

CODE OF ORDINANCES

OF THE CITY OF

NEWHALEN, ALASKA

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Chapter 1

GENERAL PROVISIONS

Sec. 1-1. Code cite and designation.

The ordinances embraced in the following chapters constitute and shall be designated as the "Code of Ordinances of the City of Newhalen, Alaska," and may also be cited as the "Newhalen City Code." (1990 Code, tit. I, ch. 1, § 1)

Sec. 1-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

AS. Whenever the abbreviation "AS" is used, it shall refer to the official Alaska Statutes including the latest edition, amendments and supplements.

City means the city of Newhalen, Alaska, or the area within the territorial limits of the city.

Clerk or city clerk means the city clerk of the city of Newhalen. Alaska.

Code, this code, or code of ordinances means the city code as defined in this section.

Computation of time. The time within which an act is to be done is computed by excluding the first day and including the last, unless the last day is a holiday and then it is also excluded.

Council or city council means the city council and the governing body of the city of Newhalen, Alaska.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other city officer or employee to do some act or perform some duty, it shall be construed to authorize the head of the department or other officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

Oath means and includes an affirmation or declaration.

Officer, office, board, commission, department. Whenever any officer, office, board, commission or department is referred to, it shall mean an officer. Office, board. Commission or department of the, city.

Person means a corporation, company, partnership, firm, association, society, as well as a natural person

Publish means to post a notice within the city in three locations open to the public, one of which shall be the city offices, for a period of not less than five days.

State means the State of Alaska.

Voter means a United States citizen who is qualified to vote in state elections, has been a resident of the city for 30 days immediately preceding the election, is registered to vote in state elections, and is not disqualified under the state constitution or statutes. (1990 Code, tit. I. ch. 1, § 2)

Sec. 1-3. Rules of construction and interpretation.

The following rules of construction and interpretation shall apply to this Code and to other ordinances and resolutions of the city:

Gender. Any gender includes the other genders.

Singular and plural number includes the plural and the plural includes the singular.

Tense. Word present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

Technical words and phrases. All words and phrases shall be construed and understood according the context and the commonly 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 constructed and understood according to such peculiar and appropriate meaning.

Verbs. “May” is permissive. “Must” and “shall” are mandatory. (1990 Code, tit. I, ch. 1, § 3)

Sec. 1-4. References to chapters, articles, divisions and sections.

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

Sec. 1-5. Ordinance not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

1. Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.
2. Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issue of any bonds of the city or any evidence of the city's indebtedness or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the city.
3. Any administrative ordinances or resolutions of the city not in conflict or inconsistent with this Code.
4. Any right or franchise granted by any ordinance.
5. Any ordinance or resolution dedicating. Naming, establishing, locating, and relocating. Opening, paving, widening, repairing, vacating. etc., any street or public way in the city.
6. Any appropriation ordinance or ordinance adopting the budget.
7. Any ordinance establishing and prescribing the street grades of any street in the city.
8. Any ordinance providing for local improvements and assessing taxes for such improvements.
9. Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the city.
10. Any ordinance establishing positions, classifying positions, setting salaries of city officers and employees, or any personnel regulations.
11. Any temporary or special ordinances.
12. Any ordinance calling elections or prescribing the manner of conducting the election.
13. Any ordinance levying an annual tax.

All such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code and are on file in the city clerk's office.

Sec. 1-6. Code does not affect prior offenses or rights.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

Sec. 1-7. Effect of repeal of ordinances.

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

The repeal of an ordinance shall not repeal the enacting clause of such ordinance or revive any ordinance which has been repealed. (1990 Code, tit. I, ch. 1, § 4; 1990 Code, tit. I, ch. 3, § 12)

Sec. 1-8. Amendments to Code; effect of new ordinances.

All ordinances passed after the adoption of this Code that amend, repeal, or in any way affect this Code shall be numbered according to the numbering system of this Code. Repealed chapters, sections and subsections or any part thereof shall be excluded from the Code.

Amendments to this Code shall be made by specific reference to the section number of this Code in substantially the following language: "Chapter _____, Section _____ of the Code of Ordinances of the city of Newhalen, Alaska, is hereby amended to read as follows:"

If a new chapter or section is to be added to this Code, substantially the following language shall be used: "The Code of Ordinances of the City of Newhalen, Alaska, is hereby amended by addition of the following chapter(s) or section(s)."

All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be. (1990 Code, tit. I, ch. 1, § 8; 1990 Code, tit. I, ch. 3, § 5)

Sec. 1-9. Supplements or revisions to Code.

Amendments and supplements to this Code shall be typed or printed and included within this Code within 60 days after adoption by the council. This Code shall be supplemented as provided herein at regular intervals or if the city council deems that supplementation of the code is unnecessary, the Code shall be revised and printed every five years. (1990 Code, tit. I, ch. 1, § 10; 1990 Code, tit. I, ch. 3, § 6)

Sec. 1-10. Ordinances to be included in Code.

The city council shall cause each ordinance and resolution to be printed as promptly as possible following its adoption in the following manner:

1. Ordinances enacted by the City Council and permanent in nature shall be inserted in the Newhalen City Code when properly prepared and authenticated by the City Clerk.
2. Emergency, bond, temporary and appropriation ordinances and resolutions shall be retained in the form enacted.
3. All titles to ordinances, all enacting and repealing clauses, all declarations of emergency, and all purpose, validity and construction clauses shall be omitted from the Code unless from their nature it may be necessary to retain some of them to preserve the full meaning and intent of the ordinance. (1990 Code, tit. I, ch. 1, § 11)

Sec. 1-11. Corrections.

When in this Code, or any amendments or additions thereto, there are any errors the correction of which does not change the meaning of any section of this code, the Council may authorize the correction of these errors by

substitution of corrected pages for the incorrect pages without amendment or following ordinance procedure. The following corrections are so authorized:

1. Manifest errors which are clerical, or typographical in nature, or errors in spelling, or errors by way of addition or omission;
2. Changes in capitalization for the purpose of uniformity;
3. Correction of manifest errors in references to laws;
4. Correction of mistakes in grammar; and
5. Correction of citations or references to laws, statutes and ordinances whose designations have changed because of renumbering or revision of state statute, federal law, or this Code. (1990 Code, tit. I, ch. 1, § 13)

Sec. 1-12. Distribution.

This Code with amendments shall be made available to the public for inspection on request. A reasonable fee for the cost of photocopying all or parts of this Code may be charged to anyone requesting copies provided that copies of ordinances that provide for penalties shall be made available for distribution to the public at no more than cost. Copies of this Code shall be furnished to the courts and law enforcement personnel as needed upon their request. (1990 Code, tit. I, ch. 1, § 9)

Sec. 1-13. Ordinance Effective Date.

An ordinance that has been approved by the Council shall be effective 24 hours after passage, unless otherwise stated in the ordinance. (1990 Code, tit. I, ch. 1, § 12)

Sec. 1-14. General penalty.

Every act prohibited by ordinance of this City is unlawful. Unless other penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code, shall be punished by a fine of not more than \$300. Such fine shall be set at the discretion of the fining authority. Council may, at its discretion, require community service at the equivalent rate of \$8 per hour. A "violation" is a noncriminal offense punishable only by a fine, but not by imprisonment or other penalty; conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime; a person charged with a violation is not entitled to a trial by jury or to have a public defender or other counsel appointed at public expense to represent the person.

The penalty provided by this section shall, unless any other penalty is expressly provided, apply to the amendment of any section of this Code, whether or not such penalty is re-enacted in the amendment ordinance.

The city or an aggrieved person may institute a civil action against a person, including a minor as provided in AS 29.25.072, who violates an ordinance. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction. Each day that a violation of an ordinance continues constitutes a separate violation. (1990 Code, tit. I, ch. 1, § 6)

Sec. 1-15. Altering code.

It shall be unlawful for any person in the city to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions of pages, or to alter or tamper with such Code in any manner whatsoever except by ordinance or resolution or other official act of the city council which will cause the law of the city to be misrepresented.

Sec. 1-16. Severability.

Any ordinance enacted before or after the adoption of this Code which lacks a severability clause shall be construed as though it contained the clause in the following language: "If any provision of this ordinance, or

the 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". (1990 Code, tit. I, ch. 1, § 5)

Sec. 1-17. Laws of Alaska; violations.

No person shall violate any law of the State of Alaska, nor any rule or regulations adopted by any duly authorized agency of the State of Alaska. Violations of the foregoing shall be violations of the code of Ordinances of the city of Newhalen, Alaska, except where the State has exclusive jurisdiction over the offense. (1990 Code, tit I, eh. 1, § 7)

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Chapter 2

ADMINISTRATION

Sec. 2-1. City incorporation and government.

The city was organized as a fourth class city on the October 26, 1971, and became a second class city by act of the legislature on the September 10, 1972. The city's certificate of incorporation was recorded November 14, 1971, in Book 7, page 376 at the Iliamna Recording District in Anchorage, Alaska. The city shall continue as a municipal corporation and political subdivision of this state under the name of "City of Newhalen, Alaska". The government of the city shall be that commonly known and designated as the council-mayor form of government. (1990 Code, tit. I, ch. 2, § 1)

Sec. 2-2. Geographical limits.

The boundaries of the city ~~are~~ may be amended from time to time. At the time of incorporation of the city, the geographical boundaries of the city were described as follows:

Beginning at the SW corner of Sec. 2-29, Unsurveyed TSS, R33W, Seward Meridian, Alaska; Thence E to the SW corner of the SE1/4 of the SE1/4 of Sec. 2-27, Unsurveyed T5S, R33W; Thence N to the SW corner of the SE1/4 of the SE1/4 of Sec. 2-22, Unsurveyed T5S, R33W; Thence E to the SW corner of the SE1/4 of Sec. 2-23, Unsurveyed T5S, R33W; Thence N to the NW corner of the SE1/4 of Sec. 2-23, Unsurveyed T5S, R33W; Thence E to the NE corner of the SE1/4 of Sec. 2-23, Unsurveyed TSS, R33W; Thence N to the NE corner of the SE1/4 of Sec. 2-14, Unsurveyed TSS, R33W; Thence W to the corner of the SW1/4 of Sec. 2-17, Unsurveyed TSS, R33W; Thence S to the point of beginning, containing 8.5 square miles, more or less.

A map indicating the geographical limits of the city is available in the office of the city clerk. (1990 Code, tit. 1, ch. 2, § 2)

ARTICLE II. MAYOR AND CITY COUNCIL

DIVISION 1. GENERALLY

Sec. 2-10. Appointment of city council members.

- a) City council members may be employed by the city in capacities other than as council members only as provided in ordinance. Applications for city employment shall be reviewed and 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.
- b) When a city council member applies for city employment, all applications for the position shall be reviewed by the city council at a regular or special city council meeting. The Council meeting shall be open to comment from the public. (1990 Code, tit. II, ch. 2.9, §§ 2-6)

Sec. 2-11. Composition of council.

The council shall consist of seven members elected by the voters at large. Councilmembers shall be qualified city voters. (1990 code, tit. II, ch. 5, § 1)

Sec. 2-12. Residency required.

Candidates for council shall have resided in the city for three (3) years preceding the date of election. A councilmember who ceases to be a voter in the city immediately forfeits office. (1990 Code, tit: '11 cli. 5, § 2)

Sec. 2-13. Election.

An election shall be held annually on the first Tuesday in October to choose councilmembers for staggered three (3) year terms and until successors are elected and have qualified, and to decide such other questions or propositions as may require a vote of the people and are placed upon the ballot. Councilmembers' terms of office begin on the first Monday following certification of the election. (1990 Code, tit. II, ch. 5, § 13)

Sec. 2-14. Designation of council seats; term.

Council seats are designated as Seats A through G. All council members serve a term of three (3) years, staggered such that Seats A through C expire in every other even-numbered year, Seats D and E expire in the following odd-numbered year, and Seats F and G expire in the next following even-numbered year. A person appointed to the council serves until a successor is elected and takes office. (1990 Code, tit. II, ch. 5, § 2)

Sec. 2-15. Oath of office.

All officers whether elected or appointed before entering upon the duties of office shall affirm in writing and file with the city clerk the following oath or affirmation set forth in Chapter 32. (1990 code, tit. II, ch. 5, § 4)

Sec. 2-16. Compensation.

Councilmembers shall receive payment per meeting attended in an amount established from time to time by resolution and adopted by the city council. A separate daily honorarium payment in an amount established from time to time by the city council (1990 Code, tit. II, ch. 5, § 5)

Sec. 2-17. Vacancies.

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

1. Fails to qualify or take office within 30 days after his election or appointment;
2. Is physically absent from the city for 90 consecutive days unless excused by the council;
3. Resigns and his resignation is accepted;
4. Is physically or mentally unable to perform the duties of his office as determined by two-thirds vote of the council;
5. Is convicted of a felony or an offense involving a violation of the oath of office;
6. Is convicted of a felony or misdemeanor described in A.S. 15.56 and two-thirds of the members of the council concur in expelling the person elected;
7. Is convicted of a violation of A.S. 15.13;
8. No longer physically resides in the city and the council by two-thirds vote declares the seat vacant; provided, however, that this subsection does not apply to a city council member who forfeits office pursuant to AS 29.20.140(a); or
9. If a member of the council, misses three consecutive regular meetings and is not excused.

If a vacancy occurs in the city council, the remaining members shall, within 30 days, appoint a qualified person to fill the vacancy. If less than 30 days remain in a term, a vacancy may not be filled except as otherwise provided in this section.

Notwithstanding any other provision of this section, if the membership of the council is reduced to fewer than the number required to constitute a quorum, the remaining members shall within seven days, appoint a number of qualified persons to constitute a quorum.

A person appointed under this section serves until the next regular election, when a successor shall be elected to serve the balance of the term. (1990 Code, tit. IT, ch. 5, §§ 7, 9)

Sec. 2-18. Recall of councilmembers.

An official who is elected or appointed to an elective city office may be recalled by the voters after the official has served the first 120 days of the term for which elected or appointed upon grounds of misconduct in office, incompetence or failure to perform prescribed duties. Procedure for a recall petition and election are those set out in Chapter 18.

If a councilmember is recalled, his office shall be filled in accordance with provisions in this article regarding vacancies in office. If all members of the council are recalled, the governor shall appoint three qualified persons to the council. The appointees shall appoint additional members to fill remaining vacancies. (1990 Code, tit. II, ch. 5, § 8)

Sec. 2-19. Conflicts of interest. (1990 Code, tit. II, ch. 5 § 8)

Sec. 2-20. Acts of council by ordinance, resolution or motion.

The council shall act only by ordinance, resolution, or motion. Law of a general, uniform, and permanent nature shall be reduced to ordinance. When the council expresses opinions, principles, facts, or propositions, it shall be in the form of a resolution. (1990 Code, tit. I, ch. 3, § 1)

DIVISION 2. MAYOR

Sec. 2-30. Election and term of mayor.

The mayor is elected by and from the council, and serves 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 who takes office immediately. The mayor serves a one year term and may serve as mayor only while a member of the council. (1990 Code, tit. n, ch. 6, § 1)

Sec. 2-31. Duties and authority of mayor.

The executive power in the city is vested in the mayor. The mayor acts as ceremonial head and chief administrator of the city and executes official documents on authorization of the council.

As chief administrator the mayor shall:

1. Appoint, Suspend or remove city employees and administrative officials as provided in the city's personnel regulations (Chapter 32);
2. Supervise the enforcement of city law and carry out the directives of the council;
3. Prepare and submit an annual budget and capital improvement program for consideration by the council, and execute the budget and capital improvement program adopted;
4. Make monthly financial reports and other reports on city finances and operations as required by the council;
5. Exercise custody over all real and personal property of the city;
6. Serve as personnel officer, unless the council authorizes the mayor to appoint a personnel officer;
7. Perform such other duties, as required by law or ordinance or lawfully prescribed by the council.

In addition to the duties set forth above, the mayor presides at city council meetings and as a councilmember shall vote on all matters. The mayor does not have the power of veto.

In addition to the authorities set forth above, the mayor may hire necessary administrative assistants and may authorize an administrative official to appoint, suspend or remove subordinates in conformance with the city's personnel ordinances. (1990 Code, tit. II, ch. 6, § 2)

Sec. 2-32. Vice-mayor; presiding officer pro tem.

A vice mayor is elected by and from the council for a term of one year and until a successor is elected and has qualified. The vice mayor shall be elected and take office immediately at the council meeting held on the first Monday after certification of the regular election. (1990 Code, tit. II, ch. 6, § 3)

Sec. 2-33. Compensation of mayor. (1990 Code, tit. II, ch. 6, § 4)

Sec. 2-34. Oath of office.

Before entering the duties of office, the mayor shall affirm in writing and file with the clerk an oath of office in the form provided in Chapter 32. (1990 Code, tit. II, ch. 6, § 5)

Sec. 2-35. Vacancy in the office; recall.

The council shall, by two-thirds concurring vote, declare the office of mayor vacant only when the person elected:

- 1) Fails to qualify or take office within 30 days after his election or appointment;
- 2) Is physically absent from the city for 90 consecutive days unless excused by the council;
- 3) Resigns and his resignation is accepted;
- 4) Is physically or mentally unable to perform the duties of his office as determined by two-thirds vote of the council;
- 5) Is convicted of a felony or an offense involving a violation of the oath of office;
- 6) Is convicted of a felony or misdemeanor described in A.S. 15.56;
- 7) Is convicted of a violation of A.S. 15.13;
- 8) No longer physically resides in the city and the council by two-thirds vote declares the seat vacant;
or
- 9) Misses three consecutive regular meetings and is not excused.

A vacancy in the office of mayor shall be filled by and from the council. A mayor appointed under this subsection serves the balance of the term to which appointed, except the mayor may serve only while a member of the council.

The recall provisions of Sec. 2-18 apply to the office of mayor. (1990 Code, tit. IT, ch. 6, § 6)

Sec. 2-36. Mayor as ex-officio officer of departments and committees.

The mayor is an ex-officio member of every committee or department organized or functioning under this Code. (1990 Code, tit. II, ch. 6, § 7)

ARTICLE III. COUNCIL PROCEDURE

DIVISION 1. GENERALLY

Sec. 2-45. Regular meetings.

All regular meetings of the council shall be held on the second Tuesday of each month. The usual place of council meetings shall be at the Newhalen City Office, however, in the event of any condition renders the meeting place unfit to conduct any regular meeting of the council, the meeting may be moved. (1990 Code, tit. ch. 7, § 3)

Sec.2-46. Special meetings.

Special meetings of the council are those meetings called by the presiding officer or one-third of the members of the council for a time different than that fixed for the regular council meetings. The location of all special council meetings shall be the same as that authorized for regular meetings. (1990 code, tit. II, ch. 7 § 4)

Sec. 2-47. Notice of regular and special meetings.

Except as otherwise provided in this section, for the purpose of giving notice of meetings, reasonable public notice is given if a statement containing the date, time and place of meeting is posted not less than 72 hours before the time of the meeting in at least three public places. Notwithstanding the preceding as much notice as is practicable shall be given.

For special meetings at least 24 hours oral or written notice must be given a majority of councilmembers and reasonable efforts made to notify all members. A special meeting may be conducted with less than 24 hours'

notice if all councilmembers are present or if absent members have waived the required notice in writing. Waiver of notice can be made before or after the special meeting is held. A waiver of notice shall be made a part of the journal for the meeting.

Regardless of waiver in the case of a special meeting where 24 hours or less notice is given councilmembers, public notice shall be posted at the same time as notice is given councilmembers. (1990 Code, tit. II, ch. 7, § S)

Sec. 2-48. Quorum.

Four councilmembers constitute a quorum. A member disqualified by law from voting on a question may be considered present for purposes of constituting a quorum. In the absence of a quorum any number of members may recess or adjourn the meeting to a later date. (1990 Code, tit. II, ch. 7, § 2)

Sec. 2-49. Open to public; opportunity for public to be heard.

Meetings of all city bodies shall be public unless excepted from such requirement by the provisions of AS 44.62.310. The council shall provide reasonable opportunity for the public to be heard at regular and special meetings. (1990 Code, tit. II, ch. 7, § 1)

Sec. 2-50. Executive sessions closed to public; procedure calling and conducting.

If subjects are to be discussed at a council meeting that are excepted in this section from the requirement for open public meetings, the council may consider holding an executive session.

If the council desires to hold a closed executive meeting the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are excepted subjects shall be determined by a majority vote of the council. This vote shall be a recorded roll call vote.

If the vote to hold an executive session is affirmative the public will be asked to leave the meeting hall until the executive session is concluded or the council shall withdraw to a private area of the hall to hold the executive session. The public shall be given notice of the excepted subject to be discussed, the amount of time the council expects to spend in executive session and the expected time of reconvening of the public meeting. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. No action may be taken at the executive session.

Upon conclusion of the executive session the public meeting will be reconvened. During the public meeting, action may be taken on the excepted subjects discussed at the executive session.

Excepted subjects which may be discussed at a closed executive session are:

The immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit;

Subjects that tend to prejudice the reputation and character of any person, provided that the person who might be prejudiced may request a public discussion; and

Matters that by law, municipal charter, or ordinance are required to be confidential. (1990 Code, tit. II, ch. 7, § 6)

DIVISION 2. MEETING PROCEDURE

Sec. 2-60. Mayor to preside; vice mayor to preside in mayor's absence.

The mayor shall preside at all meetings of the council. He shall preserve order among the councilmembers and is responsible for conduct of all meetings according to the rules of the council. He may at any time make such rules as he considers proper to preserve order among the attending public in the city council room during sessions of the council. The vice mayor shall preside in the absence of the mayor. (1990 Code, tit. II, ch. 8, § 1)

Sec. 2-61. Call of meeting upon absence of mayor and vice mayor; election of mayor pro tem.

In the temporary absence or disability of the mayor and vice mayor, any member of the city council may call the Council to order at any duly called meeting to elect a presiding officer pro tern from among its number. The presiding officer pro tern shall exercise all the powers of mayor and may also vote. (1990 Code, tit. II, ch. 8, § 1)

Sec. 2-62. Meetings; order of business.

At every regular meeting of the city council the order of business shall be as follows:

- 1) Call to order.
- 2) Roll call.
- 3) Approval of Agenda.
- 4) Minutes of previous meetings.
- 5) Reports.
- 6) Communications and appearance requests.
- 7) Hearings, ordinances and resolutions.
- 8) Bids.
- 9) Old business.
- 10) New business.
- 11) Public participation.
- 12) Council comments.
- 13) Adjournment. (1990 Code, tit. II, ch. 8, § 2)

Sec. 2-63. Speaking conduct rules.

A councilmember about to speak shall respectfully address the mayor or the presiding officer and shall not commence to speak until recognized by the mayor or presiding officer. When two or more members request to speak at the same time the mayor or presiding officer shall determine which one is recognized. Every member while speaking shall confine himself to the subject under debate, and shall not refer to any other member of the council except in a respectful manner. (1990 Code, tit. II, ch. 8, § 4)

Sec. 2-64. Motion procedure.

Writing required. Any motion must be put in writing if the mayor or presiding officer requires or if any councilmember demands.

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

Disposition and withdrawal. After a motion is seconded and stated or read by the mayor or presiding officer, it shall be considered to be in the possession of the council and shall be disposed of by vote, but the councilmember making the motion may withdraw it at any time before the vote, if the second agrees. (1990 Code, tit. II, ch. 8, §§ 5-7)

Sec. 2-65. Voting procedure.

Four affirmative votes are required for passage of an ordinance, resolution, or motion. All councilmembers present shall vote on every question, unless required to abstain from voting on a question by law. The final vote on each ordinance or resolutions, or substantive motion shall be recorded “yes” or “no”, except that if the vote is unanimous it may be so recorded. The mayor or presiding officer shall declare the result of all votes. (1990 Code, tit. II, ch. 8, § 9)

Sec. 2-66. Rescinding vote.

Any matter voted on and passed may be changed or rescinded by vote of the majority of the council. (1990 Code, tit. II, ch. 8, § 8)

Sec. 2-67. Minutes.

Minutes of all regular and special meetings shall be taken. All minutes shall be kept in the journal of the proceedings of the council. The minutes are public records and are to be made available to anyone upon request. The cost of copying may be charged. Minutes shall be posted, as soon as typewritten, at a public place. (1990 Code, tit. II, ch. 8, § 3)

Sec. 2-68. Clerk's duties at council meetings.

The city clerk shall give notice of city council meetings, shall attend all meetings of the council and keep the journal of its proceedings, shall authenticate by his/her signature and record in full in a book or file kept for that purpose all ordinances and resolutions duly indexed and open to public inspection. In case of the temporary absence of the city clerk the city council may appoint a temporary clerk, with all the powers, duties and obligations of the city clerk. (1990 Code, tit. II, ch. 8, § 10)

DIVISION 3. ORDINANCES

Sec. 2-75. Ordinances required for certain acts.

In addition to any matter required by state law to be by ordinance, the council shall use ordinances to:

- 1) Establish, alter, or abolish city departments;
- 2) Amend or repeal an existing ordinance;
- 3) Provide for the sale of city property;
- 4) Provide for a fine or other penalty, or establish rules or regulations for violation of which a fine or other penalty is imposed;
- 5) Provide for the levying of taxes;
- 6) Make appropriations, including supplemental appropriations or transfer of appropriations;
- 7) Grant, renew, or extend a franchise;

- 8) Adopt, modify, or repeal the comprehensive plan, land use and subdivision regulations, building and housing codes, and the official map;
- 9) Approve the transfer of a power to a first or second class borough;
- 10) Provide for the retention or sale of tax-foreclosed property;
- 11) Regulate the rate charged by a public utility;
- 12) Exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of municipal public works projects within the limitations provided in AS 36.25.025. (1990 Code, tit. I, ch. 3, § 2)

Sec. 2-76. Single subject rule.

Every ordinance shall be confined to one subject unless it is an appropriation ordinance or one codifying, revising, or rearranging existing ordinances. Ordinances for appropriations shall be confined to appropriations. The subject of each ordinance shall be expressed in the title. (1990 Code, tit I. ch. 3, § 8)

Sec. 2-77. Form and content.

All ordinances enacted by the council shall be in substantially the following form:

- 1) The heading, "City of Newhalen, Alaska";
- 2) The ordinance number, which shall be a standardized combination of the year and consecutive enactment of ordinances throughout the year;
- 3) The ordinance title summarizing the provisions of the ordinance and including any penalties imposed;
- 4) The enacting clause which shall read (but in all capital letters), "Be it enacted by the council of the City of Newhalen, Alaska";
- 5) The substantive provisions of the ordinance;
- 6) The dates of introduction, first reading, and public hearing;
- 7) The date of adoption;
- 8) Space for the signature of the mayor; and
- 9) Space for the clerk's signature attesting to the signature of the mayor. (1990 Code, tit. I, ch. 3, § 4)

Sec. 2-78. Votes required for passage.

Four affirmative votes are required for the passage of an ordinance. The final vote on an ordinance is a recorded roll call vote. (1990 Code, tit. I, ch. 3, § 9)

Sec. 2-79. Signing by mayor and attestation by clerk.

Each ordinance shall be signed by the mayor upon its adoption and attested by the Clerk. (1990 Code, tit. I, ch. 3, § 10)

Sec. 2-80. Adoption procedure.

A proposed ordinance is introduced in writing by the mayor or other councilmembers, or by a committee of councilmembers, at any lawful council meeting. After the ordinance is introduced, the council shall vote on whether to set the time and date for a public hearing on the ordinance. If there are at least four votes in favor of setting a public hearing, the draft ordinance shall be assigned a reference number by the mayor and the council shall publish a summary of the proposed ordinance and notice setting out the time and place for the public hearing on the proposed ordinance.

The public hearing on the proposed ordinance shall follow the date the notice was published by at least five days. The public hearing may be held at any lawful council meeting.

At the public hearing, copies of the proposed ordinance shall be given to all persons present who request them or the proposed ordinance shall be read in full. During the public hearing the council shall hear all interested persons wishing to be heard. After the hearing, the council shall consider the proposed ordinance and may adopt it with or without amendment. The council shall type or print and make available copies of the adopted ordinance.

If a proposed ordinance is amended by the council after the public hearing, and the amendments are so substantial that they change the ordinance's basic character, the proposed ordinance shall be treated as a newly-introduced proposed ordinance. (1990 Code, tit. I, ch. 3, § 3)

Sec. 2-81. Emergency ordinances.

To meet public emergencies the council may adopt emergency ordinances that are effective on adoption. Each emergency ordinance shall contain a finding by the council that an emergency exists and a statement of the facts upon which the finding is based. The ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of all members present or the affirmative vote of three-fourths of the total council membership, whichever is less, is required for adoption. The council must type or print and make available copies of adopted emergency ordinances.

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.

An emergency ordinance is effective for 60 days. (1990 Code, tit. I, ch. 3, § 7)

Sec. 2-82. Ordinance file.

The city clerk shall keep separate permanent files for ordinances that are available for public inspection. These files shall contain all introduced, passed, failed and repealed ordinances. (1990 Code, tit. I, ch. 3, § 11)

Sec. 2-83. Codification.

Ordinances of a general and permanent nature and ordinances that amend, repeal or add to the provisions of this Code shall be collected for processing upon the schedule prescribed from time to time by the city council as supplements to this Code.

Sec. 2-84. Adoption of codes by reference.

The council may in a single ordinance adopt or amend by reference provisions of a standard published code of regulations. The regular ordinance procedure applies except that neither the code of regulations nor its amendments need be distributed to the public or read in full at the hearings.

For a period of 15 days before adoption of an ordinance under this section, at least five copies of the code to be adopted by reference shall be made available for public inspection at a time and place set out in the hearing notice. Only the adoption ordinance need be printed after adoption.

The council shall provide any adopted code to the public upon request at no more than cost. (1990 Code, tit. I, ch. 3, § 17)

Sec. 2-85. Repeal shall not revive any ordinance. (1990 Code, tit. I, ch. 3, § 12). (1990 Code, tit. I, ch. 3, § 6)

DIVISION 4. RESOLUTIONS

Sec. 2-100. Formal acts by resolution.

Formal acts by the council not required by law to be enacted by ordinance and not being acts of a general and permanent nature may be adopted by resolution. A resolution shall have:

- 1) The heading "City of Newhalen, Alaska";
- 2) The space for a number to be assigned READING "Resolution No. _____";

- 3) A short and concise title descriptive of the resolution's subject and purpose;
- 4) Short premises or preamble clauses descriptive of the reasons for the resolution, if necessary;
- 5) The resolving clause reading "Be it Resolved";
- 6) The date of adoption;
- 7) Space for the signature of the mayor; and
- 8) Space for the clerk's signature attesting to the signature of the mayor.

All resolutions adopted by the council whether at the request of a third party or on the motion of the council shall conform to the requirements provided in this section. (1990 Code, tit. I, ch. 3, § 13)

Sec. 2-101. Requirements for passage of resolutions.

Two-thirds votes are required for the passage of a resolution. The final vote on each resolution is a recorded roll call vote. (1990 Code, tit. I, ch. 3, § 15)

Sec. 2-102. Omitted from codification.

Resolutions shall not be included in the Code, but shall be kept in a separate permanent file by the city Clerk and shall be available for public inspection. (1990 Code, tit. I, ch. 3, § 13)

Sec. 2-103. Procedures for resolutions.

Every resolution shall be introduced in writing and shall be read aloud before any vote for passage is taken. On any vote to pass a resolution, all interested persons shall be given an opportunity to be heard. After such hearing, the council may finally pass such resolution with or without amendments.

After adoption, every resolution shall be posted in full on the city bulletin board and in such other places as the council may direct. Every resolution, unless it shall specify a later date, shall become effective upon adoption.

If the resolution is submitted at a city election when state law requires, then after a majority of favorable votes of the city voters has been certified by the council, the resolution may be adopted. (1990 Code, tit. I, ch. 3, § 14)

Sec. 2-104. Resolution file.

The city clerk shall keep separate permanent files for resolutions that are available for public inspection. These files shall contain all introduced, passed, failed and repealed resolutions.

ARTICLE IV. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Sec. 2-110. Temporary appointment of elected officials and other personnel.

Elected officials may be hired by the city for temporary employment. Elected officials will be considered on the basis of merit with all other job applicants. Temporary employment means employment that is not part of the classified service or a confidential or managerial position; that does not accrue any benefits city service may provide; and that is for a period of five months or less. (1990 Code, tit. II, ch. 2.9, § 7)

Sec. 2-111. Recall of officials other than councilmembers. (1990 Code, tit. II, ch. 2.9, § 7)

Sec. 2-112. Conduct in office; investigation.

The council, the mayor, or any persons or committee authorized by either of them, shall have power to inquire into the conduct of any office, department, officer, or employee of the city and to make investigations in municipal affairs and compel the production of books, papers, and other evidence. Failure to obey such orders to produce books or evidence shall constitute grounds for the immediate discharge of any officer or employee according to the personnel policies of the city. (Code 1990, tit. IX, ch. 74, § 1)

Sec. 2-113. Oath.

All elected officials shall before entering upon the duties of the office, individually take an oath in writing in substantially the form provided in Chapter 32 to honestly, faithfully and impartially perform and discharge the duties of his office and trust, which oath shall be filed with the clerk. (Code 1990, tit. IX, ch. 74, § 2)

Sec. 2-114. Delivery of office.

Whenever an officer, appointed official, or employee leaves city office or employment for any reason, he shall promptly deliver to his successor in the office or to the mayor all city property, including books, working papers, records, money, equipment, and effects, which are in his custody, possession, or control. (Code 1990, tit. IX, ch. 74, § 3)

Sec. 2-115. Resignation.

Resignations of city officers and appointed officials shall be made in writing and filed with the city clerk, who shall immediately notify the mayor and council. (Code 1990, tit. IX, ch. 74, § 5)

DIVISION 2. CITY CLERK

Sec. 2-120. Clerk and treasurer offices may be combined.

The council may combine the office of clerk with that of the treasurer. (1990 Code, tit. II, ch. 9, § 2)

Sec. 2-121. Appointment; term.

The city clerk shall be appointed by the council. He shall hold office at the pleasure of the council. (1990 Code, tit. II, ch. 9, § 1)

Sec. 2-122. Duties and authority.

The city clerk shall:

1. Be custodian of the city seal and the official records of the city;
2. Give notice of the time and place of council meetings to the council and to the public;

3. Record and certify all actions of the council;
4. Attend council meetings and keep the journal;
5. Arrange publication of notices, ordinances and resolutions;
6. Maintain and make available for public inspection an indexed file containing city ordinances, resolutions, rules, regulations and codes;
7. Have authority to and administer all oaths required by law;
8. Give to the proper officials ample notice of the expiration or termination of any terms of office and when necessary, the conditions or requirements of all bonds, franchises, contracts or agreements;
9. Be the city election supervisor and shall be responsible for the calling and supervision of all city elections.
10. Attest deeds and other documents; and
11. Perform other duties specified by state law, prescribed in this Code or assigned by the mayor or by the council. (1990 Code, tit. II, ch. 9, §§ 2, 3)

Sec. 2-123. Acting clerk.

In case of temporary absence of the city clerk, the council may appoint an acting clerk with all the powers and obligations of the city clerk. (1990 Code, tit. II, ch. 9, § 14)

Sec. 2-124. Compensation.

The council shall determine the pay of the clerk or acting clerk. (1990 Code, tit. II, ch. 9, § 5)

DIVISION 3. CITY ATTORNEY

Sec. 2-130. Appointment; term.

There may be a city attorney who shall be appointed by the council. He shall hold office at the pleasure of the council. (Code 1990, tit. II, ch. 11, § 1)

Sec. 2-131. Duties and authority.

The city attorney may:

1. Be charged with the performance of all legal services of the city, including those of legal advisor to the council, the mayor, and to all departments and offices of the city;
2. Represent the city in all matters, civil and criminal, in which the city is interested;
3. Draft any ordinance when required by the city council or mayor;
4. Attend meetings of the city council;
5. Report to the city council promptly all suits brought against the city;
6. Call to the attention of the city council and the mayor all matters of law affecting the city;
7. Render all opinions in writing, as far as is practicable;
8. Maintain a record of all opinions rendered and turn such record over to his successor in office; and
9. Perform such other duties as the mayor or council may require. (Code 1990, tit. II, ch. 11, § 2)

Sec. 2-132. Compensation.

The council shall determine the pay of the city attorney. (1990 Code, tit. II, ch. 11, § 3)

DIVISION 4. CITY TREASURER

Sec. 2-140. Clerk and treasurer offices may be combined.

The council may combine the office of clerk with that of the treasurer.

Sec. 2-141. Appointment.

The treasurer shall be appointed by the council. He shall hold office at the pleasure of the council.

Sec. 2-142. Duties.

The treasurer shall:

1. Except as provided in AS 14.14.060, be the custodian of all city funds and property;
2. Keep an itemized account of money received and disbursed;
3. Pay money and vouchers drawn against appropriations;
4. Assist the mayor in preparing 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 implement those procedures necessary to protect city funds and property;
7. Be responsible for filing state and federal applications for shared revenue programs;
8. Perform other duties specified by State law or city ordinances or assigned by the mayor or the council; and
9. Give bond to the city in a sum that the council directs, premiums for which shall be paid by the city. (1990 Code, tit. II, ch. 12, § 2)

Sec. 2-143. Compensation.

The council shall determine the pay of the Treasurer. (1990 Code, tit. II, ch. 12, § 3)

ARTICLE V. DEPARTMENTS AND COMMITTEES

Sec. 2-145. Reports.

Every department head shall make a monthly report to the council of the activities of the department for the preceding month and present a calendar of proposed activities for the upcoming month. Subject to the mayor's approval, the department head may appoint someone familiar with the activities of the department to prepare and make a monthly report to the council or the department head may submit a written report and calendar to the mayor in advance of the council meeting. Such monthly report shall include a report on finances of the department. (Code 1990, tit. IX, ch. 74, § 4)

ARTICLE VI. BOARDS, COMMISSIONS AND AUTHORITIES

Sec. 2-150. Posting of rules and regulations.

Any rule or regulation made by an administrative officer or board or commission shall be posted for ten days in three public places following its approval by the council. (1990 Code, tit. I, ch. 3, § 16)

ARTICLE VII. PUBLIC RECORDS

Sec. 2-160. Definition of "record".

As used in this article, "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. (1990 Code, tit. I, ch. 4, § 1)

Sec. 2-161. Ownership and custody of records.

All records shall be and remain city property. Records shall be delivered by outgoing officials and employees to their successors as and shall be preserved, stored, transferred, destroyed, and otherwise managed, only in accordance with the provisions of this article or as otherwise provided by law. (1990 Code, tit. I, ch. 4, § 2)

Sec. 2-162. Proof of contents of city records.

City records, or copies of city records that have been certified by the clerk, shall be prima facie evidence of their contents. (1990 Code, tit. I, ch. 4, § 2)

Sec. 2-163. Clerk to maintain records.

The clerk shall be responsible for the administration and maintenance of the public records and shall 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 that are confidential. The clerk shall also establish and maintain a system for filing and retrieval of records, including procedures for keeping track of, retrieving, and refileing records that are temporarily removed from the permanent files for use by the clerk, other city officials or employees, or members of the public. (1990 Code, tit. I, ch. 4, § 3)

Sec. 2-164. Destruction of records; procedure.

The clerk shall periodically review the city records, including inactive documents in storage, to determine whether such records are without legal, administrative or historical value. When the clerk identifies such records, he 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 records identified by the clerk are without legal, administrative, or historical value, it may authorize the disposal of such records and specify the means by which disposal shall occur. The Clerk may dispose of the specified records in the manner approved by the council.

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 such list and record to the council. (1990 Code, tit. I, ch. 4, § 3)

DIVISION 1. GENERALLY

(Reserved)

DIVISION 2. CONFLICTS OF INTEREST

Sec. 2-175. Using office for purposes of obtaining personal financial gain prohibited.

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. (Code 1990, tit. IX, ch. 74, § 6A1)

Sec. 2-176. Participating in action in which official has substantial financial interest prohibited; exception.

No elected official (except in the case of a councilmember where the presiding officer or council rule otherwise 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 councilmember, taking part in council debate, soliciting the vote of a councilmember, or encouraging any city official or officer to act in a certain way in regard to a subject.

A councilmember 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 councilmember in the debate on the matter, although he 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. (Code 1990, tit. IX, ch. 74, §§ 6A2, 6B5)

Sec. 2-177. Accepting money, gifts, promise of future benefits, or other thing of value prohibited.

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 duties, or in exchange for voting or acting in any particular way on any matter that comes before him in the course of his duties. This subsection does not preclude any person from accepting any award or bonus authorized by the Council to be given for meritorious service. (Code 1990, tit. IX, ch. 74, § 6A3)

Sec. 2-178. Giving or offering to another official or employee any item of value prohibited.

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 duties, or in exchange for voting or acting in any particular way on any matter that comes before him in the course of his 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. (Code 1990, tit. IX, ch. 74, § 6A4)

Financial interests which may be conflicts of interest. The following is a list of examples of financial interests substantial enough that any Councilmember, appointed officer, or city employee who comes under any of the categories listed below. (1990 Code, tit. I, ch. 3, § 6B)

Sec. 2-179. Rescinding action upon discovery of previously existing conflict of interest.

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. (Code 1990, tit. IX, ch. 74, § 6B6)

Sec. 2-180. Disclosure of conflicted of interest by officers and employees.

Each city officer and employee shall disclose to the mayor or the city council any financial interest he may have in any matter that has come before the officer or employee for action in the course of his 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. (Code 1990, tit. IX, ch. 74, § 6D1)

Sec. 2-181. Confidential meeting request for purposes of reporting suspected conflict of interest.

Councilmembers. If any resident of the city believes that a councilmember 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 councilmember chosen by the resident requesting the meeting) and the councilmember who may have a conflict of interest. If, as a result of the confidential meeting, the councilmember with the potential conflict or the mayor decides that the financial interest must be disclosed to the council, the councilmember shall disclose the interest to the council.

Other city officers and employees. 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 councilmember 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 should refrain from acting on the matter, or the mayor (or other chosen councilmember) 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 councilmember) will remain confidential. If neither the officer or employee nor the mayor (or other chosen councilmember) 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. (Code 1990, tit. IX, ch. 74, §§ 6B4, 6D)

Sec. 2-182. Suspension or discharge upon violation; other penalties.

Any councilmember, city officer, or city employee who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be suspended from the council or from his 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 councilmember, officer, or employee who is suspended for this reason more than once in any twelve month period may be discharged from the council or from his office or job. Such discharge shall be made upon a two-thirds majority vote of the council.

Any person who willfully violates any provision of this division shall be guilty of an infraction and subject to penalties as provided in section 1-16.

Any City Councilmember or appointed city officer who willfully violates any provision of this division shall be deemed to have violated his oath of office and shall be subject to immediate discharge from the council or from office by two-thirds vote of the council. (Code 1990, tit. IX, ch. 74, §§ 6E1-3)

Sec. 2-183. Councilmember barred from voting on his own suspension or discharge.

No Councilmember may vote on any question of his own suspension or discharge. (Code 1990, tit. IX, ch. 74, § 6E4)

Chapter 4

ALCOHOLIC BEVERAGES

Art. I. In General

Sec. 4-2. Penalty.

Art II. Rules and Regulations

Sec. 4-10. Consumption in public place unlawful.

Sec. 4-11. Open container.

Chapter 4

ALCOHOLIC BEVERAGES

Sec. 4-1. Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage means spirituous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumptions as a beverage and that contain alcohol, whether produced commercially or privately.

Open container means a container, bottle, or can which has a broken seal or that is in some other way obviously open. (1990 Code, tit. I, ch. 46, § 3)

Sec. 4-2. Penalty

Failure to comply with a provision of this chapter is a violation as defined in Chapter 28 of this Code. (1990 Code, tit. I, ch. 46, § 4)

ARTICLE II. RULES AND REGULATIONS

Sec. 4-10. Consumption in public place unlawful.

It shall be unlawful for any person to consume any alcoholic beverage in any public place, including but not limited to, any alley, street, restaurant, recreation hall, or other business establishment. (1990 Code, tit. I, ch. 46, § 1)

Any person in violation of the provisions of this chapter shall, upon, conviction be subject to penalties provided in Chapter 28, Sec. 3 Code. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$300.00. Such fine shall be set at the discretion of the fining authority.

Sec. 4-11. Open container.

It shall be unlawful for any person in the city to carry, conceal or transport any open bottle, can, or other container of alcoholic beverage in a public place, or in an automobile, or in a boat, snowmobile, three wheeler or any other vehicle. (1990 Code, tit. I, ch. 46, § 2)

Any person in violation of the provisions of this chapter shall, upon, conviction be subject to penalties provided in Chapter 28, Sec. 3 Code. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$300.00. Such fine shall be set at the discretion of the fining authority.

Sec. 4-12. Local option election. (1990 Code, tit. I, ch. 47, § 1)

Chapter 5

REGULATIONS OF MARIJUANA

Art. I. In General

- Sec. 5-1. Definitions.
- Sec. 5-2. Purpose.

Art II. Rules and Regulations

- Sec. 5-3. Limitations to manufacture.
- Sec. 5-4. Limitations on transport.
- Sec. 5-5. Limitation on use.
- Sec. 5-6. Marijuana clubs prohibited.
- Sec. 5-7. Marijuana cultivation facilities prohibited.
- Sec. 5-8. Remedies and penalties.

ART. I.

GENERALLY

Sec 5-1. Definitions.

When used in the chapter, the following words and phrases shall have the meanings set forth in this section:

Consume or consumption. The act of ingesting, inhaling, or otherwise introducing marijuana into the human body.

Manufacture. Any operation to cultivate marijuana or manufacture products in which marijuana or any extract therefrom is an ingredient.

Marijuana. As defined in Alaska Statute 17.38.900(6).

Marijuana club. The consumption of marijuana by persons assembled within a commercial or industrial structure, where such consumption is permitted, encouraged, promoted, enabled or condoned by persons assembled therein, whether such consumption is the primary intended purpose or an intended purpose incidental to other reasons for assembly therein.

Marijuana cultivation facility. An entity registered to cultivate, prepare, and package marijuana and to sell marijuana to retail stores, to marijuana product manufacturing facilities, to other marijuana cultivation facilities, and to act as a wholesaler, but not to sell marijuana to consumers, as defined in Alaska Statute 17.38.900.

Retail marijuana store. An entity registered with the Alaska Marijuana Control Board to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products as defined in Alaska Statute 17.38.900.

Sec. 5-2. Purpose.

The purpose of this chapter is to enhance public safety by regulating availability and use of marijuana as marijuana is a psychoactive substance.

ART II.

RULES AND REGULATIONS

Sec. 5-3. Limitations to manufacture.

- a) Manufacturing edible products, marijuana extracts and/or concentrates made with marijuana for sale or other commercial use is prohibited within the Newhalen City limits.
- b) Manufacturing marijuana extracts and/or concentrates using a volatile or explosive gas is prohibited within the Newhalen City limits.

Any person in violation of the provisions of this chapter shall, upon, conviction be subject to penalties provided in Chapter 28, Sec. 3 of this Code. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$750.00. Such fine shall be set at the discretion of the fining authority.

Sec. 5-4. Limitation on transport.

Transport of marijuana within the Newhalen City limits shall be limited to no more than that allowed by Alaska State law.

Any person in violation of the provisions of this chapter shall, upon, conviction be subject to penalties provided in Chapter 28, Sec. 3 Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$750.00. Such fine shall be set at the discretion of the fining authority.

Sec. 5-5. Limitation on use.

- a) Marijuana may be consumed only on private residential real property with consent of the owner pursuant to AS 17.38.040.
- b) Use of marijuana may not disturb other residents of the same or neighboring properties. Any use disturbing other residents or neighbors must cease immediately.

Sec. 5-6. Marijuana clubs prohibited.

- a) Marijuana clubs are prohibited within the Newhalen City limits.
- b) Each day in which a violation of this provision is committed shall be deemed a separate violation.

Any person in violation of the provisions of this chapter shall, upon, conviction be subject to penalties provided in Chapter 28, Sec. 3 Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$1000.00. Such fine shall be set at the discretion of the fining authority.

Sec. 5-7. Retain marijuana stores prohibited.

- a) Retail marijuana stores are prohibited within the Newhalen City limits.
- b) Each day in which a violation of this provision is committed shall be deemed a separate violation.

Any person in violation of the provisions of this chapter shall, upon, conviction be subject to penalties provided in Chapter 28, Sec. 3 Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$1000.00. Such fine shall be set at the discretion of the fining authority.

Sec. 5-8. Marijuana cultivation facilities prohibited.

- a) Marijuana cultivation facilities are prohibited within the Newhalen City limits.
- b) Each day in which a violation of this provision is committed shall be deemed a separate violation.

Any person in violation of the provisions of this chapter shall, upon, conviction be subject to penalties provided in Chapter 28, Sec. 3 Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$1000.00. Such fine shall be set at the discretion of the fining authority.

Sec. 5-9. Remedies and penalties.

Remedies and penalties for violations of this chapter are as provided in Chapter 28.

- a) Each full ounce or portion thereof in excess of the permitted amount shall constitute basis for violation of this chapter and constitute a separate violation pursuant to Chapter 28.
- b) Manufacturing of edible products and/or concentrates or derivatives shall constitute a violation pursuant to Chapter 28.

- c) Any products found in violation of this chapter may be seized and held as evidence to be used in any future proceeding and may be disposed of as appropriate after their use for evidentiary purposes is no longer required.

Chapter 6

ANIMALS

Art. I. In General

Sec. 6-1. Definitions.

Sec. 6-2. Penalties.

Art. II. Dogs

Div. 1. Generally

Sec. 6-10. Applicability.

Div. 2. Care and Control

Sec. 6-20. Confinement required.

Sec. 6-21. Running at large.

Sec. 6-22. Emergency circumstances requiring destruction of dogs without notice.

Sec. 6-23. Disclaimer of city liability for disposal.

Div. 3. Rabies Management

Sec. 6-30. Rabies vaccination required; duties of owner.

Sec. 6-31. Observation of suspected rabid dogs; destructions.

Sec. 6-32. Notice of dog bite required.

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

VPO means "village police officer" or "city police officer" authorized by the city to enforce the provisions of this chapter.

VPSO means "village public safety officer" or "city public safety officer" authorized by the city to enforce the provisions of this chapter.

Sec. 6-2. Penalties. (Code 1990, tit. VII, ch. 49, § 9)

Sec. 6-10. Applicability.

Every person who owns, keeps custody of, or claims possession of a dog is subject to the provisions of this article. Such a person is an "owner" for the purposes of this chapter. (Code 1990, tit. VII, ch. 49, § 1)

Sec. 6-20. Confinement required.

All dogs six months of age or older shall be securely confined so as to pose no threat to life or property within the city. Owners are responsible for the actions of any unconfined dogs including those younger than six months. (Code 1990, tit. VII, ch. 49, § 2)

Sec. 6-21. Running at large.

Unowned dogs. Any loose dogs posing a threat to a person or property within the city or any loose unattended and unidentifiable dog will be considered wild, abandoned or ownerless. (Code 1990, tit. VII, ch. 49, § 3) (Code 1990, tit. VII, ch. 49, § 4)

Sec. 6-22. Emergency circumstances requiring destruction of dogs without notice.

If loose unattended dogs, or periodic outbreaks of rabies among the fox population near the city, or outbreaks of parvo virus, or hazards consequent to the running of sanctioned dog races in the city cause hazards to public health and safety the council may declare an emergency. Notice of such emergency shall however be given by publishing notice, and by radio if possible. During such emergency, it is the duty of all owners to confine their dogs. (Code 1990, tit. VII, ch. 49, § 7)

Sec. 6-23. Disclaimer of city liability for disposal.

The city disclaims any responsibility for disposal of dogs belonging to owners in violation of any provisions of this article. (Code 1990, tit. VII, ch. 49, § 8)

DIVISION 3. RABIES MANAGEMENT

Sec. 6-30. Rabies vaccination required; duties of owner.

All dogs six months of age or older shall be vaccinated against rabies. Owners are responsible for making certain their dogs are vaccinated against rabies at the times vaccination is available in the city. Owners are responsible for furnishing proof of vaccination of their dogs. (Code 1990, tit. VII, ch. 49, § 5)

Sec. 6-31. Observation of suspected rabid dogs; destructions.

Any dog believed to be sick with rabies shall be observed for 14 days and shot if found to be sick with rabies.

Sec. 6-32. Notice of dog bite required.

If a dog suspected of rabies infection has bitten anyone, the community health aide and the chief of police shall be notified immediately. This section is applicable to any person having knowledge of the bite. (Code 1990, tit. VII, ch. 49, § 6)

Chapter 8

BUILDING AND CONSTRUCTION

(Reserved)

Chapter 10

BUSINESS REGULATIONS

(Reserved)

Chapter 12

CITY PROPERTY AND EQUIPMENT

Art 1. In General

- Sec. 12-2. Rights and powers of city.
- Sec. 12-3. Eminent domain and adverse possession.
- Sec. 12-4. Temporary use of city lands.
- Sec. 12-5. Casual use of city land.

Art. II. Acquisition

- Sec. 12-15. Real property.
- Sec. 12-16. Economic development sites.

Art. III. Disposal

Div. 1. *Generally (Reserved)*

Div. 2. *Real Property*

- Sec. 12-25. Authority; method; ordinance required; content.
- Sec. 12-26. Determination of value.
- Sec. 12-27. Disposal to be fair and impartial; procedure to be included in ordinance.
- Sec. 12-28. Methods of competitive disposal.
- Sec. 12-29. Public services.
- Sec. 12-30. Economic development.
- Sec. 12-31. Settling disputed claims or litigation.
- Sec. 12-32. Settling claims of equitable interest.
- Sec. 12-33. Residential purposes.
- Sec. 12-34. Leases.
- Sec. 12-35. Easements.
- Sec. 12-36. Notice of disposal.

Div. 3. *Personal Property*

- Sec. 12-45. Property valued at less than \$1,000.00.
- Sec. 12-46. Property valued at more than \$1,000.00 but less than \$25,000.00.
- Sec. 12-47. Property valued at \$25,000.00 or more.
- Sec. 12-48. Sale of surplus or obsolete goods.
- Sec. 12-49. Surplus stock with a value of \$1,000.00 or less.
- Sec. 12-50. Surplus stock with a value over \$1,000.00; declaration of obsolescence required.

Chapter12

CITY PROPERTY AND EQUIPMENT

ARTICLE I. IN GENERAL

Sec. 12-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abstract of title means a condensed history of the title to land together with a statement of all liens, charges, or liabilities to which the land may be subject.

Appraisal means an estimation of value of property by a qualified appraiser.

ANCSA is an abbreviation for the Alaska Native Claims Settlement Act, 43 U.S.C.A. § 1601 et seq.

Casual use means the temporary, safe, non-exclusive and non-surface-disturbing use of city land and includes but is not limited to such uses as means hiking, hunting, fishing, short-term camping, picnicking, skiing, snow machining or berry picking.

City boundaries means the city limits, established when the city is incorporated, inside which all city ordinances are enforceable.

Competitive disposal means a disposal of property wherein no preference is shown to any prospective bidder or group of bidders.

Condition subsequent means an event that occurs after transfer of title which will act to restore title to the maker of the condition.

Contract of sale means a contract between a willing seller and a willing buyer to transfer title to property.

Deed of trust means an instrument, taking the place and serving the uses of a mortgage, by which legal title to real property is placed in a trustee, to secure the repayment of a sum of money or the performance of other requirements.

Disposal means the act of giving away or selling; the transfer of interest in property.

Disputed claim means a claim for property that is protested by another or for property which is also claimed by another.

Domiciled resident means one who has resided in the city for at least the thirty days previous, maintains an address in the city, and intends to make the city his permanent residence.

Easement means a right or privilege in another's land, such as the right to cross for a specific purpose. Easements allow passage across real property without granting any other ownership rights in that property.

Economic development means to promote the growth of the local economy; increase income of residents.

Eminent domain means the power of a municipality to convert private property to a public use.

Equitable interest means a claim in property which should be recognized in the interest of fairness or equity.

Evaluate means to judge the quality of.

Federal entity means the federal government or an agency thereof.

Hazardous use means a use involving danger; perilous; risky to human health and well-being.

Interest means a right, claim, title, or legal share in real property and refers to the "bundle of rights" that may be transferred or conveyed separately or in total. Methods of transfer of "interest" include deed, lease, or easement.

Inventory means a list of property, containing a description of each article of property.

Lease means leases are used to dispose of specific interests in real property without transferring ownership of that property; A contract for exclusive possession of lands or tenements for a determinate period.

Legal description means that part of a conveyance document which identifies the land or premises intended to be affected by that conveyance.

Litigation means contest in a court of justice for the purpose of establishing a right.

Lottery means a plan whereby the right to obtain interest in property, either by purchase or gift, is decided by luck or chance through some type of drawing of names.

Municipality means a unit of local government organized under the laws of this state.

Non-code ordinance means an ordinance that is not part of the permanent city code.

Nonprofit Corporation means an organization formed under the laws of this state not to obtain a profit, but to supply an essential service to its constituents.

Obnoxious use means a use that people may find objectionable; disagreeable; offensive; displeasing.

Public interest means something in which the public community at large has some pecuniary interest or some interest by which their legal rights or liabilities are affected.

Public outcry auction means sale of property to the highest bidder, at a public auction, where each prospective buyer has the right to enter successive bids until a price is reached at which no higher subsequent bid is made.

Public service means activities and enterprises which specially serve the needs of the general public.

Referendum means a method of submitting an important measure to the direct vote of the whole people. Revert or reversion, with respect to real property, means for title to go back to and lodge in former owner.

Sealed bid means a written offer to purchase property, placed in an envelope, and opened along with all other bids (if any) at a public bid opening.

Substantial improvement means a major change or addition to land or real property that makes it more valuable.

Temporary uses means an exclusive use of city land which has a duration of one year or less, involves minimal disturbance to the land, and does not allow permanent structures or improvements exceeding \$500.00

Valid claim means a legally enforceable claim by a third party. (Code 1990, tit. N, ch. 23, § 11)

Sec. 12-2. Rights and powers of city.

The city shall have and may exercise all rights and powers in the acquisition, ownership, holding and disposal of real property in any manner not prohibited by law. (Code 1990, tit. N, ch. 23, § 1)

Sec. 12-3. Eminent domain and adverse possession.

The city may, only within its boundaries, exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the city in accordance with state law. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

The city may not be divested of title to real property by adverse possession. (Code 1990, tit. N, ch. 24, §§ 1-3)

Sec. 12-4. Temporary use of city lands.

The mayor has the authority to issue special land use permits for the exclusive temporary use of city lands. A special land use permit does not convey an interest in the land and may be revoked for cause with 30 days' notice. Unless otherwise agreed to in writing, the land will be restored to its original condition upon expiration or revocation of the permit. Easements will not be granted under a special land use permit.

Public comment shall be sought before the issuing of a special land use permit in those situations where, in the opinion of the mayor, a hazardous or obnoxious use might significantly affect the surrounding area. Notice of the proposed action shall be published and a period for public comment shall be provided. When significant adverse comment is received, a public hearing shall be held.

A special land use permit shall not be granted for a term exceeding one year. Special land use permits are not transferable or renewable. Upon expiration, a special land use permit may be re-issued for a term not exceeding one year.

If a fee is charged for the issuance of a special land use permit, the fee schedule shall be established by the city council. (Code 1990, tit. N, ch. 23, § 4)

Sec. 12-5. Casual use of city land.

No permit or lease is required for casual uses of city land. Any use under this section is at the risk of the user. The city assumes no responsibility for such use. The city shall notify the public of the location of city lands that are not open to casual use. (Code 1990, tit. N, ch. 23, § 5)

ARTICLE II. ACQUISITION

Sec.12-15. Real property.

The city may acquire, own, and hold real property or any interest in real property inside or outside the city boundaries by purchase, lease, exchange, transfer, donation, condemnation or declaration of taking under the city's power of eminent domain, or any other legal method. The city council may approve and authorize the purchase of real property or interest in real property by contract of sale, deed of trust, or lease. Real property shall be held in the name of the city.

Unless otherwise directed by the city council, the mayor has authority to negotiate the terms of acquisitions, subject to council approval. Except as otherwise provided in this article, and unless otherwise provided by law, all acquisitions shall be by resolution approved by a majority vote of the total membership of the city council.

Upon passage of a resolution approved by a majority vote of the total membership of the city council, the mayor may act upon behalf of the city to execute those documents required in the acquisition of real property or interest in real property when that property to be acquired is conveyed from the Native Village Corporation in partial satisfaction of the requirements of ANCSA 14(c)(3) (43 U.S.C. § 14(c)(3)).

When the conveyance is for full and complete satisfaction of the requirements of ANCSA 14(c)(3) (43

U.S.C. § 14(c)(3)), a non-code ordinance shall be passed which shall include: a statement identifying the amount of land to be acquired; a legal description; a statement that the conveyance, in conjunction with any previous partial reconveyances, is in complete satisfaction of the ANCSA 14(c)(3) obligation; and a finding that the lands are sufficient for existing and foreseeable community needs; and a statement of facts supporting that finding. This ordinance shall not take effect until ratified by a majority of the voters voting on the question in the next regular or special election.

Prior to approval of the purchase of property under of this section, the mayor shall furnish the city council with an abstract of title, an appraisal of the real property, and a review of any problems in acquisition. The validity of any acquisition or purchase of real property by the city is not affected by the failure to furnish the city council with such materials. (Code 1990, tit. IV, ch. 23, § 2)

Sec. 12-16. Economic development sites.

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. (Code 1990, tit. IV, ch. 23, § 3)

ARTICLE III DISPOSAL

DIVISION 1. GENERALLY

(Reserved)

DIVISION 2. REAL PROPERTY

Sec. 12-25. Authority; method; ordinance required; content.

The city may dispose of real property or an interest in real property which has been found to be no longer necessary for municipal purposes. All disposals shall be by non-code ordinance. The minimum time between introduction and adoption of ordinances for disposals, other than by sealed bid or public outcry or lottery, shall be two meetings longer than required for other non-code ordinances.

The ordinance shall include a finding that the real property or interest in real property is no longer necessary for municipal purposes and a statement of facts upon which such a finding is based. The ordinance shall also include a legal description of the property, the type of interest in property to be disposed of, the purpose of the disposal, the method of disposal, the value of the property or the value of the interest in property determined in accordance with this chapter, and the procedure for conducting the disposal and the time, place and manner which the proposed disposal shall occur. (Code 1990, tit. N, ch. 23, § 6A)

Sec. 12-26. Determination of value.

The value of the property or interest in property shall be fair market value as determined by an appraisal prepared by a qualified appraiser or assessor, or the city council may determine the fair market value by any other means it deems appropriate. (Code 1990, tit. N, ch. 23, § 6B)

Sec. 12-27. Disposal to be fair and impartial; procedure to be included in ordinance.

All disposals shall be conducted in a fair and impartial manner. Procedures for conducting all disposals shall be set out in the non-code ordinance authorizing each disposal. (Code 1990, tit. N, ch. 23, § 7A)

Sec. 12-28. Methods of competitive disposal.

The city may conduct the following types of competitive disposal:

1. Sealed bid auction. The minimum bid for a sealed bid auction shall be the fair market value of the property or interest in property as determined under this division.
2. Public outcry auction. The minimum bid for a public outcry auction shall be the fair market value of the property or interest in property as determined under this division.
3. Lottery. In the case of a lottery, the price of the property or interest in property may be established by the city council. (Code 1990, tit. N, ch. 23, § 7B)

Sec. 12-29. Public services.

The city council may dispose of real property or an interest in real property to a municipality, state, or federal entity or to a non-profit corporation or association, or a Native Tribal council, when the recipient is providing a necessary public service to residents of the municipality, without seeking bids and for less than the fair market value of the real property or interest in real property. If a disposal is made under this section, the noncode ordinance authorizing the disposal must include, in addition to all other requirements:

1. A finding that the disposal to the entity is for provision of a necessary public service and a statement of facts upon which such a finding is based.
2. A requirement that the conveyance of the property or property interest disposed include a condition that the title will revert to the municipality in the event the property is no longer used for the necessary public service justifying the disposal.
3. In the event that the entity receiving the property or interest in real property is a Native Tribal council, a requirement that the Native Tribal council waive any immunity from suit for the purpose of enforcing the reversion provision. (Code 1990, tit. N, ch. 23, § 7C)

Sec. 12-30. Economic development.

The city council may dispose of real property or an interest in real property to any person or entity in furtherance of local trade or industry without seeking bids and for less than the fair market value of that real property or interest in real property as determined under this division. If a disposal is made to further economic development, the non-code ordinance authorizing the disposal must include in addition to all other requirements:

1. A finding that the property or property interest which is the subject of the disposal will be used in furtherance of local trade or industry.
2. A requirement that the conveyance of the property or property interest disposed include a condition that title will revert to the municipality in the event the property is no longer used for the local trade or industry justifying the disposal. (Code 1990, tit. N, ch. 23, § 7D)

Sec. 12-31. Settling disputed claims or litigation.

The city council may settle disputed claims or litigation by authorizing disposal of real property or an interest in real property. (Code 1990, tit. N, ch. 23, § 7E)

Sec. 12-32. Settling claims of equitable interest.

Upon a finding by the city council that it is in the public interest, the city may convey real property or an interest in real property for less than fair market value to a person who has a valid claim of equitable interest in the property or in a substantial improvement located upon the property. The finding shall be incorporated in and made a part of the non-code ordinance that accomplishes the conveyance. (Code 1990, tit. N, ch. 23, § 7F)

Sec. 12-33. Residential purposes.

Upon a finding by the city council that there is a current residential housing shortage in the community and that making land available for residential purposes at less than market value is in the public interest, the city may convey real property or an interest in real property for less than fair market value to a domiciled city resident who seeks the parcel for development and use as a personal place of residence. The finding shall be incorporated in and made a part of the non-code ordinance that accomplishes the conveyance.

When real property or interest in real property is disposed of pursuant to this section, the deed or lease must contain a condition subsequent which ensures that if the land is used for any use other than residential use for a period of two years after the disposal, title will revert to the city. In addition, disposals under this section shall include a requirement for the construction of a habitable dwelling within two years after the disposal or title will revert to the city. (Code 1990, tit. N, ch. 23, § 7G)

Sec. 12-34. Leases

A disposal of interest in real property by lease shall follow the requirements of this division. The terms and conditions of leases shall be established by the city council for each such disposal. (Code 1990, tit. N, ch. 23, § 8)

Sec. 12-35. Easements.

The disposal of interest in real property by grant of easement shall follow the requirements of this division. The terms and conditions of easements shall be established by the city council for each such disposal. (Code 1990, tit. N, ch. 23, § 9)

Sec. 12-36. Notice of disposal.

A notice of the disposal shall be posted in three conspicuous public places within the city not less than 10 days before the date of the bid opening, the lottery, the auction or any other method of disposal. The notice shall include a legal description of the property and the type of interest to be disposed, the method of disposal, and the assessed or estimated value of the property or interest in property. The notice shall also include the date of the proposed disposal and the time, place, and manner in which the proposed disposal shall occur. (Code 1990, tit. N, ch. 23, § 10)

DIVISION 3. PERSONAL PROPERTY

Sec. 12-45. Property valued at less than \$1,000.00.

Personal property, other than surplus stock, that is valued at less than \$1,000.00 may be disposed of upon such notice and terms considered reasonable by the mayor with approval of the council. The mayor shall take into consideration the value of the article, the reasons for disposal, and the general preference for competitive bid. The mayor shall report disposals to the council. (Code 1990, tit. N, ch. 27, § 1A)

Sec. 12-46. Property valued at more than \$1,000.00 but less than \$25,000.00.

Personal property valued at more than \$1,000.00 but less than \$25,000.00 shall be disposed of by sealed bid or public outcry auction. An estimated value of the property shall be made. The items to be disposed of shall be reviewed by the council. After review, the council may, by resolution, direct the sale of the property under such terms and conditions as it requires.

Notice shall be posted in at least three public places in the city for at least 30 days prior to the disposal. The notice must contain a description of the property, its location, minimum acceptable bid, limitations if any, time and place set for the disposal. The procedure for disposal shall be in a manner provided by resolution of the council. (Code 1990, tit. N, ch. 27, § 1B)

Sec.12-47. Property valued at \$25,000.00 or more.

Personal property valued at \$25,000.00 or more shall be disposed of in the same manner just described, but shall be by ordinance rather than resolution. No disposition of personal property valued at \$25,000.00 and over shall be valid unless ratified by a majority of the qualified voters voting at a regular or special election at which the question of the ratification of the ordinance is submitted. (Code 1990, tit. IV, ch. 27, § 1C)

Sec. 12-48. Sale of surplus or obsolete goods.

The mayor may, when directed by the council, sell the following without giving an opportunity for competitive bidding:

1. Surplus or obsolete supplies, materials, or equipment whose total value does not exceed one-thousand dollars in a single transaction.
2. Supplies, materials, or equipment when sold at a price at least as great as that paid by the city for the same. (Code 1990, tit. IV, ch. 27, § 2)

Sec. 12-49. Surplus stock with a value of \$1,000.00 or less.

All agencies shall submit to the mayor, at such times and in such forms as he shall prescribe, reports, showing stock of all supplies which are no longer used or which have become obsolete, worn out, or scrapped. The mayor shall have the authority to transfer surplus stock to other agencies and provide for proper fiscal transfer of such. The mayor with approval of the council shall have the authority to sell all supplies or equipment which have become unsuitable for public use, or to exchange the same for, or trade in the same on any new supplies or equipment. (Code 1990, tit. IV, ch. 27, § 3)

Sec. 12-50. Surplus stock with a value over \$1,000.00; declaration of obsolescence required.

No surplus or obsolete supplies, materials, or equipment of a value of more than \$1,000.00 may be sold until the council has declared them obsolete or surplus. (Code 1990, tit. IY, ch. 27, § 4)

CHAPTER 14

COURTS AND JAILS

(Reserved)

Chapter 16

EDUCATIONAL AND CULTURAL SERVICES

(Reserved)

Chapter 18

ELECTIONS

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Chapter 18

ELECTIONS

ARTICLE I. IN GENERAL

(Reserved)

ARTICLE II. VOTERS

Sec. 18-10. Voter qualifications.

A person shall be qualified to vote in city elections who is a United States citizen who is qualified to vote in state elections, has been a resident of the city for the 30 days immediately preceding the election, is registered to vote in state elections, has not been judicially determined to be of unsound mind (unless the disability has been removed), and has not been convicted of a felony involving moral turpitude (unless his civil rights have been restored). (Code 1990, tit. VIII, ch. 66, § 2)

Sec. 18-11. 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 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 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 this state 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 supervisor of elections setting out his new voting residence. (Code 1990, tit. VIII, ch. 66, § 3)

Sec. 18-20. Qualifications for city council.

A person filing for election to a city council seat must be a United States citizen who is qualified to vote in state elections, a resident of the city for three years immediately preceding the election for which declaring candidacy, registered to vote in state elections, not have been judicially determined to be of unsound mind (unless the disability has been removed), and not have been convicted of a felony involving moral turpitude (unless his civil rights have been restored). (Code 1990, tit. VIII, ch. 66, § 9)

Sec. 18-21. Filing for office.

A person who wishes to become a candidate for an elective office shall complete and file a declaration of candidacy or submit a nominating petition with the city clerk. The declaration shall be filed no later than ten working days before the election. A nominating petition must carry the signatures of at least ten registered voters. In addition, a person filing for a city council seat must meet the qualifications stated in this article. (Code 1990, tit. vm, ch. 66, § 10)

Sec. 18-22. Withdrawal; written notice.

Any candidate who has complied with the provisions of this chapter may withdraw his candidacy no later than the last day for filing for office by filing a written notice of withdrawal with the city clerk. (Code 1990, tit. VIII, ch. 66, § 11)

Sec. 18-23. Publishing names.

The city clerk shall cause to be posted in three public places for five days preceding the day of election, the names of all candidates who have declared or been nominated and designating the office for which such persons are candidates. (Code 1990, tit. Vill, ch. 66, § 12)

Sec. 18-24. Votes required.

A simple majority of votes cast required for election to the office sought. The candidate receiving the greatest number of the votes cast for his respective office shall be the winner. (Code 1990, tit. VIII, ch. 66, § 7)

Sec. 18-25. Tie votes.

In the event of a tie vote, and after a recount of ballots that confirms the tie vote the council shall in its first meeting after the election call in the candidates receiving the tie votes and have the candidates draw straws or flip a coin to determine the winner. Those candidates wishing to withdraw may do so by submitting in writing a declination of candidacy to the council at this meeting. (Code 1990, tit. Vill, ch. 66, § 8)

ARTICLE IV. ELECTION EQUIPMENT

Sec. 18-30. Election booths.

The election supervisor shall provide booths at each polling place, with enough supplies and materials to enable each voter to mark his ballot hidden from observation. At least three sides of each booth shall be placed outside the voting booths within plain view of the judges and Clerks, voters, and other persons at the polling places. (Code 1990, tit. vm, ch. 67, § 1)

Sec.18-31. Furnishing instruction cards.

The election supervisor shall prepare for each polling place instructions for the guidance of voters regarding how to obtain a ballot, mark a ballot, obtain additional information and obtain a new ballot to replace any ballot destroyed or spoiled. The election supervisor shall furnish a necessary number of these instruction sheets to the election judges in the voting place. (Code 1990, tit. Vill, ch. 67, § 2)

Sec.18-32. Ballots; printing; sample ballots.

In all city elections, the city clerk as election supervisor will be responsible for the printing of ballots. The ballots will be printed and in the possession of the city clerk, at least five days before the date set for a general or special election and three days before the date set for a runoff election. There shall be at least three ballots printed on colored paper, with the words "sample ballot" printed on them, to be posted in the clerk's office until Election Day and then given to the judges of each polling place. (Code 1990, tit. Vill, ch. 67, § 3)

Sec. 18-33. Ballot forms.

Ballots will be printed on plain white paper and numbered in consecutive order to assure simplicity and secrecy and to prevent fraud. The clerk shall assure that there are one-third more ballots printed and numbered than there are registered voters in the city, in order to provide replacement ballots for ballots that may be spoiled by voters and for those persons who cast questioned ballots because their names do not appear on the master voter registration list.

The ballots shall state at the top whether the election is a regular or special election and shall include instructions on how to mark the ballots.

Ballot shall show the list of candidates and issues to be decided at the election. Before the list of candidates there shall be placed the words "vote for not more than three," or "vote for not more than one", or such other number as are to be elected. Under the title of each office and before the printed names of the candidates, there shall be printed "vote for one" or such other number as are to be elected to that office.

The ballots shall list the office 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 blank line or lines for write-in candidates. 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.

The names of the candidates will be printed in capital letters the same size. On each line on which the name of a candidate is printed and on the line of each blank provided for write-in candidates, a square not less than one-quarter of an inch on each side will be printed.

The names of candidates shall be printed as they appear upon the declarations of candidacy or nominating petitions filed with the city clerk, except that any honorary title or prefix shall be omitted.

Following the names of the offices and candidates, there shall be placed on the ballot in the form prescribed by law all propositions and questions to be voted upon if any. Provision shall be made for marking the propositions or questions "yes" or "no."

Somewhere on the ballots, so as to be clearly visible, will be printed the words "official ballot", the date of the election, and an example of the signature of the clerk who had the ballots printed. (Code 1990, tit. VIII, ch. 67, § 4)

Sec. 18-34. Other materials.

At least 10 days prior to the day of the election, the clerk shall prepare an updated master voter registration list, containing the names, in alphabetical order, of all registered voters eligible to vote in the election. (Code 1990, tit. vm, ch. 67, § 5)

ARTICLE V. PROCEDURE

DIVISION 1. GENERALLY

Sec. 18-40. General elections.

The regular general election for councilmembers and other elected city officials shall be held each year on the first Tuesday in October. Questions or propositions may be placed on the ballot at this time. Notice of the election must be posted in 3 public places for 30 days preceding the date of election. (Code 1990, tit. Vill, ch. 66, § 4)

Sec. 18-41. Special elections.

If a petition submitted by voters for an initiative, referendum or recall election is certified sufficient by the city clerk and submitted to the city council, the council shall resolve that a special election be held on the question no less than 45 days nor more than 75 days following submission of the petition to the council.

If a special election is required by act of the city council, the city council shall resolve that a special election on the question proposed by the council's ordinance or resolution be held no less than 20 days nor more than 75 days following the council's action.

If the regular general election held each year on the first Tuesday of October occurs within 75 days of the date of submission of a petition by voters for an initiative, referendum or recall election, or if the regular general election occurs within 75 days of council action which requires election then no special election may be scheduled and the question or proposition shall be placed on the regular election ballot.

Notice of a special election shall be posted in at least three public places for at least 20 days preceding the date of election. (Code 1990, tit. Vill, ch. 66, § 5)

DIVISION 2. ADMINISTRATION

Sec. 18-50. Clerk as supervisor of elections.

The city clerk is the supervisor of elections and shall prepare and maintain election materials and records. The clerk shall begin preparations for a general election at least 45 days before the date of the election and for a special election as expeditiously as possible. The clerk is responsible for contacting the state division of elections and making certain the city has on hand, before any election, the most current official voter registration list. The city clerk shall act as clerk to the election board.

Sec. 18-51. Election judges.

The council shall each year choose three city voters as judges to be the election board at each polling place and select one of the judges to chair the board. The judges shall not be councilmembers or candidates for office. If an appointed judge fails to appear and subscribe to the oath on Election Day or becomes incapacitated during the time of the election or the counting of the ballots, the remaining judges shall appoint a qualified voter to fill the vacancy.

The city clerk shall give the following written oath to all election judges on or before election day: I, do solemnly swear that I will honestly, faithfully and promptly perform the duties of election judge to the best of my ability and that I am familiar with the city's election ordinances.

Pay of election judges shall be determined by the council.

At least one of the judges shall be fluent in the city Native dialect in order to assist voters who may have difficulty with the ballot.

The election supervisor 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. (Code 1990, tit. VIII, ch. 66, § 13)

Sec. 18-52. Administration of oaths.

Any election judge may administer to a voter any oath that is necessary in the administration of the election. (Code 1990, tit. VIII, ch. 68, § 10)

Sec. 18-53. Majority decision of election board.

The decision of the majority of judges determines the action that the election board shall take regarding any question which arises during the course of the election. (Code 1990, tit. VIII, ch. 68, § 11)

Sec. 18-54. Retention of election records.

The city clerk shall preserve all election certificates, tallies and registers for four years after the election. All ballots and stubs may be destroyed 30 days after the certification of the election unless an appeal of the election has been filed in the superior court in Anchorage in which case the ballots and stubs may be destroyed 30 days after conclusion of the appeal unless stayed by an order of the court. (Code 1990, tit. VIII, ch. 70, § 11)

DIVISION 3. NOTICE

Sec. 18-65. Election notices.

Election notices shall be prepared and posted in three public places by the city clerk for at least 30 days preceding the date of the general election and for at least 20 days preceding the date of a special election, and shall contain the following, as is appropriate:

1. Whether the election is general, special or runoff;
2. Date of the election;
3. Location of the city polling places;

4. Time the polling places will open and close;
5. Offices to be filled;
6. A statement describing voter qualifications;
7. Time for filing declarations of candidacy and nominating petitions;
8. A statement of any questions or propositions to be placed on the ballot. (Code 1990, tit. Vill, ch. 66, § 6)

DIVISION 4. PREPARING POLLS AND EQUIPMENT

Sec. 18-70. Time for opening and closing polls and locations.

On the day of any election, the election board shall open the polls for voting at eight in the morning, shall close the polls for voting at eight o'clock in the evening, and shall keep the polls open during the time between these hours. The election board members shall report to the polling place at 7:30 in the morning on an election day.

Fifteen minutes before the closing of the polls, an election judge shall announce to all persons present the time remaining before the polls close. A judge shall announce the time when the polls close. When the polls are closed, no ballots will be given out except to qualified voters present at the polls and waiting to vote when the polls are announced closed.

The normal voting place shall be the city offices. If for some reason beyond the control of the council this location is unusable, the council may by resolution designate a different location. Such location shall be included in all notices of election.

Election precincts for city elections shall be the same as those established for state elections, except that all areas of state election precincts outside the city limits are excluded. Currently the city entirely within the city election precinct. (Code 1990, tit. VIII, ch. 68, § 1)

Sec. 18-71. Distribution of ballots.

Before the polls open on Election Day, the election supervisor shall deliver the ballots and sample ballots prepared pursuant to this chapter 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 election supervisor. No ballots shall be taken from the polling place before the closing of the polls. (Code 1990, tit. VIII, ch. 68, § 2A)

Sec. 18-72. Records kept by election supervisor.

The election supervisor shall keep the following records:

1. The number of ballots delivered to the polling place;
2. The time the ballots are delivered; and
3. The name of the person to whom the ballots are delivered;
4. The receipt given for the ballots by the election board.

When the ballots are returned, the election supervisor 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. (Code 1990, tit. Vlli, ch. 68, § 2B)

Sec. 18-73. Distribution of other election materials.

On election day, the election supervisor shall also furnish the election board judges at each polling place with voting booths and ballot box (with lock or sealing materials), 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 election regulations, a sufficient number of instruction sheets, and a sufficient supply of pens, pencils, and envelopes. The election supervisor shall supply the election board chairperson with tally sheets and forms for the report of preliminary election results. (Code 1990, tit. Vill, ch. 68, § 3)

Sec. 18-74. Preparation of ballot box.

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

DIVISION 5. VOTING GENERALLY

Sec. 18-80. Checking in to vote; voting.

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 shall immediately question the voter.

If the voter is not questioned, 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 that 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, remove the number stub and return the ballot to the voter if the ballot bears the same number as the ballot given to the voter by the judges and Clerks. The voter shall then himself in the presence of the election judge deposit the ballot in the ballot box unless the voter requests the election judge to deposit the ballot on his behalf. Separate ballot boxes may be used for separate ballots.

If a voter is questioned, the voter may cast a questioned ballot as provided in this chapter. (Code 1990, tit. VIII, ch. 68, § 5)

Sec. 18-81. 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 an election official, concealing from view the manner in which it is marked, and request a new ballot. The election official shall write the words "spoiled ballot" on the outside of the folded ballot, record its number, and place it in an envelope with other spoiled ballots for return to the election supervisor. The judge or Clerk shall then issue a new ballot to the voter. A voter may request replacement of a spoiled ballot no more than three times. (Code 1990, tit. VIII, ch. 68, § 6)

Sec. 18-82. Questioned ballots.

Every election judge and election clerk shall question, and any other person qualified to vote in the city may question a person attempting to vote if the questioner has good reason to suspect that the questioned person is not qualified to vote. All questions regarding a person's qualifications to vote shall be made in writing setting out the reason the person has been questioned.

If a voter's name is not on the master voter registration list or a voter's eligibility to vote is questioned 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 attesting to the fact that in each particular the person meets all the qualifications of a voter, is not disqualified, and has not voted in the same election. After the questioned person has executed the oath and affidavit of eligibility the person may cast a questioned ballot if the questioned person refuses to execute the oath and affidavit of eligibility, the person may not vote.

A voter who casts a questioned ballot shall vote his ballot in the same manner as prescribed for other voters. After the election judge removes the numbered stub from the ballot, the voter shall insert the ballot into a small envelope and put the small envelope into a larger envelope on which the statement the voter previously signed is located. These larger envelopes shall be sealed and deposited in the ballot box.

When the ballot box is opened, questioned ballot envelopes shall be segregated, counted, compared to the voting list, sealed in the questioned ballots envelope and delivered to the election supervisor along with other election materials and the ballot statement when the election board completes the tally and account of ballots. The merits of the question shall be determined by the city council, meeting as the election review committee on the first Friday following the election. (Code 1990, tit. VIII, ch. 68, § 7)

Sec. 18-83. Voter assistance.

A qualified voter who cannot read, mark the ballot, or sign his name or who because of blindness or other physical disability, or who because of unfamiliarity with the system of voting needs assistance, may request an election judge, a person, or not more than two persons of his choice to assist him. If the election judge is requested, he shall assist the voter. If any other person is requested, the person shall state upon oath before the election judge that he will not divulge the vote cast by the person whom he assists or change the voting wishes of the person he assists. (Code 1990, tit. VIII, ch. 68, § 8)

DIVISION 6. ABSENTEE VOTING

Sec. 18-90. Eligibility.

Any qualified voter, who expects to be absent from the city or who will be unable to vote by reason of physical disability on the day of any election, may cast an absentee ballot. (Code 1990, tit. VIII, ch. 69, § 1)

Sec. 18-91. Application; filing.

A person who seeks to vote by absentee ballot may file either in person or by making written application to the city clerk. Written application must be received by the city clerk no more than 20 days, nor less than three days before a city election. An application made in person must be filed with the city clerk not more than 20 days before the city election, and no later than noon on the day before a city election. The application must be signed by the applicant, show his place of residence, and if to be mailed, his mailing address.

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 city clerk.

Nothing in this section is intended to limit the city clerk in personally delivering a ballot to a person who, because of physical incapacity, is unable to make application in person at the city clerk's office for an absent voter's ballot. The city clerk may deliver an absentee ballot to a disabled person living within the city at any time until the polls close on Election Day. (Code 1990, tit. VIII, ch. 69, § 2)

Sec. 18-92. Ballot and envelope form.

The ballot provided to absentee voters shall be identical to the ballots prepared for regular voters and used on Election Day. The ballot envelope shall be smaller than the return envelope so it may easily be enclosed in the return envelope. The ballot envelope shall be marked "ballot envelope" and have no other marks upon it. The ballot envelope and the return envelope shall be of heavy opaque paper. The return envelope shall have printed upon its back the affidavit and certification illustrated at the end of this chapter. (Code 1990, tit. VIII, ch. 69, § 3)

Sec. 18-93. Procedure.

The clerk shall provide each eligible absentee voter with an official ballot prepared in accordance with this chapter together with a ballot envelope and a prepaid return envelope. The clerk shall not issue an absentee ballot sooner than 10 days before the election.

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. Before the opening of the polls on Election Day the clerk shall deliver to the election judges a list of the voters who have requested to vote absentee.

To be counted, an absentee voter's ballot must be executed before the polls close in the city and be received by the clerk prior to the time the ballots are canvassed by the election review committee.

All supplies necessary for the voter to cast and return his ballot will be furnished by the clerk. No city official may make any charge for services rendered to any voter under the provisions of this Chapter. (Code 1990, tit. VIII, ch. 69, § 4)

Sec. 18-94. Delivery.

Upon receipt of an application for an absentee voter's ballot, the clerk shall check the latest state registration listings to determine whether the applicant is registered in accordance with AS 15.07. If the applicant is properly registered, the clerk shall deliver to the applicant, personally or by mailing to the address given by the applicant, an official ballot for the election, a ballot envelope and a return envelope.

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 voted. 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 back 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. (Code 1990, tit. VIII, ch. 69, § 5)

Sec. 18-95. Voting at clerk's office in city.

Any voter issued an absentee ballot may, at any time prior to 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 manner specified in this section.

The voter first shall show the city clerk that his ballot has not been marked, then 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 voted. The voter shall fold the ballot revisions. This document is not intended for use as a final compilation of the material represented and place it in the ballot envelope, then place the ballot envelope in the return envelope.

The voter shall complete and swear to the affidavit printed on the back 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. (Code 1990, tit. Vffi, ch. 69, § 6)

Sec. 18-96. Voting outside city.

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 before any person authorized by law to administer oaths, and in the presence of such officer cast his ballot in the same manner as he would cast it in the office of the city clerk under this division. After writing or stamping his name across the seal of the return envelope, the officer shall return it to the voter who shall return it to the city clerk. (Code 1990, tit. Vffi, ch. 69, § 7)

Sec. 18-97. Voting at the polls; surrender of materials.

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 election supervisor by the election board with other ballots not used at the polling place. (Code 1990, tit. Vffi, ch. 69, § 8)

Sec. 18-98. Retention of absentee ballots; delivery.

The city clerk as election supervisor shall retain all absentee ballots received in the office safe until the time the city council meets as the election review committee to canvass the election. At this time the clerk shall deliver all absentee ballots received to the election review committee to be counted and included in the final vote tally of the election. Absentee ballots must be received by the time of the meeting to be counted. (Code 1990, tit. vm, ch. 69, § 9)

Sec. 18-100. Liberal construction. (Code 1990, tit. vm, ch. 69, § 10)

DIVISION 7. COUNTING AND TALLYING BALLOTS

Sec.18-110. Procedure.

Immediately after the polls close and the last vote has been cast the election judges will open the boxes containing the ballots and count the ballots. Ballots may not be counted before 8:00 P.M. on the day of the election.

The counting of the ballots shall be public. The opening of the ballot box at the close of the polls shall be done in full view of any persons present. The public may not be excluded from the area in which the ballots are counted. However, the chairman of the election board shall not permit anyone present to interfere in any way or to distract the appointed officials from their duties, and no one other than appointed election officials may handle the ballots.

The judges shall remove the ballots from the ballot box one by one, and tally the number of votes for each candidate and for or against each proposition or question. The ballots shall be inspected for disqualifying marks or defects. The election judges shall cause the vote tally to be continued without adjournment until the count is complete.

The election board shall account for all ballots by completing a ballot statement containing the number of ballots received, the number of ballots voted, the number of ballots spoiled, and the number of ballots unused. The board shall count the number of questioned ballots and shall compare that number to the number of questioned voters in the register.

If any discrepancies in numbers of ballots received and ballots accounted for are found, the ballots shall be recounted until the election board finds that the number of ballots accounted for are the same as the number received or that there is an unexplained error. If a discrepancy is determined to exist between the ballots received and those accounted for it shall be explained in detail on the ballot statement and the explanation signed by the election judges. (Code 1990, tit. VIII, ch. 68, § 12)

Sec. 18-111. Rules for counting ballots.

The election board shall count ballots according to the rules provided in this section. 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.

A voter may mark his ballot only by the use of cross-marks, "X" marks, diagonal, horizontal or vertical marks, solid marks, stars, circles, asterisks, checks, or plus signs that are clearly spaced in the square opposite the name of the candidate or propositions the voter desires to designate. A failure to properly mark a ballot as to one or more candidates or propositions does not itself invalidate the entire ballot.

If a voter marks fewer names than there are persons to be elected to the office, a vote shall be counted for each candidate properly marked. If a voter marks more names than there are persons to be elected to the office, the votes for candidates for that office shall not be counted.

The mark specified in this section shall be counted only if it is mostly inside the square provided, or touching the square so as to indicate that the voter intended the particular square to be designated. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly made.

An erasure or correction invalidates only that section of the ballot in which it appears.

Write-in votes are not invalidated by writing in the name of the candidate whose name is printed on the ballot unless the election board determines, on the basis of other evidence that the ballot was marked for the purpose of identifying the ballot. Write-in votes are not invalidated if the voter fails to mark the square provided if in the opinion of the judges the voter intended to vote for the person whose name was written-in as a write-in vote.

No ballot shall be rejected if the election board can determine the person for whom the voter intended to vote and the office intended to be chosen by the voter.

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 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.

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 portion of the ballot to which the objection applies.

All defective ballots and all ballots objected to shall be sealed in a single envelope marked "defective ballots," which shall be delivered to the election supervisor. (Code 1990, tit. VIII, ch. 68, § 13)

DIVISION 8. REPORT AND POSTING OF RESULTS

Sec. 18-120. Report of election results.

When the count of ballots is completed, the election board shall make a certificate in duplicate of the results using the report of preliminary election results form. The report shall include the number of votes cast for each candidate, for and against each proposition, yes or no on each question and any additional information the election board deems relevant or prescribed by the election supervisor.

All members of the election board shall immediately upon completion of the report sign both copies of the report. The election board shall immediately upon completion of the certificate deliver to the election supervisor one of the two original certificates and the master voter registration list, register of voters, tallies, oaths of judges, oaths and affidavits of eligibility, questioned ballots, defective ballots, spoiled ballots and other election documents in one sealed package, and in a separate sealed package, all ballots properly cast. The chairman of the election board shall keep the duplicate of the report of election in a safe place and present it to the election review committee on the Friday following the election when the committee meet.

The election supervisor shall place all election materials received from the election board in the office safe until the canvass of election returns on the Friday following the election. The election board shall immediately upon completion of the certificate deliver to the election supervisor one of the two original certificates. (Code 1990, tit. VIII, ch. 68, § 14)

Sec. 18-121. Posting certificate of preliminary election results.

The clerk shall post copies of the certificate of preliminary election results in three public places the day after the preliminary election results are known. The notice shall include:

1. The time and place of the council meeting to be convened to consider the election results;
2. A statement that the results do not reflect the votes of absentee and questioned ballots and are final until the council formally certifies the election; and
3. A statement that anyone has the opportunity to contest the election at the meeting. (Code 1990, tit. VIII, ch. 68, § 15)

ARTICLE VI. ELECTION REVIEW

Sec. 18-130. Election review committee meeting

The city council acting as the election review committee shall meet on the first Friday after the election and canvass all absentee and questioned and defective ballots executed in the election. If the councils unable to obtain a quorum or complete the count on the Friday after the election, the canvass will be continued the following day and each day thereafter until completed.

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. (Code 1990, tit. VIII, ch. 70, § 1)

Sec. 18-131. Review to be public.

The review of all absentee and questioned and defective ballots shall be made in public by opening the returns, and announcing the results thereof in front of those present and shall include a review and comparison of the tallies of ballots with the election reports to correct any mathematical error in the count of ballots. If the election supervisor finds an unexplained error in the tally of ballots, he may count the ballots from a ballot box. (Code 1990, tit. VIII, ch. 70, § 2)

Sec.18-132. Procedure for questioned ballot review.

The election supervisor shall contact the state division of elections and the local voter registrars by the Thursday following the election and determine if persons casting questioned ballots because of failure of their names to appear on the master voter registration list were in fact registered to vote in state elections. The election supervisor shall record the names of these questioned voters in fact registered to vote and shall submit their names as registered to vote when their questioned ballots are examined with other questioned ballots according to the procedures in this section.

The council meeting as the election review committee shall examine each questioned ballot envelope and shall determine whether the person casting each questioned ballot was registered and eligible to vote. In making this determination, the council may request the assistance of the clerk, and shall hear the testimony of the voter who cast the questioned ballot and of any other city resident who has information useful to the 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.

A questioned ballot may not be counted if the voter has failed to properly execute the certificate, an official authorized by law to attest the certificate failed to execute the certificate, or the voter did not enclose the marked ballot inside the small envelope.

Any person present at the questioned ballot review may challenge the name of a questioned voter when read from the voter's certificate on the back of the large envelope if he has good reason to suspect that the questioned voter is not qualified to vote, is disqualified, or has voted at the same election. The person making the challenge shall specify the basis of the challenge in writing. The election review committee by majority vote may refuse to accept and count the questioned ballot of a person properly challenged under grounds listed in this section.

If a questioned ballot is rejected, the election supervisor shall send a copy of the statement of the challenge to the questioned voter. The election supervisor shall place all rejected questioned ballots in a separate envelope with statements of challenge. The envelope shall be labeled "rejected questioned ballots" and shall be placed in the office safe.

If a questioned ballot is not rejected, the large envelope shall be opened and the small envelope containing the questioned ballot shall be placed in a ballot box and mixed with other small envelopes containing questioned ballots. (Code 1990, tit. VIII, ch. 70, § 3)

Sec.18-134. Witnesses, testimony and subpoenas.

The election review committee may order testimony of witnesses and issue subpoenas while investigating questioned ballots. The subpoenas may be enforced by the court upon certification as provided by the state code of civil procedure concerning the enforcement of administrative and state agency subpoenas. (Code 1990, tit. Vill, ch. 70, § 4)

Sec. 18-135. Absentee ballots.

The Council shall examine each absentee ballot return envelope. Upon the council's satisfaction that the voter is a resident of the city and registered to vote, that he cast his ballot and certified his qualifications before a person authorized by law to administer oaths, that the person administering the oath also signed and sealed, and that the ballot was cast before the close of the polls, then the return envelope shall be opened and the blank envelope containing the absentee ballot shall be placed in a ballot box and mixed with other small envelopes containing the previously reviewed questioned ballots.

If the council determines that a voter voting absentee was not in fact a qualified voter or did not follow absentee voting procedures the council by majority vote may refuse to accept and count the absentee ballot. The return envelope shall not be opened but rather the reasons for rejection shall be noted on the envelope. The election supervisor shall place all such rejected absentee ballots in an envelope marked "rejected absentee ballots" to be saved with other election materials. The election supervisor shall notify the voter in writing why his absentee ballot was rejected.

Sec. 18-136. Defective ballots.

Councilmembers 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. If council determines for whom the voter intended to vote and that the ballot should be counted, the ballot shall be placed in the ballot box along with absentee and questioned ballots. (Code 1990, tit. vm, ch. 70, § 6)

Sec.18-137. Counting absentee defective and questioned ballots.

The questioned ballots and absentee ballots shall then one by one be removed from the ballot box taken out of the ballot envelopes and counted by the council in the same manner in which ballots cast at the polls are counted. (Code 1990, tit. VIII, ch. 70, § 7)

Sec. 18-138. Certifying results.

If no contest of election is begun under the provisions this chapter, and after all absentee, defective and questioned ballots are counted or rejected the council shall certify a report including the total number of ballots cast in the election, the names of the persons voted for (including write-ins) and the propositions voted on, the offices voted for, the number of votes cast for each candidate, the number of votes cast for or against each proposition voted on at the election, the disposition of all absentee, questioned, and defective ballots, and any other matters which the council deems necessary to preserve a complete record of the election.

The council shall also record the results of the election in the minutes of the meeting, authorize the results to be certified, and publicly declare the results of the election.

Sec. 18-139. Certificate of election.

Upon authorization of certification of the election results by the city council the city clerk shall prepare two certificates of election for each office, proposition, or question considered. The certificates shall be signed by the mayor and attested by the clerk. One original of each certificate of election shall be given 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. (Code 1990, tit. VIII, ch. 70, § 10)

ARTICLE VII. ELECTION CONTESTS

Sec.18-150. Procedure for contest by qualified voter.

Any qualified voter may contest the election of any person and the approval or rejection of any question or proposition. Any qualified voter who believes that prohibited practices occurred at an election may contest the election by filing a written affidavit with the city clerk specifying with particularity the provisions of the law which he believes were violated and the specific acts he believes to be misconduct. The affidavit must be filed with the city clerk before or during the first review of the ballots on the Friday following the election. The city clerk shall acknowledge the date and time the affidavit is received on its face and make a photocopy of the affidavit which shall be given the contestant. (Code 1990, tit. VIII, ch. 71, § 1)

Sec. 18-151. Authority of council; appeal of decision.

The city council may order an investigation or a recount of the ballots or, declare the election invalid and order a new election, or declare the affidavit of election contest without merit and certify the results of the election.

A person may appeal the decision of the council to the Superior Court in Anchorage, however no person may appeal or seek judicial review of a city election for any cause or reason unless the person is qualified to vote in the city, has exhausted his administrative remedies before the city council and has commenced, within 10 days after the council has finally declared the election results, an action in the Superior Court in Anchorage. If no such action is commenced within the 10 day period, the election and election results shall be conclusive, final, and valid in all respects. (Code 1990, tit. VIII, ch. 71, §§ 2, 6B)

Sec.18-152. Ballot recount.

If only a recount of ballots is demanded, the election board where the error allegedly occurred, shall recount the ballots. (Code 1990, tit. VIII, ch. 71, § 3)

Sec. 18-153. Prohibited practices alleged.

When the contestant alleges prohibited practices the council shall direct the city clerk to produce the original register books for the election. (Code 1990, tit. VIII, ch. 71, § 4)

Sec. 18-154. Sustained charges; recount.

If the charges alleged by the contestant are upheld, the election review committee shall make a recount.

The council shall then certify the correct election returns as provided in this chapter. (Code 1990, tit. VIII, ch. 71, § 5)

Sec. 18-155. Recount expenses; appeal.

The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election or the difference between the winning and a losing vote on the result contested is more than two percent. (Code 1990, tit. VIII, ch. 71, § 6A)

Sec. 18-156. Contest of election.

If a contest of election is declared and resolved, the results shall be certified in the manner provided in this chapter in a special meeting held on the first Monday after resolution of the contest. (Code 1990, tit. VIII, ch. 70, § 9)

ARTICLE VIII. PROHIBITED ACTS

Sec. 18-165. Leaving polling place with ballot.

No voter may leave the polling place with the official ballot that he received to mark. (Code 1990, tit. VIII, ch. 68, § 9)

Sec. 18-166. Exhibition of marked ballots.

No voter may exhibit his ballot to an election official or any other person so as to enable any person to ascertain how the voter marked his ballot. No election official may allow a ballot which he knows to have been unlawfully

exhibited by the voter to be placed in the ballot box. A ballot unlawfully exhibited shall be recorded as a spoiled ballot and destroyed. (Code 1990, tit. vm, ch. 68, § 9)

Sec. 18-167. Premature opening or examining of ballots.

No election official may, while the polls are open, open any ballot received from a voter, or mark a ballot by folding or otherwise so as to be able to recognize it, or otherwise attempt to learn how a voter marked his ballot, or allow the same to be done by another person. (Code 1990, tit. vm, ch. 68, § 9)

Sec. 18-168. Political discussion by clerks or judges while on duty.

During the hours that the polls are open, no judge or clerk may discuss any political party, candidate or issue while on duty. (Code 1990, tit. VID, ch. 68, § 9)

Sec. 18-169. Political persuasion near election polls.

During the hours that polls are open, no person who is in the polling place or within 200 feet of any entrance to the polling place may attempt to persuade a person to vote for or against a candidate, proposition or question. The election judges shall post warning notices of the required distance in the form and manner prescribed by the supervisor of elections. (Code 1990, tit. VID, ch. 68, § 9)

Chapter 20

EMERGENCY MANAGEMENT AND SERVICES

(Reserved)

Chapter 22

FINANCE AND REVENUE

Art. I. General

- Sec. 22-1. Fiscal year.
- Sec. 22-2. Treasurer.
- Sec. 22-3. Checking and savings account.
- Sec. 22-4. Responsibilities of officers.
- Sec. 22-5. Insufficient funds in bank account.

Art. II Budget

- Sec. 22-10. Ordinance required.
- Sec. 22-11. Preparation.
- Sec. 22-12. Scope of budget.
- Sec. 22-13. Budget adopted as ordinance.
- Sec. 22-14. Public hearing.
- Sec. 22-15. Amendments and adjustments.
- Sec. 22-16. Adoption; vote required.
- Sec. 22-17. Effective date; certification.
- Sec. 22-18. Budget to be open to public inspection.
- Sec. 22-19. Amendment of the budget.

Art. ID Audit

- Sec. 22-30. Conformity to generally accepted accounting principles.
- Sec. 22-31. Compliance with audit requirements.
- Sec. 22-32. Appointment of auditor.

Chapter 22

FINANCE AND REVENUE

ARTICLE I. IN GENERAL

Sec. 22-1. Fiscal year.

The fiscal year of the city shall begin on the first day of July every year and end on the last day of June in the following calendar year. (Code 1990, tit. III, ch. 16, § 1)

Sec.22 2.Treasure.

The council may combine the office of city clerk with that of the treasurer. The treasurer shall be responsible for collection, custody and disbursement of all city money. (Code 1990, tit. III, ch. 16, § 3)

Sec. 22-3. Checking and savings account.

All checks drawn on the treasury of the city shall be signed by two elected officials designated by resolution. City employees shall not be authorized to withdraw funds from city accounts as signatories or otherwise. All checks prior to issuance shall be approved to be within budget allowances as prescribed by ordinance. Operating cash shall be kept in one financial institution to be designated by resolution.

The city clerk and bookkeeper shall make a monthly review of anticipated incomes, expenditures and budgets and report to the council any cash balances in excess of 60 days of budgeted city operation. Upon directive of the council such balances above 60 days' budgeted operating costs shall be placed in the short term or long term, as appropriate, investments such as savings accounts, certificates of deposit or interest bearing checking accounts at federally chartered savings institutions and bonds, notes or other obligations. (Code 1990, tit. III, ch. 16, § 4)

Sec. 22-4. Responsibilities of officers.

The council, as the representatives of the people entrusted with the receipt and expenditure of public monies are responsible for reviewing and overseeing city office procedures and ensuring that the public monies are properly received, expended and accounted for.

The mayor shall execute the budget as approved by the council and as chief administrative officer of the city shall ensure that proper accounting procedures are followed.

The city staff and city clerk, under the immediate supervision of the mayor and under the direction of the city council shall carry out all duties as directed, including day to day administrative supervision of projects and management and supervision of the city office and office staff.

The bookkeeper under supervision of the city clerk shall among other duties keep a complete set of records of the financial transactions of the city. (Code 1990, tit. III, ch. 16, § 5)

Sec. 22-5. Insufficient funds in bank account.

No city checks may be written at any time when funds are insufficient. Willful violation of this provision and conviction thereof shall result in penalties as provided in section 1-16. Such fine shall be set at the discretion of the fining authority. (Code 1990, tit. III, ch. 16, § 6)

ARTICLE II. BUDGET

All monies spent or received by the city during a fiscal year shall be budgeted for by ordinance. (Code 1990, tit. ill, ch. 16, § 2)

Sec. 22-11. Preparation.

The city clerk and treasurer with assistance of the bookkeeper shall prepare the budget under direction of the mayor. Budget preparation should begin by April 1. (Code 1990, tit. ill, ch. 17, § 1)

Sec. 22-12. Scope of budget.

The budget shall be a complete financial plan for all the operations of the city showing beginning cash balances, anticipated revenues from whatever source and itemized proposed expenditures for all city departments. It shall include a comparative statement with the estimated expenditures and revenues of the preceding fiscal year. Proposed expenditures shall not exceed the total of anticipated revenues and beginning cash balances. (Code 1990, tit. III, ch. 17, § 2)

Sec. 22-13. Budget adopted as ordinance.

The budget shall be adopted as a non-code ordinance following procedures for ordinance adoption. After the introduction and first reading of the proposed budget ordinance the council shall determine the place and time of the public hearing on the budget and shall post such notice in three places in the city at least five days prior to the hearing. The council shall include in the notice a summary of the budget and capital improvements program and a statement setting out the time and place for a public hearing.

Sec. 22-14. Public bearing.

At the time and place so advertised, the council shall hold a public hearing on the budget as submitted, at which time all interested persons shall be given an opportunity to be heard for or against the estimates of any item thereof. (Code 1990, tit. m, ch. 17, § 4)

Sec. 22-15. Amendments and adjustments.

After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the budget, except items on proposed expenditures fixed by law. The council may not vary the titles, descriptions, or conditions of administration specified in the budget. (Code 1990, tit. ID, ch. 17, § 5)

Sec. 22-16. Adoption; vote required.

The budget shall be adopted by a majority vote of the council, preferably by May 1, but no later than June 15. (Code 1990, tit. m, ch. 17, § 6)

Sec. 22-17. Effective date; certification.

Upon adoption of the budget ordinance, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be signed by the mayor and certified by the clerk and filed in the office of the clerk. (Code 1990, tit. m, ch. 17, § 7)

Sec. 22-18. Budget to be open to public inspection.

The budget, the capital improvements program, and all supporting schedules shall be open to public inspection. Copies of the budget shall be available for distribution at cost to all interested persons. (Code 1990, tit. ID, ch. 17, § 8)

Sec. 22-19. Amendment of the budget.

The budget shall be amended following the procedures for amending ordinances at such times as circumstances and clarity require. The budget must be amended by ordinance whenever any line item is to be increased by more than ten percent or the overall budget is to be increased or decreased by more than ten percent. (Code 1990, tit. m, ch. 17, § 9)

ARTICLE III. AUDIT

Sec. 22-30. Conformity to generally accepted accounting principles.

City recordkeeping and accounting practices shall conform to generally accepted accounting principles. To help assure this conformity city administrative staff shall inform the council of training opportunities that may arise and office equipment and supplies required. The council shall make reasonable efforts to provide training and proper equipment and supplies for city administration. (Code 1990, tit. ill, ch. 18, § 1)

Sec. 22-31. Compliance with audit requirements.

The city shall comply with the requirements of the federal (Single Audit Act of 1986, 31 U.S.C. 7501 et seq., as amended) and state (AS 29.35.120) "single audit acts". (Code 1990, tit. ill, ch. 18, § 2)

Sec. 22-32. Appointment of auditor.

Audits will be conducted by a Certified Public Accountant approved by the council. (Code 1990, tit. m, ch. 18, § 3)

Chapter 24

HEALTH AND SANITATION

Art. I. In General

Sec. 24-1. Penalty

Art. II. Litter

Sec. 24-10. Litter unlawful.

Sec. 24-11. Notice to abate; removal by city.

Sec. 24-12. Polluting water.

Sec. 24-13. Polluting water and sewer.

Sec. 24-14. Authorized dump area.

Chapter 24

HEALTH AND SANITATION

ARTICLE I. IN GENERAL

Sec. 24-1. Penalty.

Any person who violates the provisions of this chapter shall be subject to penalties as provided in section 1-16. Failure to comply with a provision of this chapter is a violation as defined in Section 28 of this code. Person, persons, companies, firms, corporations or other entity (ies) upon conviction of a violation of the provisions of this chapter shall be fined not to exceed the sum of three hundred dollars (\$300.00). Such fine shall be set at the discretion of the fining authority. (Code 1990, tit. 7, ch. 54, § 6)

ARTICLE II. LITTER

Sec. 24-10. Litter unlawful.

It is unlawful for any person to do any of the following within the city limits or those areas outside of the city limits that are owned, operated and/or regulated by the city.

1. Cause or allow litter to be collected, deposited or to remain in any place under his control;
2. Throw or deposit litter in or upon any street or public place except in public receptacles, in private receptacles for disposal, or in disposal areas designated by the city.
3. Drive or move any vehicle which is carelessly loaded, or not constructed to prevent its load, or litter on it, from falling upon any street, alley or public place; and
4. Throw or deposit litter on any private property, whether owned by the person or not;
5. Dump litter, trash, slops or honey buckets upon the lake or river ice. (Code 1990, tit. 7, ch. 54, § 1)

Sec. 24-11. Notice to abate; removal by city.

The chief of the public safety department (VPSO) is authorized and empowered to notify the owner occupier of any property to properly dispose of litter located on the property which is or may become offensive, noxious or dangerous to the public health, safety or welfare. The notice shall be by personal service or if that is not possible by certified mail, postage prepaid, addressed to the owner or occupier at his last known address.

Upon the failure, neglect or refusal of any owner or occupier so notified to properly dispose of litter within five days after the date of the notice or in the event the notice is returned to the city because of inability to make delivery, the city clerk is authorized and empowered to pay for disposing of such litter or to order its disposal by the municipality.

When the city has effected the removal of such litter or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of eight percent per year from the date of the completion of the work, shall be charged to the owner or occupier of the property. (Code 1990, tit. 7, ch. 54, § 2)

Sec. 24-12. Polluting water.

It is unlawful for any person to throw, empty out or deposit in any creek, ditch or near any inhabited place, any foul or filthy substance or allow the same to stand on his own premises or to seep into the premises of another. (Code 1990, tit. 7, ch. 54, § 3)

Sec. 24-13. Polluting water and sewer.

It shall be unlawful for any person, company or organization to deposit, dump, or in any manner dispose of human waste, offal, or excrement within the city limits except as provided in chapter 42. (Code 1990, tit. 7, ch. 54, § 4)

Sec. 24-14. Authorized dump area.

For the purposes of this chapter, the authorized disposal area shall be the dump area commonly used for dumping as designated by the city council. (Code 1990, tit. 7, ch. 54, § 5)

Chapter 26

LAND USE AND DIVISION

(Reserved)

Chapter 28

OFFENSES

Art. I. In General

- Sec. 28-1. Penalties.
- Sec. 28-2. Penalties surcharge and authorization.
- Sec. 28-3. Disposition of scheduled offenses – fines schedule.
- Sec. 28-4. Penalty (Government authority).
- Sec. 28-8. Penalty (Weapons and explosives).

Art. II. Offenses Against Property

- Sec. 28-10. Tampering with sewer and water system.
- Sec. 28-12. Injury to roads and other utilities.
- Sec. 28-13. Injury to public property or equipment.

Art. III. Offenses Against Public Authority

- Sec. 28-20. Interference with city officers.
- Sec. 28-21. Falsely assuming to be an officer.
- Sec. 28-22. Resisting arrest.

Art. IV. Offenses Against Public Peace

- Sec. 28-30. Disturbance of peace.
- Sec. 28-31. Disturbing congregations or other assemblies.
- Sec. 28-32. Blasphemous or obscene language.

Art. V. Weapons and Explosives

- Sec. 28-40. Definitions.
- Sec. 28-41. Carrying concealed weapons and firearms.
- Sec. 28-42. Discharging firearms; exceptions.
- Sec. 28-43. Explosives.
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Art. VI. Offenses Involving Minors

Div. 1. Generally

- Sec. 28-50. Selling tobacco to children.
- Sec. 28-51. Selling intoxicating liquor to minors.

Div. 2. Curfew

- Sec. 28-60. Purpose and intent.
- Sec. 28-61. Definitions.
- Sec. 28-62. Imposed.
- Sec. 28-63. Effective periods.
- Sec. 28-64. Exceptions.
- Sec. 28-65. Parental responsibility.
- Sec. 28-66. Motor vehicle operator.
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- Sec. 28-68. Identification information required.
- Sec. 28-69. Procedure for violations by minors.
- Sec. 28-70. Procedure for violations by persons other than minors.

- Sec. 28-71. Penalties.
- Sec. 28-72. Annual review of division.

Chapter 28

OFFENSES

ARTICLE I. IN GENERAL

Sec. 28-1. General penalties.

- a) Penalty. Unless another penalty is specifically provided by this code for the violation of any particular provision, any person who violates any of the provisions or fails to comply with any of the mandatory requirements of this code, upon conviction, shall be punished by a fine not to exceed \$300 and no less than \$50. The violation shall be treated as an infraction.
- b) Procedure. The charge for the violation of a code provision may be brought by a VPSO, officer, the Mayor, a city official that is responsible for the administration and enforcement of the code provision which has been violated, or the City Attorney at the direction of the Mayor or City Council. A person charged may dispose of an infraction offense by paying the fine set for the violation charged and pleading “no contest” in person or by mail, or may appear in court to contest the charge. As an infraction, trial is by the court without a jury, and there is no right to court-appointed defense counsel.
- c) Separate Violations. Each day of a continuing violation of this code shall constitute a separate offense.
- d) Civil Action Alternatives. In addition to any other remedies or penalties which may be provided in this code, or may otherwise be available, the city or any aggrieved person may institute a civil action against a person who violates any provision of the code. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of violation or threatened violation, the Superior Court shall grant the injunction.

Sec. 28-2. 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 a code provision, or regulation of the city brought under citation or criminal complaint that would require a proceeding in the Alaska Court system if the defendant were to enter a plea of not guilty. This surcharge is imposed in addition to any other fine or other penalty provided by law. The court may impose and collect the surcharge on all penalties imposed by the court or fines and bail forfeitures that are paid to the court. The surcharge shall be deposited into the general fund of the State of Alaska in accordance with A.S. 29.25.072.

Sec. 28-3. Disposition of scheduled offences – fine schedule.

- a) A person cited for an offense for which a fine is established in subsection (C) of this section may mail or personally deliver to the Clerk of Court the amount of the fine indicated on the citation for the offense plus any surcharge required to be imposed by A.S. 29.25.074, together with a copy of the citation signed by the person indicating the person’s waiver of court appearance, entry of plea of no contest, and forfeiture of the fine. The citation with the fine shall be mailed or personally delivered on or before the 30th day after the date the citation was issued. The payment of a fine under this subsection shall be treated as a judgment of conviction. The fine paid is complete satisfaction for the offense.
- b) If a person cited for an offense for which a fine amount is established in subsection (C) of this section appears in court to contest the citation and is found guilty, the maximum sentence which shall be imposed is the scheduled fine amount plus any surcharge required to be imposed by A.S. 29.25.074.
- c) The following violations of this code are amenable:

NMC Sec. 24-10	Litter Unlawful	\$100
NMC Sec. 28-42	Discharge of Firearm	\$300
NMC Sec. 28-41	Concealed Weapons	\$300
NMC Sec. 28-44	Sale of Fireworks	\$100
NMC Sec. 28-44	Use of Fireworks	\$100
NMC Sec. 4-10	Curfew for Minors Age 17 or Less - 1st Offense	Warning
NMC Sec. 28-71	Curfew for Minors Age 17 or Less - 2nd Offense or More	\$100
NMC Sec. 4-11	Open Container of Alcohol	\$300
NMC Sec. 4-10	Alcohol Consumption in Public	\$300
NMC Sec. 5-3a	Marijuana Manufacture - For Sale or Commercial Use	\$750
NMC Sec. 5-3b	Marijuana Manufacture - Using Volatile or Explosive Gas	\$750
NMC Sec. 5-4	Marijuana Transport	\$750
NMC Sec. 5-5	Marijuana Use	\$100
NMC Sec. 5-6	Marijuana Clubs Prohibited	\$1,000
NMC Sec. 5-7	Retail Marijuana Stores Prohibited	\$1,000
NMC Sec. 5-8	Marijuana Cultivation Facilities Prohibited	\$1,000
NMC Sec. 40-13	Off-Road Vehicle Equipment	\$100
NMC Sec. 42-1	Sewage Disposal	\$300
NMC Sec. 42-1	Use of Public Sewer Required	\$300
NMC Sec. 42-1	Control of Wastewater	\$300

NMC Sec. 26-	Land Use Code Violations	\$300
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Sec. 28-5. Penalty (offense against property) (Code 1990, tit. 7, ch. 56 § 5)

Sec. 28-4. Penalty. (Government authority)

Person, persons, companies, firms, corporations or other entities upon conviction of a violation of the provisions of this Chapter shall be fined not to exceed the sum of \$300.00. Such fine shall be set at the discretion of the fining authority. (Code 1990, tit. 7, ch. 57, § 4)

Sec. 28-4. Penalty. (Public peace) (Code 1990, tit. 7, ch. 58 § 4)

Sec. 28-8. Penalty. (Weapons and explosives)

Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$300.00. Such fine shall be set at the discretion of the fining authority. (Code 1990, tit. 7, ch. 62 § 8)

ARTICLE II. OFFENSES AGAINST PROPERTY

Sec. 28-10. Tampering with sewer and water system.

It is unlawful for any person or persons to remove, carry away, or tamper with or attempt to destroy any portions of the city sewer and water system without the consent of the persons in control thereof. Any person in violation of the provisions of this chapter shall, upon, conviction be subject to penalties provided in Chapter 28, Sec. 3. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$300.00. Such fine shall be set at the discretion of the fining authority. (Code 1990, tit. 7, ch. 56, § 1)

Sec. 28-11. Injury to public library books or property. (Code 1990, tit. 7, ch. 56, § 2)

Sec. 28-12. Injury to roads and other utilities.

It is unlawful for any person to willfully, maliciously or wantonly injure, remove or destroy any bridge, rail or plank road; or place or cause to be placed, any obstruction on any such bridge, rail or plank road; or willfully obstruct or injure any public road or highway; or post or pole used in connection with any system of electric lighting, or telephone or telegraph system; or break down and destroy or injure and deface any electric light, telephone instrument; or in any way cut, break or injure the wires of any apparatus belonging thereto or to willfully tap, cut, injure, break, disconnect, connect, make any connection with, or destroy any wires, mains, pipes, conduits, meters or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, or water plant; or to aid or abet any other person in so doing. Any person in violation of the provisions of this chapter shall, upon, conviction be subject to penalties provided in Chapter 28 Sec. 3. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$300.00. Such fine shall be set at the discretion of the fining authority. (Code 1990, tit. 7, ch. 56, § 3)

Sec. 28-13. Injury to public property or equipment.

It is unlawful for any person to willfully, maliciously or wantonly injure, destroy or tamper with any public property or equipment whether within or outside of the city limits. Any person in violation of the provisions of this chapter shall, upon, conviction be subject to penalties provided in Chapter 28 Sec. 3. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$300.00. Such fine shall be set at the discretion of the fining authority. (Code 1990, tit. 7, ch. 56, § 4)

ARTICLE III. OFFENSES AGAINST PUBLIC AUTHORITY

Sec. 28-20. Interference with city officers.

It is unlawful for any person to interfere with or hinder any policeman, fireman, officer or city official in the discharge of his duty. Any person in violation of the provisions of this chapter shall, upon conviction be subject to penalties provided in Chapter 28 Sec. 3. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$300.00. Such fine shall be set at the discretion of the fining authority. (Code 1990, tit. 7, ch. 57, § 1)

Sec. 28-21. Falsely assuming to be an officer.

It is unlawful for any person to falsely assume to be a judge, magistrate, or peace officer and take upon himself to act as such, or require anyone to abet or assist him in any manner. (Code 1990, tit. 7, ch. 57, § 2)

Sec. 28-22. Resisting arrest

It is unlawful for any person to attempt to escape or forcibly resist when lawful arrest is being made by an officer. (Code 1990, tit. 7, ch. 57, § 3)

ARTICLE IV.

OFFENSES AGAINST PUBLIC PEACE

Sec. 28-30. Disturbance of peace.

It is unlawful for any person to make or excite any disturbance in a store or grocery, or at any election or public meeting, or other place where citizens are peaceably and lawfully assembled. (Code 1990, tit. 7, ch. 58, § 1)

Sec. 28-31. Disturbing congregations or other assemblies.

It is unlawful for any person to willfully disturb any assembly of persons met for religious worship by profane discourse or rude and indecent behavior, or by making a noise, either within the place of worship or so near to disturb the order and solemnity of the assembly, or willingly to disturb or interrupt any school, school meeting, or other lawful assembly of persons. (Code 1990, tit. 7, ch. 58, § 2)

Sec. 28-32. Blasphemous or obscene language.

It is unlawful for any person to publicly blasphemous or obscene language, to the disturbance of the public peace and quiet. (Code 1990, tit. 7, ch. 58, § 3)

ARTICLE V. WEAPONS AND EXPLOSIVES

Sec. 28-40. Definitions

The following words and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous weapons means any firearm, air gun, pellet gun, or anything designed for and capable of causing death or serious physical injury, including but not restricted to a knife, an axe, a club, metal knuckles, or an explosive. (Code 1990, tit. 7 ch. 62, § 1)

Sec. 28-41. Carrying concealed weapons and firearms.

It is unlawful for any person to carry any firearm or any dangerous weapon of any kind in a concealed manner within the city limits. This provision does not apply to weapons that are covered for protection during transport to or from hunting, subsistence or other food gathering activity. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$300.00. Such fine shall be set at the discretion of the fining authority.

It is unlawful for any person to have any firearm in his or her possession or control when in a public place or on any public street within the City, unless all ammunition has been removed from the chamber, cylinder, clip, or magazine.

This section does not apply to any duly authorized city, state, or federal law enforcement officer in the performance of official duties. (Code 1990, tit. 7, ch. 62, §§ 2, 3, 6A)

Sec. 28-42. Discharging firearms; exceptions.

It is unlawful for any person to fire or discharge any pistol, gun, rifle, air rifle, pellet gun, BB gun, or any other firearm within the city limits. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$300.00. Such fine shall be set at the discretion of the fining authority.

This section does not apply to any duly authorized city, state, or federal law enforcement officer in the performance of official duties when the use of the firearm is necessary to protect himself, a prisoner, another officer of a citizen from a dangerous and felonious assault; to prevent a person who has committed a felony from escaping; or to dispose of loose dogs as provided in this Code; provided that under no circumstances shall an officer fire upon any person who is attempting to escape arrest on a misdemeanor or lesser charge.

This section does not apply to a person that is firing a firearm in justifiable defense of himself or others or of property or otherwise in accordance with law, sighting in firearms at a time and place approved by the council, who is engaged in subsistence activities, or at such times as are designated by the council such as holidays. (Code 1990, tit. 7, ch. 62, §§ 4, 6B-D)

Sec. 28-43. Explosives.

It is unlawful for any person to detonate an explosive device within the city limits without first obtaining the permission of the council to do so and posting a bond in such amount as the council may determine appropriate to compensate for potential damage from the use of the explosives. (Code 1990, tit. 7, ch. 62, § 5)

Sec. 28-44. Fireworks.

"Dangerous fireworks" and "salable fireworks" as used in this section shall have the meaning provided in the fire codes adopted by the city or, if no definition is provided therein, by state law. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$100.00. Such fine shall be set at the discretion of the fining authority

No persons shall sell or offer for sale within the city any dangerous fireworks, and no person shall sell or offer for sale within the city any salable fireworks without first obtaining a permit from the city council to do so. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$100.00. Such fine shall be set at the discretion of the fining authority.

No persons shall explode or cause to be exploded within the city any dangerous fireworks, and no person shall explode or cause to be exploded within the city any salable fireworks without first obtaining a permit to do so. (Code 1990, tit. 7, ch. 62, § 7)

ARTICLE VI. OFFENSES INVOLVING MINORS

DIVISION I. GENERALLY

Sec. 28-50. Selling tobacco to children.

It is unlawful in the city for any person, firm, or corporation to sell, exchange, or give any cigarettes, cigars, or tobacco in any form to any child under the age of nineteen. (Code 1990, tit. 7, ch. 52, § 1)

Sec. 28-51. Selling intoxicating liquor to minors.

It is unlawful in the city for any person, firm, or corporation to sell, exchange, or give any intoxicating liquor, in any form to any child or minor under the age of 21. (Code 1990, tit. 7, ch. 52, §§ 2, 3)

DIVISION 2. CURFEW

Sec. 28-60. Purpose and intent.

The purpose of this division is to:

1. Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the city;
2. Promote the safety and well-being of the city's under the age of 18 years whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities particularly unlawful drug activities, and to being victimized by older perpetrators of crime; and
3. Foster and strengthen parental responsibility for children.

Sec. 28-61. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curfew hours means:

1. For persons under the age of 14 years, from 9:00 p.m. the prior evening through 6:00 a.m. on Monday through Friday, and 11:00 p.m. the prior evening through 6:00 a.m. on Saturday and Sunday.
2. For persons at least 14 years of age but under 18 years of age, from 11:00 p.m. the prior evening through 6:00 a.m. on Monday through Friday, and 12:01 a.m. through 6:00 a.m. on Saturday and Sunday.

Emergency means unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

Establishment means any privately-owned place of business within the city operated for a profit, to which the public is invited, including, but not limited to any place of amusement or entertainment.

Minor means any person under 18 years of age who has not had the disabilities of minority removed by court order pursuant to AS 09.55.590.

Officer means a police or other law enforcement officer charged with the duty of enforcing the laws of Alaska or this Code.

Operator, with respect to establishments as defined in this section, means any person, and any firm, association, partnership (and the members or partners thereof and any corporation (and the officers thereof conducting or managing the establishment.

Parent means:

1. A person who is a minor's biological or adoptive parent and who has legal custody of a minor (including either parent, if custody is shared under a court order or agreement);
2. A person who is the biological or adoptive parent with whom a minor regularly resides;
3. A person judicially appointed as a legal guardian of the minor; or
4. A person 18 years of age or older standing in loco parentis (as indicated by the authorization of an individual listed of this definition for the person to assume the care or physical custody of the child or as indicated by any other circumstances).

Public place means any place to which the public or a substantial group of public has access, including, but not limited to: streets, highways, roads, sidewalks, alleys, avenues, parks, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, and shops.

Remain means to linger or stay at or upon a place or to fail to leave a place when requested to do so by an officer or by the owner, operator or other person in control of that place.

Temporary care facility means to a non-locked, non-restrictive shelter at which minors may wait, under visual supervision, to be retrieved by a parent.

Sec.28-62. Imposed.

At any time the curfew imposed under this division is effective, it shall be unlawful for a minor, during curfew hours, to remain in or upon any public place within the city, to remain in any motor vehicle operating or parked within the city, or to remain in or upon the premises of any establishment within the city, unless an exception provided in this division applies. (Code 1990, tit. 7, 51 §§ 2, 3, 4)

Sec. 28-63. Effective periods.

The curfew imposed under this division shall be in effect each year from the day before the first day the start of school {late summer or early fall) until the last day of school (spring). (Code 1990, tit. 7, ch. 51, § 1)

Sec. 28-64. Exceptions.

The curfew imposed under this division shall not apply if:

1. The minor is accompanied by a parent;
2. The minor is involved in an emergency;
3. The minor is engaged in an employment activity, or is going to or returning home from such activity, without detour or stop;
4. The minor is on the sidewalk directly abutting a place where he resides with a parent;
5. The minor is attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adult, or the minor is going to or returning from such an activity without detour or stop;
6. The minor is on an errand at the direction of a parent, and has in his possession a writing signed by the parent containing the name, signature, address and telephone number of the parent authorizing the errand; the telephone number where the parent may be reached during the errand; the name of the minor; a brief description of the errand; the minor's destination; and the hours the minor is authorized to be engaged in the errand;
7. The minor is involved in interstate travel through or beginning or terminating in the city; and
8. The minor is exercising rights protected under the First Amendments to the United States Constitution or any similar protection under state law or constitution, such as the exercise of free religion, speech and right of assembly.

Sec. 28-65. Parental responsibility.

It shall be unlawful for a minor's parent to knowingly permit, allow or encourage such minor to violate this division. Failure to comply with a provision of this Chapter is a violation as defined in Chapter 3, Sec. 3-3 of this Code. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$100.00. Such fine shall be set at the discretion of the fining authority. (Code 1990, tit. 7, ch: 51, § 6)

Sec. 28-66. Motor vehicle operator.

It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit allow or encourage a violation of this division.

Sec. 28-67. Establishment operator.

It shall be unlawful for the operator of any establishment, or for any person who is an employee thereof, to knowingly encourage a minor to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution under this subsection that the operator or employee of an establishment to promptly notify the police department that a minor was present at the establishment after curfew hours and refused to leave.

Sec. 28-68. Identification information required.

It shall be unlawful for any person {including any minor) to give a false name, address, or telephone number to any officer investigating a possible violation of this division.

Sec. 28-69. Procedure for violations by minors.

Before taking any enforcement action hereunder, an officer shall make an immediate investigation for the purpose of ascertaining whether the presence of a minor in a public place, motor vehicle or establishment within the city during curfew hours is in violation of this division.

If such investigation reveals that the presence of the minor is in violation of this chapter, then penalties shall be assessed in the amount provided in this division.

As soon as practicable, the officer shall release the minor to his or her parents or place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours, so that his parents may retrieve him.

If a minor refuses to give an officer his name and address, refuses to give the name and address of his parents, or if no parent can be located prior to the end of the applicable curfew hours or if the minor's parent fails to appear to accept custody of the minor, the minor may be taken to a nonsecure crisis center or juvenile shelter or may be referred to the division of family and youth services. No minors waiting in such facility shall be handcuffed or secured (by handcuffs or otherwise) to any stationary object.

City and State peace officers shall enforce the provisions of this Chapter according to State law. (Code 1990, tit. 7, ch. 51, § 7)

Sec. 28-70. Procedure for violations by persons other than minors.

If an investigation by an officer under this division reveals that a person other than a minor has violated this division, and if the violator has not previously been issued a warning with respect to a violation of this division, the officer shall issue a verbal warning to the violator. The verbal warning shall be followed by a written warning mailed to the violator within five days of the violation.

If an investigation by an officer under this division reveals that a person other than a minor has violated this division and that the violator has previously been issued to that violator, then the officer shall charge the person with a violation of this division and issue a summons directing the violator to appear in court.

Sec. 28-71. Penalties.

A minor found guilty of a violation of this division shall receive a warning for the first violation. \$100.00 for the second violation. All subsequent violations. In addition upon imposition of a penalty for a fourth violation of this division the matter will be referred to the division of family and youth services. For purposes of this subsection a violation that occurs more than three months from a previous violation shall be considered a first violation.

Any person other than a minor found guilty of a violation of this division shall be subject to penalties as provided in section 1-16 provided that in no event shall the court impose a fine of more than \$250 for violations of this division.

Curfew Violations by a minor shall be punished according to the following schedule.

First violation \$10.00

Second violation \$20.00

Third violation \$30.00

Fourth violation or more \$50.00

If a violation by a minor occurs which is more than three months in time from another violation, then that violation is considered the first violation.

The penalty assessed against a minor for violation of this chapter is the responsibility of the parent, or guardian, or adult person charged with control of the minor, and will be paid by the minor or the parents, or guardian or adult person in charge.

The amount of the penalty assessed against a minor for a violation of this chapter may be paid off by working for the city at not less than minimum wage or other court approved activities according to the juvenile laws of the state.

Sec. 28-72. Annual review of division.

Within one year after the effective date of this division and annually thereafter, the city council shall review this division and evaluate the effectiveness of and the continuing need for the curfew imposed hereunder. In conducting such annual review the city council shall consider the practicality and enforcing this division, any problems encountered with enforcement, the impact and cost of enforcement, other data and information the council deems relevant in assessing the effectiveness of the curfew information regarding the age and gender of those charged or detained under this division and information from citizen regarding whether the ordinance has been administered and enforced fairly.

Chapter 30

PARKS AND RECREATION

(Reserved)

Chapter 32

PERSONNEL

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- Sec. 32-2. Applicability.
- Sec. 32-3. At will employer
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Chapter 32

PERSONNEL

ARTICLE I. IN GENERAL

Sec. 32-1. Authority.

The personnel policies and principles set forth in this chapter are established under the authority granted by A.S. 29.20.410. (Code 1990, tit. IX, ch. 75, § 1.1)

Sec. 32-2. Applicability.

These policies shall apply to all employees of the city and to the delegate agencies of the city which do not issue their own approved personnel policies. (Code 1990, tit. IX, ch. 75, § 1.2)

Sec. 32-3 Employment at will

Alaska is an “employment-at-will” state and the City of Newhalen is an “employment-at-will” employer. This means that the city may generally terminate an employee at any time, for any reason, or for no reason, unless an agreement exists that provides otherwise.

Sec. 32-4. Federal and state law.

It is the intent of these policies to comply with all federal, state and local laws applicable to the city or its operations. If these approved policies conflict with any rules, regulations, or conditions prescribed by any funding source or regulatory body, those regulatory specifications shall prevail. The mayor and city council determine which regulatory specifications shall prevail and will determine which federal, state or local regulations apply to programs.

All applicable federal, state or local laws presently in force or as passed or amended in the future that regulate wages, labor, working conditions and similar work related issues are hereby incorporated into these policies. (Code 1990, tit. IX, ch. 75, § 1.3)

Sec. 32-5. Adoption and amendment.

These policies have been adopted as an ordinance of the city. The city council recognizes that amendment of these policies may from time to time be necessary. To that end these policies may be amended at any time following normal procedures for amending city ordinances.

The city council recognizes that this chapter is by no means all-inclusive and that they are intended to promote better working conditions for city employees, better utilization of city resources and better city operations. To further these ends any city employee or resident may request the city clerk or mayor to include personnel policies or their amendment on the agenda for any regular city council meeting.

Sec. 32-6. Mayor to act as personnel officer; duties and authority; delegation of duties.

The mayor of the city is the personnel officer. As chief administrative officer of the city he shall appoint suspend, remove city employees with the confirmation of the city council. The mayor as the executive officer of the city shall ensure that these policies are enforced.

The mayor may delegate personnel responsibilities and duties concerned with personnel to subordinates for effective management, but this is not a delegation of ultimate responsibility for management. (Code 1990, tit. IX, ch. 75, § 2.2)

ARTICLE II. EQUAL OPPORTUNITY POLICIES

Sec. 32-10. Equal employment opportunity officer.

The mayor shall appoint a person on the staff to be the equal employment opportunity officer. His duties will be spelled out in all state, federal or local laws dealing with equal employment regulations.

Sec. 32-11. Merit principle system established.

It is the purpose of these policies to establish a system of personnel administration based upon the merit principle and adapted to the requirements of the city to the end that persons best qualified to perform the functions of the city will be employed, and that an effective career service will be encouraged, developed and maintained. The merit principle of employment includes the following:

1. Recruiting, selecting and advancing employees on the basis of their relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointment.
2. Regular integrated salary programs based on the nature of the work performed.
3. Retention of employees with permanent status on the basis of the adequacy of their performance, reasonable efforts of temporary duration for correction of inadequate performance, and separation for cause.
4. Selection and retention of an employee's position secure from political influences. (Code 1990, tit. IX, ch. 75, §§ 1.4, 1.42-1.45)

Sec. 32-12. Discrimination prohibited.

No person may be appointed to or removed from city office or in any way favored or discriminated against with respect to a city position because of race, religion, color of national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy, parenthood or unless otherwise contrary to law because of political opinions or affiliations when the reasonable demands of the position do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood.

All training, development, assignment, promotion, and other actions must be taken without regard to race, religion, color or national origin, age, physical handicap, sex, marital status, change in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, sex, physical handicaps, or any other factor irrelevant to the quality of performances or the qualification for a position. (Code 1990, tit. IX, ch. 75, § 3.1)

Sec. 32-13. Political consideration for employment prohibited.

Employment with the city will not be offered as a consideration or reward for public office, nor may any person, as an employee, engage in partisan political activity. In certain instances, the council may grant a waiver to city employees to engage in political activity if the political activity is determined beneficial to the city's goals and objectives. (Code 1990, tit. IX, ch. 75, § 3.5)

Sec. 32-14. Items of value in exchange for advantage prohibited.

No person may give, render, pay, offer, solicit, or accept any money, service, or other valuable things in connection with any appointment, promotion, or advantage in a position unless authorized by the city council. (Code 1990, tit. IX, ch. 75, § 3.2)

Sec. 32-15. Political party assessments prohibited.

No person may require any assessment, subscription, contribution, or service for any political party from an employee. (Code 1990, tit. IX, ch. 75, § 3.3)

Sec. 32-16. Political party endorsement prohibited.

No person may seek or attempt to use any political party endorsement in connection with any appointment or promotion. (Code 1990, tit. IX, ch. 75, § 3.1)

Sec. 32-17. Resident employment preference exception.

Notwithstanding any other provision of this article, in all cases of hire or letting of contracts by the city, its subdivisions or departments, employment preference shall be given to residents of the city.

The city shall foster and promote the welfare of the wage earners of the city, improve their working conditions and advance their opportunities for profitable employment. The city shall aid and assist resident workers to obtain, safeguard and protect their rightful preference to be employed in industries in the city.

In the performance of contracts let by the city of any of its subdivisions or departments for construction, repair, preliminary surveys, engineering studies, consulting, maintenance work or any other retention of services necessary to complete any given project, at least 95 per cent of those employed shall be residents where they are available and qualified. If 10 or fewer persons are employed under the contract than at least 90 percent of those employees shall be residents where they are available and qualified.

When the city council assembled finds as a matter of fact that there are not sufficient residents of the city available and qualified for employment preference, the city council shall so resolve and by this resolution approve non-city resident hire. (Code 1990, tit. IX, ch. 75, § 1.5)

ARTICLE III. PERSONNEL FILES

Sec. 32.25. Clerk to provide and maintain central files.

The city clerk shall provide and maintain central files for records of the personnel and work histories of each employee of the city. Such records shall include the employee's original application, reports on the employee's work performance, disciplinary actions, commendations, and any other records relating to the employee's service to the city. (Code 1990, tit. IX, ch. 75, § 2.31)

Sec. 32.26 Accounting personnel files

The city clerk shall provide and maintain personnel files for accounting purposes for each employee of the city. Such files shall include the employee's W-4 and W-4 forms and all records having to do with an employee's salary or compensation, and all other records necessary for accounting purposes. (Code 1990, tit. IX, ch. 75, § 2.32)

Sec. 32-27 Confidentiality.

All information in the personnel records of city employees showing salary or compensation, job description, education and training background, and previous work experience shall be open for public inspection. Access to all other information in an employee's file shall be limited to the mayor or his designee as personnel officer and the employee or the employee's authorized representative. (Code 1990, tit. IX, ch. 75, § 2.33)

ARTICLE IV. CLASSIFICATION

Sec. 32-35. Position roster.

The city clerk shall keep a roster of all position within the city. The roster will spell out the organization structure of the city. (Code 1990, tit. IX, ch. 75, § 4.1)

Sec. 32-36. Job classification system.

The city council has adopted a job classification system by resolution and may amend such system by resolution. The classification system shall include job description defining each position in writing and assigning a pay grade to each position. The existence of a job description does not obligate the city to fill the position. (Code 1990, tit. IX, ch. 75, § 4.2)

Sec. 32-37 Employee classification system.

City employees are classified into the following categories:

Permanent full-time. These employees receive paid holidays. Their work week is five or more hours per day, at least five days per week. Their jobs are of a continuous twelve months a year nature.

Permanent part-time. These employees receive paid holidays and other city employment benefits if their normal work week is at least five days per week. Their jobs are of a continuous, twelve months nature but the hours worked are normally less than five hours per day and/or five days per week.

Long-term temporary. These employees accrue no leave and receive no paid holidays or other city employment benefits beyond any benefits that may be due them because of employer taxes paid by the city. Their workweek may be up to forty hours per week. These jobs are normally seasonal in nature and are more than two weeks duration though normally not of more than five months duration. These jobs may recur yearly and are typically associated with special projects.

Short-term temporary. These employees accrue no leave and receive no paid holidays or other city employment benefits beyond any benefits that may be due them because of employer taxes paid by the city. Their work week may be up to forty hours per week. These jobs are normally of less than two weeks duration. Typically these job openings occur because of leave, termination or resignation of a permanent employee, or because of emergency or special condition. (Code 1990, tit. IX, ch. 75, §§ 6.31-6.34)

Sec. 32-38. Changes in duties and responsibilities.

The mayor or an employee's supervisor shall recommend a redefinition of a job description to the city council whenever a significant change is made in a position involving the addition, the taking away or substantial modification of existing duties and responsibilities. (Code 1990, tit. IX, ch. 75, § 4.3)

Sec. 32-39. Temporary service outside of classification.

An employee may be required to assume the duties, responsibilities and workload of another employee or supervisor because of resignation, termination or extended leave. Any service performed outside the employee's required duties in such a manner shall be recorded and filed in the employee's central personnel file. If such temporary assignment is to be regular and continuous in character for a period of one month or longer, the city council may authorize temporary additional compensation which amount shall be determined in direct proportion to the additional duties, responsibilities and workload. (Code 1990, tit. IX, ch. 75, § 4.4)

ARTICLE V. RECRUITMENT AND HIRING

Sec. 32-40. Merit principles apply.

All appointment and promotion of city employees are made on the basis of merit and fitness for the position. When required by law or by the city council an applicant for a city position shall show merit and fitness for the position through proof of qualifications and/or by passing written, oral or other examinations designed to evaluate the ability of the applicant to discharge the position for which the examination is held. (Code 1990, tit. IX, ch. 75, § 5.1)

Sec. 32-41. Employment of council members.

Elected officials may be hired by the city for temporary employment. Elected officials will be considered on the basis of merit with all other job applicants. For additional provisions regarding temporary employment of elected officials, see Chapter 2. (Code 1990, tit. IX, ch. 75, § 5.1.1)

Sec. 32-42. Posting of job openings.

Notice of all job openings with the city shall be posted in at least three public places within the city. Notice shall include the job title, duties, minimum qualifications, rate of pay and end of recruitment period. Notice shall be posted for at least two weeks (14 days) from the date of posting to the ending date of the recruitment period. Two weeks' notice is not required for temporary positions that need to be immediately filled. Notice for such temporary positions, however, shall be posted in three places and include the job title, duties, minimum qualifications, rate of pay and end of recruitment period. (Code 1990, tit. IX, ch. 75, § 5.2)

Sec. 32-43. Filing applications.

Applications for city positions shall be made on forms provided by the city clerk and must be filed with the city clerk on or prior to the closing date specified in the announcement. A resume' may be substituted for or filed in addition to the application form. (Code 1990, tit. IX, ch. 75, § 5.3)

Sec. 32-44. Appointments made by mayor.

The mayor, subject to the approval of the city council shall make all appointments to permanent full-time, permanent part-time and long-term temporary city positions. Appointments will be made on the basis of qualifications, education, experience and merit. The mayor or his designee with the knowledge of the city council shall make short-term temporary appointments and appointments in emergency situations. (Code 1990, tit. IX, ch. 75, § 5.41)

Sec. 32-45. Verification of qualifications required.

All qualifications must be verified. Other qualifications being equal, preference in employment shall be given to a city employee seeking a promotion or transfer, then to year round city residents. (Code 1990, tit. IX, ch. 75, § 5.41)

Sec. 32-46. Clerk to furnish information to new hires.

The city clerk shall in writing advise all new appointees to city positions of their job title, job description, pay, benefits, personnel policies, the date of the employee's probationary period and all other pertinent employment information. (Code 1990, tit. IX, ch. 75, § 5.42)

Sec. 32-47. Oath of office. (Code 1990, tit. IX, ch. 75, § 5.43)

Sec. 32-48. Vacancies to be filled by promotion; exception.

Vacancies shall be filled by promotion whenever practicable; however, filling of a vacancy by promotion shall be done on an open, competitive basis. Promotion is the filling of a vacancy by the advancement of an employee from a position having a lower salary. The employee's anniversary date and original date of hire, shall remain unchanged. An employee who is promoted shall receive a probationary appointment. The employee's former position will be held open by temporary appointment until such time as the employee completes the probationary period. (Code 1990, tit. IX, ch. 75, § 5.5)

Sec. 32-49. Probationary period.

Purpose. The probationary period is an integral part of the selection process and shall be utilized for observing an employee's work, for securing the most effective adjustment of the employee to the position, and for rejecting any employee whose performance does not meet the required work standards.

Duration. Every original appointment and every promotional appointment of permanent employees is subject to a probationary period of three months from the date of appointment. Appointment for this section is defined as the date an employee first enters upon a job at the worksite.

Completion of probationary period. The probationary period is a time of learning and orientation. An objective appraisal of employee performance shall be conducted at the end of the probationary period. It shall be the responsibility of the employee's supervisor or the mayor (if he is the supervisor) or the mayor's designee to provide a written evaluation and recommendation to the city council whether the employee shall become a permanent employee with employee benefits, whether the probationary period shall be extended, or whether the employee shall be dismissed from his appointment. The city clerk shall give notice to supervisors of the expiration of employees' probationary periods and provide to supervisor's performance evaluation forms for their use. If a performance evaluation is not completed by an employee's supervisor within 30 days after an employee has completed his probationary period the employee automatically becomes a permanent (either full time or part time) employee as of the date of the expiration of his initial probationary period.

Dismissal during probationary period. The mayor with confirmation by the city council may dismiss a probationary employee at any time during the probationary period if in the mayor's opinion the working test

indicates that the employee is unable to perform the duties of the position satisfactorily or that his habits and dependability do not merit continuance in the position. The employee so dismissed shall be notified in writing of the reasons for the dismissal. A permanent employee dismissed during the probationary period from a position to which he has been promoted or transferred and in which He is serving a probationary period shall be reinstated to the position from which he was promoted or transferred unless he is dismissed from city service for reasons as provided in these policies other than performing adequately at the new position. Dismissal is effective upon the employee's receipt of notice of dismissal in writing, or if the employee is unavailable, upon posting of a letter of dismissal by certified mail, return receipt requested. (Code 1990, tit. IX, ch. 75, §§ 5.61-5.64)

Sec. 32-S0. Outside employment.

Outside employment by city staff is not allowed without notice to the mayor and city council and approval by the city council. Outside employment without approval is grounds for dismissal of an employee. (Code 1990, tit. IX, ch. 75, § 3.6)

Sec. 32-62. Salary schedule amount.

Employees of the city shall be paid according to the schedules established by the city council. Any wage or salary so established is the total remuneration for employment, but shall not be considered as reimbursement for official travel or other expenses which may be allowed for the conduct of official city business. Unless approved by the city council no employee shall receive pay from the city in addition to the salary authorized for the position to which he has been appointed. Pay shall be only for hours actually worked according to an employee's time sheet as approved by his supervisor. (Code 1990, tit. IX, ch. 75, § 6.21)

Sec. 32-63 Overtime.

It is the policy of the city that work hours and work days be so scheduled that overtime not be paid. However, if circumstances do not permit such flexible scheduling, employees shall be compensated for hours worked beyond eight hours in a day and forty hours in a week at one and one half times their regular rate of pay state and federal fair labor standards apply. (Code 1990, tit. IX, ch. 75, § 6.22)

Sec. 32-64. Work week.

The normal work week for city employees is the hours and days contained in an individual employee's job description. These hours and day shall be flexible and may be modified by the mayor and city council as circumstances and finances dictate in order to promote efficient city operation and provision of services to citizens. (Code 1990, tit. IX, ch. 75, § 6.1)

Sec. 32-65. Pay days.

Employees shall be paid semi-monthly. In special circumstances or for special projects the city council may direct different pay periods. (Code 1990, tit. IX, ch. 75, § 6.23)

Sec. 32-66. Transfer.

An employee transferred from one position to another where both positions have the same rate of pay shall be appointed to the same rate of pay held prior to transfer and his anniversary date shall remain unchanged. This will apply if any special knowledge of the position is not required. (Code 1990, tit. IX, ch. 75, § 6.24)

Sec. 32-67. Payroll advance.

A permanent employee may receive a payroll advance during a payroll period but before pay day upon approval of three city councilmembers. A payroll advance will be for no more than the compensation owed for hours already worked. An advance shall be deducted from the employ's pay on pay day. (Code 1990, tit. IX, ch. 75, § 6.25)

Sec. 32-68. Payroll deductions.

Payroll deductions as required by law will be withheld from each employee's paycheck. Any other payroll deductions must be authorized by the employee in writing. Employees are urged to authorize deductions from paychecks to pay personal obligations (like water and sewer bills) owed the city. Failure to pay toward obligations owed the city for two successive pay days in city employment is grounds for dismissal from city service. (Code 1990, tit. IX, ch. 75, § 6.26)

DIVISION 2. TRAVEL EXPENSE REIMBURSEMENT

Sec. 32-80. Guidelines established.

Employees' time spent at official conferences, meetings or training sessions on the employee's customary work day shall be considered time worked and paid as the employee customary work day. Reimbursements for travel outside the city shall be determined as provided in this division. (Code 1990, tit. IX, ch. 75, § 14)

Sec. 32-81. Advance funds for travel expenses.

An employee with approval of the mayor may receive an advance for travel expenses. An elected official or designated representative of the city council may receive an advance for travel expenses. Any advance received for travel expenses shall not exceed the expected per diem for the travel. (Code 1990, tit. IX, ch. 75, § 14.11)

Sec. 32-83. Report at council meeting; exception.

An official, an employee, a designated representative, consultant or anyone else travelling at city expense is required to report to the city council on his travel at the next regular city council meeting following the traveler's return. If a traveler is called away from the city, or a consultant (for example) has returned to his home or office, outside the city, he, with the mayor's approval may submit a written report to the city council in lieu of personal -appearance. Failure to report to the city council by an individual upon return from travel is cause to deny that individual, or if the individual represents a group within the city is cause to deny further travel for that group. (Code 1990; tit. IX, ch. 75, § 14.13)

Sec. 32-84. Travel for an individual's convenience.

If any individual travels on official business by an indirect route for his own convenience, any extra expenses caused by this indirect route, shall be borne by him and reimbursement for expenses shall be based only on such charges as would have been incurred in travelling a usually traveled route. In the case of an employee any additional time away from duty that may be required for such indirect travel shall be charged to personal leave or to leave without pay. (Code 1990, tit. IX, ch. 75, § 14.14)

Sec. 32-85. Interruption of travel.

When there is an interruption of travel for official business for the personal convenience of an individual, the per diem allowed shall not exceed that which would have been incurred by uninterrupted travel. (Code 1990, tit. IX, ch. 75, § 14.15)

Sec. 32-86. Use of privately owned transportation.

Where privately owned transportation is used for the convenience of any individual, reimbursement for transportation expenses shall be limited to what the lowest available fare would cost by common air carrier. In

the case of an employee any additional time away from duty that may be required for such travel shall be charged to annual leave or leave without pay. (Code 1990, tit. IX, ch. 75, § 14.16)

Sec. 32-87. Unused tickets.

When an individual's travel is terminated short of the destination specified on the ticket, the individual shall turn in the unused portion of the ticket with the travel voucher. (Code 1990, tit. IX, ch. 75, § 14.17)

Sec. 32-88. Special conveyance.

The hire of boat, automobile, taxicab, aircraft or other public conveyance will be allowed if the use of such conveyance is authorized by the mayor in advance and is deemed advantageous to the city and better enables an individual on city business to carry out official business. (Code 1990, tit. IX, ch. 75, § 14.18)

Sec. 32-89. Meal allowance.

In cases where an individual is on travel status for the city and is able to conduct city business and return the same day without the necessity of an overnight stay, reasonable meal allowances may be paid by the city as established by the city council by resolution or as proved by receipt.

In cases where an individual is on travel status for the city and an overnight stay is required, the meal allowance will include \$15.00 for breakfast, \$20.00 for lunch and \$40.00 for dinner. (Code 1990, tit. IX, ch. 75, § 14.4)

Sec. 32-90. Per Diem.

Per diem is a guaranteed daily flat rate of payment to an individual on travel status for the city. Per diem begins when an individual leaves the city for the purpose of travel on official business and ends upon the completion of official business at the time an individual could return to the city. The per diem rate shall be established by the city council by resolution. Per diem is paid when an individual who is on travel status for the city must overnight elsewhere than his home.

Any person on travel status for the city shall forfeit per diem for any periods of time he because of his own delinquency fails to attend to official business at such time as business could be conducted. Any such person shall be liable for repayment of per diem advances and/or air fares. (Code 1990, tit. IX, ch. 75, § 14.2)

Sec. 32-91. Calculation of Per Diem. (Code 1990, tit. IX, ch. 75, §14.21)

Sec. 32-92. Subsistence. (Code 1990, tit. IX;' ch. 75, § 14.3)

ARTICLE VII. PERFORMANCE EVALUATIONS

Sec. 32-100. Applicability.

This section applies to permanent full time and permanent part time positions.

Sec. 32-101. City clerk's duties.

It shall be the responsibility of the city clerk to give notice to employees' supervisors and the mayor of the dates performance evaluations for employees are due. The city clerk shall provide to supervisor's performance evaluation forms for their use. (Code 1990, tit. IX, ch. 75, § 7.1)

Sec. 32-102. Supervisor's duties.

A performance evaluation report shall be required from an employee's immediate supervisor annually from the date of hire, promotion, or demotion of the employee. A performance evaluation shall be rendered upon the completion of the three month probationary period. A final performance evaluation shall be prepared within five working days of an employee's final day of work regardless of the reasons why an employee leaves city service.

Certain circumstances may require semi-annual or other periodic evaluations in order to provide better management of personnel who need more supervision or training. Meritorious performance by an employee may also warrant additional evaluation. (Code 1990, tit. IX, ch. 75, § 7.2)

Sec. 32-104. Criteria for performance rating.

Employees shall be rated on their performance evaluations according to the following criteria.

Outstanding. Distinguished performance. Employee consistently exceeds performance standards.

Excellent. Above average performance. The employee consistently achieves and frequently exceeds performance standards.

Acceptable. Adequate performance. The employee usually achieves performance standards; may occasionally exceed or occasionally fail to achieve standards.

Unacceptable, below average performance. The employee frequently does not achieve satisfactory performance standards. Improvement is necessary in order to achieve satisfactory performance. (Code 1990, tit. IX, ch. 75, § 7.32)

Sec. 32-105. Effect of evaluation.

Upon the recommendation of the supervisor and at the discretion of the city council an employee who receives an outstanding or excellent rating on his performance evaluation may be granted a salary increase to the next step in the salary schedule adopted by the city council. (Code 1990, tit. IX, ch. 75, § 7.41)

Sec. 32-106. Procedure upon unacceptable evaluation.

An employee who receives an unacceptable performance evaluation has after consultation with his supervisor one month to correct his performance to acceptable levels. At the end of this month the supervisor shall prepare a performance evaluation rating the employee's performance. Failure of an employee to improve performance to acceptable levels after one month is grounds for dismissal from city service. If an employee achieves an acceptable rating on his performance evaluation after one month, he will be retained in city service and a performance evaluation performed after two additional months. An unacceptable performance evaluation after that two months is grounds for dismissal from city service. (Code 1990, tit. IX, ch. 75, § 7.42)

ARTICLE VIII. LEAVE AND HOLIDAYS

DIVISION 1. GENERALLY

DIVISION 2. PERSONAL LEAVE

Sec. 32-120. Applicability. (Code 1990, tit. IX, ch. 75, § 11.1)

Sec. 32-121. Probationary employees not entitled. (Code 1990, tit. IX, ch. 75, § 11.11)

Sec. 32-122. Accrual rates. (Code 1990, tit. IX, ch. 75, § 11.2)

Sec. 32-123. Leave days are equal to normal work days. (Code 1990, tit. IX, ch. 75, § 11.3)

Sec. 32-124. Scheduling considerations. (Code 1990, tit. IX, ch. 75, § 11.4)

Sec. 32-12S. Personal leave for medical cause.

When the mayor or his designee is satisfied that an employee is absent from work for valid medical cause, personal leave may be granted. An employee who is unable to attend work because of sickness or other medical cause and who has not requested personal leave in advance shall communicate his leave request to the mayor or his designee as expeditiously as possible but no later than one half day after the time the employee was to have reported to his worksite. In cases where an employee requests personal leave for more than three days for medical cause or sickness the employee may be required to furnish documentation of cause from a physician, dentist, health aide or other medical professional.

Personal leave may be granted for illness within the employee's immediate family which requires the attendance of the employee. Personal leave may be granted in case which a death has occurred in the family of the employee.

Approval of personal leave for bonafide medical cause shall not be withheld. (Code 1990, tit. IX, ch. 75, § 11.51--11.54)

Sec. 32-126. Maximum Accrual. (Code 1990, tit. IX, ch. 75, § 11.6)

Sec. 32-127. Payment of personal leave upon separation. (Code 1990, tit. IX, ch. 75, § 11.7)

DIVISION 3. OTHER LEAVE

Sec. 32-135. Applicability.

The provisions of this section apply to all permanent employees of the city whose customary workweek is five days per week. (Code 1990, tit. IX, ch. 75, § 12.1)

Sec. 32-136. Court leave.

A permanent employee who is called to serve as a juror or is subpoenaed as a witness shall be to court leave. Court leave shall be supported by written documents such as a subpoena, court's statement of attendance and compensation for services, per-diem and travel. A permanent employee shall receive his regular salary while on court leave, but any compensation for services shall be turned over to the city in return. (Code 1990, tit. IX, ch. 75, § 12.2)

Sec. 32-137. Election leave.

A permanent employee who is appointed to serve as an election judge or otherwise assist in an election or whose attendance is requested or required at training for elections is entitled to election leave. Election leave shall be supported by written documentation such as a letter of appointment, or statement of compensation for services, per diem and travel. A permanent employee shall receive his regular salary while on election leave, but any compensation for services shall be turned over to the city in return. (Code 1990, tit. IX, ch. 75, § 12.3)

Sec. 32-138. Military leave.

Permanent city employees are permitted 15 calendar days military leave each calendar year. Permanent city employees at their option may keep all pay given them by the military or may turn their military pay over to the city and receive their regular salary.

A permanent employee shall be entitled to a Military Leave of absence without pay to serve on active duty in the Armed Forces of the United States and shall be entitled to the reemployment benefits of the Universal Military Service Act. (Code 1990, tit. IX, ch. 75, § 12.4)

Sec. 32-139. Maternity and paternity leave.

A permanent employee who has been employed for not less than ten months is entitled to take a total of nine weeks leave of absence immediately preceding and following the birth or adoption of an employee's infant child. This leave shall be charged to leave without pay. An employee who fails to return to work within the prescribed time limit shall be presumed to have resigned unless the employee has applied for and been granted leave without pay for an additional period. (Code 1990, tit. IX, ch. 75, § 12.5)

Sec. 32-140. Leave without pay.

Leave without pay is approved absence from work. Except as otherwise provided for in this chapter leave without pay will normally not exceed two weeks in duration.

An employee, in writing, request from the mayor a period of leave without pay. The request should list the beginning and ending dates of the leave without pay and the circumstances that require such status and should be submitted to and approved by the mayor at least one week before the date leave is to begin. Shorter notice than one week may be allowed in special circumstances.

Failure to return from leave without pay within two days after the requested ending date of the leave, or absence from work without approval of the requested leave is grounds for dismissal as provided for in this chapter.

Permanent part time, temporary long term and temporary short term employees are allowed to request leave without pay if they expect to be absent from work. Unapproved absence from work by these employees is grounds for dismissal. (Code 1990, tit. IX, ch. 75, § 12.6)

Sec. 32-141. Subsistence leave without pay.

Subsistence leave without pay shall be requested at least two weeks in advance. (Code 1990, tit. IX, ch. 75, § 12.7)

Sec. 32-142. Temperature days. (Code 1990, tit. IX, ch. 75, § 12.8)

DIVISION 4. HOLIDAYS

Sec. 32-150. Applicability.

Permanent employees who customarily work less than five days per week, probationary, long term temporary and short term temporary employees do not receive paid holidays. (Code 1990, tit. IX, ch. 75, § 13)

Sec. 32-151. Legal holidays enumerated.

The following are legal holidays for which permanent employees who customarily work at least five days per week receive a paid day off and which days the city offices will be closed.

New Year's Day - January 1

President's Day - the third Monday in February

Memorial Day - the last Monday in May

Sewards Day – March 26

Russian Orthodox Good Friday - April

Independence Day - the fourth of July

Labor Day - the first Monday in September

Indigenous Peoples Day – October 8

Veterans' Day - the eleventh of November

Thanksgiving Day - the fourth Thursday in November

Christmas Day - the twenty-fifth of December. (Code 1990, tit. IX, ch. 75, § 13.1)

Sec. 32-152. Day of observance.

When any of the holidays listed in this division falls on a Saturday the preceding Friday shall be observed as the holiday. When any of the holidays falls on a Sunday the following Monday shall be observed as the holiday. Permanent employees shall receive full pay for the holiday according to the customary daily hours they work. Permanent employees may be required to work on paid holidays when the nature of their duties or other conditions require. A permanent employee required to work on a holiday shall receive another day off within 30 days thereafter. (Code 1990, tit. IX, ch. 75, § 13.2)

Sec. 32-153. Work status.

To be eligible for holiday leave with pay, the employee shall be in work status the day preceding and the day following the holiday. (Code 1990, tit. IX, ch. 75, § 13.3)

ARTICLE IX. RESIGNATION

Sec. 32-160. Procedure.

To resign from city employment in good standing an employee must submit a resignation in writing to the mayor stating the effective date of the resignation and reasons for leaving at least two weeks prior to resignation.

Upon approval of the mayor, an employee may withdraw his resignation at any time prior to the effective date of resignation.

Upon approval of the city council the requirement of proper notice may be waived when provision can be made for a capable successor to an employee in the period of time for which notice of resignation is given. The city council may also waive proper notice in cases where there are extenuating circumstances such as medical reasons, or family obligations. (Code 1990, tit. IX, ch. 75, § 8.1)

Sec. 32-161. Form.

No form of resignation filed without date or with a future date, and that is not intended to be a bonafide and voluntary resignation to be acted upon at the time of filing, shall be accepted by the mayor as a resignation. (Code 1990, tit. IX, ch. 75, § 8.11)

Sec. 32-162. Effect of failure to comply with notice.

Failure by an employee to comply with proper notice of resignation may be considered cause for denying future employment.

Sec. 32-163. Unauthorized absence constitute resignation without notice.

Unauthorized absence from work for a period of two successive working days may be considered by the supervisor or mayor as a resignation without proper notice resulting in cause for denying the employee future employment by the city.(Code 1990, tit. IX, ch. 75, § 8.13)

ARTICLE X. LAYOFFS

Sec. 32-170. Employment not guaranteed.

Nothing in this chapter guarantees employment. Budget constraints, natural disasters, mechanical failures or other conditions may require the deletion of positions or layoff of employees either temporarily or permanently. (Code 1990, tit. IX, ch. 75, § 8.3)

Sec. 32-171. Grounds for layoff.

The mayor or his designee may layoff an employee if the employee's position is temporary; if there is a shortage of work or funds; or for other reasons which do not reflect discredit on the services of the employee. (Code 1990, tit. IX, ch. 75, § 8.31)

Sec. 32-172. Notice.

If circumstances allow permanent employees shall be given two weeks' notice of layoff. All employees shall be given as much notice of layoff as circumstances allow. (Code 1990, tit. IX, ch. 75, § 8.32)

Sec. 32-173. Effect of seniority.

No permanent employee shall be laid off while there are probationary or temporary employees serving in the same job class. Probationary and temporary employees shall be first laid off and are to be notified of this upon hire. Such employees are deemed to have constructive notice of this information through this chapter. (Code 1990, tit. IX, ch. 75, § 8.33)

ARTICLE XI. DISCIPLINARY ACTIONS

DIVISION 1. GENERALLY

Sec. 32-180. Responsibility of mayor and supervisors.

It is the responsibility of the mayor and supervisors to maintain efficiency, cooperation, and safe and proper work conduct among employees while protecting the rights of all employees and promoting efficient city operation and provision of services to citizens.

If a situation requiring discipline occurs the mayor, his designee, or the immediate supervisor shall immediately gather all essential facts about the situation in writing including the employee's version and decide what, if any, disciplinary action is needed. If in the opinion of the mayor disciplinary action of a less severe nature than dismissal as provided for elsewhere in this section is required the procedures of progressive discipline shall be followed.

The appropriate discipline is the least severe penalty that is at the same time severe enough to convince the erring employee that his behavior cannot be tolerated. (Code 1990, tit. IX, ch. 75, § 9.21)

Sec. 32-181. Verbal warning.

Verbal warnings are given for minor infractions. The employee is given a verbal warning in private explaining what he did wrong and what must be done as a corrective measure. A record in writing is placed in the employee's central personnel file. This record may be removed from the file after six months by the mayor if the employee's behavior improves. The employee is advised at the time of verbal warning that if there is a repetition of the behavior that required verbal warning, more severe action may be taken. The mayor or supervisor shall give verbal warning. (Code 1990, tit. IX, ch. 75, § 9.221)

Sec. 32-182. Written warning.

A written warning is more severe than a verbal warning. It is used for more serious offenses by an employee that call for more than a verbal warning. Written warning is also to be issued if there is a repetition of an infraction for which verbal warning was given within three months of the date of verbal warning. A copy of

written warning is placed in an employee's central personnel file and becomes part of the file. The mayor or Supervisor shall give written warning. (Code 1990, tit. IX, ch. 75, § 9.222)

Sec. 32-183. Suspension. (Code 1990, tit. IX, ch 75, § 9.223)

Sec. 32-184. Suspension during investigation.

In addition to reasons for suspension of an employee from work as otherwise provided for in this chapter the mayor may in cases in which signed charges in writing have been filed against an employee, suspend the employee with or without pay and with or without accrual of benefits for the purposes of conducting an investigation into the validity of the charges.

The employee shall be notified in writing of his suspension and its expected duration which may be indefinite or until the charges are resolved. Knowledge of the suspension shall be given to the city council. Such a suspension shall be made only in the cases in which the charges against the employee are of such a nature that the interests of the city would be seriously prejudiced by continuing the employee on active duty status while the investigation is conducted. If the charges are found valid, the mayor or his designee shall take such steps, including dismissal or other disciplinary action, as he with city council approval deems appropriate.

In all cases in which charges have been filed against an employee the investigation shall begin immediately. (Code 1990, tit. IX, ch. 75, § 8.2)

DIVISION 2. DISMISSAL

Sec. 32-190. Grounds for dismissal.

The section includes a general listing of reasons which constitute ground for dismissal of city employees. This list is not all inclusive and complements other grounds for dismissal listed in this chapter. Infractions not listed may be of such a severe nature that they also would warrant dismissal. The steps of procedures of progressive discipline provided in this article will be followed.

Special projects may have special rules and grounds for shall be posted. By that posting employees are deemed to have knowledge of these special rules and grounds for dismissal.

Grounds for dismissal include:

1. *Incompetence.* Lack of basic knowledge, skills or physical ability needed to accomplish work employee was hired to do. Inability to understand and/or follow instructions. Continual difficulty in learning and implementing new methods and procedures related to assigned duties.
2. *Unsatisfactory performance of duties.* Slovenly work. Flagrant damage to tools or equipment used. Failure to produce an acceptable amount of work in relation to fellow employees in like classification. Disregard for established safety regulations and procedures.
3. *Unexcused absenteeism.* Absence from work without alcohol or drugs. Use of alcoholic beverages or drugs at work.
4. *Drunkenness.* Reporting to work under the influence of alcohol or drugs. Use of alcoholic beverages or drugs at work.
5. *Dishonesty.* Any act relating to employment that would signify an employee's work or intentions are not trustworthy. Being convicted of a felony or misdemeanor committed on or off duty which would limit the ability to maintain a working relationship of mutual trust in a particular position. Taking city property or money or converting it to an employee's use. Falsification of time records or approval of time records known to be wrong.
6. *Gross disobedience.* Failure to follow a supervisor's orders without reasonable explanation of action. Refusal to obey such rules and regulations fostered by the State and the city as standard policy.

7. *Abandonment of duties.* Absenting oneself without approval or authority and failure to promptly notify employees of supportable reasons therefore.
8. *Unsafe operation.* Negligence, carelessness or unsafe operation of equipment or machinery at any time by any employee that endangers or injures himself/herself or others. (Code 1990, tit. IX, ch. 75, § 9.1)

Sec. 32-191. Notice.

In all cases in which an employee is dismissed from city service, written notice of dismissal with the cause explained shall be served upon the employee. If the employee is unavailable because of absence from the city or worksite the employee is deemed to have notice of dismissal upon posting of a letter of dismissal by certified mail, return receipt requested to his last known mailing address. (Code 1990, tit. IX, ch. 75, § 9.19)

Sec. 32-192. Dismissal.

Dismissal from city service is the most severe of disciplinary actions. An employee dismissed by the mayor for reasons listed elsewhere in these policies. An employee may also be dismissed if within a six month period after completion of suspension a disciplinary action becomes necessary.

Before dismissal the employee shall be given an opportunity to go before the mayor or his designee. The employee may ask questions of any witnesses and may otherwise confront the evidence presented against him.

Following the hearing the mayor or his designee shall prepare written findings, detailing any disciplinary action and the reasons therefore. The decision in writing shall then be personally delivered to the employee. If the employee is unavailable for personal delivery, the decision shall be sent by certified mail, return receipt requested, to his last known mailing address. A copy of the decision shall be placed in the employee's central personnel file. (Code 1990, tit. IX, ch. 75, § 9.224)

Sec. 32-193 Appeal.

Every employee shall have the right to appeal any disciplinary action enforced against him which he believes to be unwarranted, unfair or unjust. An appeal shall be treated as a grievance and shall be handled in accordance with the grievance policy and procedure provided in chapter. (Code 1990, tit. IX, ch. 7, § 9.225)

ARTICLE XII. GRIEVANCES

Sec. 32-200. Policy.

It is the policy of the city insofar as possible to prevent the occurrence of grievances and to deal promptly with those which occur. When any employee grievance comes to the attention of a supervisor or the mayor shall discuss all relevant circumstances with the employee and his representative if he so desires and examine the causes of the grievance, and attempt to resolve it to the extent that the mayor or supervisor has authority to do so. If the grievance is not dealt with satisfactorily at this level, the grievance may be carried to the city council as provided in this section. (Code 1990, tit. IX, ch. 75, § 10.1)

Sec. 32-201. Compliance with procedure required.

Every employee shall have the right to grieve any action which he believes to be unwarranted, unfair, or unjust, providing, the alleged grievance shall be handled in accordance with the following procedures. (Code 1990, tit. IX, ch. 75, § 10.2)

Sec. 32-202. Discussion with supervisor and mayor; request for preliminary investigation.

The employee shall first discuss with his supervisor (or attempt to discuss) his grievance. Should this fail to resolve the grievance, the employee should confer with the mayor. If this fails to resolve the grievance, the employee may contact any city council member and request a preliminary investigation to determine the validity of the grievance. (Code 1990, tit. IX, ch. 75, § 10.21)

Sec. 32-203. Appointment of investigators.

The city council member contacted by an employee shall contact the mayor. The mayor shall appoint another city council member to investigate the alleged grievance along with the first contacted member. (Code 1990, tit. IX, ch. 75, § 10.22)

Sec. 32-204. Determination by investigators.

If in the opinion of the two investigating council members the grievance is of a critical nature needing immediate resolution they shall contact the mayor who shall call a special city council meeting to hear the grievance. If the grievance is not of a critical nature needing immediate resolution it shall be heard at the next regular city council meeting. The grievant shall be given notice in writing of the date, time and place of the council meeting. Notice for a special meeting shall be at least 24 hours. (Code 1990, tit. IX, ch. 75, § 10.23)

Sec. 32-205. Hearing at regular or special meeting.

The city council meeting as the grievance committee shall request the aggrieved party and all others concerned to appear before them for their investigations. Notice shall have been given to these persons. If the aggrieved party, having been given notice, fails to appear before the city council, the grievance is deemed to be resolved and the aggrieved party does not have standing to appear before the city council on the same incident again.

If the nature of the grievance is such that its discussion may tend to prejudice the reputation and character of any person a city council member may move and the city council after convening as a public meeting may vote to hold an executive session. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. No action may be taken at the executive session.

After the reconvening of the public meeting if an executive session is held, or at the meeting after all testimony has been heard and evidence examined, the city council shall make such resolution of the grievance as they feel proper. The city council's decision shall be final. (Code 1990, tit. IX, ch. 75, § 10.24)

Chapter 34

PUBLIC SAFETY

Art. I. In General (Reserved)

Art. II Public Safety Department

Sec. 34-10. Created; supervised by VPSO.

Sec. 34-11. Appointment of chief.

Sec. 34-12. Powers, duties and responsibilities of the department.

Art. III. Fire Department

Div. 1. Generally

Sec. 34-21. Authority to establish.

Sec. 34-22. Powers and duties of the fire department.

Sec. 34-23. Fire chief.

Sec. 34-24. Rules and regulations.

Sec. 34-25. Training.

Sec. 34-26. Records and reports.

Sec. 34-27. Conduct of members.

Sec. 34-28. Equipment.

Div. 2. Volunteer Force

Sec. 34-40. Appointment; volunteer association authorized.

Sec. 34-41. Fire equipment remains property of city.

Sec. 34-42. Discretionary funding of association by the city council.

Sec. 34-43. Exclusion of volunteer personnel from personnel rules and regulations.

Chapter 34

PUBLIC SAFETY

ARTICLE I. IN GENERAL

(Reserved)

ARTICLE II. PUBLIC SAFETY DEPARTMENT

Sec. 34-10. Created; supervised by VPSO.

There shall be a public safety department for the city. The village public safety officer (VPSO) shall be the chief of the public safe department. (Code 1990, tit. V, ch. 30, § 1)

Sec. 34-11. Appointment of chief.

The public safety chief is appointed by the city council, with approval of the Alaska State Troopers, and serves at the pleasure of the council. The chief is administratively responsible to the mayor. (Code 1990, tit. V, ch. 30, § 2)

Sec. 34-12. Powers, duties and responsibilities of the department.

The public safety department shall have broad powers in the areas of law enforcement and emergency medical response, including, but not limited to, the following:

1. *Law enforcement.* It is the duty of the department to enforce all city ordinances; to keep the peace; to serve all warrants, executions, and other processes properly directed and delivered to them; to apprehend and arrest persons violating Federal and State law as may be provided by law, and turn these violators over to the proper authorities; and in all respects to perform all duties pertaining to the office of policeman.
2. *Emergency medical response.* The authority and duties contained in this section are only to be assumed by individuals who have successfully completed a minimum of Trach Tech 1. It is the duty of department emergency medical technicians to undertake immediate response in traumatic accident situations; where qualified stabilize the condition of the victim in preparation for transportation; transport the victim to the nearest primary health care facility (i.e. local clinic); and resuscitate and administer (Code 1990, tit. V, ch. 30, § 3)

ARTICLE III. FIRE DEPARTMENT

DIVISION 1. GENERALLY

Sec. 34-21. Authority to establish.

There may be a fire department, the head of which shall be the fire chief appointed by the city council. The number of firemen shall be determined by, and each fireman appointed by, the city council except as they may delegate the power of appointment to the fire chief. (Code 1990, tit. V, ch. 31, § 1)

Sec. 34-22. Powers and duties of the fire department.

Duties of the fire department shall be among others, to extinguish fires; to rescue persons endangered by fire; to resuscitate, and to administer first aid to persons injured in or about burning structures, promote fire prevention; and unless otherwise provided, to enforce all ordinances relating to fires, fire prevention, and safety of persons from fire in stores and other public buildings. (Code 1990, tit. V, ch. 31, § 1)

Sec. 34-23. Fire chief.

The fire chief is the commanding officer of the fire department and of volunteer firemen. The fire chief shall perform the following duties:

1. Determine the organization of the fire department and provide for its staffing;
2. Establish and enforce rules and regulations for the conduct of members of the department;
3. Train and drill the members of the department, including periodic fire drills as deemed necessary;
4. Maintain possession and custody of all fire equipment, buildings, and all other property of the department;
5. Prepare and maintain records of all fires, inspections, fire-fighting equipment, personnel, and other information about the work and status of the department and make periodic written reports to the council;
6. Provide suitable arrangements and equipment for supporting fires or other emergencies and for notifying all members of the department to assure prompt response for such incidents;
7. Assign equipment of manpower in response to calls for outside aid where mutual aid agreements are in force and other cases only when the absence of such equipment will not jeopardize protection in the city;
8. Supervise fire prevention;
9. Recommend to the mayor and council needed fire-fighting equipment;
10. Prepare and submit, upon request a tentative budget for the department to the mayor or council;
11. Assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin and circumstances of all fires; and
12. Perform such other duties as may be required by the mayor and the council. (Code 1990, tit. V, ch. 31, § 3)

Sec. 34-24. Rules and regulations.

The fire chief shall maintain and enforce up-to-date, comprehensive sets of rules and regulations governing the discipline, training and operation of the fire department. Such rules, regulations and any deletions, changes or additions shall be effective when approved by and filed with the council.

The fire chief shall have the authority to carry out the enforcement of these rules and regulations and is authorized to suspend or remove from service any officer or fire fighter as provided in the rules and regulations. (Code 1990, tit. V, ch. 31, § 5)

Sec. 34-25. Training.

The fire chief or his representative who has completed fire training at a state fire training center shall provide, at least four times per year, instruction in such subjects as first aid, water supplies, and other subjects related to fire prevention. (Code 1990, tit. V, ch. 31, § 6A)

Sec. 34-26. Records and reports.

The fire chief shall see that complete records are kept of all apparatus, equipment, personnel, training, inspections, fires and other department activities.

Current records and comparative data for previous years and recommendations for improving the effectiveness of the department shall be included in an annual report to the council. Such reports as may be required concerning the department in general, giving suggestions and recommendations for major improvements, and listing other data so as to maintain a complete record of the activities of the department shall also be prepared and submitted by the fire chief. (Code 1990, tit. V, ch. 31, §§ 6B, 6C)

Sec. 34-27. Conduct of members.

It shall be the duty of every member of the fire department to conduct himself in a professional manner and to refrain from conduct which brings discredit to any member or to the department. (Code 1990, tit. V, ch. 31, § 7)

Sec. 34-28. Equipment.

The fire chief shall be responsible to the council for recommending such apparatus or other firefighting equipment as may be required to maintain fire department efficiency, and for providing suitable arrangements and equipment for reporting fires or emergencies, and for notifying all members of the department to assure prompt response to such incidents.

No unauthorized person shall use any fire apparatus or equipment for any purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the department.

No person shall enter any place where fire apparatus is housed or handle apparatus or equipment belonging to the department unless accompanied by, or having special permission of an officer or authorized member of the department. (Code 1990, tit. V, ch. 31, § 8)

DIVISION 2. VOLUNTEER FORCE

Sec. 34-40. Appointment; volunteer association authorized.

Volunteer firemen shall be appointed by the fire chief and shall be organized and disciplined as a fire department by the fire chief. Members of the volunteer fire department may organize into a voluntary association with the election of their own officers and by-laws. The voluntary association shall in no manner limit the power of the fire chief. (Code 1990, tit. V, ch. 31, § 4)

Sec. 34-41. Fire equipment remains property of city.

All property used by the volunteer fire department is and remains the property of the city and all expenses of the fire department upon proper voucher shall be paid by check by the regular municipal authorities. (Code 1990, tit. V, ch. 31, § 4)

Sec. 34-42. Discretionary funding of association by the city council.

From time to time in such amounts as the council deems advisable, payments may be made to the volunteer department for the purpose of giving that association funds with which to reimburse members for clothing damaged while attending fires and for such other purposes that are in keeping with its functions. (Code 1990, tit. V, ch. 31, § 4)

Sec. 34-43. Exclusion of volunteer personnel from personnel rules and regulations.

For purposes of this article, the term "employees" does not include members of the volunteer fire department, unless otherwise noted. Members of the volunteer fire department are not subject to the rules and regulations of any personnel system which is adopted by the council, unless the personnel rules and regulations affirmatively provide that the members of the volunteer fire department are included. (Code 1990, tit. V, ch. 31, § 9)

Chapter 36

SOLID WASTE

Art. 1. In General (Reserved)

Art II. Collection and Disposal

Sec. 36-10. Establishment.

Sec. 36-11. Mandatory use; standards.

Sec. 36-12. Utility rates.

Chapter 36

SOLID WASTE

ARTICLE I. IN GENERAL

(Reserved)

ARTICLE II. COLLECTION AND DISPOSAL

Sec. 36-10. Establishment.

The city council hereby establishes a solid waste disposal utility for the use of all residential and commercial establishments in the city. (Code 1990, tit. VI, ch. 37, § 1)

Sec. 36-11. Mandatory use; standards.

Subscription to the solid waste pickup by the city is mandatory for all residential and commercial establishments. Pickup will be one day per week. All garbage and refuse will be bagged and securely tied. No toxic wastes, flammable materials or other hazardous materials will be accepted for pickup. Toxic wastes, flammable materials or other hazardous materials will be shipped to Anchorage, for proper disposal. (Code 1990, tit. VI, ch. 37, § 1)

Utility rates will be examined and set by resolution each year. (Code 1990, tit. VI, ch. 37, § 1)

Chapter 38

STREETS AND SIDEWALKS

(Reserved)

Chapter 40

TRAFFIC AND MOTOR VEHICLES

Art. I.

In General

- Sec. 40-1. Definitions.
- Sec. 40-2. Penalties.
- Sec. 40-3. Applicability.

Art. II.

Rules and Regulations

- Sec. 40-10. Excessive Speed.
- Sec. 40-11. Unsafe operation.
- Sec. 40-12. Influence of intoxicating liquor or beverage.
- Sec. 40-13. Snowmachine equipment required.
- Sec. 40-14. Other land based vehicle equipment required.
- Sec. 40-15. Reporting of accidents.

Chapter 40

TRAFFIC AND MOTOR VEHICLES

ARTICLE I. IN GENERAL

Sec. 40-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Street means a way used by the public for traffic of vehicles.

Vehicle includes every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved exclusively by human power unaided by internal combustion engines or other such mechanical devices for the generation of energy. Devices designed primarily for travel over snow or ice by means of skis, belts, cleats, or low pressure tires are deemed "vehicles". Boat, canoes, barges and any other water based craft are vehicles when referred to in this chapter. (Code 1990, tit. 7, ch. 61, § 1)

Sec. 40-2. Penalties.

Any person violating the provisions of this chapter shall be subject to penalties as provided in section 1-16. (Code 1990, tit. 7, ch. 61, § 9)

Sec. 40-3. Applicability.

This chapter is effective within the city limits including all roads and trails over which the city exercises control, whether within or outside of the city limits. (Code 1990, tit. 7, ch. 61, § 2)

ARTICLE II. RULES AND REGULATIONS

Sec. 40-10. Excessive Speed.

For purposes of this section, a snowmachine (sno-go, etc.) is considered a motor vehicle.

The speed limit within the residential area of the city shall be ~~20~~ 15 miles per hour. It shall be unlawful for any motor vehicle, including motor scooters, motorcycles, motor driven bicycles, snowmobiles, three wheelers, four-wheelers, snowplanes, wheel and tracked vehicles, and including boats and other water based craft, to exceed the posted speed limit.

Regardless of any posted limit, it is also unlawful to drive a land based vehicle at a speed greater than is reasonable under the existing road or weather conditions. (Code 1990, tit. 7, ch. 61, § 3)

Sec. 40-11. Unsafe operation.

No person shall drive, operate, stop or move any vehicle, be it water or land based, in a careless, reckless, or negligent manner so as to endanger, or be likely to endanger, the safety of any person or the property of any person. (Code 1990, tit. 7, ch. 61, § 4)

Sec. 40-12. Influence of intoxicating liquor or beverage.

No driver of any vehicle be it water or land-based, shall be under the influence of intoxicating liquor or beverage, drugs or narcotics, including prescription or non-prescription drugs that may impair their ability to drive. (Code 1990, tit. 7, ch. 61, § 5)

Sec. 40-13. Snowmachine equipment required.

No person shall drive or operate a snowmachine unless the snowmachine is equipped with the following.

1. At least one headlamp, with or without non-multiple beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during hours of darkness under normal atmospheric conditions, and where such headlamps shall be so aimed that glaring rays are not projected into the eyes of an oncoming driver;
2. A throttle in operating condition which, when released by hand, will return the engine speed to idle;
3. Standard mufflers for production models in operating condition which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for the operating of the vehicle, and no person shall use a muffler cut-out, by-pass, or similar device on said vehicles; and
4. Brakes adequate to control the movement of and to stop and to hold the vehicle under normal conditions of operation. (Code 1990, tit. 7, ch. 61, § 6)

Sec. 40-14. Other land based vehicle equipment required.

It shall be unlawful to operate any vehicle without operating lights, both front and back.

Vehicles must be muffled. It shall be unlawful to operate any vehicle without a muffler.

It shall be unlawful to operate any vehicle without a throttle in operating condition which when released by hand or foot will return the engine speed to idle.

It shall be unlawful to operate any vehicle without brakes adequate to control the movement of and to stop and to hold the vehicle under normal conditions of operation. (Code 1990, tit. 7, ch. 61, § 7)

Sec. 40-15. Reporting of accidents.

The operator of a vehicle involved in an accident resulting in injury to or death of a person, or property damage other than to his own vehicle the estimated amount of which is \$100.00 or more, shall immediately, by the quickest means of communication, give notice of the accident to the nearest state trooper or the village public safety officer. (Code 1990, tit. 7, ch. 61, § 8)

Chapter 42

WATER AND SEWER

Art. I. In General

- Sec. 42-1. Prohibited acts.
- Sec. 42-2. Tampering with sewer and water system.

Art. II. Administration and Enforcement

- Sec. 42-10. Authority of city council.
- Sec. 42-11. Right of entry for inspection.
- Sec. 42-12. Utility operator.
- Sec. 42-13. Utility rates; disconnect; reconnect; penalties.
- Sec. 42-14. Disconnection for nonpayment.
- Sec. 42-15. Management and disposition of system revenue.

Art. III. Connections and Use Regulations

- Sec. 42-25. Application for connection to city system.
- Sec. 42-26. Approval or denial of application; appeal.
- Sec. 42-27. Installation of service lines.
- Sec. 42-28. Standards for installation of service lines and fixtures.
- Sec. 42-29. Grounds for discontinuance of service.
- Sec. 42-30. Maintenance of plumbing system.
- Sec. 42-31. Standards for plumbing.

Art. IV. Private Waste Disposal Systems

- Sec. 42-40. Permits required; application contents.
- Sec. 42-41. Approval or denial of permit; appeal of denial.
- Sec. 42-42. Setback requirement.

Chapter 42

WATER AND SEWER

ARTICLE I. IN GENERAL

Sec. 42-1. Prohibited acts.

It shall be unlawful for any person to operate or maintain an individual sewage disposal system, unless such is constructed and maintained in such fashion that it does not contaminate any source of drinking, public, or domestic water supply. Such systems shall comply with the applicable standards of the state department of environmental conservation and any other applicable state, federal or city laws, regulations or ordinances.

It shall be unlawful for any person to construct, alter, or extend an individual sewage disposal system except by permission of the city.

It shall be unlawful for any person to construct, alter, or extend an individual water system except by permission of the city.

It shall be unlawful for any person to dump human waste or honey buckets on the surface of the ground or into streams, ponds or lakes. Those residences or camps not connected to sewer or septic systems shall have approved pit privies systems. (Code 1990, tit. VI, ch. 36, § 1)

Sec. 42-2. Tampering with sewer and water system.

It is unlawful for any person or persons to remove, carry away, or tamper with or attempt to destroy any portions of the city sewer and water system without the consent of the persons in control thereof. Any person in violation of the provisions of this chapter shall, upon conviction be subject to penalties provided in Chapter 28 Sec. 3. in Chapter 3, Sec. 3-3 of this Code. Person, persons, companies, firms, corporations or other entities upon conviction of a violations of the provisions of this Chapter shall be fined not to exceed the sum of \$300.00. Such fine shall be set at the discretion of the fining authority. (Code 1990, tit. 7, ch. 56, § 1)

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 42-10. Authority of city council.

This chapter shall be administered and enforced by the city council. The city council shall adopt such additional regulations, provisions, and procedures pertaining to water, sewer and waste collection and disposal services as it deems proper. (Code 1990, tit. VI, ch. 36, §§ 8A, 8D)

Sec. 42-11. Right of entry for inspection.

The city through its designated representative or representatives is hereby authorized to make inspections at reasonable times during daylight hours to determine satisfactory compliance with this chapter and regulations promulgated hereunder. Consumers by application for connection to the city water and sewer system or for permits to construct individual water and sewer systems are deemed to have knowledge of and to have authorized such reasonable inspection. (Code 1990, tit. VI, ch. 36, § 7)

Sec. 42-12. Utility operator.

The city shall designate a utility operator to provide maintaining of the city water and sewer system and other services as provided in this section.

The operator shall receive \$10 per hour to maintain the city water and sewer system. This hourly sum may be amended whenever the city council amends the utility rates as provided in this chapter. The water operator is licensed by the Department of Environmental Conservation, Water Certification Program. The water operator will follow the training schedule to achieve a certification equal to the level of the system.

If the operator has an alternate person working whenever he takes time off or weekends off, and these are not related to any training, the city shall pay the alternate \$10 per hour.

If the operator is funded by any federal or state program, he shall be considered to have received his salary as provided in this section and no further sum shall be due from the city, provided such funding meets or exceeds the \$10 per hour that the city would have paid to the operator. (Code 1990, tit. VI, ch. 36, § 10)

Sec. 42-13. Utility rates; disconnect; reconnect; penalties.

Utility rates and other charges for services shall be established by the city council and shall be enforced by the city council. The rates are set by resolution and examined each year. (Code 1990, tit. VI, ch. 36, § 9)

Sec. 42-14. Disconnection for nonpayment.

The water and sewer systems shall be disconnected if the consumer has not paid for such services for at least one year. The consumer shall pay the utility operator a reconnect fee for services rendered. All reconnect charges shall be paid by the consumer. (Code 1990, tit. VI, ch. 36, § 9)

Sec. 42-15. Management and disposition of system revenue.

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

All monies collected for water, sewer and solid waste will be deposited in the city bank account by the city clerk and disbursed by action of the city clerk in accordance with this article and related regulations. A separate accounting shall be kept of these monies. (Code 1990, tit. VI, ch. 36, §§ 8B, SC)

ARTICLE III. CONNECTIONS AND USE REGULATIONS

Sec. 42-25. Application for connection to city system.

All connections to the city water and sewage systems shall be made at the expense of the user. Costs of the connection and all appropriate regulations governing connection, including the use of self-help, shall be declared by resolution of the council.

All individual water service and sewer connections and repairs, modifications, or disconnections shall be made only under the terms and conditions as set forth by state regulations as adopted by the city and such further regulations as the city may make.

Each application for connection shall be in writing and shall include the legal name and address of applicant, a description of the property and building for which the water service or sewage service is requested, and such additional information as the city may require to demonstrate that the proposed connection complies with this chapter. (Code 1990, tit. VI, ch. 36, § 2A)

Sec. 42-26. Approval or denial of application; appeal.

If the city is satisfied that the application and the proposed connection complies with this chapter and applicable regulations relating to the water and sewer systems, it shall approve the application for, and provide for, the connection.

Any person whose application for connection has been denied or conditionally approved may appeal to the city council at its next regularly scheduled meeting. (Code 1990, tit. VI, ch. 36, § 2A)

Sec. 42-27. Installation of service lines.

All consumer lines to the point of connection to the city water and sewer lines shall be installed by the user, at his own expense, and remain his responsibility for maintenance and repair. (Code 1990, tit. VI, ch. 36, § 2B)

Sec. 42-28. Standards for installation of service lines and fixtures.

The city may make regulations establishing standards for the installation of domestic fixtures to be served by the city water and sewage systems, water and sewer lines, and all related appurtenances as needed to ensure the safe utilization of the city water and sewer systems. All such uses must conform to state regulations and to any such regulations as may be adopted by the city. (Code 1990, tit. VI, ch. 36, § 3)

Sec. 42-29. Grounds for discontinuance of service.

Water and sewer services to a consumer may be discontinued by the city when defective fixtures or misuse of sewage facilities may affect the safe and proper operation of the city water or sewer system; when there is a willful waste of water; when there is a refusal to permit an inspection by the city; and/or when the service charges for the systems are not being paid. (Code 1990, tit. VI, ch. 36, § SB)

Sec. 42-30. Maintenance of plumbing system.

Each consumer of community water or sewage service shall maintain his individual water and waste facilities in good repair at his own expense. The consumer's responsibility for water and sewer facilities shall begin at the point of connection to the city's water and sewer facilities and shall include all facilities from that point through the building. In the case of individual water and sewer systems, the consumer shall have complete responsibility for his own system. (Code 1990, tit. VI, ch. 36, § SA)

Sec. 42-31. Standards for plumbing.

All plumbing work shall comply with applicable state regulations and standards and any other regulations as adopted by the city. (Code 1990, tit. VI, ch. 36, § 6)

ARTICLE IV. PRIVATE WASTE DISPOSAL SYSTEMS

Sec. 42-40. Permits required; application contents.

An application for a permit for the construction, alteration, or extension of an individual water system or sewage disposal system to include pit privies shall be made in writing to the city and shall include the legal name and address of applicant, a description of the property on which the construction, alteration, or extension is proposed, a sketch of the proposed disposal facility, and such additional information as the city may deem necessary to demonstrate that the proposed disposal facility shall comply with this chapter and state. (Code 1990, tit. VI, ch. 36, § 4)

Sec. 42-41. Approval or denial of permit; appeal of denial.

If the city is satisfied that the proposed facility will comply with this chapter and with state regulations, it shall approve the application and issue a permit for the work. Any person whose application for a permit has been denied may appeal at the next regular meeting of the city council. (Code 1990, tit. VI, ch. 36, § 4B)

Sec. 42-42. Setback requirement.

No permit shall be approved for any pit privies that is not a minimum of 100 feet from any well, spring, or stream. (Code 1990, tit. VI, ch. 36, § 4A)