendum, or recall petition. However, a new initiative or referendum petition seeking to enact or repeal substantially the same measure, or 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.
 - F. 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 then present the protest to the council at the next regular meeting for hearing and decision of the protest.
 - G. If the clerk certifies an initiative or referendum or recall petition as sufficient, the clerk shall immediately submit it to the council at the next regular meeting or at a special meeting held before the next regular meeting.
- (Ordinance No. 88-07.)

Section 2.36.480 Election.

- A. If a regular election or previously scheduled special election occurs within 75 days of the Clerk's submission of a certified sufficient petition, the council shall submit the issue raised by the petition at that election.
- B. If no regular election or previously scheduled special election will occur within 75 days of the clerk's submission of a petition, the council shall hold a special election within 75 days of submission

C. Procedures for conducting an initiative, referendum, or recall election are those of a regular election.

D. If a majority of those voting favor the proposal, it becomes effective when the election results are officially declared.

(Ordinance No. 88-07.)

APPENDIX OF FORMS

Forms:

- 2.36-A Oath of Election Official
- 2.36-B Notice of Election
- 2.36-C Official Ballot
- 2.36-D Tally Sheet
- 2.36-E Report of Preliminary Election Results
- 2.36-F Oath and Affidavit of Eligibility
- 2.36-G Application for Absentee Ballot
- 2.36-H Absentee Ballot Return Envelope
- 2.36-I Declaration of Candidacy
- 2.36-J Certificate of Election – Officer
- 2.36-K Certificate of Election – Ballot Proposition
- 2.36-L Affidavit of Election Contest

City of Kaktovik
OATH OF ELECTION OFFICIAL
(Form 2.36 - A)

I, _____, Do Solemnly swear (affirm) that:

I will honestly, faithfully, and impartially perform the duties of election judge (clerk) to the best of my ability;

I will not receive any ballot or votes from any person who I do not firmly believe to be entitled to vote at this election, according to the laws of this State and the ordinances of this City, nor will I refuse to receive a ballot or vote from, or do anything to hinder the casting of a ballot or vote by, any person who I believe is entitled to vote at this election; and

I am familiar with the city's elections ordinances and elections procedures.

SIGNED: _____
Election Judge or Clerk

Witnessed :

City Clerk

CITY OF KAKTOVIK, ALASKA

NOTICE OF ELECTION

(Form 2.36 – B) (Sample)

NOTICE: A regular (special, runoff) election will be held in the City of Kaktovik on the _____ day of _____, 20____ for the purpose of filling three (3) seats on the City Council, as follows:

City Council Seat _____, 3-year term

City Council Seat _____, 3-year term

City Council Seat _____, 3-year term

The polls will be located at: _____

The polls will open at 8:00 a.m. and close at 8:00 p.m.

In order to vote, you must be: (1) a citizen of the United States, and qualified in the State of Alaska elections; (2) a resident of the City of Kaktovik for at least 30 days prior to the date of the election; and (3) registered to vote in the State elections. You *cannot* vote if you have been (1) convicted of a felony involving moral turpitude, unless your voting rights have been restored, or (2) judicially determined to be of unsound mind, unless this disability has been removed.

Candidates for office must file a Declaration of Candidacy form with the City Clerk no later than _____, 20____. Declaration of Candidacy forms may be obtained from the City Clerk at the city offices from 9:00 a.m. to 5:00 p.m., Mondays through Fridays.

DATE

City Clerk

[City
Seal]

AFTER MARKING BALLOT, FOLD BALLOT TO THIS LINE

CITY OF KAKTOVIK, ALASKA

OFFICIAL BALLOT

(Form 2.36-C) (Sample)

Regular Election of October 7, 2006

Mark your votes by making an "X" mark in the space next to each candidate or choice you wish to vote for. If you make a mistake or change your mind, DO NOT erase or cross out any mark you have made. Your vote cannot be counted if there is any erasure or correction. Instead, fold this ballot and give it back to the election judge or clerk. You will be given another ballot.

DO NOT vote for more than one person for each office or mark more than one choice for each proposition. If you do so, none of your votes for that office or proposition can be counted.

To vote for a person whose name is not printed on the ballot, write his or her name in the blank space below the list of candidates.

If you have any questions about how a ballot must be marked, ask the election judge from whom you got this ballot.

CITY COUNCIL SEAT E
(Vote for one only)

Joe Smith....._____

Irene Candidate....._____

Fred Friendly....._____

(Write-in)

CITY COUNCIL SEAT G
(Vote for one only)

Martha Mitchell....._____

Jim John, Jr....._____

(Write-in)

CITY COUNCIL SEAT F
(Vote for one only)

Arnold Jones, Sr....._____

Bill Brown....._____

(Write-in)

INITIATIVE 06-1

An ordinance to limit the length of speeches given by City Council Members.

For....._____

Against....._____

City of Kaktovik
TALLY SHEET
 (From 2.36-D) (Sample)

Election Date: _____ Date of Vote Count: _____

Number of ballots:

- 1) Received from City Clerk: _____
- 2) Voted: _____
- 3) Spoiled and returned to City Clerk: _____
- 4) Questioned and delivered to City Clerk: _____
- 5) Unused and returned to City Clerk: _____

Candidate	Votes as Counted	Votes
COUNCIL SEAT _____:		
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
(No vote for this seat)	_____	_____
		Total: _____

COUNCIL SEAT _____:		
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
(No vote for this seat)	_____	_____
		Total: _____

COUNCIL SEAT _____:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(No vote for this seat)

Total: _____

PROPOSITION/QUESTION _____:

For/Yes

Against/No

(No vote for this question)

_____	_____
_____	_____
_____	_____

Total: _____

PROPOSITION/QUESTION _____:

For/Yes

Against/No

(No vote for this question)

_____	_____
_____	_____
_____	_____

Total: _____

CITY OF KAKTOVIK, ALASKA
REPORT OF PRELIMINARY ELECTION RESULTS

(Form 2.36 - E)

The tally below is a true and accurate record of all regular votes cast in the _____
election held in the City of Kaktovik, Alaska on _____, 20_____.

PART I: ELECTIVE OFFICES

OFFICE: CITY COUNCIL SEAT _____

CANDIDATE	VOTE	CANDIDATE	VOTE
1. _____	_____	5. _____	_____
2. _____	_____	6. _____	_____
3. _____	_____	7. _____	_____
4. _____	_____	8. _____	_____

OFFICE: CITY COUNCIL SEAT _____

CANDIDATE	VOTE	CANDIDATE	VOTE
1. _____	_____	5. _____	_____
2. _____	_____	6. _____	_____
3. _____	_____	7. _____	_____
4. _____	_____	8. _____	_____

OFFICE: CITY COUNCIL SEAT _____

CANDIDATE	VOTE	CANDIDATE	VOTE
1. _____	_____	5. _____	_____
2. _____	_____	6. _____	_____
3. _____	_____	7. _____	_____
4. _____	_____	8. _____	_____

PART II: BALLOT PROPOSITIONS AND QUESTIONS

PROPOSITION ____: FOR _____ AGAINST _____

PROPOSITION ____: FOR _____ AGAINST _____

PROPOSITION ____: FOR _____ AGAINST _____

QUESTION ____: YES _____ NO _____

QUESTION ____: YES _____ NO _____

QUESTION ____: YES _____ NO _____

PART III: ACCOUNTING OF BALLOTS

Total Ballots Received From City Clerk: _____

Total Regular Ballots Cast: _____

Total Questioned Ballots Cast: _____

Total Ballots Returned to Clerk: Defective: _____

Unused: _____

The tally of ballots was completed between the hours of
_____ p.m. and _____ p.m. on _____, 20____.

Respectfully submitted,

_____, Election Board Chairman

_____, Election Judge

_____, Election Judge

ATTEST:

City Clerk

[City
Seal]

CITY OF KAKTOVIK, ALASKA
OATH AND AFFIDAVIT OF ELIGIBILITY]

(Form 2.36-F)

STATE OF ALASKA)
) ss.
SECOND JUDICIAL DISTRICT)

I, _____, DO HEREBY DECLARE THAT I AM A RESIDENT OF THE CITY OF KAKTOVIK, ALASKA. AND MEET ALL OF THE MINIMUM REQUIREMENTS SET FORTH BY LOCAL ORDINANCES AND STATE LAW TO VOTE IN THIS ELECTION.

I AM NOT DISQUALIFIED, AND HAVE NOT VOTED IN THIS ELECTION.

SIGNED:

(NAME)

(ADDRESS)

WITNESSED:

ELECTION JUDGE

CITY OF KAKTOVIK, ALASKA
APPLICATION FOR ABSENTEE BALLOT
(Form 2.36-G)

I, _____, A QUALIFIED
VOTER AND RESIDENT OF THE CITY OF KAKTOVIK, ALASKA HEREBY APPLY FOR
AN ABSENTEE BALLOT FOR THE CITY ELECTION TO BE HELD ON
_____, 20_____.

RESIDENCE ADDRESS:

(P.O. BOX NUMBER OR STREET)

MAILING ADDRESS:

(IF OTHER THAN RESIDENCE ADDRESS)

REASON FOR REQUESTING ABSENTEE BALLOT: _____

ADDRESS TO WHICH ABSENTEE BALLOT SHOULD BE MAILED:

Note: An absentee ballot may
not be mailed to an address in
Kaktovik.

DATE: _____

SIGNED: _____

RECEIVED BY: _____

DATE: _____

PLEASE MAIL THIS APPLICATION TO: Office of the City Clerk, City of Kaktovik, P.O.
Box 27, Kaktovik, AK 99747

STATE OF ALASKA)
) ss.
UNITED STATES OF AMERICA)

_____, deposes and says: I am a resident of and a registered voter in the city of Kaktovik, Alaska, and I hereby enclose my ballot in compliance with the election ordinance of said city.

(Signature of Voter)

(Residence address with City)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____. I hereby certify that the above-named affiant appeared before me, displayed to me an unmarked Absentee Ballot, marked that ballot in my presence and, without allowing me or any other person to see how the ballot was marked, enclosed and sealed said ballot in a ballot envelope, and then enclosed and sealed that ballot envelope in this return envelope, handed me this return envelope sealed, and signed the foregoing affidavit.

(Official's Signature)

(Title of Officer)

(SEAL)

NOTICE - After receiving this sealed envelope from the person taking your affidavit, when voting outside the office of the Kaktovik city clerk, you must immediately return it by mail, postage prepaid, to Office of the City Clerk, City of Kaktovik, P.O. Box 27, Kaktovik, AK 99747.

City of Kaktovik, Alaska

DECLARATION OF CANDIDACY
(Form 2.36-1)

Clerk: Insert date of filing

I, _____, hereby declare my candidacy for the office of
(Insert full Name)
_____ of the City of Kaktovik, Alaska. I am a qualified city voter.
(State name of office)

I am a United States citizen qualified and registered to vote in elections of the State of Alaska. I have not been convicted of a felony involving moral turpitude without later restoration of my voting rights pursuant to A.S. 15.05.030, nor have I been judicially determined to be of unsound mind, unless this disability has been removed. I have been, or will by the date of the election for which I am filing this Declaration have been, a resident of the City of Kaktovik, Alaska for more than thirty (30) days.

If elected to the above office, I will serve for the full term of _____ years,
(length of term)
Ending on _____, 20_____.
(date term of office ends)

I request that my name be printed on the official ballot for the municipal election to be held in the City of Kaktovik, Alaska on _____, 20_____.
(date of election)

Signature

City of Kaktovik, Alaska
CERTIFICATE OF ELECTION – OFFICER

(Form 2.36-I)

THIS IS TO CERTIFY that on the _____ day of _____, 20_____,
_____ was elected to the office of
_____ of the City of Kaktovik, Alaska, as
confirmed by the City Council of the City of Kaktovik upon completion of the final canvass of
ballots on the _____ day of _____, 20_____.

Mayor

ATTEST:

City Clerk

[City
Seal]

City of Kaktovik, Alaska

CERTIFICATE OF ELECTION – BALLOT PROPOSITION

(Form 2.36 – K)

THIS IS TO CERTIFY that on the _____ day of _____, 20_____,
The ballot proposition relating to _____
_____, a true and correct copy of which is attached
hereto, was approved by the voters of the City of Kaktovik, as confirmed by the City Council of
the City of Kaktovik, upon completion of the final canvass of ballots on the _____ Day of
_____, 20_____.

Mayor

ATTEST:

City Clerk

[City
Seal]

City of Kaktovik, Alaska

AFFIDAVIT OF ELECTION CONTEST

(Form 2.36-1.)

STATE OF ALASKA)
) ss.
SECOND JUDICIAL DISTRICT)

I believe that prohibited practices occurred at the election held on
_____, 20_____.

I believe that the following laws were violated: _____

The above provisions of the law were violated in the following manner: _____

These facts are true and correct to the best of my knowledge.

Signature of Person Contesting

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20_____.

[Notary Seal]

Notary Public in and for Alaska
My Commission Expires: _____

Chapter 2.40

INFORMAL APPEALS TO THE CITY COUNCIL

Sections:

- 2.40.010 Scope of chapter.
- 2.40.020 Initiation of informal appeal.
- 2.40.030 Time for initiating appeal.
- 2.40.040 Setting matter on agenda.
- 2.40.050 Hearing date.
- 2.40.060 Procedure at hearing.
- 2.40.070 Decision.
- 2.40.080 Final decision.
- 2.40.090 Formal proceedings after decision.

Section 2.40.010 Scope of chapter.

This chapter covers procedure for informal administrative appeals to the council. All appeals by any aggrieved party may be made under this chapter, except where a city ordinance or state or federal law requires a formal trial-type administrative proceeding. The city's formal administrative procedures are set out in Chapter 2.44. (Ordinance No. 88-08.)

Section 2.40.020 Initiation of informal appeal.

An informal appeal may be initiated by a city resident, city employee, or any other person who is aggrieved by an action or decision (including a failure or refusal to take action or to make a decision) of a city officer or official for which a right of appeal is provided by this code or state or federal law. To initiate an informal appeal, the aggrieved party shall write a letter to the council. The letter:

1. shall identify the action or decision to which the aggrieved party objects;
2. should identify the city officer or official who took the action or made the decision, if known;
3. should state the reason why the person is aggrieved by the action or decision;
4. should state what relief (such as reversal or modification of the decision or postponement of the action) the person desires; and
5. shall be signed by the aggrieved party.

This letter shall be mailed or delivered to the clerk. The requirements of this section shall be liberally construed, so that any signed writing which may reasonably be read as objecting to and seeking council review of an appealable action or decision shall be sufficient under this section. (Ordinance 88-08.0)

Section 2.40.030 Time for initiating appeal.

The letter initiating an appeal must be received by the clerk within 30 days from the date of the action or decision complained of. (Ordinance No. 88-08.)

Section 2.40.040 setting matter on agenda.

Upon receipt of a letter initiating an appeal under this chapter, the clerk shall:

1. schedule the matter for hearing at the next regular council meeting, and advise the aggrieved party of the date, time, and place of the meeting;
2. immediately provide copies of the letter to all council members and to the city officer or official who made the decision or took the action complained of; and
3. direct the city officer or official who made the decision or took the action complained of to attend the hearing on the matter to be prepared to respond to the appeal in detail, and to assemble all documents relevant to the appeal and make them available to council members before and at the hearing.

A special council meeting may be called as provided in section 2.08.050 to consider the appeal. (Ordinance No. 88-08.)

Section 2.40.050 Hearing date.

The appeal shall be heard on the date scheduled or, if time does not permit, at the next regular meeting (or earlier special meeting) under the rules of the council. (Ordinance No. 88-08.)

Section 2.40.060 Procedure at hearing.

At the hearing, the council shall receive written or verbal statements from the aggrieved party and from the city officer or official who took the action or made the decision complained of and, if the council so desires, from other persons. Council members may offer any information or document they may have or know of relating to the matters raised by the aggrieved party. (Ordinance No. 88-08.)

Section 2.40.070 Decision.

The council shall make a decision about the matters raised by the aggrieved party. No specific form of decision is required. If the council, at the conclusion of the hearing, neither makes a formal decision on the appeal nor schedules the appeal for further consideration at a specific

meeting to be held within 30 days of the hearing, the council shall be deemed to have rejected the appeal.

(Ordinance No. 88-08.)

Section 2.40.080 Final decision.

Unless further review is available under section 2.40.080 and chapter 2.44, the decision of the Council shall be the final city action on the matter, and is subject to judicial review in the Superior court of the State of Alaska, for the Barrow Judicial Service Area, or any other area then embracing the City of Kaktovik in the manner provided by sections 2.44.260 and 2.44.270; provided, however, that in such cases the record shall be limited to the following documents:

1. the letter filed pursuant to section 2.40.020;
2. the documents made available to the council pursuant to section 2.40.040 (C) (3);
3. any written statements filed at the hearing pursuant to section 2.40.060;
4. the minutes of the council meeting at which the hearing was held; and
5. the written decision of the council, if any.

(Ordinance No. 88-08.)

Section 2.40.090 Formal proceedings after decision.

An aggrieved party proceeding under this chapter does not waive the right to a formal hearing under chapter 2.44, provided that

1. the aggrieved party is entitled by ordinance, state statute, or the Alaska Constitution to a formal hearing; and
2. the formal proceeding is filed within the time specified by 2.44.070.

(Ordinance No. 88-08.)

Chapter 2.44

FORMAL HEARING PROCEDURE

Sections:

ARTICLE I. GENERAL PROVISIONS

- 2.44.010 Definitions.
- 2.22.020 Application of chapter.

ARTICLE II. ACTIONS

- 2.44.030 Commencement of action.
- 2.44.040 Appointment of hearing officers.
- 2.44.050 Accusation.
- 2.44.060 Statement of issues.
- 2.44.070 Time for filing a statement of issues.
- 2.44.080 Service of Accusation.
- 2.44.090 Notice of defense.
- 2.44.100 Amended or supplemental accusation.
- 2.44.110 Form of notice of hearing.

ARTICLE III. EVIDENCE AT HEARINGS

- 2.44.120 Proof.
- 2.44.130 Subpoena.
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- 2.44.200 Decision in a contested case.
- 2.44.210 Form and effect of decision.
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- 2.44.260 Judicial review.
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ARTICLE VI. MISCELLANEOUS PROVISIONS

- 2.44.280 Continuances.
- 2.44.290 Contempt.
- 2.44.300 Mail vote.
- 2.44.310 Charges against agency appropriations.
- 2.44.320 Power to administer oath.
- 2.44.330 Impartiality.

ARTICLE I. GENERAL PROVISIONS

Section 2.44.010 Definitions.

In this chapter,

- A. "Agency" means a city department, board, commission, body, (including the council) officer, official, or employee with the authority to:
 - 1. Make decisions from which an appeal may be taken to another city agency; or
 - 2. Hear appeals of decisions of a city agency;
 - 3. Initiate hearings which may result in the revocation of a right.
- B. "Grant" whether used in singly or in combination with other similar words, includes "issue," "renew" and "extend."
- C. "Revoke," whether used singly or in combination with other similar words, includes "suspend," "limit," "modify" and "condition" when applied to an existing right.
- D. "Right," whether used singly or in combination with other similar words, includes "authority," license," "duty," "permit" and "privilege." Where an appeal at hearing under this chapter is authorized, it shall be assumed that a right exists.
- E. "Verify" means to confirm by oath subscribed to before a notary or other person empowered by law to administer oaths.

(Ordinance no. 88-08.)

Section 2.44.020 Application of chapter.

- A. The provisions of this chapter shall apply to administrative and quasi-judicial proceedings in which legal rights, duties, privileges or penalties of persons are to be determined and shall include, but not limited to:
 - 1. Forfeiture of office proceedings;
 - 2. The appeal to the council of the decision of any agency;
 - 3. Appeals or other provisions of this code or rules and regulations approved by the council. When so made applicable, all procedures of this chapter shall apply unless specified procedures are, for the purpose of the action being taken, modified or made inapplicable by the ordinance or other authority which provides for proceedings under this chapter.
- B. The provisions of this chapter shall not apply to any action which cannot, of itself, stand as an authoritative or final action in the matter. Such actions which are not included are, but are not limited to, decisions to recommend, advise or request an action, even if such recommendation, advice or request is procedurally required as a prerequisite to some other action, which latter action is dispositive of the matter.

(Ordinance No. 88-08.)

ARTICLE II. ACTIONS.

Section 2.44.030 commencement of action.

- A. Revocation of a Right. An agency which is authorized to revoke a right may do so summarily unless specifically provided that such action may be taken only after a hearing on the matter. Unless otherwise provided, when an action revoking a right may be taken only after a hearing, such action is initiated by the agency by filing an accusation with the clerk as provided in Section 2.44.050 and proceeding as provided herein.
- B. Other Appeals or Challenges. All other authorized challenges or appeals of an action taken by a city agency shall be initiated by filing a statement of issues as provided in Section 2.44.060:
 - 1. When the challenge is to the agency which is to take or has taken an action granting or denying a right and the challenge is by a person other than the one who has applied for the right or the one who holds the right, then the applicant or holder is the respondent.
 - 2. When the challenge is an appeal to a higher or different agency and is made by a person other than the one who has applied for or holds the right, but the applicant or holder shall be the respondent, but the agency whose action is being challenged may, on its own initiative, join as co-respondent, or be joined by the agency hearing the appeal.

3. When the challenge is by the person who applied for or holds the right, the agency whose action is being challenged shall be the respondent, except that when the appeal is to the agency whose action is being appealed, the applicant shall be the respondent.
- C. Action by Clerk. Unless otherwise provided in the code, ordinance, rule, regulation, or other provision, upon receiving an accusation or statement of issues, the clerk shall immediately deliver copies of such accusation or statement to the mayor, attorney, the agency whose action is being challenged, and the agency which is the proper one to hear the appeal. When the agency to hear the appeal or charges is a body which not in session when the accusation or statement is received by the clerk, a copy shall be immediately delivered to the head of the department which provides staff assistance to the body and the clerk shall also deliver, in a timely manner, a copy to the presiding officer of the body.
- D. Action by Agency Hearing the Appeal. Unless otherwise provided in the code, ordinance, order, regulation or other provision, upon receipt of an accusation or statement of issues, the agency to hear the appeal shall determine whether it will hear the appeal de novo, on the record, or on the record augmented by additional testimony, and shall immediately notify all parties to the appeal of its determination.
- E. Sufficiency of Statement of Issues. Unless otherwise provided, a liberal interpretation of the statement of issues will be made in order to preserve and insure the rights of the appellant; however, the agency to hear the appeal may dismiss the appeal if the statement of issues does not sufficiently state a cause of action.

(Ordinance No. 88-08.)

Section 2.44.040 Appointment of hearing officers.

The council may assign a qualified, unbiased, and impartial hearing officer, with experience in the general practice of law, to conduct hearings under this chapter. The hearing officer may perform other duties in connection with the administration of this chapter and other ordinances. The actions to be heard by a hearing officer shall be only those where a hearing by a hearing officer is permitted by the act or provision that creates the right to a hearing, but this limitation shall not prevent the retention by any agency of the city attorney or other person to advise the officer presiding at the hearing.

(Ordinance No. 88-08.)

Section 2.44.050 Accusation.

A hearing to determine whether a right, authority, license, or privilege should be revoked, suspended, limited, or conditioned is initiated by filing an accusation. The accusation shall:

- A. Be a written statement of charges setting out in ordinary and concise language the specific acts or omissions with which the respondent is charged, so that the respondent is

able to prepare his defense, and may not consist merely of charges phrased in the language of the statute, ordinance or rule;

- B. Specify the statute, code, section, ordinance or rule which the respondent is alleged to have violated; and
- C. Be verified, unless made by a public officer acting in his official capacity or by an employee of the agency on whose behalf the proceeding is to be held. The verification may be on information and belief.

(Ordinance No. 88-08.)

Section 2.44.060 Statement of Issues.

- A. A hearing to determine whether a right, authority, license or privilege should be granted, issued or renewed is initiated by filing with the clerk a statement of issues which shall contain, where applicable:
 - 1. The statute, rule or code section with which the respondent must show compliance by producing proof at the hearing; and
 - 2. A written statement of allegations setting out in ordinary and concise language the specific acts or omissions with which the respondent is charged so that the respondent is able to prepare a defense, and such allegations may not merely be phrased in the language of the statute, rule or code section; or
 - 3. The particular matters which have come to the attention of the initiating party and which would authorize the agency action sought or reversal of the agency action taken.
- B. The statement of issues shall be verified unless made by a municipal officer acting in his official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.
- C. The statement of issues shall be served as provided in this chapter, except that if the hearing is held at the request of the respondent:
 - 1. Sections 2.44.080 and 2.44.090 do not apply; and
 - 2. The statement of issues together with the notices of hearing shall be delivered or mailed to the parties as provided in Section 2.44.120.

(Ordinance No. 88-08.)

Section 2.44.070 Time for filing a statement of issues.

Unless otherwise provided in the code, ordinance, rule, regulation or other provision which creates the right of appeal or hearing, no person shall be entitled to a hearing who fails to file a proper and sufficient statement of issues with the clerk within twenty (20) days of the earliest of the following dates:

- 1. The date the decision is filed with the clerk when the decision is one which is required to be so filed;

2. The date of the first publication of the action in a newspaper of general circulation within the city, whether publication is required or not, or the date of the first posting of a notice of the action in at least three public places in the city, whether such posting is required or not;
3. The date the appellant first learned of the action;
4. The date the decision is mailed to the party appealing; or
5. The date the decision is received by the party appealing when the decision is delivered personally to the party appealing.

(Ordinance No. 88-08.)

Section 2.44.080 Service of accusation.

- A. Upon filing an accusation, the agency:
 1. Shall issue a copy of the accusation to the respondent as provided in subsection C of this section;
 2. Shall include with the accusation a post card or other form entitled “notice of defense” which, when signed by or on behalf of the respondent and returned to the agency, acknowledges service of the accusation and constitutes a notice of defense under Section 2.44.090;
 3. Shall include in or with the copy of the accusation a statement that respondent may request a hearing by filing a notice of defense as provided in Section 2.44.090 within fifteen days after the accusation is served on him and that failure to do so constitutes a waiver of his right to a hearing;
 4. May include with the accusation any information which it considers appropriate.
- B. The statement to respondent required by subsection B(3) of this section shall be in substantially the following form:

If you want a hearing on the enclosed Accusation, you must ask for a hearing in writing. Your request for a hearing must be in writing, must be signed by you or by someone else signing for you, and must be delivered or mailed to the city clerk (at the address given on the enclosed “Notice of Defense” form) within 15 days after you received this notice (if it was delivered to you in person) or within 15 days after this notice was mailed to you.

If you do not ask for a hearing by filing or mailing a written request for hearing within these time limits, the city may take the action proposed in the Accusations without a hearing.

You may ask for a hearing by signing the enclosed “Notice of Defense” form and delivering it or mailing it to the city clerk. You may also request a hearing by preparing your own notice of defense in compliance with Section 2.44.090 of the City of Kaktovik Code of Ordinances.

- C. The accusation and all accompanying information may be sent to the respondent by any means selected by the agency. However, no order adversely affecting the rights of the respondent may be made by the agency unless the respondent is served personally or by registered mail or files a notice of defense, or otherwise appears. Service may be proved in the manner authorized in civil actions. Service by registered mail is effective if an agency rule requires the respondent to file his address with the agency and to notify the agency of a change, and if a registered letter containing the accusation and accompanying material is mailed, addressed to the respondent at the latest address on file with the agency.

(Ordinance no. 88-08.)

Section 2.44.090 Notice of Defense.

- A. Within fifteen days after service upon him of the accusation, the respondent may file with the clerk a notice of defense. In the notice he may:
1. Request a hearing;
 2. Object to the accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
 3. Object to the form of the accusation on the ground that it is so indefinite or uncertain that he cannot identify the transaction or prepare his defense;
 4. Admit the accusation in whole or in part;
 5. Present new matter by way of defense.
- B. Within the time specified, the respondent may file one or more notices of defense upon any or all of the grounds set out in subsection (A) of this section but all of the notices shall be filed within that period unless the agency in its discretion authorizes the filing of a later notice.
- C. The respondent is entitled to a hearing on the merit if he files a notice of defense, and the notice of defense is considered a specific denial of all parts of the accusation not expressly admitted. Failure to file the notice constitutes a waiver of the respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in subdivision (A) (3) of this section, all objections to the form of the accusation are waived.
- D. The notice of defense shall be in writing, signed by or on behalf of the respondent, and shall state his mailing address. It need not be verified or follow a particular form.

(Ordinance No. 88-08.)

Section 2.44.100 Amended or supplemental accusation.

At any time before the matter is submitted for decision the agency may file or permit the filing of an amended or supplemental accusation. All parties shall be notified of the filing. If the

amended or supplemental accusation presents new charges, the agency shall give the respondent a reasonable opportunity to prepare his defense to it, but he is not entitled to file a further pleading unless the agency in its discretion so orders. New charges are considered controverted. Objections to the amended or supplemental accusation may be made orally and shall be noted in the record.

(Ordinance no. 88-08.)

Section 2.44.110 Form of notice of hearing.

- A. The agency shall deliver or mail a notice of hearing to all parties at least ten days before the hearing. The hearing shall not be held before the expiration of the time within which the respondent is entitled to file a notice of defense.
- B. The notice to respondent shall be in substantially the following form, but may include other information:

You are notified that a hearing will be held before (here insert name of agency) at (here insert place of hearing) upon the ____ day of _____, 20____, at the hour of _____ .m., upon the charges made in the Accusation served upon you. You may be present at the hearing, may be but need not be represented by counsel, may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You may have subpoenas issued to compel the attendance of witnesses and the producing of books, documents or other things by applying to the city clerk.

(Ordinance No. 88-08.)

ARTICLE III. EVIDENCE AT HEARINGS

Section 2.44.120 Proof.

- A. The burden of proof is on the party who files the accusation or statement of issues, or who otherwise initiates the appeal.
- B. Except as provided in subsection (C) of this section, the proof required in a hearing shall be a preponderance of the evidence.
- C. In a hearing initiated by a statement of issues, the hearing agency may sustain the action challenged if it is satisfied that sufficient evidence or information to support such an action was before the agency when the challenged action was taken; however, a higher level of proof may be required by the hearing agency where the hearing is de novo or from an augmented record.

(Ordinance No. 88-08.)

Section 2.44.130 Subpoena.

- A. Before the hearing begins the clerk shall issue subpoenas and subpoenas duces tecum at the request of a party in accordance with the Alaska Rules of Civil Procedure. After the hearing begins, the agency hearing a case or a hearing officer sitting alone may issue subpoenas and subpoenas duces tecum.
 - B. A subpoena issued under subsection (A) of this section extends to all parts of the city and shall be served in accordance with the Alaska Rules of Civil Procedure.
 - C. A witness who is not a party and who appears under subpoena is entitled to receive:
 - 1. Fees, except a witness who is an officer or employee of the city;
 - 2. Travel and subsistence expenses in the same amount and under the same circumstances as prescribed by law for a witness in a civil action in a superior court of the state.
 - D. Fees, mileage, and expenses of subsistence shall be paid by the party at whose request the witness is subpoenaed.
- (Ordinance No. 88-08.)

Section 2.44.140 Depositions.

- A. On verified petition of a party, an agency may order that the testimony of a material witness residing inside or outside the city be taken by deposition in the manner prescribed by the Alaska Rules of Civil Procedure. The petition shall state:
 - 1. The nature of the pending proceeding;
 - 2. The name and address of the witness whose testimony is desired;
 - 3. A showing of the materiality of his testimony;
 - 4. A showing that the witness will be unable or cannot be compelled to attend; and
 - 5. A request for an order requiring the witness to appear and testify before an officer named in the petition for that purpose.
 - B. If the witness resides outside the city and if the agency orders the taking of his testimony by deposition, the agency shall obtain an order for court to that effect by filing a petition for the taking of the deposition in the superior court for the Barrow Judicial Service Area. The proceedings on this order shall be in accordance with provisions governing the taking of depositions in the superior court in a civil action.
- (Ordinance No. 88-08.)

Section 2.44.150 Hearings.

- A. A hearing in a contested case or any other appeal shall be presided over by a hearing officer, the presiding officer of the body hearing the matter, or other person, as may be provided by ordinance or resolution.

- B. The person presiding at the hearing shall rule on the admission and exclusion of evidence and advise the agency on matters of law. If a hearing officer hears a case alone, he shall exercise all powers relating to the conduct of the hearing. The city attorneys shall advise the person presiding over the hearing as to matters of law and procedure.
 - C. A hearing officer or agency member shall voluntarily disqualify himself and withdraw from a case in which he cannot accord a fair and impartial hearing or consideration. A party may request the disqualification of a hearing officer or agency member by filing an affidavit, before the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. If the request concerns an agency member, the issue shall be determined by the agency when the agency hears the case with the hearing officer, and by the hearing officer when he hears the case alone. No agency member may withdraw voluntarily or be disqualified if his disqualification would prevent the existence of a quorum qualified to act in the particular case.
 - D. A recording capable of transcription shall be kept at all hearings.
- (Ordinance No. 88-08.)

Section 2.44.160 Evidence rules.

- A. Oral evidence may be taken only on oath or affirmation.
 - B. Each party may:
 - 1. Call and examine witnesses;
 - 2. Introduce exhibits;
 - 3. Cross-examine opposing witnesses on matter relevant to the issues, even though that matter was not covered in the direct examination;
 - 4. Impeach a witness regardless of which party first called the witness to testify; and
 - 5. Rebut the evidence against himself.
 - C. If any party does not testify in his own behalf, he may be called and examined as if under cross-examination
 - D. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule which makes improper the admission of the evidence over objection in a civil action. Hearsay evidence may be used to supplement or explain direct evidence but it is not sufficient by itself to support a finding unless it would be admissible over the objection in a civil action. The rules of privilege are effective to the same extent that they are recognized in a civil action. Irrelevant and unduly repetitious evidence shall be excluded.
 - E. Evidence shall be presented by each party in the order usually applicable to the trial of civil actions.
- (Ordinance No. 88-08.)

Section 2.44.170 Evidence by affidavit.

- A. At any time ten or more days before a hearing or a continued hearing, a party may mail or deliver to the opposing party a copy of an affidavit which he proposes to introduce in evidence, together with a notice as provided in subsection (B) of this section. Unless the opposing party, within seven days after that mailing or delivery, mails or delivers to the proponent a request to cross-examine an affiant, his right to cross-examine the affiant is waved and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not given after request for it is made, the affidavit may be introduced in evidence, but shall be given only the same effect as other hearsay evidence.
- B. The notice referred to in subsection (A) of this section shall be substantially in the following form:

The accompanying affidavit of (here insert name of affiant) will be introduced as evidence at the hearing in (here insert title of proceeding). (Here insert name of affiant) will not be called to testify orally and you may not question him unless you notify (here insert name of proponent or his attorney) at (here insert address) that you wish to cross-examine him. To be effective your request must be mailed or delivered to (here insert name of proponent or his attorney) before (here insert a date eight days after the date of mailing or delivering the affidavit to the opposing party).

(Ordinance No. 88-08.)

Section 2.44.180 Official notice.

In reaching a decision official notice may be taken, either before or after submission of the case for decision, of a generally accepted technical or scientific matter within the agency's special field, and of a fact which is judicially noticed by the courts of the state. Parties shall be noticed, and those matters shall be noted in the record, referred to in the record, or appended to it. A party present at the hearing shall, upon request, be given a reasonable opportunity to refute the officially noticed matters by evidence or by written or oral presentation of authority. The agency shall determine the manner of this refutation.

(Ordinance No. 88-08.)

Section 2.44.190 Amendment of accusation after submission.

The agency may order amendment of the accusation after submission of the case for decision. Each party shall be given notice of the intended amendment and opportunity to show that he will be prejudiced by it unless the case is reopened to

permit the introduction of additional evidence in his behalf. If prejudice is shown, the agency shall reopen the case to permit the introduction of additional evidence. (Ordinance no. 88-08.)

ARTICLE IV. DECISIONS

Section 2.44.200 Decision in a contested case.

- A. If a contested case is heard before an agency:
 - 1. The hearing officer who presided at the hearing shall be present during the consideration of the case, and if requested, shall assist and advise the agency; and
 - 2. A member of the agency who has not heard the evidence may not vote on the decision.
- B. If a contested case is heard by a hearing officer alone, he shall prepare a proposed decision in a form which may be adopted as the decision of the case. A copy of the proposed decision shall be filed by the agency as a public record with the clerk and a copy of the proposed decision shall be served by the agency on each party in the case and his attorney. The agency itself may adopt the proposed decision in its entirety, or may reduce the proposed penalty and adopt the balance of the proposed decision.
- C. If the proposed decision is not adopted as provided in subsection (B) of this section, the agency may decide the case upon the record, including the transcript, with or without taking additional evidence, or may refer the case to the same or another hearing officer to take additional evidence. If the case is so assigned to a hearing officer he shall prepare a proposed decision as provided in subsection (B) of this section upon the additional evidence and the transcript and other papers which are part of the record of the earlier hearing. A copy of the proposed decision shall be furnished to each party and his attorney as prescribed by subsection (B) of this section. The agency may not decide a case provided for in this subsection without giving the parties the opportunity to present either oral or written argument before the agency. If additional oral evidence is introduced before the agency, no agency member may vote unless he has heard the additional oral evidence.

(Ordinance No. 88-08.)

Section 2.44.210 Form and effect of decision.

- A. A decision shall be written and shall contain findings of fact, a determination of the presented action and the penalty, if any. The findings may be stated in

the language of the pleadings or by reference to them. Copies of the decision shall be delivered to the parties personally or sent to them by registered mail.

- B. A decision in a primarily judicial proceeding has retroactive effect in the same manner as a decision of a state court.

(Ordinance No. 88-08.)

Section 2.44.220 Effective date of decision.

- A. A decision becomes effective thirty days after it is delivered or mailed to the respondent unless:
 - 1. A reconsideration is ordered within that time;
 - 2. The agency itself orders that the decision become effective sooner; or
 - 3. A stay of execution is granted for a particular purpose and not to postpone judicial review.
- B. A stay of execution may be included in the decision or, if not included in it, may be granted by the agency at any time before the decision becomes effective. The stay of execution may be accompanied by an express condition that the respondent comply with specified terms of probation. The terms of probation shall be just and reasonable in the light of the findings and decision.

(Ordinance No. 88-08.)

Section 2.44.230 Default.

If an appellant does not appear at the hearing or if the respondent does not file a notice of defense or does not appear at the hearing, the agency may take action based upon such party's admissions or upon other evidence, and affidavits may be used as evidence without notice to the respondent. If the burden of proof is on a party to establish that he is entitled to the agency action sought, the agency may act without taking evidence.

(Ordinance No. 88-08.)

Section 2.44.240 Reconsideration.

- A. The agency may order a reconsideration of all or part of the case on its own motion or on petition of a party. The power to order a reconsideration expires thirty days after the delivery or mailing of a decision to the respondent. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition is considered denied.
- B. The case may be reconsidered by the agency on all the pertinent parts of the record and the additional evidence and argument that are permitted, or may be assigned to a hearing officer. A reconsideration assigned to a hearing officer

is subject to the procedure provided in Section 2.44.200. If oral evidence is introduced before the agency, no agency member may vote unless he has heard the evidence.

(Ordinance No. 88-08.)

Section 2.44.250 Petition for reinstatement or reduction of penalty.

A person whose license is revoked or suspended may petition the agency for reinstatement or reduction of penalty after one year from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the city attorney of the filing of the petition, and the city attorney and the petitioner shall be given an opportunity to present either oral or written argument before the agency. The agency shall decide the petition, and this decision shall include the reasons for the decision. This section does not apply if the statutes dealing with the particular agency contain different provisions for the reinstatement or reduction of penalty.

(Ordinance no. 88-08.)

ARTICLE V. JUDICIAL REVIEW

Section 2.44.260 Judicial review.

- A. Judicial review by the state superior court of a final administrative order may be had by filing a notice of appeal in accordance with the applicable rules of court governing appeals from administrative agencies. Except as otherwise provided in this section, the notice of appeal shall be filed within thirty days after the last day on which reconsideration can be ordered, or within thirty days after the date of the decision on reconsideration, and served on each party to the proceeding. The right to appeal is not affected by the failure to seek reconsideration before the agency.
- B. The complete record of the proceedings, or the parts of it the appellant designates, shall be prepared by the agency. A copy shall be delivered to all parties participating in the appeal. The original shall be filed in the superior court within thirty days after the appellant pays the estimated cost of preparing the complete or designated record or files a corporate surety bond equal to the estimated cost.
- C. The complete record includes:
 - 1. The pleadings;
 - 2. All notices and orders issued by the agency;
 - 3. The proposed decision by a hearing officer;
 - 4. The final decision;
 - 5. A transcript of all testimony and proceedings;
 - 6. The exhibits admitted or rejected;

7. The written evidence; and
 8. All other documents in the case.
- D. Upon order of the superior court, appeals may be taken up on the original record or parts of it. The record may be typewritten or duplicated by any standard process. Analogous rules of court governing appeals in civil matters shall be followed where this chapter is silent, and when not in conflict with this chapter.
- E. The superior court may enjoin agency action in excess of constitutional or statutory authority at any stage of an agency proceeding. If agency action is unlawfully withheld or unreasonably withheld, the superior court may compel the agency to initiate action (Ordinance No. 88-08.)

Section 2.44.270 Scope of review.

- A. Except as otherwise provided by law, an appeal shall be heard by the superior court sitting without a jury.
- B. Inquiry in an appeal extends to the following questions:
1. Whether the agency has proceeded without, or in excess of, jurisdiction;
 2. Whether there was a fair hearing; and
 3. Whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in the manner required by ordinance, the order or decision is not supported by the findings, or the findings are not supported by the evidence.
- C. The court may exercise its independent judgment on the evidence. If it is claimed that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.
- D. The court may augment the agency record in whole or in part, or hold a hearing de novo. If the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing the court may:
1. Enter judgment as provided in subsection (E) of this section and remand the case to be reconsidered in the light of that evidence; or
 2. Admit the evidence at the appellate hearing without remanding the case.
- E. The court shall enter judgment setting aside, modifying, remanding, or affirming the order or decision, without limiting or controlling in any way the discretion legally vested in the agency.
- F. The court in which proceedings under this section are started may stay the operation of the administrative order or decision until:
1. The court enters judgment;
 2. A notice of further appeal from the judgment is filed; or
 3. The time for filing the notice of appeal expires.

- G. No stay may be imposed or continued if the court is satisfied that it is against the public interest.
- H. If further appeal is taken, the supreme court may, in its discretion, stay the superior court judgment or agency order.
- I. If a final administrative order or decision is the subject of a proceeding under this section, and the appeal is filed while the penalty imposed is in effect, finishing or complying with the penalty imposed by the administrative agency during the pendency of the proceeding does not make the determination moot.

(Ordinance No. 88-08.)

ARTICLE VI. MISCELLANEOUS PROVISIONS

Section 2.44.280 Continuances.

The agency may grant continuances. If a hearing officer is assigned to a hearing no continuance may be granted except by him for good cause shown.

(Ordinance No. 88-08.)

Section 2.44.290 Contempt.

- A. In a proceeding before an agency, the agency shall certify the facts to the court in the judicial district where the proceeding is held if a person in the proceeding:
 - 1. Disobeys or resists a lawful order;
 - 2. Refuses to respond to a subpoena;
 - 3. Refuses to take oath or affirmation as a witness;
 - 4. Refuses to be examined; or
 - 5. Is guilty of misconduct at a hearing or so near the hearing as to obstruct the proceeding.
- B. Upon certification under subsection (A) of this section, the court shall issue an order directing the person to appear before the court and show cause why he should not be punished for contempt. The order and a copy of the certified statement shall be served on the person.
- C. After service under subsection (B) of this section, the court has jurisdiction of the matter.
- D. The law applicable to contempt committed by a person in the trial of a civil action before the superior court applies to contempt under this section as to:
 - 1. The proceeding taken; and
 - 2. The penalties imposed.

(Ordinance No. 88-08.)

Section 2.44.300 Mail Vote.

A member of an agency qualified to vote on a question may vote by mail.
(Ordinance No. 88-08.)

Section 2.44.310 Charges against agency appropriations.

A sum authorized to be spent under the provisions of this chapter by an agency shall be a charge against the appropriation of the agency.
(Ordinance No. 88-08.)

Section 2.44.320 Power to administer oath.

In a proceeding under the provisions of this chapter, an agency member, the secretary of the agency or a hearing officer may administer oaths and affirmations and certify official acts.
(Ordinance No. 88-08.)

Section 2.44.330 Impartiality.

Functions of hearing officers and those officers participating in decisions shall be conducted in an impartial manner with due regard for the rights of all parties and the law, and such officers shall carry on all the proceedings in an orderly and prompt manner. These officers, except to extent required for the disposition of ex parte matters authorized by law, shall not engage in interviews with a party, directly or indirectly, except upon opportunity for all other parties to be present. Copies of all communications with these officers shall be served upon all parties.
(Ordinance No. 88-08.)

TITLE 3
PERSONNEL

(Repealed, per Code Ordinance 15-03)

Please refer to *The City of Kaktovik EMPLOYEE HANDBOOK Personnel Policies*.

Title 4

REVENUE AND FINANCE

Chapters:

- Chapter 4.01 Budget generally
- Chapter 4.04 Budget procedure
- Chapter 4.08 Annual financial statement
- Chapter 4.12 Management of funds

Chapter 4.01

BUDGET GENERALLY

Sections:

- 4.01.010 City obligations
- 4.01.020 Scope of budget
- 4.01.030 Budgeted revenues
- 4.01.040 Budgeted expenditures

Section 4.01.010 City obligations.

- A. A bond, contract, lease, or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made by ordinance and approved by the voters.
- B. No payment may be authorized or made and no obligation may be incurred except in accordance with an appropriation made by ordinance. The council may make supplemental and emergency appropriations.
- C. The council may authorize contracts for capital improvements to be financed wholly or partly by the issuance of bonds.

(Ordinance No. 88-10.)

Section 4.01.020 Scope of budget.

- A. The budget shall be a complete financial plan for the operation of the city during the next fiscal year, showing dollar reserves, anticipated revenues and proposed expenditures.
- B. Adoption of the budget, together with appropriation of the required funds, constitutes the commitment of each sum identified as an expenditure to the specified purchase or expense or class of purchases or expenses, and authorization and direction to the mayor and the city's appointed officials to expend each budgeted sum for the specified purpose.
- C. Proposed expenditures shall not exceed anticipated revenues and reserves.

(Ordinance No. 88-10.)

Section 4.01.030 Budget revenues.

Budgeted revenues shall be itemized, and may be composed of taxes, licenses and permits, intergovernmental revenue, charges for services, fines and forfeitures, miscellaneous revenue, cash reserves, and others as needed for proper accounting purposes.

(Ordinance No. 88-10.)

Section 4.01.040 Budgeted expenditures.

Budgeted 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; and
- 4. Expenditures proposed for capital projects, including provision for down payments on capital projects.

(Ordinance No. 88-10.)

Chapter 4.04

BUDGET PROCEDURE

Sections:

- 4.04.010 Fiscal year.
- 4.04.020 Public records.
- 4.04.030 Proposed budget.
- 4.04.040 Public hearing.
- 4.04.050 Amendment of proposed budget; Adoption; Appropriation of funds.
- 4.04.060 Amendment.
- 4.04.070 Encumbrance.
- 4.04.075 Effective date of budget certification
- 4.04.080 Excess liability; Lapse of appropriations..
- 4.04.090 Transfers.
- 4.04.100 Biennial projection – capital program.
- 4.04.110 Preparation guidelines.

Section 4.04.010 Fiscal year.

The fiscal year of the city government shall begin on the first day of July of each calendar year and end on the last day of June of the following calendar year. The fiscal year shall also constitute the budget and accounting year.(Ordinance No. 88-10.)

Section 4.04.020 Public records.

The proposed budget and budget message, and, upon adoption, the budget, shall be public records open to inspection pursuant to chapter 1.24. (Ordinance No. 88-10.)

Section 4.04.030 Proposed budget.

- A. The mayor shall prepare and submit to the council not later than May 1st of each year, the proposed budget for the following fiscal year, together with a budget message. The proposed budget shall set out estimates of all revenues expected to be received, and provide and appropriate for all anticipated expenditures of money, including contract and other commitments, except expenditures of construction funds derived from bonds or from special assessment. The budget shall be submitted as an ordinance. The council may amend the budget estimate at any time prior to adoption.

- B. The proposed budget shall include in a parallel column opposite the items of anticipated revenues the amount of each such item actually received in the preceding fiscal year and the budget for the current fiscal year.
- C. The proposed budget shall include in a parallel column opposite the items of proposed expenditures, the amount of each such item actually spent in the preceding fiscal year and the budget for the current fiscal year.
- D. At the head of the proposed budget there shall appear a summary of the budget, which need not be itemized. Principal sources of anticipated revenues and kinds of expenditures by department shall be stated in such a manner as to present to the taxpayers a simple and clear summary of the detailed estimates of the budget.

(Ordinance No. 88-10.)

Section 4.04.040 Public hearing.

The council shall fix the time and place for public hearing on the proposed budget. Notice of the hearing, together with a summary of the proposed budget, shall be posted in three places in the city not more than ten nor less than five days prior to the time fixed for the hearing. At the public hearing, all interested persons shall be given an opportunity to be heard.

(Ordinance No. 88-10.)

Section 4.04.050 Amendment of proposed budget; Adoption; Appropriation of funds.

- A. After the conclusion of the public hearing on the proposed 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.
- B. The council shall adopt the budget and make the appropriation by ordinance not later than the fifteenth day of June. The council shall then appropriate the money required for the approved budget.
- C. If no budget has been adopted by the council by the last day of the present fiscal year, the proposed budget as submitted or amended shall be deemed to have been adopted by the council, and the proposed expenditures therein shall be deemed to have been appropriated for the next fiscal year.

(Ordinance No. 88-10.)

Section 4.04.060 Amendment.

The budget may be amended by the council at any time after adoption provided no such amendment shall be made until after a public hearing upon the same notice as required for the budget estimate under section 4.04.040. The substance of the proposed amendment or amendments shall be posted with the notice of the hearing. (Ordinance No. 88-10.)

Section 4.04.070 Encumbrance.

No budget appropriations may be encumbered without prior certification by the mayor that there is no unencumbered appropriation sufficient to cover such encumbrance and sufficient funds available to meet the expenditure. (Ordinance No. 88-10.)

Section 4.04.075 Effective date of budget certification.

The adopted budget shall be in effect for the fiscal year. A copy of the adopted budget shall be certified by the mayor, attested to by the clerk, and filed with the clerk. The certified budget is a public document. (Ordinance No. 88-10.)

Section 4.04.080 Excess liability; Lapse of appropriations.

The mayor and clerk/treasurer shall not permit, without council approval, during any budget year, an expenditure or contract incurring any liability in excess of the amount appropriated for each department of the city. All appropriations covered by the budget lapse at the end of the budget year to the extent that they have not been expended or lawfully encumbered. (Ordinance No. 88-10.)

Section 4.04.090 Transfers.

The mayor may approve intra-departmental transfers of appropriated funds; provided, however, that appropriations may not be transferred between departments except by ordinance amending the budget as provided by section 4.04.060. (Ordinance No. 88-10.)

Section 4.04.100 Biennial projection; Capital program.

At the same time the mayor prepares and submits the proposed budget under the provisions of section 4.04.020, he or she shall present to the council, as a working document, a proposed two year summary budget for the city (excluding capital improvement programs) in the same general form as the budget for the next fiscal year. In addition, the mayor shall present a five-year capital improvement program as a working document which shall estimate, by year and for each project, anticipated costs, funding requirements and sources, and include a narrative outlining the need and proposed priority of each project. (Ordinance No. 88-10.)

Section 4.04.110 Preparation guidelines.

The budget, including the biennial projection and the five-year capital improvement program, shall be prepared in accordance with recommendations of the National Committee on Governmental Accounting of the Municipal Finance Officers Association.
(Ordinance No. 88-10.)

Chapter 4.08

ANNUAL FINANCIAL STATEMENT

Sections:

4.08.010 Required.

Section 4.08.010 Required.

- A. The council shall provide for an annual financial statement. The statement shall contain the same basic information and accounts as the treasurer's monthly financial report. The Council shall, in addition, provide for an annual independent audit of the accounts and other evidences of financial transactions of the city and of every city department, as required by 2 AAC § 45.010 under the provisions of the State Single Audit Act or the Federal Single Audit Act of 1984.
- B. The audit shall be made by an accountant, designated by the council, who has no personal interest, direct or indirect, as defined in the rules of professional ethics of the American Institute of certified Public Accountants, in the fiscal affairs of the city or any of its departments. The designated accountant shall be a certified public accountant licensed to practice in the state and shall be a member of the American Institute of Certified Public Accountants. The accountant shall submit his or her report to the mayor and council no later than ninety (90) days following the end of the fiscal year under audit.

(Ordinance No. 89-03.)

Chapter 4.12

MANAGEMENT OF FUNDS

Sections:

- 4.12.010 Treasurer.
- 4.12.020 Deposits and Withdrawals.
- 4.12.030 Creation of Kaktovik Investment Fund.
- 4.12.040 Qualified Investments.
- 4.12.050 Kaktovik Investment Fund Investment Plan
- 4.12.060 Kaktovik Investment Fund Investment Plan Approval
- 4.12.070 Amendments to Kaktovik Investment Fund Investment Plan
- 4.12.080 Amendments to Sections 4.12.030 – 090
- 4.12.090 Withdrawals from Kaktovik Investment Fund.

Section 4.12.010 Treasurer.

- A. The mayor shall appoint the Treasurer who will be subject to confirmation by the City Council. The treasurer is responsible for the collection, custody and disbursement of all moneys from whatever source. The Treasurer is the custodian of all municipal funds and shall be responsible for the management of all cash and negotiable instruments of the city and shall develop and maintain such records, systems and procedures as may, in his or her opinion, be necessary for that purpose.
- B. All accounting functions for all city departments and offices are the responsibility of the Treasurer. The Treasurer shall provide the following statements to the City Council on a monthly basis:
 - 1. Summary statement of cash receipts and disbursements;
 - 2. Reconciliation statement: banks, funds, investments; and
 - 3. Statement of expenditures compared with appropriations.
- C. Cash held by the City shall be kept in one or more qualified financial institutions to be designated by the City Council by resolution. A “qualified financial institution” is a bank with a state or national charter whose deposits are insured by the Federal Deposit Insurance Corporation.
- D. The Treasurer shall deposit or withdraw funds, as required, so that the cash held in any qualified financial institution is less than the maximum amount of funds insured by the Federal Deposit Insurance Corporation.

Section 4.12.020 Deposits and Withdrawals.

- A. All deposits in qualified financial institutions shall be held in the name of the City. The Mayor, Vice-Mayor, and all other City Council members are authorized signatories on such accounts.
- B. All withdrawals from or checks drawn on such accounts shall be signed by two (2) authorized signatories, one of whom shall be the mayor.
- C. No check may be drawn unless there are sufficient funds in the account on which the check is drawn to pay the check.

Section 4.12.030 Creation of Kaktovik Investment Fund

- A. There is created the Kaktovik Investment Fund. The Kaktovik Investment Fund shall consist of:
 - 1. Net proceeds from the sale of any real property owned by the City of Kaktovik, or the lease of any real property owned by the City of Kaktovik for a term of more than three (3) years;
 - 2. One Hundred Percent (100%) of the net income of the Kaktovik Investment Fund;
 - 3. Such additional sums as the City Council may transfer to the Kaktovik Investment Fund by adoption of the Kaktovik Investment Fund Investment Plan in any fiscal year;
 - 4. Such additional sums as the City Council may transfer to the Kaktovik Investment Fund by ordinance in any fiscal year.

Section 4.12.040 Qualified Investments

- A. Other than cash held in qualified financial institutions, as provide for under Section 4.12.010, all moneys and funds of the City shall be invested in accordance with the Chapter in the Kaktovik Investment Fund.
- B. Moneys held in the Kaktovik Investment Fund may only be invested in “qualified investments”. A “qualified investment” is an investment which is held in the name of the City and is in:
 - 1. United States Treasury securities, or
 - 2. Other obligations guaranteed by the full faith and credit of the United States and issued by other agencies and instrumentalities of the United States.
- C. No person shall invest any City moneys in any instrument which is not listed in subsection B of this section. This prohibition includes, but is not limited to, investment of City moneys in any mutual fund, common or preferred stock, precious metal, zero coupon bond, corporate bond, option contract, futures contract negotiable with a variable interest rate.
- D. All persons having responsibility for making decisions regarding the investment of City money shall utilize the same judgment and care, under the circumstances then prevailing,

which persons of prejudice, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of capital as well as the probable income to be derived in accordance with the objectives established in subsection E of this section.

- E. City investments shall be managed so that the City, as a whole, meets the objectives set forth in this subsection. All persons selecting investments for City moneys shall adhere to these objectives, which are listed in order of relative importance.
 - 1. Safety of principal is the most important objective of the City investment program.
 - 2. Maintaining sufficient liquidity to meet the City's cash flow requirements is the second most important objective of the City investment program.
 - 3. Achieving a reasonable market rate of return is the final objective of the City investment program.

Section 4.12.050 Kaktovik Investment Fund Investment Plan.

- A. Together with the annual City Budget, the Mayor shall submit an annual Investment Plan. This plan shall address the following points and other matters as the Mayor sees fit.
 - 1. The current balance of the City's investments, including all pertinent information necessary to identify securities held, the denominations, maturity dates, coupon rates, current yield and other details.
 - 2. The proposed disposition of income from the investments in the forthcoming fiscal year into cash to be held by the City in qualified financial institutions, pursuant to the Chapter.
 - 3. The proposed deposit or transfer into qualified investments of any City funds during the forthcoming fiscal year.
 - 4. Approval of a contract for services to be rendered by a financial representative to the City.
 - 5. Timing of withdrawal of income from the Kaktovik Investment Fund.

Section 4.12.060

- A. Together with the adoption for the annual City Budget, the City Council shall approve or modify and approve, by ordinance, the Kaktovik Investment Fund Investment Plan.

Section 4.12.070 Amendments to Kaktovik Investment Fund Investment Plan

- A. Upon adoption of the Kaktovik Investment Fund Investment Plan, the plan may only be amended by ordinance, which ordinance must be approved by the affirmative vote of five members of the City Council.

Section 4.12.080 Amendments to Sections 4.12.030 – 090

- A. Sections 4.12.030 – 090 may only be amended by ordinance, which ordinance must be approved by the affirmative vote of five members of the City Council.

Section 4.12.090 Withdrawals from Kaktovik Investment Fund

- A. Notwithstanding any other provision of Sections 4.12.010 – 090 or of the Kaktovik Code of Ordinances no instructions to the fund representative designated by the City Council pursuant to a Kaktovik Investment Fund Investment Plan directing withdrawal from the Kaktovik Investment Fund may be honored by the Representative unless and until the instructions have been approved by the City Attorney as to form, which approval must be contained in a separate letter or document hand delivered to the representative.

(Ordinance NO. 96-02.)

Title 6
Chapter 8
Animal Control

Sections:

- 6.08.005 Definitions
- 6.08.010 Interference With Enforcement Prohibited
- 6.08.020 Animal at Large
- 6.08.030 [Reserved]
- 6.08.040 Animals Near Street or Preventing Access
- 6.08.050 Release From Restraint by Non-owner
- 6.08.060 [Reserved]
- 6.08.070 Surrender of Animal
- 6.08.080 Abandonment
- 6.08.090 Animal Waste
- 6.08.100 Duty of Vehicle Operators
- 6.08.200 Cruelty
- 6.08.220 Poisoning
- 6.08.230 Fighting
- 6.08.300 Control of Animals-Vicious Animals-Confinement
- 6.08.310 Diseased Animals
- 6.08.320 Sale of Diseased Animals
- 6.08.330 Unimmunized Animals
- 6.08.340 Surrender of Animals
- 6.08.350 Strict liability
- 6.08.360 Violation-Infraction

Section 6.08.005 Definitions

The following terms used in this Chapter have the following meanings:

- A. "Animal" means all members of the Animalia Kingdom, Classes Mammalia (except homo sapiens), Aves, Reptilia, and Amphibia.
- B. "Animal Bite" means a bite which breaks the skin and is received from an animal that is known to be a possible vector of rabies.
- C. "Animal Control Officer(s)" means Borough Public Health Officers, Employees of the Borough Public Health Office, Borough Public Safety Officers or city or village appointees in their collective capacity as administrators of this Chapter.

- D. "Animal Impound Facility" means any premises designated by action of the Animal Control Officer for the purpose of impounding and caring for all impounded animals.
- E. "At Large" means any dog or cat which has been weaned and which is not under restraint.
- F. "Cat" means any member of the genus and species Felis Domestica.
- G. "Dog" means any member of the genus and species Canis Familiaris.
- H. "Humanely Destroy" means to attempt to kill an animal in such a way that mental and physical pain are minimized. Examples would be by intravenous injection of an acceptable euthanasia solution or by shotgun, rifle or pistol shot aimed at the animal's head or heart. (Animals suspected of being rabid should not be shot in the head if at all possible.)
- I. "In Heat" means the period of the reproductive cycle during which a female animal is fertile, attracts male animals, and is receptive to breeding.
- J. "Owner" means any person, partnership, or corporation owning, keeping, or harboring, feeding or sheltering for three days or more, one or more animals.
- K. "Planned Breeding" means any purposeful breeding intended for the perpetuation of a specific type of animal.
- L. "Restraint" means physical control, such as leash, chain, fence, or building; or competent voice, whistle, or hand signal when engaged in an activity which requires that an animal not be physically restrained or while actively engaged in a form of recognized hunting that requires the use of an animal as a retriever or when on the property of the owner. The Animal Control Officer may determine if an animal is under competent control.
- M. "Secure Enclosure" means an enclosure in which an animal is confined and does not have access to human beings or other animals.
- N. "Spayed Female" means any female animal which has an ovariectomy or ovariohysterectomy performed.
- O. "Unprovoked" means any action by an animal occurring without any activity on the part of another animal or human being that might reasonably be expected to stimulate, excite, anger, or cause arousal of feeling or action in an animal. Running is not provocation.
- P. "Vicious Animal" means any animal that when unprovoked inflicts bites or attacks human beings or other animals either on public or private property, or that, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places.
- Q. "Weaned" means when an animal (of class mammalia) has reached the age of three months or the age at which said animal does not naturally require its mother's milk to survive, whichever is less.

Section 6.08.010 Interference With Enforcement Prohibited

- A. No person shall interfere with, molest or hinder an Animal Control Officer in the performance of any duty or seek to release any animal in the custody of the Animal Control Officer or from an Animal Impoundment Facility.
- B. Violation of this section is a Type One Infraction.

Section 6.08.020 Animal At Large

- A. No person shall permit any weaned dog or cat to be at large.
- B. Violation of this section is a Type One Infraction.

Section 6.08.030 [Reserved]

Section 6.08.040 Animals Near Street or Preventing Access

- A. No person shall tie, stake or otherwise confine an animal within a street, sidewalk, alley or public place, or in such a manner that the animal may enter a street, alley or public place, except for the purpose of participating in a race, show or other temporary sporting or festive event.
- B. No person shall tie, stake or otherwise confine an animal in such a way as to prevent lawful access to power lines, water or sewer lines, gas lines, electric, water or gas meters or to the front door of any residence.
- C. Violation of this section is a Type One Infraction

Section 6.08.050 Release From Restraint by Non-Owner

- A. No person shall, without permission of the owner, release any animal from restraint except to preserve the animal's life.
- B. Violation of this section is a Type One Infraction.

Section 6.08.060 [Reserved]

Section 6.08.070 Surrender of Animal

- A. No person shall fail or refuse to surrender any animal for isolation, quarantine, forfeiture or destruction as required herein when demand is made by an Animal Control Officer.
- B. Violation of this section is a Type One Infraction.

Section 6.08.080 Abandonment

- A. No person shall abandon or cause to be abandoned, any animal.

- B. Violation of this section is a Type One Infraction.

Section 6.08.090 Animal Waste

- A. No dog or cat Owner shall fail to remove the excreta deposited by his/her dog or cat on public areas, recreation areas, or on any other person's property.
- B. Violation of this section is a Type One Infraction

Section 6.08.100 Duty of Vehicle Operators

- A. Any person who, as the operator of a motor vehicle, strikes any animal shall immediately report the accident to the Department of Public Safety.
- B. Violation of this section is a Type One Infraction.

Section 6.08.200 Cruelty

- A. No person shall commit or cause to be committed any act of cruelty, starvation, harassment, abandonment, or torture to an animal, or cause such animal to be wounded, mutilated, strangled, or inhumanely killed. Ownership of said animal shall not be a defense for such acts or for a violation of this section.
- B. This section does not forbid legitimate hunting activities.
- C. Violation of this section is a Type Two Infraction.

Section 6.08.220 Poisoning

- A. No person other than an Animal Control Officer shall expose any known poisonous substance, whether mixed with food or not, so that such substance may threaten the life or well being of any domesticated animal.
- B. Violation of this section is a Type Two Infraction.

Section 6.08.230 Fighting

- A. No person shall cause, instigate or encourage any animal to fight with another or its own species or with another of a different species.
- B. Violation of this section is a Type Two Infraction.

Section 6.08.300 Control of Animals – Vicious Animals – Confinement

- A. The owner shall confine within a building or secure enclosure every vicious animal, and not take such animal out of such building or secure enclosure unless such animal is muzzled or otherwise secured.
- B. Violation of this section is a Type Three Infraction.

Section 6.08.310 Diseased Animals

- A. No person shall knowingly own, harbor, or keep any animal infected with a contagious or pestilent disease, unless confined and under the care of a licensed veterinarian.
- B. Violation of this section is a Type Three Infraction.

Section 6.08.320 Sale of Diseased Animals

- A. No person shall sale an animal which the person knows to be diseased, injured or otherwise physically defective without disclosing to the buyer the nature of the disease, injury or defect.
- B. Violation of this section is a Type Three Infraction.

Section 6.08.330 Unimmunized Animals

- A. No person shall own, keep, or harbor a dog or cat over three (3) months of age unless such dog or cat has received immunization for rabies within the last twelve (12) months.
- B. Violation of this section is a Type Three Infraction.

Section 6.08.340 Surrender of Animals

- A. Upon demand of an Animal Control Officer no person shall fail or refuse to surrender an animal which has been forfeit or which has bitten a human being.
- B. Violation of this section is a Type Three Infraction.

Section 6.08.350 Strict Liability

Unless a specific mental state is specified in a Section of this Chapter, no mental state is required Any persons performing a prohibited act or engaging in unlawful conduct, regardless of the person's specific intent or lack thereof at the time of the act or conduct, shall be held strictly liable.

Section 6.08.360 Violation – Infraction.

Failure to abide by the terms of this Chapter does not denote criminality but is inappropriate conduct in this community. Such failures are thus declared to be Infractions for which no right to trial by jury exists.

Title 9

Chapter 4

Peace and Public Welfare

Sections:

- 9.04.010 Definitions
- 9.04.020 Violation – Infraction
- 9.04.020 Strict Liability
- 9.04.100 Summer Curfew
- 9.04.110 School year Curfew
- 9.04.120 Responsibility of Parents and Guardians
- 9.04.130 Responsibility of Minor
- 9.04.140 Violation – Custody
- 9.04.200 Vandalism
- 9.04.240 Tampering with Vehicles
- 9.04.260 Trespass
- 9.04.300 Discharge of Firearms
- 9.04.400 Assault
- 9.04.450 Battery
- 9.04.500 Open Containers

Section 9.04.010 Definitions

In this Chapter:

- A. “Animal Control Officer(s)” means Borough Public Health Officers, Employees of the Borough Public Health Office, Borough Public Safety Officers or city or village appointees in their collective capacity as administrators of this chapter.
- B. “Council Member” means a person serving a current term as a member of the City Council of the City of Kaktovik.
- C. “Discharge” means to cause a firearm to propel a shot from the muzzle or barrel of the firearm.
- D. “Firearms” means a weapon, including a pistol, revolver, rifle or shotgun, whether loaded or unloaded, operable or inoperable, designed for discharging a shot capable of causing death or serious physical injury.

- E. "Guardian" means any person who is legally responsible, or who by practice has been responsible, for a minor.
- F. "Intoxicating Liquor or Beverage" means any spirituous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage that contains alcohol, whether produced commercially or privately.
- G. "Knowingly" means a person taking or failing to take an action is aware that they are performing the act or failing to perform an act. If a person is not aware that they are performing an act or failing to perform an act because of the person's intoxication, the person still acted knowingly.
- H. "Minor" means a person who has not attained his or her eighteenth (18th) birthday.
- I. "Open Lot" means any open area.
- J. "Parent" means the mother or father of a minor and includes adoptive parents.
- K. "Peace Officer" means any officer of the State troopers, the North Slope Borough Department of Public Safety, the Federal Bureau of Investigation, United States Marshals or their Deputies and other officers whose duty is to enforce and preserve the public peace.
- L. "Private Business" means any place where commercial activity is undertaken.
- M. "Private Property" means the outdoor portion of any piece of real property, not actually owned or occupied by the minor's parent or guardian.
- N. "Public Area" means any structure, hallway, stairway, park or land area generally accessible to any person.
- O. "Public Building" means any non-residential structure owned by any governmental entity or any private place of business.
- P. "Public Street" means any road, path, vehicular way or shoulder thereof.
- Q. "Safe Home" means any home where an adult is present who will accept custody of a minor.
- R. "School Holiday" means any day designated by the North Slope Borough School District, except Saturdays and Sundays, on which regular classes will not be held.
- S. "School Year" means that the period of time during the calendar year when the North Slope Borough School District is holding regular classes.
- T. "Summer" means that period of time after the close of the regular school year and prior to the commencement of the succeeding regular school year, as established by the North Slope Borough School District.

Section 09.04.020 Violation – Infraction

Failure to abide by the terms of this Chapter does not denote criminality but is inappropriate conduct in this community. Such failures are thus declared to be Infractions for which no right to trial by jury exists.

Section 9.04.030 Strict Liability

Unless a specific mental state is specified in a Section of this Chapter, no mental state is required. Any persons performing a prohibited act or engaging in unlawful conduct, regardless of the person's specific intent or lack thereof at the time of the act or conduct, shall be held strictly liable.

Section 9.04.100 Summer Curfew

During the summer, minors shall not be in, on or upon any public street, public area, public building, private property, open lot or private business between the hours of 11:59 p.m. and 6:00 a.m. local time, unless accompanied by their parent or guardian.

(Ordinance No. 01-04.)

Section 9.04.110 School Year Curfew

- A. During the school year, minors shall not be in, on or upon any public street, public area, public building, private property, open lot, or private business between the hours of 11:59 p.m. and 6:00 a.m., local time, unless accompanied by their parent or guardian.
- B. Subsection (A) of this section notwithstanding, on any evening where the next day is a Saturday, Sunday, or a School Holiday, minors shall not be in, on or upon any public street, public area, public building, private property, open lot, or private business between the hours of 1:59 p.m. and 6:00 a.m., local time, unless accompanied by their parent or guardian.

(Ordinance No. 01-04.)

Section 9.04.120 Responsibility of Parents and Guardians

Each parent or guardian shall require minors in their legal care and custody to observe the curfews set forth in this Chapter or be guilty of a Type One Infraction.

Section 9.04.130 Responsibility of Minor

Every minor shall observe the curfews set forth in this Chapter or be guilty of a Type One Infraction.

Section 9.04.140 Violation-Custody

- A. Any minor found in violation of a curfew established by this Chapter may be taken into custody by any peace officer or Council Member.

- B. A minor taken into custody under the authority of subsection (A) of this section shall be returned to the residence of their parent or guardian. If the parent or guardian is unable or unwilling to accept custody of the minor, the minor shall be taken to the residence of the minor's adult grandparent, aunt, uncle, brother, sister or other responsible adult, at the minor's option.
- C. If it is not possible to find an adult specified in subsection (B) of this section who is willing and able to accept custody of the minor, the minor may be housed for the remainder of the curfew period in the local North Slope Borough Department of Public Safety Station, in the residence of the official taking custody, or in a local safe home, at the official's option.

Section 9.04.200 Vandalism

- A. It is unlawful for any person to knowingly cut, remove, deface or in any manor injure any building, fence, enclosure, street, bridge, or other property without the consent of the owner or person in charge thereof.
- B. It is unlawful for any person to attempt the activity forbidden by subsection (A) of this section.
- C. Violation of this section is a Type Two Infraction.

Section 9.04.240 Tampering with Vehicles

- A. It is unlawful for any person to knowingly enter, occupy, molest, start, take, or drive away any automobile, truck, snowmachine, all terrain vehicle, or piece of heavy equipment without the consent of the owner or person in charge thereof
- B. It is unlawful for any person to attempt the activity forbidden by subsection (A) of this section.
- C. Violation of this section is a Type Three Infraction

Section 9.04.260 Trespass

- A. It is unlawful for any person to trespass or intrude in, on, or upon the dwelling place of another without the invitation or consent of the lawful occupant or owner thereof.
- B. It is unlawful for a person other than a lawful occupant to remain in, on, or upon the property of another after the lawful occupant or owner thereof has instructed them to leave the property.
- C. Violation of this section is a Type One Infraction.

Section 9.04.300 Discharge of Firearms

- A. It is unlawful for any person to discharge any firearm within 100 yards of any dwelling place or public building within the corporate limits of the City of Kaktovik.
- B. Subsection (A) of this section notwithstanding, it is lawful for a Peace Officer or Animal control Officer to discharge a firearm within 100 yards of a dwelling place or public building in the line of duty.
- C. Violation of this section is a Type Three Infraction.

Section 9.04.400 Assault

- A. It is unlawful for a person to knowingly make a verbal or physical threats of bodily injury or physical pain, which place another person in fear of bodily injury or physical pain.
- B. Subsection (A) of this section notwithstanding, it is lawful for a Peace Officer to use and to threaten to use physical force in the line of duty.
- C. Violation of this section is a Type Two Infraction.

Section 9.04.450 Battery

- A. It is unlawful for any person to knowingly cause or attempt to cause bodily injury or physical pain to another person.
- B. Subsection (A) of this section notwithstanding, it is lawful for a Peace Officer to use appropriate force when necessary or permissible under State law in the performance of his/her duties.
- C. Subsection (A) of this section notwithstanding, it is lawful for a person to defend themselves against an unlawful attack to the extent necessary to repel the attack.
- D. Violation of this section is a Type Three Infraction.

Section 9.04.500 Open Containers

- A. It is unlawful for any person in, or upon any public street, public area, public building, private property, open lot or private business to knowingly carry or otherwise transport intoxicating liquor or beverage unless the liquor or beverage is in the original container provided by the manufacturer and the container has not been opened.
- B. Any intoxicating liquor or beverage found in or upon any public street, public area, public building, private property, open lot or private business which is not in the original container provided by the manufacturer or which has been opened shall be seized as evidence, be forfeit, and ultimately destroyed.
- C. Violation of this section is a Type Two Infraction.

(Ordinance No. 89-01)

Chapter 9.16

PROHIBITING POSSESSION OF ALCOHOLIC BEVERAGES

Sections:

- 9.16.010 Findings
- 9.16.020 Definitions
- 9.16.030 Prohibitions – possession
- 9.16.040 Prohibitions – licenses
- 9.16.050 Prohibitions – carrying or transportation.
- 9.16.060 Prohibitions – public consumption
- 9.16.070 Prohibitions – inducement
- 9.16.080 Prohibitions – furnishing alcoholic beverages to intoxicated person.
- 9.16.090 Prohibitions – furnishing alcoholic beverages to minor.
- 9.16.100 Prohibitions – consumption or possession by minor.
- 9.16.110 Prohibitions – public intoxication.
- 9.16.120 Arrest or citation of violators; community service.
- 9.16.130 Penalties – forfeitures
- 9.16.140 Penalties – fines.

Section 9.16.010 Findings

The council finds that:

- A. The abuse of alcohol seriously interferes with the rights and privileges of city residents.
- B. The public health, safety, and welfare suffers when alcohol abuse is not controlled.
There is a strong correlation between alcohol consumption and poor health, fetal damage, suicide, domestic violence and crime.
- C. Strict regulation of alcohol is an effective tool for controlling the abuse of alcohol in Kaktovik because the city is small, isolated, and lacks extensively developed law enforcement or health care facilities.

Section 9.16.020 Definitions

- A. “Alcoholic Beverage” means spirituous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage and that contain alcohol, whether produced commercially or privately (A.S. 04.21.080 (b)(1));
- B. “Board” means the Alaska Alcoholic Beverage Control Board.
- C. “Community Work” means and is limited to work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public lands, forests, parks, roads, highways, facilities, or education; community work may not confer

a private benefit as a person except as may be incidental to the public benefit (A.S. 04.21.080 (b)(12));

- D. "Possession" means having physical possession of or exercising dominion or control over alcoholic beverages, but does not include having alcoholic beverages within the digestive system of a person. (Derived from A.S. 04.11.498.)

Section 9.16.030 Prohibitions

- A. The possession of alcoholic beverages is prohibited , except for possession and importation of sacramental wine pursuant to subsection B of this section. Except as provided in subsection B, a person may not knowingly send, transport, or bring an alcoholic beverage into the city, or have any alcoholic beverage in his or her physical possession, in his or her residence or vehicle, or in any other place in the city within his or her dominion or control.
- B. Sacramental wine may be imported and possessed if it is:
1. To be used for bona fide religious purposes based on tenets or teachings of a church or religious body,
 2. Limited in quantity to the amount necessary for religious purposes, and
 3. Kept in the custody of, and dispensed only for religious purposes by, a person authorized by the church or religious body to dispense the sacramental wine.
- (A.S. 04.11.498)
- C. Violation of this section is a Type Three Infraction.

Section 9.16.040 Prohibitions – licenses

- A. The Board may not issue, renew, or transfer between holders or locations a license for licensed premises within the city.
- B. All licenses for licensed premises in the city are void.
- C. Licenses voided by this section may be reinstated if the city later elects to abandon the prohibition of liquor possession option.

Section 9.16.050 Prohibitions – carrying or transportation

- A. A person may not carry upon his or her person or otherwise transport alcoholic beverages unless such alcoholic beverage is in the original unopened container provided by the manufacturer.
- B. Violation of this section is a Type Two Infraction.

Section 9.16.060 Prohibitions – public consumption.

- A. A person may not consume alcoholic beverages upon public streets, alleys, parks, or public school property, or in any public school building or city meeting or recreation facility, or while attending any school-related functions.
- B. Violation of this section is a Type Three Infraction.

Section 9.16.070 Prohibitions – inducement.

- A. A person may not motivate or induce another person to furnish him or her with any alcoholic beverage or to import any alcoholic beverages for him or her.
- B. Violation of this section is a Type Two Infraction.

Section 9.16.080 Prohibitions – furnishing alcoholic beverages to intoxicated person.

- A. A person may not furnish alcoholic beverages to a person who reasonably appears to be intoxicated.
- B. Violation of this section is a Type Two Infraction.

Section 9.16.090 Prohibitions – furnishing alcoholic beverages to minor.

- A. A person may not furnish or induce another person to furnish alcoholic beverages to any person under 21 years of age.
- B. Violation of this section is a Type Three Infraction.

Section 9.16.100 Prohibitions – consumption or possession by minor.

A person less than 21 years of age may not possess, attempt to possess, or consume alcoholic beverages.

Section 9.16.110 Prohibitions – public intoxication.

A person who is under the influence of alcohol may not loiter:

- A. Upon public streets, alleys, parks, or public school property, or in any public school building or city meeting or recreation facility, or at any place where school-related functions are taking place,
- B. In or about any business establishment, if the owner or person in charge of the business establishment has asked the person to leave, or
- C. In or about any residence or other property which is not owned or normally occupied by the person, to the annoyance of the owner or occupants.
- D. Violation of this section is a Type Three Infraction.

Section 9.16.120 Arrest or citation of violators; community service.

- A. When a peace officer stops or contacts a person concerning a violation of sections 9.16.030 or 9.16.050 through 9.16.110, the peace officer may, in the officer's discretion, arrest the person as provided in A.S. 12.35.010 through 12.25.160 or issue a citation to the person as provided in A.S. 12.25.180 through 12.25.220. When issuing a citation, the officer shall write on the citation the amount of bail established for the violation by the Alaska supreme Court pursuant to A.S. 04.16.205©. The officer may seize such evidence as is appropriate to support the charge, including but not limited to the alcoholic beverages involved, any aircraft, vehicle, or vessel used to transport the alcoholic beverages into the city in violation of section 9.16.030, and any materials or equipment used in the sale or offering for sale of alcoholic beverages in violation of section 9.16.030.
- B. A person cited pursuant to subsection (A) of this section may, within 30 days after the date of the citation is issued:
 - 1. Mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer the amount of bail indicated on the citation and a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered and the bail and all alcoholic beverages seized are forfeited; or
 - 2. Perform community work in lieu of payment of the fine or a portion of the fine pursuant to subsection (C) of this section.
- C. Community work shall be performed at the direction of the council. The value of community work in lieu of a fine is \$5.00 per hour. When the community work is completed, the person cited for the violation shall mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer:
 - 1. A form prescribed by the administrative director of the Alaska Court System and available from the clerk, indicating completion of the community work; and
 - 2. A copy of the citation, indicating that the right to an appearance is waived, a plea of no contest has been entered, and that the bail is forfeited or community work has been performed and that all alcoholic beverages seized are forfeited.
- D. When bail has been forfeited or proof of performance of community work under this section has been filed with the court, a judgment shall be entered. Forfeiture of bail or filing proof of performance of community work and forfeiture of all seized items is a complete satisfaction for the violation. The clerk of court accepting the bail or the form indicating performance of community work shall provide the offender with a receipt stating that fact, if requested.
- E. If the person fails to pay the bail amount stated on the citation, or fails to provide proof of performance of community work as specified in subsection (C)(1) of this section to the court, the citation is considered a summons.

- F. Notwithstanding other provisions of law, if a person cited for possession of alcoholic beverages in violation of section 9.16.030 appears in court and is found guilty, the penalty that is imposed for the offense may not exceed any bail amount for that offense established under A.S. 04.16.205(C).
- G. Violation of section 9.16.030 through 9.16.110 are not considered a criminal offense, nor is a fine imposed for a violation considered criminal punishment. A person cited for a violation does not have a right to a jury trial or court-appointed counsel.

Section 9.16.130 Penalties – seizures and forfeitures.

- A. Alcoholic beverages in the possession of any person in the city in violation of section 9.16.030, alcoholic beverages sold or offered for sale in violation of section 9.16.030, aircraft, vehicles, or vessels used to transport, or facilitate the transportation of, alcoholic beverages imported into the city in violation of 9.16.030, and materials and equipment used in the sale or offering the sale of alcoholic beverages in violation of section 9.16.030, are subject to forfeiture.
- B. Alcoholic beverages possessed, carried, or transported in violation of section 9.16.050 through 9.16.110 and seized as evidence are subject to forfeiture.
- C. Property subject to forfeiture under this section may be seized as provided by A.S. 04.16.220 (b) and forfeited as provided in A.S. 04.16.220 (c) through (h). Property forfeited under this section shall be placed in the custody of the North Slope Borough Department of Public Safety or a peace officer of the state for disposition at the direction of the court. The court shall order any alcoholic beverages forfeited under this section destroyed.

Section 9.16.140 Penalties – fines.

- A. A person convicted of violating any ordinance contained in section 9.16.050 through 9.16.110 shall be fined an amount not to exceed \$300.
- B. A person convicted of selling or seeking to sell alcoholic beverages in violation of section 9.16.030 shall be fined an amount not to exceed \$1,000.
- C. A person convicted of sending, transporting, or bringing alcoholic beverages into the city in violation of section 9.16.030 shall be fined an amount not to exceed \$1,000.
- D. A person convicted of possessing alcoholic beverages in violation of section 9.16.030 shall be subject to civil fine in an amount not to exceed \$1,000.

(Ordinance No. 89-06.)

(Ordinance No. 99-02.)

TITLE 13

CITY PROPERTY

Chapters:

- 13.04 Real Property – Acquisition
- 13.12 Real Property – Disposal

Chapter 13.04

Real Property – Acquisition

Sections:

- 13.04.010 Acquisition and ownership.
- 13.04.020 Dedication by plat.
- 13.04.030 Sites for beneficial new industries
- 13.04.040 Federal and state aid
- 13.04.050 Procedural requirements
- 13.04.060 Eminent domain
- 13.04.070 Alaska Native Claims Settlement Act.

Section 13.04.010 Acquisition and ownership

- A. The city shall have and may exercise all rights and powers in the acquisition, ownership, and holding of real property within and outside the city boundaries as if the city were a private person.
- B. All real property acquired or held by the city shall be acquired and held in the name of “City of Kaktovik, Alaska.” 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.
- C. The city may acquire real property by purchase, gift, devise, grant, dedication, exchange, redemption, purchase of equity of redemption, operation of law, tax or lien foreclosure, adverse possession, condemnation or declaration of taking, annexation, or by any other lawful means or conveyances.

(Ordinance No. 86-04.)

Section 13.04.020 Dedication by plat.

The city may not acquire any real property by means of a dedication by plat unless the dedication of the real property is accepted in a writing signed by the mayor pursuant to a resolution of the council. (Ordinance No. 86-04.)

Section 13.04.030 Sites 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. (Ordinance No. 86-04.)

Section 13.04.040 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. (Ordinance No. 86-04.)

Section 13.04.050 Procedural requirements.

- A. The city may acquire 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.
- B. The city may not acquire real property unless the council first adopts a resolution approving the acquisition and specifying the terms, conditions, and manner of acquisition.
- C. Prior to council approval of a resolution providing for the acquisition of real property, the mayor shall furnish the council with an abstract of title, an appraisal or assessed value of the real property, and a review of any anticipated problems which may be encountered in acquisition or ownership of the property. The mayor's failure to furnish the council with any such information shall not affect the validity of any acquisition of real property which complies in all other respects with this chapter.
- D. No council approval is necessary to acquire any easement, right-of-way, permit or license, if necessary for a public improvement which has been authorized and approved by the council.
- E. 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.

- F. Any instrument requiring execution by the city shall be signed by the mayor and attested by the clerk.

(Ordinance No. 86-04.)

Section 13.04.060 Eminent domain.

- A. The city may, only within its boundaries, exercise the powers of eminent domain and declaration of taking in the performance of an authorized city power or function in accordance with the procedures set out in A.S. 09.55.460.
- B. To exercise the power of eminent domain or declaration of taking, the council must adopt an ordinance providing for the action, and the ordinance must be submitted to and approved by the voters at the next regular election or special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

(Ordinance No. 86-04).

Section 13.04.070 Alaska Native Claims Settlement Act.

The council shall select lands for reconveyance pursuant to ANCSA § 14(c)(3) by the village corporation established for Kaktovik pursuant to ANCSA § 8. If appropriate, the council, shall negotiate and enter into an agreement with the village corporation settling the city's § 14(c)(3) rights. Before any such agreement may be executed by the mayor or binding on the city, it shall be approved by the council by a resolution adopted after public notice and hearing. However, whenever, the village corporation agrees to convey lands to the city pursuant to § 14(c)(3), and the city is not required to disclaim any interest in other land and the only consideration is a reduction in the acreage which the city is entitled to under § 14(c)(3), that reduction consisting of no more acreage than the respective tract to be conveyed, then the council can accept the lands by resolution alone. (Ordinance No. 86-04.)

Chapter 13.12

Real Property – Disposal

Sections:

- 13.12.010 Power to dispose of real property.
- 13.12.020 Sales or disposal
- 13.12.030 Rights and powers
- 13.12.040 Sales procedure – land valued under \$25,000.
- 13.12.045 Negotiated Land Sales to Qualified Occupants
- 13.12.046 Negotiated Land Sales to Qualified Residents
- 13.12.050 Sales procedure – land valued over \$25,000.
- 13.12.060 Preference rights.
- 13.12.070 General conditions of sale, lease, or other disposal
- 13.12.080 Sale or exchange of land with governments and organizations.
- 13.12.090 Transfer of City-owned real and personal property to governments and entities.

Section 13.12.010 Power to dispose of real property.

The city may sell, lease, or otherwise dispose of city-owned real property by any lawful means of conveyance. (Ordinance no. 84-01.)

Section 13.12.020 Sale or disposal.

- A. The City may sell or dispose of real property by warranty, or quit claim deed, easement, lease, or any other lawful means or mode of conveyance or grant.
- B. Any instrument or legal paper requiring execution by the City shall be signed by the Mayor and attested to by the City Clerk.

(Ordinance No. 84-01.)

Section 13.12.030 Rights 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, lease, or dispose of any real property which the City has or will receive, when the City council decides the property is no longer needed for municipal purposes.

(Ordinance No. 84-01.)

Section 13.12.040 Sale procedure – land valued under \$25,000

Real property of the City valued under twenty-five thousand dollars (\$25,000) except as provided otherwise in this ordinance, shall be sold or disposed of as follows:

1. An estimated value of property shall be made by a qualified appraiser or assessor.
2. The Council, by resolution, shall set out the fact that the property is not needed for the City uses, the appraised value, the minimum bid, if any, and the recommended rules for the sale, lease, or other disposal.
3. The Council may reserve the right to reject any and all bids received at the public sale, if the highest bid is below the appraised value and the cost of the sale, or if it is not made by a responsible bidder. The resolution or ordinance shall state if the sale is for cash, or for cash deposit and purchase agreement. Any purchase agreement shall be in the form of a deed of trust.
4. Notices shall be posted in at least three (3) public places in the city, or published in a local paper for at least thirty (30) days. Notice may also be given by other means considered reasonable by the Council.
5. The notice must contain a brief description of the land, the kind of disposal being done, (sale, lease, or otherwise), minimum bid or minimum rental, if any, rules for the disposal of the land, and the time and place set for auction or bid opening.

(Ordinance No. 84-01.)

Section 13.12.045 Negotiated Land Sales to Qualified Occupants.

- A. The city finds that there is a need to allow qualified occupants to negotiate with the City to purchase real property which is owned by the City but which these persons have occupied for a long period of time and on which they have constructed improvements in good faith. The City expects that each persons' situation will be different and that there may be persons who do not qualify under the terms of this ordinance. The city has therefore determined that it is in the best interests of the City to establish a general procedure for negotiating these sales to qualified occupants.
- B. Definitions.
 1. As used in this ordinance, the term "qualified occupant" means that a person (1) who has occupied real property owned by the city (2) who acknowledges the superior right, title and interest of the City and does not claim title to the underlying real property, (3) who, acting in good faith, has constructed valuable improvements thereon, (4) who is not in violation of any city, state, or federal law governing land use, health and safety, (5) who actually occupies the real property for a residence and (6) who is willing to negotiate with the City for purchase of the property on terms and conditions acceptable to the City.

2. As used in this ordinance, the term “fair market value” shall be the assessed value of the land as carried on the tax rolls of the North Slope Borough except in cases in which the valuation is determined to be too low by the city Council and a higher valuation is set.
 3. As used in this ordinance, an “enabling ordinance” is one authorizing the Mayor to negotiate with qualified occupants to negotiate with the City to purchase real property which is owned by the City.
 4. As used in this ordinance, “purchase price” is the price negotiated by the City and purchaser for the land and shall not be less than the fair market value of the property as defined in this ordinance and shall include closing costs.
 5. As used in this ordinance, “purchaser” is the person or persons who is obligated to purchase the real property under the purchase and sale agreement defined in the section D.
 6. As used in this ordinance, “secured promissory note” shall mean a promissory note, in form acceptable to the city attorney which provides for payments of principal together with interest on the unpaid balance, computed at the rate of 10.5% per annum, in equal monthly installments, payable in full on a date certain which shall be not more than 5 years from the date of execution of the note. Purchaser shall have the right to prepay any amount of the principal at any time without penalty. Any prepayment shall reduce the outstanding balance due under the note, but shall not discharge the obligation to continue monthly payments until the entire balance is paid. Payment proceeds shall be applied first to the satisfaction of accrued interest up to the actual date of each payment, with the excess to be applied in reduction of outstanding principal. Said promissory note is to be secured by a first deed of trust on the property for the benefit of the City; the City’s interest shall be insured by a title insurance carrier authorized to do business in Alaska. Purchaser shall pay for the cost of said policy. The recorded Deed of Trust and Promissory Note and an executed, but undated, request for reconveyance shall be deposited into a collection account at a bank or escrow company of the City’s selection with both parties to pay collection draft and transmittal fee equally.
- C. The Mayor is hereby authorized to negotiate with a qualified occupant for sale of real property of a fair market value of less than \$25,000 on terms and conditions to be set forth in an enabling ordinance.
- D. Unless otherwise enacted by the City, the earnest money agreement will contain the following terms and conditions:
1. Earnest money agreement: the parties’ negotiations for sale will be contained in a purchase and sale agreement (earnest money agreement) which will govern the closing of the transaction. If any terms of the purchase and sale agreement conflict with the enabling ordinance or any other provision of law, then the purchase and sale agreement shall be deemed to be amended to bring it into conformity with law.

2. Easements, restrictions and reservations of record: the conveyance will be subject to all easements, covenants, restrictions and reservations of record, all restrictions and reservations contained in the patent to said real estate, and all applicable zoning laws.
3. Conveyance: transfer of title will be by Statutory Warranty Deed under AS 34.15.030.
4. Closing: Closing will be at the City Offices unless the City selects another location, such as through an escrow company and must be concluded within 180 days after enactment of the enabling ordinance. At closing:
 - (a) The City shall execute and deliver to the purchaser a warranty deed in form prescribed by AS 34.15.030 conveying the property to the purchaser;
 - (b) The purchaser shall deliver to the closing agent in cash, the remaining cash purchase price; or,
 - (c) The purchaser shall deliver to the closing agent a promissory note the remaining cash purchase price and a secured promissory note, as defined in this ordinance and the purchase and sale agreement;
5. Closing costs: purchaser may pay all costs of closing the transaction, including the City's legal fees and costs.
6. Purchase price: the purchase price shall be paid in full at closing either by cash or secured promissory note, in whole or in part.
7. Down payment: the down payment shall be not less than \$250.
8. Title insurance: purchaser shall obtain a preliminary commitment for title insurance from a title insurance company authorized to do business in Alaska, which preliminary commitment will show marketable fee simple title to the Property vested in the city with no exceptions affecting the marketability of the City's title. Said policy of title insurance shall insure the title of the purchaser in the full amount of the purchase price and the premium for said policy shall be borne by the purchaser. The coverage is in addition to any coverage required to insure the priority of a first trust deed if a secured promissory note is given in connection with the purchase.
9. Purchaser's warranties: the purchaser shall warrant and represent that there is no real estate agent or broker who is entitled to a commission arising out of this transaction. If any such agent or broker claims a commission, the purchaser agrees to pay the same and hold the City harmless from any such claim. Purchaser shall further warrant that all general or specialty contractors, laborers, materialmen, or suppliers who have furnished materials to, or performed labor upon, the real property, have been paid in full and that there are no outstanding liens against the property at the time of closing. If any such contractor, materialman, or supplier asserts a claim for materials supplied to, or labor performed upon said property, the purchaser expressly agrees to pay the same and hold the City harmless from any such claim. Taxes and assessments due prior to the year of sale are a lien within the meaning of this paragraph and shall be paid in full by purchaser prior to closing.

10. No warranties, express or implied; sale as is; purchaser shall agree that there are no warranties express or implied in the sale of the property and that he has inspected the property to his satisfaction and accepts the real property and all improvements, if any, in the condition which a reasonable inspection would disclose, whether or not an inspection was made.
 11. Default: in the event the purchaser fails to perform its obligations under the purchase and sale agreement, the City shall have all rights and remedies at law or equity for the enforcement of this contract.
 12. Assignment: the rights and duties thereunder shall not be assigned by either party.
 13. Time: the purchase and sale agreement shall state that: "Time is of the essence of this Agreement. The term of this Agreement may be extended by the parties, but only in a written document signed by both parties."
 14. Integration: the purchase and sale agreement shall have an integration clause to the effect that: "All understandings and agreements are merged herein and no provision may be waived except in writing signed by the party to be charged with such waiver. Nothing herein may be changed or terminated orally. All previous offers or counteroffer or the parties are hereby revoked. The representations, warranties, and covenants herein shall survive the closing. This agreement shall not be construed more strictly against one party than the other.
 15. Claims: the purchase and sale agreement shall provide that the purchaser may be required to waive any claims for damages or loss against the City as a condition to purchase of the real property.
- E. The City is not obligated to negotiate with any, some or all of the persons who claim to be qualified occupants of real property owned by the City.
- (Ordinance No. 95-08.)

Section 13.12.046 Negotiated Land Sales to Qualified Residents:

- A. The city finds that the public interest would best be served by allowing qualified residents to negotiate with the city to purchase parcels of real property which the city determines, on a parcel by parcel basis are suitable for residential or business use. The city also finds that for the continued public good and welfare of the city, residential construction and the establishment and operation of businesses by qualified residents should be encouraged.
- B. Definitions:
 1. As used in this ordinance, the term "qualified resident" means a person
 - (a) Who certifies to the city that he or she was qualified to receive the most recent Permanent Fund Dividend,

- (b) Who acknowledges the superior right, title and interest of the city and does not claim title to the underlying real property,
 - (c) Who actually intends to occupy the real property for a single family residence or the operation of a business and,
 - (d) Who is willing to negotiate with the city for purchase of the property on terms and conditions acceptable to the city.
2. As used in this ordinance, the term “fair market value” (FMV), shall be the assessed value of the land as carried on the tax rolls of the North Slope Borough except in cases in which the valuation is determined to be too low by the city council and a higher valuation is set.
 3. As used in this ordinance, an “enabling ordinance” is one authorizing the Mayor to negotiate with a qualified resident to purchase real property which is owned by the city.
 4. As used in this ordinance, “purchase price” is the price negotiated by the city and qualified resident for the land and shall be not less than the fair market value of the property as defined in this ordinance and shall include closing costs.
 5. As used in this ordinance, “secured promissory note” shall mean a promissory note in the form acceptable to the city attorney which provides for payments of principal together with interest on the unpaid balance, computed at the rate of 10.5% per annum, in equal monthly installments, payable in full on a date certain which shall be not more than 5 years from the date of execution of the note. The qualified resident shall have the right to prepay any amount of principal at any time without penalty. Any prepayment shall reduce the outstanding balance due under the note but shall not discharge the obligation to continue monthly payments until the entire balance is paid. Payment proceeds shall be applied first to the satisfaction of accrued interest up to the actual date of such payment, with the excess to be applied in reduction of outstanding principal. Said promissory note is to be secured by a first deed of trust on the property for the benefit of the city: the city’s interest shall be insured by a title insurance carrier authorized to do business in Alaska. The qualified resident shall pay for the cost of said policy. The recorded Deed of Trust and Promissory Note and an executed, but undated, Request for Reconveyance shall be deposited into a collection account at a bank or escrow company of the city’s selection with both parties to pay collection draft and transmittal fees equally.
A qualified resident (and other family members) may assign in advance the number of years of Permanent Fund Dividends to cover the monthly payments on forms and on payment schedules approved by the City Attorney.
 6. As used in this ordinance, “real property” refers to parcels of property that the city has found to be appropriate for purchase for residential construction or the establishment of a business in a further enabling ordinance.

- C. The Mayor is hereby authorized to negotiate with a qualified resident for sale of the real property identified herein and of a fair market value less than \$25,000 on terms and conditions to be set forth in an enabling ordinance.
- D. Qualified Resident Application and Selection Process:
1. Persons seeking to qualify as qualified residents shall complete a Qualified Resident Application, the form of which is attached hereto and made a part of this ordinance. The City Clerk shall provide for the distribution and availability of the Qualified Resident Application to interested persons.
 2. Following determination by the City Clerk that the Qualified Resident Application is complete, the Qualified Resident Application shall be maintained in the Clerk's office until the selection process has been completed.
 3. The following is the method of selection of qualified residents to purchase parcels of land to be described in further enabling ordinances:
 - (a) Preference: Preference will be given to qualified resident deemed by the City Council to be most in need.
 - (b) Auction: buyers bid against each other in public and the winner takes the lot.
 - (c) Lottery: winning buyer is selected at random to buy the lot at the pre-set FMV
 - (d) Preference: oldest qualified resident gets to choose lot to buy at pre-set price; if declines to buy then the next oldest can have choice of lot.
 - (e) Over-the-counter: if there are enough lots, then the administration can sell them on a first-come first-served basis.
 4. In the event not all of the properties available for purchase are sold, the city may either repeat the method of selection, hold the lots without offering them for sale to any party or, in the event the lottery method was originally used to determine the buyer, offer the lot to the next buyer on the list of drawn names. (Ordinance No. 98-03.)
- E. Unless otherwise enacted by the city, the earnest money agreement will contain the following terms and conditions:
1. Earnest Money Agreement. The parties' negotiations for sale will be contained in a purchase and sale agreement ("earnest money agreement") which will govern the closing of the transaction. If any terms of the purchase and sale conflict with the enabling ordinance or any other provision of law, then the purchase and sale agreement shall be deemed to be amended to bring it into conformity with law.
 2. Easements, Restrictions, and Reservations of Record. The conveyance will be subject to all easements, covenants, restrictions and reservations of record, all restrictions and reservations contained in the patent to said real estate, and all applicable zoning laws.
 3. Conveyance. Transfer of title will be by Statutory Warranty Deed under AS 34.15.030.

4. Closing. Closing will be at the city offices unless the city selects another location, such as through an escrow company and must be concluded within 180 days after enactment of the enabling ordinance. At closing:
 - (a) The city shall execute and deliver to the qualified resident a warranty deed in form prescribed by AS 34.15.030 conveying the property to the qualified resident; and
 - (b) The qualified resident shall deliver to the closing agent an Affidavit of the purchaser's intention to reside on the purchased property and construct a single family home or to establish and operate a business on the property; and
 - (c) The qualified resident shall deliver to the closing agent, in cash, the remaining cash purchase price; or
 - (d) The qualified resident shall deliver to the closing agent a promissory note for the remaining cash purchase price and a secured promissory note, as defined in this ordinance and the purchase and sale agreement.
5. Closing Costs. The qualified resident must pay all costs of closing the transaction, including legal fees and costs.
6. Purchase Price. The purchase price shall be paid in full at closing either by cash or secured promissory note, in whole or in part.
7. Down Payment. The down payment shall be not less than \$250 and is non-reimbursable.
8. Title insurance. The qualified resident shall obtain a preliminary commitment for title insurance from a title insurance company authorized to do business in Alaska, which preliminary commitment will show marketable fee simple title to the Property vested in the city with no exceptions affecting the marketability of the city's title. Said policy of title insurance shall insure the title of the qualified resident in the full amount of the purchase price and the premium for said policy shall be borne by the qualified resident. This coverage is in addition to any coverage required to insure the priority of a first trust deed if a secured promissory note is given in connection with the purchase.
9. Qualified Resident Warranties. The qualified resident shall warrant and represent that there is no real estate agent or broker who is entitled to a commission arising out of this transaction. If any such agent or broker claims a commission, the qualified resident agrees to pay the same and hold the city harmless from any such claim. Qualified resident shall further warrant that all general or specialty contractors, laborers, materialmen, or suppliers who have furnished materials to, or performed labor upon, the real property, have been paid in full and that there are no outstanding liens against the property at the time of closing. If any such contractor, materialman, or supplier asserts a claim for materials supplied to, or labor performed upon said property, the qualified resident expressly agrees to pay the same and hold the city harmless from any such claim. Taxes and assessments due prior to the year of sale

- are a lien within the meaning of this paragraph and shall be paid in full by the qualified resident prior to closing.
10. No warranties, Express or Implied; Sale As Is. The qualified resident shall agree that there are no warranties express or implied in the sale of the property and that he has inspected the property to his satisfaction and accepts the real property and all improvements, if any, in the condition which a reasonable inspection would disclose, whether or not an inspection was made.
 11. Default. In the event the qualified resident fails to perform his obligations under the purchase and sale agreement, the city shall have all rights and remedies at law or equity for the enforcement of this contract.
 12. Assignment. The rights and duties hereunder shall not be assigned by either party.
 13. Time. The purchase and sale agreement shall state that: "Time is of the essence of this Agreement. The term of this Agreement may be extended by the parties but only in a written document signed by both parties."
 14. Integration. The purchase and sale agreement shall have an integration clause to the effect that: "All understandings and agreements are merged herein and no provision may be waived except in writing signed by the party to be charged with such waiver. Nothing herein may be changed or terminated orally. All previous offers or counteroffers of the parties are hereby revoked. The representations, warranties, and covenants herein shall survive the closing. This agreement shall not be construed more strictly against one party than the other."
 15. Claims. The purchase and sale agreement shall provide that the qualified resident may be required to waive any claims for damages or loss against the city as a condition to purchase of the real property.
 16. Permanent Fund Dividend Assignment. As part of the purchase price, the mayor may negotiate to take assignments of a qualified resident's Permanent Fund Dividends and those of family members, or others, to apply to the purchase of the real property. The amounts received from the Permanent Fund Division of the Alaska Department of Revenue shall be applied to secured promissory note as any other payment.
 17. Right to First Refusal. The conveyance shall include a right of first refusal in favor of the city so that, on the willingness of the purchaser to sell the subject property, the city shall be notified of the terms and conditions of sale, so that the city can purchase on terms equal to or better than said terms and conditions.
- F. The city is not obligated to negotiate with any, some or all of the persons who claim to be qualified residents of real property owned by the city.

(Ordinance No. 96-05.)

CITY OF KAKTOVIK QUALIFIED RESIDENT APPLICATION

Directions:

This application is to be used by persons seeking to qualify as qualified residents for the purchase of properties as discussed in Kaktovik city Ordinance 13.12.046. The application should be completed and signed by each person who intends to purchase the real property. For example, if a husband and wife wish to purchase the property together and both be obligated to pay the purchase price, then both persons should complete this application.

If you purchase property from the City, you will be required to sign an affidavit of your intention to reside on the purchased property or to establish and operate a business on the premises.

You may wish to use the Alaska Permanent Fund Dividends of your family members, or others, to help your purchase of the real property. If you wish to do so, list their names below. By contributing their APFD to the purchase, they will only be helping you pay for the property and will not be included as owners and will not be otherwise obligated for the purchase price.

1. Name, Address, and Telephone number of Each Applicant

2. Description of the Property You Intend to Purchase

3. Your Planned use of the Property

4. Name of Each Person in your Family Who is Entitled To Receive a permanent Fund Dividend and Who will Be Assigning the PFD to the City As Part of the purchase.

ALL APPLICANTS MUST READ THE FOLLOWING PARAGRAPH AND SIGN
BELOW.

FAILURE TO DO SO WILL RESULT IN REJECTION OF THE APPLICATION.

- A. I hereby certify that I received the most recent Alaska Permanent Fund Dividend for the year 20__.
- B. I acknowledge the superior right, title and interest of the city and do not claim title to the real property to be sold.
- C. I intend to use the real property for construction of a single family residence or the establishment and operation of a business.
- D. I am willing to negotiate with the city for purchase of the property on terms and conditions acceptable to the city under Ordinance 13.12.046.

APPLICANT:

Signed _____ Date Signed _____

Print Name _____

APPLICANT:

Signed _____ Date Signed _____

Print Name _____

Office Use Only

Received:

By:

Date:

Section 13.12.050 Sale procedure – land valued over \$25,000.

Sale, lease, or other disposal of land valued at twenty-five thousand dollars (\$25,000) or more shall be done as set forth in section 13.12.040 of this Ordinance, with the following two (2) exceptions:

1. Council action about how the property will be sold (Section 13.12.040 (2)) shall be by ordinance instead of resolution.
2. An ordinance passed by the Council for sale or disposal of property worth over twenty-five thousand dollars (\$25,000) is not binding unless it is also approved by the voters at a regular or special elections. This election must follow state law.

(Ordinance No. 84-01.)

Section 13.12.060 Preference rights.

The Council may authorize the granting of preference rights for any sale or other disposal or real property. A preference right, if authorized, shall allow a bona fide occupant of a sale parcel to purchase it by meeting the highest bid offered for it. If no bid is made for the parcel, the person having the preference right may buy it for the appraised value, or such other price as approved by the Council. For any specific sale, the Council may provide for additional terms and conditions about the preference rights.

(Ordinance No. 84-01.)

Section 13.12.070 General conditions of sale, lease or other disposal.

- A. The approval of any public sale by the Council authorizes the Mayor to take all steps and sign all instruments or legal papers necessary to complete and close the sale, lease, or other disposal.
- B. The Mayor, or someone appointed by the mayor, shall conduct the bid opening or auction and shall give the buyer a receipt for all money or the check and money order received by the City.

(Ordinance No. 84-01.)

Section 13.12.080 Sale or exchange of land with governments and organizations.

The City Council may by Ordinance of sale sell or exchange land with the State, any political subdivision thereof, or the United States, or any other entity when in the judgment of the Council such a sale or exchange would be advantageous to the City without regard to the requirements of Sections 13.12.030 through 13.12.070 (Ordinance No. 86-01 and 86-04.)

Section 13.12.090 Transfer of City-owned real and personal property to governments and entities.

The City Council may by Ordinance, authorize a transfer of City Owned real or personal property to the State, any political subdivision thereof, or to the united States, or to a federally recognized tribal entity or to a housing authority (or subsidiary of any of these governments or entities) with or without consideration when in the judgment of the Council such a transfer would be advantageous to the City without regard to the requirements of Sections 13.12.030 through 13.12.070, herein.

(Ordinance No. 02-07 and 02-10.)

TABLE I

PRESENT CODES COMPARED TO PRIOR CODE OF ORDINANCES

This table shows, for each section of the City of Kaktovik Code of Ordinances, the provisions of the prior City of Kaktovik Code which deal with the same subject.

<u>Present Section</u>	<u>Prior Section</u>
1.01.010	1.1, 10.1
1.01.020	--
1.01.030	--
1.01.040	10.1
1.01.050	--
1.01.060	--
1.01.070	--
1.01.080	--
1.01.090	10.1
1.01.100	1.6
1.01.110	--
1.01.120	--
1.01.130	4.1(C)
1.04.010	1.3(A)-(G)
1.04.020	--
1.04.030	1.3(H) & (I)
1.08.010	--
1.12.010	--
1.12.020	--
1.12.030	--
1.16.010	1.2
1.20.010	--
1.20.020	--
1.24.010	--
1.24.020	4.1(D)
1.24.030	1.4(B)
1.24.040	1.4(A)
1.24.050	--
1.24.060	--
1.28.010	--
1.28.020	--
1.28.030	--

<u>Present Section</u>	<u>Prior Section</u>
1.28.040	--
1.32.010	--
2.04.010	--
2.04.020	3.2
2.04.030	--
2.04.040	--
2.04.050	--
2.04.060	--
2.04.070	--
2.08.010	3.1(5)-(7)
2.08.015	2.2, 2.5, 2.6, 3.1
2.08.020	3.1
2.08.030	--
2.08.040	3.4(A)
2.08.050	3.4(B)-(C)
2.08.055	3.4(A)-(C)
2.08.060	2.5
2.08.070	2.8
2.08.080	2.10
2.12.010	3.3
2.12.020	3.4(D)
2.12.030	--
2.12.040	--
2.12.050	3.4(E)
2.12.060	3.4(E)
2.12.070	--
2.12.080	3.4(F)
2.12.090	--
2.12.092	4.1(C), 9.1
2.12.094	4.1, 3.4(H)
2.12.096	4.1(A)
2.12.100	--
2.12.110	--
2.12.112	--
2.12.114	--
2.12.116	--
2.12.120	3.4(F)&(G)
2.12.130	3.4(F)
2.16	Reserved
2.20.010(A)	5.1
2.20.020	5.2
2.20.030	5.3
2.20.030(D)	5.4

<u>Present Section</u>	<u>Prior Section</u>
2.20.040	--
2.20.050	Reserved
2.20.060	--
2.24.010	2.6
2.24.020	2.7
2.24.030	--
2.24.040	2.11
2.26.010	3.4
2.26.020	--
2.26.030	--
2.26.040	--
2.26.050	--
2.28	--
2.32	Reserved
2.36.010	8.3 (A) & (C)
2.36.020	8.3 (A) & (C)
2.36.030	--
2.36.040	--
2.36.050	--
2.36.060	--
2.36.070	--
2.36.080	8.1
2.36.090	8.2
2.36.100	--
2.36.110	--
2.36.120	8.2
2.36.130 - 310	--
2.36.320	8.3 (B)
2.36.330	8.3 (B)
2.36.340	8.3 (B)
2.36.350	8.3 (B)
2.36.360	--
2.36.370	2.4
2.36.380	--
2.36.390	--
2.36.400	--
2.36.410	--
2.36.420	4.3
2.36.430	4.4
2.36.440	4.3 & 4.4
2.36.450 - 480	--
2.40	--

<u>Present Section</u>	<u>Prior Section</u>
2.44	--
4.01	--
4.04.010	6.1
4.04.020 - 110	--
4.08.010	6.3
4.12.010	--
4.12.020	6.2
4.12.030	--
13.04	--
13.12	--

TABLE II

PRIOR CODES COMPARED TO PRESENT CODE OF ORDINANCES

This table shows, for each section of the prior City of Kaktovik Code of Ordinances, the provision, if any, of the present Code which deals with the same subject.

<u>Prior Section</u>	<u>Present Section</u>
1.1	1.01.010
1.2	1.16.010
1.3 (A) - (G)	1.04.010
1.3 (H) & (I)	1.04.030
1.4 (A)	1.24.040
1.4 (B)	1.24.030
1.5	--
1.6	1.01.100
2.1	--
2.2	2.08.015
2.3	--
2.4	2.36.370 (E)
2.5	2.08.015, 2.08.060
2.6	2.08.015, 2.24.010
2.7	2.24.020
2.8	2.08.070
2.9	--
2.10	2.08.080
2.11	2.24.040
3.1	2.08.010, 2.08.020
3.2	2.04.020
3.3	2.12.010
3.4 (A)	2.08.040, 2.08.055
3.4 (B) & (C)	2.08.050, 2.08.055
3.4 (D)	2.12.020
3.4 (E)	2.12.050, 2.12.060
3.4 (F)	2.12.080, 2.12.120, 2.12.130
3.4 (G)	2.12.120, Chapter 2.26
3.4 (H)	2.12.094 (B) & (E)
4.1 (A)	2.12.094 (A), 2.12.096
4.1 (B)	2.12.094 (B) & (C)
4.1 (C)	2.12.092 (A), 1.01.130
4.1 (D)	1.24.020 (B)
4.1 (E)	2.12.094 (B) & (C)
4.2	--
4.3	2.36.420, 2.36.440 - 2.36.480
4.4	2.36.430 - 2.36.480

<u>Prior Section</u>	<u>Present Section</u>
5.1	2.20.010
5.2	2.20.020
5.3	2.20.030
5.4	2.20.030(D)
6.1	4.04.010
6.2	4.12.020
6.3	4.08.010
7.1	--
7.2	--
8.1	2.36.080
8.2	2.36.090, 2.36.120
8.3 (A) & (C)	2.36.010, 2.36.020
8.3 (B)	2.36.320 - 2.36.350
8.3 (D)	Chapter 2.36
8.4	Chapter 2.36
9.1	2.12.092(B) - (D)
10.1	1.01.010, 1.01.040

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THE REVISED CODE OF ORDINANCES

This table shows the provisions of the Alaska Statutes that are parallel to or control the provisions of the Code of Ordinances

<u>Controlling or Parallel Alaska Statute</u>	<u>Provision of Present Code</u>
09.20.160	2.12.094
09.25.120	1.24.140, 1.24.030 & 2.20.030
09.63.010	2.20.030
11.81.250	1.28.010
15.05.020	2.36.020
15.15.030	2.36.170
15.15.170	2.36.280
15.15.290	2.36.290
15.15.310	2.36.110
15.15.330	2.36.270
15.15.350	2.36.280
15.15.360	2.36.300
15.15.480	2.36.020
18.80.225	1.20.020
29.20.010	2.26.010, 2.26.030
29.20.020	2.12.020
29.20.050	2.08.010, 2.08.030
29.20.120	2.08.010
29.20.140	2.08.015
29.20.150	2.08.020
29.20.160	2.08.050, 2.12.010, 2.12.050, 2.12.060, 2.12.120 & 2.12.130
29.20.170	2.08.070
29.20.180	2.08.080
29.20.220	2.04.010
29.20.230	2.04.020
29.20.240	2.04.020
29.20.250	2.04.010
29.20.280	2.04.030
29.20.320	2.20.060

<u>Controlling or Parallel Alaska Statute</u>	<u>Provision of Present Code</u>
29.20.350	2.08.080
29.20.360	2.20.010, 2.20.020
29.20.370	2.20.040
29.20.380	2.20.030
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29.20.400	2.20.010
29.20.500	2.04.010
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29.20.610	2.20.030
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29.36.270	2.36.430, 2.36.450 & 2.36.440
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