

**CITY OF TOKSOOK BAY
MUNICIPAL CODE**

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Title I. General Provisions

Chapter 1. General Provisions

Section 01.01.010. Purpose, Code Cite and Designation

We, the elected officials of the City of Toksook Bay, Alaska, mindful of the responsibilities for the welfare of our community which we hold as the council of a second class city, incorporated under the laws and the constitution of the State of Alaska, and in order to provide local government of service to our people, in order to meet their needs, do establish this Code of Ordinances to provide organization and procedure for the City of Toksook Bay.

Section 01.01.020. Definitions

The following definitions apply to this code and all city ordinances unless the plain meaning requires otherwise.

- A. CITY: the City of Toksook Bay, Alaska, or the area within the municipal boundary of the City of Toksook Bay, Alaska;
- B. CLERK: the City Clerk;
- C. CODE: the City of Toksook Bay Code of Ordinances; the Toksook Bay City Code;
- D. COUNCIL: the City Council of Toksook Bay, Alaska;
- E. PERSONS: a corporation, company, partnership, firm, association, organization, business, trust, or society, as well as a natural person;
- F. PUBLISH: to post a notice within the city in at least three locations open to the public, one of which shall be the city offices, for a period of not less than five days;
- G. STATE: the State of Alaska;
- H. VOTER: a United States citizen, who is qualified to vote in state elections, has been a resident of the City of Toksook Bay for 30 days immediately preceding the election, is registered to vote in state elections, and is not disqualified under Article V of the constitution of the State of Alaska.

Section 01.01.030. Grammatical Interpretation

The following grammatical rules shall apply in the City of Toksook Bay Code of Ordinances:

- A. GENDER: any gender includes the other gender.

- B. SINGULAR AND PLURAL: the singular number includes the plural and the plural includes the singular.
- C. TENSES: words used in present tense include the past and future tenses and visa versa, unless manifestly inapplicable.
- D. All words and phrases shall be construed and understood according to the context and the commonly approved usage of the language, but technical words and phrases and such others may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- E. MAY: is permissive.
- F. MUST and SHALL: each is mandatory.

Section 01.01.040. Effect of Code/Repeal of Ordinances

- A. This Code shall be considered a revision or amendment of all prior ordinances and their provisions.
- B. Ordinances repealed remain in force for the trial and punishment of all past violations, 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 effected by them.

Section 01.01.050. Severability of Ordinances and Parts of Code

Any ordinance enacted 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”.

Section 01.01.060. General Penalty

- A. Every act prohibited by ordinance of this city is unlawful. Unless another 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 \$500.00 dollars, and the surcharge required to be imposed under AS 12.55.039. Such fine shall be set at the discretion of the fining authority. A “violation” is a non-criminal offence 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:
 - 1. Trial by jury; or
 - 2. Public defender, or other counsel appointed at public expense, to represent the person.

- B. 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.
- C. The surcharge required under AS 12.55.039 is authorized and shall be imposed as a surcharge on penalties imposed for the violation of an ordinance, code provision, or regulation of the City of Toksook Bay, if the defendant pleads guilty or nolo contendere to, forfeits bail for, or is convicted of a violation of a municipal ordinance imposing a penalty authorized under AS 29.25.070. Such surcharge shall be deposited in the City of Toksook Bay's general fund as provided under AS 12.55.039.

Section 01.01.070. Laws of Alaska; Violations

No person shall violate any law of the State of Alaska, or any rule or regulation adopted by any duly authorized agency of the state. Violation of the foregoing shall be violations of the Code of Ordinances of the City of Toksook Bay, except where the state has exclusive jurisdiction over the offence.

Section 01.01.080. Enforcement

The city council, or duly appointed regulatory body, or the Public Safety Officer, or any duly authorized Peace Officer shall enforce all City Ordinances and laws of the State of Alaska, unless the state has exclusive jurisdiction.

Section 01.01.090. Amendments to Code; Effect of New Ordinances

- A. All ordinances passed after the adoption of this code which amend, repeal, or in any other 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.
- B. Amendments to this Code shall be made by specific reference to the section number of this Code in substantially the following language; "Title ___, Chapter ___, Section ___ of the Code of Ordinances of the City of Toksook Bay, Alaska, is hereby amended to read as follows."
- C. If a new title, 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 Toksook Bay, Alaska, is hereby amended by addition of the following titles(s) [or chapter(s) or section(s)]".
- D. All sections, articles, chapters, titles, or provisions being repealed must be specifically repealed by section, article, chapter, or title number, as the case may be.

Section 01.01.100. 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, provided 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.

Section 01.01.110. Supplements or Revisions to the Toksook Bay City Code

The Toksook Bay City Code shall be supplemented at regular intervals, or if the council deems supplementing the code unnecessary, the Code shall be revised and printed every five years.

Section 01.01.120. Ordinances Included in the Toksook Bay City Code

The council shall cause each ordinance and resolution having the force and effect of law to be printed as promptly as possible following its adoption in the following means:

- A. Ordinances enacted by the city council and permanent in nature shall be properly prepared and authenticated by the city clerk and kept in a consistent accessible location.
- B. Emergency, bond, temporary, and appropriation ordinances and resolutions shall be retained in the form enacted.
- C. All titles to ordinances, enacting and repealing clauses, declarations of emergency, and purpose, validity, and construction clauses shall be omitted from the Code unless, from their nature, it may be necessary to retain them to preserve the full meaning and intent of the ordinance.

Section 01.01.130. Time Ordinances Take Effect

An ordinance that has been approved by the council shall be effective upon adoption, unless otherwise stated in the ordinance.

Section 01.01.140. Corrections

- A. If errors are found in this Code that can be corrected without changing the meaning of any section of this Code, the council may authorize the corrections without amendment or following ordinance procedure.
- B. The following corrections are so authorized:
 - 1. Manifest errors that are clerical or typographical in nature, or errors in spelling by way of addition or omission;
 - 2. Changes in capitalization for the purpose of uniformity;
 - 3. Correction of manifest errors in reference to laws;
 - 4. Correction of mistakes in grammar;

5. Correction of citations or references to laws, statutes, and ordinances whose designations have changed because of renumbering or revision of the Alaska Statutes, federal law, or this Code.

Chapter 2. City Information

Section 01.02.010. Name of City and Form of Government

- A. The City of Toksook Bay is a municipal corporation and political subdivision of the State of Alaska, incorporated under the name: “City of Toksook Bay, Alaska”.
- B. The government of the city shall be known and designated as the council-mayor form of government.

Section 01.02.020. City Limits and History

- A. The boundaries of the city are: beginning at the NE corner of Section 35, Unsurveyed T6N, R90W, Seward Meridian, Alaska; thence in a westerly direction to the NW corner of the SW $\frac{1}{4}$ of Section 4, Unsurveyed T5N, R91W, thence in a southerly direction to the NE corner of the SW $\frac{1}{4}$ of Section 22, Unsurveyed T4N, R92W; thence in an easterly direction to the SE corner of the NW $\frac{1}{4}$ of Section 1, Unsurveyed T4N, R91W; thence northerly to the point of beginning, containing 69.5 square miles, more or less.
- B. The Certificate of Incorporation is recorded in the Third Recording District in Bethel, Alaska. This certificate was recorded on the 25th day of April, 1972.

Section 01.02.030. City Seal

The description of the seal of the city shall be a circle upon which shall be printed the words, “The City of Toksook Bay, Alaska”, and across the face, the inscription “Incorporation in 1972”. The above described seal is hereby adopted and declared the corporate seal of the city.

Section 01.02.040. Use of Seal

The city seal shall be used to authenticate all acts of the City of Toksook Bay. The seal shall be kept by the city clerk and shall, by the city clerk, be affixed to all acts that are required to be authenticated.

Chapter 3. Ordinances, Resolutions, Regulations

Section 01.03.010. Acts of the Council

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.

Section 01.03.020. Acts Required by Ordinance

In addition to other actions the Alaska Statutes require to be by ordinance, the council shall use ordinances to:

- A. Establish, alter, or abolish city documents;
- B. Amend or repeal an existing ordinance;
- C. Fix the compensation of members of the council;
- D. Provide for the sale of city property;
- E. Provide for a fine or any other penalty, or establish rules or regulations for violation of which a fine or other penalty is imposed;
- F. Provide for the levy of taxes;
- G. Make appropriations, including supplemental appropriations or transfer of appropriations;
- H. Grant, renew, or extend a franchise;
- I. Adopt, modify, or repeal the comprehensive plan, land use and subdivision regulations, building and housing codes, and the official map;
- J. Approve the transfer of power to a first or second class borough;
- K. Designate a borough seat;
- L. Provide for the retention or sale of tax-foreclosed property;
- M. Provide for the acquisition and disposal of land or an interest in land.

Section 01.03.030. Ordinance Procedure

- A. A proposed ordinance is introduced in writing by a member or a committee of the governing body or the mayor at any lawful council meeting.
- B. After the ordinance is introduced and read, 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 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.
- C. 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 and shall follow all the steps required for adoption of an ordinance.

Section 01.03.040. Ordinance Form and Content

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

- A. The heading; “City of Toksook Bay”;
- B. The ordinance number;
- C. The title, which summarizes the ordinances provisions;
- D. The enacting clause, which shall read: “BE IT ENACTED BY THE COUNCIL OF THE CITY OF TOKSOOK BAY, ALASKA:”;
- E. The provisions of the ordinance;
- F. The dates of introduction, first reading, and public hearing;
- G. The date of adoption;
- H. Spaces for the signatures of the mayor and the clerk attesting the mayor’s signature.

Section 01.03.050. Amendments to the Code; Effect of New Ordinances

- A. All legally adopted ordinances that amend, repeal, or in any way affect this Code, shall be numbered according to the numbering system of this Code, and printed and included in this Code. In the case of a chapter, section, or subsection, or any part thereof that is legally repealed, the repealed portion shall be removed from the Code by deleting it from the affected pages and reprinting the affected pages.
- B. Amendments to any of the provisions of 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 Toksook Bay, Alaska is hereby amended to read as follows:”. The new chapter shall then be set out in full as desired.
- C. If a new chapter is to be added to the Code, the following language shall be used: “The Code of Ordinances of the City of Toksook Bay, Alaska is hereby amended by addition of a chapter or section, to be numbered Chapter __, Section __, which chapter or section reads as follows:”. The new chapter or section language shall be written in full.
- D. All sections, articles, chapters, or provisions that are being repealed must be specifically repealed by section, chapter, title, or article number, as the case may be.

Section 01.03.060. Revisions to the Toksook Bay City Code

All ordinances passed that amend, repeal, or in any way affect this Code, shall be codified and available for public viewing. The Code shall be revised and printed every five years or as needed at the discretion of the council.

Section 01.03.070. Emergency Ordinances

- A. 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 facts upon which the finding is based. The

ordinance may be adopted, amended, or rejected at the meeting at which it is introduced. The affirmative vote of all members present or the affirmative vote of the three-fourths of the total membership, whichever is less, is required for adoption. The council must type or print copies of adopted emergency ordinances and make them available to the public.

- B. An emergency ordinance may not be used to levy taxes, to grant, renew, or extend a franchise, or to regulate the rate charged by a public utility for its services.
- C. An emergency ordinance is effective for not more than sixty days.

Section 01.03.080. Ordinances Confined to Single Subject

Every ordinance shall be confined to one subject, unless it is an appropriation ordinance or one codifying, revising, or rearranging existing ordinances. Ordinances for appropriations shall be confined to appropriations. The subject of each ordinance shall be stated in the title.

Section 01.03.090. Requirements for Passage

Four affirmative votes are required for the passage of an ordinance. The final vote on an ordinance shall be a recorded roll call vote.

Section 01.03.100. Signature

Each ordinance shall be signed by the mayor and attested by the clerk.

Section 01.03.110. 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.

Section 01.03.120. Repeal Shall Not Revive Any Ordinance

The repeal of any ordinance shall not repeal the enacting clause of the ordinance or revive any ordinance that has been repealed.

Section 01.03.130. Formal Acts by Resolution

- A. Formal acts by the council that are not required by law to be enacted by ordinance and are not of a general and permanent nature may be adopted by resolution. A resolution shall contain:
 1. The heading: “City of Toksook Bay”;
 2. The space for a number to be assigned: “Resolution No. ___ - ___”;
 3. A short and concise title describing the resolution’s subject and purpose;
 4. Short premises or “WHEREAS” clauses describing the reasons for the resolution, if necessary;
 5. The resolving clause: “Therefore Be It Resolved”;

6. The date of adoption;
7. Spaces for the signature of the mayor and clerk attesting the mayor's signature.

B. All resolutions adopted by the council whether at the request of a third party or on the motion of the council shall conform to the requirements set forth in this section.

Section 01.03.140. Procedures for Resolutions

- A. Every resolution shall be introduced in writing and shall be orally read before any vote for passage is taken.
- B. 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.

Section 01.03.150. Requirements for Passage of Resolutions

Four affirmative votes are required for the passage of a resolution.

Chapter 4. Public Records

Section 01.04.010. Record Defined

As used in this chapter, "record" means any document, record, paper, letter, file, book, account, photograph, microfilm, microfiche, map, drawing, chart, card, magnetic media or computer printout, or other document of any material, regardless of physical form or characteristic, created or acquired in connection with the transaction of official business and preserved or appropriate for preservation by the municipality, as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the municipality 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.

Section 01.04.020. Ownership and Custody of Records

- A. All records shall be and remain municipal property. Records shall be preserved, stored, transferred, destroyed, and otherwise managed, only in accordance with the provisions of this chapter or as otherwise provided by law.
- B. Municipal records, or copies of such records that have been certified by the municipal clerk shall be prima facie evidence of their contents.

Section 01.04.030. Duties of the Municipal Clerk

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

- A. Compile and maintain an inventory of the public records, including those in the custody of other municipal officials and employees, those which have been placed in storage or destroyed, and those which are confidential;
- B. Establish and maintain a system for filing and retrieving records, including procedures for keeping track of retrieving, and re-filing records that are temporarily removed.
- C. Develop a general schedule for the relocation of inactive records to a centralized location for storage, recording, or duplication; and for the destruction of records pursuant to Section 6, while protecting the confidentiality of those records that are not open to public inspection pursuant to Section 5 of this chapter;
- D. Establish and maintain a system to allow inspection and copying of public records by members of the public, while maintaining the confidentiality of those records that are not open to inspection pursuant to Section 5 of this chapter.

Section 01.04.040. Public Records; Inspection and Copying

- A. Except as provided in Section 5, municipal records are public records.
- B. Public records are open to inspection by the public during regular office hours, subject to reasonable rules relating to time, place, and manner of inspection. The clerk shall give, on request and payment of costs (not to exceed the actual cost copying or providing the document), a copy or certified copy of portions of the public record.

Section 01.04.050. Confidential Records

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

Section 01.04.060. Retention and Disposal

- A. All municipal records shall be retained until the governing body authorize, in writing, their disposal. The retention and/or disposal schedule shall be in accordance with the Alaska Local Government Retention Schedule as revised and any applicable state, federal, or local law.
- B. The clerk shall periodically review the municipal records, including inactive documents in storage, to determine whether he/she considers any to be without legal, administrative, or historical value. When the clerk identifies such records, he/she may propose to the governing body that such records be destroyed. The clerk's proposal to the governing body 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 governing body finds that certain records identified by the clerk are without legal, administrative, or historical value, the governing body may authorize disposal and specify the means by which they may be disposed of. After such authorization, the clerk may dispose of the specified records in the manner approved by the governing body. Disposal shall be done in such a manner that any personal information, that is determined confidential and protected, shall remain protected.
- C. The clerk shall prepare a dated list and description of the records disposed of and the method of disposal. The clerk shall provide copies of these documents to the governing body.

Title II. Administration

Chapter 1. City Council

Section 02.01.010. City Council Composition

The council shall consist of seven (7) council members, each of whom shall be elected at large. The council may, by ordinance, provide for election of members other than on an at large basis for all members.

Section 02.01.020. Eligibility and Qualifications of Council Members

- A. A qualified city voter is eligible to hold the office of council member. Candidates for the council shall have resided in the city for at least thirty (30) days preceding the date of election.
- B. A council member who ceases to be a voter in the city immediately forfeits office.

Section 02.01.030. Election and Terms

- A. An election for council members shall be held annually on the first Tuesday of October, unless a different election date is provided by ordinance, to choose council members for seats.
- B. The terms of city council members shall run for a term of three (3) years and shall continue for the elected term until the council member's successors have been elected and have qualified.

Section 02.01.040. Oath of Office

All officers, whether elected or appointed, before entering upon the duties of office shall affirm, in writing, the following oath or affirmation:

“I, _____, do solemnly swear or affirm that I will support and defend the Constitutions and laws of the United States of America, and the State of Alaska, and the laws and ordinances of the City of Toksook Bay, Alaska, and that I will honestly, faithfully, and impartially discharge my duties as _____ of the City Council of the City of Toksook Bay, to the best of my ability so help me God.”

The oath shall be filed with the city clerk.

Section 02.01.050. Compensation of Council Members

The council shall fix, by ordinance, the compensation of elected officials. Council members may be employed by the City of Toksook Bay and receive salaries for such employment but only under the provisions set out in subsection C of this Section.

- A. 1. The elected officials shall receive, as their stipend, an amount of \$250.00 per regular meeting and \$150.00 each per special meeting and work sessions. To receive said stipend, each official must fulfill one of the requirements stated in subsection B of this section. Per Diem payments and reimbursements are not compensation under this section.
2. The elected officials shall receive, as their stipend, \$150 for town hall and joint meetings initiated by the city during which decisions by motion, resolution or ordinance are not made. Payment in this subsection requires a quorum of city council members.
- B. The requirements for elected officials to receive their monthly stipend are as follows:
 1. Attend the required monthly meeting.
 2. Participate in the decision-making process of the City affairs.
- C. Temporary employment of city council members:
 1. Elected city officials may be hired by the City for temporary employment. Elected officials will be considered on basis of merit with other job applicants. The salary for employment shall be set at the discretion of the council.
 2. Temporary employment means employment which is for a period of 180 days or less; which does not accrue annual or sick leave or any other benefit city service may provide; and which is not a part of the classified service or a confidential or managerial position.

Section 02.01.060. Conflict of Interest

If a council member has a substantial financial interest in an official action, the council member shall declare that interest, and ask to be excused from a vote on the matter. The procedures set out in Section 107 of the City of Toksook Bay Employee Handbook shall be followed for conflicts of interest, prohibitions, and disclosure in general.

Section 02.01.070. Vacancies

An elected municipal office is vacated under the following conditions and upon the declaration of vacancy by the council. The council shall declare an elective office vacant when the person elected:

- A. Fails to qualify or take office within thirty days after his/her election or appointment;
- B. Is physically absent from the city for ninety consecutive days unless excused by the council;
- C. Resigns and his/her resignation is accepted;

- D. Is physically or mentally unable to perform the duties of his office as determined by two-thirds vote of the council;
- E. Is removed from office;
- F. Misses three consecutive regular meetings unless excused;
- G. Is convicted of a felony or an offense involving a violation of the oath of office;
- H. Is convicted of a felony or misdemeanor described in AS 15.56 and two-thirds of the members of the council concur in expelling the person elected;
- I. Is convicted of a violation of AS 15.13; or
- J. No longer physically resides in the city and the council, by two-thirds vote, declares the seat vacant.

Section 02.01.080. Recall

- A. 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.
- B. Grounds for recall are misconduct in office, incompetence, of failure to perform prescribed duties.
- C. Procedures to be followed for a recall petition and election are those set out in AS 29.26.260-340.
- D. If a council member is recalled, that office is filled in accordance with Section 9 of this chapter. 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 the remaining vacancies in accordance with Section 9 of this chapter. A person appointed to the council serves until a successor is elected and takes office.
- E. If an official other than a member of the city council is recalled, a successor shall be elected to fill the unexpired portion of the term. The election shall be held not sooner than 45 days after the date of the recall election is certified, except that if a regular election occurs within 75 days after certification, the successor shall be chosen at that election. Nominations may not be filled before the certification of the recall election.

Section 02.01.090. Filling a Vacancy

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 the term, a vacancy may not be filled unless the membership of the council is reduced to fewer than the number required to constitute a quorum, then the remaining members shall, within 7 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.

Chapter 2. Mayor

Section 02.02.010. Election and Term of the 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 Wednesday after certification of the regular election and elect a mayor who takes office immediately. The mayor shall serve equal in length to the elected council member's term and may only serve as mayor while a member of the council.

Section 02.02.020. Duties of the Mayor

- A. The executive power is vested in the mayor.
- B. The mayor acts as ceremonial head of government, executes official documents on authorization of the governing body, and is responsible for additional duties and powers prescribed by Alaska Statute and Toksook Bay Municipal Code.
- C. The mayor is the chief administrator and the mayor has the same powers and duties as those of a manager under AS 29.20.500.
- D. The mayor may take part in the discussion of a matter before the governing body. The mayor, as a council member, may vote on all matters. The mayor does not have veto power.
- E. The mayor may hire necessary administrative assistants and may authorize an administrative official to appoint, suspend, or remove subordinates. As chief administrator, the mayor shall:
 - 1. Appoint, suspend, or remove municipal employees and administrative officials, except as provided otherwise;
 - 2. Supervise the enforcement of municipal law and carry out the directives of the governing body;
 - 3. Prepare and submit an annual budget and capital improvement program for consideration by the governing body, and execute the budget and capital improvement program adopted;
 - 4. Make monthly financial reports and other reports on municipal finances and operations as required by the governing body;
 - 5. Exercise custody over all real and personal property of the municipality;
 - 6. Perform other duties required by law or by the governing body; and
 - 7. Serve as personnel officer, unless the governing body authorizes the mayor to appoint a personnel officer.
- F. The mayor may delegate duties to administrative personnel.

Section 02.02.030. Vice-Mayor: Presiding Officer Pro Tem.

The 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.

Section 02.02.040. Compensation of Mayor

The mayor may receive compensation for service to the municipality in addition to compensation received as an elected official as provided in Section 02.01.50 of this Code. The mayor shall receive salary determined by the City Council at the end of each pay period during his/her term of office.

- A. This salary must be earned by the mayor by working a minimum of 40 hours in the city offices during each pay period. The “working mayor” shall be involved with daily routine administrative duties, such as training new employees, tracking the budget, drafting new budgets or budget amendments, directing and evaluating employees, reviewing and answering city correspondences, checking the accuracy of accounting software accounts and spreadsheet, overseeing the city clerk’s preparing of council agendas, drafting ordinances and resolutions and posting notices for meetings, public hearings and other notices.
- B. The time spent working in the office must be recorded on the time sheet of each pay period. Per diem payments or reimbursements for expenses are not compensation under this section.
- C. A mayor not working the hours or executing the duties stated in subsection (A) will not be eligible for compensation as stated in this section.
- D. This salary may be adjusted at the discretion of the City Council by motion or resolution.

Section 02.02.050. Oath of Office

The mayor, before entering the duties of office, shall affirm, in writing, an oath of office as provided for council members. The oath is filed with the city clerk.

Section 02.02.060. Vacancy in the Office of Mayor

- A. 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 election or appointment;
 - 2. Unless excused by the council, is physically absent from the city for 90 consecutive days;
 - 3. Resigns and the resignation is accepted;
 - 4. Is physically or mentally unable to perform the duties of office;
 - 5. Is convicted if a felony or an offense involving a violation of the oath of office;

6. Is convicted of a felony or misdemeanor described in AS 15.56;
7. Is convicted of a violation of AS 15.13;
8. No longer physically resides in the city; or
9. Misses 3 consecutive regular council meetings and is not excused.

B. 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.

C. Recall provisions of Section 02.01.080 of this Code apply to the office of mayor.

Section 02.02.070. Mayor is Ex-officio Officer

The mayor is an ex-officio member of every committee or department organized or functioning under this Code.

Chapter 3. Council Meetings

Section 02.03.010. Meetings Public

Meeting of all city bodies shall be public as provided in AS 44.62.310. The council shall provide reasonable opportunity for the public to be heard at all regular and special meetings.

Section 02.03.020. Quorum

Four council members 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.

Section 02.03.030. Regular Council Meetings

- A. All regular meeting of the council shall be held on the first Wednesday of each month. Unless otherwise provided by ordinance, the council shall meet at least once a month.
- B. The usual place of council meetings shall be at the Toksook Bay City Conference Room, however, in the event of any condition that makes the meeting place unfit to conduct any regular meeting of the council, the meeting may be moved.

Section 02.03.040. Special Meetings

- A. Special meetings of the council are those meetings that are called by the presiding officer or one-third of the council members for a time different than that fixed for regular council meetings. The location of all special meetings shall be the same as that authorized for regular meetings.

- B. No less than 24 hours oral or written notice must be given a majority of council members and reasonable efforts made to notify all members. A special meeting may be conducted with less than 24 hours' notice if all council members are present or, if absent members have waived in writing the required notice. Waiver of notice may be made before or after the special meeting is held. A waiver of notice shall be made part of the journal of the meeting.

Section 02.03.050. Notice

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 3 public places. Notwithstanding the preceding as much notice as is reasonable, considering the subject matter and complexity of the issue, shall be given. In the case of a special meeting where 24 hours or less notice is given council members, public notice shall be posted at the same time as notice is given council members.

Section 02.03.060. Executive Session

All meetings of the council are public meetings. However, certain subjects are permitted to be discussed in executive session. In cases where permitted subjects are to be discussed at a council meeting, the council may consider holding an executive session. The meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are permitted 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 shall 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 permitted subject to be discussed, the amount of time the council expects to spend in executive session, and the expected time of reconvening the public meeting. No subjects may be considered at the executive session except those mentioned in the motion calling for executive session unless auxiliary to the main question. No action may be taken at the executive session, except to give direction to an attorney or labor negotiator regarding a specific legal matter or labor negotiation. Upon conclusion of the executive session, the public meeting shall be reconvened. During the public meeting, action may be taken on the permitted subjects discussed at the executive session. Subjects that are permitted to be discussed at an executive session are:

- A. Matters the immediate knowledge of which would have clearly have an effect upon the finances of the public entity;
- B. Subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- C. Matters which by law, municipal charter, or ordinance are required to be confidential; and
- D. Matters involving consideration of government records that, by law, are not subject to public disclosure.

Chapter 4. Council Procedures

Section 02.04.010. Mayor, Presiding Officer at Council Meetings

- A. The mayor shall preside at all meetings of the council, he shall preserve order among the council members, and is responsible for the 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 meeting room during sessions of the council. The vice-mayor shall preside in the absences of the mayor.
- B. 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 tem from among its number and the presiding officer pro tem shall exercise all the powers of mayor during such temporary absence or disability of the mayor.

Section 02.04.020. Meetings: Order of Business

At every regular meeting of the city council, the agenda, an example of which is in **Appendix D**, shall be as follows:

- A. Call to Order
- B. Invocation (optional)
- C. Roll Call (Establishment of Quorum)
- D. People To Be Heard
- E. Approval of the Agenda
- F. Minutes of Last Meeting
- G. Hearings, Ordinances, and Resolutions
- H. Unfinished Business
- I. New Business
- J. Open Session
- K. Adjournment

Section 02.04.030. 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 to be made available to anyone upon request. The cost of copying may be charged. Minutes shall be posted for public review, as soon as typewritten.

Section 02.04.040. Council Rules: Speaking: Rules of Conduct

- A. A council member 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.

- B. Every member, while speaking, shall confine him/herself to the subject under debate, and shall not refer to any other member of the council except in a respectful manner. Robert’s Rules of Order, Revised governs the conduct of council meetings to the extent this Chapter does not provide otherwise.

Section 02.04.050. Motions

- A. All motions require a second, unless otherwise provided by special rule.
- B. 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. The council member making the motion may withdraw it at any time before the vote, if the second agrees.
- C. Any motion must be put in writing if the mayor or presiding officer requires or if any council member so requests.
- D. Any matter voted on and passed during a meeting may be changed or rescinded by vote of the majority of the council before the meeting is adjourned.

Section 02.04.060. Voting Quorum

- A. The presence of four council members constitutes a quorum. Four affirmative votes are required for passage of an ordinance, resolution, or motion.
- B. All council members present shall vote on every question, unless required by law to abstain from voting. The final vote on each ordinance, resolution, or substantive motion shall be recorded “yes” or “no”, except that if the vote is unanimous, it may be recorded unanimous. The mayor or presiding officer shall declare the result of all votes.

Section 02.04.070. Duties of the Clerk at Council Meetings

The city clerk shall give notice of city council meetings, shall attend all meetings of the council and keep the journal of its proceedings, shall authenticate by his/her signature and record in full, in an indexed book or file kept for that purpose, all ordinances and resolutions 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

Chapter 5. City Clerk

Section 02.05.010. Appointment Term

The city clerk shall be hired or appointed by the mayor and confirmed by the council. The city clerk shall hold office at the pleasure of the council, unless this authority is delegated to the chief administrative officer.

Section 02.05.020. City Clerk

The city clerk shall:

- A. Attend meetings of the governing body and its boards and committees as required and keep the journal;
- B. Have custody of the official municipal seal;
- C. Assure that notice and other requirements for public meetings are complied with and assure that public records are available for public inspection as required by law;
- D. Manage municipal records and develop retention schedules and procedures for inventory, storage, and destruction of records as necessary;
- E. Maintain an indexed file of all permanent municipal records, provide for codification of ordinances, and authenticate or certify records as necessary;
- F. Prepare agendas and agenda packets as required by the governing body;
- G. Administer all municipal elections;
- H. Assure that the municipality complies with 42 U.S.C. 1971-1974 (Voting Rights Act of 1965, as amended);
- I. Take oaths, affirmations, and acknowledgments as necessary;
- J. Act as the parliamentary advisor to the governing body;
- K. Perform other duties required by law, the governing body, or the chief administrator.

Section 02.05.030. Additional Duties of the City Clerk

The office of Clerk and Treasurer may be combined, at the discretion of the City Council.

Section 02.05.040. Acting Clerk

The mayor or designee may appoint and acting clerk in case of the temporary absence of the clerk. The acting clerk has all the powers, duties, and obligations of the clerk.

Section 02.05.050. Supervisor

The city clerk is supervised by the chief administrative officer.

Section 02.05.060. Salary of the City Clerk

The salary of the city clerk or acting clerk shall be determined by the council. Any change in the salary rate shall also be determined by the council.

Chapter 6. Legal Assistance

Section 02.06.010. Obtaining Legal Counsel Permitted

Because the City may sue and be sued and enter into legal agreements, the City may require legal counsel from time to time. The need for counsel shall be determined by the City Council.

Section 02.06.020. City Attorney

The city attorney is the legal advisor of the governing body and the other officials of the city. The city attorney represents the city as attorney in civil and criminal proceedings.

Section 02.06.030. Procedure for Appointment

The mayor or designee shall appoint the City Attorney, subject to final approval and confirmation by the city council.

Section 02.06.040. Service and Removal

The City Attorney shall serve at the pleasure of the city council and may be removed from office by order of the city council.

Chapter 7. City Treasurer

Section 02.07.010. Appointment

There shall be a city treasurer who shall be appointed by the chief administrative officer subject to the confirmation by the council. The city treasurer shall hold office at the pleasure of the council, unless this authority is delegated to the chief administrative officer. The office of treasurer may be combined with that of city clerk.

Section 02.07.020. Duties

The treasurer shall:

- A. Be the custodian of all city funds;
- B. Keep an itemized account of money received and disbursed;

- C. Pay money and vouchers drawn against appropriations;
- D. Assist the chief administrator in preparing the annual budget of the city;
- E. Prepare and submit to the mayor and council such financial reports and other data as may be required;
- F. Prescribe and control such procedures as are necessary to protect the city funds and property;
- G. Be responsible for filing state and federal applications for financial assistance programs;
- H. Perform other duties specified by state law or city ordinances or assigned by the chief administrator; and
- I. Give bond to the city in a sum that the council direct. Premiums for any such bond shall be paid by the city.

Section 02.07.030. Pay

The council shall determine to pay of the treasurer.

Title III. Revenue and Finance

Chapter 1. Fiscal Procedures

Section 03.01.010. Fiscal Year

The fiscal year of the City of Toksook Bay shall begin on the first day of July every year and end on the last day of June in the following calendar year.

Section 03.01.020. Ordinance Required

All moneys spent or received by the city during a fiscal year shall be budgeted for by ordinance.

Section 03.01.030. Treasury

The treasurer shall be responsible for collection, custody, and disbursement of all city money. The council may combine the office of city clerk with the office of treasurer.

Section 03.01.040. Checking and Savings Accounts

- A. All checks drawn on the treasury of the city shall be signed by two elected officials.
- B. City employees shall not be authorized to withdraw funds from the city accounts as signatories or otherwise.
- C. All checks, prior to issuance, shall be approved and confirmed to be within budget allowances as prescribed by ordinance.
- D. Operating cash shall be kept in one financial institution to be designated by resolution.
- E. The treasurer shall, on a monthly basis, review expected 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 in the following types of short term or long term, as appropriate, investments;
 1. savings accounts, certificates of deposit, or interest bearing checking accounts;
 2. bonds, notes, or other obligations.

Section 03.01.050. Responsibilities of Officers

- A. The council, as the representatives of the people entrusted with the receipt and expenditure of public moneys, is responsible for reviewing and overseeing city procedures and ensuring that public money is properly received, expended, and accounted for.

- B. The mayor or designee shall execute the budget as approved by the council and shall ensure that proper accounting procedures are followed. City staff, under the immediate supervision of the chief administrative officer 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 staff.

Section 03.01.060. Insufficient Funds in Bank Account

No city checks may be written at any time when funds are insufficient.

Section 03.01.070. Purchasing and Procurement

The Procurement Policy shall be the protocol for handling procurement for city contracts, changes to this policy shall be made by the city by resolution rather than by ordinance.

Chapter 2. Budget

Section 03.02.010. Preparation of the Budget

The treasurer shall prepare the budget under direction of the chief executive officer. Budget preparation should begin by April 1.

Section 03.02.020. Scope of Budget

The budget shall be a complete financial plan for all the operation of the city showing beginning cash balances, anticipated revenues from all sources, and itemized proposed expenditures for all city departments and grants. It shall include an itemized comparative statement of the expenditures and revenues of the preceding fiscal year. Proposed expenditures shall not exceed the total of anticipated revenues and beginning cash balances.

Section 03.02.030. 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 notice shall include a summary of the budget and capital improvement program and a statement setting out the time and place for a public hearing.

Section 03.02.040. Public Hearing on Budget

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

Section 03.02.050. Further Consideration of Budget

After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the budget, except items on proposed expenditures fixed by law.

Section 03.02.060. Adoption of Budget; Vote Required

The budget shall be adopted by a majority vote of the council no later than June 30.

Section 03.02.070. Effective Date of Budget; 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 city clerk and filed in the office of the clerk.

Section 03.02.080. Budget Public Record

The budget, the capital improvement program, and all supporting schedules shall be open to public inspection. Copies of the budget shall be available for distribution to all interested persons. The council may collect a fee for such copies, not to exceed the cost incurred by the city for providing the copies.

Section 03.02.090. 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 10% or the overall budget is to be increased or decreased by more than 10%.

Chapter 3. Audit

Section 03.03.010. Conformity to Generally Accepted Accounting Principles

City record keeping and accounting practices shall conform to generally accepted accounting principles. To help ensure 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, proper equipment, and supplies for city administration.

Section 03.03.020. Annual Financial Statement

The treasurer shall prepare and submit, for review and approval of the council, an annual financial statement. The statement shall contain the same basic information and accounts as the treasurer's monthly financial report.

Section 03.03.030. Compliance with Audit Requirements

The city shall comply with federal and state audit and record keeping requirements, including requirements of the federal and state Single Audit Acts.

Section 03.03.040. Choosing an Auditor

At such times as the city is required to have compliance, financial, program, or other audits performed by a Certified Public Accountant, the city shall prepare a Request for Proposal and advertise for the most qualified firm to conduct the audit. The council shall choose an auditor from the respondents to the Request for Proposal after comparing the qualifications of the respondents, the services offered to be performed, and the overall costs of the audit.

Chapter 4. Sales Tax

Section 03.04.010. Definitions

For the purposes of this chapter and Chapter 03.05, the following words or phrases shall have the meanings contained herein:

- A. “Buyer” or “Purchaser” means the person to whom a sale of property or product is made or to whom service is furnished.
- B. “Church” means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.
- C. “Common Carrier” means a person who is in the regular business of transporting freight for hire. This is distinguished from a private carrier which transports its own goods and equipment and makes deliveries of goods sold to its customers.
- D. “Monthly” means occurring once per calendar month.
- E. “Nonprofit Organization” means a business that has been granted tax-exempt status by the Internal Revenue Service.
- F. “Person” means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.
- G. “Property” and “Product” and “Good” means both tangible property, an item that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses; and intangible property, anything that is not physical in nature (i.e.; intellectual property, brand recognition, goodwill, trade, copyright and patents).

- H. “Retail sale within the city” means a retail sale resulting from an offer made by the seller to the buyer within the city and/or accepted by a buyer within the city, or services and rentals taking place wholly within the city.
- I. “Sale” or “retail sale” means any transfer of property or product or any provision of service(s) for consideration for any purpose other than for resale.
- J. “Sale of Services” means the selling price received from labor and materials used to install, build, provide, construct, repair, or complete end products or results. Sale of services include but is not limited to;
1. The admission price charged for entering or staying in any movie house, show hall, game, or any place of entertainment where admission is charged upon entering by ticket, or by seat.
 2. The selling price of constructing buildings or other improvements to real estate. Sale of services excludes wages, salaries or other payment for labor performed for an employer.
 3. The selling price of subcontracts in building construction.
- K. “Seller” means every person making sales of property, products, or services, or a marketplace facilitator as defined in Chapter 03.05 facilitating sales on behalf of a seller.
- L. “Services” means all services of every manner and description, which are performed or furnished for compensation, and delivered electronically or otherwise into a member jurisdiction including but not limited to:
1. Professional services;
 2. Services in which a sale of property or product may be involved, including property or products made to order;
 3. Utilities and utility services not constituting a sale of property or products, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and repair, natural gas, cable or satellite television, and Internet services;
 4. The sale of transportation services;
 5. Services rendered for compensation by any person who furnishes any such services in the course of his trade, business, or occupation, including all services rendered for commission;
 6. Advertising, maintenance, recreation, amusement, and craftsman services.
 7. Digital Services.
- M. “Telephone service” means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system.

Section 03.04.020. Levy of Tax

A sales tax levied on all sales made in the City of Toksook Bay at the rate of two percent (2%) of the selling price. The burden of this tax rests on the buyer. The tax on services shall not include salaries or wages received by an employee from an employer accomplishing a specific result.

Section 03.04.030. Exemptions

The following retail sales are exempt from taxation:

- A. Casual Sales: A casual and isolated sale not made in the regular course of business is exempt.
- B. Church sale: Sale of property or services by a church are exempt, except where a sale or service is incidental to a business for profit.
- C. Federal and State Prohibition: A sale which the City is prohibited from taxing under the constitution and laws of the United States of America and the constitution of the State of Alaska.
- D. Sales on Telephone, Television, or Radio Services are exempt.
- E. Sales on Wholesale are exempt.
- F. Sales on Fuel (Stove oil) are exempt.
- G. Governmental Agencies: A sale directly to the United States Government, State of Alaska, City of Toksook Bay or the local Tribal Government is exempt.
- H. Non-Profit Entities: Sales made by nonprofit entities which do not have paid employees and who do not keep normal business hours are exempt.

Section 03.04.040. Seller to Collect

- A. A seller shall add the two percent (2%) sales tax to the selling price which the seller collects at the time of the sale or at the time of collection of credit transactions.
- B. The tax shall be stated separately on any sales receipt, rent receipt, invoice, or other taxable evidence of sale.

Section 03.04.050. Sales Tax Scale

The seller shall add to the selling price, up to the taxable price range as stated in Section 3.K. of this chapter in the case of a single item, an amount determined by the following scale:

<u>Selling Price</u>	<u>Amount of Sales Tax</u>
\$.00 - \$.49	None
.50 - .99	\$.01
1.00 – 1.49	.02
1.50 – 1.99	.03
2.00 – 2.49	.04
2.50 – 2.99	.05

Section 03.04.060. Tax and Returns

The seller shall file returns and send in the tax collected monthly, unless otherwise provided. The seller shall, on or before the 15th day of the month following the end of the former month prepare a return for the preceding month of forms furnished by the City. Returns shall be filed personally with the City Clerk. In the event the 15th day falls on a weekend or legal holiday, the return may be filed on the first business day following.

Section 03.04.070. Form of Return

On forms furnished by the City, the seller shall furnish the following information, sign the form, and certify that it correctly states the information set forth:

- A. Total sales of the month.
- B. Total taxable sales of the month.
- C. Total non-taxable sales of the month:
 1. The amount of sales made outside the City.
 2. The amount of sales made to a church.
 3. The amount of sales made to a non-profit organization.
 4. The amount of sales made to a governmental agency.
 5. The amount of all other sales declared to be exempt in Section 3 of this chapter.
- D. The amount of tax due.
- E. Such other information as may be reasonably required.

Section 03.04.072. Extension of Time to File Tax Return

- A. Upon written application of a seller, stating the reasons therefor, the City may extend the time to file a sales tax return but only if the City finds each of the following:
 1. For reasons beyond the seller's control, the seller has been unable to maintain in a current condition the books and records that contain the information required to complete the return;
 2. Such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon the seller;
 3. The seller has a plan to cure the problem that caused the seller to apply for an

- extension and the seller agrees to proceed with diligence to cure the problem;
4. At the time of the application, the seller is not delinquent in filing any other sales tax return, in remitting sales tax or otherwise in violation of this chapter;
 5. No such extension shall be made retroactively to cover existing delinquencies.

Section 03.04.074. Amended Returns

- A. A seller may file an amended sales tax return, with supporting documentation, and the City may accept the amended return, but only in the following circumstances:
 1. The amended return is filed within one (1) year of the original due date for the return; and
 2. The seller provides a written justification for requesting approval of the amended return; and
 3. The seller agrees to submit to an audit upon request of the City.
- B. The City shall notify the seller in writing (by email or otherwise) whether the City accepts or rejects an amended return, including the reasons for any rejection.
- C. The City may adjust a return for a seller if, after investigation, the City determines the figure included in the original returns are incorrect; and the City adjusts the return within two (2) years of the original due date for the return.
- D. A seller may file a supplemental sales tax return, with supporting documentation, and the City may accept the supplemental return, but only in the following circumstances:
 1. The seller provides a written justification for requesting approval of the supplemental return; and
 2. The seller agrees to submit to an audit upon request of the City.

Section 03.04.076. Cessation or Transfer of Business

- A. A seller who sells, leases, conveys, forfeits, transfers or assigns the majority of their business interest, including a creditor or secured party, shall make a final sales tax return within thirty (30) days after the date of such conveyance.
- B. At least ten (10) business days before any such sale is completed, the seller shall send to the City, by approved communication (email confirmation, certified first-class mail, postage prepaid) a notice that the seller's interest is to be conveyed and shall include the name, address and telephone number of the person or entity to whom the interest is to be conveyed.
- C. Upon notice of sale and disclosure of buyer, the City shall be authorized to disclose the status of the seller's sales tax account to the named buyer or assignee.
- D. Upon receipt of notice of a sale or transfer, the City shall send the transferee a copy of this code with this section highlighted.

- E. Neither the City's failure to give the notice nor the transferee's failure to receive the notice shall relieve the transferee of any obligations under this section.
- F. Following receipt of the notice, the City shall have sixty (60) days in which to perform a final sales tax audit and assess sales tax liability against the seller of the business. If the notice is not mailed at least ten (10) business days before the sale is completed, the City shall have twelve (12) months from the date of the completion of the sale or the City's knowledge of the completion of the sale within which to begin a final sales tax audit and assess sales tax liability against the seller of the business. The City may also initiate an estimated assessment if the requirements for such an assessment exist.
- G. A person acquiring any interest of a seller in a business required to collect the tax under this chapter assumes the liability of the seller for all taxes due the City, whether current or delinquent, whether known to the City or discovered later, and for all interest, penalties, costs and charges on such taxes.
- H. Before the effective date of the transfer, the transferee of a business shall obtain from the City an estimate of the delinquent sales tax, penalty and interest, if any, owed by the seller as of the date of the transfer, and shall withhold that amount from the consideration payable for the transfer, until the seller has produced a receipt from the City showing that all tax obligations imposed by this chapter have been paid. A transferee that fails to withhold the amount required under this subsection shall be liable to the City for the lesser of the amount of delinquent sales tax, penalty and interest due from the seller as of the date of transfer, and the amount that the transferee was required to withhold.
- I. In this section, the term "transfer" includes the following:
1. A change in voting control, or in more than fifty percent (50%) of the ownership interest in a seller that is a corporation, limited liability company or partnership; or
 2. A sale of all or substantially all the assets used in the business of the seller; or
 3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the seller's gross receipts from sales, rentals or services.
- J. Subsection H of this section shall not apply to any person who acquires their ownership interest in the ongoing business as a result of the foreclosure of a lien that has priority over the City's sales tax lien.
- K. A seller who terminates the business without the benefit of a purchaser, successor or assign shall make a final tax return and settlement of tax obligations within thirty (30) days after such termination. If a final return and settlement are not received within thirty (30) days of the termination, the seller shall pay a penalty of one hundred dollars (\$100), plus an additional penalty of twenty-five dollars (\$25) for each additional thirty- (30-) day period, or part of such a period, during which the final return and settlement have not been made, for a maximum of six (6) additional periods.

Section 03.04.078. Estimated Tax

- A. In the event the City is unable to ascertain the tax due from a seller by reason of the failure of the seller to keep accurate books, allow inspection, or file a return, or by reason of the seller filing a false or inaccurate return, the City may make an estimate of the tax due based on any evidence in their possession.
- B. Sales taxes may also be estimated, based on any information available, whenever the City has reasonable cause to believe that any information on a sales tax return is not accurate.
- C. A seller's tax liability under this Code may be determined and assessed for a period of six (6) years after the date the return was filed or due to be filed with the City. No civil action for the collection of such tax may be commenced after the expiration of the six- (6-) year period except an action for taxes, penalties and interest due from those filing periods that are the subject of a written demand or assessment made within the six- (6-) year period, unless the seller waives the protection of this section.
- D. The City shall notify the seller, in writing, that the City has estimated the amount of sales tax that is due from the seller. The City shall serve the notice on the seller by delivering the notice to the seller's place of business, or by mailing the notice by certified mail, return receipt requested, to the seller's last known mailing address. A seller who refuses the certified mail will be considered to have accepted the certified mail for purposes of service.
- E. The City's estimate of the amount of sales tax that is due from a seller shall become a final determination of the amount that is due unless the seller, within thirty (30) calendar days after service of notice of the estimated tax:
1. Files a complete and accurate sales tax return for the delinquent periods supported by satisfactory records and accompanied by a full remittance of all taxes, interest, penalties, costs and other charges due; or
 2. Files a written notice with the City appealing the estimated tax amount in accordance with the appeal procedures.
 3. Arguments or reasons for failure to timely file a return and remit taxes collected shall not be considered a valid basis or grounds for granting an appeal. The basis and grounds for granting an appeal of an assessment are:
 - a. The identity of the seller is in error;
 - b. The amount of the debt is erroneous due to a clerical error (and the nature and extent of the error is specified in the request for appeal); or
 - c. The seller disputes the denial of exemption(s) for certain sales.
- F. The amount of sales tax finally determined to be due under this section shall bear interest and penalty from the date that the sales tax originally was due, plus an additional civil penalty of fifty dollars (\$50) for each calendar month or partial month for which the amount of sales tax that is due has been determined.

Section 03.04.080. Procedures on Delinquencies

- A. A late filing fee of twenty-five dollars (\$25) per month shall be added to all late-filed sales tax reports in addition to interest and penalties. The date of actual receipt not the postmark shall determine the date of filing returns.
- B. A penalty equal to five percent (5%) of the delinquent tax shall be added to the tax for each month, or fraction thereof, until a total of twenty percent (20%) of delinquent tax has been reached. The penalty does not bear interest. The penalty shall be collected in the same manner as the tax is collected.
- C. In addition to the above penalty, interest shall accrue at the rate of fifteen percent (15%) per annum on the delinquent tax from the date of delinquency and shall be collected in the same manner as the delinquent tax is collected.
- D. A penalty assessed under this section for the delinquent remittance of sales tax or failure to file a sales tax return may be waived by the City Council, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller, within forty-five (45) calendar days after the date of delinquency. A seller may not be granted more than one (1) waiver of penalty under this subsection in any one calendar year.

Section 03.04.082. Violations

- A. A seller that fails to file a sales tax return or remit sales tax when due, in addition to any other liability imposed by this Code, shall pay to the City all costs incurred by the City to determine the amount of the seller's liability or to collect the sales tax, including, without limitation, reviewing and auditing the seller's business records, collection agency fees, and actual reasonable attorney's fees.
- B. A person who causes or permits a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to fail to collect sales tax or to remit sales tax to the City as required by this Code shall be liable to the City for the amount that should have been collected or remitted, plus any applicable interest and penalty.
- C. Notwithstanding any other provision of law, and whether or not the City initiates an audit or other tax collection procedure, the City may bring a declaratory judgment action against a seller believed to meet the criteria to establish that the obligation to remit sales tax is applicable and valid under local, state and federal law. The action shall be brought in the judicial district of the taxing jurisdiction.
- D. The City may cause a sales tax lien to be filed and recorded against all real and personal property of a seller where the seller has:
 - 1. Failed to file sales tax returns for two (2) consecutive filing periods as required by the Code; or

2. Failed within sixty (60) days of the end of the filing period from which taxes were due to either (a) remit all amounts due or (b) to enter into a secured payment agreement as provided in this Code.
 3. Prior to filing a sales tax lien, the City shall cause a written notice of intent to file to be mailed to the last known address of the delinquent seller.
- E. In addition to other remedies discussed in this Code, the City may bring a civil action to:
1. Enjoin a violation of this Code. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.
 2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or after estimating the amount of sales tax due.
 3. Foreclose a recorded sales tax lien as provided by law.
- F. All remedies hereunder are cumulative and are in addition to those existing at law or equity.

Section 03.04.090. Penalty for Violation

Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, be fined five hundred dollars (\$500) for each offense.

Section 03.04.100. Repayment Plans

- A. The City may agree to enter into a repayment plan with a delinquent seller. No repayment plan shall be valid unless agreed to by both parties in writing.
- B. A seller shall not be eligible to enter into a repayment plan with the City if the seller has defaulted on a repayment plan in the previous two (2) calendar years.
- C. The repayment plan shall include a secured promissory note that substantially complies with the following terms:
1. The seller agrees to pay a minimum of ten percent (10%) down payment on the tax, interest and penalty amount due. The down payment shall be applied first to penalty, then to accumulated interest, and then to the tax owed.
 2. The seller agrees to pay the balance of the tax, penalty and interest owed in monthly installments over a period not to exceed two (2) years.
 3. Interest at a rate of fifteen percent (15%) per annum shall accrue on the principal sum due. Interest shall not apply to penalties owed or to interest accrued at the time the repayment plan is executed or accruing during the term of the repayment plan.
 4. If the seller is a corporation or a limited liability entity, the seller agrees to provide a personal guarantee of the obligations under the repayment plan.
 5. The seller agrees to pay all future tax bills in accordance with the provisions of this chapter.
 6. The seller agrees to provide a security interest in the form of a sales tax lien for the entire unpaid balance of the promissory note to be recorded by the City at the time the repayment plan is signed. The seller shall be responsible for the cost of recording the

tax lien.

- D. If a seller fails to pay two (2) or more payments as required by the repayment plan agreement, the seller shall be in default and the entire amount owed at the time of default shall become immediately due. The City will send the seller a notice of default. The City may immediately foreclose on the sales tax lien or take any other remedy available under the law.

Section 03.04.110. Audits

- A. Any seller who is required to collect and remit sales tax, or who is required to submit a sales tax return is subject to a discretionary sales tax audit at any time. The purpose of such an audit is to examine the business records of the seller in order to determine whether appropriate amounts of sales tax revenue have been collected by the seller and remitted to the City.
- B. The City is not bound to accept a sales tax return as correct. The City may make an independent investigation of all retail sales or transactions conducted within the city.
- C. The records that a seller is required to maintain under this chapter shall be subject to inspection and copying by authorized employees or agents of the City for the purpose of auditing any return filed under this chapter, or to determine the seller's liability for sales tax where no return has been filed.
- D. In addition to the information required on returns, the City may request, and the seller must furnish, any reasonable information deemed necessary for a correct computation of the tax.
- E. The City may adjust a return for a seller if, after investigation or audit, the City determines that the figures included in the original return are incorrect, and that additional sales taxes are due; and the City adjusts the return within two (2) years of the original due date for the return.
- F. For the purpose of ascertaining the correctness of a return or the amount of taxes owed when a return has not been filed, the City may conduct investigations, hearings and audits and may examine any relevant books, papers, statements, memoranda, records, accounts or other writings of any seller at any reasonable hour on the premises of the seller and may require the attendance of any officer or employee of the seller. Upon written demand by the City, the seller shall present for examination, in the office of the City, such books, papers, statements, memoranda, records, accounts and other written material as may be set out in the demand unless the City and the person upon whom the demand is made agree to presentation of such materials at a different place.
- G. The City may issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. If any seller refuses to obey any such subpoena, the City may refer the matter to the City's attorney for an application to the superior court

for an order requiring the seller to comply therewith.

- H. Any seller or person engaged in business who is unable or unwilling to submit their records to the City shall be required to pay the City for all necessary expenses incurred for the examination and inspection of their records maintained outside the city.
- I. After the completion of a sales tax audit, the results of the audit will be sent to the business owner's address of record.
- J. In the event the City, upon completion of an audit, discovers more than five hundred dollars (\$500) in additional sales tax due from a seller resulting from a seller's failure to accurately report sales and taxes due thereupon, the seller shall bear responsibility for the full cost of the audit. The audit fee assessment will be in addition to interest and penalties applicable to amounts deemed to be delinquent by the City at the time of the conclusion of the audit.

Section 03.04.120. Audit Protest

- A. If the seller wishes to dispute the amount of the estimate, or the results of an examination or audit, the seller must file a written protest with the City, within thirty (30) calendar days of the date of the notice of estimated tax or results of an audit or examination. The protest must set forth:
 - 1. The seller's justification for reducing or increasing the estimated tax amount, including any missing sales tax returns for the periods estimated; or
 - 2. The seller's reasons for challenging the examination or audit results.
- B. In processing the protest, the City may hold an informal meeting or hearing with the seller, either on its own or upon request of the seller, and may also require that the seller submit to an audit, if one was not previously conducted or a more formal audit, if an estimation audit was previously performed.
- C. The City shall make a final written determination on the seller's protest and mail a copy of the determination to the seller.
- D. If a written protest is not filed within thirty (30) days of the date of the notice of estimated tax or the result of a review, audit or examination, then the estimated tax, review, audit or examination result shall be final, due and payable to the City.

Section 03.04.140. Record Retention

Sellers shall keep and preserve suitable records of all sales made and such other books or accounts as may be necessary to determine the amount of tax which the seller is obliged to collect. Sellers shall preserve suitable records of sales for a period of six (6) years from the date of the return reporting such sales, and shall preserve for a period of six (6) years all invoices of goods and merchandise purchased for resale, and all such other books, invoices and records as may be necessary to accurately determine the amount of taxes which the seller was obliged to

collect under this chapter.

Section 03.04.160. Use of Information on Tax Returns

- A. Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the City under this Chapter, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:
1. Employees and agents of the City whose job responsibilities are directly related to such returns, reports and information;
 2. The person supplying such returns, reports and information; and
 3. Persons authorized in writing by the person supplying such returns, reports and information.
- B. The City will release information described in subsection A of this section pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and where otherwise required by law to do so.
- C. Notwithstanding subsection A of this section, the following information is available for public inspection:
1. The name and address of sellers;
 2. Whether a business is registered to collect taxes under this chapter;
 3. The name and address of businesses that are sixty (60) days or more delinquent in filing returns or in remitting sales tax, or both filing returns and remitting sales tax; and, if so delinquent, the amount of estimated sales tax due, and the number of returns not filed.
- D. The City may provide the public statistical information related to sales tax collections, provided that no information identifiable to a particular seller is disclosed.
- E. Nothing contained in this section shall be construed to prohibit the delivery to a person, or their duly authorized representative, of a copy of any return or report filed by them, nor to prohibit the publication of statistics so classified as to prevent the identification of particular buyers or sellers, nor to prohibit the furnishing of information on a reciprocal basis to other agencies or political subdivisions of the state or the United States concerned with the enforcement of tax laws.
- F. Nothing contained in this section shall be construed to prohibit the disclosure through enforcement action proceedings or by public inspection or publication of the name, estimated balance due, and current status of payments, and filings of any seller or agent of any seller required to collect sales taxes or file returns under this chapter, who fails to file any return and/or remit in full all sales taxes due within thirty (30) days after the required date for that business. Entry into any agreement whether pursuant to the provisions of this chapter or otherwise shall not act as any prohibition to disclosure of the records of that seller as otherwise provided in this chapter.
- G. A prospective lessee or purchaser of any business or business interest may inquire as to

the obligation or tax status of any business upon presenting to the City a release of tax information request signed by the authorized agent of the business.

- H. All returns referred to in this chapter, and all data taken therefrom, shall be kept secure from public inspection, and from all private inspection.

Chapter 5. Tax On Sales Made By Remote Sellers

Section 03.05.010. Scope

This chapter applies only to sales made by remote sellers as defined herein.

Section 03.05.020. Copies On File

At least five copies of the Alaska Remote Sellers Sales Tax Code shall be made available for public inspection at least fifteen days prior to the public hearing for adoption of this Chapter at the time and place set out in the notice published for the hearing of the ordinance. Copies shall be available for public review at the office of the city clerk. A person may request, and the city shall provide, a copy of the code(s) at no more than cost.

Section 03.05.030. Definitions

When not clearly otherwise indicated by the context, the following words and phrases, as used in this chapter or in Chapter 03.04, have the following meanings:

“Commission” means the Alaska Remote Seller Sales Tax Commission established by Agreement between local government taxing jurisdictions within Alaska, and delegated tax collection authority.

“Delivered electronically” means delivered to the purchaser by means other than tangible storage media.

“Entity-based exemption” means an exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption.

“Goods for resale” means:

- A. The sale of goods by a manufacturer, wholesaler or distributor to a retail vendor; sales to a wholesale or retail dealer who deals in the property sold, for the purpose of resale by the dealer.
- B. Sales of personal property as raw material to a person engaged in manufacturing components for sale, where the property sold is consumed in the manufacturing process of, or becomes an ingredient or component part of, a product manufactured for sale by the manufacturer.
- C. Sale of personal property as construction material to a licensed building contractor where

the property sold becomes part of the permanent structure.

“Marketplace facilitator” means a person that contracts with marketplace sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the marketplace seller’s property, product, or services through a physical or electronic marketplace operated by the person, and engages:

- A. Directly or indirectly, through one or more affiliated persons in any of the following:
 1. Transmitting or otherwise communicating the offer or acceptance between the buyer and marketplace seller;
 2. Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and marketplace sellers together;
 3. Providing a virtual currency that buyers are allowed or required to use to purchase products from the marketplace seller; or
 4. Software development or research and development activities related to any of the activities described in (B) of this subsection, if such activities are directly related to a physical or electronic marketplace operated by the person or an affiliated person; and
- B. In any of the following activities with respect to the seller’s products:
 1. Payment processing services;
 2. Fulfillment or storage services;
 3. Listing products for sale;
 4. Setting prices;
 5. Branding sales as those of the marketplace facilitator;
 6. Order taking;
 7. Advertising or promotion; or
 8. Providing customer service or accepting or assisting with returns or exchanges.

“Member” means a taxing jurisdiction that is a signatory of the Alaska Remote Seller Sales Tax Agreement, thereby members of the Commission, and who have adopted the Alaska Remote Seller Uniform Sales Tax Code.

“Physical presence” for purposes of section .050 of the Alaska Remote Seller Uniform Sales Tax Code means a seller who establishes any one or more of the following within a member jurisdiction:

1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the member jurisdiction;
2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the member jurisdiction or engages in activities in this state that are significantly associated with the seller’s ability to establish or maintain a market for its products in this state.
3. Provides services through any employee, agent, salesman, or other representative or holds inventory within the boundaries of the member jurisdiction;
4. Rents or Leases property located within the boundaries of the member jurisdiction.

A seller that establishes a physical presence within the member jurisdiction in any calendar year will be deemed to have a physical presence within the local taxing jurisdiction for the following calendar year.

“Point of delivery” means the location at which property or a product is delivered or service rendered.

- A. When the product is not received or paid for by the purchaser at a business location of a remote seller in a Member Jurisdiction, the sale is considered delivered to the location where receipt by the purchaser (or the purchaser's recipient, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery as supplied by the purchaser (or recipient) and as known to the seller.
- B. When the product is received or paid for by a purchaser who is physically present at a business location of a Remote Seller in a Member Jurisdiction the sale is considered to have been made in the Member Jurisdiction where the purchaser is present even if delivery of the product takes place in another Member Jurisdiction. Such sales are reported and tax remitted directly to the Member Jurisdiction not to the Commission.
- C. When the service is not received by the purchaser at a business location of a remote seller, the service is considered delivered to the location where the purchaser receives the service.
- D. For products or services transferred electronically, or other sales where the remote seller or marketplace facilitator lacks a delivery address for the purchaser, the remote seller or marketplace facilitator shall consider the point of delivery the sale to be the billing address of the buyer.

“Product-based exemptions” means an exemption based on the description of the product and not based on who purchases the product or how the purchaser intends to use the product.

“Remote sales” means sales of goods, services, or bundled transactions by a remote seller or marketplace facilitator.

“Remote seller” means a seller or marketplace facilitator making sales of goods, services, or bundled transactions for delivery within the State of Alaska, without having a physical presence in a member jurisdiction in which delivery is being made.

“Taxing jurisdiction” means a local government in Alaska that has a sales tax.

“Transferred electronically” means obtained by the purchaser by means other than tangible storage media.

Section 03.05.040. Adoption of Alaska Remote Seller Uniform Sales Tax Code

The City adopts by reference the January 6, 2020 edition of the Alaska Remote Seller Uniform Sales Tax Code, and as it may be amended, from time to time, by the Alaska Remote Seller Sales Tax Commission including all definitions set forth therein, to include supplemental definitions. To the extent that any supplemental definitions change the definitions in this chapter, or conflict with definitions in this chapter, the supplemental definitions govern.

Section 03.05.050. Delegation of Authority

The City hereby delegates the authority to administer and collect tax on sales made by remote sellers to the Commission including remote seller sales tax registration, exemption certification, collection, remittance, and audit authority.

Title IV. Acquisition, Management, Disposal of Municipal Land

Chapter 1. Acquiring, Managing, and Disposing of City Land

Section 04.01.010. City Rights and Powers

- A. The City may acquire, own, hold, and dispose of real property within and outside of City boundaries in which the City Land Planning Committee and Nunakauiak Yupik Corporation have approved for City residency use, by any manner not prohibited by law. For example, property interest can be acquired by lease, transfer, exchange, donation, or declaration of taking.
- B. All property acquired and held by the City shall be held in the name of the “City of Toksook Bay, Alaska.”
- C. The City may acquire and hold real property as sole owner or other lawful tenant with any person, or governmental body, for any public purpose. The City may hold real property in trust for any public purpose.
- D. The City shall have and may exercise all rights and power of acquisition, ownership, holding, and disposal of real property as if the City were a private person.

Section 04.01.020. Federal and State Aid

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

Section 04.01.030. Land Acquisition

- A. Procedures: All acquisitions shall be by resolution approved by a majority vote of the City Council. The City may not acquire real property unless the City Council adopt a resolution which approved the action and describes the terms, conditions, and manner of acquisition. The City Council may, at any time, use a non-code ordinance to approve acquisition if it so desires.
- B. Unless otherwise directed by the City Council, the mayor is authorized to negotiate the terms of acquisition. The terms of acquisition is subject to final approval by the City Council as described in subsection 04.01.030(A). The Mayor is authorized to obtain title, insurance, execute any documents, and take all steps needed to complete and close the acquisition of the real property.
- C. Any document which is required to carry out the land decisions of the City Council shall be signed by the Mayor, attested by the city clerk, or notarized, and recorded with the

district recorder. Whenever possible, the form of any conveyance should be approved by the City Attorney.

- D. Whenever possible, the mayor shall furnish the City Council with a summary of land title and any anticipated problems which may occur in acquiring, or owning the property. A resolution or non-code ordinance which approves the acquisition is valid even if the summary is not furnished.
- E. 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.

Section 04.01.040. Notice

Notice of the City Council action on a proposed acquisition will be posted on three public areas within the City of Toksook Bay, Alaska, for a period of five days before the City Council meeting. Posting of the City Council meeting agenda will be considered sufficient notice of a proposed acquisition.

Section 04.01.050. ANCSA Section 14(c)(3) Lands

- A. The City Council shall select lands for the conveyance pursuant to ANCSA 14(c)(3) by the Nunakuiak Yupik Corporation. A non-code ordinance shall be passed when the City requires land as an ANCSA 14(c)(3) reconveyance.
- B. The posting of the proposed non-code ordinance shall serve as the public notice of the lands which will be acquired under ANCSA 14(c)(3). The non-code ordinance shall be posted in three conspicuous public places not less than 30 days before the date of acquisition.

Section 04.01.060. Eminent Domain

- A. The City of Toksook Bay, Alaska, may exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the City in accordance with AS 29.35.030.
- B. The exercise 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 voters on the question is required for approval of the ordinance.

Section 04.01.070. Temporary Land Use Permit

- A. A fee for issuance of a land use permit and the rate for the use of, and the rate for the length of time for the use of city land shall be established by resolution of the governing body. Any person, entity, firm, company, corporation, or organization that has an interest in using city lands for any reason shall contact the governing body of the city, in writing,

for permission to use city lands. The written request shall state the size of the area of city land that is to be used, the purposes of use, and the period of time that area is to be used. This permission shall also be in written form.

- B. Any use of city lands without the permission of the governing body shall be grounds for confiscation of any object found stored, without permission, on city lands. Any person, firm, company, corporation, or organization using city lands without permission prior to the enactment of this clause shall compensate the city for use of its lands and pay a monetary penalty for using city lands without the express written permission of the governing body. The monetary penalty shall be at the discretion of the governing body and shall be set according to the length of time city lands were used without permission.
- C. The mayor has the authority to issue special land use permit 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.
- D. 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.
- E. A special land use permit shall not be granted for a term exceeding one year. Special land use permits are not transferable, nor 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.

Section 04.01.080. Traditional Uses

No restriction is required for traditional use of city land. Any use under this section is at the risk of the user, and the City assumes no responsibility for such use. The City shall notify the public of city lands that are open to traditional uses and the types of uses that are acceptable.

Section 04.01.090. Land Disposal, City Rights and Powers

- A. There shall be a seven (7) year residential requirement before any person, entity, firm, company, corporation or organization that has interest in using land for any reason, unless by Special Land Use Permit under Section 04.01.070 and Subsection 04.01.090(E), approved by the City Council.
- B. The City of Toksook Bay may sell, exchange, grant, dedicate, donate, or otherwise dispose of City real property by any lawful means, as long as it follows the requirements of this ordinance.

- C. The City of Toksook Bay may dispose of real property when the City Council finds it is no longer needed for municipal purposes or the conveyance will promote a public purpose. The non-code ordinance which approves the disposal will include this statement of finding.
- D. All disposal shall be conducted in a fair and impartial manner. The City shall have and may exercise all rights and powers in the disposal of real property as if the City were a private person.
- E. Any documents which are required to carry out the land decisions of the City Council shall be signed by the mayor, and attested by the city clerk or notarized. Whenever possible, the form of conveyance will be reviewed by the city attorney.

Section 04.01.100. Land Disposal Procedure

- A. All disposals shall be by non-code ordinance. The procedure for conducting the proposal shall be set out in the non-code ordinance which authorizes the proposed disposal.
- B. The City Council shall describe the value of the property in the non-code ordinance for the disposal. The value of the property shall be at fair market value as determined by an appraisal or by letter of opinion prepared by a qualified appraiser or assessor, or the City Council may determine the fair market value by any other means as deemed appropriate.
- C. The non-code ordinance shall include:
 - 1. A finding that the property is no longer needed for municipal purposes;
 - 2. The statement of facts which support the finding;
 - 3. A legal description of the property;
 - 4. The type of disposal;
 - 5. The method of disposal and property value; and
 - 6. A description of the time, place, and specific steps which will be followed to conduct the disposal.
- D. At least 30 days is required between the time a non-code ordinance is introduced and time it is duly adopted.

Section 04.01.110. Methods of Disposal

The City of Toksook Bay may dispose of municipal land using one of the following methods:

- A. Negotiated Exchange: The City land may be exchanged by negotiation to a selected buyer or grantee if the City Council determines the exchange is needed to protect or promote the public interest and the grantee has been selected without unfair discrimination among similarly situated persons.

- B. **Grant or Donation:** The City Council may grant or dedicate real property to the municipality, State or Federal entity, non-profit corporation, or a native village council, without a public sale and for consideration agreed upon between the City and grantee if the City Council finds that the grant or dedication is beneficial to the public.

Section 04.01.120. Types of Disposal

The disposals disposed in this section can be authorized by the City Council for less than the fair market value of the real property and may be exempted by the City Council from the disposal methods in Section 04.01.110 of this chapter and any requirements described in this section.

- A. **Disposal for Public Purposes:** The City Council may dispose of real property to a municipality, State or Federal entity, non-profit corporation or association, or a Native Village Council, when the disposal is for a public purpose. The type of disposal is required to follow these requirements:
1. A finding that the disposal to the entity promotes a public purpose and a statement of facts supports the finding.
 2. A condition that the title may revert to the municipality in the event the property is no longer used for the public purpose justifying the disposal; and
 3. A waiver from the Native Village Council from any immunity from suit for the purpose of enforcing the reversion provision, if the disposal is to a Native Village Council.
- B. **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 Section 04.01.100(B).
 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 Section 04.01.100(B).
 3. **Lottery:** In the case of a lottery, the price of the property or interest in property may be established by the City Council.
- C. **Disposal for 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 fair market value of that real property or interest in real property as determined under Section 04.01.100(B). If a disposal is made to further economic development, the non-code ordinance authorizing the disposal must include, in addition to the requirements in Section 04.01.100:
1. A finding that the property or property interest which is the subject of the disposal will be used in the furtherance of local trade; and
 2. A requirement that the conveyance of the property or property interest disposed include a condition the title will revert to the municipality in the event the property is no longer used for the local trade or industry justifying the disposal.

- D. **Disposal for 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. That 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 subsection, 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 5 years after the disposal, title will revert to the City. In addition, disposals under this subsection shall include a requirement for the construction of a habitable dwelling within 5 years after the disposal or title will revert to the City.
- E. **Miscellaneous Disposals:** The City Council may settle disputed claims for litigation by authorizing disposal of real property or an interest in real property.

Section 04.01.130. Reversionary Clauses

When the reversionary is included in a disposal conveyance and the condition of the reversionary clause is violated, the City Council may decide whether the property should revert to the City of Toksook Bay. A decision to enforce a reversionary clause may be done by resolution. Any real property reconveyed to the City of Toksook Bay under a reversionary clause will be by quit claim deed. If the City does not enforce a violation of a reversionary clause, it retains the right to enforce subsequent violation.

Section 04.01.140. Lease, Easements, and Right-of-Way

Disposal of interest by lease, grants of easement, or right-of-way shall follow the requirements of this ordinance. The terms and conditions of leases, easements, and right-of-way shall be established by the City Council for each disposal.

Section 04.01.150. Definitions

- A. **APPRAISAL:** an estimate of value of property by a qualified appraiser.
- B. **CITY BOUNDARY:** the municipal boundary which is established when the City is incorporated. City ordinances are enforceable within this area.
- C. **CONTRACT OF SALE:** a contract between a willing seller or willing buyer to transfer title to property.
- D. **COUNCIL:** unless otherwise stated, the term council within this ordinance refers to the Toksook Bay City Council.
- E. **DISPOSAL:** the act of giving away, selling or transferring interest in property.

- F. **DISPUTED CLAIMS:** claim for a property that is protested by another, or for property which is also claimed by another.
- G. **DOMICILED RESIDENT:** one who has resided in the City for at least one year prior to the disposal, who maintains an address in the City, and who intends to make the City their permanent residence.
- H. **EASEMENT:** a right or privilege on another’s land, such as the right to cross for specific purpose. Easements allow passage across real property without granting any other ownership rights in that property.
- I. **ECONOMIC DEVELOPMENT:** to promote the growth of the local economy or increase income of residents.
- J. **EMINENT DOMAIN:** the power of a municipality to convert private property to a public use.
- K. **EQUITABLE INTEREST:** a claim which should be recognized in the interest of fairness or equity.
- L. **FEDERAL ENTITY:** the Federal Government or an agency of the Federal Government.
- M. **INCOMPATIBLE USE:** a use which people may find objectionable, disagreeable, offensive, or displeasing.
- N. **INTEREST IN PROPERTY:** a right, claim, or legal share in the property. Refers to the “bundle of rights”, which may be transferred or conveyed separately or in total. Methods of transfer can include deed, lease, or easement.
- O. **LEASE:** 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 specified period.
- P. **LEGAL DESCRIPTION:** a part of a conveyance document which identifies the land or premises intended to be affected by that conveyance.
- Q. **MUNICIPALITY:** a unit of local government organized under the laws of the State of Alaska.
- R. **NON-CODE ORDINANCE:** an ordinance that is not a part of the permanent City code.
- S. **NONPROFIT CORPORATION:** an organization formed under the laws of the State of Alaska not to obtain a profit, but to supply an essential service to its constituents.

- T. PUBLIC OUTCRY AUCTION: 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.
- U. REAL PROPERTY: with respect to the ordinance, the term “real property” always includes both real property and an interest in real property.
- V. REVERT: with respect to property, title to go back to and stays with the former owner.
- W. SEALED BID: a written offer to purchase property, placed in an envelope, and opened along with all other bids (if any) at a public bid opening.
- X. STATE: the State of Alaska or an agency of the State Government.
- Y. SUBSTANTIAL IMPROVEMENT: a major change or addition to land or real property that makes it more valuable.
- Z. TENANCY: the possession or occupancy of lands or buildings by title, lease, or rent.
- AA. TEMPORARY USE: an exclusive use of City land for one year or less, with little disturbance to the land, and which does not allow permanent structures.
- BB. TRADITIONAL USE: use of City land which is temporary, safe, non-exclusive and does not disturb the surface. Traditional uses include but are not limited to such uses as boat docking, wood piling, fish storage, fish racks, and boat moorage.
- CC. VALID CLAIM: a legally enforceable claim by a third party.

Chapter 2. Uniform Street Addressing System

Section 04.02.010. Applicability of Addressing System

All areas within the city limits shall use the city street addressing system. All primary structures on a parcel shall be assigned a street address. Accessory structures may also receive an address, if the property owner desires.

Section 04.02.020. City of Toksook Bay Address Map

The map entitled “City of Toksook Bay Address Map” is adopted as the official property numbering map of the city. All property numbers assigned shall be assigned in accordance with the official address map and no other property numbers shall be used or displaced in the city unless in accordance with the official address map. The City of Toksook Bay Address Map shall be kept on file in the city office.

Section 04.02.030. Street Addressing Standards

The Official Street Address Map shall be developed and based upon the following standards:

- A. Addresses shall be based on a common grid originating at a specified origin defined by the intersection of two baselines.
- B. The east-west baseline for north-south numbering shall begin at a point on the city limits in Etolin Strait at $60^{\circ} 25' 43''\text{N}$ $165^{\circ} 12' 21.96''\text{W}$. The baseline shall continue in a north easterly direction to the intersection of the Nightmute Street and the Kangirrluar Bay. Thence continue north easterly at the same bearing to the city limits.
- C. The north-south baseline for east-west numbering shall begin at a location on where the platted Nightmute Street intersects with the Kangirrluar Bay. The baseline shall continue along Nightmute Street in a north westerly direction terminating at the city limits. The baseline shall continue south westerly across the Kangirrluar Bay to the city limits.
- D. The intersection of the east-west and north-south baselines shall begin at a location where the platted Nightmute Street intersects with the Kangirrluar Bay forms the zero point from which the city is divided into four directional quadrants.
- E. Street direction is dictated by the orientation of the street within the quadrant with numbers increasing outward from the origin e.g. (In the SE Quadrant, road direction is either North to South or West to East).

Section 04.02.040. Address Numbering for Large Developments

Educational, healthcare and other large campus-type developments bearing multiple buildings shall submit an address and signage plan to the Land Planner or Fire Chief for review and approval. Each building shall display numbers or other approved signage meeting the requirements of this chapter.

Section 04.02.050. Numbering Individual Property

- A. Buildings on the southerly and easterly sides of streets shall have even numbers. Buildings on the northerly and westerly sides of streets shall have odd numbers.
- B. Exact address numbers shall be determined by the access to the nearest entry from the legal right of way or easement spaced at 10' intervals.
- C. Buildings on corner lots or parcels shall have an address determined primarily by the location of the main constructed access to a street.
- D. Apartment buildings with a common entrance shall have one address number followed by apartment A, B, C, etc. or 1, 2, 3, etc.

- E. Buildings with multiple entrances by one common address point shall have an individual address for each individual primary entrance per lot or parcel. The owner may assign additional sequential letters or other identifiers in accordance with Postal Addressing Standards for each primary entrance.
- F. A maximum of one hundred numbers shall be allowed to each block.
- G. New blocks of one hundred numbers shall begin every 1000' lineal feet of road frontage or at logical breaks defined by intersections of two roads.
- H. Curvilinear or winding streets, not conforming to the cardinal grid, shall be addressed incremented by the value of 100 per 1,000 feet according to the following:
 - 1. The initial and thereafter the dominant direction of the street shall control which axis of the grid will be used to calculate the beginning number.
 - 2. The addresses shall be numbered sequentially along the street, based on the distance from the initial address, regardless of change in direction.

Section 04.02.060. Street Naming Standards

- A. New streets. Street names must be unique to avoid confusion. When streets are extended, the name must remain the same for the new segment. Proposed street names shall be shown on preliminary plats or abbreviated plats, and shall be approved by the Planning Committee at the time of plat approval.
- B. Existing streets. The Planning Committee shall make recommendations and decide applications to change the name of any existing street or right-of-way.
 - 1. The Planning Committee may recommend a name change to an existing street or right-of-way. After public hearing, the Planning Committee shall review the recommended name change for consistency with this section, and, upon a finding that the change is consistent with this section, may make a formal recommendation to the city council.
 - 2. A property owner whose property has access to an existing street may apply for a street name change, in the following manner:
 - a. Application. The application must be on a form provided by the department and accompanied by:
 - b. The application fee.
 - c. Signed letters of approval from a majority of property owners whose properties have access to the street proposed for the name change.
 - 3. Procedure. After public hearing, the Planning Committee shall review the proposed street name change for consistency with this section, and, upon a finding that the change is consistent with this section and that the majority of property owners whose properties have access to the street proposed for the name change approve of the change, shall approve the application, subject to council approval.
 - 4. Sign replacement. If the name change is approved, the applicant shall be responsible for replacing all existing street name signs as specified by the planning committee.

Section 04.02.070. Address Interpretation

Interpretation of the standard shall not prevent the planning committee from deviating on a case-by-case basis in the event a situation arises that requires a necessary change to produce a more consistent logical local numbering system. This may be based on historic use, physical features or topographical phenomenon that is not accounted for specifically in the code.

Title V. City Departments, Boards, and Commissions

Chapter 1. Administration and Finance

Section 05.01.010. Administrative Staff

The Administrative staff of the City of Toksook Bay shall work under the supervision and direction of the City Council. This staff will be composed of essential positions which achieve, as much as possible, the smooth and efficient operation of the City offices.

Section 05.01.020. Composition

- A. The positions of the administrative staff shall be composed of the following:
1. Mayor or designee, who shall be the supervisor of all City Departments.
 2. Comptroller, who shall act as the City Treasurer and whose duties shall include those set out in Section 02.07.020.
 3. City Clerk
 4. Bookkeeper
 5. Member-in-Charge of Gaming
 6. Land Planner
 7. Grant Writer
 8. Maintenance Worker
 9. City Janitor
 10. Refuse Collector
- B. Other positions may be created, as needed, by the City Council which either improves the efficiency of operation of the City or provides an essential service to the community. These may be the result of Federal or State contracts which the City enters into, creation of programs which are seen by the Council as necessary, agreements with other entities providing for new or improved services, or cause that either the Council or community may deem necessary and essential to be part of the City Administration. The Mayor or the designee, may hire employees for positions which are temporary in nature, i.e. Bingo Callers, Pull-tab workers, casual laborers, project employees, etc.

Section 05.01.030. Combining Positions

The positions of the administrative staff may be combined by the City Council. However, this combination of positions must not create unnecessary hardship or stress for the employee working in a combined position. The mayor or designee, Comptroller, and the Member-in-Charge of Gaming shall not be combined with any other position.

Section 05.01.040. Smoke and Drug Free

The working environment for City personnel shall be smoke and drug free. Smoking areas shall be designated so as to be located outside of the office building. Employees shall be drug free and the Council may take steps to promote a drug free environment for office workers. For the purposes of this section, alcohol shall be considered a drug and medicinal drugs are exempt. If an employee's performance is negatively affected due to the potency of any medicinal drug prescribed by a doctor, the employee may be given time-off until such time that the medicine's effect wears off or it is no longer needed or taken by the employee.

Section 05.01.050. Training, Travel, and Per Diem

- A. Training: The City of Toksook Bay must provide for the training of the administrative staff that promotes better efficiency, management and operation of the City offices and the services the City provides. In cases where the training is local and involves other entities, firms, or organizations, the Council may decide whether the employee in this training session receive hourly wages for attending or a stipend, the amount of which is at the discretion of the Council.
- B. Travel: In cases where travel is required in the performance of duty, or is designated by the Council, the air fare must be paid, round trip, in full, and in advance of the date of travel. Arrangements for travel shall be made by the mayor or designee. Prior to travel, an itinerary must be provided to the staff member who is traveling. All travel by staff must be approved by the City Council.
- C. Per Diem: In cases where travel has been approved by the Council, employees who are traveling on the City's behalf, shall receive per diem at the following rates:
 1. Half-day rates of \$75.00 per day while traveling to and from one's destination;
 2. Full day rates of \$75.00 per day for inter-village destinations, and \$150.00 for urban destinations. In cases where inter-village travel is at least 100 miles one-way from the community of Toksook Bay, the Council may decide to give a higher per diem rate for the employee who travels on City business.
 3. Lodging: Lodging shall be considered separate from per diem. Lodging expenses shall be paid by the City of Toksook Bay, and lodging arrangements for those personnel traveling on behalf of the City shall be made by the mayor or designee prior to travel. Allowances for food are not part of lodging expenses.

Chapter 2. Municipal Platting Board

Section 05.02.010. Platting Creation and Membership

There is hereby created the municipal platting board for the City of Toksook Bay. Platting authority shall be vested in the City Council which shall sit as the platting board to review and approve plats within the corporate boundaries of the city.

Section 05.02.020. Rules and Regulations

- A. The mayor shall act as the chair of the platting board. The vice-mayor shall act as the platting board chair in the absence of the mayor.
- B. No action shall be taken by the platting board except when a quorum of its members is present. No plat may be approved by the platting board without the affirmative vote of a majority of the full membership.
- C. The platting board shall meet as necessary to fulfill its duties and shall provide for notice of all its meetings in a manner provided for the City Council.
- D. The platting board shall retain a complete record of its meetings and its decisions. The minutes of all platting board meetings shall constitute a public record.
- E. The platting board may make such rules and other provisions as may be necessary to efficiently and lawfully discharge its duties.

Section 05.02.030. Plat Review

The platting board shall, by ordinance, create standards and procedures for the submittal, review, and approval or denial of plats.

Chapter 3. City Bingo Committee

Section 05.03.010. Obligations

The City of Toksook Bay Bingo Committee shall be obligated to the operation and management of all bingo games which are sponsored by the City of Toksook Bay, which is the holder of the Bingo Permit. Fund raising activities through bingo shall be overseen by this committee.

Section 05.03.020. Composition

The Bingo Committee shall be composed of six members, each of whom shall serve a term of one year beginning January 1st and ending December 31st. These members shall be appointed by the City Council. The Member-in-Charge of gaming for the City shall be the seventh member and shall act as chair. The committee may select other officers necessary for the smooth operation and management of the committee and bingo sessions. In the event that the Member-in-Charge is absent, the Alternate Member-in-Charge shall assume the duties and responsibilities of the Member-in-Charge.

- A. The chairperson of this committee shall attend the regular City Council meetings representing the business matters of the committee but shall have no voting power in the decision making process of the Council.

- B. The committee shall follow all policy decisions of the City Council. The City Council may terminate any member of this committee for any discrepancy of duty or responsibility at any time.

Section 05.03.030. Bingo Days

- A. The Bingo Committee shall not be authorized to operate and manage bingo games on days and times which have not been set aside for such unless necessary arrangements have been made with the City Administration.
- B. Fill-in games shall be held at no time unless appropriate arrangements have been made with the City.
- C. Administration. No fill-in or fund raising bingo games will be held when another activity has been arranged and scheduled before-hand. To schedule fill-in games or fund raising bingo games, all stipulations made in the provisions of the Community Hall Use Ordinance must be met.

Section 05.03.040. Bingo Work Schedule

All names of bingo callers shall be placed on a roster which is to be kept by the City Clerk in city files. This roster is to be used for scheduling callers or operators of bingo sessions. The monthly schedule for those who are to work shall be made by the Member-in-Charge or an appointee of the City Council. This schedule is to be drafted and kept by the Member-in-Charge and a copy given to the committee members.

- A. The scheduled bingo callers shall report to work on time. Any caller or committee member scheduled to work, if late, shall be docked one hour's pay.
- B. Any committee member working must ask any minor who has entered the Community Hall during bingo games to leave the premises so as to minimize disturbance to the games and those participating.

Section 05.03.050. Duties

The Bingo Committee shall:

- A. Keep a record of prize winners and monies set aside at every game.
- B. Decide what type of games is to be played during the games (e.g. regular, type of special game, paper, etc.).
- C. Be responsible for the premises at which the games are held.
- D. Give the list of those persons who worked on a particular day to the Comptroller.
- E. Be sure that the bingo session begins and ends on time.
- F. Conform to the wishes and decisions of the City Council concerning the policies of operation.

Chapter 4. Reserved

Chapter 5. Fire Department

Section 05.05.010. Fire Department Established

There shall be a fire department in and for the city known as the “Toksook Bay Fire Department”. It shall consist of a Fire Chief and Assistant Chief(s), and as many officers and firefighters as may be deemed necessary for the effective operation of the department.

Section 05.05.020. Volunteer Fire Department

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

Section 05.05.030. Fire Chief

- A. **Appointment:** The Fire Chief shall be the Village Public Safety Officer who is appointed by the council and shall be responsible to that body. The appointment shall be for an indefinite period of time and with tenure of office depending upon good conduct and efficiency. The Fire Chief shall technically be qualified through training and experience and shall have ability to command. The Fire Chief shall be removed only for just cause and after public hearing before the Council.
- B. **Power and Duties:**
 - 1. The Fire Chief shall see that Article II, Section II, of the Toksook Bay Volunteer Fire Department Constitution, providing for the number and kind of companies who the department is to be composed of, is followed and shall determine the response of such companies to alarms.
 - 2. The Fire Chief shall annually submit a tentative budget for the department upon the request of the Council.
 - 3. The Fire Chief shall 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.

Section 05.05.040. Rules and Regulations

The Fire Chief shall remain and enforce an up-to-date comprehensive set 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 and filed with the Council. The Fire Chief shall carry out strictly the enforcement of these rules and regulations and is authorized to suspend or remove from service any officer or firefighter as provided in the rules and regulations.

Chapter 6. Water and Wastewater Utilities

Section 05.06.010. ARUC Ordinance

- A. By an approved agreement passed by the City Council, the City Water and Wastewater Utility shall be operated and managed by the statewide entity known as the “Alaska Rural Utility Collaborative” or “ARUC”, until such time as the City Council deems it necessary for the City of Toksook Bay to take over the management and operation of this utility.
- B. The City Council hereby adopts by reference the Alaska Rural Utility Collaborative Uniform Community Water and Wastewater Utility Ordinance, dated April 2016, and as it may be amended, from time to time, as the water and wastewater utility ordinance for the City of Toksook Bay.

Chapter 7. Planning Committee

Section 05.07.010. Establishment of Planning Committee

There may be established a planning committee for the Community of Toksook Bay, Alaska.

Section 05.07.020. Composition and Terms

- A. The Planning Committee shall reflect the makeup of the community and community interests. If applicable, the planning committee may consist of all or any combination of the following:
 1. One representative from the Toksook Bay City Council;
 2. One representative from the Nunakauyak Traditional Council;
 3. One representative from the Nunakuiak Yupik Corporation;
 4. One elder or a representative from the community at large;
 5. One youth or a representative from the community at large; and,
 6. The Mayor who shall be an ex-officio member of this committee, but shall vote only in case of a tie.
 7. The Land Planner for the City of Toksook Bay who has no voting power in the decision making process of this committee.

- B. Members shall be appointed by the body they represent. All members shall reside within the municipal boundary of the City of Toksook Bay.
- C. Members shall be appointed for three-year terms, except those first appointed shall be for one, two, and three year terms until each rotates into staggered three year terms. Such members first appointed shall draw lots so that two members serve for three years, two members serve for two years, and two members serve for one year. After serving the initial one and two year terms, these seats shall rotate into three year terms.

Section 05.07.030. Organization, Meetings, Quorum, Order of Business, Special Meetings

- A. The committee, after members are appointed, shall have an organizational meeting and designate a member as presiding officer to conduct the affairs of the committee and a deputy presiding officer to serve in the absence of the presiding officer.
- B. The committee shall meet at least once each quarter, and as many additional times as are necessary to transact business. The City Land Planner must, unless excused, be present at all meetings of the committee so as to present recommendations to or take direction from this committee
- C. Meetings shall be public and minutes shall be kept. Notice of meetings shall be given in the same manner as for city council meetings. The City Clerk or his/her designee shall act as clerk for the planning committee.
- D. A majority of the voting membership constitutes a quorum. Any act of the committee requires a majority affirmative vote of those voting members present. Any act or decision of the committee must be presented to the City Council for confirmation or approval before implementation.
- E. Meeting shall be conducted according to the City of Toksook Bay rules of procedure found in this Code. The order of business at regular meetings shall be:
 - 1. Call to Order
 - 2. Invocation
 - 3. Establishment of Quorum
 - 4. People to be Heard
 - 5. Approval of Agenda
 - 6. Reading and Approval of Last Meeting Minutes
 - 7. Reading and Disposition of Correspondence
 - 8. New Business
 - 9. Open Session
 - 10. Adjournment

The order of business at special meetings shall be prescribed by the presiding officer.

Section 05.07.040. Office Space; Compensation and Expenses

- A. The Toksook Bay Planning Committee shall be provided office space suitable for its needs and adequate to file its journal, resolutions, records, reference materials, correspondence, maps, charts, etc., all of which shall constitute public records of the City.
- B. The question of compensation for committee members shall be at the discretion of the City Council and the expenses of the planning committee shall be paid at the direction of the City Council. The planning committee shall present a budget of all anticipated expenses and costs to the City Council for their approval.

Section 05.07.050. Vacancies

The body whom a planning committee member represents shall appoint a replacement, when that member:

- A. Departs from the community with the intent to remain away for a period of ninety or more days;
- B. Submits his/her resignation and the resignation is accepted by the presiding officer;
- C. Is physically or mentally unable to attend committee meetings for a period of more than ninety days;
- D. Misses two or more consecutive regular meetings unless excused by the committee;
- E. Is convicted of a felony or of an offense involving a violation of his/her oath of office;
- F. His/Her appointment is withdrawn by the body he/she represents because of expiration of the term of office on the body he/she represents or other applicable reason.

Section 05.07.060. Planning Committee Duties

The duties of the Toksook Bay Planning Committee are advisory. The Committee may prepare and make recommendations to the local governing bodies, which they may adopt, reject, or amend on the following:

- A. Comprehensive plan;
- B. Capital improvement program;
- C. Zoning;
- D. Flood protection and countermeasures;
- E. Erosion control;

- F. Building permits;
- G. Other matters that may come to the committee's attention that affect the health, safety, and wellbeing of the citizens of Toksook Bay.

Section 05.07.070. Recommendation to be by Resolution

Recommendations made by the planning committee shall be by resolution and in the following format as shown in Appendix B:

- A. The heading "Toksook Bay Planning Committee";
- B. the space for a number to be assigned, "Resolution Number ___";
- C. a short and concise title descriptive of the resolution's subject and purposes;
- D. short premises or WHEREAS clauses descriptive of the reason for the resolution, if necessary;
- E. the resolving clause, "Be it resolved";
- F. the text; and
- G. after the date adopted, designated lines for signature of the committee presiding officer and the City Clerk to attest.

Chapter 8. Public Safety Department

Section 05.08.010. Establishment

There shall be a public safety department for the City of Toksook Bay. The Village Public Safety Officer may serve as the Chief of the Department.

Section 05.08.020. Appointment of the Chief

The Chief is appointed by the City Council and serves at the Council's pleasure. The Chief is administratively responsible to the Chief Executive Officer (Mayor).

Section 05.08.030. Powers, Duties, and Responsibilities of the Department

The Department shall have broad duties in the areas of law enforcement, fire protection, emergency medical responses, and search and rescue.

- A. Law Enforcement: It is the duty of the Department to apprehend, arrest, and bring to justice all violators of City Ordinances, to keep the peace, to serve all warrants, executions, and other processes properly directed and delivered to them, to apprehend and arrest violators over the proper authorities, and in all respects, to perform all duties pertaining to the office of Policeman.
- B. Fire Prevention: It is the duty of the Department to supervise all activities of the Toksook Bay Fire Department, extinguish fire, rescue persons endangered by fire, promote fire

prevention and safety, and in all respects, to perform all duties pertaining to the office of fireman.

- C. **Emergency Medical Response:** The authority and duties contained in this section are only to be assumed by individuals who have successfully completed Emergency Medical Technician Training to undertake immediate response in traumatic accident situations where qualified personnel must stabilize the condition of the victim in preparation for transport, transporting the victim to the nearest primary health care facility (i.e. Sub-Regional Clinic), take active measures to resuscitate and administer first aid to the person injured in case of an emergency. Departmental response to an emergency medical situation will be under the general direction of the local medical personnel and will cooperate in preparing protocol for dealing with emergency medical situations.
- D. **Search and Rescue:** It is the duty of the Department to work in conjunction with the Kalukat Search and Rescue Team. In search and rescue situations, Department personnel shall work under the direction of the Search and Rescue Team Leader. Emergency fuel may be set aside for the use of search and rescue efforts only.

Section 05.08.040. Department Chief

Unless another was designated, the Village Public Safety Officer shall be the commanding Officer of the Department. His/Her duties shall include, but are not limited to:

- A. Determine the organization of the Department and provide for its staffing;
- B. Establish and enforce rules and regulations for the conduct of Department members;
- C. Direct the Police, and fire protection work for the city and work with the S&R Team Leader in the event of any emergency rescue operation;
- D. Report any need for maintenance or repair of the Department facilities or equipment to the mayor or designee;
- E. Maintain the holding facilities and see that there is staff available in any event there is a person in custody. The responsibility for those in custody are the Chief's;
- F. See that Department staff are trained and hold drills for any event they may be needed, including fire and medical response drills;
- G. Prepare and maintain records of all arrests, citations, search and rescue efforts, emergency responses, and other information pertaining to the work and status of the Department and prepare written reports for presentation to the City Council at the Council's regular meetings;
- H. Provide for arrangements and equipment when responding to emergency situations and notify Department staff to assure prompt response to such incidents;
- I. Supervise inspections for fire and public safety hazards;
- J. Make recommendations to the City Council for the purchase of any needed equipment or office supplies for the Department;
- K. When requested by the Administration, prepare and submit a tentative budget for the Department;
- L. Coordinate or communicate with those of other State or Federal regulatory or enforcement agencies in any activity related to Department business; and,
- M. Perform such other duties as may be required by the City Council.

Section 05.08.050. Rules and Regulations

- A. **Conduct:** The Chief is responsible for prescribing the rules and regulations for the conduct of members of the Department. The City Council shall review and approve or reject the rules and regulations. Upon approval, the Council shall decide when these recommendations become effective. Once effective, those approved rules and regulations shall be binding on all Department employees and officers.
- B. **Inclusion:** The rules and regulations adopted for the Department may include, in addition to those pertaining to the conduct of Department members, uniform and equipment to be worn or carried, protocol or procedures to be followed, hours of service, and any other applicable matter necessary or desirable for the improvement of Department efficiency.

Section 05.08.060. Conduct of Members

It shall be the duty of every member of the Department to conduct oneself in a professional manner and to refrain from conduct which brings discredit to the Department or any of its members. Each member shall submit to or obey the directions of the Chief or his/her designee. No member shall use unnecessary force when carrying out their enforcement duties.

Section 05.08.070. Authority and Protection of Police on Duty

- A. It shall be unlawful for any person(s), or entity to deny any given order by the Police Officer who is on duty;
- B. It shall be unlawful for any person(s), or entity to attack, engage in a violent fight, or make any threatening gestures to any Police Officer who is on duty.

Section 05.08.080. Property, Equipment, and Supplies

- A. **Custody:** The Chief shall have custody, on behalf of the City of Toksook Bay, of all department equipment and property which includes all lost, stolen, abandoned, unclaimed, or confiscated property which comes into the possession of the Department. The Chief shall also be responsible for an inventory of all such property, equipment, and supplies and the proper maintenance of them.
- B. **Storage:** Under direction of the City Council, the Chief shall establish procedures, or rules and regulations pertaining to the storage of Department property.
- C. **Personal or Private Use:** Any Department equipment shall not be used for personal or private purposes by any person nor shall any person take or use such without proper authorization or permission from the Chief or the City.

Section 05.08.090. Department Members; Regular and Special

- A. Appointment: The number of regular and special Department membership may be appointed by the City Council unless the authority to appoint, suspend, or remove has been delegated to the Chief.
- B. Salaried Members: The regular members of the Department are those persons whom hold positions and receive wages as employees of the City of Toksook Bay, and are subject to all benefits which may apply thereto. When on duty, proper uniforms may be required to be worn, although responding to an emergency situation shall not require wearing a complete uniform and necessary equipment may be used.
- C. Special Members: The special members of the Department may include special purpose or special response teams as follows;
1. Volunteer Department.
 2. Search and Rescue teams.
 3. Emergency Medical response teams.

Such special members shall serve only on an “incident only” basis and shall respond when called upon or when circumstances warrant their services. Compensation for these special members shall be at the discretion of the City Council. However, reimbursements shall not be considered compensation. If the City Council deems it necessary, special members may be reimbursed for clothing damage incurred while fighting fires or serving in capacities considered as part of Department operations. Temporary jail guards shall also be considered as special members of the department and shall receive wages as compensation only for services rendered as jail guards.

Section 05.08.100. 24 Hour Stand-by

Those persons considered as regular members of the Department shall be on 24 hour stand-by when off duty. Search and rescue and emergency medical response teams shall only be called upon when circumstances warrant their participation.

Chapter 9. Department of the Port of Toksook Bay

Section 05.09.010. Creation

There shall be a Department of Port of Toksook Bay for the City. The port director shall be the head of the department.

Section 05.09.020. Function

It shall be the function of the Port to execute the duties provided in the Tariff or as may otherwise be provided by the Council. The Tariff is adopted by the Council by resolution after consulting with and considering recommendations from the port director.

Section 05.09.030. Port Director

There shall be the office of port director. The port director is appointed by the city manager subject to confirmation by the council. All officers and employees assigned to this department shall perform their duties subject to the director's supervision. The director shall have all duties and powers provided by this Chapter or as is provided in the Tariff.

Section 05.09.040. Qualifications

The port director shall be technically qualified through training and experience to handle the duties of the office.

Section 05.09.050. Term of Employment

The port director shall serve at the pleasure of the mayor or designee, subject to review by the council. Reasonable written notice shall be given to the port director prior to termination. A port director shall have the right to a public hearing before the council prior to termination if he or she so demands in writing to the mayor or designee and council.

Section 05.09.060. Appointment of Officers and Employees

The mayor or designee may authorize the port director to appoint, suspend, or remove officers or employees in the department, as provided in Chapter 05.01 of this Code. If the mayor or designee does not delegate authority to the director to appoint, suspend, or remove officers or employees of the department, the mayor or designee shall consult with and consider any recommendations from the director before appointing, suspending, or removing officers or employees of the department.

Section 05.09.070. Rules and Regulations

The port director is responsible for prescribing the rules and regulations for the conduct of the department. The mayor or designee and council shall approve any rules or regulations before they become effective. Once effective, the rules and regulations are binding on all department employees and officers.

Section 05.09.080. Personnel Rules

Nothing in this Chapter prevents or restricts the council from providing for a personnel system which specifies the terms and conditions of employment of the port director and of the employees or officers within the department. Any personnel system adopted by the council shall supersede the provisions of this Chapter unless otherwise provided in the personnel system.

Section 05.09.090. The Tariff

The Tariff shall name the rates, charges, rules and regulations for wharfage, wharf demurrage, and other terminal services and privileges defined therein. The Tariff shall also contain a description of

the geographic or jurisdictional area served by or under the authority of the Department. The port director is in charge of administering the provisions of the Tariff. The port director shall suggest to the council any recommended changes in the Tariff. The council shall make any changes in the Tariff by resolution.

Section 05.09.100. Contract for Port Management

The City Council may contract for the management of the Port and for the duties of port director. Contracts under this section must be approved by ordinance and must comply with the provisions of this Code and Alaska Statutes Title 29.

Chapter 10. City Janitor

Section 05.10.010. Duties and Responsibilities

The duties and responsibilities of the City Janitor will be:

- A. To clean up the Community Hall after any City, or privately sponsored activity.
- B. To inform the City Maintenance person of any maintenance that is needed in the Community Hall and the City Offices.
- C. To clean up the City Office Building when needed.
- D. Other duties and responsibilities of the janitor may be prescribed at the discretion of the council.

Section 05.10.030. Hire, Termination, and Resignation

The janitor shall be hired by the mayor or designee and is subject to be terminated at any time for any discrepancy in his/her job.

Chapter 11. Department of Emergency Management

Section 05.11.010. Department Established

There shall be established a Department of Emergency Management. Executive and administrative duties are vested in the office of the Mayor, who may appoint such other personnel as shall be found necessary to properly and safely accomplish the purpose of the department of emergency management.

Section 05.11.020. Purpose

It is the desire of the City to protect and preserve the lives, health, safety, and well-being of the people living in or visiting the City. To this end, the department of emergency management shall be responsible for implementing the approved emergency operations plan, and shall be the liaison agency with the Alaska Division of Homeland Security and Emergency Management.

Section 05.11.030. Emergency Response Plan

There shall be an emergency response plan developed jointly with the Alaska Division of Homeland Security and Emergency Management, which shall be adopted by ordinance and may be amended by resolution with notification to the Alaska Division of Homeland Security and Emergency Management.

Section 05.11.040. No Government or Private Liability

- A. No emergency management agency or authorized emergency response personnel, while in proper performance of his/her required duties shall be held liable for any damage sustained to persons or property as a result of emergency response activity except and unless as provided under applicable law.
- B. No person owning or controlling real property, who allows the use of that property for emergency response activities shall be held liable for death or injury resulting from that use, except and unless as provided under applicable law.

Title VI. Public Facilities and Equipment

Chapter 1. Community Hall

Section 06.01.010. Use of the Community Hall

The use of the Community Hall shall be considered a privilege given to the members of the community for publicly or privately sponsored activities or events which include, but are not limited to: potlucks, meetings, dances, or any activity or event to which members of the public have gathered or been invited.

Section 06.01.020. Activity or Event Preference

No activity or event shall have preference over another. Any event or activity that is sponsored by any person, firm, or organization shall not interfere with another activity which has been scheduled before-hand.

Section 06.01.030. Stipulations for Use

- A. Any gathering for activities must be peaceful and disturbance to the neighborhood must be held to a minimum.
- B. Stipulations made in the Curfew Ordinance shall be adhered to. It will be the responsibility of the sponsor to make sure that the curfew hours are followed. Written permission from the City Council must be obtained by the sponsor at least 24 hours before any activity if that scheduled activity is expected to terminate past curfew hours.

Section 06.01.040. Responsibility for City Property

In the event where City property is damaged or stolen during any activity, the cost of repair to the damaged property or replacement of stolen City property shall be the responsibility of the sponsor. The cost of repair shall include labor and the cost of material and/or equipment needed for the repair.

Section 06.01.050. Arrangements, Calendar, and Fees for Use

- A. Arrangements for the use of the community hall must be made with the City Administration at least three days before-hand.
- B. A calendar of events shall be kept by the City Administration and must be kept up to date by the City Clerk.

- C. A fee for the use of the community hall shall be at the discretion of the City Council. No fee shall be charged to any sponsor who is a non-profit or community service organization, or holds an activity without admission fees.

Section 06.01.060. Reservation of Right to Refuse

The City of Toksook Bay reserves the right to refuse any sponsor the use of the community hall.

Section 06.01.070. Cleaning Arrangements

- A. Cleaning arrangements shall be made by all sponsors of any activity or event with the City Administration and the community hall janitor. The community hall shall be cleaned after each activity or event with the co-operative efforts of the sponsor and the community hall janitor, except in those cases where the activity or event is for profit making purposes. In such cases, it is the obligation of the sponsor to clean.
- B. Exemption: Any activity or event sponsored by the City, the Traditional Council, any community service organization or firm, or any person who invites the members of the community for any activity or event for free is exempt from the provision of this section.

Chapter 2. Public Safety Building Garage

Section 06.02.010. Limitation of Use

The use of the Public Safety Building Garage shall be limited to the following, subject to written permission of the City Council:

- A. Storage of firefighting equipment that is not suitable to be stored anywhere else;
- B. Storage of evidence confiscated by peace officers if too large to be stored elsewhere;
- C. Repair of vehicles or machinery by private individuals, provided that the fee, stated in Section 2 of this Chapter, has been paid; and

Section 06.02.020. Fee for Use

The fee for the use of the Garage for the repair or vehicles or machinery shall be paid at the City Offices before use. The fee, which may be amended by the Council by resolution, shall be set as follows:

- A. For local residents;
1. \$5.00 per day
 2. \$30.00 per week
- B. For non-residents;
1. \$6.00 per day
 2. \$35.00 per week

- C. For City Employees;
 - 1. \$2.50 per day
 - 2. \$15.00 per week

Section 06.02.030. Damage to City Property

In the case where City property is damaged by the user, the repair or cost of repair, or the replacement of any part, including labor, will be the responsibility of that user. Should the renter be unable to pay the amount due, payment arrangements may be made with the Administration. An interest rate, established by the Council, may be charged for any late payment.

Section 06.02.040. City Tools

- A. Any tools belonging to the City that are lost or damaged by the user shall be replaced by, or the cost of replacement be charged to that user.
- B. A fee for the use of City tools may be charged, the amount of which shall be at the discretion of the Council. This fee, if charged, must be paid at the City offices by the user, before using City-owned tools.

Chapter 3. City Vehicles and Equipment

Section 06.02.010. Maintenance, Disposal, or Purchasing

All City owned vehicles and equipment shall be maintained by the Maintenance Department. The disposition or purchase of vehicles or equipment must be authorized by the Council. Disposal or purchase of City vehicles or equipment must follow Federal or State mandates, rules, and regulations for the disposal or purchase of such.

Section 06.02.020. Operation of City Vehicles and Equipment

Only city employees authorized by the Council or the Administration shall operate city owned vehicles and equipment. The City shall provide for parking or storage space for city owned vehicles and equipment when not in use. When required, a valid state or commercial driver's license must be in the possession of the operator, a copy of which must be filed with the City administration. These personnel shall report to the Maintenance Department any maintenance need of these City properties.

Section 06.02.030. Insurance Coverage

Coverage for liability, accident, and any other applicable insurance shall be the responsibility of the City. The City must make all efforts to see that coverage is kept current and up-to-date.

Section 06.02.040. Rental

City owned vehicles and equipment may be rented or leased by private residents, local, or non-local firms at rates established by the Council. The cost of fuel may be covered by the rate charged. The salary for the operator may be included in the rate. Arrangements by interested parties must be made with the City Administration and rental fees paid prior to usage, unless the renter is a firm based outside the city and payment arrangements made in writing. A publication of a rental agreement, current rental rates, and rental provisions shall be made by the City and kept with the mayor or designee. Provisions for the cost of repair or replacement of parts, and labor thereof, being the responsibility of the renter must be included in the rental provisions. In cases where the renter is a firm, organization, or business establishment, arrangements for coverage's stated above may be made prior to rental of city vehicles or equipment.

Title VII. Public Welfare

Chapter 1. Unification of Title VII Ordinances

Section 07.01.010. Joint Enforcement

- A. For the purposes and concern for the safety and welfare of community residents, all chapters, sections, and provisions of this Title shall be considered as unified with the Tribal Public Welfare ordinances. When and where applicable, the Nunakauyak Traditional Council, through its Tribal Court, may jointly enforce and use all chapters, sections, and provisions of this Title in enforcement and penal practices.
- B. Before consideration that Title VII ordinances be unified, and jointly enforced with the tribal rules and regulations, appropriate documentation, which may be in the form of a Memorandum of Agreement or Understanding is necessary, unless other documentation is required. These must be drafted, then passed by affirmative votes of the quorums of both the Councils of the City of Toksook Bay and the Nunakauyak Traditional Council.
- C. At the time the City Council and the Traditional Council agree on, and have put into effect, joint enforcement, ordinances in this Title and provisions thereof, when applicable, shall have the same force, affect and authority as a tribal ordinance.

Section 07.01.020. Use of City Ordinances

Where Traditional or tribal laws, rules, and regulations lack coverage or jurisdiction, City ordinances may be used by the Tribal Court as reference material during the hearing of cases. In cases where ordinances, or provisions thereof, in this Title have an effect on the laws, rules and regulations of the Tribe, those ordinances shall not infringe upon, supersede, or invalidate the affected tribal ordinance, law, rule, or regulation. However, such preference shall not invalidate the ordinances of this Title or their provisions. This preference shall not mean that public safety officers of one organization has authority over the public safety employees of the other organization, however to promote effective enforcement of ordinances, cooperation is imperative in the working relationship of each organization's police force.

Section 07.01.030. Indemnification

At the time the unification of the ordinances of this Title comes into effect, the City shall indemnify the Tribe and the Tribe shall indemnify the City from all liability or suit which results from such enforcement. An indemnification clause must be included in the documentation providing for the joint enforcement of ordinances. It shall be the responsibility of each organization to provide for the insurance coverage of their public safety employees.

Section 07.01.040. Referring Cases to the Tribal Court

All applicable citations, applicable misdemeanors, or cases where ordinances set forth in this Title have been found to be violated and the Tribe has appropriate jurisdiction, shall be referred to the Tribal Court. Felony cases, and those cases where there is no applicable local jurisdiction, shall be referred to the appropriate State or Federal Court system for prosecution.

Section 07.01.050. Binding Affects of Tribal Penal Decisions

All penal decisions of the Tribal Court on any applicable case shall be binding upon the individual found guilty of the violation of any ordinance, or provisions thereof, of this Title. The City shall jointly enforce, and cause the individual found guilty of a violation to abide by, the penal decisions of the Tribal Court.

Chapter 2. Intoxicating Liquors or Beverages

Section 07.02.010. Definitions

- A. ALCOHOLIC BEVERAGE: spirituous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage and that contain alcohol, whether produced commercially or privately.
- B. COMMUNITY WORK: is limited to work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve land, forests, parks, roads, highways, facilities, or education: community work may not confer a private benefit on a person except as may be incidental to the public health.

Section 07.02.020. Public Consumption

A person shall not consume alcoholic beverages upon public streets, alleys, public school property or building, or city-owned facilities, or while attending any public gathering or event.

Section 07.02.030. Inducement

A person may not motivate or induce another person to furnish him/her with any alcoholic beverage.

Section 07.02.040. Furnishing Alcoholic Beverages to Intoxicated Person

A person shall not furnish alcoholic beverages to a person who reasonably appears to be intoxicated.

Section 07.02.050. Public Intoxication

A person who is under the influence of alcohol shall not enter, linger, or loiter:

- A. Upon public streets, alleys, or public school property, or in any public school building, city meeting or recreational facility, or at any place where school or public-related functions are taking place;
- B. In or about any business establishment, if the owner or the person in charge of the business establishment has asked the person to leave; or
- C. In or about any residence or other property which is not owned or normally occupied by the person, to the annoyance of the owner or normal occupants.

Section 07.02.060. Furnishing Alcohol to a Minor

A person shall not furnish, or induce another person to furnish, alcoholic beverages to any person under 21 years of age.

Section 07.02.070. Arrest or Citation of Violators; Community Service

- A. When a peace officer stops or contacts a person concerning a violation of Sections 07.02.020 through 07.02.050, the peace officer may, in the officer's discretion, arrest the person as provided in AS 12.25.010 through 12.25.160 or issue a citation to the person as provided in AS 12.25.180 through 12.25.220. When issuing a citation, the officer shall write on the citation the amount of bail established for the violation. The officer may seize such evidence as is appropriate to support the charge.
- B. A person cited pursuant to subsection 07.02.070(A) may, within 30 days after the date the citation is issued:
 - 1. Mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer, the amount of bail indicated on the citation and a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered, and the bail and all alcoholic beverages seized are forfeited; or
 - 2. Perform community work in lieu of payment of the fine pursuant to subsection 07.02.070(C) of this section.
- C. Community work shall be performed at the direction of the Council. The value of community work in lieu of a fine is \$5.00 per hour. When the community work is completed, the person cited for the violation shall mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer:
 - 1. A form, prescribed by the administrative director of the Alaska Court System and available from the clerk, indicating completion of the community work; and,
 - 2. A copy of the citation, indicating that the right to an appearance is waived, a plea of no contest is entered, and that the bail is forfeited or community work has been performed and that all alcoholic beverages seized are forfeited.
- D. When the fine has been paid or proof of performance of community work under this section has been filed with the court, a judgment shall be entered. Payment of fine, or filing proof of performance of community work, and forfeiture of all seized items is a

complete satisfaction for the violation. The clerk of the court accepting the bail or the form indicating performance of community work shall provide the offender with a receipt stating that fact.

- E. If the person fails to pay the fine amount stated on the citation, or fails to provide proof of performance of community work as specified in subsection 07.02.070(C)(1) to the court, the citation is considered a summons.
- F. Violation of Section 07.02.020 through 07.02.050 is not considered a criminal offense, nor is a fine imposed for violation considered criminal punishment. A person cited for a violation does not have the right to a jury trial or court-appointed counsel.

Section 07.02.080. Seizures and Forfeitures

Property seized under this chapter shall be placed in the custody of the Public Safety Department of the City of Toksook Bay or a peace officer of the state, forfeited, and destroyed. The City of Toksook Bay reserves the right to auction, or put up for sale to the public, those seized or confiscated properties which are considered to be useful for public or private purposes.

Section 07.02.090. Penalties: Fines

A person found violating a provision of section 07.02.020 through 07.02.050 shall be fined at a rate set by the fining authority, not to exceed five hundred dollars (\$500.00) and the surcharge required to be imposed under AS 12.55.039. A “violation” is a non-criminal 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. A trial by jury;
- B. A public defender or other counsel appointed at public expense to represent the person.

Chapter 3. Prohibiting the Sale, Importation, and Possession of Alcoholic Beverages

Section 07.03.010. Prohibitions

As a result of the municipal alcohol local option election authorized by AS Title 4, held November 23, 1981, and amended October 2, 2012, at which 99 voters voted “yes” and 48 voted “no” to prohibit the sale, importation, and possession of alcoholic beverages, the sale, importation, and possession of alcoholic beverages is prohibited in and within five miles of the limits of the City of Toksook Bay.

Section 07.03.020. Violations

- A. A person found violating Section 07.03.010 shall be issued a citation by a peace officer.
- B. The citation shall bear witness to and identify the specific violation in Section 07.03.020. Each violation is a separate offense.

Section 07.03.030. Penalty

- A. A person who sends, transports, or brings into the City less than 10.5 liters of hard liquor, or less than 24 liters of wine, or less than 12 gallons of beer, is, upon conviction, guilty of a Class A misdemeanor, and may be sentenced to a maximum of one year in jail and/or a \$5,000.00 fine. A person who sends, transports, or brings into the City 10.5 liters or more of hard liquor, or 24 liters or more of wine, or 12 gallons or more of beer, is, upon conviction, guilty of a Class C felony and can be sentenced up to five years in jail and/or fined up to \$50,000.00.
- B. An unlicensed person selling hard liquor, wine, or beer commits a Class C felony.
- C. Sale of alcoholic beverages in any amount to a minor is a Class C felony.
- D. Any case involving any felony class shall be remanded to the State for prosecution.
- E. A person convicted of possession within the City may be punished by a fine of no more than \$1,000.00 or 200 hours of community work and shall forfeit the seized alcoholic beverages. When a peace officer stops or contacts a person suspected of possession, the officer may issue a citation to the person.
 - 1. The maximum bail amount that can be forfeited without a court appearance is \$1,000.00. The issuing officer must write the amount of bail on the citation.
 - 2. If a person is cited for possession, within 30 days of the date of the citation, the person may either:
 - i. Mail or personally deliver to the clerk of the court in which the citation is filed the amount of bail shown citation is filed the amount of bail shown on the citation and a copy of the citation showing that the right to an appearance is waived. A plea of no contest is entered and the bail and all alcoholic beverages seized are forfeited; or
 - ii. Perform community work instead of paying the fine or a portion of the fine as provided in subsection 07.03.030(C).
- F. Community work is performed at the direction of the governing body of the city or the established village. By state law, the value of work is the prevailing minimum wage. When the community work is completed, the cited for the violation shall mail or personally deliver to the court clerk in which the citation is filed:
 - 1. A form, prescribed by the Alaska Court System, showing a completion of the community work; and

2. A copy of the citation showing the right to an appearance is waived, a plea of no contest, the bail is forfeited or community work has been performed, and all alcoholic beverages seized are forfeited.
- G. When bail has been forfeited or proof of performance of community work has been filed with the court, a judgment is entered. Forfeiture of bail or filing proof of performance of community work and forfeiture of all seized items satisfies the violation. The court clerk accepting the bail, or the form indicating performance of community work, provides the offender with a receipt stating that fact, if requested.
- H. If the person doesn't pay the bail amount or fails to provide proof of performance, the citation becomes a summons.
- I. If a person cited for possession appears in court and is found guilty, the penalty imposed cannot exceed the bail amount for that offense.
- J. Violating AS 04.11.501 (Prohibition of possession after election) or ordinance adopted under AS 04.11.501, may not be considered a criminal offense and may not result in imprisonment, nor is a fine imposed for a violation considered criminal punishment. A person cited for a violation doesn't have a right to a jury trial or court appointed counsel.
- K. The commissioner of Public Safety prescribes and provides a suitable standard citation form identifying the offender and the offense.
- L. A municipality shall adopt a citation form equivalent to that prescribed by the commissioner.

Section 07.03.040. Forfeitures

Under Alaska State, all alcoholic beverages, materials, and equipment used in the sale or offering for sale of alcoholic beverages; aircraft, vehicles, or vessels used to transport or facilitate the transportation of alcoholic beverages into the City of Toksook Bay are subject to forfeiture.

Section 07.03.050. Definitions

The following definitions apply to this chapter:

- A. **ALCOLIC BEVERAGES:** spirituous, vinous, malt, or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage (or any beverage containing alcohol that the person possessing intends to consume, whether meant for human consumption or not) and contain alcohol, whether produced commercially or privately.
- B. **IMPORTATION:** bringing, sending, or having delivered by whatever means alcoholic beverages from one place to another place which has forbidden the sale and importation

of alcoholic beverages (or any beverage containing alcohol that the person consumes or intends to consume, whether meant for human consumption or not).

- C. SALE: alcoholic beverages sold, offered for sale or possessed for sale, bartered, or exchanged for goods and services in the city. Sale does not mean alcoholic beverages purchased by one person for another or a group when there is no profit involved, but merely a reimbursement of cost, as long as all persons involved are 21 years of age or older.

Chapter 4. Garbage and Human Waste

Section 07.04.010. Disposal of Garbage

It shall be unlawful for any person, firm, or organization to dispose garbage, trash, or refuse of any kind within the city limits other than the place designated by the City Council which is the City Dump (or Landfill), provided that access to this dump site is possible. The place designated must have a sign posted referring to it as the City Dump.

Section 07.04.020. Disposal of Human Waste

It shall be unlawful for any person or firm to deposit, dump, or in any manner dispose human waste or excrement within the city limits other than the place designated by the City Council which is the Lagoon which is located on the North side of the community. This place is designated as the place to dispose of human waste and must have a sign posted at this location.

Section 07.04.030. Maintenance

The means of access to the City Dump and the Lagoon must be maintained by City employees hired as City Maintenance provided that the equipment needed is operable and the employee hired to do such has the knowledge needed to operate this equipment.

Section 07.04.040. Refuse Collectors

The City shall have in its employ, persons designated as City Refuse Collectors who shall collect garbage and transport this collected garbage to the City Dump. The fee for this service shall be at the discretion of the City Council.

Section 07.04.050. Penalties

Persons, firms, or organizations violating the provisions of Section 1 and 2 shall, upon conviction, be penalized with a mandatory fine, the sum of which shall at no time exceed the amount of \$500.00 because of the risk involved to human health. Imposition of a penalty for repeat offenders shall be at the discretion of the fining authority, the amount of which shall be least \$500.00. Community service work may be imposed by the fining authority in lieu of a fine.

The period of the community work, the value of which shall be at least the prevailing minimum wage if imposed, shall be set at the discretion of the fining authority

Chapter 5. Motorized Vehicles

Section 07.05.010. Vehicle Description.

Motorized vehicles mean any vehicle that has a motor, i.e. snowmobile, truck, car, all-terrain vehicle/four-wheeler, motorcycle, dune buggy, boat, etc.

Section 07.05.020. Driving Under the Influence.

Motorized vehicle operators shall not operate any motorized vehicle while under the influence of any intoxicating beverage, drugs, and/or inhalants.

Section 07.05.030. Reckless or Negligent Driving.

- A. Any operator(s) who drives a motor vehicle in the state in a manner that creates a substantial and unjustifiable risk of harm to a person or to property is guilty of reckless or negligent driving.
- B. A person convicted of reckless driving is guilty of a misdemeanor and is punishable by a fine of not more than \$1,000.00 or by imprisonment for not more than one year or both.
- C. Lawfully conducted automobile, snowmobile, motorcycle, or other motor vehicle racing or exhibition events are not subject to the provisions of this section.

Section 07.05.040. Operating Light on Vehicle(s).

Such operator(s) shall ensure that his/her vehicle shall have operating headlight and taillights when operating between dusk to dawn, or in any circumstance which visibility is impaired.

Section 07.05.050. Speed Limit.

Such operator(s) shall ensure that his/her is operated in a manner safe to pedestrians, and other motorists, and not to exceed fifteen (15) miles per hour within the city limits of Toksook Bay.

Section 07.05.060. Excessive Passengers.

Such operator(s) shall not operate their motorized vehicle(s) with excessive passengers. For example; the front rack of a four-wheeler, on skis and racks of snowmobiles.

Section 07.05.070. Traffic Signs.

Such operator(s) shall obey all traffic signs posted within the city limits of Toksook Bay.

Section 07.05.080. Age Limit.

- A. Such operator(s) shall be sixteen (16) years of age and over. Any parent or guardian must request permission from the Toksook Bay Public Safety for anyone under the age of sixteen (16) years to do chores or errands with a motorized vehicle. No individual under the age of fourteen (14) shall be allowed permission to use a motorized vehicle, unless with an adult.
- B. Such operator(s) of children's motorized vehicles (vehicles manufactured and designed for youth operators), shall be supervised by an adult at all times.

Section 07.05.090. Joyriding.

Such operator(s) shall not drive the motorized vehicle with any showmanship of speed within the City of Toksook Bay. (Showmanship of speed includes spinning wheels or tracks, revving up engines, racing, etc.) Convoys of four (4) or more motorized vehicles within the City of Toksook Bay are also prohibited, often referred to as "joy riders". This does not include events such as parades, funeral processions, search and rescue, subsistence gathering, travelling, or work and construction tasks.

Section 07.05.100. Vehicle Curfew.

Curfew for operating a motor vehicle will be at 12:00a.m. (midnight) until 6:00a.m. Operator(s) shall request permission from the Toksook Bay Public Safety to operate a motorized vehicle during the set hours, all other dusk to dawn violations shall be at the discretion of the Toksook Bay Public Safety Officer.

Section 07.05.110. Impounding of Vehicles.

Any person found in violation of any of this ordinance shall have their motorized vehicle impounded by all peace officers (city/tribal/VPSO) within the City of Toksook Bay.

Section 07.05.120. Impounding Fines.

- A. Any person(s) violating sections 07.05.010 thru 07.05.030 shall be subject to State Laws and the following penalties imposed upon the operator of the motorized vehicle and the violator shall be suspended from driving:
 1. First Offense: Warning
 2. Second offense: \$100.00
 3. Third Offense: \$200.00
 4. Fourth and subsequent offense: Driver Suspension

B. Any person(s) violating sections 07.05.040 thru 07.05.090 shall be subject to State Laws and the following penalties:

1. First Offense: Warning
2. \$100.00 fine and/or community service and all other subsequent offenses apply with this fine.

Section 07.05.130. Time Limit.

The violator has a period of thirty (30) days to pay the fee for the seized vehicle or if not able to pay the fee, the violator shall perform community service to cover the fee for the seized vehicle.

Chapter 6. Control of Hallucinogenic or Illegal Drugs

Section 07.06.010. Definitions

The following words or phrases shall apply to this chapter:

- A. HALLUCINOGENIC OR ILLEGAL DRUGS: any drug, synthetic or otherwise, that, when taken, causes the user to hallucinate or have any distortion of judgment such as;
1. Marijuana (grass, dope, pot, etc.)
 2. Cocaine; or
 3. Any other drug declared to be illegal by the Statute of the State of Alaska and the Federal Government.
- B. RUNS: to make purchases of drugs for another person.
- C. IMPORT: to bring into city limits by means of any kind of transportation, public or private.

Section 07.06.020. Sale, Barter, and Exchange

It shall be unlawful for any person(s), firm, or organization to sell, barter, or exchange any hallucinogenic, or illegal drug or prescription drugs that have been prescribed to a patient by a doctor within the city limits of Toksook Bay. It shall also be unlawful for an individual to use prescription drugs that have been prescribed to another individual by a medical professional.

Section 07.06.030. Runs

It shall be unlawful for any person(s), firm, or organization to make runs within the city limits.

Section 07.06.040. Importation

It shall be unlawful for any person(s), firm, or organization to import any kind of hallucinogenic or illegal drug into the city limits.

Section 07.06.050. Exemption

Those drugs that are exempt from the provisions set forth in this ordinance are those that are prescribed to a patient by the Clinic or a doctor, or any other drug that is used for medicinal purposes.

Section 07.06.060. Penalties

Any person(s), firm, or organization found to have violated any provision set forth in this ordinance shall, upon conviction, be fined an amount of no more than \$500.00 (five hundred dollars) and/or be put to community service work which shall be valued at least the prevailing minimum wage. Other forms of penalties may be imposed at the discretion of the fining authority.

Chapter 7. Gambling

Section 07.07.010. Engaging or Participating

It shall be unlawful for any person(s), firm, or organization to engage or participate in any type of gambling or games of chance and skill involving the transaction of money.

Section 07.07.020. Sponsorship

- A. It shall be unlawful for any person(s), firm, or organization to sponsor any type of game of chance or skill involving the transaction of money without a permit or license from the State of Alaska.
- B. If issued a permit or license by the State of Alaska, this permit or license shall be posted at a conspicuous spot at the place where the games of chance or skill involving money are held.

Section 07.07.030. Provision of Facilities and Termination of Games of Chance and Skill

- A. It shall be unlawful for any person(s), firm, or organization to provide a place, public or private, to engage in the games set forth in Section 07.07.010.
- B. Any person(s), firm, or organization with a permit or license from the State of Alaska to sponsor any games of chance or skill involving money (gambling) shall consult with the City Administration on the use of the Community Hall and will be limited to 2 (two) activities per week provided that these games of chance or skill involving money are held and terminated prior to curfew hours.

Section 07.07.040. Penalties

Any person(s), firm or organization violating any provision of this ordinance shall, upon conviction, be penalized as follows:

- A. Where the violator(s) is an individual or a group of people, the penalty shall;
 - 1. for the first offence, be reprimanded.
 - 2. for the second offence, be fined an amount of no more than \$300.00.
 - 3. for the third and subsequent offences, be fined an amount of no less than \$100.00 and no more than \$500.00, and/or be put to community service work which shall be valued at the prevailing minimum wage.

- B. Where the violator is a firm or organization, the penalty shall:
 - 1. for the first offence, be reprimanded.
 - 2. for the second offence, be fined an amount of no more than \$300.00
 - 3. for the third and subsequent offences, be fined an amount of no less than \$100.00 and no more than \$500.00 and the City Council recommendation to the State to have its license revoked or suspended for a period of no less than 30 days.

Chapter 8. Dog Control

Section 07.08.010. Definitions

As used in this chapter:

- A. **ANIMAL:** all domestic or domesticated members of the animal kingdom, classes Mammalia (Dog).

- B. **ANIMAL CONTROL OFFICER:** an employee under the direction of the public safety personnel and/or council, who shall be responsible for, rabies control of animals, investigation of animal bites and complaints, maintaining the animal control program, and the destruction and disposal of unwanted animals. The animal control officer may participate in public education efforts concerning animal control and safety.

- C. **DOG:** any member of the Mammalia family, Canis Familiaris commonly called dogs, but not fox, wolf or other game species the taking of which is regulated by the State. Any game species kept as a pet must have a valid state permit.

- D. **SECURE ENCLOSURE:** a premises or property where dogs six (6) months of age or older are kept.

Section 07.08.020. Vaccination

All animals six (6) months or older shall be vaccinated and all owners of such animals shall abide by this requirement.

Section 07.08.030. Confinement

All animal owners shall see that their animals are restrained by a physical restraint, chained and/or confined in a secure enclosure, so that the animal cannot reach any public sidewalk or adjoining property and shall be located so as not to interfere with public access to owner's property and pose no threat to life or property within the city. Non-compliance by owner is a cause for fine of no less than fifty dollars (\$50.00) or seizure of the animal to be disposed of.

Section 07.08.040. Animal Owner to be Informed

Any loose, unattended animal and where ownership can be determined, the owner shall be informed of the animal's condition so that the owner may, within a reasonable period of time, secure the animal in proper fashion. This is the first and only warning. On second capture the animal will be considered abandoned, stray, wild and/or ownerless to be subject to disposal by the Animal Control Officer(s) or the City/Tribal Police.

Section 07.08.050. Rabies and Procedure

Any animal believed to be sick with rabies will be observed for ten (10) days. If the animal in question has bitten anyone, the Community Health Aide, and the City/Tribal Police shall be notified immediately.

Section 07.08.060. Emergency Animal Control

- A. Whenever there exists a substantial problem of unconfined and free-roaming dogs and this problem shall be such nature as to exceed the ability of animal control officers to safely and adequately deal with such loose dogs, the City Council may declare an emergency dog control program into effect. In determining whether an emergency program shall be declared, the City council shall consider:
 1. The number of citizen complaints;
 2. The nature of citizen complaints;
 3. The existence of reported rabies cases or other contagious disease carried by dogs;
 4. Other relevant factors.
- B. If an emergency dog control program is declared, such emergency program shall be announced by posting in at least three places within the City, and by announcing such program at least once daily on local vhf radio channel.
- C. At the conclusion of Three (3) days after such announcement has first been noticed, the City Council may order the destruction of free-roaming dogs by specified public safety personnel and/or animal control officer(s). Such emergency control program shall be in effect for no more than thirty (30) days, and may be extended only by resolution of the Council, after public hearing.

Section 07.08.070. Penalties

Person(s), companies, firms or any other entity violating the provisions of this ordinance shall, upon conviction, be fined an amount not to exceed three hundred dollars (\$300.00), or such fine shall be set at the discretion of the fining authority and paid off under community service work at the prevailing minimum wage until the amount of the fine is covered.

Section 07.08.080. Volunteer Animal Control Officer

- A. The City Council may authorize volunteer animal control officers.
- B. Volunteer animal control officers will be under the direction of the mayor or mayor's designee.
- C. Volunteer animal control officers are empowered to capture loose, aggressive, or nuisance animals, consistent with the provisions of this Chapter.
- D. Volunteer animal control officers shall abide by all applicable state and local laws for the care and treatment of animals, and shall be solely responsible for the humane treatment of animals captured pursuant to this Chapter, including providing adequate food and water, confinement, temperature, medical treatment, transportation, and, if determined appropriate, disposal.
- E. The City Council at its discretion may revoke authorization for volunteer animal control officers.

Chapter 9. Disorderly Conduct

Section 07.09.010. Acting in a Violent Manner

It shall be unlawful for any person(s), firm organization or corporation to act in a manner of violence toward another person.

Section 07.09.020. Disturbance; Loud Noises

It shall be unlawful for any person to disturb or cause any loud noise(s) in any public place or private home.

Section 07.09.030. Intoxication

It shall be unlawful for any person to appear at a public facility or gathering in an intoxicated manner and cause a disturbance to the welfare of the people.

Section 07.09.040. Challenges/Dares to Fight

It shall be unlawful for any person(s) to challenge, or dare any other person to fight in a public or private place.

Section 07.09.050. Penalties

Any person, persons, firm, organization, corporation, or any other entity violating the provisions of this ordinance, shall, upon conviction thereof, be punished by a fine not to exceed three hundred (\$300) dollars, and/or be put to work under community service at the prevailing minimum wage, the length of which shall be set at the discretion of the fining authority.

Chapter 10. Weapons Violations

Section 07.10.010. Threatening With Weapon

It shall be unlawful for any person(s) firm, or organization to threaten another person with any form of form of weapon in order to hurt or harm the welfare of that other person in a public place or private home.

Section 07.10.020. Concealed Weapons

It shall be unlawful to carry a concealed weapon on one's self.

Section 07.10.030. Definition

WEAPONS: any instrument that may be used to harm a person such as sticks, clubs of any kind, guns, revolvers, pistols, chaku-sticks, knives, air rifles, air pistols, metal knuckles, sharp metals, or whips.

Section 07.10.040. Penalty

Person(s), firms, or organizations violating the provisions of this ordinance shall, upon conviction, be fined an amount not to exceed three hundred (\$300) dollars, and/or be, in cases of DWI or reflecting the seriousness of the violation, be referred to State Courts for prosecution.

Chapter 11. Control of Firearms

Section 07.11.010. Discharge of Firearms

It shall be unlawful for any person(s), firm, or organization to discharge firearms within the city limits.

Section 07.11.020. Permitted Discharge

Firearms may be discharged only outside of the city limits. The safety of individuals will come first at all times.

Section 07.11.030. Pointing or Aiming of Firearms

It shall be unlawful for any person to intentionally point or aim any firearm in a threatening manner at another person.

Section 07.11.040. Carrying Firearms Within City Limits

No firearm shall be carried in a concealed manner within the city limits.

Section 07.11.050. Carrying Firearms Under Influence of Intoxicating Beverages

It shall be unlawful for any person who is under the influence of any drug or intoxicating beverage to carry on his/her person any type of firearm.

Section 07.11.060. Penalties

Conviction of a violation of any provision of this ordinance shall carry a penalty of a monetary fine not to exceed \$300.00 or a period of community work set at the prevailing minimum wage. The fine and community service work may be combined at the discretion of the fining authority. Multiple violations of the same conviction shall carry a mandatory fine of up to \$500.00 and a period of community service work of up to 4 weeks.

Chapter 12. Projectile Firing Weapons

Section 07.12.010. Types of Dangerous Projectile Firing Weapons

All B.B. guns/pistols and pellet/B.B. pump/air guns/pistols, blow guns, crossbows, bow and arrows, and slingshots are considered dangerous projectile firing weapons therefore shall be controlled within the boundaries stated in section 07.12.060.

Section 07.12.020. Age Limitation

Use of all projectile firing instruments stated in section 07.12.010 by any minor under 16 years of age without any adult supervision shall be unlawful.

Section 07.12.030. Damage to Property and Wasteful Hunting

Any damage to commercial, private, or personal property and any wasteful hunting of birds or animals not for human consumption within the boundaries stated in Section 07.12.060 with the use of such weapons shall be cause for immediate confiscation of such weapons.

Section 07.12.040. Aiming and Discharging

Aiming or shooting at people with such weapons shall be considered intent to do bodily harm and shall be considered an assault with a deadly weapon and shall be cause for immediate confiscation of such weapon.

Section 07.12.050. Confiscation

Local law enforcement officials having the authority to enforce ordinances shall also have the authority to confiscate or, after consultation with parents or guardians, to return such weapons used in violation of this ordinance.

Section 07.12.060. Boundaries

The stated boundaries for use of these types of weapons, for the purpose of this ordinance, shall be least 100 feet outwards of the outermost buildings or structures located at the perimeter of the community.

Section 07.12.070. Penalties

The penalties for violation of this ordinance, upon conviction, shall be as follows:

- A. For the first offence, local law enforcement officials talk to parents or guardians in the presence of the offender.
- B. For the second offence, confiscation of the weapon involved and a fine of no more than \$50.00. The confiscated weapon shall be returned upon the full payment of the fine imposed.
- C. For the third or subsequent offences, confiscation of the involved weapon without the possibility of return, and a fine that may be imposed on the parents/guardians of the offender which is at least \$50.00 and no more than \$500.00.

Chapter 13. Domestic Violence

Section 07.13.010. Physical Harm or Injury

It shall be unlawful for any household member to physically hurt, harm, or put in fear of eminent injury, another household member, be it mate, child, or sibling.

Section 07.13.020. Violence Against Another Household Member

It shall be unlawful for any household member to physically handle, with fists or any other form of violence, another household member in a threatening manner.

Section 07.13.030. Definition

FISTS OR ANY FORM OF VIOLENCE: the use of hands, clubs of any kind, or pointing or aiming knives or weapons upon the other persons.

Section 07.13.040. Penalty

Any person or household member violating the provisions of this ordinance shall, upon conviction, be penalized with a fine not to exceed \$300.00. In cases where the violator cannot pay the fine imposed, community service work shall be imposed, the value of which shall be set at the prevailing minimum wage. The length of such work shall not exceed the amount of the fine.

Chapter 14. Curfew

Section 07.14.010. Summer Curfew

The curfew hours for minors under the age of 19 during the summer season beginning the weekend the spring school semester ends and ending one week prior to the beginning of the fall school semester, shall be 12:00 midnight.

Section 07.14.020. Winter Curfew

Curfew hours for minors under the age of 19 during the winter season beginning one week prior to the beginning of the fall school semester and ending on the weekend the spring school semester ends, shall be:

- A. Weekdays – 9:00 PM for all minors.
- B. Weekends and Holiday eves – 10:00 PM for all minors.

Section 07.14.030. Parent Responsibility

No parent, guardian, or any other person having the custody and control of minors under the age of nineteen (19) shall allow such minors to go at large, or unaccompanied within the city, upon any public street or place after the stated hours set forth in Sections 07.14.010 and 07.14.020. The presence of any minor as previously described shall be deemed prima facie evidence of guilt of such parent, guardian, or custodian.

Section 07.14.040. Penalty

Any minor, as set forth in Sections 07.14.010 and 07.14.020, who violates the provisions of this chapter shall, upon conviction be warned for the first offence, and for the second and subsequent offences, be fined and amount not to exceed five hundred (\$500) dollars. In the case where the

violator cannot pay the fine, community service may be used to pay off the fine. Community service work shall be valued at the prevailing minimum wage.

Chapter 15. Damage of Property

Section 07.15.010. Malicious and Wanton Damage

It shall be unlawful for any person(s) to willfully, maliciously, or wantonly damage any city property, or destroy the real property of another person.

Section 07.15.020. Penalty Options of Fining Authority

It shall be the option of the fining authority to require replacement of, rebuilding of, or restitution for any real property damaged or destroyed under this ordinance and/or penalize any person(s), firm, organization, or any entity found to have violated any provision of this ordinance, upon conviction, by a fine not to exceed three hundred (\$300) dollars. Any subsequent violation shall be penalized at the discretion of the fining authority.

Chapter 16. Breaking an Entry

Section 07.16.010. Forced Entry Restricted

It shall be unlawful for any person(s) to break into, or gain a forced entry to any of the following:

- A. A private residence.
- B. A place of business belonging to;
 - 1. a private owner,
 - 2. a partnership,
 - 3. a corporation or firm.
- C. A school or educational facility after hours.
- D. A building owned by the city, tribe, state, or federal government.
- E. A building that is privately owned or under public ownership.

Section 07.16.020. Damage Restitution

Any property that has been damaged resulting from the violation of Section 1 of this chapter shall be replaced by the following methods;

- A. Repair or replacement of said property, or the cost of materials needed for repair will be the responsibility of the violator of this ordinance, or;

- B. Replacement of said property, or the cost of materials and labor needed for repair, will be the responsibility of the violator of this ordinance, or;
- C. In the event that the violator of this ordinance cannot pay for damage(s) done, other reasonable methods of payment may be used at the discretion of the owner of the damaged property.

Section 07.16.030. Penalties

Any person(s) found to have violated any provision of this ordinance shall, upon conviction, be fined an amount not to exceed \$500.00. For any subsequent violation, the limit of the fine shall be increased to \$1,000.00. Community service work may be used to pay off the fine imposed and shall be valued at the prevailing minimum wage. Community service work may also be used as a penalty in conjunction with a monetary fine.

Chapter 17. Shoplifting

Section 07.17.010. Shoplifting Unlawful

It shall be unlawful for any person(s) to shoplift, or take without payment, any merchandise or item in any store, or entity authorized or licensed to sell goods for profit.

Section 07.17.020. Payment of Stolen Goods

Any person(s) found to have taken item(s) from any store, or entity authorized or licensed to sell goods for profit, shall pay the affected store or entity the cost or price of that stolen item.

Section 07.17.030. Penalties

Any person(s) found to have violated this ordinance shall, upon conviction, be fined an amount no less than \$25.00 and no more than \$500.00, the amount of which is at the discretion of the fining authority. The fine must be paid within a period of 30 days and may be paid in installments until the fine is paid off. For subsequent violations, the penalty shall be a fine and a period of community service work which shall be no longer than 40 hours.

Chapter 18. Theft of Property

Section 07.18.010. Theft of Property

It shall be unlawful for any person(s) to take, sell, or hide for later collection, any property that is not his/her own without the knowledge of the owner, or without the owner's consent.

Section 07.18.020. Compensation for Damages

Should that property be damaged, sold or used after the theft, the owner of that property will be compensated equal to the amount he/she has lost or equal the worth of said property. The compensation shall be the responsibility of the violator of Section 1 of this ordinance.

Section 07.18.030. Penalty

Any person(s) found to have violated this ordinance shall, upon conviction, be required to work under community service for no less than 20 hours. A fine may be added to the penalty and shall be limited to \$500.00. The community service work to be performed shall be supervised by person(s) appointed by the fining authority.

Chapter 19. Resisting Arrest

Section 07.19.010. Resisting Arrest Prohibited

No person, knowing a peace officer is making an arrest, and with the intent to interfere, or prevent the arrest, shall resist the arrest of his/herself by:

- A. force;
- B. committing criminal mischief in any way;
- C. any means that creates substantial risk of physical injury to anyone, or;
- D. by other means.

No firm or organization shall interfere in the legal arrest of any individual by a peace officer.

Section 07.19.020. Penalty

Any person, firm, or organization, found to have violated this ordinance, shall, upon conviction, be fined an amount of no less than two hundred and fifty (\$250) dollars and no more than five hundred (\$500) dollars. For subsequent violation of this ordinance, the fine limit shall be increased to \$750.00. Repetitive offenders shall be turned over to the State for prosecution under state law.

Chapter 20. Assault and Battery

Section 07.20.010. Assault and Battery

It shall be unlawful for any individual to assault and batter, or intentionally cause injury to another individual by any form of violence.

Section 07.20.020. Physical Injury

It shall be unlawful for any individual to physically handle or cause physical injury to another individual.

Section 07.20.030. Definition

FORM OF VIOLENCE: the use of the following in a violent manner including the threat of such violent use:

- A. Fists;
- B. Clubs of any kind;
- C. Use of a firearm, be it a rifle, shotgun, pistol, or any type of weapon that fires a projectile;
- D. Knife, or any sharp instrument, or;
- E. An instrument of any kind that could be used to cause any harm or injury on a person.

Section 07.20.040. Penalties

Any person(s) violating the provisions set forth in Sections 07.20.010 and 07.20.020 shall, upon conviction, be penalized with community service work which shall be a mandatory penalty. The length of community service work for the first violation shall be for no more than forty (40) hours. Subsequent violations shall be penalized with a longer period of community service work, the length of which shall be at the discretion of the fining authority. Subsequent violations shall include a monetary fine not to exceed five hundred (\$500) dollars.

Chapter 21. Limitation of Hours for Community Activities

Section 07.21.010. Activities, Facilities, Curfew

- A. Any individuals, organizations, or firms, sponsoring any community activities shall utilize the community hall unless other facilities have been arranged. These activities shall terminate at curfew hours, as provided in Chapter 14, Sections 1 and 2 of this Title, unless otherwise determined by the city council. If a sponsor wishes the activities to terminate past curfew hours, a written request for a curfew extension must be filed at least 3 days prior to the commencement of the activities. This curfew extension request shall be filed at the city offices.
- B. No activities shall be held when a public gathering event is occurring within city limits such as:

1. General/Public meetings;
2. Community gatherings including Eskimo dances or other cultural activities;
3. Funeral/Burial services;
4. Church related activities which include and not limited to;
 - i. Retreats
 - ii. Workshops
 - iii. Catechism
 - iv. Rallies
 - v. Mass/Deacon services on Sundays or Holy days.

Section 07.21.020. Number of Activities in a Month

- A. Community activities may be limited to four per month. No activity shall be permitted on Sundays or on week days during school term unless otherwise determined by the council.
- B. Customary and traditional activities are exempt for this provision.

Section 07.21.030. Chaperones, Accountability for Damages

Any community activity shall be chaperoned by at least two adults, one being the sponsor and his/her designee. The sponsor of any activity shall be responsible and accountable for any damages to public or private property in use for that activity.

Section 07.21.040. Complying with Closure Hours

Unless a curfew extension has been granted, it shall be unlawful for any person or organization sponsoring an activity to fail to comply with the closing hours set forth in Section 07.21.010 of this chapter. The violator of this chapter shall be deemed guilty of a misdemeanor.

Section 07.21.050. Amusement Centers/License Requirement/Closure Periods

- A. Amusement centers including snack bars and band playing shall follow and abide by the curfew hours as set in Chapter 07.14.
- B. All amusement centers operating for profit must have a valid State of Alaska Business License for the current year and shall be displayed, conspicuously, at the place or facility where the business is held.
- C. All amusement centers shall be closed for local events to which the general public has been invited. These events are the same as, but not limited to, those set forth in Subsection 07.21.010(A).

Section 07.21.060. Penalties

The penalty for violating any provision of this ordinance, upon conviction, shall be as follows:

- A. For the first violation, be given a verbal warning;
- B. For the second violation, be fined an amount not to exceed \$300.00. In cases where the violator is a band, the penalty will be the fine and/or the use of the community hall shall be denied for a period of 30 days.
- C. For the third and subsequent violations, be fined an amount no less than \$200.00 and no more than \$500.00. In the case where the violator is a band, be fined, and be denied the use of a city facility until the city council deems otherwise. In the case where the violator is an amusement center operating under a valid license, the fine shall be no less than \$300.00 and no more than \$700.00, including suspension of the license for a period of no more than 30 days. Repetitive violations by the same business may result in the permanent revocation of its license.

Chapter 22. Regulation of VHF Radio Use

Section 07.22.010. Disruption of VHF Radio Communications

It shall be unlawful for any individual(s), households, firms, or organizations to verbally, or in any way, disrupt VHF radio communications.

Section 07.22.020. Radio License

It is unlawful for any individual(s), households, firms, or organizations to operate a VHF radio without a proper and current VHF radio license according to FCC Regulation 47.95.179(A).

Section 07.22.030. Definitions

- A. VHF RADIO: radio transmitters that use very high frequencies.
- B. DISRUPT VHF RADIO COMMUNICATIONS: the use of VHF radios in the following manners;
 - 1. To give false or deceptive messages.
 - 2. To air music, whistling, sound effects or material to amuse, annoy, or entertain.
 - 3. To use obscene, profane, insults, or indecent words, language, or meaning.
 - 4. Use during intoxicating state or under the influence of alcohol.
 - 5. To air personal issues, grievances, or hatefulness to persons/public.

Section 07.22.040. Penalties

Any individual(s), households, firms, or organizations, violating the provisions of this ordinance, shall be penalized, upon conviction, as follows:

- A. For the first offence, be given a verbal warning.
- B. For the second offence, be given a written warning.
- C. For the third offence, the VHF radio shall be confiscated for a period of 30 days.
- D. For the fourth and subsequent offences, be reported to proper FCC authorities.

Title VIII. Elections

Chapter 1. City Elections

Section 08.01.010. Administration

The city clerk is the supervisor of elections and shall prepare and maintain election materials, forms, and records. The clerk shall begin preparing for a general election at least forty-five (45) days before the date of the election. Preparation for a special election shall begin as soon as possible after the date is chosen for the special election. The clerk is responsible for contacting the State of Alaska, 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 provide administrative support to the election board.

Section 08.01.020. Voter Qualifications

A person who meets the following requirements shall be qualified to vote in city elections:

- A. Is a United States citizen who is qualified to vote in state elections;
- B. Has been a resident of Toksook Bay for 30 days immediately preceding the election;
- C. Is registered to vote in state elections;
- D. Is not disqualified under Article V of the Alaska constitution which provides that:
“No person may vote who has been convicted of a felony involving moral turpitude unless his/her civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed.”

Section 08.01.030. Residence Criteria

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

- A. No person may be considered a resident just because he or she is in the city, nor may he/she lose residency just because he or she is absent while in the civil or military service of the state or of the United States, or of his/her 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.
- B. The residence of a person is that place in which his/her occupancy is fixed, and to which, whenever he/she is absent, he/she has the intention to return. If a person resides in one place, but does business in another, the former is his/her place of residence. Temporary construction camps do not establish a dwelling place.

- C. 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.
- D. A person does not lose his/her residence if he/she leaves his/her home and goes to another country, state, or place in Alaska for temporary purposes only and with the intent of returning.
- E. A person does not gain residency by coming to the city without the present intention to establish his/her permanent dwelling in the city.
- F. A person loses his/her residence in the city if he/she 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/she again qualifies under this Chapter.
- G. The term of residence is calculated by including the day on which the person's residence begins and excluding the day of election.
- H. The address of the voter as it appears on his/her official state voter registration card is reasonable evidence of the person's voting residence. If a person changes his/her voting residence, this presumption is canceled only by the voter executing an affidavit on a form prepared by the supervisor of elections setting out his/her new voting residence.

Section 08.01.040. General Elections

The regular general election for members of the city council and other elected officials shall be held each year on the first Tuesday of 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 before the date of the election.

Section 08.01.050. Special Elections

- A. If a petition submitted by voters for an initiative, referendum, or recall election is certified sufficient by the city clerk and submitted to the city council, the council shall resolve that a special election be held on the question on the ninth (9th) Tuesday following submission of the petition to the council.
- B. If a special election is required by act of the city council, the city council shall resolve that a special election on the question proposed by the council's ordinance or resolution be held on the sixth (6th) Tuesday following the council's action.
- C. If the regular general election will occur within seventy-five (75) days of the date of submission of a petition by voters requesting an initiative, referendum, or recall election, or if the regular general election occurs within seventy-five (75) days of council action which requires election, then no special election may be scheduled and the question or proposition shall be placed on the regular election ballot.

- D. Notice of a special election shall be posted in at least three (3) public places for at least twenty (20) days preceding the date of election.

Section 08.01.060. Election Notices

Election notices shall be prepared and posted by the city clerk for thirty (30) days prior to the date of the general election and for at least twenty (20) days prior to the date of a special election, and shall contain the following, as is appropriate:

- A. Whether the election is general, special, or run-off;
- B. Date of election;
- C. Location of the city polling place(s);
- D. Time the polling place(s) will open and close;
- E. Offices to be filled;
- F. A statement describing voter qualifications;
- G. Time for filing declaration of candidacy and nominating petitions;
- H. A statement of any questions or propositions to be placed on the ballot;
- I. A statement describing absentee voting procedure.

Section 08.01.090. 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. If one or more of the tied candidates does not appear before the council, the presiding officer shall direct the clerk or other non-interested person to draw straws or flip a coin to determine the winner.

Section 08.01.100. Qualifications for City Council

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

- A. A United States citizen who is qualified to vote in state elections;
- B. A resident of the city for thirty days immediately preceding the election for which declaring candidacy;
- C. Registered to vote in state elections;
- D. Not disqualified under Article V of the Alaska Constitution which provides that: “No person may vote who has been convicted of a felony involving moral turpitude unless his/her civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed.”

Section 08.01.110. Filing for Office

- A. A person who wishes to become a candidate for an elective office shall, on a form provided by the city clerk, complete and file a declaration of candidacy with the city clerk. This shall be filed no sooner than thirty days and no later than ten days before the election.
- B. A person filing for a city council seat must meet the qualifications of Section 08.01.100.

Section 08.01.120. Withdrawal, Written Notice

Any candidate who has complied with provisions of this Chapter may withdraw his/her candidacy (ten days before the election) by filing a written notice of withdrawal with the city clerk.

Section 08.01.130. Publishing Names

The city clerk shall post, in three (3) public places at least five (5) days before the election, the names of all candidates who have declared and/or been nominated and showing the office for which each person has declared and/or been nominated.

Section 08.01.140. Election Judges

- A. 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 council members or candidates for office. If an appointed judge fails to appear and subscribe to the oath on Election Day or is unable to perform the duties of an election judge during the time of the election or the counting of the ballots, the remaining judges shall appoint a qualified voter to fill the vacancy.
- B. The city clerk shall give and attest the following written oath to all election judges on or before the day of the election, which each judge shall swear and sign:
“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 ordinance.”
- C. Pay of election judges shall be determined by the council.
- D. At least one of the judges shall be fluent in the Yupik dialect of the native language in order to assist voters who may have difficulty with the ballot.
- E. 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 such must be qualified to serve as judges.

Chapter 2. Election Equipment and Materials

Section 08.02.010. Election Booths

The election supervisor shall provide booths at each polling place, with enough supplies and materials so each voter can mark his/her ballot in private. At least three of the four enclosed sides of each booth shall be placed within plain view of the judges and clerks, voters, and other persons at the polling place.

Section 08.02.020. Furnishing Instruction Cards

The election supervisor shall prepare, for each polling place, instructions for posting informing voters on the following:

- A. How to obtain a ballot;
- B. How to mark a ballot;
- C. How to obtain additional information; and,
- D. How to obtain a new ballot to replace any ballot destroyed or spoiled.

The election supervisor shall furnish enough instruction sheets to the election judges in each polling place to provide copies to voters on request.

Section 08.02.030. 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 run-off election. There shall be at least ten ballots printed on colored paper, with the words “SAMPLE BALLOT” printed on them, to be posted in the clerk’s office and other posting locations until the date of the election and then given to the judges of each polling place.

Section 08.02.040. Ballots; Form

- A. The ballots shall state at the top whether the election is a regular, special, or run-off election;
- B. The ballots shall include instructions on how to mark the ballots;
- C. The ballots will be printed on plain white paper and numbered in consecutive order to assure simplicity and secrecy and to prevent fraud. The number on the ballot may be printed or written. The clerk shall assure that there are one-third more ballots printed and numbered than there are registered voters in the City of Toksook Bay, in order to replace ballots that may be spoiled by voters and for voters who cast questioned ballots;
- D. A ballot shall show the list of candidates and issues to be decided at the election;
- E. Before the list of candidates, there shall be printed the words “vote for not more than one”, or in the case of an at-large election, such other number as is to be elected.
- F. Under the title of each office, and before the printed names of the candidates, there shall be printed “vote for one” or such number as is to be elected to that office. The ballots shall list the office for which votes are cast. The name of each office shall be followed by the names of all candidates for that office, listed in random order, and by blank 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. No blank lines shall be provided for run-off elections.

- G. Print the names of each of the candidates in the same size capital letters on the appropriate line and print a square not less than one-quarter of an inch on the side next to the candidate's name.
- H. Print the names of each of the candidates as they appear on the declaration of candidacy and nominating petitions filed with the city clerk. Omit any honorary or assumed title or prefix.
- I. Following the names of the offices and candidates, place on the ballots any propositions and questions to be voted on, unless a separate ballot is required by law. Provisions shall be made for marking the propositions or questions "Yes" or "No."
- J. Somewhere on the ballots, so as to be clearly visible, print the words:
 - 1. "OFFICIAL BALLOT"
 - 2. The date of the election; and,
 - 3. An example of the signature of the clerk who had the ballots printed.

Section 08.02.050. Other Materials

At least 10 days before the day of the election, the clerk shall prepare the following materials:

- A. An updated Master Voter Registration List, containing names, in alphabetical order, of all registered voters eligible to vote.
- B. Either a blank register or space on the voter registration list in which the voters may print and sign their names and print their residence addresses, and in which the election official may note the number of the ballot issued to the voter.
- C. Tally sheets.
- D. A form for the Report of Preliminary Election Results.
- E. Envelopes bearing the Oath and Affidavit of Eligibility for questioned ballots.
- F. Two large envelopes for each polling place, one marked "Spoiled Ballots" and the other marked "Questioned Ballots."
- G. Copies of the Notice of Election and the city's election ordinance.

Chapter 3. Election Procedures

Section 08.03.010. Time for Opening and Closing Polls and Locations

- A. On the day of any election, the election board shall, open the polls for voting at eight o'clock AM (08:00), close the polls at eight o'clock PM (20:00), and keep the polls open during the time between these hours. The election board members shall report to the polling place before the time the polls are scheduled to be opened. The time between reporting to the polling place and opening of the polls must be a reasonable length of time sufficient to prepare the election materials and booths to receive voters.
- B. At least 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 that the polls are closed at the appropriate time. When the polls are closed, no ballots will be given out except to qualified voters present at the polls and waiting to vote at the time the polls were announced closed.
- C. The normal voting place shall be the multi-purpose room at the Billy Lincoln, Sr. Memorial Building. If for some reason beyond the control of the council this location is unusable, the council may select another location suitable to serve as a polling place. Such location shall be included in all election notices.
- D. Election precincts for city elections shall be the same as those established for state elections, except that all areas of state election precincts outside of the city limits are excluded. The City of Toksook Bay is within the 852nd election precinct.

Section 08.03.020. Distribution of Ballots

- A. Before the polls open on Election Day, the election supervisor shall deliver the ballots and sample ballots, pursuant to Chapter 08.02, 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 polls close.
- B. 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.
 - 3. The name of the person to whom the ballots are delivered, and
 - 4. The receipt given for the ballots by the election board.
- C. When the ballots are returned, the election supervisor shall record the following:
 - 1. The number of ballots returned.
 - 2. The time the ballots are returned.
 - 3. The name of the person returning the ballots.

4. The condition of the ballots.

Section 08.03.030. Distribution of Other Election Materials

- A. On election day, the election supervisor shall also furnish the election board judges at each polling place with voting booths and a ballot box which is sealed with a lock or other sealing material and the following materials:
 1. The updated Master Voter Registration List.
 2. A Blank register.
 3. Envelopes bearing the Oath and Affidavit of Eligibility for questioned ballots.
 4. Separate envelopes for the collection of spoiled and questioned ballots.
 5. Copies of the Notice of Election and the city's election ordinances.
 6. A sufficient number of Instruction Sheets and a sufficient supply of pens, pencils, and envelopes.
- B. The election supervisor shall supply the election board chairperson with tally sheets and forms for the Report of Preliminary Election Results.

Section 08.03.040. Preparation of Ballot Box

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

Section 08.03.050. Voting: General Procedure

- A. A voter shall give the judges or clerks, his/her name, and print and sign his/her name on the first available line of the blank register unless a space has been provided for signatures on the Master Voter Registration List. If the Master Voter Registration list provides signatures space for voters, the blank register will be used for the printing and signatures of voters whose names do not appear on the Master Voter Registration List and their ballots are being questioned. By signing the register, the voter declares that he/she 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 valid 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, the election official shall immediately question the voter.
- B. 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/her ballot by marking the boxes provided for the candidates of his/her choice, whether printed or written in by the voter on the blank lines provided for that purpose. The voter also marks the boxes to indicate his/her vote for or against questions or propositions, if any. Before leaving the booth, the voter shall fold the ballot so the number on the ballot is displayed 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 matches the number given to the voter by the election official. The voter shall then, in the presence of the election judge, deposit the ballot into a ballot box. Separate boxes may be used for separate ballots.

- C. If a voter is questioned, the voter may cast a questioned ballot pursuant to Section 08.03.070.

Section 08.03.060. Voting: Spoiled Ballots

If a voter improperly marks or otherwise damages a ballot and discovers the mistakes before the ballot is placed into the ballot box, he/she 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.

Section 08.03.070. Voting: Questioned Ballots

- A. 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 there is good reason to suspect that the person is not qualified to vote. All questions regarding a person's qualification to vote shall be made in writing setting out the reason the person has been questioned.
- B. If a voter's name is not on the Master Voter Registration List 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 he or she meets all qualifications of a voter, is not disqualified, and has not voted at the same election. After the questioned person has executed the Oath and Affidavit of Eligibility, the person may vote a questioned ballot.
- C. A voter who votes a questioned ballot shall do so in the same manner as 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 the larger envelope that has the signed Oath and Affidavit on it. The larger envelope shall be sealed and deposited into the ballot box. When the ballot box is opened, these envelopes shall be separated out, counted, compared to the voting list, sealed in the question ballot envelope. The questioned ballots are delivered to the election supervisor along with the other election materials and the judge's ballot statement containing the tally and account of ballots and stating when the account was completed. The city council, meeting as the canvass committee on the first Friday following the election, shall accept or reject the questioned ballot.

Section 08.03.080. Assisting Voter by Judge

A qualified voter who cannot read, mark the ballot, or sign his/her 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/her choice to assist. If an election judge is requested, that judge shall assist the voter. If any other person is requested, that person shall state upon oath before the election judge that he/she will not reveal the vote cast by the person whom he/she assists, or change the voting wishes of the person being assisted.

Section 08.03.090. Prohibitions

- A. Leaving the polling place with ballot is prohibited. No voter may leave the polling place with the official ballot that he/she received to mark his/her vote on.
- B. Exhibiting marked ballots is prohibited. No voter may exhibit his/her marked ballot to an election official or any other person so that the person can see how the voter marked his/her ballot.
- C. Identification of ballot prohibited. 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/her ballot, or allow the same to be done by another person.
- D. Count of exhibited ballots prohibited. No election official may allow a ballot that he/she knows to have been unlawfully exhibited by the voter to be placed in the ballot box. A ballot unlawfully exhibited shall be recorded as a spoiled ballot and destroyed.
- E. Political discussion by election board is prohibited. During the hours that the polls are open, no judge or clerk may discuss any political party, candidate, or issue while on duty.
- F. Political persuasion near election polls is prohibited. During the hours that the 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.

Section 08.03.100. Administration of Oaths

Any election judge may administer to a voter any oath that is necessary in the administration of the election.

Section 08.03.110. Majority Decision of Election Board

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

Section 08.03.120. Ballots: Counting and Tallying

- A. Immediately after the polls close and the last vote has been cast, the election judges will open the boxes containing the ballots and count the ballots. Ballots may not be counted before the time set for the polls to close. The counting of the ballots shall be public. The opening of the ballot box when the polls close shall be done in full view of any person present. The public may not be excluded from the area in which the ballots are counted. The Chairperson of the election board shall not permit anyone present to interfere in any way, or distract the appointed officials from their duties and no one other than appointed 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 continue the vote tally without a break until the count is complete.
- B. The election board shall account for all ballots by completing a ballot statement containing:
 1. the number of ballots received;
 2. the number of ballots voted;
 3. the number of ballots spoiled;
 4. the number of ballots unused.
- C. 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 there is a discrepancy between the ballots received and those accounted for, a detailed written explanation signed by the election judges shall be written on the ballot statement.

Section 08.03.130. Rules for Counting Ballots

- A. The election board shall count ballots according to the following rules.
 1. A voter may mark the ballot with crossed marks “X” or such other marks that are clearly spaced in the square opposite the name of the candidate or proposition(s) the voter is choosing and that clearly indicates the voter’s intent.
 2. Failure to properly mark a ballot as to one or more candidates or propositions does not itself invalidate the entire ballot.

3. If a voter marks fewer names than there are persons to be elected to the office, a vote shall be counted for each candidate properly marked.
 4. If a voter marks more names than there are persons to be elected to the office, the votes for candidates for that office shall not be counted.
 5. The mark specified in subsection “A.1” of 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.
 6. Improper marks on the ballot shall not be counted and shall not invalidate proper marks.
 7. An erasure or correction invalidates only that section of the ballot in which it appears.
 8. Write-In votes are not invalidated by writing in the name of 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.
 9. Write-In votes are not invalidated if the voter fails to mark the square provided if, in the judge’s opinion, the voter intended to vote for the person whose name was written in as a write-in vote.
 10. 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 vote.
- B. The rules set out in this section are mandatory and there shall be no exception to them. A ballot may not be counted unless marked in compliance with these rules.
- C. The chairperson of the election board shall write the word “defective” on the back of each ballot that the election board determines should not be counted., in which or in part, for any of the reasons (other than failure of the voter to mark any choice with respect to a particular office or proposition) stated in subsection “A” of this section. If only a portion of the ballot is invalid, the valid votes shall be counted and the chairperson shall specify on the back of the ballot exactly which portion or portions have not been counted.
- D. If a particular objection is made to the counting of all or any part of a ballot, but the election board determines that the votes shown should be counted, the chairperson of the election board shall write the words “Objected to” on the back of the ballot and specify the portion(s) of the ballot objected to.
- E. All defective ballots and all ballots objected to shall be sealed in a single envelope marked “Defective Ballots,” which shall be delivered to the election supervisor.

Section 08.03.140. Report of Election Results

- A. When the count of ballots is complete, 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 or question, and any additional information the election board decides or as required 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 Affidavit of Eligibility, questioned ballots, defective ballots, spoiled ballots, and any other election documents in one sealed package, and in a separate sealed package, all ballots properly cast. The chairperson 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 when the canvas committee meets.
- B. The election supervisor shall place all election materials received from the election board in the office safe, or other lockable container if no safe is available, until the canvas committee meets to canvas the election. The election board shall immediately, upon completion of the certificate, deliver to the election supervisor one of the two original certificates.

Section 08.03.150. 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:

- A. The time and place the council will meet to canvas the election results and certify the election;
- B. That the results do not reflect the votes of absentee and questioned ballots and are not final until the council formally certifies the election; and
- C. That anyone has the opportunity to contest the election at or before the meeting.

Chapter 4. Absentee Voting

Section 08.04.010. Absentee Voting: Eligible Persons

Any qualified voter, who does not plan to vote in the city on the day of an election, may cast an absentee ballot.

Section 08.04.020. Absentee Ballots: Application: Filing

- A. A person who wants to vote by absentee ballot may request an absentee ballot either in person or by mailing his/her written application to the city clerk.

- B. An application made by mail must be received by the city clerk no more than twenty 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 twenty days before, and no later than noon on the day before a city election.
- C. The application must be signed by the applicant and show his/her place of residence.
- D. Any voter present in the city who requires an absentee ballot shall personally obtain a ballot from the city clerk.
- E. Nothing in this section is intended to limit the city clerk from personally delivering a ballot to a person who, because of a disability, is unable to apply in person for an absentee 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.

Section 08.04.030. Ballot and Envelope Form

The ballot provided to absentee voters shall be identical to the ballots prepared for regular voters for use 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 on 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 shown at the end of this chapter.

Section 08.04.040. Absentee Voting Procedures

- A. The clerk shall provide each eligible absentee voter with an official ballot prepared in accordance with Section 08.02.040. This ballot shall be given together with a ballot envelope and a prepaid return envelope.
- B. The clerk shall not issue an absentee ballot sooner than 10 days before the election.
- C. Upon issuing an absentee ballot to a voter, either by mail or personal delivery, the clerk shall enter in the blank register the following information:
 - 1. The number of the ballot issued;
 - 2. The name of the voter to whom it was issued; and,
 - 3. The date on which the ballot was issued.Before opening the polls on day of the election, the clerk shall deliver to the election judges a list of the voters who have requested to vote absentee.
- D. 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.

- E. All supplies necessary for the voter to cast and return his/her 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.

Section 08.04.050. Absentee Ballots: Delivery

When the clerk receives an application for an absentee voter's ballot, the clerk shall check the latest state voter registration listings to ensure the applicant is registered in accordance with state law (AS 15.07). If the applicant is properly registered, the clerk shall deliver to the applicant, personally or by mail to the address given by the applicant, an official ballot for the election, a ballot envelope, and 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, unless the voter wishes assistance in casting his/her vote. If assistance is rendered to a voter, the vote cast shall be kept confidential by the clerk. The voter shall fold the ballot, 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/her name across its seal, and retain the envelope in his/her custody to be delivered to the council for canvassing.

Section 08.04.060. Absentee Voting at Clerk's Office: Absentee voter's Ballot

Any voter issued an absentee ballot may, at any time before the day of the election for which it is issued, appear at the office of the city clerk and vote in the following manner:

- A. The voter shall show the city clerk that his/her ballot has not been marked;
- B. The voter shall secretly mark the ballot in the presence of the clerk, in a manner that permits the clerk to be certain that the voter personally marked the ballot, but does not permit the clerk to see how the voter voted;
- C. The voter shall fold the ballot and place it in the ballot envelope;
- D. The ballot envelope shall be sealed and put in the return envelope;
- E. The voter shall complete and swear to the affidavit printed on the back of the return envelope;
- F. The voter shall properly seal the return envelope and deliver it to the clerk; and,
- G. The city clerk shall certify to the affidavit printed on the return envelope, write or stamp his/her name across its seal, and retain the envelope in his/her custody to be delivered to the council for canvassing.

Section 08.04.070. Absentee Ballots: Executing Outside City

Any voter issued an absentee ballot may, at any time before the polls close on the day of the election for which the ballot is issued, appear before any person authorized by law to administer oaths and in the presence of such officer, cast his/her ballot in the same manner as he/she would cast it in the office of the city clerk under Section 6 of this chapter. After writing or stamping his/her name across the seal of the return envelope, the officer shall return it to the voter who shall mail it to the city clerk.

Section 08.04.080. Voting at the Polls, Absentee voters; Surrender of Materials

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

Section 08.04.090. Retention of Absentee Ballots: Delivery

The city clerk, as election supervisor, shall retain in the office safe, all absentee ballots received 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.

Section 08.04.100. Liberal Construction

This Chapter shall be liberally interpreted, so as to accomplish the purposes set forth.

Chapter 5. Review of Election Returns

Section 08.05.010. Election Review Committee Meeting

- A. The city council, acting as the election review committee, shall meet on the first Friday after the election and canvass all absentee and questioned ballots executed in the election. If the council is 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.
- B. The city clerk shall submit to the council the election board's Report of Preliminary Election Results., the Master Voter Registration List, the register, all regular election ballots, oath and affidavit envelopes containing questioned ballots, defective and objected-to ballots, spoiled ballots, absentee ballots, and oaths and affirmations of election officials.

Section 08.05.020. Review to be Public

- A. The review of all absentee, questioned, and defective ballots shall be made public by opening the returns and announcing the results in front of those present.
- B. The review 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.
- C. If the election supervisor finds an unexplained error in the tally of ballots, he/she may recount the ballots.

Section 08.05.030. Procedure for Questioned Ballot Review

- A. 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 those questioned voters who are 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 subsection B.4 of this section.
- B. The council, meeting as the election review committee, shall examine each questioned ballot envelope and shall determine whether the person casting the 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 shall not be opened, but shall be saved with the other election materials.
 1. A questioned ballot may not be counted if:
 - a. The voter has failed to properly execute the certificate;
 - b. An official authorized by law to attest the certificate failed to execute the certificate;
 - c. The voter did not enclose the marked ballot inside the small envelope.
 2. Any person present at the questioned ballot review may challenge the name of a questioned voter when read from the voter's certificate on the back of the large envelope if he/she 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 paragraph 1 of this subsection.

3. If a question 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.
4. If a questioned ballot is not rejected, the large envelope shall be opened and the small envelope containing the questioned ballot shall be placed in a ballot box and mixed with the other small envelopes containing questioned and absentee ballots. The questioned ballots shall then be removed from the ballot box one by one, taken out of the ballot envelopes, and counted in the same manner in which ballots cast at the polls are counted.

Section 08.05.040. Questioned Ballots: 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.

Section 08.05.050. Absentee Ballots

- A. The council shall examine each absentee ballot return envelope. Upon the council’s satisfaction that:
 1. The voter is registered to vote;
 2. A resident of the community of Toksook Bay;
 3. Did so certify and cast his/her ballot before a person authorized by law to administer oaths, which person did so sign and seal; and,
 4. The ballot was cast before the close of the polls in Toksook Bay; 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 previously reviewed questioned ballots.
- B. If the council determines that a voter who is 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/her absentee ballot was rejected.

Section 08.05.060. Counting Questioned and Absentee Ballots

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

Section 08.05.070. Defective Ballots

Council members shall examine the defective ballots to see whether the ballot should be counted and, if so, whether they can determine for whom the voter intended to vote.

Section 08.05.080. Certifying Results

If no contest of election is begun under the provisions of Chapter 08.06 and after all absentee, defective, and questioned ballots are counted or rejected, the council shall:

- A. Certify a report that shows;
 1. The total number of ballots cast in the election;
 2. The names of the persons voted for, including write-ins, and the propositions voted upon;
 3. The offices voted for;
 4. The number of votes cast for each candidate and the number of votes cast for or against each proposition voted on at the election;
 5. The disposition of all absentee, questioned, and defective ballots; and,
 6. Any other matters which the council deems necessary to preserve a complete record of the elections.
- B. Record the results of the election in the minutes of the meeting;
- C. Authorize the results to be certified; and,
- D. Publicly declare the results of the elections.

Section 08.05.090. Contest of Election

If a contest of election is declared and later resolved, the procedures of Subsections 08.05.080(A) through 08.05.080(D) shall be followed at a special meeting held on the first Monday after resolution of the contest.

Section 08.05.100. Certificate of Election

Once the city council authorizes the election results, 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 to 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.

Section 08.05.110. 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 superior court, in which case the ballots and stubs may be destroyed 30 days after the appeal is decided unless stayed by an order of the court.

Chapter 6. Contest of Elections

Section 08.06.010. Contest of Elections: Contestant

- A. Any qualified voter may contest the election of any person and the approval or rejection of any question or proposition.
- B. Any qualified voter, who believes that prohibited practices occurred at an election, may contest the election in the following manner:
 1. File a written affidavit with the city clerk stating the provisions of the law that he/she believes were violated and the specific acts he/she believes to be misconduct;
 2. This affidavit must be filed with the city clerk before or during the council's first review of the ballots. The city clerk shall note on the affidavit, the date and time the affidavit is received and provide the contestant, a copy of the affidavit showing the date and time information.

Section 08.06.020. Contest of Election; Council

Based on the council's initial review of the contest, 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.

Section 08.06.030. Ballot Recount

Only if a recount of ballots is requested, the election board, where the error allegedly occurred, shall recount the ballots.

Section 08.06.040. 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.

Section 08.06.050. 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 Chapter 4 of this Title.

Section 08.06.060. Recount Expenses: Appeal

- A. The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election or the difference between the winning and the losing vote on the result contested is more than two percent (2%).
- B. A person may appeal the decision of the council in Section 08.06.020 to the Superior Court, however, no person may appeal or seek judicial review of a city election unless the person:
 1. Is qualified to vote in the city;
 2. Has exhausted his/her administrative remedies before the city council; and,
 3. Appealed to the court within 10 days after the council has finally declared the election results.

If no such action is commenced within the 10 day period, the election results shall be conclusive, final, and valid in all respects.

Title IX. Personnel

The City of Toksook Bay, Alaska, Personnel Policies and Procedures Manual shall be the personnel policy for the City of Toksook Bay. The manual may be amended by resolution of the City Council.

Title X. City Finances

The Procurement Policy of the City of Toksook Bay shall be the protocol for handling procurement for the city, changes to the procurement policy shall be made by the city council through resolution rather than by ordinance.