

**City of Wainwright**

**Municipal Code**

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

# **Code of Ordinances**

## **City of Wainwright, Alaska**

Prepared with the assistance of  
Ronald L. Baird  
907-565-8818  
P.O. Box 100440  
Anchorage, Alaska 99510-0440

Original Current Through Ordinance 01-06  
Adopted June 11, 2001

## **TITLE 1**

### **GENERAL PROVISIONS**

#### **Chapters:**

Chapter 1.01 Code Adoption

Chapter 1.04 General Provisions. Chapter 1.08 Incorporation.

Chapter 1.12 City Boundaries.

Chapter 1.16 City Seal.

Chapter 1.20 City Powers

Chapter 1.24 Public Records.

Chapter 1.28 General Penalty.

Chapter 1.32 Right of Entry for Inspection.

## **Chapter 1.01**

### **CODE ADOPTION**

#### **Sections:**

- 1.01.010 Adoption.
- 1.01.020 Title -- Citation -- Reference.
- 1.01.030 Contents of code.
- 1.01.040 Ordinances passed prior to adoption of the code.
- 1.01.050 Reference applies to all amendments.
- 1.01.060 Title, chapter and section headings.
- 1.01.070 Reference to specific ordinances.
- 1.01.080 Effect of code on past actions and obligations.
- 1.01.090 Effective date.
- 1.01.100 Constitutionality; Severability.
- 1.01.110 Effect of repeal of ordinances.
- 1.01.120 Changes to code.
- 1.01.130 Distribution and publication of code.

#### **Section 1.01.010 Adoption.**

As required by A.S. 29.25.050, there is adopted the "City of Wainwright Code of Ordinances."

(Ordinance No. 93-0 1.)

#### **Section 1.01.020 Title -- Citation -- Reference.**

This code shall be known as the "City of Wainwright Code of Ordinances." It shall be sufficient to refer to this code as the "City of Wainwright Code" in any prosecution for the violation of any provision hereof or in any proceeding at law or in equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion hereof (pursuant to § 2.12.092) as an addition to, amendment to, correction or repeal of the "City of Wainwright Code of Ordinances." Further reference may be had to the titles, chapters, sections and subsections of the "City of Wainwright Code of Ordinances" and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code.

(Ordinance No. 93-01.

**Section 1.01.030 Contents of Code.**

This code consists of all the general and permanent ordinances of the City of Wainwright, Alaska, including all of the regulatory and penal ordinances and certain of the administrative ordinances of the city, codified pursuant to the requirements of A.S. 29.25.050.

(Ordinance No. 93-01.)

**Section 1.01.040 Ordinances passed prior to adoption of the code.**

The last ordinances included in the initial code are Ordinances 1.20, 8.04 and 9.04, passed February 14, 1989.

(Ordinance No. 93-01.)

**Section 1.01.050 Reference applies to all amendments.**

Whenever a reference is made to this code as the "City of Wainwright, Code of Ordinances," or as the "City of Wainwright Code" or to any portion hereof, or to any ordinance of the City of Wainwright, the reference shall apply ' to all amendments, corrections and additions heretofore, now or hereafter made.

(Ordinance No. 93-01.)

**Section 1.01.060 Title, chapter and section headings.**

Title, chapter and section headings contained in this code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section of this code.

(Ordinance No. 93-01.)

**Section 1.01.070 Reference to specific ordinances.**

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code.

(Ordinance No. 93-01.)

**Section 1.01.080 Effect of code on past actions and obligations.**

Neither the adoption of this code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the City of Wainwright shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect.

(Ordinance No. 93-01.)

**Section 1.01.090 Effective date.**

This code shall become effective on the date the ordinance adopting this code as the "City of Wainwright Code of Ordinances" becomes effective.

(Ordinance No. 93-01.)

**Section 1.01.100 Constitutionality; Severability.**

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council hereby declares that it would have passed this code, and each section, subsection, sentence, clause and

phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

(Ordinance No. 93-01.)

**Section 1.01.110 Effect of repeal of ordinances.**

The repeal of any ordinance does not limit or affect any right or remedy available to the city or any other party and arising out of a violation of that ordinance which occurred before its repeal.

(Ordinance No. 93-01.)

**Section 1.01.120 Changes to code.**

A. All permanent and general ordinances passed after the adoption of this code shall be assigned one (1) or more section numbers according to the numbering system of this code.

B. Repealed provisions of this code shall be excluded from the code. (Ordinance No. 93-01.)

**Section 1.01.130 Distribution and publication of code.**

This code shall be made available to the public. The cost of reproducing all or parts of this code may be charged to anyone requesting copies. A copy of this code shall be furnished to any court as needed or upon its request.

(Ordinance No. 93-01.)

## Chapter 1.04

### GENERAL PROVISIONS

#### Sections:

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

#### **Section 1.04.010 Definitions.**

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

- A. "Borough" means the North Slope Borough.
- B. "City" means the City of Wainwright, Alaska, or the area within the territorial limits of the City of Wainwright, Alaska.
- C. "Clerk" means the city clerk.
- D. "Council" means the city council of Wainwright, Alaska. "All its members" or "all council members" means the total number of council members holding office.
- E. "Law" denotes applicable federal law, the Constitution and statutes of the State of Alaska, the ordinances of the City of Wainwright and, when appropriate, any and all rules and regulations which may be promulgated thereunder.
- F. "May" is permissive.
- G. "Month" means a calendar month.
- H. "Must" and "shall" are each mandatory.
- I. "No person shall" means that the described conduct is prohibited.

J. "Oath" includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" or "declare" and "affirmed" or "declared."

K. "Owner," applied to a building, land, or personal property, includes any part owner, joint owner, tenant in common, joint tenant, or tenant by the entirety, of the whole or a part of such building, land, or personal property.

L. "Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

M. "Personal property" means a person's tangible personal property which may be seen, weighed, measured by the physical senses and is capable of being possessed or owned singly or in part, and includes money, goods, chattels, things in action and evidences of debt.

N. "Preceding" and "following" mean next before and next after, respectively.

O. "Property" includes real and personal property.

P. "Real property" includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, any right existing pursuant to § 14(c)(3) of the Alaska Native Claims Settlement Act, 43 U.S.C. § 1613(c)(3), 85 Stat. 688, as amended, and any other right, title or interest in land or a building.

Q. "Sidewalk" means that portion of a street between the curblines and the adjacent property line intended for the use of pedestrians.

R. "State" means the State of Alaska.

S. "Street" includes all streets, roads, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this city which have been or may, after the effective date of the ordinance codified in this chapter, be dedicated and open to public use, or such other public property so designated in any law of this state.

T. "Tenant" and "occupant," applied to a building or land, include any person who occupies the whole or part of such building or land, whether alone or with others.

U. "Written" includes printed, typewritten, mimeographed, multigraphed or otherwise reproduced in permanent visible form.

V. "Year" means a calendar year.

(Ordinance No. 93-01.)

#### **Section 1.04.020 Title of office.**

Whenever used in the ordinances of the city, the title of any officer, employee, department, board or commission means that officer, employee, department, board, or commission of the city.

(Ordinance No. 93-01.)

#### **Section 1.04.030 Interpretation of language.**

The following grammatical and interpretative rules apply to this code:

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

(Ordinance No. 93-01.)

## **Chapter 1.08**

### **INCORPORATION**

#### **Sections:**

#### **1.08.010 Status of municipality. Section**

#### **1.08.010 Status of municipality.**

The city shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Wainwright, Alaska." It shall succeed to and possess all the property, rights, privileges, franchises, powers and immunities now belonging to the corporation under the laws of the state, and shall be liable for all debts and other obligations for which the corporation is legally bound.

(Ordinance No. 93-0 1.)

## **Chapter 1.12**

### **CITY BOUNDARIES**

#### **Sections:**

- 1.12.010 City boundaries --Changes.
- 1.12.020 City boundaries -- Described.
- 1.12.030 City boundaries --Illustrated.

#### **Section 1.12.010 City Boundaries - Changes.**

The boundaries of the city may be changed only in a manner authorized or permitted by the state constitution or state law.

(Ordinance No. 93-01.)

#### **Section 1.12.020 City Boundaries -- Described.**

The boundaries of the City of Wainwright, as set forth in the Order of Incorporation entered by the District Magistrate Court for the State of Alaska, on December 31, 1962, are as follows:

Northward along the coast to Akulakitchut; thence South Easterly to the rise of Kangigak River and thence South to Kavviksun and thence across the Wainwright Inlet West to Point Collie. Thence from Point Collie Northward along Coast to Wainwright & 3 miles radius off the shore.

(Ordinance No. 93-01.)

#### **Section 1.12.030 City boundaries -- Illustrated.**

The following map illustrates the city boundaries described in § 1.12.010.

(Ordinance No. 93-01.)



DISTRICT MAGISTRATE COURT FOR THE STATE OF ALASKA

Copy

SECOND JUDICIAL DISTRICT, AT HOME

In the matter of the incorporation  
of WAINWRIGHT

ORDER OF INCORPORATION

At this time the court considers the records and files from which it appears and the court finds that a petition was duly filed in this court and signed by at least 10 bona fide residents 19 years of age or older of the community of WAINWRIGHT in the SECOND Judicial District of the State of Alaska, praying that the community be incorporated as a city of the fourth class pursuant to the provisions of Chapter 150, SLA 1957, as amended.

Order was then made for a public hearing and that order duly posted in 3 public places in WAINWRIGHT.

That a public hearing was held in the community on the subject of incorporation; that upon such hearing this court made its order finding that it is for the best interest and welfare of WAINWRIGHT that it become incorporated.

The court did fix the time for the holding of an election to determine whether a majority of the qualified electors of said community desired to become incorporated as a city and did appoint 3 qualified voters as election judges.

That copies of the election notice were posted in 3 public places within the proposed city.

That pursuant to said notice an election was duly held on the 22nd day of DECEMBER, 1962, and the election judges have sent to this court their returns and certification.

That according to said return and certificate of said election the majority of those persons voting, voted in favor of incorporating WAINWRIGHT as a city of the fourth class.

That at said election and by a separate ballot, the electors cast their ballots for the election of 7 persons to serve as councilmen of said city; that it appeared from the return of the election judges that the following named persons received the highest number of votes as councilmen:

L. WALTER NAYAKIE

JIM A AVEOGANNA

SIMON TAGROOK

ROBERT JAMES

BILLY PATKOTAK

GREGG TAGAROOK

RAYMOND AGUVELOK

That all matters and things required to be done and observed have been done and performed pursuant to the provisions of Chapter 150, SLA 1957, as amended.

And now, the court being fully advised and having found as aforesaid:

DOES ORDER, ADJUDGE AND DECREE that WAINWRIGHT an incorporated city of the fourth class, situation and existing in the SECOND Judicial District of the State of Alaska, now is and henceforth shall continue to be a duly incorporated city, pursuant to the provisions of Chapter 150, SLA 1957, as amended, and.

shall enjoy and possess all the rights, powers and privileges granted by Chapter 150, SLA 1957, as amended; that the boundaries of said city shall be as follows:

Northward along the coast to Akulakitchut; thence South Easterly to the rise of Kangigak River and thence South to Kavviksun and thence across the Wainwright Inlet West to Point Collie. Thence from Point Collie Northward along Coast to Wainwright & 3 miles radius off the shore.

boundary

That the city is declared a body politic under the name of WAINWRIGHT, an incorporated city of the fourth class; That said incorporated city shall have perpetual succession by such corporate name; That said incorporated city is empowered to hold personal and real property necessary for its purposes; That said incorporated city is empowered to sue and be sued; That said incorporated city is empowered to make and amend ordinances, rules, regulations, and orders in accordance with law; That said incorporated city is empowered to levy and collect a general sales tax; That said incorporated city is empowered to do such other acts necessary or desirable to carry its powers into effect, or as may be permitted or otherwise authorized by law.

Further, it is ORDERED, ADJUDGED AND DECREED THAT

L. WALTER NAYAKIK

JIM A. AYESGAMIA

SIMON TAGAROOK

ROBERT JAMES

BILLY PATESEAK

RAYMOND AKUTLUK

OREEN TAGAROOK

be and they are hereby declared to the duly elected councilmen of WAINWRIGHT, an incorporated city of the fourth class, and are entitled to hold such office of councilmen and perform their duties and functions thereof until one year from this date, or until their successors are elected and qualified.

Dated: December 31, 1968

Signed

Maurice Kellish  
DISTRICT Magistrate

(NOTE: This order is made out by the District Magistrate only if the village votes to incorporate; this is made out only after the Magistrate is satisfied that the returns and certification received from the Election Judges are accurate. The order must include a detailed description of the boundaries of the village as was included with the petition. This order must be retained by the District Magistrate as part of the permanent incorporation file for the village.)

SINOTUK R.  
WAINWRIGHT  
Pt. Collie  
Pt. Hardy a Wainwright Inlet

EXHIBIT B

CHIEF OF POLICE

Serial No. 62-582A

Filed this 19th day  
of October 1962  
Catherine J. Mueller  
Deputy  
SCLC DIRECT  
STATE OF ALASKA



**Chapter 1.16**

**CITY SEAL**

**Sections:**

1.16.010 City seal; Described and adopted. **Section**

**1.16.010 City seal; Described and adopted.**

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

(Ordinance No. 93-01.)

## Chapter 1.20

### CITY POWERS

#### Sections:

- 1.20.010 Designated.
- 1.20.020 Discrimination prohibited.

#### **Section 1.20.010 Designated.**

The city shall have all the powers, functions, rights and privileges, franchises and immunity of every name and nature whatever, which a city of the second class may bear under the Constitution and laws of the state.

(Ordinance No. 93-01.)

#### **Section 1.20.020 Discrimination prohibited.**

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

1. to refuse, withhold from, or deny to, a person any services, goods, facilities, advantages, or privileges because of race, religion, creed, sex, color, or national origin;

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

(Ordinance No. 93-01.)

## Chapter 1.24

### PUBLIC RECORDS

#### Sections:

- 1.24.010 Definitions.
- 1.24.020 Ownership and custody of records.
- 1.24.030 Duties of city clerk.
- 1.24.040 Public records; Inspection and copying.
- 1.24.050 Confidential records.
- 1.24.060 Retention and disposal.

#### **Section 1.24.010 Definition.**

As used in this chapter, "record" means any document, record, paper, letter, file, book, account, photograph, microfilm, microfiche, map, drawing, chart, card, magnetic media or computer print-out, or other document of any material, regardless of physical form or characteristic, created or acquired under law or in connection with the transaction of official business and preserved or appropriate for preservation by the city, as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the city or because of the information value in them. "Record" does not include extra copies of documents made or preserved solely for convenience of reference, or for public distribution.

(Ordinance No. 93-01.)

#### **Section 1.24.020 Ownership and custody of records.**

A. All records shall be and remain city property. Records shall be delivered by outgoing officials and employees to their successors as required by § 2.24.040 and shall be preserved, stored, transferred, destroyed, and otherwise managed, only in accordance with the provisions of this chapter or as otherwise provided for by law.

B. City records, or copies of city records which have been certified by the clerk, shall be prima facie evidence of their contents.

(Ordinance No. 93-01.)

#### **Section 1.24.030 Duties of city clerk.**

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

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

2. establish and maintain a system for filing and retrieval of records, including procedures for keeping track of, retrieving, and refiling records which are temporarily removed from the permanent files for use by the clerk, other city officials or employees, or members of the public;

3. develop a general schedule for the relocation of inactive records to a centralized location for storage, recording or duplication, or to the Alaska Department of Community and Regional Affairs as provided by A.S. 40.21.090, and for the destruction of records pursuant to § 1.24.060, while protecting the confidentiality of those records which are not open to public inspection pursuant to § 1.24.050;

4. establish and maintain a system to allow inspection and copying of public records by members of the public, while maintaining the confidentiality of those records which are not open to inspection pursuant to § 1.24.050; and

5. secure and maintain at least one copy of the Alaska Statutes and one (1) copy of the North Slope Borough Code, and make them available for public inspection.

(Ordinance No. 93-01.)

#### **Section 1.24.040 Public records; Inspection and copying.**

A. Except as provided in § 1.24.050, city records are public records.

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

(Ordinance No. 93-01.)

#### **Section 1.24.050 Confidential records.**

A. Except as otherwise provided by law, confidential records shall not be made available to the public or to any city officer, official or employee whose duties do not require access to the record in question.

B. The following city records are confidential:

1. records of vital statistics and adoption proceedings, which shall be treated in the manner required by A.S. 18.50;

2. records pertaining to juveniles;

3. medical and related public health records;

4. personnel records, except as provided in § 3.04.130.

5. other records required by federal or state law or regulation or by ordinance to be kept confidential.

(Ordinance No. 93-01.)

#### **Section 1.24.060 Retention and disposal.**

A. All city records shall be retained until the council, in writing, authorizes their disposal.

B. The clerk shall propose and the council shall by resolution or ordinance approve a records retention and disposal schedule dictating how long various categories of routine records shall be kept before they no longer have legal, administrative, or historical value and may be destroyed by the clerk. The clerk may dispose of routine records pursuant to the retention schedule.

C. The clerk shall periodically review the city records, including inactive documents in storage, to determine whether he or she considers any to be without legal, administrative or historical value. When the clerk identifies such records, he or she may propose to the council that such records be destroyed. The clerk's proposal to the council shall include lists of these records sufficiently detailed to identify the records and to permit the council to determine whether the records retain any legal, administrative, or historical value, and shall also include the proposed

means of disposal. If the council finds that certain records so identified by the clerk are without legal, administrative, or historical value, it may authorize their disposal and specify the means by which they may be disposed of. With such authorization, the clerk may dispose of the specified records in the manner approved by the council.

D. The clerk shall file a descriptive list of the records disposed of and a record of the disposal itself. The clerk shall provide copies of these documents to the council.

(Ordinance No. 93-01.)

## **Chapter 1.28**

### **PENALTIES; ENFORCEMENT**

#### **Sections:**

- 1.28.010 Designated.
- 1.28.015 Enforcement by public safety officers.
- 1.28.020 Enforcement by city attorney.
- 1.28.030 Separate violations.
- 1.28.040 Civil or criminal enforcement action.

#### **Section 1.28.010 Designated.**

The council shall prescribe the penalties for violations of the city ordinances. Where no specific penalty is provided a violation of an ordinance shall constitute an infraction as defined by A.S. 11.81.250(a) (6) and shall be punishable by a maximum fine of five hundred dollars (\$500.00).

(Ordinance No. 93-01.)

#### **Section 1.28.015 Enforcement by public safety officers.**

Authority is hereby granted to the Alaska State Troopers and North Slope Borough public safety officers to enforce the provisions of this code.

(Ordinance No. 93-01.)

#### **Section 1.28.020 Enforcement by city attorney.**

The city attorney, or such other counsel as may be engaged by the city attorney at the direction of the council, shall prosecute on behalf of the city such civil and criminal enforcement actions as the council may deem appropriate.

(Ordinance No. 93-01.)

**Section 1.28.030 Separate violations.**

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

(Ordinance No. 93-01.)

**Section 1.28.040 Civil or criminal enforcement action.**

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

1. maintain a civil action to obtain temporary, preliminary, or permanent injunctive relief restraining the violation of any ordinance, rule, or regulation. Such an action may be brought notwithstanding the availability of any other remedy;

2. maintain a civil action for damages suffered by the city or its citizens as a result of the violation of any city ordinance, rule or regulation or right or privilege granted under state or federal constitution, law, or regulation.;

3. maintain a civil action to collect a civil penalty of not more than one thousand dollars (\$1,000) for the violation of any ordinance;

4. maintain an action prosecuting as an infraction the violation of any city ordinance for which no greater penalty is established; and

5. maintain a criminal action prosecuting as a misdemeanor the violation of any city ordinance the violation of which is defined as a misdemeanor. Any person convicted of a misdemeanor violation of an ordinance may be punished by a fine of not more than one thousand dollars (\$1,000) and imprisonment for not more than ninety (90) days;

(Ordinance No. 93-01.)

## Chapter 1.32

### RIGHT OF ENTRY FOR INSPECTION

#### Section:

#### 1.32.010 Right of entry to enforce city law. **Section**

##### **1.32.010 Right of entry to enforce city law.**

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

(Ordinance No. 93-0 1.)

**TITLE 2**  
**ADMINISTRATION**

Chapters:

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

## Chapter 2.04

### MAYOR AND VICE-MAYOR

#### Sections:

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

#### **Section 2.04.010 Duties generally.**

A. The Mayor is the chief executive officer of the city. The mayor acts as ceremonial head of the city government, presides at council meetings, and executes documents on behalf of the city upon council authorization.

B. The Mayor is the chief administrative officer of the city. As chief administrator the Mayor shall:

1. appoint, suspend, or remove city employees and administrative officers, as provided in chapter 2.20 and title 3, unless otherwise provided in this code; hire necessary administrative assistants, if so desired; and authorize an appointive administrative officer to appoint, suspend, or remove subordinates in his or her department, if so desired;
2. supervise enforcement of city law and carry out the directives of the council;
3. prepare and submit the annual budget and capital improvements program to the council for its consideration, and execute the budget and capital improvements program as adopted;
4. make monthly financial reports and other reports on city finances and operations as required by the council;
5. report to the council at the end of each fiscal year on the finances and administrative activities of the city;

6. prepare and make available for public distribution an annual report on city affairs;
7. exercise custody over all real and personal property of the city, as provided in title 13;
8. serve as city personnel officer as provided in title 3 unless the council authorizes the Mayor by resolution or ordinance to appoint a personnel officer;
9. serve as an ex-officio member of every committee or department organized under this code; and
10. perform other duties required by law or by the council. (Ordinance No. 93-02.)

**Section 2.04.020 Election; Qualifications; Term.**

A. The mayor and vice-mayor are elected by and from the council for a term of one (1) year, and serve until a successor is elected and has qualified. The council shall meet on the first Monday after certification of the regular election and elect a mayor and vice-mayor. The mayor and vice-mayor shall take office immediately.

B. The mayor and vice-mayor shall be qualified city voters and members of the council. If the mayor or vice-mayor ceases to be eligible to be a city voter, or ceases to be a member of the council, he or she is no longer mayor or vice-mayor, regardless of the term for which he or she was elected.

C. The mayor and vice-mayor shall have been residents of the City of Wainwright for two (2) years immediately prior to the date of the election.

D. The mayor and vice-mayor, as council members, shall affirm in writing the oath of office prescribed by § 2.24.010.

(Ordinance No. 93-02.)

#### **Section 2.04.030 Vacancies.**

A. A vacancy in the office of mayor or vice-mayor is filled by and from the council. A mayor or vice-mayor appointed under this subsection serves the balance of the term to which appointed, except that the mayor or vice-mayor may serve only while a member of the council and a qualified city voter.

B. The council shall, by two-thirds (2/3) concurring vote, declare the office of mayor or vice-mayor vacant only when:

1. the person elected resigns, and the resignation is accepted by the council; or
2. the council, pursuant to § 2.08.070, declares the person's council seat vacant.

C. In the temporary absence or disability of the mayor or vicemayor, any member of the council may call the council to order at any properly called meeting to elect an acting mayor from among its members. The acting mayor shall exercise all the powers of mayor only during such temporary absence or disability of the mayor or vice-mayor.

(Ordinance No. 93-02.)

#### **Section 2.04.040 Vote in council.**

The mayor and vice-mayor are council members and may vote on all matters.

(Ordinance No. 93-02.) **Section**

#### **2.04.050 Veto.**

The Mayor does not have veto power. (Ordinance No. 93-02.)

Section: Chapter 2.08, City Council

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Superseded:

Ordinance, 2013-01, dated March 11, 2013

Ordinance, 2007-02, dated July 16, 2007

Ordinance, 2008-02, dated June 25, 2008

Ordinance 01-03, § 2

Ordinance 93-02

Sections:

|          |                                   |
|----------|-----------------------------------|
| 2.08.010 | Established; Compensation         |
| 2.08.015 | Qualifications of Council Members |
| 2.08.020 | Election; Term                    |
| 2.08.030 | Powers                            |
| 2.08.040 | Regular Meetings                  |
| 2.08.050 | Special Meetings                  |
| 2.08.055 | Notice of Meetings                |
| 2.08.060 | Compensation                      |
| 2.08.061 | Dual Compensation                 |
| 2.08.070 | Vacancies                         |
| 2.08.080 | Filling Vacancies                 |

**Section 2.08.010 Established; Compensation**

The legislative power of the city is vested in the City council. The council shall consist of seven (7) members elected by the voters at large.

**Section 2.08.015 Qualification of Council Members**

- A. A council member shall be a qualified city voter. A council member who ceases to be eligible to be a city voter immediately forfeits his or her office.
- B. In order to serve as a council member, a person must be a resident of the city for two (2) years immediately prior to the date of the election.
- C. All council members, before entering upon the duties of office, shall affirm in writing the oath or affirmation provided by §2.24.010.

**Section 2.08.020 Election; Term**

- A. A council member is elected for a three (3) year term and serves until a successor qualifies.
- B. The regular term of office begins on the first Monday following certification of the election.

- C. City Council members shall be elected at the regular election held annually on the first Tuesday in October. Council members shall be elected to Seats A and B at the 1994 regular election and the regular election in every third year following 1994 (1997, 2000, etc.) ; council members shall be elected to Seats C and D at the 1993 regular election and shall serve a transitional term of two years only; council members shall thereafter be elected to Seats C and D at the 1995 regular election and the regular election in every third years following 1995 (1998, 2001, etc.) ; council members shall be elected to Seats E, F and G at the 1994 regular election and shall serve a transitional term of two years only; council members shall thereafter be elected to Seats E, F and G at the regular election and the regular election in every third year following 1996 (1996, 2002, etc.)

#### **Section 2.08.030 Powers**

The council shall have and may exercise all legislative and adjudicative powers provided by law.

#### **Section 2.08.040 Regular Meetings**

- A. The council shall meet on the second Monday of each month.
- B. The usual place of council meetings shall be the City Offices, Wainwright, Alaska.
- C. In the event that the council becomes aware in advance that a quorum will not be present at a future regular meeting, or if any condition renders the meeting place unfit to conduct meetings of the council, the meeting may be rescheduled for such other day or time or moved to such other place as the council may choose, provided reasonable notice is given to council members and to the public.

#### **Section 2.08.050 Special Meetings**

- A. Special meetings of the council may be called for a time different than that fixed for regular council meetings by the mayor or by any three (3) members of the council. The location of all special meetings shall be the same as that authorized for regular meetings.
- B. Advance notice of at least twenty-four (24) hours shall be given each council member before a special meeting is held. The notice may be written or oral and shall specify the time, place, and business of the meeting. No business shall be transacted at the meeting which is not mentioned in the notice. Such notice shall be given personally to each member of the council or left at his or her usual place of business or residence by the clerk or the clerk's designee.
- C. In an emergency, a special meeting called on less than twenty-four (24) hours notice is a legal meeting if all members are present or if a quorum is present and all absent members have waived in writing the required notice. A waiver may be made either before or after the special meeting is held. Waivers shall be attached to and made a part of the minutes of the meeting.

#### **Section 2.08.055 Notice of Meetings.**

Reasonable notice shall be given to the public of all regular and special council meetings. Public notice of a meeting is reasonable if a statement containing the date, time, and place of the meeting, and the purpose of the meeting if it is a special meeting, is posted in at least three (3) public places not less than twenty-four (24) hours before the time of the meeting. This section does not alter or supersede any other notice requirements which may be provided in state law.

#### **Section 2.08.060 Compensation**

- A. Each council member shall receive compensation of three hundred dollars (\$300.00) per regular meeting attended; two hundred dollars (\$200.00) per special meeting attended and two hundred dollars (\$200.00) per city council workshop meeting and any organized meeting representing the City where that organization does not pay meeting fees.
- B. No compensation shall be paid for any meeting at which there is no quorum present to open the meeting.
- C. The council may change the compensation of council members at any time by ordinance, except that if the mayor is paid a salary, that salary may not be reduced during a term of office. All council members shall be compensated at the same rate for their service as council members.
- D. An elected official may not receive any compensation for service to the city other than the compensation provided by this section and the salary, if any, paid to the mayor. Per diem payments or reimbursement for expenses incurred in conducting city business are not considered to be compensation.

#### **Section 2.08.061 Dual Compensation of Elected Officials**

An elected official may receive for services to the municipality in addition to the compensation for services as an elected official if the City Council resolves by a two-thirds majority vote, in each separate and individual instance, that the dual compensation is necessary for the financial economy or the efficient administration of the municipality, or is justified by an imminent or compelling need to protect the public health, safety, or welfare. In each instance, the resolution shall contain a statement of facts on which the resolution is based.

(Ordinance No. 2008-02)

#### **Section 2.008.070 Vacancies**

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

- 1. Dies;
- 2. Fails to qualify or take office within thirty (30) days after election or appointment;
- 3. Is physically absent from the city for ninety (90) consecutive days unless excused by the council;
- 4. Resigns and the resignation is accepted;
- 5. Is physically or mentally unable to perform the duties of office as determined by two-thirds (2/3) vote of the council;
- 6. Is convicted of a felony or of an offense involving a violation of the Oath of Office;

7. Is convicted of a felony or misdemeanor described in A.S. 15.56 or in §2.36.070 and two-thirds (2/3) of the council concur in expelling the person elected;
8. Is discharged from the council pursuant to §2.26.050 for repeated failure to disclose potential conflicts of interest or for participating in an action when the member has a conflict of interest;
9. Is convicted of a violation of A.S. 15.13.
10. No longer physically resides in the city, and the council by two-thirds (2/3) vote declares the seat vacant;
11. Misses three (3) consecutive regular council meetings, unless excused; or
12. Has been recalled by the voters.

**Section 2.08.080 Filling Vacancies**

- A. If a vacancy occurs in the council, the council, by vote of a majority of its remaining members shall, within thirty (30) days, appoint a person to fill the vacant seat. If less than thirty (30) days remain in the term of the vacant seat at the time that the vacancy occurs, the vacancy shall not be filled.
- B. Notwithstanding subsection (a) of this section, if the membership of the council is reduced to fewer than four (4) members, the remaining members shall, within seven (7) days, appoint as many qualified persons as are necessary to increase the membership of the council to four (4).
- C. If all seven (7) council seats become vacant at one (1) time, the governor shall appoint three (3) qualified persons to the council. The governor's appointees shall appoint additional members as provided in subsection (b) of this section.
- D. A person appointed to fill a vacancy serves until the next regular city election, when a successor shall be elected to serve the balance of the term, and until the successor has qualified.

**Section: Chapter 2.12 City Council Procedures**

**Approved by:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Superceded:**

**Ordinance 2013-02, dated March 11, 2013**

**Ordinance 2011-01**

**Ordinance 94-05**

**CITY COUNCIL PROCEDURES**

**Sections:**

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

**Appendix of forms following §2.12.130**

**Form 2.12.-A Ordinance**

**Form 2.12.B Resolution**

### **Section 2.12.010 Presiding Officer**

- A. The mayor shall preside at all meetings of the council. If the mayor is not present or is personally disqualified on account of a conflict of interest, the vice-mayor shall preside. If both the mayor and the vice-mayor are absent or disqualified, any member of the council may call the council to order at any properly called meeting to elect another council member as president *pro tempore* to preside at that meeting only.
- B. The presiding officer shall preserve order among council members and is responsible for the efficient conduct of all meetings according to the rules of the council. The presiding officer may at any time make such other rules as he or she considers reasonable and proper to preserve order among the attending public during sessions of the council  
(Ordinance No. 93-02)

### **Section 2.12.020 Public Meeting**

- a. All meetings of the council shall be public. The only exception to the requirement of public council meetings is when an executive session is permitted by §2.12.030.
- b. The council shall provide reasonable opportunity for the public to be heard at all regular and special meetings.
- c. This section does not apply to special meetings called solely to discuss and decide adjudicatory proceedings, if the public and the affected parties have been given an opportunity to be heard on the same topic at a prior meeting.  
(Ordinance No 93-02)

### **Section 2.12.030 Executive Sessions**

- A. Only the following subjects may be discussed in an executive session:
  - 1. Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the city;
  - 2. Subjects that tend to prejudice the reputation and character of any person, except that the person may request a public discussion.

- B. The following subjects shall be discussed in executive session when the best interests of the city so require:
1. Negotiations with labor organizations representing city employees
  2. Discussions of pending or threatened lawsuits in which the city has an interest; and
  3. Matters required by federal or state law or by city ordinance to be confidential.
- C. If any of the above subjects are to be discussed at a council meeting, the meeting must first be convened as a public meeting. During the public meeting, the council shall vote on a motion to hold an executive session on a particular matter or matters of the type described in subsections (A) and (B) of this section. No subjects may be considered during the executive session except those matters mentioned in the adopted motion calling for the executive session, or related subjects which must be discussed in order to fully consider the matters mentioned in the motion.
- D. No action may be taken at the executive session. Only after the executive session is over and the meeting is once again before the public may the council take action on the matters discussed in the executive session.
- (Ordinance No. 93-02)

### **Section 2.12.040 Agenda**

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

(Ordinance No. 93-02)

### **Section 2.12.050 Quorum**

Four (4) council members constitute a quorum. A council member who is excused from voting on a question due to a conflict of interest pursuant to § 2.26.030 shall be considered present for purposes of constituting a quorum. A quorum is necessary for the council to conduct any business.

(Ordinance No. 93-02)

### **Section 2.12.060 Absence of Quorum**

In the absence of a quorum, as many members as are present may recess or adjourn the meeting to a later date.  
(Ordinance No. 93-02)

### **Section 2.12.070 Call to Order**

The mayor, or in the mayor's absence the vice-mayor, shall call the council to order at the time stated in the notice and, if a quorum is present, proceed with the order of business.  
(Ordinance No. 93-02)

### **Section 2.12.080 Order of Business**

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

1. Call to Order
2. Roll Call
3. Invocation
4. Recognition of Guests
5. Approval of Agenda
6. Approval of Minutes
7. Public Comments
8. Monthly Reports
9. Old Business
10. New Business
11. Correspondence
12. Next Meeting Date
13. Adjournment

(Ordinance No 93-02; Repealed and reenacted by Ordinance No 01-03 and Ordinance 2013-02)

### **Section 2.12.090 Ordinances – When Required**

- A. The council may act by ordinance, resolution, or motion. Laws of a general, uniform and permanent nature shall be adopted by ordinance. Statements of opinions, principles, facts, or propositions may be made by adoption of a resolution.
- B. In addition to other actions which state law requires to be taken by ordinance, the council shall use ordinances to:

1. Establish, alter, or abolish city departments.
  2. Amend or repeal an existing ordinance;
  3. Fix the compensation of council members and other city officers and employees.
  4. Provide for sale or exchange of city property;
  5. Provide for the sale or exchange of city property;
  6. Adopt the city budget;
  7. Make appropriations, including supplemental appropriations or transfer of appropriations;
  8. Provide for the levying of taxes;
  9. Grant, renew or extend a franchise;
  10. Regulate the rate charged by a public utility
  11. Approve the transfer of a power to the borough;
  12. Adopt, modify, or repeal building and housing codes;
  13. Provide for the retention or sale of tax-foreclosed property; and
  14. Exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of city public works projects within the limitations set out in A.S. 36.25.025.
- (Ordinance No. 93-02)

#### **Section 2.12.092 Ordinances – Codification**

- A. At the time of or after adoption, each ordinance shall be made a part of and assigned a permanent subsection or section number of numbers specifying its placement in this code; a notation of the date of adoption and the number of the ordinance by which it was adopted shall be added to the end of each subsection or section, as appropriate; and it shall be entered by the clerk into the official city copy of this code. This subsection does not apply to appropriation or budget ordinances.
  - B. An amendment to any of the provisions of this code shall be made by adoption of an ordinance specifically referring to the section number(s) of such provisions in the following language: "That Section \_\_\_\_\_ of the Wainwright Code is hereby amended to read as follows: [insert full text of provision as amended]."
  - C. An amendment of this code which adds a new provision shall be made by adoption of an ordinance specifically assigning a new subsection of section number or numbers to the new provision(s) in the following language: "That the Wainwright Code is hereby amended to add Section \_\_\_\_\_, which shall read as follows: [insert full text of new provision]."
  - D. An amendment of this code which repeals and deletes a section, chapter, or title shall be made by adoption of an ordinance specifically repealing each section, chapter, or title by number.
- (Ordinance No. 93-02)

## **Section 2.12.094 Ordinances – Procedures**

- A. A proposed ordinance shall be introduced in writing, in the form prescribed by §2.12.096, by the mayor or any other member of the council, or by a committee of council members, at any lawful council meeting.
- B. After an ordinance is introduced, the council may approve a motion to set the time and place for a public hearing on the ordinance. At least four (4) affirmative votes are required to approve such motion.
- C. When a proposed ordinance has been set for public hearing the council shall direct the clerk to make public a summary of the ordinance, together with a notice of the time and place of the hearing. The summary and notice shall be posted in at least three (3) public places in the city at least five (5) days before the public hearing.
- D. At the public hearing, copies of the ordinance shall be available for all persons present, or the ordinance shall be read in full. All persons shall have the opportunity to be heard at the public hearing. After the hearing, the council shall consider the proposed ordinance, and may adopt it with or without amendment, except that if the amendments are so substantial that they would change the basic character of the proposed ordinance, the proposed amended ordinance shall be treated as a newly introduced ordinance and set for public hearing. If the ordinance is adopted, the council shall direct the clerk to type or print the ordinance in its final form and make copies available to the public.
- E. At least four (4) affirmative votes are required for the adoption of an ordinance.
- F. Upon adoption, each ordinance shall be signed by the mayor, and attested by the clerk.
- G. An ordinance takes effect upon adoption, or at a later date specified in the ordinance.  
(Ordinance No. 93-02)

## **Section 2.12.096 Ordinances – Form**

- A. All ordinances adopted by the council shall be in substantially the following form (illustrated by Form 2.12.A.)
  - 1. The heading "CITY OF WAINWRIGHT, ALASKA";
  - 2. The Ordinance number;
  - 3. The ordinance title, summarizing the ordinance's provisions and stating whether any penalty is imposed;
  - 4. The enacting clause, which shall read: " BE IT ENACTED BY THE WAINWRIGHT CITY COUNCIL AS FOLLOWS:
  - 5. The provisions of the ordinance, including the effective date, if the ordinance is not to take effect upon adoption;
  - 6. The dates of introduction (first reading); public hearing and adoption;

7. Space for the signature of the mayor; and
8. Space for the clerk's signature attesting to the mayor's signature.

B. Every ordinance shall be confined to a single subject, unless it is an appropriations ordinance or an ordinance codifying, revising, or rearranging existing ordinances. Appropriations ordinances shall be confined to appropriations.  
(Ordinance 93-02)

#### **Section 2.12.100 Ordinances – Emergency**

- A. To meet a public emergency, the council may adopt an emergency ordinance effective upon adoption. Each emergency ordinance shall contain a finding by the council that an emergency exists and a statement of the facts upon which that finding is based. An emergency ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of all council members present, or the affirmative vote of six (6) council members, whichever is less, is required for the adoption of an emergency ordinance. Except as specified in this section, the requirements of §§2.12.090 through 2.12.096 apply to emergency ordinances.
- B. An emergency ordinance may not be used to levy taxes, to grant, renew, or extend a franchise, or to regulate the rate charged by a public utility for its services.
- C. An emergency ordinance is effective for sixty (6) days unless the ordinance specifies a shorter period of time during which the ordinance is to remain in effect.  
(Ordinance No. 93-02)

#### **Section 2.12.110 Resolutions – When Used**

Formal acts of the council which are not required by state law or this code to be enacted by ordinance and which are not of a general and permanent nature may be adopted by resolution. Opinions, principles, facts or propositions may be stated in the form of a resolution.  
(Ordinance No. 93-02)

#### **Section 2.12.112 Resolution – Permanent File**

Resolutions shall not be include in this code, but shall be kept by the clerk in a permanent file available for public inspection.  
(Ordinance No. 93-02)

#### **Section 2.12.114 Resolutions – Procedure**

- A. A proposed resolution shall be introduced in writing, in the form prescribed by §2.12.116, by the mayor or any other member of the council, or by a committee of council members, at any lawful council meeting.
- B. The proposed resolution shall be read aloud at the time of introduction. Before the council votes on the motion to adopt the resolution, all interested persons present shall have the opportunity to comment.
- C. Adoption of a resolution must be approved by at least four (4) affirmative votes.  
(Ordinance No. 93-02)

#### **Section 2.12.116 Resolutions – Form**

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

- 1. The heading "CITY OF WAINWRIGHT, ALASKA, INCORPORATED 1962",
- 2. The resolution number;
- 3. A short title, descriptive of the resolution's subject and purpose;
- 4. Short premises or "WHEREAS" clauses, stating the facts underlying or describing the reasons for the resolution;
- 5. The resolving clause, "BE IT RESOLVED" stating the opinions, principles, findings of fact, propositions, or course of action the council believes should be taken;
- 6. The date of adoption;
- 7. Space for the signature of the mayor and every other council member who voted, and
- 8. Space for the clerk's signature attesting to the signatures of the mayor and other council members.  
(Ordinance No. 9302; amended by Ordinance 01-03 § 5)

#### **Section 2.12.120 Voting**

- A. The final vote on each ordinance, resolution, or substantive motion is a recorded roll call vote. Each member shall vote on every question, unless required by law to abstain from voting on a question.
- B. The mayor or presiding officer shall declare all votes and the result.  
(Ordinance 93-02)

## **Section 2.12.130 Rules of Order**

- A. Before speaking, a council member shall first respectfully address the mayor or other presiding officer for permission to speak. A council member must then be recognized by the mayor or presiding officer before speaking. When two (2) or more members request to speak at the same time, the mayor or other presiding officer shall determine which one is recognized.
  - B. When speaking, a council member shall discuss only the subject under discussion. A council member shall not refer to any other council member except in a respectful manner.
  - C. All motions require a second, unless otherwise provided by special rule.
  - D. After a motion is seconded and stated or read by the presiding officer, it shall be considered to be in the possession of the council and shall be disposed of by vote. However, the council member making the motion may withdraw it at any time before a vote is taken, if the member who made the second agrees.
  - E. A motion must be made in writing if any council member so requests.
  - F. Any previous decision on a motion may be changed by majority vote of the council on a motion made later at the same meeting. Subject to the requirements of § 2.12.114, a resolution may be repealed or modified at any time by adoption of a new resolution. Subject to the requirement of § 2.12.094 or 2.12.100, an ordinance may be repealed or modified at any time by adoption of a new ordinance.
  - G. Except as otherwise specified by state statute or city ordinance, all meetings shall be conducted according to Robert's Rules of Order. The council may, when no member objects, proceed informally in dealing with non-controversial matters.
  - H. The clerk shall keep minutes of all regular and special meetings, and shall maintain a council meeting journal which shall include agendas and minutes of all meetings together with copies of all resolutions and ordinances introduced, whether or not adopted. The council meeting journal is a public record. The council journal shall be available to the public for inspection and copies of pages from the journal may be made available without charge or sold at cost.
- (Ordinance 93-02)

**CITY OF WAINWRIGHT, ALASKA**

**ORDINANCE NO.**

(Form 2.12-A) (Sample)

AN ORDINANCE

BE IT ENACTED BY THE WAINWRIGHT CITY COUNCIL AS FOLLOWS:

Section 1.

Section 2.

Section 3.

DATE INTRODUCED:

DATE OF PUBLIC HEARING: \_\_\_\_\_

PASSED and APPROVED by the Wainwright City Council this \_\_\_\_\_ day of  
\_\_\_\_\_ 20

\_\_\_\_\_  
MAYOR

ATTEST

\_\_\_\_\_  
CLERK

**CITY OF WAINWRIGHT, ALASKA**

**RESOLUTION NO.**

(Form 2.12-B) (Sample)

A RESOLUTION

WHEREAS,

,and

WHEREAS,

now, therefore,

BE IT RESOLVED:

and

BE IT FURTHER RESOLVED:

PASSED and APPROVED by the Wainwright City Council this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
Councilmember

ATTEST:

\_\_\_\_\_  
Clerk

**Chapter 2.16 [RESERVED.]**

## Chapter 2.20

### APPOINTIVE OFFICES

#### Sections:

|          |                           |
|----------|---------------------------|
| 2.20.010 | Appointive officials.     |
| 2.20.020 | Appointment; Term; Bonds. |
| 2.20.030 | City clerk.               |
| 2.20.040 | City attorney.            |
| 2.20.050 | [Reserved.]               |
| 2.20.060 | Boards and commissions.   |

#### **Section 2.20.010 Appointive officials.**

A. The appointive officials of the city are the city clerk/treasurer and the city attorney. Such additional appointive offices as may be considered necessary shall be established by ordinance; each administrative department shall be supervised by an appointive officer or by the mayor.

B. The council and the mayor shall each have the power to inquire into the conduct of any office, department, officer, or employee of the city, make investigation into city affairs, and compel the production of books, papers, and other evidence. Failure to obey such orders to produce books or evidence shall constitute grounds for the immediate discharge of any city officer or employee.

C. All records and accounts of every office and department of the city shall be open to the public as provided in § 1.24.040. If any appointed officer has or expects to have in his or her possession records or documents the disclosure of which would tend to defeat the lawful purpose for which they were intended, such officer shall request through the mayor that the council, by ordinance, designate such records as confidential. Each department head shall be held responsible for the safe-keeping of all public records under his or her responsibility. No public records, reports, correspondence, or other data relative to the business of any department shall be destroyed or removed permanently from the files except as provided in § 1.24.060.

(Ordinance No. 94-01.)

**Section 2.20.020 Appointment; Term; Bonds.**

- A. Appointive officials are appointed by, and serve at the pleasure of, the council.
- B. Appointive officials are appointed and serve for indefinite terms.
- C. The city clerk is required, and other appointive officials may be required, to be bonded pursuant to § 2.24.020.

(Ordinance No. 94-01.)

**Section 2.20.030 City**

**clerk.**

- A. An individual appointed as clerk must be eligible for appointment as a notary public under A.S. 44.50.
- B. The clerk shall be appointed for an indefinite term.
- C. The clerk shall:
  - 1. give notice of the time and place of council meetings to the council and the public;
  - 2. attend and keep the minutes of council meetings;
  - 3. arrange publication and posting of notices, ordinances, and resolutions;
  - 4. maintain and make available for public inspection an indexed file containing city ordinances, resolutions, rules, regulation, codes, and other public records;
  - 5. attest deeds, ordinances, resolutions, and other documents;
  - 6. act as city election registrar, and call and supervise city elections;
  - 7. perform other duties specified by state law or city ordinance or assigned by the mayor or the council; and

8. apply within fifteen (15) days after appointment as clerk for appointment as a notary public, and serve as a notary public at all times during his or her term as clerk. The costs related to applying to be appointed as, and serving as, a notary public shall be paid by the city.

D. The clerk shall act as city treasurer, and in that capacity shall:

1. keep custody of all city funds;
2. keep an itemized account of money received and disbursed; and pay money on vouchers drawn against appropriations;
3. keep custody of and maintain all property used by the city;
4. assist the mayor in compiling the annual budget of the city;
5. prepare and submit to the mayor and council such financial reports and other data as may be required or requested;
6. prescribe and control such procedures as are necessary to protect city funds and property;
7. be responsible for filing state and federal applications for revenue sharing programs;
8. perform other duties specified by state law or city ordinance or assigned by the mayor or the council; and
9. give bond to the city in a sum that the council directs. Premiums on the bond will be paid by the city.

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

(Ordinance No. 94-01.)

#### **Section 2.20.040 City attorney.**

There shall be a city attorney who shall be an officer of the city appointed by the mayor subject to approval by the council for an indefinite term, and who shall be the chief legal advisor of the council, the mayor and all other offices, departments and agencies of the city government in matters relating to their official powers and duties. The attorney shall

represent the city in civil and criminal proceedings in the courts, and shall perform all services incident to this position, which may be required by law or ordinance.

(Ordinance No. 94-01.)

**Section 2.20.050 [Reserved.]**

**Section 2.20.060 Boards and commissions.**

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

(Ordinance No. 94-01.)

## **Chapter 2.24**

### **ASSUMING AND LEAVING OFFICE**

#### **Sections:**

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

#### **Section 2.24.010 Oath of office.**

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

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

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

(Ordinance No. 94-01.)

#### **Section 2.24.020 Bond.**

A. The council may by resolution or ordinance require city officers, appointed officials, or employees in addition to the clerk to be individually bonded. All city officers, officials, and employees not individually bonded shall be covered by a blanket bond. The city shall pay the premiums for all bonds required by this section.

B. The official bond of a city officer, official, or employee when required by ordinance or resolution shall be in a form joint and several, and made payable to the city in the penal sum and with the conditions required by law.

(Ordinance No. 94-01.)

**Section 2.24.030 Resignation.**

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

(Ordinance No. 94-01.)

**Section 2.24.040 Delivery of office.**

Whenever an officer, appointed official, or employee leaves city office or employment for any reason, he or she shall promptly deliver to his or her successor in the office or to the mayor all city property, including books, working papers, records, money, equipment, and effects, which are in his or her custody, possession, or control.

(Ordinance No. 94-01.)

## Chapter 2.44

### FORMAL HEARING PROCEDURE

#### Sections:

#### ARTICLE I. GENERAL PROVISIONS

- 2.44.010 Definitions.
- 2.44.020 Application of chapter.

#### ARTICLE II. ACTIONS

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

#### ARTICLE III. EVIDENCE AT HEARINGS

- 2.44.120 Proof.
- 2.44.130 Subpoena.
- 2.44.140 Depositions.
- 2.44.150 Hearings.
- 2.44.160 Evidence rules.
- 2.44.170 Evidence by affidavit.
- 2.44.180 Official notice.
- 2.44.190 Amendment of accusation after submission.

#### ARTICLE IV. DECISIONS

- 2.44.200 Decision in a contested case.
- 2.44.210 Form and effect of decision.
- 2.44.220 Effective date of decision.

- 2.44.230 Default.
- 2.44.240 Reconsideration.
- 2.44.250 Petition for reinstatement or reduction of penalty.

#### ARTICLE V. JUDICIAL REVIEW

- 2.44.260 Judicial review.
- 2.44.270 Scope of review.

#### ARTICLE VI. MISCELLANEOUS PROVISIONS

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

#### **ARTICLE I. GENERAL PROVISIONS**

##### **Section 2.44.010 Definitions.**

In this chapter:

A. "Agency" means a city department, board, commission, body (including the council), officer, official, or employee with the authority to:

1. make decisions from which an appeal may be taken to another city agency;
2. hear appeals of decisions of a city agency; or
3. initiate hearings which may result in the revocation of a right.

B. "Grant," whether used singly or in combination with other similar words, includes "issue," "renew" and "extend."

C. "Revoke," whether used singly or in combination with other similar words, includes "suspend," "limit," "modify" and "condition" as applied to an existing right.

D. "Right," whether used singly or in combination with other similar words, includes "authority," "license," "duty," "permit" and "privilege." Where an appeal at hearing under this chapter is authorized, it shall be assumed that a right exists.

E. "Verify" means to confirm by oath subscribed to before a notary or other person empowered by law to administer oaths.

(Ordinance No. 94-01.)

#### **Section 2.44.020 Application of chapter.**

A. The provisions of this chapter shall apply to administrative and quasi-judicial proceedings in which legal rights, duties, privileges or penalties of persons are to be determined and shall include, but not be limited to:

1. forfeiture of office proceedings;
2. the appeal to the council of the decision of any agency;
3. appeals or other actions to which this chapter is made applicable by other provisions of this code or rules and regulations approved by the council. When so made applicable, all procedures of this chapter shall apply unless specified procedures are, for the purpose of the action being taken, modified or made inapplicable by the ordinance or other authority which provides for proceedings under this chapter.

B. The provisions of this chapter shall not apply to any action which cannot, of itself, stand as an authoritative or final action in the matter. Such actions which are not included are, but are not limited to, decisions to recommend, advise or request an action, even if such recommendation, advice or request is procedurally required as a prerequisite to some other action, which latter action is dispositive of the matter.

(Ordinance No. 94-01.)

## ARTICLE II. ACTIONS.

### Section 2.44.030 Commencement of action.

A. Revocation of a Right. An agency which is authorized to revoke a right may do so summarily unless specifically provided that such action may be taken only after a hearing on the matter. Unless otherwise provided, when an action revoking a right may be taken only after a hearing, such action is initiated by the agency by filing an accusation with the clerk as provided in section 2.44.050 and proceeding as provided herein.

B. Other Appeals or Challenges. All other authorized challenges or appeals of an action taken by a city agency shall be initiated by filing a statement of issues as provided in section 2.44.060:

1. when the challenge is to the agency which is to take or has taken an action granting or denying a right and the challenge is by a person other than the one who has applied for the right or the one who holds the right, then the applicant or holder is the respondent;

2. when the challenge is an appeal to a higher or different agency and is made by a person other than the one who has applied for or holds the right, the applicant or holder shall be the respondent, but the agency whose action is being challenged may, on its own initiative, join as co-respondent, or be joined by the agency hearing the appeal;

3. when the challenge is by the person who applied for or holds the right, the agency whose action is being challenged shall be the respondent, except that when the appeal is to the agency whose action is being appealed, the applicant shall be the respondent.

C. Action by Clerk. Unless otherwise provided in the code, ordinance, rule, regulation or other provision, upon receiving an accusation or statement of issues, the clerk shall immediately deliver copies of such accusation or statement to the mayor, attorney, the agency whose action is being challenged, and the agency which is the proper one to hear the appeal. When the agency to hear the appeal or charges is a body which is not in session when the accusation or statement is received by the clerk, a copy shall be immediately delivered to the head of the department which provides staff assistance to the body and the clerk shall also deliver, in a timely manner, a copy to the presiding officer of the body.

D. Action by Agency Hearing the Appeal. Unless otherwise provided in the code, ordinance, order, regulation or other provision, upon receipt of an accusation or statement of issues, the agency to hear the appeal shall determine whether it will hear the appeal de novo, on the record, or on the record augmented by additional testimony, and shall immediately notify all parties to the appeal of its determination.

E. Sufficiency of Statement of Issues. Unless otherwise provided, a liberal interpretation of the statement of issues will be made in order to preserve and insure the rights of the appellant; however, the agency to hear the appeal may dismiss the appeal if the statement of issues does not sufficiently state a cause of action.

(Ordinance No. 94-01.)

#### **Section 2.44.040 Appointment of hearing officers.**

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

(Ordinance No. 94-01.)

#### **Section 2.44.050 Accusation.**

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

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

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

B. Specify the statute, code, section, ordinance or rule which the respondent is alleged to have violated; and

C. Be verified, unless made by a public officer acting in his official capacity or by an employee of the agency on whose behalf the proceeding is to be held. The verification may be on information and belief.

(Ordinance No. 94-01.)

#### **Section 2.44.060 Statement of issues.**

A. A hearing to determine whether a right, authority, license or privilege should be granted, issued or renewed is initiated by filing with the clerk a statement of issues which shall contain, where applicable:

1. the statute, rule or code section with which the respondent must show compliance by producing proof at the hearing; and

2. a written statement of allegations setting out in ordinary and concise language the specific acts or omissions with which the respondent is charged so that the respondent is able to prepare a defense, and such allegations may not merely be phrased in the language of the statute, rule or code section; or

3. the particular matters which have come to the attention of the initiating party and which would authorize the agency action sought or reversal of the agency action taken.

B. The statement of issues shall be verified unless made by a municipal officer acting in his official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

C. The statement of issues shall be served as provided in this chapter, except that if the hearing is held at the request of the respondent:

1. sections 2.44.080 and 2.44.090 do not apply; and

2. the statement of issues together with the notices of hearing shall be delivered or mailed to the parties as provided in section 2.44.110.

(Ordinance No. 94-01.)

**Section 2.44.070 Time for filing a statement of issues.**

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

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

B. The date of the first publication of the action in a newspaper of general circulation within the city, whether publication is required or not, or the date of the first posting of a notice of the action in at least three (3) public places in the city, whether such posting is required or not;

C. The date the appellant first learned of the action;

D. The date the decision is mailed to the party appealing; or

E. The date the decision is received by the party appealing when the decision is delivered personally to the party appealing.

(Ordinance No. 94-01.)

**Section 2.44.080 Service of accusation.**

A. Upon filing an accusation, the agency:

1. shall issue a copy of the accusation to the respondent as provided in subsection (C) of this section;

2. shall include with the accusation a post card or other form entitled "notice of defense" which, when signed by or on behalf of the respondent

and returned to the agency, acknowledges service of the accusation and constitutes a notice of defense under section 2.44.090;

3. shall include in or with the copy of the accusation a statement that respondent may request a hearing by filing a notice of defense as provided in section 2.44.090 within fifteen (15) days after the accusation is served on him and that failure to do so constitutes a waiver of his right to a hearing;

4. may include with the accusation any information which it considers appropriate.

B. The statement to respondent required by subsection (B)(3) of this section shall be in substantially the following form:

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

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

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

C. The accusation and all accompanying information may be sent to the respondent by any means selected by the agency. However, no order adversely affecting the rights of the respondent may be made by the agency unless the respondent is served personally or by registered mail or files a notice of defense, or otherwise appears. Service may be proved in the manner authorized in civil actions.

Service by registered mail is effective if an agency rule requires the respondent to file his address with the agency and to notify the agency of a change, and if a registered letter containing the accusation and accompanying material is mailed, addressed to respondent at the latest address on file with the agency.

(Ordinance No. 94-01; Amended by Ordinance 01-03 §6.)

**Section 2.44.090 Notice of defense.**

A. Within fifteen (15) days after service upon him of the accusation, the respondent may file with the clerk a notice of defense. In the notice he may:

1. request a hearing;
2. object to the accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;
3. object to the form of the accusation on the ground that it is so indefinite or uncertain that he cannot identify the transaction or prepare his defense;
4. admit the accusation in whole or in part;
5. present new matters by way of defense.

B. Within the time specified, the respondent may file one or more notices of defense upon any or all of the grounds set out in subsection (A) of this section but all of the notices shall be filed within that period unless the agency in its discretion authorizes the filing of a later notice.

C. The respondent is entitled to a hearing on the merit if he files a notice of defense, and the notice of defense is considered a specific denial of all parts of the accusation not expressly admitted. Failure to file the notice constitutes a waiver of the respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in subdivision (A)(3) of this section, all objections to the form of the accusation are waived.

D. The notice of defense shall be in writing, signed by or on behalf of the respondent, and shall state his mailing address. It need not be verified or follow a particular form.

(Ordinance No. 94-01.)

**Section 2.44.100 Amended or supplemental accusation.**

At any time before the matter is submitted for decision the agency may file or permit the filing of an amended or supplemental accusation. All parties shall be notified of the filing. If the amended or supplemental accusation presents new charges, the agency shall give the respondent a reasonable opportunity to prepare his defense to it, but he is not entitled to file a further pleading unless the agency in its discretion so orders. New charges are considered controverted. Objections to the amended or supplemental accusation may be made orally and shall be noted in the record.

(Ordinance No. 94-01.)

**Section 2.44.110 Form of notice of hearing.**

A. The agency shall deliver or mail a notice of hearing to all parties at least ten (10) days before the hearing. The hearing shall not be held before the expiration of the time within which the respondent is entitled to file a notice of defense.

B. The notice to respondent shall be in substantially the following form, but may include other information:

You are notified that a hearing will be held before (here insert name of agency) at (here insert place of hearing) upon the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, at the hour of \_\_\_\_\_ m., upon the charges made in the Accusation served upon you. You may be present at the hearing, may be but need not be represented by counsel, may present any relevant evidence, and will be given full opportunity to

cross-examine all witnesses testifying against you. You may have subpoenas issued to compel the attendance of witnesses and the producing of books, documents or other things by applying to the city clerk.

(Ordinance No. 94-01; Amended by Ordinance 01-03 §6.)

### **ARTICLE III. EVIDENCE AT HEARINGS**

#### **Section 2.44.120 Proof.**

A. The burden of proof is on the party who files the accusation or statement of issues, or who otherwise initiates the appeal.

B. Except as provided in subsection (C) of this section, the proof required in a hearing shall be a preponderance of the evidence.

C. In a hearing initiated by a statement of issues, the hearing agency may sustain the action challenged if it is satisfied that sufficient evidence or information to support such an action was before the agency when the challenged action was taken; however, a higher level of proof may be required by the hearing agency where the hearing is de novo or from an augmented record.

(Ordinance No. 94-01.)

#### **Section 2.44.130 Subpoena.**

A. Before the hearing begins the clerk shall issue subpoenas and subpoenas duces tecum at the request of a party in accordance with the Alaska Rules of Civil Procedure. After the hearing begins, the agency hearing a case or a hearing officer sitting alone may issue subpoenas and subpoenas duces tecum.

B. A subpoena issued under subsection (A) of this section extends to all parts of the city and shall be served in accordance with the Alaska Rules of Civil Procedure.

C. A witness who is not a party and who appears under a subpoena is entitled to receive:

1. fees, except a witness who is an officer or employee of the city;

2. travel and subsistence expenses in the same amount and under the same circumstances as prescribed by law for a witness in a civil action in a superior court of the state.

D. Fees, mileage and expenses of subsistence shall be paid by the party at whose request the witness is subpoenaed.

(Ordinance No. 94-01.)

#### Section 2.44.140 Depositions.

A. On verified petition of a party, an agency may order that the testimony of a material witness residing inside or outside the city be taken by deposition in the manner prescribed by the Alaska Rules of Civil Procedure. The petition shall state:

1. the nature of the pending proceeding;
2. the name and address of the witness whose testimony is desired;
3. a showing of the materiality of the testimony of the witness;
4. a showing that the witness will be unable or cannot be compelled to attend; and
5. a request for an order requiring the witness to appear and testify before an officer named in the petition for that purpose.

B. If the witness resides outside the city and if the agency orders the taking of his testimony by deposition, the agency shall obtain an order of court to that effect by filing a petition for the taking of the deposition in the superior court for the Barrow Judicial District. The proceedings on this order shall be in accordance with provisions governing the taking of depositions in the superior court in a civil action.

(Ordinance No. 94-01.)

#### Section 2.44.150 Hearings.

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

B. The person presiding at the hearing shall rule on the admission and exclusion of evidence and advise the agency on matters of law. If a hearing officer hears a case alone, he shall exercise all powers relating to the conduct of the hearing. The city attorney shall advise the person presiding over the hearing as to matters of law and procedure.

C. A hearing officer or agency member shall voluntarily disqualify himself and withdraw from a case in which he cannot accord a fair and impartial hearing or consideration. A party may request the disqualification of a hearing officer or agency member by filing an affidavit, before the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. If the request concerns an agency member, the issue shall be determined by the agency when the agency hears the case with the hearing officer, and by the hearing officer when he hears the case alone. No agency member may withdraw voluntarily or be disqualified if his disqualification would prevent the existence of a quorum qualified to act in the particular case.

D. A recording capable of transcription shall be kept at all hearings.

(Ordinance No. 94-01.)

**Section 2.44.160 Evidence rules.**

- A. Oral evidence may be taken only on oath or affirmation.
- B. Each party may:
  - 1. call and examine witnesses;
  - 2. introduce exhibits;
  - 3. cross-examine opposing witnesses on matter relevant to the issues, even though that matter was not covered in the direct examination;
  - 4. impeach a witness regardless of which party first called the witness to testify; and
  - 5. rebut the evidence against himself.
- C. If any party does not testify on his own behalf, he may be called and examined as if under cross-examination.
- D. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule which makes improper the admission of the evidence over objection in a civil action. Hearsay evidence may be used to supplement or explain direct evidence but it is not sufficient by itself to support a finding unless it would be admissible over objection in a civil action. The rules of privilege are effective to the same extent that they are recognized in a civil action. Irrelevant and unduly repetitious evidence shall be excluded.
- E. Evidence shall be presented by each party in the order usually applicable to the trial of civil actions.

(Ordinance No. 94-01.)

**Section 2.44.170 Evidence by affidavit.**

A. At any time ten (10) or more days before a hearing or a continued hearing, a party may mail or deliver to the opposing party a copy of an affidavit which he proposes to introduce in evidence, together with a notice as provided in subsection (B) of this section. Unless the opposing party, within seven (7) days after that mailing or delivery, mails or delivers to the proponent a request to cross-examine an affiant, his right to cross-examine the affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not given after request for it is made, the affidavit may be introduced in evidence, but shall be given only the same effect as other hearsay evidence.

B. The notice referred to in subsection (A) of this section shall be substantially in the following form:

The accompanying affidavit of (here insert name of affiant) will be introduced as evidence at the hearing in (here insert title of proceeding). (Here insert name of affiant) will not be called to testify orally and you may not question him unless you notify (here insert name of proponent or his attorney) at (here insert address) that you wish to cross-examine him. To be effective your request must be mailed or delivered to (here insert name of proponent or his attorney) before (here insert a date eight (8) days after the date of mailing or delivering the affidavit to the opposing party).

(Ordinance No. 94-01.)

**Section 2.44.180 Official notice.**

In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of a generally accepted technical or scientific matter within the agency's special field, and of a fact which is judicially noticed by the courts of the state. Parties shall be noticed, and those matters shall be noted in

the record, referred to in the record, or appended to it. A party present at the hearing shall, upon request, be given a reasonable opportunity to refute the officially noticed matters by evidence or by written or oral presentation of authority. The agency shall determine the manner of this refutation.

(Ordinance No. 94-01.)

#### **Section 2.44.190 Amendment of accusation after submission.**

The agency may order amendment of the accusation after submission of the case for decision. Each party shall be given notice of the intended amendment and opportunity to show that the party will be prejudiced by it unless the case is reopened to permit the introduction of additional evidence in his behalf. If prejudice is shown, the agency shall reopen the case to permit the introduction of additional evidence.

(Ordinance No. 94-01.)

### **ARTICLE IV. DECISIONS**

#### **Section 2.44.200 Decision in a contested case.**

A. If a contested case is heard before an agency:

1. the hearing officer who presided at the hearing shall be present during the consideration of the case, and if requested, shall assist and advise the agency; and

2. a member of the agency who has not heard the evidence may not vote on the decision.

B. If a contested case is heard by a hearing officer alone, he shall prepare a proposed decision in a form which may be adopted as the decision in the case. A copy of the proposed decision shall be filed by the agency as a public record with the clerk and a copy of the proposed decision shall be served by the agency on each party in the case and his attorney. The agency itself may adopt the proposed decision in its entirety, or may reduce the proposed penalty and adopt the balance of the proposed decision.

C. If the proposed decision is not adopted as provided in subsection (B) of this section, the agency may decide the case upon the record, including the transcript, with or without taking additional evidence, or may refer the case to the same or another hearing officer to take additional evidence. If the case is so assigned to a hearing officer he shall prepare a proposed decision as provided in subsection (B) of this section upon the additional evidence and the transcript and other papers which are part of the record of the earlier hearing. A copy of the proposed decision shall be furnished to each party and his attorney as prescribed by subsection (B) of this section. The agency may not decide a case provided for in this subsection without giving the parties the opportunity to present either oral or written argument before the agency. If additional oral evidence is introduced before the agency, no agency member may vote unless he has heard the additional oral evidence.

(Ordinance No. 94-01.)

#### **Section 2.44.210 Form and effect of decision.**

A. A decision shall be written and shall contain findings of fact, a determination of the presented action and the penalty, if any. The findings may be stated in the language of the pleadings or by reference to them. Copies of the decision shall be delivered to the parties personally or sent to them by registered mail.

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

(Ordinance No. 94-01.)

#### **Section 2.44.220 Effective date of decision.**

A. A decision becomes effective thirty (30) days after it is delivered or mailed to the respondent unless:

1. a reconsideration is ordered within that time;
2. the agency itself orders that the decision become effective sooner; or

3. a stay of execution is granted for a particular purpose and not to postpone judicial review.

B. A stay of execution may be included in the decision or, if not included in it, may be granted by the agency at any time before the decision becomes effective. The stay of execution may be accompanied by an express condition that the respondent comply with specified terms of probation. The terms of probation shall be just and reasonable in the light of the findings and decision.

(Ordinance No. 94-01.)

#### **Section 2.44.230 Default.**

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

(Ordinance No. 94-01.)

#### **Section 2.44.240 Reconsideration.**

A. The agency may order a reconsideration of all or part of the case on its own motion or on petition of a party. The power to order a reconsideration expires thirty (30) days after the delivery or mailing of a decision to the respondent. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition is considered denied.

B. The case may be reconsidered by the agency on all the pertinent parts of the record and the additional evidence and argument that are permitted, or may be assigned to a hearing officer. A reconsideration assigned to a hearing officer is subject to the procedure provided in section 2.44.200. If oral evidence is introduced before the agency, no agency member may vote unless he has heard the evidence.

(Ordinance No. 94-01.)

**Section 2.44.250 Petition for reinstatement or reduction of penalty.**

A person whose license is revoked or suspended may petition the agency for reinstatement or reduction of penalty after one (1) year from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the city attorney of the filing of the petition, and the city attorney and the petitioner shall be given an opportunity to present either oral or written argument before the agency. The agency shall decide the petition, and the decision shall include the reasons for the decision. This section does not apply if the statutes dealing with the particular agency contain different provisions for the reinstatement or reduction of penalty.

(Ordinance No. 94-01.)

**ARTICLE V. JUDICIAL REVIEW**

**Section 2.44.260 Judicial review.**

A. Judicial review by the state superior court of a final administrative order may be had by filing a notice of appeal in accordance with the applicable rules of court governing appeals from administrative agencies. Except as otherwise provided in this section, the notice of appeal shall be filed within thirty (30) days after the last day on which reconsideration can be ordered, or within thirty (30) days after the date of the decision on reconsideration, and served on each party to the proceeding. The right to appeal is not affected by the failure to seek reconsideration before the agency.

B. The complete record of the proceedings, or the parts of it the appellant designates, shall be prepared by the agency. A copy shall be delivered to all parties participating in the appeal. The original shall be filed in the superior court within thirty (30) days after the appellant pays the estimated cost of preparing the complete or designated record or files a corporate surety bond equal to the estimated cost.

C. The complete record includes:

1. the pleadings;

2. all notices and orders issued by the agency;
3. the proposed decision by a hearing officer;
4. the final decision;
5. a transcript of all testimony and proceedings;
6. the exhibits admitted or rejected;
7. the written evidence; and
8. all other documents in the case.

D. Upon order of the superior court, appeals may be taken on the original record or parts of it. The record may be typewritten or duplicated by any standard process. Analogous rules of court governing appeals in civil matters shall be followed where this chapter is silent, and when not in conflict with this chapter.

E. The superior court may enjoin agency action in excess of constitutional or statutory authority at any stage of an agency proceeding. If agency action is unlawfully withheld or unreasonably withheld, the superior court may compel the agency to initiate action.

(Ordinance No. 94-01.)

#### **Section 2.44.270 Scope of review.**

A. Except as otherwise provided by law, an appeal shall be heard by the superior court sitting without a jury.

B. Inquiry in an appeal extends to the following questions:

1. whether the agency has proceeded without, or in excess of, jurisdiction;
2. whether there was a fair hearing; and

3. whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in the manner required by ordinance, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

C. The court may exercise its independent judgment on the evidence. If it is claimed that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

D. The court may augment the agency record in whole or in part, or hold a hearing de novo. If the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing, the court may:

1. enter judgment as provided in subsection (E) of this section and remand the case to be reconsidered in the light of that evidence; or

2. admit the evidence at the appellate hearing without remanding the case.

E. The court shall enter judgment setting aside, modifying, remanding, or affirming the order or decision, without limiting or controlling in any way the discretion legally vested in the agency.

F. The court in which proceedings under this section are started may stay the operation of the administrative order or decision until:

1. the court enters judgment;

2. a notice of further appeal from the judgment is filed; or

3. the time for filing the notice of appeal expires.

G. No stay may be imposed or continued if the court is satisfied that it is against the public interest.

H. If further appeal is taken, the supreme court may, in its discretion, stay the superior court judgment or agency order.

I. If a final administrative order or decision is the subject of a proceeding under this section, and the appeal is filed while the penalty imposed is in effect, finishing or complying with the penalty imposed by the administrative agency during the tendency of the proceeding does not make the determination moot.

(Ordinance No. 94-01.)

## **ARTICLE VI. MISCELLANEOUS PROVISIONS**

### **Section 2.44.280 Continuances.**

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

(Ordinance No. 94-01.)

### **Section 2.44.290 Contempt.**

A. In a proceeding before an agency, the agency shall certify the facts to the court in the judicial district where the proceeding is held if a person in the proceeding:

1. disobeys or resists a lawful order;
2. refuses to respond to a subpoena;
3. refuses to take oath or affirmation as a witness;
4. refuses to be examined; or
5. is guilty of misconduct at a hearing or so near the hearing as to obstruct the proceeding.

B. Upon certification under subsection (A) of this section, the court shall issue an order directing the person to appear before the court and show cause why he should not be punished for contempt. The order and a copy of the certified statement shall be served on the person.

C. After service under subsection (B) of this section, the court has jurisdiction of the matter.

D. The law applicable to contempt committed by a person in the trial of a civil action before the superior court applies to contempt under this section as to:

1. the proceeding taken; and
2. the penalties imposed.

(Ordinance No. 94-01.)

#### **Section 2.44.300 Mail vote.**

A member of an agency qualified to vote on a question may vote by mail.

(Ordinance No. 94-01.)

#### **Section 2.44.310 Charges against agency appropriations.**

A sum authorized to be spent under the provisions of this chapter by an agency shall be a charge against the appropriation of the agency.

(Ordinance No. 94-01.)

#### **Section 2.44.320 Power to administer oath.**

In a proceeding under the provisions of this chapter, an agency member, the secretary of the agency or a hearing officer may administer oaths and affirmations and certify official acts.

(Ordinance No. 94-01.)

**Section 2.44.330 Impartiality.**

Functions of hearing officers and those officers participating in decisions shall be conducted in an impartial manner with due regard for the rights of all parties and the law, and such officers shall carry on all the proceedings in an orderly and prompt manner. These officers, except to the extent required for the disposition of ex parte matters authorized by law, shall not engage in interviews with a party, directly or indirectly, except upon opportunity for all other parties to be present. Copies of all communications with these officers shall be served upon all parties.

(Ordinance No. 94-01.)

## Chapter 2.26

### CONFLICT OF INTEREST

#### Sections:

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

#### **Section 2.26.010 Prohibitions.**

A. No elected official, appointed city officer, or city employee shall use his office or official position for the primary purpose of obtaining financial gain for himself or his spouse, child, mother, father or business with which he is associated or owns stock.

B. No elected official, appointed city officer, or city employee shall participate in any official action in which he has a substantial financial interest. Prohibited participation includes voting as a council member, taking part in council debate, soliciting the vote of a council member, or encouraging any city official or officer to act in a certain way in regard to a subject.

C. No elected official, appointed city officer, or city employee may accept from any other elected official, appointed city officer, or city employee, or any other person, money, gifts, promises of future benefits, or any other thing of value, for performing any function or service that is a normal part of his or her duties, or in exchange for voting or acting in any particular way on any matter that comes before him or her in the course of his or her duties. This subsection does not preclude any person from accepting any award or bonus authorized by the council to be given for meritorious service.

D. No elected official, appointed city officer, or city employee, and no other person, shall give or offer to give to any elected official, appointed city officer, or city employee, money, gifts, promises of future benefits, or any other thing of value, for performing any function or service that is a normal part of his or her

duties, or in exchange for voting or acting in any particular way on any matter that comes before him or her in the course of his or her duties. This subsection does not preclude any person from voting for or participating in granting any award or bonus authorized by the council to be given for meritorious service.

(Ordinance No. 94-01.)

**Section 2.26.020 Financial interests which may be conflicts of interest.**

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

1. He or she (or a member of his or her immediate family) individually, jointly, or in partnership with another has an interest in land or buildings, other than his or her residence, that will be affected by the vote or action.

2. He or she (or a member of his or her immediate family) is party to or beneficiary of a contract for a sum of One Thousand Dollars (\$1,000.00) or more that will be affected by the vote or action.

3. He or she (or a member of his or her immediate family) is individually, jointly, or in partnership with another the owner of a business, or has an interest in a business of One Thousand Dollars (\$1,000.00) or more that will be affected by the vote or action.

4. He or she (or a member of his or her immediate family) is a member of a board of directors or governing body or an officer of, or holds a management position with an organization that has financial dealings of One Thousand Dollars (\$1,000.00) or more with the city that will be affected by his or her vote or action.

(Ordinance No. 94-01.)

**Section 2.26.030 Conflicts of interest and disclosure -- City council members.**

A. Each city council member shall disclose any financial interest he or she may have in any matter that has come before the council for a vote. If the member believes that the financial interest is substantial, he or she shall ask to be excused from voting on the matter.

B. The mayor shall rule on the request of a council member to be excused from voting on a matter in which the member has or believes he or she has a substantial financial interest, unless the mayor is the member making the request or has the same or a similar or related financial interest in the same matter, in which case the council shall designate another council member who has no financial interest in the matter to rule on the request.

C. The decision of the mayor (or designated council member) on the member's request to be excused from voting may be overridden by a majority vote of the council. Neither the council member making the request, nor any other council member who has disclosed a similar or related interest in the same matter, may rule on any member's request to be excused from voting on the matter or vote on the question of overriding such a ruling.

D. If any resident of the city believes that a council member may have an undisclosed conflict of interest, the resident may request a confidential meeting with the mayor (or, in the event that a claimed potential conflict of interest involves the mayor, any other council member chosen by the resident requesting the meeting) and the council member who may have a conflict of interest. If, as a result of the confidential meeting, the council member with the potential conflict or the mayor decides that the financial interest must be disclosed to the council, the council member shall disclose the interest to the council as provided in § 2.26.030(B) above.

E. A council member who has a substantial financial interest in a matter before the council, and who has been excused from voting on that matter, may not participate as a council member in the debate on the matter, although he or she may participate in discussion to the same extent as a member of the general public. If the matter is discussed by the council in executive session, the member shall be excluded during the executive session.

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

(Ordinance No. 94-01.)

#### **Section 2.26.040 Conflicts of Interest and Disclosure -- City Officers and Employees.**

A. Each city officer and employee shall disclose to the mayor or the city council any financial interest he or she may have in any matter that has come before the officer or employee for action in the course of his or her duties. If either the officer or employee making the disclosure, the mayor, or a majority of the members of the council conclude that the financial interest in question is substantial, then the officer or employee shall not act or participate in taking action on the matter.

B. Any resident of the city who thinks that a city officer or employee may have an undisclosed conflict of interest may request a confidential meeting with the mayor (or, in the event that a claimed potential conflict of interest involves the mayor, any other council member chosen by the resident requesting the meeting) and the officer or employee who may have a conflict of interest. If, as a result of the confidential meeting, the officer or employee with the potential conflict concludes that he or she should refrain from acting on the matter, or the mayor (or other chosen council member) directs the officer or employee to refrain from acting on the matter, all proceedings of the meeting with the resident and the mayor (or other chosen council member) will remain confidential. If neither the officer or employee nor the mayor (or other chosen council member) decides that the officer or employee must refrain from acting, the resident may request the council to consider the matter at its next regular meeting.

(Ordinance No. 94-01.)

#### **Section 2.26.050 Violations.**

A. Any council member, city officer, or city employee who violates this ordinance by knowingly refusing to disclose a financial interest as required by this chapter may be suspended from the council or from his or her city office or employment. Such suspensions shall be for a period of up to ninety (90) days, and shall be made upon a two-thirds (2/3) majority vote of the council. Any council member, officer, or employee who is suspended for this reason more than once in any twelve (12) month period may be discharged from the council or from his or her office or job. Such discharge shall be made upon a two-thirds (2/3) majority vote of the council.

B. Any person who willfully violates any provision of § 2.26.0 10 shall be guilty of an infraction.

C. Any city council member or appointed city officer who willfully violates any provision of § 2.26.0 10 shall be deemed to have violated his or her oath of office and shall be subject to immediate discharge from the council or from office by two-thirds (2/3) vote of the council. Any willful violation of any provision of § 2.26.010 by any city employee shall be cause for immediate termination of employment.

D. No council member may vote on any question of his or her own suspension or discharge.

(Ordinance No. 94-01.)

## **Chapter 2.28**

### **DEPARTMENT OF RECREATION**

#### **Sections:**

|          |                                   |
|----------|-----------------------------------|
| 2.28.010 | Department established.           |
| 2.28.020 | Director -- Appointment.          |
| 2.28.030 | Director -- Duties.               |
| 2.28.040 | Commission -- Established.        |
| 2.28.050 | [Reserved.]                       |
| 2.28.060 | Commission -- Tenure.             |
| 2.28.070 | Commission -- Powers and duties.  |
| 2.28.080 | Commission meetings -- Generally. |
| 2.28.090 | Commission meetings -- Conduct.   |
| 2.28.100 | Commission meetings -- Notice.    |
| 2.28.110 | Commission meetings -- Agenda.    |
| 2.28.120 | Advisory subcommittees.           |

#### **Section 2.28.010 Department established.**

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

(Ordinance No. 94-01.)

#### **Section 2.28.020 Director -- Appointment.**

The director shall be appointed for an indefinite term by the mayor, subject to approval by majority vote of the city council.

(Ordinance No. 94-01.)

#### **Section 2.28.030 Director -- Duties.**

A. The director, subject to the supervision and control of the mayor, shall have charge of and direct the recreational programs, activities, and facilities sponsored, carried on, or maintained by the city, including any parks, playgrounds, or other facilities and any municipal equipment used in connection therewith.

B. The director is a non-voting member of the recreation commission and is its secretary.

C. The director shall develop meeting agendas, plans, materials, and arrangements in consultation with the commission chairperson.

D. The director is responsible for carrying out the policies and programs of the commission, as approved by the city council.

E. The director shall present commission recommendations to the city clerk for inclusion on city council agendas. Every recommendation to the city council will include the following information:

1. identified need;
2. goal;
3. objective(s);
4. method(s) to achieve objective(s);
5. financial strategy and costs;
6. how the recommendation relates to the five (5) year recreation plan.

(Ordinance No. 94-01.)

#### **Section 2.28.040 Commission -- Established.**

A. There is created a city recreation commission.

B. The recreation commission shall consist of seven (7) members appointed by the mayor, subject to approval by majority vote of the city council. All commission members shall be city residents.

C. At the time prescribed for the beginning of newly appointed members' terms, or as soon thereafter as practicable, the commission shall elect a chairperson and vice-chairperson, and determine the time and place of its regular monthly meetings.

(Ordinance No. 94-01.)

**Section 2.28.050 [Reserved.]**

**Section 2.28.060 Commission --Tenure.**

A. Commission members shall serve for three (3) years and until the appointment of their successors. The terms of members shall be staggered so that two (2) or three (3) members' terms end during each year.

B. Commission members may be removed by the city council if the council finds that such an action is in the best interest of the city. The council's decision to remove a commission member must be approved by at least five (5) members of the council.

C. A commission member who misses three (3) consecutive regular meetings shall be removed from the commission. When a member has missed three (3) consecutive regular meetings, the director shall promptly report the vacancy to the mayor.

D. Vacancies shall be filled for the remainder of the unexpired term by a person appointed by the mayor, subject to approval by majority vote of the city council.

(Ordinance No. 94-01.)

**Section 2.28.070 Commission -- Powers and duties.**

The recreation commission shall:

A. Advise the recreation director, the mayor, and the city council in matters of recreation policy regarding:

1. development and management of parks and open space areas;
2. recreation programs and activities;
3. budgetary and other fiscal matters relating to recreation; and
4. development of a five (5) year recreation plan.

B. Investigate, study and advise the recreation director, mayor, and city council as to feasible projects that will further the development and enhancement of

parks and open spaces and the program of recreational activities. Such studies shall consider each of the factors set out in section 2.28.030(E).

C. Advise the recreation director in coordination of plans for management of park and open-space areas and recreational facilities.

D. Investigate, study and advise the recreation director, mayor, and city council on suitable locations for statues, monuments, historical markers or other objects of an historical nature which may be placed in public squares or parkways in the city or which are worthy of public protection.

E. Plan, establish and coordinate city recreational programs, and any other recreational activities approved by the city council which use public facilities.

(Ordinance No. 94-01.)

#### **Section 2.28.080 Commission meetings -- Generally.**

A. Regular commission meetings shall be held once a month.

B. The chairperson or any three (3) members of the commission may call special meetings. The chairperson or members calling a meeting shall specify the purpose of the special meeting.

(Ordinance No. 94-01.)

#### **Section 2.28.090 Commission meetings -- Conduct.**

A. All commission meetings are public meetings, governed by the statutes of the State of Alaska and city ordinance.

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

C. Four (4) commission members constitute a quorum.

D. The secretary shall keep minutes of all commission meetings. Copies of the minutes shall be provided to the city clerk for distribution to the city council.

(Ordinance No. 94-01.)

**Section 2.28.100 Commission meetings -- Notice.**

A. Notice of regular meetings, including a copy of the proposed agenda, shall be given to commission members by mail or in person at least five (5) working days prior to each regular meeting. Notice of special meetings, including notice of the purpose for which the special meeting is called, shall be given to commission members by mail, in person, or by telephone at least twenty-four (24) hours prior to each special meeting.

B. The director shall notify the general public of regular and special commission meetings by radio, by posting in at least three (3) public places in the city, and, if deemed appropriate by the director, by insertion in local newspaper advertisements.

(Ordinance No. 94-01.)

**Section 2.28.110 Commission meetings -- Agenda.**

A. The director shall prepare the agenda for regular meetings, including all items specified by the chairperson or requested in a timely manner by other persons. Persons wishing to have items included on the agenda must submit their request, in writing, no later than eight (8) working days prior to the meeting.

B. The agenda for each special meeting shall be limited to the specific item or items identified by the chairperson or the members calling the special meeting.

(Ordinance No. 94-01.)

**Section 2.28.120 Advisory subcommittees.**

A. The commission may establish advisory subcommittees to advise the commission on specific recreational activities or programs.

B. All advisory subcommittees shall be chaired by a commission member.

(Ordinance No. 94-01.)

**Chapter 2.32 [RESERVED.]**

## Chapter 2.36

### ELECTIONS

#### Sections:

#### ARTICLE I: GENERAL

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

#### ARTICLE II: PREPARATION FOR ELECTION DAY

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

#### ARTICLE III: ELECTION DAY PROCEDURES

- 2.36.200 Distribution of ballots.
- 2.36.210 Distribution of other election materials.
- 2.36.220 Voting -- General procedure.
- 2.36.230 Voting -- Spoiled ballots.
- 2.36.240 Voting -- Questioned ballots.
- 2.36.250 Voting -- Absentee voters.
- 2.36.260 Return of spoiled and unused ballots.
- 2.36.270 Ballot count -- Commencement.
- 2.36.280 Ballot count -- Watchers.
- 2.36.290 Ballot count -- General procedure.

- 2.36.300 Ballot count --Rules.
- 2.36.310 Ballot count -- Completion.

#### ARTICLE IV: ABSENTEE VOTING

- 2.36.320 Persons eligible.
- 2.36.330 Ballot application; Filing.
- 2.36.340 Ballot and envelope form.
- 2.36.350 Absentee voting procedure.

#### ARTICLE V: POST-ELECTION PROCEDURE

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

#### ARTICLE VI: INITIATIVE, REFERENDUM, AND RECALL

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

#### Forms Following Section 2.36.480

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

## **ARTICLE I: GENERAL**

### **Section 2.36.010 Voter qualifications.**

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

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

(Ordinance No. 94-0 1.)

### **Section 2.36.020 Residence criteria.**

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

1. No person may be considered to have gained a residence solely by reason of his presence nor may he lose it solely by reason of his absence while in the civil or military service of the state or of the United States, or of his absence because of marriage to a person engaged in the civil or military service of the state or the United States, while a student at an institution of learning, while in an institution of learning, while in an institution or asylum at public expense, while confined in public prison, while engaged in the navigation of waters of the state, of the United States or of the high seas, while residing upon an Indian, Native Alaskan, or military reservation, or while residing in the Alaska Pioneers' Home.

2. The residence of a person is that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention to return. If a person resides in one place, but does business in another, the former is his place of residence. Temporary construction camps do not constitute a dwelling place.

3. A change of residence is made only by the act of moving joined with the intent to remain in another place. There can only be one (1) residence.

4. A person does not lose his residence if he leaves his home and goes to another country, state or place in Alaska for temporary purposes only and with the intent of returning.

5. A person does not gain residency by coming to the city without the present intention to establish his permanent dwelling in the city.

6. A person loses his residence in the city if he votes in an election of another city or state, either in person or by absentee ballot, and will not be eligible to vote in this city's municipal elections until he again qualifies under this chapter.

7. The term of residence is computed by including the day on which the person's residence begins and excluding the day of election.

8. The address of a voter as it appears on his official state voter registration card is presumptive evidence of the person's voting residence. If the person has changed his voting residence, this presumption is negated only by the voter executing an affidavit on a form prepared by the director setting out his new voting residence.

(Ordinance No. 94-01.)

#### **Section 2.36.030 Precincts and voting places.**

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

(Ordinance No. 94-01.)

#### **Section 2.36.040 Supervision by city clerk.**

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

B. The clerk shall pay all necessary election expenses, including those of securing polling places and providing ballot boxes, ballots, voting booths or screens and other supplies.

(Ordinance No. 94-01.)

**Section 2.36.050 Election board; Judges; Clerks.**

A. There shall be an election board for each election precinct. The council shall, by resolution adopted at least ten (10) days prior to each regular or special election, appoint three (3) judges to serve as the election board, and designate one (1) of the judges to chair the board.

B. Judges shall not be council members, candidates for office, or members of candidates' immediate families (parents, children, brothers or sisters, or husbands or wives of candidates).

C. If any judge fails or refuses to perform the duties of election judge on or during election day, the remaining judges shall choose a qualified voter to serve in his or her place. If more than one (1) replacement judge is required to be chosen at any one (1) time, the city clerk, together with the remaining judge (if any) shall choose qualified voters to serve in the place of the absent judges.

D. The city clerk may, at the request of the judges and if necessary to conduct an orderly election or to relieve the judges of undue hardship, appoint up to three (3) election clerks to assist the judges. Persons appointed as election clerks must be qualified to serve as judges.

E. Each election judge or clerk shall sign the oath specified in § 2.3 6.060 of this code and file it with the clerk on or before election day.

F. In appointing election board members, the council shall, to the maximum extent possible, select election judges who are fluent in both Inupiaq and English, so as to ensure, if reasonably possible, that there will be present, at each polling location during all times when the polls are open, an election official capable of assisting voters who may be fluent in only one of those languages.

(Ordinance No. 94-01.)

**Section 2.36.060 Oath of election officials.**

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

I, \_\_\_\_\_, do solemnly swear  
(affirm) that:

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

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

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

B. A form for administration of this oath is included in the forms appendix  
as Form 2.36-A.

(Ordinance No. 94-01.) **Section**

**2.36.070 Offenses.**

It is unlawful for any person, firm or corporation to do or to attempt to do any of the following acts, and any person, firm or corporation who does or attempts to do any of the following acts is guilty of a misdemeanor and shall be subject to a fine of up to five hundred dollars (\$500.00) and/or imprisonment for up to thirty (30) days:

1. To directly or indirectly use or threaten to use force, coercion, violence or restraint, or inflict or threaten to inflict damage, harm or loss, upon or against any person to induce or compel the person to vote or refrain from voting for any candidate in any election or for any election proposition or question.

2. To give, or promise to give, or offer any money or valuable thing to any person, with the intent to induce him to vote for or restrain him from voting for any candidate at any election or election proposition or question.

3. To write, print or circulate any letter, circular, placard, poster or other publication relating to any election or to any candidate at any election or to any election proposition or question without the same bearing on its face the name and address of the author, printer and publisher thereof.

4. To willfully write, print, circulate or broadcast any statement containing any false charge or comment relating to any candidate at any election or to any election proposition or question or reflecting on the character, morality or integrity of any candidate at any election.

5. To possess any official ballot outside of the voting room; provided, that this subsection shall not apply to election officials or other properly authorized persons having such possession in the course of their official duties, or to any absentee voter with respect to the single ballot issued to the voter by the city clerk.

6. To possess any counterfeit of an official ballot.

7. Having been contracted or employed by the city to print or reproduce in any manner any official ballot, to willfully appropriate to him or herself, nor to give or deliver to, or knowingly permit to be taken by anyone other than a person authorized by the city clerk, any official ballots, or knowingly print or reproduce or cause to be printed or reproduced any official ballots in any other form or with any other content other than that prescribed by ordinance or as directed by the city clerk.

8. To refuse to allow an employee reasonable time off for the purpose of voting when the employee does not have a reasonable amount of time to vote before or after work, or after allowing the time off, to deduct the time from the compensation of the employee.

9. To vote more than once at the same election.

10. To vote in the name of another person or in any name other than his or her own.

11. To sign any name other than his or her own to a petition proposing an initiative, referendum or recall.

12. To willfully conceal, withhold, wrongfully change, mutilate, or destroy the election return.

13. While the polls are open, to open any ballot received from a voter at any election, or to mark any ballot by folding or otherwise so as to be able to

recognize it, or otherwise attempt to learn how any voter marked his or her ballot, or allow the same to be done by any other person.

14. To willfully delay the election returns.

15. To induce by force, threat, intimidation, or offer of a reward any election official to fail in his or her duty.

16. To willfully make a false affidavit or swear falsely under oath required in connection with any election or registration for voting or falsely affirm in lieu of so swearing.

17. To willfully fail to perform any election duty or knowingly do any unauthorized act with the intent to affect the election or its results.

18. To willfully change or cause to be changed any official election documents, including ballots, tallies and returns, or attempts to do the same.

19. To willfully permit or make any false count or report of the election returns.

20. To persuade a person to vote for or against any candidate, question, or proposition on the ballot within one hundred (100) feet of any entrance to the polling place during the hours the polls are open.

(Ordinance No. 94-01.)

## **ARTICLE II: PREPARATION FOR ELECTION DAY**

### **Section 2.36.080 Date of regular election.**

The regular election for council members or other elected officials shall be held every year on the first Tuesday in October. Questions or propositions may be placed on the ballot at this time.

(Ordinance No. 94-01.)

### **Section 2.36.090 Special elections.**

The city council may call a special election to decide any question that must by law be decided by the voters at any time; provided, that the election date must be preceded by at least twenty (20) days' public notice.

(Ordinance No. 94-01.)

### **Section 2.36.100 Coincidence with other elections.**

Nothing in this chapter shall prohibit holding a city election on the same day and by the same election personnel as a state, borough or other public election, or submitting a city question at such an election.

(Ordinance No. 94-01.)

### **Section 2.36.110 Election place and hours.**

A. Elections shall be held at the place or places specified by the council and stated in the Notice of Election.

B. The polls shall be open from 8:00 a.m. until 8:00 p.m. on election day. Fifteen (15) minutes before the time of closing the polls, the election board shall announce the present time and the time at which the polls will close. At 8:00 p.m., the election board shall announce the time and that the polls are closing. All voters in line to vote at 8:00 p.m. shall be allowed to vote, but no person arriving at the polling place after 8:00 p.m. may be allowed to vote.

(Ordinance No. 94-01.)

### **Section 2.36.120 Notices of election.**

A. Notice that an election will be held shall be prepared and posted by the clerk and shall contain all of the following which apply:

1. whether the election is regular, special, or runoff;
2. date of the election;
3. location of each city polling place;

4. time polling places will open and close;
5. offices to be filled;
6. a statement describing voter qualifications;
7. times for filing declarations of candidacy; and
8. a statement of any questions or propositions to be placed on the ballot.

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

B. Notice of a regular election must be posted in three (3) public places for thirty (30) days before the election and published in a newspaper of general circulation in the city, if any.

C. Notice of a special election shall be posted in three (3) public places at least twenty (20) days before the election and published in a newspaper of general circulation in the city, if any.

D. Notice of a runoff election shall be posted in three (3) public places at least five (5) days before the election and published in a newspaper of general circulation in the city, if any.

(Ordinance No. 94-01.)

#### **Section 2.36.130 Nominations for office.**

Nominations for elective office shall be made only by declaration of candidacy.

(Ordinance No. 94-01.)

#### **Section 2.36.140 Declaration of candidacy -- Form.**

A. Declaration of candidacy forms shall be prepared by the clerk using Form 2.36-I at least thirty (30) days before the election. The declaration shall have spaces for the following: the candidate's full name; the office for which the candidate is running; that the candidate is a qualified city voter and has been a

resident of the city for the required length of time for the office sought; the date the declaration is filed; and a statement that if elected, the candidate will serve the full term of office.

B. The clerk shall keep the completed declarations of candidacy in the city files.

(Ordinance No. 94-01.)

**Section 2.36.150 Declaration of candidacy -- Filing.**

A person who wishes to become a candidate for an elective office shall complete and file a declaration of candidacy with the clerk. Declarations of candidacy may be filed no sooner than thirty (30) days and no later than ten (10) working days before the election.

(Ordinance No. 94-01.)

**Section 2.36.160 Declaration of Candidacy -- Withdrawal.**

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

(Ordinance No. 94-01.)

**Section 2.36.170 Ballots -- Form.**

A. The clerk shall design the ballots to facilitate fairness, simplicity, and clarity in the voting procedure, to reflect most accurately the intent of the voter, and to expedite the administration of the election. The ballots shall:

1. be printed on plain white paper, stating at the top whether the election is a regular, special, or runoff election;
2. include instructions on how to mark the ballots;
3. list the offices for which votes may be cast. The name of each office shall be followed by the names of all candidates for that office, listed in a random order, and by a blank line or lines for write-in candidates (except in runoff

elections). In regular and special elections, the number of blank lines provided for each office shall be equal to the number of persons who are to be elected to the office. A blank or box for marking a vote shall be located next to each name and each blank line;

4. list the questions or propositions to be voted on, if any. Each question or proposition shall have two (2) blank lines or boxes next to or following the text of the question or proposition, one marked "Yes" or "For" and the other "No" or "Against," as appropriate;

B. In preparing the ballot, the clerk shall use Form 2.36-C as a guide, adding and/or deleting such ballot sections as appropriate.

(Ordinance No. 94-01.)

#### **Section 2.36.180 Ballots -- Preparation.**

The clerk shall have ballots typed or printed at least ten (10) days before the date set for a regular or special election. Ballots must be prepared three (3) days prior to a runoff election. There shall be at least three (3) ballots, typed or printed on colored paper, with the word "SAMPLE" printed on them, to be posted in the clerk's office until election day and then given to the judges at each polling place.

(Ordinance No. 94-01.)

#### **Section 2.36.190 Other materials.**

A. At least ten (10) days prior to the day of the election, the clerk shall prepare the following materials:

1. an updated Master Voter Registration List, containing the names, in alphabetical order, of all registered voters eligible to vote in the election;

2. a Blank Register in which the voters may print and sign their names and print their residence addresses, and in which the election official may note the number of the ballot issued to the voter;

3. tally sheets, an example of which is illustrated by Form 2.36-D;

4. a form for the Report of Preliminary Election Results, prepared using Form 2.36-E;

5. envelopes bearing the Oath and Affidavit of Eligibility for questioned ballots, prepared using Form 2.36-F;

6. two (2) large envelopes for each polling place, one marked "Spoiled Ballots" and the other marked "Questioned Ballots;"

7. copies of the Notice of Election, the city's elections ordinances, and A.S. 15.15.080 through 15.15.370;

8. applications for absentee ballots, prepared in accordance with Form 2.36-G; and

9. ballot envelopes and return envelopes for absentee ballots, prepared in accordance with § 2.36.340.

B. The clerk shall prepare for each polling place instructions for the guidance of voters covering the following:

1. How to obtain a ballot;
2. How to mark a ballot;
3. How to obtain additional information; and
4. How to obtain a new ballot to replace any ballot destroyed or spoiled.

C. After the election, the clerk shall keep all election materials in the permanent city files.

(Ordinance No. 94-01.)

### **ARTICLE III: ELECTION DAY PROCEDURE**

#### **Section 2.36.200 Distribution of ballots.**

A. Before the polls open on election day, the clerk shall deliver the ballots and sample ballots prepared pursuant to § 2.36.180 to an election board member at each polling place. The ballots shall be delivered in separate sealed packages, with the number of ballots enclosed in each package clearly marked on the outside of the

package. A receipt for each package shall be signed by the election board to which the package is delivered and given to the clerk. No ballots shall be taken from the polling place before the closing of the polls.

B. The clerk shall keep the following records:

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

C. When the ballots are returned, the clerk shall record the following:

1. the number of the ballots returned;
2. the time when the ballots are returned;
3. the name of the person returning the ballots; and
4. the condition of the ballots.

(Ordinance No. 94-01.)

#### **Section 2.36.210 Distribution of other election materials.**

A. On election day, the clerk shall also furnish the election board judges at each polling place with a voting booth and ballot box (with lock or sealing materials); and the following materials prepared pursuant to § 2.36.190: the updated Master Voter Registration List; a Blank Register; envelopes bearing the Oath and Affidavit of Eligibility for questioned ballots; an envelope for the collection of spoiled ballots and an envelope for the collection of questioned ballots; copies of the Notice of Election, the city's elections ordinances, and A.S. 15.15.080 through 15.15.370; a sufficient number of Instruction Sheets; and a sufficient supply of pens, pencils, and envelopes.

B. The clerk shall supply the election board chairperson with tally sheets and forms for the Report of Preliminary Election Results, either before or on election day.

C. Judges shall report to the polling place thirty (30) minutes before the opening of the polls. Before the first ballot is cast, the judges will inspect the ballot box to make sure it is empty and then seal or lock it and not open it until after the final ballot is cast and the polls have closed.

(Ordinance No. 94-01.)

**Section 2.36.220 Voting -- General procedure.**

A. A voter shall give the judges or clerks his name, and print and sign his name and write his residence address on the first available line of the Blank Register. The signing of the register is a declaration by the voter that he is qualified to vote. If the voter is not known to any judge or clerk present, the judge or clerk may require the voter to produce a state voter registration card or other identification. If, in the opinion of the judge or clerk, there is doubt as to whether the person is registered to vote, he shall immediately challenge the voter.

B. If the voter is not challenged the judge or clerk shall give the voter a single ballot and note its number in the register next to the voter's name. The voter shall then retire alone to a voting booth. There the voter without delay shall prepare his ballot by marking the boxes opposite the names of candidates of his choice, whether printed on the ballot or written in by him on the blank lines provided for the purpose. The voter also marks the boxes to indicate his vote for or against questions and propositions. Before leaving the voting booth, the voter shall fold his ballot in a manner displaying the number on the ballot and deliver it to one of the judges or clerks, who shall, without unfolding the ballot or allowing any person to see how it is marked, tear the number off and deposit the ballot in the ballot box if the ballot bears the same number as the ballot given to the voter by the judges and clerks.

C. If a voter is challenged, the voter may cast a questioned ballot pursuant to § 2.36.240.

(Ordinance No. 94-01.)

**Section 2.36.230 Voting -- Spoiled ballots.**

If a voter improperly marks or otherwise damages a ballot, and discovers his mistake before the ballot is placed into the ballot box, he shall return it to the election officials, concealing from view the manner in which it is marked, and request a new ballot. The election official shall write the words "Spoiled Ballot" on the outside of the folded ballot, record its number, and place it in an envelope with

other spoiled ballots for return to the city clerk. The judge or clerk shall then issue a new ballot to the voter as provided in § 2.36.220(B). A voter may request replacement of a spoiled ballot no more than three (3) times.

(Ordinance No. 94-01.)

#### **Section 2.36.240 Voting - Questioned ballots.**

A. If a voter's name is not on the Master Voter Registration List or a voter's eligibility to vote is challenged or there is some other question regarding a voter's eligibility, and the voter believes that he or she is registered and eligible to vote, then the voter shall sign an envelope bearing the Oath and Affidavit of Eligibility and cast a questioned ballot.

B. To cast a questioned ballot, a voter shall sign the register and be given and shall mark, fold, and return a ballot as provided in § 2.36.220(A) and (B), except that the judge or clerk shall not place the folded ballot into the ballot box.

C. After tearing the number off the questioned ballot, the judge or clerk shall hand the ballot back to the questioned voter with a blank envelope. The questioned voter will insert the ballot into the blank envelope and seal it. This envelope shall be placed in the signed oath and affidavit envelope. The oath and affidavit envelope shall be sealed and inserted into a larger envelope with other questioned ballots. The large envelope containing all the questioned ballots cast at the polling place shall be delivered to the city clerk when the polls close. The clerk shall give the election board a receipt listing the total number of questioned ballots delivered and the names of the persons who cast them.

D. The city clerk shall present the envelope containing all of the sealed oath and affidavit envelopes containing the questioned ballots to the city council at the meeting held pursuant to § 2.36.370.

(Ordinance No. 94-01.)

#### **Section 2.36.250 Voting -- Absentee voters.**

If a voter issued an absentee ballot returns to the city on election day, he shall not vote at the polling place unless he first surrenders to the election board the

absentee ballot, ballot envelope, and return envelope issued to him. Unused absentee ballots, ballot envelopes and return envelopes shall be returned to the city clerk by the election board with other ballots not used at the polling place.

(Ordinance No. 94-01.)

#### **Section 2.36.260 Return of unused and spoiled ballots.**

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

(Ordinance No. 94-01.)

#### **Section 2.36.270 Ballot count -- Commencement.**

A. When the polls are closed and the last vote has been cast, the election board and clerks shall immediately open the ballot box and count the ballots to determine whether the total number of ballots is equal to the total number of persons (including absentee voters) who voted, as indicated by the register. If the number of ballots found in the ballot box does not match the number of voters indicated by the register, the election board shall recount the ballots until the board finds that the number of ballots is equal to the number of voters indicated by the register, or that an unexplained discrepancy exists. If such a discrepancy exists, a detailed explanation of the nature of the discrepancy shall be written on the tally sheet and signed by each of the election judges.

B. All aspects of the ballot count, including the opening of the ballot box, the counting of the ballots in the box, and the tallying of the votes, shall be done in public and in full view of all persons present. The public may not be excluded from the area in which these activities are conducted; provided, however, that the judges shall not permit any person to in any way interfere with or distract the election officials from the performance of their duties.

C. In all cases the election board shall cause the count to be continued without adjournment until the count is complete.

(Ordinance No. 94-01.)

### **Section 2.36.280 Ballot Count -- Watchers.**

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

(Ordinance No. 94-01.)

### **Section 2.36.290 Ballot count -- General procedure.**

A. The clerk may issue rules prescribing the manner in which the ballot count is accomplished so as to assure accuracy in the count and to expedite the process.

B. The election board shall account for all ballots by specifying on tally sheets: (1) the number of ballots received from the clerk; (2) the number of ballots voted; (3) the number of spoiled ballots returned to the clerk; (4) the number of questioned ballots delivered to the clerk; and (5) the number of unused ballots returned to the clerk.

C. The election board shall count the ballots in a manner that allows watchers to see the ballots when opened and read.

D. No person other than appointed election judges and clerks who have executed the oath provided by § 2.36.060 shall be permitted to handle the ballots. No person handling any ballot after it has been taken from the ballot box and before it is sealed in the package with the other ballots at the conclusion of the board's ballot count may have a marking device in hand or remove a ballot from the immediate vicinity in which the ballots are being counted.

(Ordinance No. 94-01.)

### **Section 2.36.300 Ballot count -- Rules.**

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

1. A voter may mark his ballot with cross-marks, "X" marks, diagonal, horizontal or vertical marks, solid marks, stars, circles, asterisks, checks, or plus signs that are clearly spaced in the square opposite the name of the candidate or choice the voter desires to designate. The voter's mark shall be counted only if it is substantially inside the square provided, or touching the square so as to indicate clearly that the voter intended the particular square to be designated.

2. A voter is not required to cast a vote for every office or on every proposition included on the ballot. No vote shall be tallied for those offices or propositions for which no choice is marked by the voter.

3. A failure to properly mark a ballot as to one (1) or more offices or propositions does not itself invalidate the entire ballot.

4. If a voter marks fewer names than there are persons to be elected to an office, a vote shall be counted for each candidate properly marked.

5. If a voter marks more names than there are persons to be elected to any office, no vote shall be counted for any candidate for that office. If a voter marks both "for" and "against" or "yes" and "no" for a proposition or question, no vote on that proposition or question shall be recorded.

6. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates properly made.

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

8. In order to vote for a write-in candidate, the voter must write in the candidate's name in the space provided and mark the square opposite the candidate's name in accordance with (1) of this subsection. A write-in vote is not invalidated by writing in the name of a candidate whose name is printed on the ballot unless the election board determines, on the basis of other evidence, that the ballot was so marked for the purpose of identifying the ballot.

B. The rules set out in this section are mandatory and there shall be no exceptions to them. A ballot may not be counted unless marked in compliance with these rules.

C. The chairman of the election board shall write the word "Defective" on the back of each ballot which the election board determines should not be counted, in whole or in part, for any of the reasons (other than failure of the voter to mark any choice with respect to a particular office or proposition) stated in subsection (A) of this section. If only a portion of the ballot is invalid, the valid votes shall be counted and the chairman shall specify on the back of the ballot exactly which portion or portions have not been counted.

D. If a particular objection is made to the counting of all or any part of a ballot, but the election board determines that the votes shown should be counted, the chairman of the election board shall write the words "Objected to" on the back of the ballot and specify the portion or portion of the ballot to which the objection applies.

E. All defective ballots and all ballots objected to shall be sealed in a single envelope marked "Defective Ballots," which shall be delivered to the city clerk.

F. All decisions regarding the validity of all or any portion of a ballot or any other question arising during the course of the election or the ballot count shall be made by majority vote of the election judges.

(Ordinance No. 94-01.)

#### **Section 2.36.310 Ballot count -- Completion.**

When the count of ballots is completed, and in no event later than the day after the election, the election board shall make a certificate in duplicate of the results using the Report of Preliminary Election Results, Form 2.36-E. The report includes the number of votes cast for each candidate, for and against each proposition, yes or no on each question, and any additional information prescribed by the clerk. Both copies of the certificate shall be signed by each election judge. The election board shall, immediately upon completion of the certificate, deliver to the clerk one (1) of the two (2) original certificates, the Master Voter Registration List, the Register of voters, the tally sheets, the envelope containing the defective and objected-to ballots, and other election documents in one (1) sealed package and, in a separate sealed package, all ballots properly cast.

(Ordinance No. 94-01.)

## **ARTICLE IV: ABSENTEE VOTING**

### **Section 2.36.320 Persons Eligible.**

Any qualified voter who expects to be absent from the city on election day or who is unable to go to the polls because of physical disability may cast an absentee ballot. An absentee ballot may be obtained by application to the clerk.

(Ordinance No. 94-01.)

### **Section 2.36.330 Ballot application; Filing.**

A. A person who is eligible to cast an absentee ballot may apply to the clerk in person or by mail for a ballot. Applications for absentee ballots shall be made using Form 2.36-G or by letter containing all of the information required to complete that form.

B. An application made by mail must be received by the clerk not more than twenty (20) days and not less than three (3) days before the day of the election. An application made in person must be filed with the clerk not more than twenty (20) days before the day of the election and no later than noon on the day preceding the election.

C. Upon timely receipt of application for an absentee ballot, the clerk shall file the application and then verify the residence of the applicant by any means the clerk deems proper.

(Ordinance No. 94-01.)

### **Section 2.36.340 Ballot and envelope form.**

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

(Ordinance No. 94-01.)

**Section 2.36.350 Absentee voting procedure.**

- A. The clerk shall provide each eligible absentee voter with an official ballot prepared in accordance with § 2.36.170, together with a ballot envelope and a prepaid return envelope. The ballot provided to absentee voters shall be identical to the ballot prepared for regular voters.
- B. The clerk shall not issue an absentee ballot sooner than ten (10) days before the election.
- C. No absentee voter's ballot shall be mailed to any address in the city. Any voter present in the city who requires an absentee ballot shall personally obtain the ballot from the clerk.
- D. The clerk may deliver an absentee ballot to a disabled person living within the city at any time until the polls close on election day.
- E. Upon, issuing an absentee ballot to a voter, either by mailing or by personal delivery, the clerk shall enter in the blank register the following information: the number of the ballot issued, the name of the voter to whom it was issued, and the date on which the ballot was issued.
- F. If the absentee voter's ballot is personally delivered, the absentee voter shall secretly mark the ballot in the presence of the clerk, in a manner which permits the clerk to be certain that the voter personally marked the ballot, but which does not permit the clerk to see how the voter votes. The voter shall fold the ballot and seal it in the ballot envelope, and seal the ballot envelope inside the return envelope. The voter shall then complete and swear to the affidavit printed on the face of the return envelope and deliver it to the clerk. The clerk shall certify to the affidavit on the return envelope, write or stamp his name across its seal, and retain the envelope in his custody to be delivered to the council for canvassing.
- G. Any voter issued an absentee ballot may, at any time prior to closing of the polls on the day of the election for which it is issued, appear at the office of the city clerk, and there cast his ballot in the following manner: The voter first shall show the city clerk that his ballot has not been marked, then shall mark the ballot with pen and ink or indelible pencil in the presence of the city clerk, in such a manner that the city clerk cannot see how it is marked. The voter shall fold the ballot and place it in the ballot envelope, then place the ballot envelope in the return envelope. Then the voter shall complete and swear to the affidavit printed on the

face of the return envelope, and deliver it, properly sealed, to the city clerk. The city clerk shall certify to the affidavit printed on the return envelope, write or stamp his name across its seal, and retain the envelope in his custody to be delivered to the council for canvassing.

H. At any time on or before the day of the election, any voter issued an absentee ballot may appear before any person authorized by law to administer oaths, and in the presence of such officer cast his ballot in the same manner he would cast it in the office of the city clerk under this section. After writing or stamping his name on the seal of the return envelope, the officer shall return it to the voter who shall mail it to the city clerk.

I. To be counted, an absentee ballot must be postmarked on or before the date of the election, or returned to the clerk before the close of the polls on election day. An absentee ballot received by the city clerk after the time at which the clerk delivers the ballots to the council for canvass shall not be counted.

(Ordinance No. 94-01.)

## **ARTICLE V: POST-ELECTION PROCEDURE**

### **Section 2.36.360 Posting result certificate.**

A. The clerk shall post copies of the Certificate of Preliminary Election Results in three (3) public places the day after the election results are known. The notice shall include:

1. The time and place of the council meeting to be convened to consider the election results;

2. That the results do not reflect the votes of absentee and questioned ballots and are not final until the council formally certifies the election; and

3. That anyone has the opportunity to contest the election at the meeting.

(Ordinance No. 94-01.)

**Section 2.36.370 Final canvass by city council.**

A. The city council shall meet on the first Monday after the election and canvass all absentee ballots received after close of polls, and all questioned and defective ballots cast in the election. If the council is unable to obtain a quorum or complete the count on the Monday after the election, the canvass will be continued the following day and each day thereafter until completed.

B. The city clerk shall submit to the council the election board's Report of Preliminary Election Results, the master voter registration list, the register, all regular ballots, oath and affidavit envelopes containing questioned ballots, defective and objected-to ballots, spoiled ballots, absentee ballots, and oaths and affirmations of election officials.

C. The council shall determine whether the person casting each questioned ballot was registered and eligible to vote. In making this determination, the council may request the assistance of the clerk, and shall hear the testimony of the voter who cast the questioned ballot and of any other city resident who has information useful to the council's decision. If the council determines that the voter was eligible to vote, the oath and affidavit envelope shall be opened and the ballot removed. If the council upholds the challenge, the decision shall be noted in the minutes and the oath and affidavit envelope shall not be opened, but shall be saved with the other election materials.

D. The ballot envelopes containing the absentee ballots shall be opened, and the ballots placed with the questioned ballots which the council has determined should be counted.

E. The council, with the assistance of the clerk, shall count the votes of the questioned and absentee ballots collected pursuant to subsections (C) and (D) of this section.

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

G. After a final determination is made by the council, the election results shall be read into the minutes. The statement of results read into the minutes shall include the following:

1. the total number of ballots cast at the election;

2. for each office voted on, the name of the office, the names of the candidates (including write-in candidates) voted for, and the number of votes cast for each;
3. each proposition or question voted on, and the number of votes cast for and against each;
4. the disposition of all questioned and defective ballots; and
5. any other matter which the council deems necessary to preserve a complete record of the election.

H. The clerk shall provide Certificate of Election forms to the council for each office and each proposition or question presented at the election. Such forms are illustrated by Forms 2.36-J and 2.36-K. When the council has made its final determination, the clerk shall fill out, and the clerk and mayor shall sign, two (2) certificates of election for each office, proposition, or question considered. One (1) original of each Certificate of Election shall be given the successful candidate or the sponsor of the successful questions or propositions named thereon, and the other original of each certificate shall be kept by the city.

(Ordinance No. 94-01.)

#### **Section 2.36.380 Runoff elections.**

A. In order to win election to the city council at a regular or special election, a candidate must receive more than forty percent (40%) of the votes cast for the particular council seat, and more votes than any other candidate for the same office.

B. If no candidate receives more than forty percent (40%) of the ballots cast for an office at a regular or special election, the council shall hold a runoff election for that office between the two (2) candidates receiving the greatest number of votes. Write-in votes are not counted for any purpose in a runoff election.

C. In a runoff election, the candidate receiving more votes than the other is the winner. In the event of a tie vote, the council shall request that the tied candidates appear before the council at the first meeting after the election to draw straws or flip a coin to determine the winner. If one (1) or more of the tied candidates does not appear before the council, the presiding officer shall direct the clerk or other non-interested person to draw straws or flip a coin to determine the winner.

D. A runoff election shall be held within two (2) weeks after the date on which the council certifies the election for which a runoff is required.

E. The results of runoff elections shall be determined by the same procedure as in other elections.

(Ordinance No. 94-01.)

#### **Section 2.36.390 Recounts.**

A. Any defeated candidate or any ten (10) qualified voters who believe that a mistake has been made by an election official or by the council in counting or tabulating the votes in any election may make an application in writing to the council for a recount of the votes for any particular office or on any particular question. The application must be filed with the city clerk within twenty-four (24) hours, excluding any Saturday, Sunday or holiday, after the council declares the results of the vote being questioned. In case of a tie vote between two (2) or more candidates, the council shall recount the votes without any application therefore.

B. The person or persons applying for a recount shall pay to the city any expenses or costs incurred in the recount if the difference between the winning and a losing vote on the result contested is more than two (2%) percent, if the recount fails to reverse any result of the election.

C. The council shall begin the recount within twenty-four (24) hours after receiving the application, excluding any Saturday, Sunday or holiday, shall proceed with it as rapidly as practicable, and shall declare the results thereof. The city clerk shall promptly issue another election certificate if a change in the results requires it.

(Ordinance No. 94-01.)

#### **Section 2.36.400 Contest.**

A. Any defeated candidate or any ten (10) qualified voters who believe that prohibited practices have occurred, or that the election was conducted in a manner which did not comply with the requirements of this chapter and which affected the outcome of the election, may contest the election by filing an Affidavit

of Election Contest (Form 2.36-L) at the council meeting at which the ballots are canvassed, prior to the issuance of the *Certificates of Election*. The name of the person(s) contesting the election, the reason for the contest, and the council's decision shall be entered into the minutes of the meeting.

B. The council may order an investigation or a recount of the ballots or declare the election, as to one (1) or more offices or propositions or in its entirety, invalid, and order a new election.

(Ordinance No. 94-01.)

#### **Section 2.36.410 Contest -- Appeal.**

If the council rejects an election contest and certifies the election, any candidate or voter who filed an Affidavit of Election Contest may appeal the council's decision to the state Superior Court within ten (10) days after the council's decision on the contest. Otherwise, the results are conclusive, final, and valid in all respects.

(Ordinance No. 94-01.)

### **ARTICLE VI: INITIATIVE, REFERENDUM, AND RECALL Section**

#### **2.36.420 Initiative and referendum.**

A. The powers of initiative and referendum may be exercised by city residents as provided by this chapter or otherwise in accordance with state law.

B. The powers of initiative and referendum do not extend to matters restricted by Section 7, Article XI of the State Constitution. That Section provides: "The initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation. The referendum shall not be applied to dedications of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety."

C. An application for an initiative or referendum petition shall be prepared, filed, and certified as provided in this section and § 2.36.440.

D. A petition for initiative or referendum shall be prepared, filed, and certified as provided in this section and §§ 2.36.450 through 2.36.470.

E. An application for initiative petition, and a petition for initiative, shall:

1. embrace only a single comprehensive subject not restricted by subsection (B) of this section; and
2. relate to a legislative rather than to an administrative matter.

F. An application for initiative or referendum petition shall set out fully the ordinance or resolution sought to be enacted or referred. A petition for initiative or referendum shall set out fully the ordinance or resolution sought to be enacted or referred, and, in addition, shall set out a summary of the ordinance or resolution sought to be initiated or referred.

G. When the clerk certifies as sufficient an initiative petition which seeks enactment of an ordinance or resolution within the powers of the council and not otherwise restricted by subsection (B) of this section, or a referendum petition, the clerk shall present it to the council at its next meeting. The council may reject the petition if the subject matter of the initiative or referendum is within the restrictions of subsection (B) of this section.

H. Unless the council adopts substantially the same ordinance or resolution proposed in an initiative petition, or repeals the ordinance or resolution against which a referendum petition is directed, the clerk shall submit the matter to the voters at the next regular election occurring no sooner than forty-five (45) days after certification of the election.

I. If the council adopts substantially the same ordinance or resolution proposed by an initiative petition, or repeals the ordinance or resolution proposed by a referendum petition to be repealed, the petition is void and an election shall not be held on the matter initiated or referred.

J. The ordinance or resolution proposed by the petition to be enacted or repealed shall be published in full in the notice of election but may be summarized on the ballot to indicate clearly the proposal submitted.

K. If a majority of those voting favor an initiated ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution. If a majority of those voting favor the repeal of a referred ordinance or resolution, it is repealed effective upon certification of the election; otherwise, the matter referred remains in effect, or, if it has been suspended, becomes effective upon certification of the election.

L. If a sufficient petition for referendum is filed before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension the council may not enact an ordinance or resolution substantially similar to the suspended measure, but may repeal the suspended ordinance or resolution.

M. The effect of an ordinance or resolution may not be modified or negated within two (2) years after its effective date if adopted in an initiative election or if adopted after a petition containing substantially the same measure has been filed. The council may not, for a period of two (2) years, adopt legislation substantially similar to an ordinance or resolution repealed in a referendum election or repealed by the council after a petition containing substantially the same measure has been filed.

N. If an initiative or referendum measure fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six (6) months after the election results are certified.

(Ordinance No. 94-01.)

#### **Section 2.36.430 Recall.**

A. Any official elected or appointed to an elective municipal office may be recalled by the voters after he or she has served one hundred twenty (120) days of the term for which elected or appointed.

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

C. An application for a recall petition shall be prepared, filed, and certified as provided in this section and § 2.36.440.

D. A petition for recall shall be prepared, filed, and certified as provided in this section and §§ 2.36.450 through 2.36.470.

E. A petition for recall may not be filed or supplemented within one hundred eighty (180) days before the end of the term of office of the official sought to be recalled.

F. An application for a recall petition, and a recall petition, shall each contain:

1. the name(s) of the officer or officers to be recalled, and
2. a statement in two hundred (200) words or less of the grounds for the recall, stated with particularity.

G. A recall ballot shall contain:

1. the grounds for recall as stated in the recall petition;
2. a statement of two hundred (200) words or less by each officer who is subject to recall, if such a statement is filed with the clerk for publication and public inspection at least twenty (20) days before the election;
3. the following question: "Shall (name of person) be recalled from the office of (office)? Yes [ ] No [ ]."

H. If a vacancy occurs in the office for which a recall petition has been filed, prior to the date of the recall election, the petition shall not be submitted to the voters.

I. If the voters recall an officer, the council shall schedule a special election for a successor to fill the unexpired term. The election shall be held at least ten (10) but not more than forty-five (45) days from the date of the recall election. However, if a regular or previously scheduled special election occurs within seventy five (75) days of the recall election, the successor to the recalled official shall be chosen at that regular or special election. The procedures and requirements for the regular election for the office from which the incumbent is recalled apply to the election conducted under this Section.

J. If all members of the governing body are recalled, the governor shall appoint three (3) qualified persons to the governing body. The appointees shall appoint additional members to fill remaining vacancies in accordance with A.S. 29.26.350.

(Ordinance No. 94-01.)

#### **Section 2.36.440 Petition -- Application.**

A. A petition for initiative, referendum, or recall is proposed by filing an application with the clerk.

B. An application shall contain:

1. the matters required by Section 2.36.420(E) and (F) or Section 2.36.430(F);
2. the address to which all correspondence relating to the proposed petition may be sent;
3. the signatures and residence addresses of ten (10) qualified voters who will sponsor the petition.

C. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk.

D. Within two (2) weeks after the filing of the application, the clerk shall certify the application if the clerk finds that the application complies with this section and either § 2.36.420(E) and (F) or § 2.36.430(F), as appropriate. An application for initiative petition shall not be certified unless the clerk finds in addition that it would be enforceable as a matter of law.

(Ordinance No. 94-01.)

#### **Section 2.36.450 Petition -- Preparation.**

A. Within two (2) weeks after certification of an application for petition, the clerk shall prepare a petition.

B. Each copy of the petition shall contain, in addition to the items specified in § 2.36.420(F) or 2.36.430(F), the following:

1. the date on which the petition is issued by the clerk;
2. (a) if the petition is an initiative or referendum petition, notice that the signature on the petition must be secured within ninety (90) days from the date the petition is issued; or  
(b) if the petition is a recall petition, notice that the signatures on the petition must be secured within sixty (60) days from the date the petition is issued;
3. spaces for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing addresses of each signer;

4. a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and

5. space for indicating the total number of signatures on the petition.

C. If the petition consists of more than one (1) page, each page shall contain the summary of the ordinance or resolution to be initiated, the ordinance or resolution to be referred, or the name(s) of the officer(s) to be recalled.

D. Copies of the petition shall be provided to each sponsor by the clerk. (Ordinance No. 94-01.)

**Section 2.36.460 Petition -- Circulation and filing.**

A. The clerk shall determine the number of signatures required on a petition and inform each sponsor. The petition shall be signed by a number of qualified voters equal in number to twenty-five percent (25%) of the number of votes cast in the last regular election held in the city before the petition was issued.

B. The signatures on an initiative or referendum petition shall be secured within ninety (90) days after the date the clerk issues the petition. The signatures on a recall petition shall be secured within sixty (60) days after the date the clerk issues the petition. Signatures shall be in ink or indelible pencil.

C. When signing a petition, each voter shall, after his or her signature, print his or her name and write or print the date of signing the petition and his or her residence and mailing address.

D. All copies of a petition shall be assembled and filed with the clerk as a single instrument.

E. An initiative or referendum petition may not be filed if a substantially similar petition has been defeated by the voters within the preceding six (6) months. A recall petition may not be filed if a petition seeking the recall of the same official has been defeated by the voters within the preceding six (6) months.

(Ordinance No. 94-01.)

### **Section 2.36.470 Petition -- Certification; Protest.**

A. When a petition has been filed, the clerk shall within ten (10) days certify on the petition whether it is sufficient, and, if it is insufficient, identify the insufficiency and notify the sponsors at the address provided on the petition by certified mail.

B. To determine whether the petition is sufficient, the clerk shall first determine whether the petition complies with the applicable requirements of §§ 2.36.420 through 2.36.460. In determining whether the petition bears the required number of signatures, illegible signatures shall not be counted unless accompanied by a legible printed name, and signatures not accompanied by a legible residence address shall not be counted. The clerk shall count only those signatures which can be determined, from the information on the petition and other information known or available to the clerk, to be the signatures of qualified voters. Illegible signatures, unless accompanied by a legible printed name, shall be rejected by the clerk. The clerk shall certify on the petition within ten (10) days of the filing date whether it is accepted or rejected. Until the petition is accepted, a petition signer may withdraw his or her signature upon written application to the clerk.

C. A petition that is insufficient may be supplemented with additional signatures obtained and filed before the eleventh (11th) day after the date on which the petition is rejected. A recall petition may not be supplemented unless it contains an adequate number of signatures, counting both valid and invalid signatures.

D. A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under subsection (C) of this section. Within ten (10) days after a supplementary filing, the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

E. Failure to secure sufficient signatures does not preclude the filing of a new initiative, referendum, or recall petition. However, a new initiative or referendum petition seeking to enact or repeal substantially the same measure, or a new application for a petition to recall the same official, may not be filed sooner than six (6) months after a petition is rejected as insufficient.

F. If the clerk certifies the petition as being insufficient, a signer of the petition may file a protest with the mayor within seven (7) days after the certification. The mayor shall then present the protest to the council at the next regular meeting for hearing and decision of the protest.

G. If the clerk certifies an initiative or referendum or recall petition as sufficient, the clerk shall immediately submit it to the council at the next regular meeting or at a special meeting held before the next regular meeting.

(Ordinance No. 94-01.)

**Section 2.36.480 Election.**

A. If a regular election or previously scheduled special election occurs within seventy-five (75) days of the clerk's submission of a certified sufficient petition, the council shall submit the issue raised by the petition at that election.

B. If no regular election or previously scheduled special election will occur within seventy-five (75) days of the clerk's submission of a petition, the council shall hold a special election within seventy-five (75) days of submission.

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

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

(Ordinance No. 94-01.)

## AFFIDAVIT OF ELECTION CONTEST

The undersigned believes that prohibited practices occurred at the Wainwright municipal election held on \_\_\_\_\_, 20\_\_\_\_ at Wainwright, Alaska.

The undersigned states that the following laws were violated:

---

---

---

---

---

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

---

---

---

---

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

Received Date & Time: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

[City Seal]

## Chapter 2.40

### INFORMAL APPEALS TO THE CITY COUNCIL

#### Sections:

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

#### **Section 2.40.010 Scope of chapter.**

This chapter covers procedure for informal administrative appeals to the council. All appeals by any aggrieved party may be made under this chapter except where a city ordinance or state or federal law requires a formal trial-type administrative proceeding. The city's formal administrative procedures are set out in chapter 2.44.

(Ordinance No. 94-01.)

#### **Section 2.40.020 Initiation of informal appeal.**

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

1. shall identify the action or decision to which the aggrieved party objects;

2. should identify the city officer or official who took the action or made the decision, if known;

3. should state the reason why the person is aggrieved by the action or decision;

4. should state what relief (such as reversal or modification of the decision or postponement of the action) the person desires; and

5. shall be signed by the aggrieved party.

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

(Ordinance No. 94-01.)

#### **Section 2.40.030 Time for initiating appeal.**

The letter initiating an appeal must be received by the clerk within thirty (30) days from the date of the action or decision complained of.

(Ordinance No. 94-01.)

#### **Section 2.40.040 Setting matter on agenda.**

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

1. schedule the matter for hearing at the next regular council meeting, and advise the aggrieved party of the date, time, and place of the meeting;

2. immediately provide copies of the letter to all council members and to the city officer or official who made the decision or took the action complained of; and

3. direct the city officer or official who made the decision or took the action complained of to attend the hearing on the matter, to be prepared to respond to the appeal in detail and to assemble all documents relevant to the appeal and make them available to council members before and at the hearing.

A special council meeting may be called as provided in section 2.08.050 to consider the appeal.

(Ordinance No. 94-01.)

**Section 2.40.050 Hearing date.**

The appeal shall be heard on the date scheduled or, if time does not permit, at the next regular meeting (or an earlier special meeting) under the rules of the council.

(Ordinance No. 94-01.)

**Section 2.40.060 Procedure at hearing.**

At the hearing, the council shall receive written or verbal statements from the aggrieved party and from the city officer or official who took the action or made the decision complained of and, if the council so desires, from other persons. Council members may offer any information or document they may have or know of relating to the matters raised by the aggrieved party.

(Ordinance No. 94-01.)

**Section 2.40.070 Decision.**

The council shall make a decision about the matters raised by the aggrieved party. No specific form of decision is required. If the council, at the conclusion of the hearing, neither makes a formal decision on the appeal nor schedules the appeal for further consideration at a specific meeting to be held within thirty (30) days of the hearing, the council shall be deemed to have rejected the appeal.

(Ordinance No. 94-01.)

**Section 2.40.080 Final decision.**

Unless further review is available under section 2.40.090 and chapter 2.44, the decision of the council shall be the final city action on the matter, and is subject to judicial review in the Superior Court of the State of Alaska for the Second Judicial District, or any other area then embracing the City of Anaktuvuk Pass, in the manner provided by sections 2.44.260 and 2.44.270; provided, however, that in such cases the record shall be limited to the following documents:

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

(Ordinance No. 94-01.)

**Section 2.40.090 Formal proceedings after decision.**

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

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

(Ordinance No. 94-01.)

**TITLE 3**  
**PERSONNEL**

**Chapters:**

Chapter 3.04 Personnel System Generally.

Chapter 3.06 Hiring Policies.

Chapter 3.12 Conditions of Employment.

Chapter 3.16 Travel and Other Pay Allowances.

Chapter 3.20 [Reserved.]

Chapter 3.24 Leave.

Chapter 3.28 Leaves of Absence.

Chapter 3.32 [Reserved.]

Chapter 3.36 Disability and Health Insurance.

Chapter 3.40 Disciplinary Actions.

Chapter 3.44 Non-Disciplinary Actions.

Chapter 3.48 Grievance Procedure.

## Chapter 3.04

### PERSONNEL SYSTEM GENERALLY

#### Sections:

|          |   |
|----------|---|
| 3.04.010 | Definitions.                            |
| 3.04.020 | Policy.                                 |
| 3.04.030 | Discrimination prohibited.              |
| 3.04.040 | [Reserved.]                             |
| 3.04.050 | Prohibited conduct.                     |
| 3.04.060 | Regulations generally.                  |
| 3.04.070 | Prohibited acts.                        |
| 3.04.080 | Nepotism prohibited.                    |
| 3.04.090 | Classified and exempt employees; Scope. |
| 3.04.100 | Mayor.                                  |
| 3.04.110 | Service at mayor's pleasure.            |
| 3.04.120 | Exceptions at hiring.                   |
| 3.04.130 | Records.                                |

#### **Section 3.04.010 Definitions.**

A. "Applicant" is an individual who has completed and submitted an application for employment with the city.

B. "Appointment" is the offer to and acceptance by a person of a position either on a regular or temporary basis.

C. "Certified" means signed by the head of a department or agency or by a responsible person designated by him.

D. "Class" is a group of positions which is sufficiently alike in general duties and responsibilities to warrant the uses of the same title, class specification and pay range.

E. "Class series" is a number of classes of positions which are substantially similar as to the types of work involved and differ only in rank as determined by the importance of the duties and degree of responsibility involved and the amount of training and experience required. Such classes constitute a series.

F. "Class specification" is a written description of a class consisting of a class title, a general statement of the level of work and of the distinguishing features of work, examples of duties, and the desirable qualifications for the class.

G. "Classification" is the act of grouping positions in the classes with regard to:

1. duties and responsibilities;
2. requirements as to education, knowledge, experience and ability;
3. tests of fitness; and
4. ranges of pay.

H. "Classification plan" shall be the official or approved system of grouping positions into appropriate classes consisting of:

1. an index to the position classification;
2. the position classifications; and
3. rules for administering the classification plan.

I. "Classified service" shall mean all offices and positions in the service of the city as described in this article.

J. "Compensation plan" shall be the official schedule of pay approved by the city council assigning one (1) or more rates of pay to each position title.

K. "Compensation" shall be the standard rates of pay which have been established for the respective classes of work, as set forth in the compensation plan.

L. "Confidential employee" is an individual who assists and acts in a confidential capacity to persons who formulate, determine and effectuate management policies in the field of labor relations, or who is privy to confidential communications concerning labor relations between employer and employee, and who, in the normal performance of his duties may obtain advance information of management's position with regard to contract negotiation, dispositions of grievances, or other labor relations matters.

M. "Demotion" shall be the assignment of an employee from one class to another which has a lower maximum rate of pay.

N. "Department" is the primary organizational unit which is under the immediate charge of the mayor, the clerk, or a department head defined by Chapter 2.20.

O. "Dismissal" is the separation from city employment for cause.

P. "Eligible" is a person who has successfully met required qualifications for a particular class.

Q. "Emergency employee" means an employee appointed for a period not to exceed thirty (30) calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest.

R. "Employee" is an individual who is legally employed by the city and is compensated through the city payroll for his or her services. Individuals or groups compensated on a fee basis are not included. Said term is synonymous with "incumbent."

S. "Examination" is the process of testing, evaluating or investigating the fitness and qualifications of applicants and employees.

T. "Exempt employees" are certain city employees, including but not limited to elected officers, to whom the provisions of this title are generally inapplicable, as provided by § 3.04.090.

U. "Layoff" is the involuntary nondisciplinary separation of any employee from a position.

V. "Leave" shall be the approved type of absence from work as provided for by these rules.

W. "Mayor" means the mayor or his official designee.

X. "Merit pay increase" is the increase in compensation established in the compensation plan which may be granted to an employee for meritorious service and completion of minimum prescribed periods of employment in the class.

Y. "Nonpermanent employee" means a person who is employed in city service in a position which is not in the exempt or partially exempt service and who is not a permanent or an emergency employee.

Z. "Overtime" is the authorized time worked by an employee in excess of his total normal working hours per day or week.

AA. "Overtime pay" is the compensation paid to an employee for overtime work performed in accordance with this chapter.

BB. "Partially exempt employees" are certain city employees, including but not limited to the city clerk, to whom certain provisions of this title are inapplicable, as provided by § 3.04.090.

CC. "Pay period" is one (1) of the two (2) monthly pay periods of the city for a total of twenty-four (24) pay periods each year.

DD. "Pay range" shall mean one (1) or more, but commonly fourteen (14) specific pay rates having a percentage relationship to one another, assigned to a class of positions as the compensation for that class.

EE. "Pay rate" is the specific dollar amount, expressed as either an annual rate, a monthly rate, a semimonthly rate, a biweekly rate or and hourly rate, as shown in the pay plan of the city.

FF. "Permanent employee" means an employee who has been appointed to a authorized, permanent full-time or part-time position in the classified service and who is in the process of completing or has successfully completed the required probationary service in that position.

GG. "Personal Leave" is leave with pay.

HH. "Position" is the office or employment whether occupied or vacant, full-time or part-time, consisting of duties and responsibilities assigned to one (1) individual by competent authority.

II. "Probationary period" is the working test or trial period of employment beginning with the date of an employee's first appointment to the classified service.

JJ. "Program or project employee" means a nonpermanent employee, including a student intern, who is employed in city service and will continue for, at most, the duration of a specified program or project or which is not a regular and continuing function of a department or agency and which has an established probable date of termination.

KK. "Promotion" shall be the assignment of an employee from one class to another which has a higher maximum rate of pay.

LL. "Provisional employee" is an individual employed for a specific time or to fill a position of an employee on a leave of absence for reason, such as special training, prolonged illness or the like.

MM. "Regular employee" is an individual receiving a regular appointment in either the classified or exempt service.

NN. "Removal" is the separation of any employee on probation or for failure to meet legal requirements of employment.

OO. "Suspension" is the enforced leave of absence for disciplinary purposes or pending investigation of charges made against an employee.

PP. "Transfer" is the assignment of an employee from one position to another position. Transfers can take place within a department, between departments, between positions of the same pay range, between positions of the same class or between positions of different classes.

QQ. "Workday" is the scheduled number of hours an employee is required to work per day.

(Ordinance No. 94-02; Amended by Ordinance No. 01-04 §7a.)

#### **Section 3.04.020 Policy.**

A. City employment shall be based on merit and free of personal and political considerations.

B. Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency and economy in operation of the city government.

C. Every effort shall be made to stimulate high morale by fair administration of this title and by every consideration of the rights and interests of employees, consistent with the best interests of the public and the city.

D. Continuity of employment covered by this title shall be subject to good behavior, satisfactory performance of work, necessity for the performance of work, and availability of funds.

(Ordinance No. 94-02.)

#### **Section 3.04.030 Discrimination prohibited.**

Discrimination on the basis of race, religion, gender, political affiliation, disability, or national origin, in any aspect of employment, including appointment, compensation, leave, promotion, demotion, suspension or removal, is prohibited. The City will make reasonable accommodation for qualified individuals with known disabilities unless doing so would result in undue hardship to the City.

(Ordinance No. 94-02; Amended by Ordinance No. 95-03.)

#### **Section 3.04.040 [Reserved.]**

#### **Section 3.04.050 Prohibited conduct.**

A. It is expressly prohibited for any city employee to:

1. accept, or offer to accept, a gift, gratuity, consideration, or extraordinary favor from any person doing business or likely to do business with the city, except that this subsection does not apply to the giving of ceremonial gifts of nonmonetary value or to a gift given by a member of the employee's family or ordinary circle of friends, unless offered for a corrupt purpose;
2. give, render, pay, offer, solicit or accept any money, service or other valuable thing in attempting to secure any appointment, promotion or advantage in a position in the city service;
3. require any other employee to subscribe, contribute or provide a service to any political party;
4. take any action which affects the employment status of any other employee when the reason for such action is predicated on race, color, religion, sex, disability or national origin;

5. demand or request an applicant for employment to provide information relating to his religion, ancestry, race, membership in fraternal organizations, or political convictions, except that such information may be requested if the information is to be kept confidential and used solely for statistical purposes, if the information is gathered in a manner which protects the anonymity of the employee providing it to the maximum extent reasonably possible and if each employee is permitted to decline to provide the information and informed that responding to the request for information is strictly voluntary;

6. solicit, negotiate for or promise to accept anything of substantial value from any person, firm or company which is engaged in the transaction of business with the city;

7. invest, either directly or indirectly, in any business or participate in any private business transaction which conflicts with his or her official duties;

8. use information which is obtained in his or her official capacity as an employee of the city and which concerns the property, government, or affairs of the city to advance the financial or other private interests of himself or others;

9. be a party to the purchase of or influence the purchase of goods or services for the use of the city from any business in which the employee has any financial interest unless the purchase is approved in advance by the city council; or

10. make any false statement on any application, report or other document relating to employment status or to commit any other fraud which would prevent the fair and impartial execution of this section.

11. harass another employee by acting or using words, jokes, or comments which are based on the other employee's sex, race, ethnicity, age, religion, disability, or any other legally protected characteristic, or which demean another employee on account of such characteristic, or which impair the work environment of another employee with such characteristic.

B. An employee shall immediately report to his or her department head or to the mayor any offer, promise or suggestion that the employee participate in the violation of any provision of this section. Any department head who becomes aware, through direct involvement, the report of an employee, or otherwise, that any provision of this section has been violated, or that any person has proposed any action which would constitute a violation of any provision of this section, shall

report the fact to the mayor. When the mayor becomes aware, through direct involvement, the report of an employee, or otherwise, that such a violation has occurred or has been proposed, he or she shall report the offer to the city council.

C. Any person either offering or receiving a gift, gratuity, consideration or extraordinary favor in violation of subsection (A)(1) of this section is subject to the criminal penalty prescribed in A.S. 11.56.100 - 11.56.120.

(Ordinance No. 94-02; Amended by Ordinance 95-03, §§2,3.)

### **Section 3.04.060 Regulations generally.**

A. No person may give, render, pay, offer, solicit, or accept money, service, or other valuable thing in connection with an appointment, promotion, or advantage in a position in the classified service.

B. No person may require an assessment, subscription, contribution, or service for a political party from an employee in the classified service.

C. No person may seek or attempt to use a political party endorsement in connection with an appointment or promotion in the classified service.

D. An employee in the classified service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign his or her position in the city service.

E. No action affecting the employment status of an employee in the classified service or applicant for position in the classified service, including appointment, promotion, demotion, suspension, or removal, may be taken or withheld for racial, political, or religious reasons.

F. No person may make a false statement, certificate, mark, rating, or report with regard to a test, certification, or appointment made under this title or in any manner commit a fraud preventing or impairing the impartial execution of this title and any personnel rules adopted under this title.

G. No person may defeat, deceive, or obstruct another person in his right to examination, eligibility, certification, appointment, or promotion under this title.

H. The following prohibitions shall apply to all city employees:

1. no city employee shall engage in any business or transaction, or shall own a financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties;

2. no city employee may be party to the purchase of goods or services for the use of the city from any person, company, or business in which he or she has a substantial financial interest unless disclosed and approved in advance by the council;

3. no person or employee shall use information peculiarly within his or her knowledge or purview concerning the property, government, or affairs of the city to advance the financial or other private interest of himself or herself or others; and

4. no employee shall engage in any employment other than that assigned by the city, whether public, private, or self-employment, if such employment conflicts with the city's interest or adversely affects the employee's availability or productivity; provided, however, that an employee may hold a second job with the written approval of the mayor.

(Ordinance No. 94-02.)

**Section 3.04.070 Prohibited acts.**

A. No department, agency, official, officer, or any person employed by the city may directly or indirectly:

1. require or coerce any employee of the city to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

2. require or coerce any employee of the city to make any report concerning any of his activities or undertakings unless the activity or undertaking is related to the performance of his official duties;

3. except as directly related to the performance of his official duties, require or coerce any employee of the city to submit to any interrogation or examination or psychological test which is designed to elicit from him information concerning:

a. his personal relationship with any person connected with him by blood or marriage;

- b. his religious beliefs or practices;
- c. sexual matters; or
- d. his political affiliation or philosophy.

4. coerce any employee of the city to invest or contribute his earnings in any manner or for any purpose; or

5. restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of any employee of the city, if the employee does not purport to speak or act in an official capacity.

B. The mayor, clerk, and department heads may adopt regulations for their respective departments, specifying exceptions to subsection (A)(5) of this section. These regulations shall be submitted for approval to the council.

(Ordinance No. 94-02.)

#### **Section 3.04.080 Nepotism prohibited.**

If a position is funded by state or federal funds, it is unlawful for a person to be employed in a department or agency in a position affected by the funds received if the person is the spouse of or is related by blood within and including the second degree of kindred to the city officer, official, or employee appointing the person to the position or supervising the person in the position.

(Ordinance No. 94-02.)

#### **Section 3.04.090 Exempt and partially exempt employees; Scope.**

A. For purposes of this title, the positions of all city officers, officials, and employees are categorized as either classified, partially exempt, or exempt, and the persons holding those offices and positions from time to time are categorized as classified employees, partially exempt employees, or exempt employees, respectively. In general, exempt employees serve at the pleasure of the voting public or the mayor, while partially exempt employees serve at the pleasure of the mayor. All positions which are not specifically designated as exempt or partially exempt are classified positions.

B. All elected officers, the city attorney, any employee covered by an employment contract with the city, and volunteer members of citizen boards and commissions and other persons serving the city without compensation are exempt employees. The council may designate as exempt any newly authorized position. The council may also designate as exempt any existing position, but designation of an existing position as exempt shall not be effective until the position is vacated by the person holding the position at the time of the designation.

C. The city clerk and all department heads are partially exempt employees. The council may designate as partially exempt any newly authorized position. The council may also designate as partially exempt any existing position, but if the person holding the position at the time of the designation is a classified employee, designation of an existing position as partially exempt shall not be effective until the position is vacated.

D. Except as specified herein, all provisions of this title apply to all city employees.

E. The following provisions of this title do not apply to exempt employees:

1. Chapter 3.08;
2. Chapter 3.12, with the exception of §§ 3.12.035, 3.12.080, 3.12.090, 3.12.100, 3.12.110, 3.12.210, and 3.12.230, which sections do apply to exempt employees;
3. Chapter 3.24;
4. Chapter 3.28;
5. Chapter 3.32;
6. §§ 3.36.010 and 3.36.030, except that the council may extend the coverage of these sections to particular exempt positions; and
7. Chapter 3.48.

F. The following provisions of this title do not apply to partially exempt employees:

1. Chapter 3.48.

(Ordinance No. 94-02.)

**Section 3.04.100 Mayor.**

The mayor shall have the basic responsibility for the personnel program set forth in this title. The mayor shall:

1. Be responsible for the effective administration of the personnel system;
2. Appoint, remove, suspend and discipline all officials and employees of the city subject to the policies set forth in this title and state law; or he may, at his discretion, authorize the head of the department or office responsible to him for operations and/or internal administration to appoint and remove subordinates in such departments and offices;
3. Fix and establish the number of employees in the various city departments and offices and determine the duties and compensation in accordance with the policies set forth in this article and subject to the approval of the city council and budget limitations; and
4. Perform such other duties and exercise such other powers in personnel administration as may be prescribed by law and this title.

(Ordinance No. 94-02.)

**Section 3.04.110 Service at mayor's pleasure.**

Elected officers of the city serve at the pleasure of the voting public, as provided in Chapters 2.04, 2.08, and 2.36. All other exempt and partially exempt employees, including but not limited to all appointive officials and the mayor's office staff, serve solely at the pleasure of the mayor. They may be dismissed at any time by the mayor with or without cause, and are not eligible for a hearing by the council in case of suspension, demotion, transfer, layoff, or dismissal.

(Ordinance No. 94-02.)

### **Section 3.04.120 Exceptions at hiring.**

The nature of certain positions may dictate terms of hire which are exceptions to the general rules. The employees that fit in this category will be fully informed of these exceptions at the time of their hire.

(Ordinance No. 94-02.)

### **Section 3.04.130 Records.**

A. The clerk shall maintain a separate file containing all records relating to each employee's employment. Such records include the employee's original applications, medical examinations, reports of the results of other employment, investigations and tests, annual reports of performance, reports of employee's progress and disciplinary actions affecting him, employee grievances, and such other records as may be significant in the employee's service to the city.

B. Personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

C. The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

1. the names and position titles of all city employees;
2. the position held by a city employee;
3. prior positions held by a city employee;
4. whether a city employee is in the classified, partially exempt, or exempt service;
5. the dates of appointment and separation of a city employee; and
6. the compensation authorized for a city employee.

D. A city employee has the right to examine his or her own personnel files and may authorize others to examine those files. If an employee believes that matters contained in his or her personnel file are incorrect, the employee may

prepare a brief written statement explaining that fact; when submitted to the clerk, such a statement shall become a permanent part of the employee's personnel file.

E. An applicant for city employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used for future examinations.

(Ordinance No. 94-02.)

## **Chapter 3.06**

### **HIRING POLICIES**

#### **Sections:**

- 3.06.010 Merit and Fitness.
- 3.06.020 Promotion.
- 3.06.030 Tests.
- 3.06.040 Minimum age.
- 3.06.050 Residence in city.

#### **Section 3.06.010 Merit and fitness.**

Hiring or grading of city employees shall be made on a basis of merit and fitness.

(Ordinance No. 94-02.)

#### **Section 3.06.020 Promotion.**

When well qualified individuals are available, appointments to fill vacancies shall be by promotion of persons who are current city employees.

(Ordinance No. 94-02.)

#### **Section 3.06.030 Tests.**

Before appointment each applicant shall take such written, oral, or practical tests of his or her qualifications as the personnel officer may consider appropriate.

(Ordinance No. 94-02.)

#### **Section 3.06.040 Minimum age.**

Minimum age for city employment shall be in accordance with state law.

(Ordinance No. 94-02.)

**Section 3.06.050 Residence in city.**

Other qualifications being equal, preference in employment or promotion shall be given to residents of the city area.

(Ordinance No. 94-02.)

### **Title 3. Personnel**

#### **SECTION Chapter 3.13 Conditions of Employment**

**Mayor's Signature**\_\_\_\_\_ **Date Approved:**\_\_\_\_\_

**Supercedence:**

**Ordinance No. 94-02**

**Amended Ordinance No. 01-04**

**Amended Ordinance No. 2009-06**

**Amended Ordinance No. 2013-03**

#### **CONDITIONS OF EMPLOYMENT**

##### **Sections:**

|                 |  |
|-----------------|--|
| <b>3.12.010</b> | <b>Permanent Employees</b>                       |
| <b>3.12.015</b> | <b>Nonpermanent Employee – Appointment</b>       |
| <b>3.12.020</b> | <b>Temporary Employees</b>                       |
| <b>3.12.025</b> | <b>Termination of Temporary Employees</b>        |
| <b>3.12.030</b> | <b>Probationary Employees</b>                    |
| <b>3.12.035</b> | <b>Oaths; Bonds</b>                              |
| <b>3.12.040</b> | <b>Work Days</b>                                 |
| <b>3.12.050</b> | <b>Workweek</b>                                  |
| <b>3.12.060</b> | <b>Overtime</b>                                  |
| <b>3.12.070</b> | <b>Compensatory Time Off</b>                     |
| <b>3.12.080</b> | <b>Overtime By Exempt Personnel</b>              |
| <b>3.12.090</b> | <b>Final Pay</b>                                 |
| <b>3.12.100</b> | <b>Pay Period</b>                                |
| <b>3.12.110</b> | <b>Payroll Deductions</b>                        |
| <b>3.12.120</b> | <b>Holidays</b>                                  |
| <b>3.12.130</b> | <b>Holiday During Vacation</b>                   |
| <b>3.12.140</b> | <b>Holiday Falling on Weekend</b>                |
| <b>3.12.145</b> | <b>Holiday Falling on Employee's Day Off</b>     |
| <b>3.12.150</b> | <b>Unpaid Holidays</b>                           |
| <b>3.12.160</b> | <b>Subsistence Leave</b>                         |
| <b>3.12.170</b> | <b>Training</b>                                  |
| <b>3.12.180</b> | <b>Performance Evaluation</b>                    |
| <b>3.12.210</b> | <b>Employee Operation of City-Owned Vehicles</b> |
| <b>3.12.230</b> | <b>Procedures for Handling City Funds</b>        |

### **Section 3.12.010      Permanent Employees**

Permanent appointments are made to positions which are considered to be a part of the *regular complement needed for the performance of municipal services*. A permanent employee may be either:

- A. Full-time, where the work involves a total of thirty-seven and one-half (37.5) hours a week on a regular basis;
- B. Part-time, where the work involved is to be done on a portion of the work day or workweek and totals at least twenty (20) hours a week on a regular basis;
- C. Permanent short-hour; where an employee is regularly assigned to work on a predetermined schedule of less than twenty (20) hours per week.

(Ordinance No. 94-02)

### **Section 3.12.015      Nonpermanent Employee – Appointment**

- A. An individual may not be appointed as a nonpermanent city employee, except as an emergency employee, without the mayor's prior written approval.
- B. No appointment of a nonpermanent employee may be made unless the request for authorization is approved by the mayor, adequate money is available for the anticipated duration of the appointment, and the mayor determines that:
  - 1. The council has appropriated money for the work in question;
  - 2. There is an immediate need to fill an authorized, permanent position and it is impractical to fill the position within a reasonable time;
  - 3. An immediate need exists and the hiring department or agency could not reasonably have been expected to anticipate the need and meet it through the creation of a permanent position.
  - 4. A program or project exists and the need for employees can most appropriately be met through the use of program or project employees.
- C. The mayor may not authorize the appointment of a nonpermanent employee if he or she determines that:
  - 1. The need for the nonpermanent employee can practicably be met through establishing and filling an authorized permanent position;
  - 2. The need for the nonpermanent employee would be more appropriately met through an emergency appointment; or
  - 3. The need for the nonpermanent employee is not immediate and could reasonable have been met by the appointing

authority through the creation and filling of a permanent position.

- D. A nonpermanent employee may not be placed on the city payroll unless the mayor has first approved the personnel action for the employee's appointment.
  - E. Nothing in this section prevents the mayor from adopting regulations to provide for timely substitution for permanent employees on medical or personal leave or other situations in which the appointment of an emergency or permanent employee would be inappropriate or when delay in making a temporary replacement would cause serious disruption.
  - F. A department or agency may not use nonpermanent employees to perform a given work assignment for more than one hundred twenty (120) calendar days in a twelve (12) month period. A department or agency may not employ any individual as a nonpermanent employee for more than one hundred twenty (120) calendar days in a twelve (12) month period. In appropriate circumstances, the mayor may authorize an extension of the limit imposed by this subsection if he or she finds that there is an immediate need for the extension. The limit imposed by this subsection does not apply to program or project employees or to substitutes appointed under subsection (F) of this section.
- (Ordinance No. 94-02)

#### **Section 3.12.020      Temporary Employees**

A temporary employee is an employee hired as an interim replacement, or for temporary work on a predetermined work schedule that does not extend beyond three (3) calendar months. A temporary employee may be separated from service, demoted or suspended with or without cause in the full discretion of the appointing authority or mayor. If a temporary employee is appointed as a permanent employee, they are entitled to annual leave accruals retroactive to their date of hire.

(Ordinance No. 94-02; Amended by Ordinance No. 01-04, §1.)

#### **Section 3.12.025      Termination of Nonpermanent Employees**

When the Mayor determines that an employee has been appointed as a result of a false certification under §3.12.020, he or she shall immediately notify the head of the affected department or agency in writing and the department or agency shall terminate the employee within one (1) working day after receipt of notice.

### **Section 3.12.030 Probationary Employees**

Every new permanent employee (including any former city employee) and every permanent employee newly promoted to a permanent position shall serve a probationary period. The length of the probationary period shall be at least three (3) months and not more than one (1) year. During the probationary period, an employee who was promoted to a new position may be returned to the position from which he was promoted or to an equivalent one at the discretion of the appointing authority or Mayor.  
(Ordinance No. 94-02)

### **Section 3.12.035 Oaths; Bonds**

At the time of hiring or promotion, and before beginning performance of the duties of the new position, each city employee shall:

1. Swear to or affirm the oath or affirmation provided by § 2.24.0010(A); and
2. Give bond as provided by § 2.24.020, unless the new position is covered by a blanket bond.

(Ordinance No. 94-02)

### **Section 3.12.040 Work Days**

The regular work day for full-time employees shall consist of seven and one-half (7.5) hours. The scheduling of the seven and one-half (7.5) hour work day shall be at the discretion of the city administrator.  
(Ordinance No. 94-02)

### **Section 3.12.050 Workweek**

The regular workweek for full-time employees shall consist of five (5) regular work days of thirty-seven and one-half (37.5) hours each.  
(Ordinance No. 94-02)

### **Section 3.12.060 Overtime**

No employee may work overtime unless prior permission has been obtained from the mayor. Overtime will be considered those hours worked in excess of the normal workday or workweek.  
(Ordinance No. 94-02)

### **Section 3.12.70 Compensatory Time Off**

(Ordinance No. 94-02; Repealed by Ordinance No. 01-04 § 2.)

**Section 3.12.080 Overtime By Exempt Personnel**

Except as otherwise approved by the Mayor, exempt employees and salaried employees will not be paid for or given compensatory time off for time worked in excess of the basic workweek. The mayor may, in his or her discretion and in consideration of excessive amounts of time worked by such employees, grant them short periods of time off to attend to personal or civic matters without reduction of accrued annual leave.  
(Ordinance No. 94-02)

**Section 3.12.090 Final Pay**

An employee who has resigned, giving adequate notice, or who has been discharged without notice, shall be paid in full on the day his employment terminates. An employee who is leaving without adequate notice, or who is being terminated with notice, shall be paid in full within seventy-two (72) hours of termination.  
(Ordinance No. 94-02)

**Section 3.12.100 Pay Period**

Pay periods shall be from 12:01 AM on Sunday through 12:00 midnight on the second Saturday following the beginning of the pay period for a total of twenty-six (26) pay period per year. All employees shall be paid bi-weekly on the Thursday following the end of the pay period just ended.  
(Ordinance No. 2009-06)

**Section 3.12.110 Payroll Deductions**

All deductions required by law will be withheld from each employee's paycheck. Other deductions, such as premiums for health insurance coverage and savings bonds, may be provided for on a voluntary basis.  
(Ordinance 94-92)

**Section 3.12.115 Payroll Advance**

A permanent employee may receive a payroll advance during a payroll period but before payday upon approval of the mayor. A payroll advance will be for no more than the compensation owed for hours already worked. An advance shall be deducted from the employee's pay on payday.

**Section 3.12.120 Holidays**

The following days shall be recognized as paid holidays for all permanent and probationary employees who are in pay status before and following such days:

- A. The first day of January known as New Year's Day.
- B. The third Monday in January known as Martin Luther King Day.
- C. The third Monday in February known as President's Day.
- D. The fourth Monday in March known as Seward's Day.

- E. The last Monday in May known as Memorial Day.
  - F. One half day in June designated annually in observance of Nalukataq.
  - G. The fourth day of July known as Independence Day.
  - H. The first Monday in September, known as Labor Day.
  - I. The eighteenth day of October known as Alaska Day.
  - J. Inuit Day in the month of November.
  - K. The fourth Thursday in November known as Thanksgiving Day.
  - L. The fourth Friday in November as substituted observance of Veteran's Day.
  - M. The twenty-fifth day of December known as Christmas Day.
  - N. Every day designated by public proclamation by the President of the United States, Governor of the State of Alaska or Mayor of the city as a legal holiday.
- (Ordinance no. 94-02; Amended by Ordinance 01-04§ 3.)

**Section 3.12.130      Holiday During Vacation**

If a paid holiday falls on a day during a period of paid leave, the employee will be paid for the day as a holiday and the day is not counted as part of the accrued leave used by the employee.

(Ordinance No. 94-02)

**Section 3.12.140      Holiday Falling on Weekend**

When a holiday falls on Sunday, the following Monday will be observed as the holiday.  
When a holiday falls on a Saturday, the preceding Friday will be observed as the holiday.

**(Ordinance No. 94-02)**

**Section 3.12.145      Holiday Falling on Employee's Day Off**

(Ordinance No. 94-02; Repealed by Ordinance 01-04 § 4.)

**Section 3.12.150      Unpaid Holidays**

The city employees in a city department may elect to observe a special cultural event and/or activity as a holiday, under the following conditions:

- A. That such holiday will be without pay;
- B. That all personnel in the department wish to observe the holiday; and
- C. The mayor or council gives prior approval to such observance.

(Ordinance No. 94-02)

**Section 3.12.160      Subsistence Leave**

City employees may, with the prior approval of the mayor, be permitted up to ten (10) days leave for subsistence activities such as whaling, hunting, and fishing. Subsistence leave shall be leave without pay.

(Ordinance NO. 94-02)

**Section 3.12.170      Training**

Each department head shall develop and conduct such practical training programs as are suited to the special requirements of that department. The city clerk shall institute and provide for the conducting of training programs which are needed for efficient management of two (2) or more departments. Training programs shall emphasize practical accident prevention, employee safety, and public relations.

(Ordinance No. 94-02)

**Section 3.12.180      Performance Evaluation**

Department heads shall periodically and at least annually evaluate the performance of each employee in their department, inform any employee whose performance is unsatisfactory, and discuss with the employee means of improving performance. Employees who are performing in a superior manner also shall be informed of their job performance. Reports of unsatisfactory or superior performance shall be documented by written memorandum for inclusion in the individual's personnel file.

(Ordinance 94-02.)

**Section 3.12.210      Employee Operation of City-Owned Vehicles**

City vehicles are provided to enable employees to carry out their jobs or related duties.

Employees may operate city vehicles under the following conditions:

- A. Only city employees may drive city vehicles. City employees shall not permit any person who is not a city employee to operate a city vehicle.
- B. In order for a city employee to drive a city vehicle he or she must:
  1. Have a valid, unsuspended Alaska Driver's License;
  2. Sign a Vehicle Use Form agreeing to abide by this title and other related policies; and
  3. Obtain the written approval of his or her department head for the use of city vehicles.
  4. Be a city employee registered under the city's insurance policy to drive a city owned vehicle.
- C. City vehicles shall be used only for city business; no employee may use city vehicles for personal business or errands.
- D. An employee may be assigned by his or her department head the duty to pick up and drop off other employees to take them to and from work. The assigned driver may not make personal use of the vehicle after dropping off his or her

passengers. If an employee incurs expenses while transporting other employees, he or she may be reimbursed.

- E. An employee who operates a city vehicle shall keep a log of the use of the vehicle and expenses incurred in connection with such use on a form provided by the employee's department head or the mayor.
  - F. City employees must obey all traffic laws and drive in a careful and lawful manner when driving a city vehicle. Conviction of a traffic offense which results in property damage or personal injury will result in loss of the driving privileges for a period of time consistent with the nature of the loss to be determined by the employee's department head with the approval of the mayor. In addition, if the employee was at fault the mayor may require the employee to reimburse the city for losses sustained.
  - G. A violation of the vehicle policy may result in the loss of driving privileges, and may have other personnel consequences.
- (Ordinance No. 94-02.)

**Section 3.12.230      Procedures for Handling City Funds**

- A. Except as provided in subsection (B) of this section, no employee shall incur expense in the name of the city, and the city shall not be liable for and shall not pay unauthorized expenses incurred in its name.
  - B. Before incurring any expense in the name of the city, an employee shall first obtain approval from his or her department head, department heads shall not give such approval without the consent of the mayor. Employees may be given advance blanket approval of routing expenditures for gasoline for city vehicles, and petty cash expenditures. Every employee incurring an expense in the name of the city shall obtain and present to the city clerk a receipt stating the purpose for which the expense was incurred.
  - C. City funds shall be handled in accordance with the requirements of Title 4 of this code. The mayor may prescribe additional procedures governing the incurring of expenses by city employees. If an employee negligently or intentionally fails to follow procedures prescribed by this section or by the mayor and loss of city funds results, the employee may be required by the mayor to reimburse the city for any such losses.
  - D. Employees may not convert city supplies to their own use. In addition, city employees shall log the date, number called and the nature of all long distance telephone calls.
- (Ordinance No. 94-02; Amended by Ordinance No. 01-04 § 5.)

## **Chapter 13.16**

### **REAL PROPERTY -- LEASING**

#### **Sections:**

13.16.010 Property available for leasing. 13.16.020  
Pre-leasing procedure -- Appraisals. 13.16.030  
Rental value. 13.16.040 Terms and conditions of  
the lease. 13.16.050 Leasing -- Procedures.  
13.16.060 Manner -- Lease auction. 13.16.070  
Mayor.

#### **Section 13.16.010 Property available for leasing.**

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

(Ordinance No. 94-08.)

#### **Section 13.16.020 Pre-leasing procedure -- Appraisals.**

A. No property shall be leased or a renewal lease issued unless the property to be leased has been appraised by the city within one (1) year prior to the date contemplated for the beginning of the lease.

B. No appraisal is required if the fair rental value of the property does not exceed two hundred fifty dollars (\$250.00) per month and the term of the lease is one (1) year or less, or if the property has been assessed by a tax assessor during the year in which the property is to be leased.

C. An independent appraisal shall not be required unless directed by the council, or otherwise required by this chapter.

(Ordinance No. 94-08.)

### **Section 13.16.030 Rental value.**

A. Property shall be leased for a fair rental value. Fair rental value is the rental computed from the appraised fair rental value of the property and means the highest price described in terms of money for which the property would rent, if exposed for rent for a reasonable time in the open market, for the use permitted by the city.

B. With approval by the council, the lease of property may be made for a rental less than the fair rental value to a state or federal agency, state political subdivision, or nonprofit organization as may be determined by the mayor to be fair and proper. The mayor shall consider the public interest and the nature of the public use or function of the leased premises.

(Ordinance No. 94-08.)

### **Section 13.16.040 Terms and conditions of the lease.**

The following provisions shall be included in all leases approved by the council:

A. Duration. No lease shall be for a term of more than twenty-one (21) years unless the council shall determine from the purpose, use of the premises, and nature of improvements which may be placed on the premises that a longer term would benefit the city and would be consistent with city planning. A lease having a term of greater than five (5) years shall first be approved by the council. Any renewal period or option to renew the lease period shall be included in the term of the lease in computing the five (5) year period of time.

B. Rental adjustment. A lease having a term of more than two (2) years shall provide for adjustment of rentals at specified intervals during the term of lease, and the intervals shall be every two (2) years unless the lease provides no interval, not to exceed six (6) years. This section shall be incorporated in each lease by reference and enforceable as if fully set forth in this lease.

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

D. Renewal. The renewal or extension of a lease shall be considered as a new lease unless renewal or extension is provided for in the lease. Upon a showing of hardship or for good cause the mayor, at his or her option, may renew or extend the lease for a period not to exceed one (1) year without notice, auction, or council approval.

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

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

G. Improvements and chattels.

1. The lease shall provide the terms, conditions, and limitations of the removal or reversion of the improvements or chattels upon the lease premises after termination of the lease. The retiring lessee may, with the consent of the mayor, sell improvements to the succeeding lessee. If the improvements or chattels are not removed within the time set forth in the lease, the improvements and chattels may, upon reasonable notice to lessee, be sold at public sale to be provided by regulations of the mayor.

2. Proceeds of the sale shall be first applied to the city's costs and expenses of maintaining, removing, and selling the improvements and chattels and to rentals for the period of non-removal. The city may bid at the sale and may be credited with the value of the city's costs, expenses, and rentals due resulting from the non-removal of the improvements or chattels. The city shall have all other rights, both legal and equitable, of any other purchaser would have or acquired by reason of the sale.

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

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

J. Conditional lease.

1. The city may issue a conditional lease on property it reasonably expects it will own or will acquire title to prior to the actual receipt of title. Leases issued on a conditional basis may be terminated in whole or in part in the event that the city is denied title to the property under lease. Pre-paid lease rentals on property to which title is denied the city shall be refunded.

2. The city shall not be liable for any claim or damages that may be done to the property by the lessee, or liable for claims of any third party or the lessee, or for any claims that may arise from ownership. In the event the city does not receive title to the property under lease, the conditional lease shall then have the same standing, force, and effect as a nonconditional lease issued under this chapter.

(Ordinance No. 94-08.)

**Section 13.16.050 Leasing -- Procedures.**

All leases shall be approved by the city council by resolution or ordinance pursuant to § 13.12.090 of this title. The provisions of § 13.12.090 on the disposal procedures for city-owned property shall apply to all leases authorized by this chapter.

(Ordinance No. 94-08.)

**Section 13.16.060 Manner -- Lease auction.**

Unless otherwise provided in this chapter, property shall be leased to the highest responsible bidder at a lease auction. Upon a city council determination of a public interest, a negotiated bid may be accepted by the council by resolution pursuant to § 13.12.090 in place of public bidding.

(Ordinance No. 94-08.)

**Section 13.16.070 Mayor.**

The mayor may provide by regulations for the procedures and form as to applications, surveys, appraisals, auction, bidding, form, and substance of lease termination, forfeiture, or any other matter involving the leasing of city property to

implement the intent and purpose of this chapter. The absence of a regulation shall not invalidate any auction procedure or lease executed or to be executed by the city, where the requirements of the chapter have been otherwise satisfied.

(Ordinance No. 94-08.)

**SECTION Travel and Other Pay Allowances**

Mayor's Signature: \_\_\_\_\_ Date Approved: \_\_\_\_\_

Supercedence:

Ordinance No. 94-02

Amended Ordinance 99-02

Amended Ordinance 2010-01, November 9, 2009

Amended Ordinance 2012-01, November 4, 2011

**SECTIONS:**

|                 |  |
|-----------------|--|
| <b>3.16.010</b> | <b>Per Diem Allowance</b>                            |
| <b>3.16.020</b> | <b>Actual Expenses</b>                               |
| <b>3.16.030</b> | <b>Convention Registration Fee</b>                   |
| <b>3.16.040</b> | <b>Transportation Costs – Mayor and City Council</b> |
| <b>3.16.050</b> | <b>Transportation Costs – City Employees</b>         |
| <b>3.16.060</b> | <b>Individual Travel</b>                             |
| <b>3.16.070</b> | <b>Job Connected Training</b>                        |
| <b>3.16.080</b> | <b>Advances and Recovery</b>                         |

**Section 3.16.010 Per Diem Allowance**

- A. City officials and employees shall be entitled to a per diem allowance of \$115.00 per day while outside the city on official business with the prior approval of the mayor. The per diem is to be used for lodging, food and incidental expenses.
- B. Official travel status and eligibility for per diem, begins when an employee leaves the city to travel to the location where the official business will be conducted, and ends at the following time:
  - a. When the employee actually returns to the city, if the employee leaves the location where the official business has been conducted on the same day that the business is completed and returns directly to the city; or
  - b. When the official business is concluded and the employee could begin to travel to the city.
- C. Employees shall not receive per diem for any period of time during which they are on official travel status but fail to attend to or conduct city business when it is possible to do so.

### Section 3.16.020 Actual Expenses

- A. An employee traveling on official business may, with the prior approval of the mayor, be advanced and/or reimbursed for reasonable and properly documented actual expenses in excess of the per diem allowance established in &3.16.010.
- B. An employee who has been advanced any sums pursuant to this section shall, immediately upon his or her return to the city, provide original receipts or comparable documentation for all allowable expenses actually paid with such funds, and repay to the city any portion of the advanced funds not used to pay allowable documented expenses.

### Section 3.16.030 Convention Registration Fees

In addition to the per diem allowance given pursuant to & 3.16.010 or 3.16.020 the city may advance to an employee for, or pay on behalf of an employee, actual conference, convention, workshop or course registration fees or similar expenses incurred at the direction of the employee's supervisor or the council. The employee's per diem allowance shall be reduced to the extent that the city has paid for meals, lodging, entertainment or similar expenses through such registration fees.

### Section 3.16.040 Transportation Costs – Mayor and City Council

The mayor and members of the council may travel on city business. The transportation cost and per diem for the mayor and council members shall be paid by the city. The city shall not pay the costs of travel of the spouse or other family members of the mayor or members of the council.

### Section 3.16.050 Transportation Costs – City Employees

- A. In addition to the per diem allowance given pursuant to \$3.16.010 or 3.16.020, the city may advance to an employee, reimburse an employee for, or pay on behalf of an employee, actual and necessary transportation expenses. Transportation expenses may include airline, bus, train, or other common carrier fares or the cost of charter aircraft, taxicabs, or other special hires. No reimbursement in excess of the lowest tourist or coach-class fare available on the most direct route between the city and the place where the employee is to transact city business, or between two places where the employee is to transact city business, shall be allowed, unless:
  - 1. Tourist-class accommodations are not available;
  - 2. Waiting for tourist-class accommodations would occasion delay harmful to the city;
  - 3. The mayor finds that travel by tourist-class accommodations is not in the best interest of the city and authorizes other accommodations.
- B. An employee may, with the mayor's approval, travel on city business by means of a privately owned airplane, vessel, or automobile, except that the cost to the city for such travel may not exceed the cost payable under subsection (A) of this section. If travel by such means

takes longer than would travel by scheduled or available charter carrier, the excess travel time shall be taken by the employee as personal leave or leave without pay.

- C. Any portion of a travel voucher or ticket purchased with city funds which is not used by the employee on official travel shall be returned to the clerk immediately after the employee's return.

#### Section 3.16.060 Individual Travel

- A. If an employee, for his or her own pleasure or convenience, travels on official business by an indirect route or remains at a place where city business is transacted longer than is reasonable necessary to complete the city business, any additional expenses shall be borne by the employee, and the city shall pay only such expenses, including per diem, as would have been incurred had the employee traveled directly between the city and the place where official business was transacted, and remained at that place only long enough to conveniently complete the city business. Any additional time away from the employee's duties required by such indirect travel or extended stay shall be taken by the employee as personal leave without pay.
- B. If an employee, for his own pleasure or convenience, interrupts his or her travel between the city and a place where city business is to be transacted, any additional expenses incurred as a result of such interruption shall be borne by the employee, and the city shall pay only such expenses, including per diem, as would have been incurred had the employee traveled without interruption between the city and the place where official business was transacted. Any additional time away from the employee's duties that may be required by such interrupted travel shall be taken by the employee as personal leave or leave without pay.

#### Section 3.16.070 Job-Connected Training

Where any employee attends a school, training session, conference or any other similar program of mutual benefit to the employee and the city, the employee shall agree:

- A. To remain in the municipal service one (1) months for every day, including Saturdays and Sundays, that the employee is attending the school and for which the municipality is paying the employee's salary, travel cost and per diem;
- B. That there shall be a two (2) year maximum to length of time that the employee must remain in service;
- C. That should the employee leave the service of the municipality prior to the completion of computed service time, the employee shall reimburse the city for the per diem, travel and other cost incurred by the municipality in sending him on job-connected training.
- D. That if the employee is involuntarily separated from the service of the municipality, before completion of computed service time, the remaining time to be served will be cancelled.

#### Section 3.16.080 Advances and Recovery

A. The city may advance funds to an employee pursuant to this chapter only if the mayor, having considered the character and probable duration of the travel and the costs likely to be incurred by the employee, approves,

B. An employee who is in official travel status for a shorter period of time than anticipated shall, upon the employee's return to the city, immediately repay to the city any amount of per diem advanced to the employee in excess of the amount of the per diem allowance to which the employee is entitled under this chapter. Any sums advanced to an employee for anticipated actual travel expenses which are not shown, upon the employee's return to the city, to have been actually spent for allowable and documented travel expenses shall be immediately repaid to the city. If an employee fails to immediately repay any such advance, the amount required to be repaid may be recovered by deduction from any salary or other sum then or thereafter due to the employee from the city, or by any legal method from the employee or the employee's estate.

**Chapter 3.20**

**[RESERVED]**

SUBJECT: Leave

SECTION: Personnel – Policies & Procedures

Authorization: Mayor \_\_\_\_\_

Date of Review/Approval: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Supercedence:

Ordinance 94-02

Amended Resolution 01-04

Amended Ordinance 2009-03

Amended Ordinance 2012-02

Sections:

|          |  |
|----------|--|
| 3.24.010 | Reserved                                     |
| 3.24.020 | Purposes                                     |
| 3.24.030 | Personal Leave Accrual – Permanent Employees |
| 3.24.040 | Accrual – Temporary Employees                |
| 3.24.050 | Request & Approval                           |
| 3.24.060 | Employee to Call in                          |
| 3.24.070 | Donated Leave                                |
| 3.24.080 | Payment on Termination                       |
| 3.24.090 | Advance Vacation Pay                         |
| 3.24.100 | Maximum Accumulation                         |

**Section 3.24.010      Reserved**

**Section 3.24.020      Purposes**

Personal leave may be used for vacation, illnesses requiring absence from work and absence from work due to personal reasons.  
(Ordinance No. 94-02)

**Section 3.24.030      Personal Leave Accrual – Permanent Employees**

First year employees eligible to accrue Paid Personal Leave are required to take a minimum of one week of leave. After the first year of employment, employees who are eligible to accrue Paid Personal Leave are required to take a minimum of two weeks of leave.

In the event that available Paid Personal Leave is not used by the end of the benefit year, employees may carry unused time forward to the next benefit year. The maximum amount of leave an employee may carry forward each year is capped at 225 hours.

Any employee who left the service of the city in good standing, and is re-employed within six months shall accrue paid personal leave at the same rate as at the time of prior separation.

Employees on a leave of absence, other than a military leave of absence are required to use all accrued paid personal leave as part of the leave. In addition, any employee on leave of absence will not be paid for any unused personal leave remaining at the end of the fiscal year.

**Section 3.24.040      Accrual Employees**

An employee appointed to a position of a temporary nature shall not accrue personal leave.  
(Ordinance No. 94-02)

**Section 3.24.050      Request and Approval**

An employee wishing to take personal leave of more than twenty-four (24) continuous hours may request approval from the mayor ten (10) working days in advance. The mayor shall grant the request if it will not seriously impede the functioning of the city administration.  
(Ordinance No. 94-02; Repealed and reenacted by Ordinance No. 01-04 § 7c.)

**Section 3.24.060      Employee to Call in**

In order for an employee to receive personal pay for a day when the employee will be absent from work because of illness or for personal reasons, when the leave has not been authorized in advance, that employee must notify his supervisor within one (1) hour of the beginning of his shift unless due to circumstances beyond the control of the employee it would be impossible to call in.  
(Ordinance No. 94-02)

**Section 3.24.00070      Donated Leave**

An employee may donate paid leave for the benefit of fellow employees. Such leave shall be used only for the most serious circumstances such as lingering or incurable illness of the employee or the spouse or child of the employee, or in extreme emergency, such as the loss of a house and all belongings due to a fire or natural disaster. Such leave shall be donated to a central account, to be granted by the mayor. Donated leave shall be paid at the regular rate of the recipient employee. An employee may receive no more than thirty (30) days of donated leave in a single calendar year.  
(Ordinance No. 94-02)

**Section 3.24.080      Payment on Termination**

All accrued personal pay leave shall be paid to an employee who voluntarily terminates or is discharged so long as that employee has given two (2) weeks notice pursuant to §3.44.030.  
(Ordinance No. 94-02; Repealed and reenacted by Ordinance No. 01-04 §3.44.030.)

**Section 3.24.090      Advance Vacation Pay**

An employee who has had a period of personal leave approved by the mayor may, upon request, receive a check for that period on the day before his leave commences.  
(Ordinance No. 94-02)

**Section 3.24.100      Maximum Accumulation**

(Ordinance No. 94-02; Repealed by Ordinance No. 01-04 § 7e.)

## **Chapter 3.28**

### **LEAVE OF ABSENCE**

#### **Sections:**

- 3.28.005 Ten days or less.
- 3.28.010 More than ten days.
- 3.28.015 Family leave. 3.28.020  
Active military duty.
- 3.28.030 Military reserve duty or training.
- 3.28.040 Vacancies from military leave.
- 3.28.050 Witness and juror leave.

#### **Section 3.28.005 Ten days or less.**

Employees may be granted leave without pay not to exceed a total of ten (10) working days in any year for any compelling reason, subject to the approval of the mayor.

(Ordinance No. 94-02.)

#### **Section 3.28.010 More than ten days.**

Permanent employees may be allowed to be absent from duty without pay, in excess of ten (10) days, on the basis of application for leave without pay, approved by the mayor under the following conditions:

1. The city's interest is not unduly affected. Such leave shall be only when it will not result in undue prejudice to the interest of the city beyond any benefits to be realized.
2. For travel or study calculated to equip an employee for more effective service to the city. The mayor would consider the eventual compensating benefits of such leave to the city in keeping the position open, or filling it temporarily, until the return of the employee.

3. The employee is suffering an extended illness but is expected to recover sufficiently to permit resumption of duties within a reasonable period of time.

(Ordinance No. 94-02.)

#### **Section 3.28.015 Family leave.**

A. An employee who has been employed for more than one year is entitled to take leave of absence without pay to fulfill family obligations relating directly to childbirth, adoption, or placement of a foster child or to care for a child, spouse, or parent with a serious health condition. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves in-patient care in a hospital, hospice, or residential medical care facility or continuing treatment by a health care provider.

B. A request for family leave should be made at least 30 days in advance for foreseeable events and as soon as possible in advance of unforeseeable events. An employee requesting family leave related to the ~~er~~ ' condition of a child, spouse, or parent may be required to submit a health care provider statement verifying the need for a family leave to provide care, its beginning and expected ending dates, and the estimated time required.

C. An eligible employee may request up to a maximum of nine weeks of family leave within any one year period. Any combination of family leave and medical leave may not exceed this maximum limit. If this initial period of absence proves insufficient, consideration will be given to a written request for a single extension. Employees will be required to first use any personal leave before taking any unpaid family leave. Benefit accruals, including but not limited to personal leave, shall not accrue during unpaid family leave.

D. So that an employee's return to work can be properly scheduled, an employee on family leave shall provide the City with at least two weeks advanced notice of the date the employee intends to return to work.

E. When a family leave ends, the employee will be reinstated to the same position, if it is available, or to an equivalent position for which the employee is qualified.

F. If an employee fails to report to work promptly at the end of an approved leave period, the City will assume that the employee has resigned.

(Ordinance No. 94-02; Repealed and reenacted by Ordinance No. 95-03, §4 Amended by Ordinance No. 01-04 § 8.)

#### **Section 3.28.020 Active military duty.**

Permanent or probationary employees shall be entitled to military leave of absence, without pay, to serve in the Armed Forces of the United States (including duty with regular, reserve, and National Guard units) and shall be entitled to reemployment.

(Ordinance No. 94-02.)

#### **Section 3.28.030 Military reserve duty or training.**

An employee of the city, who is a member of the reserved component of the United States Armed Forces, is entitled to a leave of absence when he is ordered to training duty, as distinguished from active duty, with troops or at field exercises or for instruction. The leave of absence may not exceed fifteen (15) working days in any one (1) calendar year. Military leave for reserved training purposes shall be without pay.

(Ordinance No. 94-02.)

#### **Section 3.28.040 Vacancies from military leave.**

The filling of a position made vacant by the granting of a military leave of absence of less than six (6) months shall be by temporary appointment. If the period is more than six (6) months, it may be filled by permanent appointment.

(Ordinance No. 94-02.)

**Section 3.28.050 Witness and juror leave.**

A. A permanent employee who is called to serve as a juror or witness shall be entitled to court leave. The request of such leave shall be supported by written documents such as a subpoena, Marshall statement of attendance, and request for compensation for services, per diem and travel.

B. The employee shall turn over to the city all money received from the court as compensation for service and in turn shall be paid his current salary while on court leave.

(Ordinance No. 94-02.)

**Chapter 3.32**

**[RESERVED.]**

Section: Chapter 3.36 Disability and Health Insurance

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Superceded:

Ordinance 2013-03, March, 2013

Ordinance 09-02

Sections:

- 3.36.010 Group Health Insurance
- 3.36.020 Reporting Accidents
- 3.36.030 Salary When Injured
- 3.36.040 Voluntary and Auxiliary Personnel

**Section 3.36.010 Group Health Insurance**

Employees – may enroll in the city's group health insurance plan. The city shall pay one hundred percent (100%) of the employees' premiums for dependent coverage.

**Section 3.36.020 Reporting Accidents**

It shall be the duty of each employee to immediately report any and all accidents to the city.

**Section 3.36.030 Salary When Injured**

The city will provide the difference between the employ's salary and the amount received from Worker's Compensation in the event of an accident or disability, up to a maximum of sixty (60) calendar days.

**Section 3.36.040 Voluntary and Auxiliary Personnel**

Volunteer and auxiliary personnel who receive injuries while performing work for the city are insured through workman's compensation.

## **Chapter 3.40**

### **DISCIPLINARY ACTIONS**

#### **Sections:**

3.40.010 Penalties.

3.40.020 Suspension, demotion, and dismissal for cause.

3.40.030 Exoneration -- Reinstatement.

#### **Section 3.40.010 Penalties.**

An employee who wilfully violates a provision of this title forfeits his office or position.

(Ordinance No. 94-02.)

#### **Section 3.40.020 Suspension, demotion, and dismissal for cause.**

A. The mayor or the mayor's designee may discipline an employee for incompetence, inefficiency, inability to perform assigned duties due to age, health, education, or temperament, insubordination, habitual tardiness, use while on duty of alcoholic beverages or narcotics, actions which endanger the health or safety of the employee or others, violation of city ordinances or regulations, or other cause.

B. Depending on the seriousness of the offense committed and the employee's disciplinary history, any of the following disciplinary actions may be taken:

1. the employee may be given a verbal warning explaining what the employee did wrong and what corrective measure must be taken;
2. the employee may be given a written reprimand, a copy of which shall be filed in the employee's personnel file;
3. the employee may be suspended without pay; suspensions without pay may not exceed thirty (30) days in any twelve (12) month period; if there

is cause to suspend an employee who has previously been suspended for a total of thirty (30) days during the preceding twelve (12) months, the mayor shall dismiss rather than suspend that employee;

4. the employee may be demoted to a lower-paid or less responsible position;

5. the employee may be dismissed from city employment;

C. An employee against whom any disciplinary action other than dismissal is taken shall be advised that failure to correct the problem or to avoid its repetition will result in more serious discipline in the future.

D. When any disciplinary action other than issuance of a written reprimand is taken against any employee, the mayor or the mayor's designee shall prepare a brief written memorandum of the action taken and the reasons for the action. The original of the memorandum shall be placed in the employee's personnel file. If the action is taken by a designee of the mayor, a copy of the memorandum shall be provided to the mayor. If the action is taken against a department head, a copy of the memorandum shall be circulated to the council members. When an employee is given a written reprimand, a copy of the reprimand shall be provided to the mayor or council in place of a memorandum.

E. The record of a verbal warning or written reprimand may, at the mayor's discretion, be removed from the employee's personnel file after a period of six (6) months, provided there has not been a recurrence of the infraction.

F. This section does not apply to probationary employees. The mayor or the mayor's designee may at any time dismiss or demote a probationary employee or put a probationary employee on leave without pay for a fixed or indefinite period of time.

(Ordinance No. 94-02.)

#### **Section 3.40.030 Exoneration -- Reinstatement.**

A. If an employee has been reprimanded, suspended, or demoted for cause pursuant to § 3.40.020, and the mayor later determines that the factual basis for the disciplinary action was erroneous and that there was not cause for such discipline, the employee shall be retroactively reinstated to the same pay and benefit status which the employee was in at the time of the erroneous disciplinary action.

B. If the employee has been demoted, the employee shall be immediately offered reinstatement to the position the employee held at the time of the disciplinary action; except that if a suspended employee's prior position has been temporarily filled, or a demoted employee's prior position has been filled, the mayor may, in his or her discretion, offer the employee the option of temporarily or permanently retaining his or her present position, with pay and other benefits adjusted to equal those of the position from which he or she was erroneously suspended or demoted, or of transferring to another open position with the same pay and benefits as that of the position from which the employee was suspended or demoted.

(Ordinance No. 94-02.)

## **Chapter 3.44**

### **NON-DISCIPLINARY PERSONNEL ACTIONS**

#### **Sections:**

- 3.44.010 Demotion.
- 3.44.020 Layoff. 3.44.030
- Resignation.
- 3.44.040 Maintenance of longevity.

#### **Section 3.44.010 Demotion.**

An employee may request demotion to a lower-paid or less responsible position. A permanent employee so demoted retains his or her permanent status upon demotion.

(Ordinance No. 94-02.)

#### **Section 3.44.020 Layoff.**

When it is necessary to reduce the number of city employees because of lack of work or lack of funds, the mayor investigate and make recommendations. Proposed layoffs will first be presented to the city council to consider the types of activities and the classes of positions thereby affected. Consideration shall be given to the employees' length and quality of service to the city. The advisability of demoting employees in higher grades to lower grades shall also be considered. Employees thus separated from service, through no fault of their own, shall be given preference when new appointments are made.

(Ordinance No. 94-02.) **Section**

#### **3.44.030 Resignation.**

An employee resigning his position shall give at least two (2) weeks' notice to enable the city to make provisions for filling the position. This requirement may be waived by the mayor where adequate provisions may be made in a shorter period of

time. All resignations shall be in writing and must be filed with the city clerk. The city clerk shall furnish a copy of the accepted resignation to the employee for his records.

(Ordinance No. 94-02.)

**Section 3.44.040 Maintenance of longevity.**

Employees having more than one (1) year of continuous service with the city shall, if laid off in good standing, maintain longevity privileges with the grade from which terminated, if rehired within two (2) years. Rehired employees shall be placed in work with preferential treatment, as directed by the mayor.

(Ordinance No. 94-02.)

## **Chapter 3.48**

### **GRIEVANCE PROCEDURE**

#### **Sections:**

3.48.010 Scope of chapter. 3.48.020  
Initiation of grievance. 3.48.030  
Confidentiality. 3.48.040 Review of  
grievance. 3.48.050 Mayor's  
decision. 3.48.060 Further review.

#### **Section 3.48.010 Scope of chapter.**

This chapter applies to all employee requests for review of alleged grievances arising out of suspension, demotion, dismissal, transfer, layoff, or other employer actions affecting the employee.

(Ordinance No. 94-02.)

#### **Section 3.48.020 Initiation of grievance.**

An employee may initiate a grievance by making a brief written statement describing the employer action giving rise to the grievance, explaining why the action is improper, unfair, or illegal, and stating the remedial action requested. The complaint should be addressed to the mayor and may be either delivered to the mayor personally or filed with the city clerk.

(Ordinance No. 94-02.)

#### **Section 3.48.030 Confidentiality.**

The employee statement initiating a grievance shall become part of the employee's personnel file as provided by § 3.04.140. The statement shall not be made public without the express written consent of the employee.

(Ordinance No. 94-02.)

**Section 3.48.040 Review of grievance.**

The mayor shall take such steps as he or she considers appropriate to investigate the grievance. Such steps may include, but are not limited to, review of the employee's personnel file, interviews with the employee, the employee's supervisor, or other persons who may have knowledge of facts pertinent to the grievance, and examination of the employee's work products. The mayor may either review the employee's grievance himself or refer the matter to another person for review.

(Ordinance No. 94-02.)

**Section 3.48.050 Mayor's decision.**

After review of the grievance, and consideration of the report of the person, if any, to whom the grievance has been referred for review, the mayor shall enter his or her decision on the grievance. The decision shall be in writing, and shall state, in such detail as the mayor considers appropriate, the reason for the decision and the remedial action, if any, to be taken. The mayor shall provide a copy of the decision to the employee who filed the grievance, and shall note on the original the date on which the employee received the copy. The original decision shall then be filed in the employee's personnel file, and shall not be made public without the express written consent of the employee who filed the grievance.

(Ordinance No. 94-02.)

**Section 3.48.060 Further review.**

If the employee who filed the grievance is dissatisfied with the mayor's decision, the employee may seek further review of the grievance in the manner provided by chapters 2.40 and 2.44.

(Ordinance No. 94-02.)

## TITLE 4

### REVENUE AND FINANCE

#### **Chapters:**

- Chapter 4.01 Budget Generally
- Chapter 4.04 Budget Procedure Annual
- Chapter 4.08 Audit Management of Funds
- Chapter 4.12 Contracts and Purchasing
- Chapter 4.16 City Sales and Use Tax
- Chapter 4.20



## **TITLE 4**

### **Chapters:**

- Chapter 4.01 Budge Generally
- Chapter 4.04 Budget Procedure
- Chapter 4.08 Annual Audit
- Chapter 4.12 Management of Funds
- Chapter 4.16 Contracts and Purchasing
- Chapter 4.20 City Sales and Use Tax

## **Chapter 4.01**

### **BUDGET GENERALLY**

#### **Sections:**

4.01.010 City obligations.

4.01.020 Scope of budget.

4.01.030 Budgeted revenues.

4.01.040 Budgeted expenditures.

#### **Section 4.01.010 City obligations.**

A. A bond, contract, lease, or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one (1) fiscal year shall be made by ordinance and approved by the voters.

B. No payment may be authorized or made and no obligation may be incurred except in accordance with an appropriation made by ordinance. The council may make supplemental and emergency appropriations.

C. The council may authorize contracts for capital improvements to be financed wholly or partly by the issuance of bonds.

(Ordinance No. 94-03.)

#### **Section 4.01.020 Scope of budget.**

A. The budget shall be a complete financial plan for the operation of the city during the next fiscal year, showing dollar reserves, anticipated revenues and proposed expenditures.

B. Adoption of the budget, together with appropriation of the required funds, constitutes the commitment of each sum identified as an expenditure to the specified purchase or expense or class of purchases or expenses, and authorization and direction to the mayor and the city's appointed officials to expend each budgeted sum for the specified purpose.

C. Proposed expenditures shall not exceed anticipated revenues and reserves.

(Ordinance No. 94-03.)

**Section 4.01.030 Budgeted revenues.**

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

(Ordinance No. 94-03.)

**Section 4.01.040 Budgeted expenditures.**

Budgeted expenditures shall be itemized. Separate provisions shall be included in the budget for at least:

- I. interest, amortization of principal and redemption charges on the public debt for which the faith and credit of the city is pledged;
2. administration, operation and maintenance of each office, department or agency of the city;
3. the council's budgetary reserve; and
4. expenditures proposed for capital projects, including provision for down payments on capital projects.

(Ordinance No. 94-03.)

## **Chapter 4.04**

### **BUDGET PROCEDURE**

#### **Sections:**

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

#### **Section 4.04.010 Fiscal year.**

The fiscal year of the city government shall begin on the first day of July of each calendar year and end on the last day of June of the following calendar year. The fiscal year shall also constitute the budget and accounting year.

(Ordinance No. 94-03.)

#### **Section 4.04.020 Public records.**

The proposed budget and budget message, and, upon adoption, the budget, shall be public records open to inspection pursuant to chapter 1.24.

(Ordinance No. 94-03.)

#### **Section 4.04.030 Proposed budget.**

A. The mayor shall prepare and submit to the council not later than May 1st of each year the proposed budget for the following fiscal year, together with a

budget message. The proposed budget shall set out estimates of all revenues expected to be received, and provide and appropriate for all anticipated expenditures of money, including contract and other commitments, except expenditures of construction funds derived from bonds or from special assessment. The budget shall be submitted as an ordinance. The council may amend the budget estimate at any time prior to adoption.

B. The proposed budget shall include in a parallel column opposite the items of anticipated revenues the amount of each such item actually received in the preceding fiscal year and the budget for the current fiscal year.

C. The proposed budget shall include in a parallel column opposite the items of proposed expenditures, the amount of each such item actually spent in the preceding fiscal year and the budget for the current fiscal year.

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

(Ordinance No. 94-03.)

#### **Section 4.04.040 Public hearing.**

The council shall fix the time and place for a public hearing on the proposed budget. Notice of the hearing, together with a summary of the proposed budget, shall be posted in three (3) places in the city not more than ten (10) nor less than five (5) days prior to the time fixed for the hearing. At the public hearing, all interested persons shall be given an opportunity to be heard.

(Ordinance No. 94-03.)

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

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

B. The council shall adopt the budget and make the appropriation by City of

ordinance not later than the fifteenth (15th) day of June. The council shall then appropriate the money required for the approved budget.

C. If no budget has been adopted by the council by the last day of the present fiscal year, the proposed budget as submitted or amended shall be deemed to have been adopted by the council, and the proposed expenditures therein shall be deemed to have been appropriated for the next fiscal year.

(Ordinance No. 94-03.)

#### **Section 4.04.060 Amendment.**

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

(Ordinance No. 94-03.)

#### **Section 4.04.070 Encumbrance.**

No budget appropriations may be encumbered without prior certification by the mayor that there is an unencumbered appropriation sufficient to cover such encumbrance and sufficient funds available to meet the expenditure.

(Ordinance No. 94-03.)

#### **Section 4.04.075 Effective date of budget certification.**

The adopted budget shall be in effect for the fiscal year. A copy of the adopted budget shall be certified by the mayor, attested to by the clerk, and filed with the clerk. The certified budget is a public document.

(Ordinance No. 94-03.)

**Section 4.04.080 Excess liability; Lapse of appropriations.**

The mayor and clerk/treasurer shall not permit, without council approval, during any budget year, an expenditure or contract incurring any liability in excess of the amount appropriated for each department of the city. All budget appropriations lapse at the end of the budget year to the extent that they have not been expended or lawfully encumbered.

(Ordinance No. 94-03.)

**Section 4.04.090 Transfers.**

The mayor may approve infra-departmental transfers of appropriated funds; provided, however, that appropriations may not be transferred between departments except by ordinance amending the budget as provided by § 4.04.060.

(Ordinance No. 94-03.)

**Section 4.04.100 Biennial projection -- Capital program.**

At the same time the mayor prepares and submits the proposed budget under the provisions of § 4.04.030, he or she shall present to the council, as a working document, a proposed two (2) year summary budget for the city (excluding capital improvement programs) in the same general form as the budget for the next fiscal year. In addition, the mayor shall present a five (5) year capital improvement program as a working document which shall estimate, by year and for each project, anticipated costs, funding requirements and sources, and include a narrative outlining the need and proposed priority of the each project.

(Ordinance No. 94-03.)

**Section 4.04.110 Preparation guidelines.**

The budget, including the biennial projection and the five (5) year capital improvement program, shall be prepared in accordance with recommendations of the National Committee on Governmental Accounting of the Municipal Finance Officers Association.

(Ordinance No. 94-03.)

Section: Chapter 4.08 Annual Audits

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Superceded:

Ordinance 2013-03, March, 2013

Ordinance 09-02

Sections:

4.08.010 Required

**Section 4.08.010 Required**

The council shall provide for an audit of the accounts and other evidence of financial transactions of the city and of every city department when the city's finances has exceeded the \$500,000 expenditures threshold as mandated by federal regulation.

The audit shall be made by an accountant, designated by the council, who had no personal interest, direct or indirect, as defined in the rules of professional ethics of the American Institute of Certified public Accountants, in the fiscal affairs of the city or any of its departments. The designated accountant shall be a certified public account licensed to practice in the State and shall be a member of the American Institute of Public Accountants. The accountant shall submit his or her report to the mayor and council no later than ninety (90) days following end of fiscal year under audit.

In the year's where the \$500,000 threshold has not been reached a Certified Financial Statement shall be prepared and submitted to the council for approval for submission to the Department of Community & Regional Affairs.

## **Chapter 4.12**

### **MANAGEMENT OF FUNDS**

#### **Sections:**

- 4.12.010 Treasurer.
- 4.12.020 Deposits and withdrawals.
- 4.12.030 Investments.

#### **Section 4.12.010 Treasurer.**

A. As treasurer, the clerk is the custodian of all municipal funds and shall be responsible for the management of all cash and negotiable instruments of the city and shall develop and maintain such records, systems and procedures as may, in his or her opinion, be necessary for that purpose.

B. All accounting functions for all city departments and offices are the responsibility of the treasurer. The treasurer shall provide the following statements to the council on a monthly basis:

1. summary statement of cash receipts and disbursements;
2. reconciliation statement: banks - funds - investments; and
3. statement of expenditures compared with appropriations.

(Ordinance No. 94-03.)

#### **Section 4.12.020 Deposits and withdrawals.**

A. The clerk is authorized to deposit city funds in such federally insured commercial banks, savings and loan associations, or investment accounts as the council may authorize by resolution. All such deposits shall be held in the name of the city. The mayor, the vice-mayor, and all other council members are authorized signatories on such accounts.

B. All withdrawals from or checks drawn on such accounts shall be signed by two (2) authorized signatories.

C. No check may be drawn unless there are sufficient funds in the account on which the check is drawn to pay the check.

(Ordinance No. 94-03.)

**Section 4.12.030 Investments.**

The clerk shall periodically determine necessary cash balances to be maintained in the city's demand deposit accounts and shall invest excess cash in securities of the United States, any state or local government, commercial paper, time certificates of deposit, or any other form of security as may be authorized by law commensurate with the following stipulations:

- A. Preference shall be given to Alaskan securities and financial institutions.
- B. Investment in corporate stocks and bonds is prohibited.
- C. All transactions shall be made and held in the name of the city.

(Ordinance No. 94-03.)

Section: Chapter 4.16 Contracts and Purchasing

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Superceded:

Ordinance 2013-05, March, 2013

Ordinance 94-03

Sections:

|          |   |
|----------|---|
| 4.16.010 | Competitive Bidding Required            |
| 4.16.020 | Purchase Generally                      |
| 4.16.025 | Purchasing Agent                        |
| 4.16.030 | Bid Invitation                          |
| 4.16.040 | Bid Deposits                            |
| 4.16.050 | Bid Submittal and Opening               |
| 4.16.060 | Rejection of Bids                       |
| 4.16.070 | Award of Contract                       |
| 4.16.080 | Open Market Purchases                   |
| 4.16.090 | Contract Bonding                        |
| 4.16.100 | Professional Services Contracts         |
| 4.16.110 | Construction Contracts – Letting        |
| 4.16.120 | Construction Contracts – Administration |
| 4.16.130 | Disbursement Setoffs                    |
| 4.16.140 | Local Preference - Contractors          |
| 4.16.150 | Local Preference - Subcontractors       |

Section 4.16.010 Competitive Bidding Required

- A. All purchases of and contracts for supplies and contractual services shall, except as specifically provided in this chapter, be based whenever possible on competitive bids.
- B. When competitive bids are not deemed to be possible, a purchase or contract or supplies may be entered into if the estimated cost of the supplies or contractual services is:
  1. Greater than five thousand dollars (\$5,000.00 and the council by resolution finds that competitive bids are impossible, reciting the reasons therefore, and specifies how the purchase shall be made or the contract shall be awarded; or

2. Not greater than five thousand five hundred dollars (\$5,500.00) is the mayor certifies in writing that competitive bids are impossible, reciting the reasons therefore, and specifies how the purchase shall be made or the contract entered into.

#### **Section 4.16.020      Purchase Generally**

All supplies and contractual services, except as otherwise provided in this chapter, when the estimated cost thereof exceeds five thousand five hundred dollars (\$5,550.00) shall be purchased by formal, written contract from the lowest possible bidder as defined in § 4.16.070(D), after due notice inviting proposals.

#### **Section 4.16.025      Purchasing Agent**

- A. The mayor is the purchasing agent for the city. However, the mayor may designate the clerk or other city employee to be the city purchasing agent, subject to council approval by resolution.
- B. There shall be a city purchasing agent. The purchasing agent shall make all purchases of supplies, materials, equipment and contractual services needed by the offices, departments, and agencies of the city government, in accordance with the ordinances of the city and such rules and regulations as may be prescribed by the mayor and approved by the council.
- C. The purchasing agent shall recommend joint purchases with other units of government when the best interests of the city would be served.

#### **Section 4.16.030      Bid Invitation**

- A. Notice inviting bids shall be published in a newspaper or newspapers of general circulation within the state selected by the clerk. Invitations for bids shall be published at least once, at least five (5) days prior to the last day set for the receipt of proposals. The invitation shall include information as to where the necessary bid forms and additional information may be obtained.
- B. The clerk may also solicit bids from all responsible prospective suppliers who have indicated an interest in bidding on city contracts.
- C. The clerk shall also advertise all pending purchases by posting a notice on the public bulletin in the city hall.

#### **Section 4.16.040      Bid Deposits**

When deemed necessary by the clerk, bid deposits shall be prescribed in the invitation for bid. Unsuccessful bidders shall be entitled to return of surety where the city clerk has required such.

A successful bidder shall forfeit any surety required by the clerk if the bidder fails or refuses to enter into a contract within ten (10) days after the award.

**Section 4.16.050      Bid Submittal and Opening**

- A. Bids shall be submitted to the clerk and shall be identified as bids on the envelope. The clerk shall not accept submittal of bids after the time state in the invitation for the opening of bids.
- B. Bids shall be opened in public at the time and place stated in the invitation for bids.
- C. A tabulation of all bids shall be posted for public inspection. A copy of the tabulation shall be forwarded to the council for acceptance or rejection of bid.

**Section 4.16.060      Rejection of Bids**

- A. The council shall have the authority to reject all bids, parts of bids, or all bids for any one of more supplies or contractual services included in the proposed contract, when such rejection is in the best interest of the city.
- B. The council may determine that rejection of all bids is in the best interest of the city for reasons which include but are not limited to the following:
  - 1. Inadequate, ambiguous, or otherwise deficient specifications were cited in the invitation for bids;
  - 2. The supplies or services are no longer needed;
  - 3. The invitation for bids did not provide for consideration of all factors of cost to the city;
  - 4. The bids received indicate that the city's needs can be satisfied in a less expensive manner than that contemplated by the invitation for bids;
  - 5. All otherwise acceptable bids received are at unreasonable prices;
  - 6. The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith; or
  - 7. The bids received did not provide adequate competition to assure reasonable prices;
- C. If the council rejects all bids under this section, it may direct the clerk to issue an identical or similar invitation for bids.

**Section 4.16.070      Award of Contract**

- A. The council may award contracts within the purview of this chapter.
- B. Contracts shall be awarded, if at all, to the lowest responsible bidder whose bid is responsive to the invitation for bids.
- C. In determining which bid is "lowest" the council may, in its discretion, apply the local contractor preference of §4.16.140.

- D. In determining whether the lowest bidder is "responsible", the council shall consider:
1. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
  2. Whether the bidder can perform the contract or provide the service promptly or within the time specified without delay or interference.
  3. The character, integrity, reputation, judgment, experience and efficiency of the bidder, and the quality of performance of previous contracts or services.
  4. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
  5. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
  6. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
  7. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract, number and scope of conditions attached to the bid; and
  8. The standardization requirements.
- E. For a bid to be "responsive" the bid must be an offer to perform, without exception, the exact thing called for in the invitation for bids, which will, upon acceptance, bind the bidder to perform in accordance with all terms and conditions of the invitation. The council may conclude that a bid is not "responsive" if for example:
1. The bidder has qualified or changed the terms or conditions of the invitation to bid;
  2. The bid is considered late under § 4.16.050, having been received after the time for opening;
  3. The bid does not include bid or surety bonds, plans, specifications, samples, or other items called for in the invitation to bid; or
  4. The bidder does not acknowledge receipt of an amendment to the invitation.
- F. The council may waive trivial or inconsequential deficiencies in a bid.
- G. An aggrieved bidder may, within five (5) days after the opening of the bids, file an informal appeal pursuant to chapter 2.40.

#### **Section 4.16.080      Open Market Purchases**

All purchases of supplies and contractual of services of less than five thousand five hundred dollars (\$5,500.00) shall be made on the open market, without observing the procedure prescribed in §§ 4.16.020 through 4.16.070.

#### **Section 4.16.090 Contractor Bonding**

Contracts for construction, alteration or repair of public buildings or public works where the cost is in excess of one hundred thousand dollars (\$100,000.00) shall be awarded only after the contractor has provided payment and performance bonds pursuant to A.S. 36.25.010(A).

#### **Section 4.16.100 Professional Services Contracts**

- A. A contract for engineering, architectural, legal, medical or other professional services shall not be binding and effective until it has been approved by the council. Any such contract awarded by the council is deemed approved. Any other such contract shall be immediately submitted to the council for approval, which may be given by motion.
- B. Contracts in amounts exceeding five thousand dollars (\$5,000.00) for such services and other contractual services, which are in their nature unique and not subject to competition, shall be awarded by the council. All such contracts for professional services, when deemed appropriate by the awarding authority, shall be awarded after public notice and mail solicitation inviting proposals for the furnishing of the required services. The selection of professional assistance shall be based on competence, skill and experience.
- C. No contract shall be subdivided to avoid the requirements of this section.
- D. The city shall not award a contract for architectural, engineering or land surveying to:
  - a. An individual who is not registered under A.S. 08.48 to perform the architectural, engineering or land surveying services by the contract;
  - b. A partnership that is not qualified under A.S. 08.48.251 to provide the architectural, engineering, or land surveying required by the contract; or
  - c. A corporation that is not authorized under A.S. 08.48.241 to offer the architectural, engineering, or land surveying services required by the contract.

#### **Section 4.16.110 Construction Contracts – Letting**

- A. For the purposes of this section, “contract” means and includes construction contracts. The term shall not include professional services and other contractual services which are in their nature unique and not subject to competition.
- B. All contracts shall be based whenever possible on competitive bids.
- C. All contracts shall be awarded by formal, written contract to the lowest responsible bidder as defined in § 4.16.070(D) after due notice inviting proposals following the procedures established in § 4.16.030.
- D. Upon awarding a construction contract, the clerk shall:

1. Immediately notify the State Commissioner of Labor of the amount of the contract, the effective date of the contract, the identity of the

- contractor and all subcontractors, the site or sites of construction and provide a project description; and
2. Verify that the bonding requirements of A.S. 36.25 have been met and that the requirements of A.S. 08.18 have been met.

**Section 4.16.120      Construction Contracts – Administration**

All contracts, as defined in § 4.16.-110(A) shall be administered by the mayor in accordance with the following provisions:

- A. Any change required in the work shall be made after receiving a written change order proposal from the contractor for additions to or deductions from the original contract sum and the original contract time for changes proposed.
- B. Upon receipt of a change order proposal for a change in the contract sum in an amount not exceeding one thousand dollars (\$1,000.00) and after determination that the contractor's proposal is reasonable, the clerk, at the direction of the mayor, may issue a written change order. The aggregate sum of change orders so authorized shall not exceed five percent (5%) of the original sum or one thousand dollars (\$1,000.00), whichever is greater.
- C. When a proposed change order exceeds the limits set forth in subsection (B) of this section, the proposal, together with recommendations of the mayor, shall be forwarded to the council. The council shall then determine whether the proposal shall be accepted or rejected.
- D. Whenever a change in the work is required immediately upon the discovery of unforeseen conditions, the mayor shall have the power to order such change. If the change is otherwise subject to subsection (C) of this section, a full report shall be made to the council not later than the second regular meeting following the change. The emergency nature of such change order shall be determined by the mayor.
- E. No partial payment for work completed shall be made to a contractor without approval of the mayor of the quantities and values submitted by the contractor. No reduction in retained percentage not called for in the contract shall be made without prior approval of the council.

**Section 4.16.130      Disbursement Setoffs**

- A. Disbursement of monies to a person, firm or corporation will be made only after the various receivable accounts of the city have been reviewed for outstanding balances owed. The disbursement will be reduced by setting off the amount of indebtedness due to the city from such person, firm or corporation.
- B. All contracts to which the city is a party will or may involve the disbursement of city funds shall contain the following clause or its substantial equivalent:

**“Disbursement of monies by the city hereunder shall be subject to setoff pursuant to the provisions of §4.16.130 of the Code of Ordinances”.**

Such contracts, include, but are not limited to, oral contracts, employment contracts, construction contracts, and purchasing contracts.

**Section 4.16.140      Local Preference – Contractors**

The mayor may, at his or her discretion, direct an award of a construction contract after competitive bidding to a responsible bidder who has submitted a bid, who hold a city business license, and who maintains a business office within the city, if that bid does not exceed the lowest responsible bid by more than ten percent (10%).

**Section 4.16.150      Local Preference – Subcontractors**

- A. The mayor shall, unless prohibited or otherwise restricted by funding sources, for all contracts awarded under the formal competitive bidding procedures, make incentive payments to a qualified contractor consisting of a percentage of the cost of salary and benefits paid by a qualified contractor directly or through his qualified subcontractors to employees for personal services or labor who were directly employed on the project for which the reference contract applies.
- B. In this section, “qualified contractor” or “qualified subcontractor” means a person, partnership, or corporation holding a city business license on the date on which the contract bids are solicited.
- C. Incentive payments may be applied for at the same time as periodic payments, if any, which are authorized under the contract. The contractor shall submit supporting documentation as required by the clerk.
- D. The incentive payment shall be equal to:
  - 1. Twelve percent (12%) of costs for qualified contractor or subcontractors under one million dollars (\$1,000,000.00);
  - 2. Ten percent (10%) of costs for qualified contractors or subcontractors between one million dollars and one cent (\$1,000,000.01) and five million dollars (\$5,000,000.00).
  - 3. Eight percent (8%) of costs for qualified contractors or subcontractors between five million dollars and one cent (\$5,000,000.01) and then million dollars (\$10,000,000.00).
  - 4. Six percent (6%) of costs for qualified contractors or subcontractors over the amount of ten million dollars and one cent (\$10,000,000.01)

## **Chapter 4.20**

### **CITY SALES AND USE TAX**

#### **Sections:**

- 4.20.010 Levy of sales tax.
- 4.20.020 Levy of use tax.
- 4.20.030 Exemptions.
- 4.20.040 Collection.
- 4.20.050 Seller's sales tax return.
- 4.20.060 Application of sales and use tax to A.S. 43.56 property.
- 4.20.070 Liability of seller.
- 4.20.080 Absorption of tax prohibited.
- 4.20.090 Violations.
- 4.20.100 Enforcement.
- 4.20.110 Application of proceeds.
- 4.20.120 Definitions.
- 4.20.130 Adoption of provisions of borough ordinance.

#### **Section 4.20.010 Levy of sales tax.**

There is hereby levied and there shall be collected, in addition to all other taxes and fees of every kind now or hereafter imposed by law, a sales tax on every person who engages in this city in the business of selling at retail tangible personal property, or of leasing or renting tangible personal property sales, rentals, and retail services provided within the City of Wainwright. It is the intent of this ordinance to levy a tax on every person and transaction within the City of Wainwright which is subject to the borough sales tax imposed by Chapter 3.32 of the North Slope Borough Municipal Code. The amount of the sales tax is three percent (3%) of the sales price, rental, or charge for services.

(Ordinance No. 94-03.)

#### **Section 4.20.020 Levy of use tax.**

A. There is hereby levied and there shall be collected, in addition to all other taxes and fees of every kind now or hereafter imposed by law other than the sales tax imposed by § 4.20.010, a tax upon the use, storage, and consumption of all tangible personal property in the City of Wainwright which is acquired by purchase

or lease outside the City of Wainwright after the effective date of this chapter. It is the intent of this section to levy a tax on every person and use within the City of Wainwright which is subject to the borough use tax imposed by Chapter 3.32 of the North Slope Borough Municipal Code. The amount of the use tax is three percent (3%) of the cost price of each item or article of tangible personal property used, stored, or consumed in this city; provided, however, that tangible personal property which has been acquired after the effective date of the original ordinance codified in this chapter for use outside this city and which subsequently becomes subject to the tax imposed hereby, shall be taxed on the basis of its cost price if such property is brought within the city for use, storage, or consumption within six (6) months of its acquisition; but, if so brought within this city six (6) months or more after its acquisition, the property shall be taxed on the basis of the then-current value (not exceeding the cost price) of the property at the time of its first use, storage, or consumption within this city.

B. A person who furnishes proof, in the form required by the North Slope Borough, that he or she has paid a sales or use tax to any jurisdiction within or without the state, except the North Slope Borough, on an item of tangible personal property on which a use tax is levied by this section, is required to pay the use tax levied by this section only to the extent that the tax imposed by this section exceeds the sales or use tax previously paid.

(Ordinance No. 94-03.)

#### **Section 4.20.030 Exemptions.**

A. All transactions excluded or exempted from the North Slope Borough sales tax by § 3.32.130(A) of the North Slope Borough Municipal Code or by state or federal law are similarly exempt from the sales tax imposed by this chapter.

B. All transactions excluded or exempted from the North Slope Borough use tax by § 3.32.100(A) or 3.32.130(B) of the North Slope Borough Municipal Code or by state or federal law are similarly exempt from the use tax imposed by this chapter.

(Ordinance No. 94-03.)

#### **Section 4.20.040 Collection.**

A. All sums collected as sales tax by a seller in any calendar month shall be paid over to the North Slope Borough in the same manner, at the same time, and

under the same procedures and regulations of the North Slope Borough as are applicable to the North Slope Borough Sales and Use Tax.

B. The amount of the tax to be added to the sales price, rental, or charge shall be equal to the amount of the North Slope Borough sales or use tax applicable to the transaction.

(Ordinance No. 94-03.)

**Section 4.20.050 Seller's sales tax return.**

Every seller required to collect or pay the sales or use tax imposed by this chapter shall prepare and file with the North Slope Borough, at the time and in the manner specified by the Borough, the tax return provided for by Chapter 3.32 of the North Slope Borough Municipal Code.

(Ordinance No. 94-03.)

**Section 4.20.060 Application of sales and use tax to A.S. 43.56 property.**

A. This section governs and limits sales and use taxes imposed on the retail sale or use of taxable property as defined by A.S. 43.56.210(6) (hereinafter "A.S. 43.56 property"), and services used or associated therewith.

B. It is the intent of this section to impose a sales tax on every retail sale or use within the City of Wainwright of A.S. 43.56 property, and the performance within the City of Wainwright of all services used or associated therewith, which are also taxed by the North Slope Borough pursuant to § 3.32.450 of the North Slope Borough Municipal Code. It is the further intent of this section to permit the clerk and taxpayers in the City of Wainwright to rely upon determinations by the Mayor of the North Slope Borough that a particular transaction is or is not taxable under § 3.32.450 as a conclusive determination that the same transaction is or is not similarly taxable pursuant to this section. Every sale or use excepted or exempted by § 3.32.450(D) of the North Slope Borough Municipal Code shall be similarly exempt from the tax levied under this section.

C. The sales tax levied pursuant to § 4.20.010 of this Code, at the rate specified therein, is hereby imposed upon every retail sale or use within the City of Wainwright of A.S. 43.56 property actually taxed by the North Slope Borough pursuant to § 3.32.450 of the North Slope Borough Municipal Code, and upon the performance within the City of Wainwright of all services used or associated

therewith actually taxed by the North Slope Borough pursuant to § 3.32.450 of the North Slope Borough Municipal Code.

D. Only the first one thousand dollars (\$1,000.00) of each taxable sale, as defined by § 3.32.450(C) of the North Slope Borough Municipal Code, shall be taxed pursuant to this section.

E. When not in conflict with the provisions of this section, all other provisions of this chapter shall apply to transactions covered by this section.

(Ordinance No. 94-03.)

#### **Section 4.20.070 Liability of seller.**

The seller shall be accountable to the city for the amount of the tax on each taxable transaction. If the seller neglects, fails, or refuses to collect the tax on any taxable transaction, the seller shall nevertheless be liable to the city for the amount of the tax on that sale.

(Ordinance No. 94-03.)

#### **Section 4.20.080 Absorption of tax prohibited.**

No person shall advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the sales or use tax, or that he will relieve the purchaser, consumer, or lessee of the payment of all or any part of the tax. Any person who violates this section is guilty of an infraction. Each specific transaction with respect to which a person violates this section, or, if the violation is not related to any specific transaction, each day upon which a person violates this section, shall constitute a separate violation.

(Ordinance No. 94-03.)

#### **Section 4.20.090 Violations.**

A. Any seller who neglects or refuses to collect and pay over to the North Slope Borough the sales and/or use tax levied by this chapter shall be guilty of an infraction. Each failure to collect or pay over the tax shall constitute a separate violation.

B. Any seller who engages in business in the city without obtaining a certificate of registration required by § 3.32.160 of the North Slope Borough Municipal Code, or after such a certificate of registration has been suspended or revoked, and each officer of any corporation which so engages in business shall be guilty of an infraction. Each day's continuance in business in violation of this subsection is a separate offense.

C. Any seller subject to the provisions of this chapter who fails or refuses to make any return hereby required to be made, or who fails or refuses to make or furnish any supplemental return or other data required by the North Slope Borough Mayor, or who makes a false or fraudulent return with intent to evade the tax levied by this chapter, or who makes a false or fraudulent claim for refund, or who gives or knowingly receives a false or fraudulent exemption certificate, or who violates any other provision of this chapter (including provisions incorporated by § 4.20.130), punishment for which is not otherwise herein provided, is guilty of an infraction.

(Ordinance No. 94-03.)

#### **Section 4.20.100 Enforcement.**

A. The mayor, when any tax becomes delinquent under this chapter, shall file suit for its collection, together with the collection of any penalties and interest due thereon within one hundred twenty (120) days after such tax originally became due and payable. Nothing in this section shall bar the filing of any such action later than such time, nor shall anything in this section constitute a defense to any such suit filed after such time.

B. The mayor, when any other violation of this chapter is occurring or has occurred, may file suit to collect the penalties provided by this chapter or to enjoin the continuation of the violation.

C. The mayor may negotiate the settlement of any suit or other dispute arising under this chapter.

(Ordinance No. 94-03.)

#### **Section 4.20.110 Application of proceeds.**

Funds collected by the North Slope Borough pursuant to this chapter shall be promptly remitted to the clerk and deposited in a separate account approved by the council.

(Ordinance No. 94-03.)

#### **Section 4.20.120 Definitions.**

A. "Seller" means every person in this city who makes any retail sale or sales of tangible personal property or services or who leases or rents any tangible personal property or real property to any other person, the receipts from which are taxed by this chapter. "Seller" also means any person who is a "dealer" as defined by § 3.32.010(C) of the North Slope Borough Municipal Code in this city or with respect to transactions in this city.

B. "Buyer" means every person in this city who makes any retail purchase or purchases of tangible personal property or services or who leases or rents any tangible personal property or real property from any other person, the cost of which is taxed by this chapter.

C. "Taxable Sale" means every sale of tangible personal property and every lease or rental of tangible personal property or real property, or any sale of services whatsoever, whether professional, personal, pursuant to contract, subcontract, or otherwise, excluding only services rendered by an employee to an employer.

D. Other Terms. Except where the context requires otherwise, or when in conflict with this chapter, the definitions of terms given in Chapter 3.32 of the North Slope Borough Municipal Code are hereby adopted and incorporated by reference. In such incorporated definitions, the terms "the borough," "in the borough," "in this borough," and "out-of-borough" shall be read as "the city," "in the city," "in this city," and "out-of-city," respectively, and shall refer to the City of Wainwright rather than the North Slope Borough.

(Ordinance No. 94-03.)

**Section 4.20.130 Adoption of provisions of borough ordinance.**

Except to the extent that they may conflict with or be inapplicable to the provisions of this chapter, the provisions of Chapter 3.32 of the North Slope Borough Municipal Code are hereby adopted and incorporated by reference. References to "the borough" or its agencies and officers in such incorporated provisions shall be interpreted so as to effectuate the intent of this chapter that the tax imposed by this chapter be administered and collected on behalf of the city by the North Slope Borough, that the full amount of tax to which the city is entitled hereby, but only that amount, be collected and paid over to the city, and that, consistent with these goals, the cost of administering and collecting the tax imposed by this chapter be kept to a minimum.

(Ordinance No. 94-03.)

**TITLE 6**

**BUSINESS LICENSES AND REGULATIONS**

**Chapters:**

Chapter 6.04 Business Licenses

Chapter 6.08 Business Hours

Chapter 6.12 Taxicabs

## Chapter 6.04

### BUSINESS LICENSES

Section: Business Licenses

Mayor's Signature: \_\_\_\_\_ Date Approved: \_\_\_\_\_

Supercedence:

Updated Ordinance 94-04

## CHAPTER 6.04

### BUSINESS LICENSES

#### Sections:

|          |   |
|----------|---|
| 6.04.010 | Required – Application                      |
| 6.04.020 | Application Deadline –Term                  |
| 6.04.025 | Records                                     |
| 6.04.030 | Scope                                       |
| 6.04.040 | Nontransferability                          |
| 6.04.050 | Temporary                                   |
| 6.04.060 | Annual Fee                                  |
| 6.04.070 | Deposit of Fees and Penalties               |
| 6.04.080 | Denial – Grounds                            |
| 6.04.090 | Appeals                                     |
| 6.04.100 | Renewal Denial                              |
| 6.04.110 | Appeal to City Council                      |
| 6.04.120 | Suspension or Revocation – Grounds          |
| 6.04.130 | Suspension or Revocation – Surrender        |
| 6.04.140 | Suspension or Revocation – Notice – Hearing |
| 6.04.150 | Violations                                  |

Appendix of forms following Section 6.04.150

Form 6.04-A Business License Application

(Repealed by Ordinance No. 01-05 § 1.)

Form 6.04-B Business License

**Section 6.04.010 Required – Application**

- A. For the privilege of engaging in business in the city, the business being subject to licensure under AS 43.70.020(a), a person shall:
1. Apply on forms supplied by the city clerk for such license;
  2. Pay fee(s) required under this chapter;
  3. Present proof of issuance of state business license ;
  4. .
- B. No license or permit may be issued to a person who has had his license or permit suspended or revoked within six (6) months prior to date of making the application.

**Section 6.04.020 Application Deadline – Term**

All applications for a city business license must be filed with the city clerk within fifteen (15) calendar days from the commencement of business operations. Applications for renewal of a business license shall be made before January 1<sup>st</sup> of each year. All licenses shall be effective when issued and shall expire on December 31<sup>st</sup> of the calendar year of issuance.  
(Ordinance No. 94-04.)

**Section 6.04.025 Records**

The city clerk shall keep a record of all licenses granted by the municipality, showing the date issued, to whom issued, the amount collected, and the date of expiration.  
(Ordinance No. 94-04.)

**Section 6.04.030 Scope**

A license issued to a firm for a particular line of business covers all of its operations within the city in that line of business regardless of the number of establishments.  
(Ordinance No. 94-04.)

**Section 6.04.040 Nontransferability**

A license issued shall be nontransferable.

**Section 6.04.050 Temporary**

(Ordinance No.94-04; Repealed by Ordinance No. 01-05 § 2.)

**Section 6.04.060 Annual Fee**

- A. The annual fee for issuance of a city business license is twenty-five dollars (\$25.00).  
B. Any fee for a license or permit shall be for the purpose of defraying the costs of regulation, and shall not be a tax against any business.  
(Ordinance No. 94-04.)

**Section 6.04.070          Deposit of Fees and Penalties**

All license fees, fines and forfeitures collected under the provisions of this chapter shall be deposited into the city treasury. In addition to any penalties provided thereunder, an action may be instituted by the city for the collection of license fees, fines and forfeitures and other moneys or properties due it under the provisions of this chapter.

(Ordinance No. 94-04.)

**Section 6.04.080          Denial – Grounds**

- A. If the clerk finds, after investigation, that the applicant has violated any local, state or federal laws, the violation(s) of which reflect(s) unfavorably on the fitness of the applicant to conduct the business to be licensed, the clerk shall deny the license application.
- B. If the clerk finds, after investigation, that the premises or buildings to be used by the business seeking licensure are in an unsafe condition, or are constructed or operated in such a way as to be detrimental to the public welfare as expressed by relevant city, borough, state or federal laws, the clerk shall deny the license application.
- C. If the clerk, after investigation, finds that any information on the license application form is incorrect, the clerk shall deny the license application.

(Ordinance No. 94-04.)

**Section 6.04.090          Appeals**

- A. If the clerk refuses to issue an initial city business license, the clerk shall notify the applicant, in writing, within two (2) calendar weeks of the license denial. The applicant may appeal to the clerk within two (2) weeks from the date of receipt of the notice of denial. The clerk will review the application and schedule a meeting within two (2) calendar weeks with the person(s) whose license application was rejected. After this meeting, the clerk shall order that the license be:
  - 1. Issued;
  - 2. Not issued;
  - 3. Issued subject to conditions.
- B. Any applicant may appeal the clerk's decision using the procedures set forth in §6.04.110.

(Ordinance No. 94-04.)

**Section 6.04.100          Renewal Denial**

If the clerk refuses to renew a city business license, all of the provisions of §6.04.090 shall apply, with the following addition: The clerk shall issue a temporary business license to the applicant, which will remain in effect until all of the procedures contained in §6.04.090 have been followed.

(Ordinance No. 94-04.)

**Section 6.04.110          Appeal to City Council**

- A. An applicant or licensee desiring to appeal the decision of the clerk shall, within two (2) calendar weeks after the decision is rendered by the clerk, file a written notice of appeal to the city council, this notice of appeal being filed with the city clerk. The notice of appeal

shall state with particularity the order or decision from which the appeal is taken and shall also state the grounds of the appeal. These stated grounds will be the only issues considered by the city council in the appeal.

- B. Filing a notice of appeal will only operate to stay the clerk's decision which denied the reissuance of a license. The denial of an initial issuance is not stayed.
- C. Upon receipt of the notice of appeal, the clerk shall set a date for a hearing before a duly constituted quorum of the city council. The clerk shall notify the applicant of the date, time and place of the hearing. The notice of the appeal shall be given at least three (3) days in advance of the hearing.
- D. After the hearing, the city council may modify, revoke, rescind or affirm the order from which the appeal is taken, or may enter its own order. The decision of the city council is final, reversible only by an appropriate court of law.

(Ordinance No. 94-04.)

**Section 6.04.120      Suspension or Revocation – Grounds**

- A. Whenever the city council determines that any licensee is conducting a business licensed by the city in a manner which violates any city, local, state or federal law(s), the council shall order the clerk to suspend or revoke the business license of the business in question.
- B. Whenever the city council determines that a licensee has violated any law(s) of the city, local, state of United States, the violation(s) of which reflect unfavorably on the fitness of the licensee to conduct the business which is licensed, the council shall order the clerk to suspend or revoke the business license in question.
- C. Whenever the city council determines that a business license was procured through fraud or misrepresentation, the council shall order the clerk to suspend or revoke the business license in question.

(Ordinance No. 94-04.)

**Section 6.04.130      Suspension or Revocation – Surrender**

Whenever any licensee is informed by the clerk that their license has been suspended or revoked, the licensee will surrender their city business license to proper authorities upon demand.

(Ordinance No. 94-04.)

**Section 6.04.140      Suspension or Revocation – Notice – Hearing**

- A. Whenever the city council is considering the suspension or revocation of a business license, the person(s) whose license is to be suspended or revoked shall be so notified in writing with the specific reason(s) for the suspension or revocation set forth in detail.
- B. The licensee may file a written request for a hearing before the city council. This request must be filed within two (2) calendar weeks from the date the licensee received notice of pending suspension or revocation. The licensee's request for a hearing shall be filed with the clerk, who shall set a date for the hearing before a

duly constituted quorum of the city council. If no notice of appeal has been filed with the clerk within the allotted two (2) calendar week period, the licensee is deemed to have waived his right of appeal. The clerk shall notify the licensee of the date, time and place of the hearing, this notice being given at least three (3) days in advance of the hearing.

- C. After the hearing, the city council may modify, revoke, rescind or affirm its decision to revoke or suspend the business license in question. The decision of the city council is final, reversible only by an appropriate court of law.

(Ordinance No. 94-04.)

#### **Section 6.04.150          Violations**

- A. It is a violation of this chapter for a person who is required to obtain a city business license to engage in business in the city without such a license, subject, however, to the provisions of § 6.04.020. Each day in which a person so engages in business shall be subject to a civil penalty of one hundred dollars (\$100.00) for each day of violation. The city shall collect this penalty in such civil proceedings as it deems appropriate.
- B. It is a violation of this chapter for a person who applies for a business license to make, willfully or otherwise, an erroneous or fraudulent statement in the application. A person committing such violation shall be subject to a civil penalty of five hundred dollars (\$500.00). The city shall collect this penalty in such civil proceedings as it deems appropriate.
- C. If a person commits a violation of this chapter, the city may seek such declaratory or injunctive relief in the Superior Court for the state as it deems appropriate, to declare the rights of the parties and restrain the violation.
- D. A violation of this chapter is a criminal offense punishable by a fine of up to five hundred dollars (\$500.00) and/or imprisonment for up to thirty (30) days.

(Ordinance No. 94-04.)

**Chapter 6.08**

**BUSINESS HOURS**

Sections:

6.08.010 Designated.

**Section 6.08.010 Designated.**

All establishments within the city shall remain closed from 2:00 a.m. until 6:00 a.m.

(Ordinance No. 94-04; Repealed and Re-enacted by Ordinance No. 01-05 §3.)

## Chapter 6.12

### TAXICABS

#### Sections:

- 6.12.010 Definitions.
- 6.12.020 Certificate of public convenience and necessity required.
- 6.12.030 Application for certificate.
- 6.12.040 Issuance of certificate.
- 6.12.050 Number of taxicabs.
- 6.12.060 Insurance.
- 6.12.070 License fee.
- 6.12.080 Transfer of certificate.
- 6.12.090 Suspension or revocation of certificate.
- 6.12.100 Driver's license.
- 6.12.110 Daily manifests.
- 6.12.120 Parking or standing.
- 6.12.130 Rate card.
- 6.12.140 Fares and charges.
- 6.12.150 Nonpaying passengers -- Multiple fares.
- 6.12.160 Receipts.
- 6.12.170 Refusal to pay fare.
- 6.12.180 Solicitation.
- 6.12.190 Loading and unloading.
- 6.12.200 Number of passengers.
- 6.12.210 Refusal to carry.
- 6.12.220 Soliciting for hotels.
- 6.12.230 Passengers waiting for another cab.
- 6.12.240 Dispatch hours -- Service standard.
- 6.12.250 Taxicab safety.
- 6.12.260 Taxicab drivers' working hours.
- 6.12.270 Violation -- Penalty.

#### **Section 6.12.010 Definitions.**

The following words and phrases, when used in this chapter, have the meanings as set out in this section:

A. "Certificate" means a certificate of public convenience and necessity issued by the city council and signed by the clerk authorizing the holder thereof to conduct a taxicab business in the city.

B. "Holder" means a person to whom a certificate of public convenience and necessity has been issued.

C. "Manifest" means a daily record prepared by a taxicab holder of all trips made by the holder showing the time and place of origin, destination, number of passengers and the amount of fare of each trip.

D. "Person" includes an individual, a corporation or other legal entity, a partnership, and any unincorporated association.

E. "Taxicab" means a motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of fewer than ten (10) persons and not operated on a fixed route.

(Ordinance No. 94-04.)

#### **Section 6.12.020 Certificate of public convenience and necessity required.**

No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire within the city without having first obtained a certificate of public convenience and necessity from the city council.

(Ordinance No. 94-04.)

#### **Section 6.12.030 Application for certificate.**

A. An application for a certificate shall be filed with the city clerk upon forms provided by the city, and the application shall be verified under oath and shall furnish the following information:

1. the name and address of the applicant;
2. the financial status of the applicant, including amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to the judgments;

3. the experience of the applicant in the transportation of passengers;
4. any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate;
5. the number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals;
6. the color scheme or insignia to be used to designate the vehicle or vehicles of the applicant;
7. the location and address of the off-street parking lots within the corporate limits of the city;
8. the applicant must state on the application that he has not in the past and must promise on the application that he will not, during the term of the license, use any vehicle operated or controlled by the applicant to further, promote, aid or abet violations of the Alaska alcoholic beverage control laws or regulations, laws related to controlled substances or city ordinances regulating the sale and/or possession for sale of alcoholic beverages; and
9. such further information as the clerk may require.

B. At the time of application each operator shall file with the city clerk a copy of his Federal Communications Commission license for his shortwave radio, or a copy of his application for an F.C.C. license.

(Ordinance No. 94-04.)

#### **Section 6.12.040 Issuance of certificate.**

If the council finds:

- A. That further taxicab service in the city is required by the public convenience and necessity; and
- B. That the applicant is fit, willing and able to perform such public transportation and to conform to the provisions of this chapter; and
- C. That the statements in the application are truthful; and

D. That the applicant is willing and able to fulfill its promise on the application not to further, promote, aid or abet violations of the Alaska alcoholic beverage control laws and regulations, or laws related to controlled substances, or city ordinances regulating the sale or possession for sale of alcoholic beverages; then the council shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate, and the date of issuance. Otherwise, the application shall be denied.

(Ordinance No. 94-04.)

#### **Section 6.12.050 Number of taxicabs.**

In making the fording of public convenience and necessity, the council shall take into consideration the number of taxicab already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service or local traffic conditions, and the character, experience and responsibility of the applicant. However, no more than six (6) certificates shall be outstanding at one time.

(Ordinance No. 94-04; Amended by Ordinance No. 0 1-05.)

#### **Section 6.12.060 Insurance.**

Each taxicab operated under a certificate issued under this chapter shall carry liability insurance and property damage insurance with minimum limits in the amounts of one hundred fifty thousand dollars (\$150,000.000) and fifteen thousand dollars (\$15,000.00) respectively, and shall at the request of the clerk produce certificates of insurance to this effect for inspection by the clerk.

(Ordinance No. 94-04.)

#### **Section 6.12.070 License fee.**

No certificate shall be issued or continued on operation unless the holder thereof has paid an annual license fee of twenty-five dollars (\$25.00) for the right to engage in the taxicab business and twenty-five dollars (\$25.00) each year for each vehicle operated under a certificate of public convenience and necessity. The license

fees shall be for one (1) calendar year, and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder of the vehicle or vehicles under his operation and control.

(Ordinance No. 94-04.)

**Section 6.12.080 Transfer of certificate.**

No certificate of public convenience and necessity may be sold, assigned, leased or otherwise transferred without the approval of the council.

(Ordinance No. 94-04.)

**Section 6.12.090 Suspension or revocation of certificate.**

A. A certificate issued under the provisions of this chapter may be revoked or suspended if the holder thereof has:

1. violated any of the provisions of this chapter; or
2. made any false statement or violated any promise entered into at the time of the application for the license; or
3. discontinued operations for more than fifteen (15) days; or
4. been convicted of any felony under the laws of the United States or laws of the state; or
5. been convicted of any other violations of federal, state, or local law, regulation or ordinance which would reflect unfavorably on the fitness of the holder to offer public transportation.

B. If the clerk has reason to believe that there are grounds for revocation or suspension of the license, the clerk should give notice of intent to suspend or revoke the license, specify the grounds and then shall prosecute the case before the city council, with the licensee to have notice and an opportunity to be heard before the council. The council's action is final and may be appealed to the Superior Court as provided by the Alaska Rules of Appellate Procedure.

(Ordinance No. 94-04.)

**Section 6.12.100 Driver's license.**

No person shall operate a taxicab for hire upon the streets of the city, and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab licensed by the city shall be so at any time for hire, unless the driver of the taxicab shall have first obtained and shall have then in force a motor vehicle operator's license issued under the provisions of Alaska law.

(Ordinance No. 94-04.)

**Section 6.12.110 Daily manifests.**

A. Every holder shall maintain a daily manifest upon which is recorded all trips made each day, showing time and place of origin, destination of each trip made each day, amount of fare, driver and the hours of each driver's work. The form of manifest shall be approved by the clerk.

B. Every holder of a certificate of public convenience and necessity shall retain and preserve all manifests in a safe place for at least the calendar year next preceding the current calendar year, and the manifests shall be available to the clerk.

(Ordinance No. 94-04.)

**Section 6.12.120 Parking or standing.**

No taxicab shall park or stand on any street except while actually engaged in normal business. Each operator shall provide off street parking for all taxicabs when not engaged in the transporting of passengers; provided, however, that when the taxicab is parked and is on charter or being used for personal business, it shall display a sign stating that such taxicab is not available for hire.

(Ordinance No. 94-04.) **Section**

**6.12.130 Rate card.**

Every taxicab operated under this fare shall have a rate card setting forth the rates of fare displayed in such a place as to be in view of all passengers.

(Ordinance No. 94-04.)

**Section 6.12.150 Nonpaying passengers -- Multiple fares.**

A. The driver shall not transport his friends and relatives or any other nonpaying passenger(s) in a hired cab.

B. The driver shall not have more than one (1) fare in the cab at any time. (Ordinance No. 94-04.)

**Section 6.12.160 Receipts.**

The driver of any taxicab shall upon demand by the passenger render to such passenger a receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the owner, license number or cab number, amount of meter reading or charges.

(Ordinance No. 94-04.)

**Section 6.12.170 Refusal to pay fare.**

It is unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this chapter after having hired the same, and it is unlawful for any person to hire any vehicle defined in this chapter with intent to defraud the person from whom it is hired of the value of such service.

(Ordinance No. 94-04.)

**Section 6.12.180 Solicitation.**

A. No driver shall solicit passengers for a taxicab except when sitting in the driver's compartment of such taxicab or while standing immediately adjacent to the curb side thereof. The driver of any taxicab shall remain in the driver's compartment or immediately adjacent to his vehicle at all times when such vehicle is upon the public streets; except that, when necessary, a driver may be absent from his taxicab for not more than thirty (30) consecutive minutes, except in an emergency;

and provided further, that nothing contained in this subsection shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of such vehicle, or when the taxicab is not in normal business.

B. No driver shall solicit patronage in a loud and annoying tone of voice or by sign, or in any manner annoy any person or obstruct the movement of any person, or follow any person for the purpose of soliciting patronage. Furthermore, it is expressly prohibited for any driver to publicize his/her arrival at any location by the blowing of an automobile horn or any similar noise-making device.

C. No driver shall cruise in search of passengers.

(Ordinance No. 94-04.)

#### **Section 6.12.190 Loading and unloading.**

Drivers of taxicabs, except in an emergency, shall not receive or discharge passengers in the roadway, but shall pull up to the right-hand side of the road, and there receive or discharge passengers, except upon one-way streets, where passengers may be discharged at either the right-hand or left-hand side of the roadway.

(Ordinance No. 94-04.)

#### **Section 6.12.200 Number of passengers.**

No driver shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of his taxicab as stated in the license for the vehicle issued by the police department. A child in arms shall not be counted as a passenger.

(Ordinance No. 94-04.)

#### **Section 6.12.210 Refusal to carry.**

No driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this chapter to do so, unless there is good reason therefore.

(Ordinance No. 94-04.)

**Section 6.12.220 Soliciting for hotels.**

It is a violation of this chapter for any driver of a taxicab to solicit business for any hotel, or to attempt to divert patronage from one hotel to another.

(Ordinance No. 94-04.)

**Section 6.12.230 Passengers waiting for another cab.**

It is a violation of this chapter for any driver to pick up a passenger when he knows or has reason to know that the passenger called another cab company for a cab and is waiting for that cab.

(Ordinance No. 94-04.)

**Section 6.12.240 Dispatch hours -- Service standard.**

All persons engaged in the taxicab business in the city operating under the provisions of this chapter shall render an overall service to the public convenience and necessity, shall maintain a central place of business and keep the same open fourteen (14) hours a day for the purpose of receiving calls and dispatching cabs. They shall answer all calls received by them for services inside the corporate limits as soon as they can do so, and if the services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give reason therefore. Any holder who refuses to accept a call anywhere in the corporate limits at any time when such holder has cabs available, except as provided in § 6.12.210, is a violator of this chapter, and the certificate granted to such holder shall be revoked.

(Ordinance No. 94-04.)

**Section 6.12.250 Taxicab safety.**

A. The holder shall maintain his or her taxicabs in a safe and clean condition.

B. It is a violation of this section to operate taxicabs upon which:

1. a tire or tires are flat;
2. any headlights and/or turn signals are inoperable;
3. the doors do not open or shut;
4. the brakes are not in proper working order;
5. the gasoline entry is not capped;
6. the rear-view mirror is missing;
7. the windows or windshields are broken; or
8. contains other defects known to the holder which threaten the safety of the driver and/or passengers.

(Ordinance No. 94-04.)

**Section 6.12.260 Taxicab drivers' working hours.**

A. No person employed by the holder to operate the holder's taxicabs may operate a taxicab nor perform any other gainful occupation, driving or otherwise, for more than twelve (12) hours in any twenty-four (24) hour period.

(Ordinance No. 94-04.)

**Section 6.12.270 Violation -- Penalty.**

Violations of this chapter are infractions punishable by a fine of up to three hundred dollars (\$300.00), in addition to suspension or revocation of the certificate under § 6.12.090.

(Ordinance No. 94-04.)

## **TITLE 8**

### **HEALTH AND SAFETY**

#### Chapters:

Chapter 8.04 Removal of Abandoned Vehicles and Personal Property.

Chapter 8.08 Fireworks.

Chapter 8.12 Nuisances.

Chapter 8.16 Firearms, Weapons and Explosives.

Chapter 8.20 Protection of Watershed.

Chapter 8.24 Motor Vehicles.

Chapter 8.28 Animal Control.

## **Chapter 8.04**

### **REMOVAL OF ABANDONED VEHICLES AND PERSONAL PROPERTY**

#### **Sections:**

- 8.04.010 Definitions.
- 8.04.020 Abandonment unlawful.
- 8.04.030 Nuisance declared -- Notice of removal.
- 8.04.040 Contractors.
- 8.04.050 Disposal -- Reclamation.
- 8.04.060 Costs.
- 8.04.070 Summary removal.

#### **Section 8.04.010 Definitions.**

As used in this chapter:

1. "Abandoned" means any vehicle or personal property left abandoned, parked, stored, junked, wrecked, stripped, disposed of or otherwise unattended for a period of seven (7) or more days following notice of removal.
2. "Personal property" means personal property as defined by § 1.04.010(M), but excludes refuse as defined by § 8.12.010(C).
3. "Vehicle" means vehicle as defined in A.S. 28.40.100(a)(17).

(Ordinance No. 94-05; Amended by Ordinance No. 01-06.)

#### **Section 8.04.020 Abandonment unlawful.**

It is unlawful for any person to abandon any vehicle or personal property in any street or on any city property not set aside as a disposal site for abandoned vehicles or personal property. Refuse or any other matter which is deposited in any street or other public property and which is dangerous to the public health or safety or obnoxious or offensive shall be removed in accordance with chapter 8.12.

(Ordinance No. 94-05.)

#### **Section 8.04.030 Nuisance declared -- Notice of removal.**

Any vehicle or personal property abandoned under this chapter may be declared a public nuisance. The mayor may impound an abandoned vehicle or abandoned personal property if:

1. the mayor has declared that the property to be impounded is a public nuisance;
2. notice of intent to remove abandoned property has been given in one of the following ways:
  - (a) the item in question has been ticketed by the borough department of public safety and the item is still unremoved four (4) days later;
  - (b) property has been left in the same place for four (4) days after general notices of removal are posted in at least three (3) conspicuous public places, designated by the mayor; or
  - (c) notice has been hand-delivered to the owner or sent by certified mail, stating that the vehicle will be removed within four (4) days from the date of postmark or delivery.

(Ordinance No. 94-05.)

#### **Section 8.04.040 Contractors.**

The mayor or his or her designee may cooperate or contract with any public or private organization for the purpose of impoundment, removal and storage of property.

(Ordinance No. 94-05.)

#### **Section 8.04.050 Disposal --Reclamation.**

Any property, after being impounded, removed and stored pursuant to this chapter for a period of thirty (30) days, may be sold, crushed or disposed of in any manner selected by the city as an economical, efficient means of disposal; provided, however, that if the property is a motor vehicle requirements of A.S. 28.11.040 through 28.11.060 shall be met. If the owner of any impounded property is known, a copy of the impoundment report will be sent to the last known address of that person, stating the reason for the impoundment, the place where the property is stored, and the procedure for reclaiming it. If the owner is unidentifiable, a report shall be made to the city citing the date of removal, individuals involved, place of storage and costs involved.

(Ordinance No. 94-05.

#### **Section 8.04.060 Costs.**

Any person who violates § 8.04.020 shall be liable to the city for the city's costs of removal, impoundment, storage, and disposal of abandoned property. If a vehicle or property is impounded or removed by city personnel or stored on city property, the owner shall be liable to the city for such reasonable fees as the council may establish for such services. An impounded vehicle or impounded property shall not be released to the owner until all such costs and/or fees have been paid. Costs or fees recovered under this section shall be allocated as directed by the council. Any such costs and fees shall be in addition to any penalty imposed pursuant to § 1.2 for violation of this chapter.

(Ordinance No. 94-05.)

#### **Section 8.04.070 Summary removal.**

Any vehicle or property for which a notice of removal is served and which is subsequently moved by the owner after it is declared a public nuisance, and is again observed to be abandoned in violation of this chapter, may at any future date, without prior seven (7) day notice of removal, be declared a public nuisance and immediately impounded and removed as outlined in this chapter.

(Ordinance No. 94-05.)

**Section: Chapter 8.28, Animal Control**

**Approved by:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Superceded:**

**Ordinance 2011-01**

**Ordinance 94-05**

**Section:**

|                 |  |
|-----------------|--|
| <b>8.28.010</b> | <b>Definitions</b>                             |
| <b>8.28.020</b> | <b>Scope, Intent</b>                           |
| <b>8.28.030</b> | <b>Records</b>                                 |
| <b>8.280.40</b> | <b>Enforcement – Interference Prohibited</b>   |
| <b>8.28.050</b> | <b>Identification Tag Required</b>             |
| <b>8.28.060</b> | <b>Immunization of Animals</b>                 |
| <b>8.28.070</b> | <b>Harboring Diseased Animals</b>              |
| <b>8.28.080</b> | <b>Cruelty and Abandonment</b>                 |
| <b>8.28.090</b> | <b>Puppies</b>                                 |
| <b>8.28.100</b> | <b>Liability</b>                               |
| <b>8.28.110</b> | <b>Females in Heat – Confinement</b>           |
| <b>8.28.120</b> | <b>Controlling Dangerous Animals</b>           |
| <b>8.28.130</b> | <b>Duty of Vehicle Operators</b>               |
| <b>8.28.140</b> | <b>Restraint</b>                               |
| <b>8.28.141</b> | <b>Loose Owner-less Dogs</b>                   |
| <b>8.28.142</b> | <b>Loose Owned Dogs</b>                        |
| <b>8.28.150</b> | <b>Disposal</b>                                |
| <b>8.28.160</b> | <b>Rabies Control</b>                          |
| <b>8.28.170</b> | <b>Animals Diagnosed as Rapid - Quarantine</b> |

**Section 8.28.010 Definitions**

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

- A. "Adoption" means to choose and upon payment of the fees, as lawful owner or owners to bring into one's home an animal from the city animal shelter.
- B. "Animal" means any dog as defined in subsection (G).

- C. "Animal bite" shall be considered to be a bite which breaks the skin from an animal that is known to be a possible vector of rabies.
- D. "Animal Control Officer or Officers" means the public health officer and his or her subordinates designated by the Borough in their collective capacity as administrators of this chapter.
- E. "Animal Shelter" means any premises designated by action of the animal control officer for the purpose of impounding and caring for all animals impounded pursuant to this chapter or Alaska statute.
- F. "At Large" means any dog not under restraint.
- G. "Dog" means any domesticated member of the family canidae.
- H. "Euthanasia" means to kill painlessly.
- I. "Humanely Destroy" means to kill an animal in such a way as to minimize mental and physical pain. Examples would be by intravenous injection of an acceptable euthanasia solution or by a shotgun, rifle or pistol shot to the head or heart.
- J. "Neutered Male" means any male animal that has been castrated.
- K. "Owner" means any person, partnership, or corporation owning, keeping or harboring, feeding or sheltering for three (3) days or more, one (1) or more animals.
- L. "Planned Breeding" means any purposeful breeding intended to perpetuate a specific animal type.
- M. "Protective Custody" means impoundment of an animal for its own protection.
- N. "Public Health Officer" means the borough administrative officer responsible for the investigation, collection, and dissemination of information regarding anything which causes harm to human health.
- O. "Public Nuisance" means any animal which molests passersby or passing vehicles, attacks other animals, trespasses on school grounds or other public or private property, is repeatedly at large, damages public or private property, or barks, whines, or howls excessively or continuously.
- P. "Restraint" means physical control, such as a leash, chain, fence or building; or competent voice, whistle, or hand signal control while engaged in an activity which requires that an animal not be physically restrained, in a form of recognized hunting that requires the use of an animal as a retriever or when on the property of the owner. The animal control officer shall determine if an animal is under competent control.
- Q. "Secure Enclosure" means an enclosure in which an animal is confined and does not have access to human beings or other animals.
- R. "Spayed Female" means any female animal which has an ovariectomy or ovariohysterectomy performed.

- S. "Vicious Animal" means any animal that when unprovoked inflicts bites or attacks human beings or other animals either on public or private property or in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places.

**Section 8.28.020      Scope; Intent**

Nothing in this chapter shall be interpreted to conflict with the North Slope Borough Regulations on domestic animals, it being the intent of the city to exercise that authority granted to it by AS 29.35.250(a) but not to establish regulations which would undermine the right and duty of the borough to regulate domestic animals as set forth in North Slope Borough Municipal Code Title 6.

**Section 8.28.030      Records**

The animal control officer in accordance with Chapter 1.24 shall keep or cause to be kept accurate and detailed records of:

- A. The impoundment and disposition of all animals coming into his custody.
- B. All animal bites reported to or investigated by him.
- C. The monies received, which records shall be open to inspection at reasonable times by persons acting for the State or borough and having responsibility for such records.
- D. All animals on which a tranquilizer gun is used. Any tranquilizer drug and dosage used shall be approved by a licensed veterinarian.
- E. All identification (i.e. tags, tattoos on legs or ears) and rabies certificates issued by him or her in accordance with this chapter.

**Section 8.28.050      Identification Tag Required**

Every dog at least six (6) months old must wear an identification tag around its neck which identifies the name and/or address of its owner. Owners are responsible for obtaining tags for their dogs from the animal control officer.

**Section 8.28.060      Immunization of Animals**

- A. No person shall own, keep or harbor an animal over six (6) months of age within the borough, unless such animal has been immunized against rabies within the past twelve (12) months. Immunization agents and procedures shall be consistent with

current recommendations of the National Association of State Public Health Veterinarians, Inc. Proof of immunization shall consist of a statement or receipt from a licensed veterinarian or a certified lay vaccinator.

- B. The animal control officer shall from time to time and at least annually, hold a rabies immunization clinic. The clinic shall be held at such times and places as to encourage the widest participation.

#### **Section 8.28.070      Harboring Diseased Animals**

No person shall knowingly own, harbor, or keep any animal infected with a contagious or pestilent disease, unless confined and under the care of a licensed veterinarian.

#### **Section 8.28.080      Cruelty and Abandonment**

- A. No person shall do the following:

- a. Fail to provide his or her animals with sufficient food and water, adequate shelter, veterinary care when needed to prevent suffering, protection from the weather, and humane care and treatment;
- b. Abandon or cause to be abandoned any animal;
- c. Commit or cause to be committed any act of cruelty, harassment, abandonment or torture to any animal, or cause such animal to be wounded, mutilated, strangled, or inhumanely killed;
- d. Cause, instigate or encourage any animal to fight with any other animal;
- e. Expose any known poisonous substance, whether mixed with food or not, so that such substance may threaten the life or wellbeing of any domesticated animal.

- B. Ownership of said animal shall not be justified defense for the acts prohibited under subsection (A).

- C. Nothing in the section shall prohibit:

- a. A person from capturing and holding a stray animal for delivery to its owner or the animal control officer, and killing an animal in defense of person or property, or humanely destroying an animal owned by him;
- b. An animal control officer or public safety officer from taking actions authorized under this chapter.

**Section 8.28.090      Puppies**

The owner of any litter of pups shall be responsible for the care and confinement of such pups for the rest of their lives unless they are otherwise provided with suitable homes or disposed of in accordance with §8.28.160 of this chapter.

**Section 8.28.100      Liability**

An owner shall be liable for repayment or replacement of any property destroyed by his or her animal.

**Section 8.28.110      Female in Heat – Confinement**

Every female animal "in heat" shall be kept confined in such a manner that such animal cannot come in contact with a male animal except for planned breeding purposes.

**Section 8.28.120      Control of Dangerous Animals**

The owner shall confine within a building or secure enclosure a dangerous animal, and shall not take such animal out of the building or secure enclosure unless it is muzzled or otherwise secured.

**Section 8.28.130      Duty of Vehicle Operators**

Any motor vehicle operator who strikes an animal shall immediately report the accident to the animal control officer.

**Section 8.28.140      Restraint**

- A. Every dog owner is responsible for keeping his or her animal restrained such that it does not pose a threat or become a public nuisance to any person or property.
- B. No person shall tie, stake, or fasten any animal within street, alley, sidewalk, or public place within the city or in such a manner that the animal has access to any portion of any street, alley, sidewalk, or public place therein.
- C. No person shall, without permission of the owner, release any animal from restraint except to preserve the animal's life.

the animal during the pendency of the appeal, then the animal shall not be destroyed until the city council hears the appeal.

**Section 8.28.170      Animals Diagnosed as Rabid – Quarantine**

- A. When any animal has been diagnosed by a licensed veterinarian as being rabid, the Animal Control Officer shall immediately notify the appropriate state and federal agencies and comply with all applicable state and federal regulation controlling rabies treatment and animal disposal.
- B. When the examination gives a positive diagnosis of rabies, the mayor or his designee may impose a city-wide quarantine for a period of thirty (30) days. During such quarantine, no animal shall be permitted off the owner's premises or in the public streets, nor may any animal be taken or shipped from the quarantine area without written permission from the animal control officer or the public health officer. Any animal found running at large during such quarantine shall be killed on site.
- C. During such quarantine as herein provided, every animal adjudged to be infected with rabies or bitten by an animal adjudged to be rabid shall immediately be destroyed at the direction of the Animal Control Officer or public health officer unless the animal has a current vaccination. These properly vaccinated animals must immediately receive a booster vaccination and be quarantined pursuant to this chapter to be adjudged rabies free.
- D. In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the mayor's discretion.
- E. Upon the recommendation of the Animal Control Officer, the mayor may put into effect for the period of the quarantine any necessary emergency regulations. These regulations shall be made public by means of an intensive information campaign through appropriate media. Such regulations shall be reported to the assembly.
- F. The carcass of any dead animal thought to have been exposed to rabies shall be surrendered to the Animal Control Officer.

#### **Section 8.28.141      Loose Owner-Less Dogs**

Any loose dogs posing a threat to a person or property within the City of Wainwright or any loose unattended and unidentifiable dog will be considered wild, abandoned or owner-less and will be subject to disposal without notification of the owner.

#### **Section 8.28.142      Loose Owned Dogs**

In the case of a loose, unattended dog, where ownership can be determined a city employee or official or public safety officer shall give the owner notice in writing of the dog's condition so that the owner may secure the dog in proper fashion. The notice shall state the date, time, and to whom delivered. The notice shall give the owner twenty four (24) hours from receipt in which to secure an unconfined dog. A copy of the notice as delivered shall be kept for the city and Public Safety Department's records. If at the expiration of the time certain in the first notice, a dog is still unconfined, it shall be disposed of by the Animal Control Officer or Public Safety Officer.

#### **Section 8.28.150      Disposal**

- A. The Animal Control Officer or in his or her absence a designee appointed by the mayor shall dispose of animals in a humane manner under any of the following conditions:
  - a. The animal is at large and the animal's owner cannot be identified or located;
  - b. The animal is vicious, at large and/or the owner has consented to the disposal. Vicious means any dog which unprovoked has ever bitten or attacked a human being;
  - c. The animal is found to have rabies;
  - d. An unvaccinated animal is bitten by a rabid animal during a quarantine provided in § 8.28.170; or
  - e. The animal has been given over to the Animal Control Officer for disposal by the owner.
- B. If an animal is considered vicious as provided in subsection (A)(2), and its owner does not consent to disposal, the animal shall be disposed of only upon judicial determination that the animal is vicious and subject to appeal as provided in subsection (c).
- C. If the owner files an appeal with the city council pursuant to Chapter 2.44 challenging the decision to dispose of the animal and agrees in writing to restrain

## **Chapter 8.08**

### **FIREWORKS**

#### **Sections:**

- 8.08.005 Definition.
- 8.08.010 Sale or use.
- 8.08.015 Public display permit.
- 8.08.020 [Reserved.]
- 8.08.030 Violations --Penalty.

#### **Section 8.08.005 Definition.**

As used in this chapter, "fireworks" means salable fireworks as defined by A.S. 18.72.050(4).

(Ordinance No. 94-05.)

#### **Section 8.08.010 Sale or use.**

The offering for sale, exposure for sale, sale, use, or explosion of fireworks, except as provided by § 8.08.015, is hereby prohibited.

(Ordinance No. 94-05.)

#### **Section 8.08.015 Public display permit.**

A. The council may, by resolution, grant to an individual or organization a permit for a community fireworks display associated with a holiday or special event.

B. The individual to whom the permit is granted, or, if the permit is granted to an organization, the person designated in the permit as the fireworks supervisor, must personally supervise the storage, handling, and display of fireworks, and shall be personally responsible for compliance with this chapter and with the requirements of A.S. 18.72 and 13 AAC 51.

(Ordinance No. 94-05.)

**Section 8.08.020 [Reserved.]**

**Section 8.08.030 Violation -- Penalty.**

Violation of any provision of this chapter is an infraction punishable by a fine of not more than one hundred dollars (\$100.00).

(Ordinance No. 94-05.)

## **Chapter 8.12**

### **NUISANCES**

#### Sections:

- 8.12.010 Definitions.
- 8.12.020 Dangerous nuisances.
- 8.12.030 Obnoxious nuisances.
- 8.12.040 Violations.

#### **Section 8.12.010 Definitions.**

As used in this chapter:

1. "Mayor" means the mayor or his or her designee.
2. "Owner" means the owner (as defined in § 1.04. 010(K)), lessee, or other person in possession or control of any premises.
3. "Person" means person as defined in § 1.04.010(L).
4. "Refuse" means garbage, sewage, ashes, cinders, litter, surplus construction materials or debris, offal, dead animal or animal part, oil, tar, petroleum distillate, chemical, radioactive material, industrial waste and all other liquid or solid putrescible and nonputrescible wastes, from all public and private establishments and residences.

(Ordinance No. 94-05.)

#### **Section 8.12.020 Dangerous nuisances.**

- A. A person shall not place or deposit or cause or allow to be placed or deposited upon either any city property, or upon any premises of which he or she is the owner, any refuse or any other matter or thing which would produce or aggravate the spread of disease or in any way endanger the health or safety of the community.

B. If the mayor finds that any refuse or other matter placed or deposited in violation of subsection (A) of this section is dangerous to the health or safety of the community, he or she shall declare it to be a public nuisance and order its immediate removal. If the dangerous material is found on private property, the owner of the premises shall remove the nuisance upon the mayor's order. If the owner of the premises fails to immediately remove the nuisance or the matter is found on city property, the mayor shall either promptly remove the matter or appoint a person or persons to remove it.

(Ordinance No. 94-05.)

#### **Section 8.12.030 Obnoxious nuisances.**

No owner, lessee, or other person in possession or control of any premises shall place or deposit or allow to be placed or deposited upon such premises any refuse or other matter which is obnoxious or offensive to the community.

(Ordinance No. 94-05.)

#### **Section 8.12.040 Violations.**

A. A person who willfully violates § 8.12.020(A) or who willfully fails to comply with a removal order issued pursuant to §8.12.020(B) after actual notice of the order and reasonable opportunity to comply is guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than one thousand dollars (\$1,000.00) and imprisonment for a period of not more than thirty (30) days.

B. Any other violation of this chapter is an infraction and subjects the violator to the penalty prescribed by § 1.28.010.

C. In addition to any penalty imposed under this chapter, any person who violates § 8.12.020(A) or 8.12.030 by placing refuse or other obnoxious, offensive, or dangerous material on any property shall be liable to the city for the costs incurred by the city in removing the refuse or other material and abating or mitigating the effects of the nuisance caused thereby.

(Ordinance No. 94-05.)

## Chapter 8.16

### FIREARMS, WEAPONS AND EXPLOSIVES

#### Sections:

- 8.16.010 Definitions.
- 8.16.020 Carrying a concealed weapon.
- 8.16.030 Switchblade knives.
- 8.16.040 [Reserved.]
- 8.16.050 Possession of dangerous weapon on school grounds.
- 8.16.060 Carrying loaded firearms.
- 8.16.070 Discharge of firearms -- Prohibited.
- 8.16.080 Explosives.
- 8.16.090 Exclusions.
- 8.16.100 Violations.

#### **Section 8.16.010 Definitions.**

As used in this chapter:

A. "Dangerous weapon" means a firearm, an air gun or BB gun, knife other than an ordinary pocketknife having a blade not more than three and one-half (3 1/2) inches in length, dagger, slingshot, crossbow, metal knuckles, blackjack, billy or any other instrument the use of which may readily inflict physical injury upon any person, but does not include any instrument or tool not commonly used as or considered to be a weapon and which in the circumstances under which it is possessed or used is clearly not intended to be used, or to be available for use, as a weapon.

B. "Explosive device" means a device containing explosives as defined by A.S. 11.81.900(b)(19).

C. "Firearm" means a weapon, including a pistol, revolver, rifle, shotgun or airgun, whether loaded or unloaded, operable or inoperable, designed for discharging a shot or projectile capable of causing death or physical injury.

D. "Possession" means physical possession or the exercise of dominion or control.

E. "Switchblade knife" means any knife having a blade which opens automatically:

1. by hand pressure applied to a button or other device in the handle of the knife; or
2. by operation of inertia, gravity or both.

(Ordinance No. 94-05.)

#### **Section 8.16.020 Carrying a concealed weapon.**

A. No person shall knowingly possess a concealed dangerous weapon on or about his or her person, or within his or her reach in a vehicle.

B. As used in this section:

1. a dangerous weapon is "concealed" on or about a person if it is covered or enclosed in any manner on or in the immediate arm's reach of a person and cannot be seen and determined to be a weapon without removing it from that which covers or encloses it or without opening, lifting or removing that which covers or encloses it.

2. a dangerous weapon is "concealed" in a vehicle if it is within arm's reach of a person occupying a vehicle and cannot be seen without opening the door of or entering the vehicle or without removing the weapon from that which covers or encloses it or without opening, lifting or removing that which covers or enclosed it;

3. a knife in a sheath on a belt is not considered a concealed weapon.

(Ordinance No. 94-05.)

#### **Section 8.16.030 Switchblade knives.**

No person shall possess or transfer in any manner a switchblade knife.

(Ordinance No. 94-05.)

**Section 8.16.040 [Reserved.]**

**Section 8.16.050 Possession of dangerous weapons on school grounds.**

It is unlawful for a person to possess a dangerous weapon inside a school or on school grounds unless by prior consent of school principal or his or her designee.

(Ordinance No. 94-05.)

**Section 8.16.060 Carrying loaded firearms.**

It is unlawful for any person to possess any firearm in a public place or on any public street within the city, unless all ammunition has been removed from the chamber, cylinder, clip, or magazine, and the firearm is carried with the receiver in an open position except as provided in § 8.16.090.

(Ordinance No. 94-05.)

**Section 8.16.070 Discharge of firearms -- Prohibited.**

It is unlawful for any person to discharge a firearm except in a regularly established shooting gallery, rifle range or any other place specifically designated by the city council.

(Ordinance No. 94-05.) **Section**

**8.16.080 Explosives.**

It is unlawful for any person to detonate an explosive device without first obtaining the permission of the council to do so and posting a bond in such amount as the council may determine appropriate to compensate for potential damage from the use of the explosives.

(Ordinance No. 94-05.)

#### **Section 8.16.090 Exclusions.**

A. Sections 8.16.020, and 8.16.040 through 8.16.080 of this ordinance do not apply to duly authorized city, borough, state, or federal law enforcement officers in the performance of official duties.

B. Section 8.16.070 of this ordinance does not apply to duly authorized city, borough, state, or federal law enforcement officers under the following circumstances:

1. when the use of the firearm is necessary to protect himself, a prisoner, another officer or a citizen from an dangerous and felonious assault;
2. when the use of a firearm is necessary to prevent a person who has committed a felony from escaping;
3. when the use of a firearm is necessary to dispose of loose dogs as otherwise provided in chapter 8.28.

C. Under no circumstances shall an officer fire upon any person who is attempting to escape arrest on a misdemeanor or lesser charge.

D. Section 8.16.070 of this ordinance does not apply to a person who is:

1. firing a firearm in justifiable defense of himself or of others or of property or otherwise in accordance with law.
2. engaged in subsistence activities more than five hundred (500) yards from any permanent dwelling, public building or within five hundred (500) yards towards any occupied camp.

(Ordinance No. 94-05.)

#### **Section 8.16.100 Violations.**

A. Any violation of this chapter is a misdemeanor.

B. The penalties provided by § 1.28.040 may not be imposed for any violation of this chapter unless copies of this chapter have been made available for distribution to the public as provided by § 2.12.094(D) at no more than cost.

(Ordinance No. 94-05.)

Chapter 8.20

**PROTECTION OF WATERSHED**

Sections:

- 8.20.010 Definitions.
- 8.20.020 Location of watershed.
- 8.20.030 Prohibited acts.
- 8.20.040 Penalty.

**Section 8.20.010 Definitions.**

As used in this chapter:

1. "Pollution" means the contamination or altering of waters, land, or subsurface land within a watershed in a manner which creates a nuisance or makes waters, land, or subsurface land unclean, or noxious, or impure, or unfit, so that they are actually or potentially harmful or detrimental or injurious to public health, safety, or welfare, to domestic, commercial, industrial, subsistence, or recreational use, or to wild animals, bird, fish, or other aquatic life.

2. "Refuse" means refuse as defined in § 8.12;010(4).

3. "Watershed" means the area or areas of land surrounding and draining into the lakes, ponds, lagoons, or other bodies of water which have been designated by the council as principal sources of domestic water supply for the city.

(Ordinance No. 94-05.)

**Section 8.20.020 Location of watershed.**

The watershed used by the city is located \_\_\_\_\_, and is clearly staked and fenced as the city's drinking water watershed. A detailed map showing the location of the reserved watershed is available from the clerk.

(Ordinance No. 94-05.)

**Section 8.20.030 Prohibited acts.**

In order to protect the general public from consuming contaminated water and to ensure that the public shall have uncontaminated water in the future no person shall:

1. dump solid, liquid, or other refuse in any form near or in the area or areas designated as watershed or in streams or rivers used for consumption of water by the public; or
2. use the watershed as a recreation area at any time during the year or engage in any activity that would pollute the watershed.

(Ordinance No. 94-05.)

**Section 8.20.040 Penalty.**

Any person violating the provisions of § 8.20.030 shall upon conviction thereof be fined not to exceed five hundred dollars (\$500.00) or imprisoned for thirty (30) days or both in accordance with A.S. 29.25.070. Such fine shall be set at the discretion of the fining authority.

(Ordinance No. 94-05.)

## **Chapter 8.24**

### **MOTOR VEHICLES**

#### **Sections:**

- 8.24.010 Definitions.
- 8.24.020 Speed limits.
- 8.24.030 Unsafe operation.
- 8.24.040 Operation under influence of alcohol.
- 8.24.050 Land based vehicles -- Required equipment.
- 8.24.060 Reporting of accidents.
- 8.24.070 Curfew.
- 8.24.080 Licenses.

#### **Section 8.24.010 Definitions**

"Land based vehicles" include every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved exclusively by human or animal power unaided by internal combustion engines or other such mechanical devices for the generation of energy. Devices designed primarily for travel over snow or ice by means of skis, belts, cleats or low pressure tires are deemed "vehicles." Boats, canoes, barges and any other water based craft are vehicles when referred to in this chapter.

(Ordinance No. 94-05.)

#### **Section 8.24.020 Speed limits**

A. It shall be unlawful for any land-based vehicle to travel at a speed exceeding twenty-five (25) miles per hour within the city limits. Regardless of the posted limit, it shall also be unlawful to drive any land-based vehicle at a speed greater than is reasonable under the existing road or weather conditions.

B. There shall be "SLOW" signs posted in plain sight for all to see. Vehicles without speedometers shall not exceed half throttle.

(Ordinance No. 94-05; Amended by Ordinance 01-06 §2.)

**Section 8.24.030 Unsafe operation.**

No person shall drive, operate, stop or move any vehicle, be it water or land based in a careless, reckless, or negligent manner so as to endanger, or be likely to endanger, the safety of any person or the property of any person.

(Ordinance No. 94-05.)

**Section 8.24.040 Operation under influence of alcohol.**

No driver of any water or land based vehicle, shall be under the influence of alcohol.

(Ordinance No. 94-05.)

**Section 8.24.050 Land-based vehicles -- Required equipment.**

It shall be unlawful to operate any land-based vehicle without:

- A. Workable front and back lights;
- B. A muffler;
- C. A functioning throttle which when released by hand or foot will return the engine speed to idle;
- D. Brakes adequate to control the movement of and to stop the vehicle under normal operating conditions.

(Ordinance No. 94-05.)

**Section 8.24.060 Reporting of accidents.**

The operator of a vehicle involved in an accident resulting in injury to or death of a person, or property damage other than to his or her own vehicle the estimated amount of which is one hundred dollars (\$100.00) or more, shall

immediately give notice of the accident to the North Slope Borough Police Department by radio or telephone, or if neither is reasonably available, by whatever other means is likely to be received at the earliest time.

(Ordinance No. 94-05; Amended by Ordinance No. 01-06 §3.)  
Section 8.24.070 Curfew.

There shall be imposed a curfew on vehicle operation between the hours of two (2:00) a.m. to six (6:00) a.m. Emergency operation and work required operation of vehicles is excepted.

(Ordinance No. 94-05.)  
Section 8.24.080 Licenses.

It shall be unlawful to operate a land based vehicle without a state operator's license issued in accordance with AS 28.15.051 and 28.15.071.

(Ordinance No. 94-05.)

**Section: Chapter 8.28, Animal Control**

**Approved by:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Superceded:**

**Ordinance 2011-01**

**Ordinance 94-05**

**Section:**

|                 |  |
|-----------------|--|
| <b>8.28.010</b> | <b>Definitions</b>                             |
| <b>8.28.020</b> | <b>Scope, Intent</b>                           |
| <b>8.28.030</b> | <b>Records</b>                                 |
| <b>8.28.040</b> | <b>Enforcement – Interference Prohibited</b>   |
| <b>8.28.050</b> | <b>Identification Tag Required</b>             |
| <b>8.28.060</b> | <b>Immunization of Animals</b>                 |
| <b>8.28.070</b> | <b>Harboring Diseased Animals</b>              |
| <b>8.28.080</b> | <b>Cruelty and Abandonment</b>                 |
| <b>8.28.090</b> | <b>Puppies</b>                                 |
| <b>8.28.100</b> | <b>Liability</b>                               |
| <b>8.28.110</b> | <b>Females in Heat – Confinement</b>           |
| <b>8.28.120</b> | <b>Controlling Dangerous Animals</b>           |
| <b>8.28.130</b> | <b>Duty of Vehicle Operators</b>               |
| <b>8.28.140</b> | <b>Restraint</b>                               |
| <b>8.28.141</b> | <b>Loose Owner-less Dogs</b>                   |
| <b>8.28.142</b> | <b>Loose Owned Dogs</b>                        |
| <b>8.28.150</b> | <b>Disposal</b>                                |
| <b>8.28.160</b> | <b>Rabies Control</b>                          |
| <b>8.28.170</b> | <b>Animals Diagnosed as Rapid - Quarantine</b> |

**Section 8.28.010 Definitions**

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

- A. "Adoption" means to choose and upon payment of the fees, as lawful owner or owners to bring into one's home an animal from the city animal shelter.
- B. "Animal" means any dog as defined in subsection (G).
- C. "Animal bite" shall be considered to be a bite which breaks the skin from an animal that is known to be a possible vector of rabies.

- D. "Animal Control Officer or Officers" means the public health officer and his or her subordinates designated by the Borough in their collective capacity as administrators of this chapter.
- E. "Animal Shelter" means any premises designated by action of the animal control officer for the purpose of impounding and caring for all animals impounded pursuant to this chapter or Alaska statute.
- F. "At Large" means any dog not under restraint.
- G. "Dog" means any domesticated member of the family canidae.
- H. "Euthanasia" means to kill painlessly.
- I. "Humanely Destroy" means to kill an animal in such a way as to minimize mental and physical pain. Examples would be by intravenous injection of an acceptable euthanasia solution or by a shotgun, rifle or pistol shot to the head or heart.
- J. "Neutered Male" means any male animal that has been castrated.
- K. "Owner" means any person, partnership, or corporation owning, keeping or harboring, feeding or sheltering for three (3) days or more, one (1) or more animals.
- L. "Planned Breeding" means any purposeful breeding intended to perpetuate a specific animal type.
- M. "Protective Custody" means impoundment of an animal for its own protection.
- N. "Public Health Officer" means the borough administrative officer responsible for the investigation, collection, and dissemination of information regarding anything which causes harm to human health.
- O. "Public Nuisance" means any animal which molests passersby or passing vehicles, attacks other animals, trespasses on school grounds or other public or private property, is repeatedly at large, damages public or private property, or barks, whines, or howls excessively or continuously.
- P. "Restraint" means physical control, such as a leash, chain, fence or building; or competent voice, whistle, or hand signal control while engaged in an activity which requires that an animal not be physically restrained, in a form of recognized hunting that requires the use of an animal as a retriever or when on the property of the owner. The animal control officer shall determine if an animal is under competent control.
- Q. "Secure Enclosure" means an enclosure in which an animal is confined and does not have access to human beings or other animals.
- R. "Spayed Female" means any female animal which has an ovariectomy or ovariohysterectomy performed.
- S. "Vicious Animal" means any animal that when unprovoked inflicts bites or attacks human beings or other animals either on public or private property or in a vicious or

terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places.

**Section 8.28.020      Scope; Intent**

Nothing in this chapter shall be interpreted to conflict with the North Slope Borough Regulations on domestic animals, it being the intent of the city to exercise that authority granted to it by AS 29.35.250(a) but not to establish regulations which would undermine the right and duty of the borough to regulate domestic animals as set forth in North Slope Borough Municipal Code Title 6.

**Section 8.28.030      Records**

The animal control officer in accordance with Chapter 1.24 shall keep or cause to be kept accurate and detailed records of:

- A. The impoundment and disposition of all animals coming into his custody.
- B. All animal bites reported to or investigated by him.
- C. The monies received, which records shall be open to inspection at reasonable times by persons acting for the State or borough and having responsibility for such records.
- D. All animals on which a tranquilizer gun is used. Any tranquilizer drug and dosage used shall be approved by a licensed veterinarian.
- E. All identification (i.e. tags, tattoos on legs or ears) and rabies certificates issued by him or her in accordance with this chapter.

**Section 8.28.050      Identification Tag Required**

Every dog at least six (6) months old must wear an identification tag around its neck which identifies the name and/or address of its owner. Owners are responsible for obtaining tags for their dogs from the animal control officer.

**Section 8.28.060      Immunization of Animals**

- A. No person shall own, keep or harbor an animal over six (6) months of age within the borough, unless such animal has been immunized against rabies within the past twelve (12) months. Immunization agents and procedures shall be consistent with current recommendations of the National Association of State Public Health

Veterinarians, Inc. Proof of immunization shall consist of a statement or receipt from a licensed veterinarian or a certified lay vaccinator.

- B. The animal control officer shall from time to time and at least annually, hold a rabies immunization clinic. The clinic shall be held at such times and places as to encourage the widest participation.

#### **Section 8.28.070      Harboring Diseased Animals**

No person shall knowingly own, harbor, or keep any animal infected with a contagious or pestilent disease, unless confined and under the care of a licensed veterinarian.

#### **Section 8.28.080      Cruelty and Abandonment**

- A. No person shall do the following:

- a. Fail to provide his or her animals with sufficient food and water, adequate shelter, veterinary care when needed to prevent suffering, protection from the weather, and humane care and treatment;
- b. Abandon or cause to be abandoned any animal;
- c. Commit or cause to be committed any act of cruelty, harassment, abandonment or torture to any animal, or cause such animal to be wounded, mutilated, strangled, or inhumanely killed;
- d. Cause, instigate or encourage any animal to fight with any other animal;
- e. Expose any known poisonous substance, whether mixed with food or not, so that such substance may threaten the life or wellbeing of any domesticated animal.

- B. Ownership of said animal shall not be justified defense for the acts prohibited under subsection (A).

- C. Nothing in the section shall prohibit:

- a. A person from capturing and holding a stray animal for delivery to its owner or the animal control officer, and killing an animal in defense of person or property, or humanely destroying an animal owned by him;
- b. An animal control officer or public safety officer from taking actions authorized under this chapter.

#### **Section 8.28.090      Puppies**

The owner of any litter of pups shall be responsible for the care and confinement of such pups for the rest of their lives unless they are otherwise provided with suitable homes or disposed of in accordance with §8.28.160 of this chapter.

**Section 8.28.100      Liability**

An owner shall be liable for repayment or replacement of any property destroyed by his or her animal.

**Section 8.28.110      Female in Heat – Confinement**

Every female animal “in heat” shall be kept confined in such a manner that such animal cannot come in contact with a male animal except for planned breeding purposes.

**Section 8.28.120      Control of Dangerous Animals**

The owner shall confine within a building or secure enclosure a dangerous animal, and shall not take such animal out of the building or secure enclosure unless it is muzzled or otherwise secured.

**Section 8.28.130      Duty of Vehicle Operators**

Any motor vehicle operator who strikes an animal shall immediately report the accident to the animal control officer.

**Section 8.28.140      Restraint**

- A. Every dog owner is responsible for keeping his or her animal restrained such that it does not pose a threat or become a public nuisance to any person or property.
- B. No person shall tie, stake, or fasten any animal within street, alley, sidewalk, or public place within the city or in such a manner that the animal has access to any portion of any street, alley, sidewalk, or public place therein.
- C. No person shall, without permission of the owner, release any animal from restraint except to preserve the animal's life.

**Section 8.28.141      Loose Owner-Less Dogs**

Any loose dogs posing a threat to a person or property within the City of Wainwright or any loose unattended and unidentifiable dog will be considered wild, abandoned or owner-less and will be subject to disposal without notification of the owner.

#### **Section 8.28.142      Loose Owned Dogs**

In the case of a loose, unattended dog, where ownership can be determined a city employee or official or public safety officer shall give the owner notice in writing of the dog's condition so that the owner may secure the dog in proper fashion. The notice shall state the date, time, and to whom delivered. The notice shall give the owner twenty four (24) hours from receipt in which to secure an unconfined dog. A copy of the notice as delivered shall be kept for the city and Public Safety Department's records. If at the expiration of the time certain in the first notice, a dog is still unconfined, it shall be disposed of by the Animal Control Officer or Public Safety Officer.

#### **Section 8.28.150      Disposal**

- A. The Animal Control Officer or in his or her absence a designee appointed by the mayor shall dispose of animals in a humane manner under any of the following conditions:
  - a. The animal is at large and the animal's owner cannot be identified or located;
  - b. The animal is vicious, at large and/or the owner has consented to the disposal. Vicious means any dog which unprovoked has ever bitten or attacked a human being;
  - c. The animal is found to have rabies;
  - d. An unvaccinated animal is bitten by a rabid animal during a quarantine provided in § 8.28.170; or
  - e. The animal has been given over to the Animal Control Officer for disposal by the owner.
- B. If an animal is considered vicious as provided in subsection (A)(2), and its owner does not consent to disposal, the animal shall be disposed of only upon judicial determination that the animal is vicious and subject to appeal as provided in subsection (c).
- C. If the owner files an appeal with the city council pursuant to Chapter 2.44 challenging the decision to dispose of the animal and agrees in writing to restrain the animal during the pendency of the appeal, then the animal shall not be destroyed until the city council hears the appeal.

**Section 8.28.170      Animals Diagnosed as Rabid – Quarantine**

- A. When any animal has been diagnosed by a licensed veterinarian as being rabid, the Animal Control Officer shall immediately notify the appropriate state and federal agencies and comply with all applicable state and federal regulation controlling rabies treatment and animal disposal.
- B. When the examination gives a positive diagnosis of rabies, the mayor or his designee may impose a city-wide quarantine for a period of thirty (30) days. During such quarantine, no animal shall be permitted off the owner's premises or in the public streets, nor may any animal be taken or shipped from the quarantine area without written permission from the animal control officer or the public health officer. Any animal found running at large during such quarantine shall be killed on site.
- C. During such quarantine as herein provided, every animal adjudged to be infected with rabies or bitten by an animal adjudged to be rabid shall immediately be destroyed at the direction of the Animal Control Officer or public health officer unless the animal has a current vaccination. These properly vaccinated animals must immediately receive a booster vaccination and be quarantined pursuant to this chapter to be adjudged rabies free.
- D. In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the mayor's discretion.
- E. Upon the recommendation of the Animal Control Officer, the mayor may put into effect for the period of the quarantine any necessary emergency regulations. These regulations shall be made public by means of an intensive information campaign through appropriate media. Such regulations shall be reported to the assembly.
- F. The carcass of any dead animal thought to have been exposed to rabies shall be surrendered to the Animal Control Officer.

## **TITLE 9**

### **PUBLIC PEACE, MORALS AND WELFARE**

#### **Chapters:**

- Chapter 9.04 Offenses Against Property.
- Chapter 9.06 Offenses Against Public Justice, Peace and Decency.
- Chapter 9.08 Offenses Against Minors.
- Chapter 9.12 Minors -- Curfew.
- Chapter 9.16 Alcoholic Beverages.
- Chapter 9.20 Drugs.

**Chapter 9.04**

**OFFENSES AGAINST PROPERTY**

**Sections:**

|          |  |
|----------|--|
| 9.04.010 | Vandalism.                                   |
| 9.04.020 | Tampering with vehicles.                     |
| 9.04.030 | Posting.                                     |
| 9.04.040 | Throwing or shooting at persons or property. |
| 9.04.050 | Trespassing.                                 |
| 9.04.060 | Depositing sharp objects.                    |
| 9.04.070 | Release of dogs of another.                  |
| 9.04.080 | Tampering with water system or washeteria.   |
| 9.04.090 | Injury to public library books.              |
| 9.04.100 | Injury to roads and other utilities.         |

**Section 9.04.010 Vandalism.**

No person shall wilfully cut, remove, deface or in any manner injure any building, fence or enclosure, street, bridge or other property.

(Ordinance No. 94-06.)

**Section 9.04.020 Tampering with vehicles.**

No person shall start, otherwise meddle with, molest, enter, occupy, loiter in, take or drive away any automobile or other vehicle belonging to another, without the consent of the owner or person in charge thereof.

(Ordinance No. 94-06.)

**Section 9.04.030 Posting. No**

person shall:

A. Place, stick, tack, paste, post, paint, mark, write or print any sign, poster, picture, announcement, advertisement, bill, placard, device or inscription upon any public or private building, fence, bridge, automobile, or other vehicle or other property of another, without the consent of the owner or person in charge thereof.

B. Wilfully, maliciously, or wantonly tear down, deface, mutilate or otherwise injure or destroy, in whole or in part, any public notices posted in any public places.

(Ordinance No. 94-06.)

**Section 9.04.040 Throwing or shooting at persons or property.**

No person shall throw or shoot any stone, shot or other object into or across any street or alley, or in any place where he or she is likely to hit another person wrongfully or to injure property, or throw or shoot any stone, shot or other object at any person, vehicle, structure, electric light or other property of another (whether public or private), except in case where such is done justifiably in defense of oneself, of another person or of property.

(Ordinance No. 94-06.)

**Section 9.04.050 Trespassing.**

No person shall trespass or intrude upon property not his own against the will of the owner, occupant or agent thereof.

(Ordinance No. 94-06.)

**Section 9.04.060 Depositing sharp objects.**

No person shall throw or deposit in any street or other public place of the city any broken glass, bottles, crockery, nails or other substance whatsoever whereby the feet or body of any person or property may be injured.

(Ordinance No. 94-06.)

**Section 9.04.070 Release of dogs of another.**

No person shall wilfully or intentionally release the confined dog of another person in violation of § 8.28.140(C).

(Ordinance No. 94-06.)

**Section 9.04.080 Tampering with water system or washeteria.**

No person shall remove, carry away, tamper with or attempt to destroy any portion of the North Slope Borough water system or washeteria without the consent of the person in control thereof.

(Ordinance No. 94-06.)

**Section 9.04.090 Injury to public library books or property.**

No person shall wilfully, maliciously or wantonly tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to any public library or reading room.

(Ordinance No. 94-06.)

**Section 9.04.100 Injury to roads and other utilities.**

No person shall maliciously injure, remove or destroy any portion of any public building, or wilfully obstruct or injure any street or maliciously cut, bum, or in any way break down, injure or destroy any post or pole used in connection with any system of electric light, telegraph or telephone instrument; or in any way cut, break or injure the wires of any apparatus belonging thereto; or wilfully tap, cut, injure, break, disconnect, connect, make any connection with, or destroy any of the wires, mains, pipes, fuel lines, conduits, meters or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, or water plant; or aid or abet any other person in so doing.

(Ordinance No. 94-06.)

## Chapter 9.06

### OFFENSES AGAINST PEACE AND DECENCY

#### Sections:

- 9.06.010 Disturbing the peace.
- 9.06.020 Unlawful assembly; Riot.
- 9.06.030 Loitering.
- 9.06.040 Public indecency.
- 9.06.050 Prostitution.
- 9.06.060 Prostitution -- Loitering.
- 9.06.070 Furnishing obscene materials; Exhibiting obscene performance.
- 9.06.080 Gambling.

#### **Section 9.06.010 Disturbing the peace.**

No person shall:

1. Use obscene or profane language; or
2. Make or excite any disturbance in either a public or private place to the disturbance or annoyance of another.

(Ordinance No. 94-06.)

#### **Section 9.06.020 Unlawful assembly; Riot.**

A. It is unlawful for three (3) or more persons in a violent or tumultuous manner to assemble together to the disturbance of others.

B. When three (3) or more persons together commit an unlawful act in an unlawful, violent or tumultuous manner to the disturbance of others, they are guilty of a riot.

(Ordinance No. 94-06.)

**Section 9.06.030 Loitering.**

No person shall loiter. For the purposes of this section, loitering is defined as wandering, loafing, standing or remaining idle either alone or in a group in a public place in such manner as to:

- A. Cause danger of breach of peace, which will clearly cause an immediate, actual, physically violent reaction from any person; or
- B. Obstruct, molest or interfere with any person lawfully in any public place; or
- C. Solicit persons for purposes of prostitution pursuant to § 9.06.050 of this chapter.

(Ordinance No. 94-06.)

**Section 09.06.040 Public indecency. No**

person shall:

- A. Intentionally expose his or her genitals, buttocks, anus or female breast to another with reckless disregard for the offensive or insulting effect the act may have on that person.
- B. While in a public place, engage in any conduct consisting of contact between the sex organs of two (2) or more persons or between the sex organs of one (1) person and the mouth or anus of another.
- C. Defecate or urinate on any portion of a public place not existing for the purpose of receiving feces.

(Ordinance No. 94-06.)

**Section 9.06.050 Prostitution. A.**

No person shall:

- 1. engage in or offer or agree to engage in sexual conduct in return for a fee; or

2. offer or agree to give or give a fee to another in return for such other's participation in sexual conduct.

B. No person shall promote prostitution. A person commits the offense of promoting prostitution if, with intent to promote prostitution, he or she knowingly:

1. owns, controls, manages, supervises or otherwise maintains a place of prostitution or a prostitution enterprise;

2. induces or causes a person to engage in prostitution or to remain in a place of prostitution;

3. receives or agrees to receive money or other property, other than as a prostitute being compensated for personal prostitution services, pursuant to an agreement or understanding that the money or property is derived from a prostitution activity;

4. engages in any conduct, except prostitution, that institutes, aids or facilitates an act or enterprise of prostitution.

C. No person shall be convicted of the offense of promoting prostitution solely on the uncorroborated testimony of the person whose prostitution he is alleged to have promoted.

D. On the issue of whether a place is a place of prostitution, its general reputé and reputé of persons who reside in or frequent the place shall be competent evidence.

As used in this section:

1. "place of prostitution" means any place where prostitution is

2. "prostitute" means a male or female person who engages  
E. in sexual conduct in return for a fee;

3. "prostitution" means any act prohibited by subsection (A) of  
practiced;

4. "prostitution enterprise" means an arrangement whereby  
two (2) or more prostitutes are organized to conduct prostitution activities;

this section;

5. "sexual conduct" means conduct between persons not married to each other consisting of contact between the sex organs of two (2) persons or between the sex organs of one (1) person and the mouth or anus of another.

(Ordinance No. 94-06.)

**Section 9.06.060 Prostitution -- Loitering.**

No person shall remain in a public place and repeatedly beckon to, or repeatedly stop, or repeatedly attempt to stop, passersby, or repeatedly attempt to engage passersby in conversation, or repeatedly stop or attempt to stop motor vehicles, or repeatedly interfere with the free passage of other persons, for the purpose of soliciting for prostitution or for assignation.

(Ordinance No. 94-06.)

**Section 9.06.070                      Furnishing obscene materials; Exhibiting obscene performance.**

No person shall:

A.        Sell, rent or possess for sale any obscene book, magazine, newspaper, picture, motion picture or other visual representation.

B. Sell, lend, give away, or show, or have in one's possession with intent to sell, give away or show to any minor, any obscene material, or exhibit upon any street or highway, or any place within the view, or which may be within the view, of any minor, any obscene material, or use or employ any minor to give away, sell, or distribute, or, having the care, custody and control of any minor, to permit him to sell, give away, or distribute any such books, papers or pictures.

C.        Exhibit, perform or present any obscene motion picture, play, lecture, dance, demonstration or other presentation.

D.        Something is "obscene" within the meaning of this section if

1.        it depicts or describes, or exhibits in a patently offensive manner, human masturbation, sexual intercourse, or any touching of the genitals,

pubic areas, anus or buttocks of the human male or female, whether alone or between members of the same or opposite sex or between humans and animals, an act of apparent sexual stimulation or gratification, or flagellation or torture by or upon a person who is nude or clad in undergarments;

2. the average person, applying contemporary community standards would find that, taken as a whole, it appeals to prurient interests; and

3. taken as a whole, it lacks serious literary, artistic, political or scientific merit.

(Ordinance No. 94-06.) **Section**

**9.06.080 Gambling. A. No**

person shall:

1. promote, set up, deal, play, conduct, engage or participate in any games of chance which are unlawful under the state statutes;

2. maintain a place of gambling or permit any premises owned or leased by him or her or under his or her control to be used by persons engaged in gambling; or

3. knowingly possess or have in his or her custody or control any device in the nature of policy or pool tickets, slips or checks or memoranda of any combination or bet, or any policy wheel, slot machine, dice, implement or other apparatus or material which has been or may be used in the commission of the offense of gambling.

B. Bingo is not considered gambling or betting for the purposes of this section.

(Ordinance No. 94-06.)

## Chapter 9.08

### OFFENSES BY OR AGAINST MINORS.

#### Sections:

#### ARTICLE I. AMUSEMENT DEVICES

- 9.08.010 Defined.
- 9.08.020 Operation by minor.
- 9.08.030 Knowledge of age presumed.
- 9.08.035 Violation and penalty.

#### ARTICLE II. TOBACCO

- 9.08.040 Supplying to minors under sixteen years.
- 9.08.050 Soliciting supply.
- 9.08.060 Possession.
- 9.08.070 Permitting violation.

#### ARTICLE III. RESTRICTED PLACES

- 9.08.080 Card rooms, lodges, clubs.
- 9.08.090 Dance halls.
- 9.08.100 Employers of minors.
- 9.08.110 Adult responsibility.

#### ARTICLE I. AMUSEMENT DEVICES

##### **Section 9.08.010 Defined.**

"Amusement device" means any machine or device designed to be operated or used for playing a game upon the insertion of a coin, trade check or slug, and which is played or operated essentially for amusement and entertainment, but does not mean or include any machine or device used exclusively for the vending of merchandise.

(Ordinance 94-06.)

### **Section 9.08.020 Operation by minor.**

A. No person under the age of eighteen (18) years shall play or operate any amusement device as defined in § 9.08.010 during school hours.

B. No owner or operator of any such device, or for any manager or other person in charge of premises where such amusement device is kept, maintained or operated, shall permit or allow any person under the age of eighteen (18) years to play or operate any such amusement device during school hours.

(Ordinance 94-06.)

### **Section 9.08.030 Knowledge of age presumed.**

Any owner, operator, manager or other person in charge of premises where an amusement device is kept, maintained or operated who permits or allows any person under the age of eighteen (18) years to play or operate any such amusement device in violation of § 9.08.020, shall be presumed to have known that such person was under the age of eighteen (18) years; and any person who represents to such an owner, operator, manager or other person in charge that he or she is eighteen (18) years of age or older, when in truth and in fact he or she is not of that age, shall be equally guilty with the owner, operator, manager or other person in charge of the premises, and shall be punished accordingly.

(Ordinance 94-06.)

### **Section 9.08.035 Violation and penalty.**

A violation of § 9.08.020 shall be an infraction as defined in § 1.28.010 except that a third or subsequent violation by an owner, operator, manager or other person in charge of premises where an amusement device is kept may be prosecuted as a misdemeanor punishable by a fine of up to five hundred dollars (\$500.00) and/or imprisonment for up to thirty (30) days.

(Ordinance No. 94-06.)

## **ARTICLE II. TOBACCO Section**

### **9.08.040 Supplying to minors under sixteen years.**

No person, firm or corporation shall sell, exchange or give any cigarettes, cigars or tobacco in any form to any person under the age of nineteen (19) years.

(Ordinance 94-06; Amended by Ordinance No. 96-03 § 1.) **Section**

### **9.08.050 Soliciting supply.**

No person under the age of nineteen (19) years may wilfully solicit, incite or induce any person to furnish him or her cigarettes, cigars or tobacco in any form.

(Ordinance 94-06; Amended by Ordinance No. 96-03 §2.) **Section**

### **9.08.060 Possession.**

No person under the age of nineteen (19) years shall possess or have on his or her person any cigarettes, cigars or tobacco in any form.

(Ordinance 94-06; Amended by Ordinance No. 96-03 §3.) **Section**

### **9.08.070 Permitting violation.**

It is unlawful for the parents, guardian or other person in charge of a minor under the age of nineteen (19) years to permit such minor to violate any of the provisions of this article.

(Ordinance 94-06; Amended by Ordinance No. 96-03 § 1.) **ARTICLE III.**

## **RESTRICTED PLACES Section 9.08.080 Card rooms,**

**lodges, clubs.**

A. No person under the age of seventeen (17) years shall frequent or loiter in or about public card rooms, halls, lodges, clubs or public dance halls (except as provided in § 9.08.090) conducted for profit.

B. No proprietor, manager, clerk or other person having control of public card rooms, halls, lodges, clubs or public dance halls conducted for profit in the city, shall allow any minor under the age of seventeen (17) years to frequent or loiter in or about any such place.

(Ordinance 94-06.)

**Section 9.08.090 Dance halls.**

No person under the age of sixteen (16) years shall frequent or loiter in or about any public dance hall; provided, however, that it is lawful for any minor to attend a public dance or dance hall when accompanied by one or both of his parents or when in the charge of some competent adult person.

(Ordinance 94-06.)

**Section 9.08.100 Employers of minors.**

No person or persons employing a minor under the age of eighteen (18) years shall send any such minor so employed to any place mentioned and restricted by § 9.20.080, or employ any minor under the age of eighteen (18) years in or around any of the places mentioned and restricted in § 9.20.080.

(Ordinance 94-06.)

**Section 9.08.110 Adult responsibility.**

Any competent adult person who contributes to or who is responsible for the violation of any provision of this article by any minor under the age of eighteen (18) years is guilty of a misdemeanor.

(Ordinance 94-06.)

## **Chapter 9.12**

### **MINORS -- CURFEW**

#### **Sections:**

- 9.12.010 Definitions.
- 9.12.020 Hours -- Summer.
- 9.12.030 Hours -- School year.
- 9.12.035 Exceptions.
- 9.12.040 Violation -- Detention of minor.
- 9.12.050 Violation -- Penalty.
- 9.12.060 Violation -- Parents and guardians.
- 9.12.070 Violation -- Businesses.

#### **Section 9.12.010 Definitions.**

As used in this chapter:

- A. "Guardian" means a person who is legally responsible for a minor.
- B. "Minor" means, as defined in A.S. 25.20.010, a person who has not attained his or her eighteenth (18th) birthday and is not emancipated.
- C. "Peace officer" means a borough public safety officer, or an employee of the Alaska Department of Health and Social Services authorized to take minors into custody under A.S. 47.10.140(f), or an employee of the borough department of health and social services designated to serve as a truant officer by the department.

(Ordinance No. 94-06.)

#### **Section 9.12.020 Hours -- Summer.**

A parent or guardian shall require a minor in his legal custody to observe the following curfew: A minor (unless accompanied by a parent or guardian) shall not be in or upon public streets, public areas, public buildings or private businesses in

the city between the hours of midnight (12:00) and six (6:00) a.m. during the summer. "Summer" means that period after the close of the school year and prior to the commencement of the succeeding school year as established by the school district.

(Ordinance No. 94-06.)

**Section 9.12.030 Hours -- School year.**

During the school year a parent or guardian shall require a minor in his or her legal custody to observe the following curfew:

A. A minor (unless accompanied by a parent or guardian) shall not be in or upon public streets, public areas, public buildings or private businesses in the city between the hours of ten (10:00) p.m. to six (6:00) a.m. during the school year.

B. The curfew for any evening on which the next day is Saturday, Sunday or a school holiday shall be midnight (12:00) until six (6:00) a.m.

(Ordinance No. 94-06.) **Section**

**9.12.035 Exceptions.**

A. Exceptions to this curfew include public holidays, church gatherings, school associated meetings, singspirations, traditional native meetings, and other events as designated by the council.

B. This section shall not apply to a minor who is in the process of going to or from a place of business, home, recreation, education, or other lawful activity.

C. This chapter shall not apply to legally emancipated children.

(Ordinance No. 94-06.)

**Section 9.12.040 Violation -- Detention of minor.**

A. If a peace officer has probable cause to believe that a minor is in violation of the curfew established by this chapter, the officer may, in conformity with A.S. 47.10.140(f), take the minor into custody for the sole purpose of either

being returned to a parent or guardian or, if the minor prefers, to a shelter operated under contract with the state Department of Health and Social Services.

B. No minor detained under subsection (B) of this section may be detained beyond nine (9:00) a.m. of the morning following detention. If the parent, guardian or actual adult custodian cannot be located or fails or refuses to remove said person from detention to said person's place of residence, said person shall be released to the custody of the Division of Corrections or the Department of Health and Social Services.

C. Detention records shall be kept confidential from all persons except the juvenile and his parent, guardian or actual adult custodian, except upon court order upon finding that a release is in the best interests of the juvenile. The record of detention shall be destroyed after the expiration of the second year following the detention date.

(Ordinance No. 94-06.)

#### **Section 9.12.050 Violation -- Penalty.**

A. Violation of any section of this chapter shall be considered an infraction as defined in § 1.28.010 of this ordinance and shall be punished according to the following schedule:

1. first violation, twenty dollars (\$20.00);
2. second violation, thirty dollars (\$30.00)
3. third violation, forty dollars (\$40.00); and
4. fourth violation, fifty dollars (\$50.00).

B. A violation of this chapter by a minor which occurs more than three (3) months after a previous violation, is considered a first violation.

C. A minor cited for violation of this chapter may perform community services in lieu of payment of the fine or a portion of the fine. Community work shall be performed at the direction of the council. The value of community work in lieu of a fine is five dollars (\$5.00) per hour.

(Ordinance No. 94-06.)

**Section 9.12.060 Violation -- Parents and guardians.**

A. A parent or guardian who knowingly and wilfully violates this chapter shall, upon a first or second violation, pay a fine of not more than one hundred dollars (\$100.00).

B. A parent or guardian who knowingly and wilfully violates this chapter shall, upon a third and subsequent violation, pay a fine of not more than three hundred dollars (\$300.00).

(Ordinance No. 94-06.)

**Section 9.12.070 Violation -- Businesses.**

(A. The owner or operator of a private business enterprise who permits a minor to remain on the business premises after the hours of curfew established by this chapter is guilty of an infraction as defined in § 1.28.010 except that a third or subsequent violation may be prosecuted as a misdemeanor punishable by a fine of up to five hundred dollars (\$500.00) and/or imprisonment up to thirty (30) days.

B. These penalties shall not apply to taxicabs, buses and other forms of public or publicly regulated transportation.

(Ordinance No. 94-06.)<sub>A</sub>

## Chapter 9.16

### ALCOHOLIC BEVERAGES

#### Sections:

- 9.16.010 Findings.
- 9.16.020 Definitions.
- 9.16.030 Prohibitions -- Possession, sale and importation.
- 9.16.040 Prohibitions -- Licenses.
- 9.16.050 Prohibitions -- Carrying or transportation.
- 9.16.060 Prohibitions -- Public consumption. 9.16.070 Prohibitions -- Inducement.
- 9.16.080 Prohibitions --Furnishing alcoholic beverages to intoxicated person. 9.16.090 Prohibitions -- Furnishing alcoholic beverages to minor. 9.16.100 Prohibitions -- Consumption or possession by minor. 9.16.110 Prohibitions -- Public intoxication.
- 9.16.120 Arrest or citation of violators; Community service. 9.16.130 Penalties -- Forfeitures.
- 9.16.140 Penalties -- Fines.

#### **Section 9.16.010 Findings. The**

council finds that:

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

(Ordinance No. 94-06.)

#### **Section 9.16.020 Definitions.**

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

B. "Board" means the Alaska Alcoholic Beverage Control Board.

C. "Community work" means and is limited to work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public 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 benefit.

D. "Possession" means having physical possession of or exercising dominion or control over alcoholic beverages, but does not include having alcoholic beverages within the digestive system of a person.

(Ordinance No. 94-06.)

#### **Section 9.16.030 Prohibitions.**

A. The possession, sale, and importation of alcoholic beverages are prohibited, except for possession and importation of sacramental wine pursuant to subsection (B) of this section. Except as provided in subsection (B), a person may not knowingly send, transport, or bring an alcoholic beverage into the city, or have any alcoholic beverage in his or her physical possession, in his or her residence or vehicle, or in any other place in the city within his or her dominion or control.

B. Sacramental wine may be imported and possessed if it is:

1. to be used for bona fide religious purposes based on tenets or teachings of a church or religious body,
2. limited in quantity to the amount necessary for religious purposes, and

3. kept in the custody of, and dispensed only for religious purposes by, a person authorized by the church or religious body to dispense the sacramental wine.

(Ordinance No. 94-06.)

**Section 9.16.040 Prohibitions -- Licenses.**

A. The Board may not issue, renew, or transfer between holders or locations a license for licensed premises within the city.

B. All licenses for licensed premises in the city are void.

C. Licenses voided by this section may be reinstated if the city later elects to abandon the prohibition of liquor possession, sales, and importation option.

(Ordinance No. 94-06.)

**Section 9.16.050 Prohibitions -- Carrying or transportation.**

A person may not carry upon his or her person or otherwise transport alcoholic beverages unless such alcoholic beverages is in the original unopened container provided by the manufacturer.

(Ordinance No. 94-06.)

**Section 9.16.060 Prohibitions -- Public consumption.**

A person may not consume alcoholic beverages upon public streets, alleys, parks, or public school property, or in any public school building or city meeting or recreation facility, or while attending any school-related functions.

(Ordinance No. 94-06.)

**Section 9.16.070 Prohibitions --Inducement.**

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

(Ordinance No. 94-06.)

**Section 9.16.080 Prohibitions --Furnishing alcoholic beverages to intoxicated person.**

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

(Ordinance No. 94-06.)

**Section 9.16.090 Prohibitions -- Furnishing alcoholic beverages to minor.**

A person may not furnish or induce another person to furnish alcoholic beverages to any person under twenty-one (21) years of age.

(Ordinance No. 94-06.)

**Section 9.16.100 Prohibitions -- Consumption or possession by minor.**

A person less than twenty-one (21) years of age may not possess, attempt to possess, or consume alcoholic beverages.

(Ordinance No. 94-06.)

**Section 9.16.110 Prohibitions -- Public intoxication.**

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

A. Upon public streets, alleys, parks, or public school property, or in any public school building or city meeting or recreation facility, or at any place where school-related functions are taking place;

B. In or about any business establishment, if the owner or person in charge of the business establishment has asked the person to leave; or

C. In or about any residence or other property which is not owned or normally occupied by the person, to the annoyance of the owner or occupants.

(Ordinance No. 94-06.)

**Section 9.16.120 Arrest or citation of violators; Community service.**

A. When a peace officer stops or contacts a person concerning a violation of § 9.16.030 or 9.16.050 through 9.16.110, the peace officer may, in the officer's discretion, arrest the person as provided in A.S. 12.25.010 through 12.25.160 or issue a citation to the person as provided in A.S. 12.25.180 through 12.25.220. When issuing a citation, the officer shall write on the citation the amount of bail established for the violation by the Alaska Supreme Court pursuant to A.S. 04.16.205(c). The officer may seize such evidence as is appropriate to support the charge, including but not limited to the alcoholic beverages involved, any aircraft, vehicle, or vessel used to transport the alcoholic beverages into the city in violation of § 9.16.030, and any materials or equipment used in the sale or offering for sale of alcoholic beverages in violation of § 9.16.030.

B. A person cited pursuant to subsection (A) of this section may, within thirty (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 or a portion of the fine pursuant to subsection (C) of this section.

C. Community work shall be performed at the direction of the council. The value of community work in lieu of a fine is five dollars (\$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 bail has been forfeited or proof of performance of community work under this section has been filed with the court, a judgment shall be entered. Forfeiture of bail or filing proof of performance of community work and forfeiture of all seized items is a complete satisfaction for the violation. The clerk of court accepting the bail or the form indicating performance of community work shall provide the offender with a receipt stating that fact, if requested.

E. If the person fails to pay the bail amount stated on the citation, or fails to provide proof of performance of community work as specified in subsection (C)(1) of this section to the court, the citation is considered a summons.

F. Notwithstanding other provisions of law, if a person cited for possession of alcoholic beverages in violation of § 9.16.030 appears in court and is found guilty, the penalty that is imposed for the offense may not exceed any bail amount for that offense established under A.S. 04.16.205(c).

G. Violations of §§ 9.16.030 through 9.16.110 are not considered a criminal offense, nor is a fine imposed for a violation considered criminal punishment. A person cited for a violation does not have a right to a jury trial or court-appointed counsel.

(Ordinance No. 94-06.)

#### **Section 9.16.130 Penalties -- Seizures and forfeitures.**

A. Alcoholic beverages in the possession of any person in the city in violation of § 9.16.030, alcoholic beverages sold or offered for sale in violation of § 9.16.030, aircraft, vehicles, or vessels used to transport, or facilitate the transportation of, alcoholic beverages into the city in violation of § 9.16.030 and materials and equipment used in the sale or offering for sale of alcoholic beverages in violation of § 9.16.030, are subject to forfeiture.

B. Alcoholic beverages possessed, carried, or transported in violation of § 9.16.050 through 9.16.110 and seized as evidence are subject to forfeiture.

C. Property subject to forfeiture under this section may be seized as provided by A.S. 04.16.220(b) and forfeited as provided in A.S. 04.16.220(c) through (h). Property forfeited under this section shall be placed in the custody of

the North Slope Borough Department of Public Safety or a peace officer of the state for disposition at the direction of the court. The court shall order any alcoholic beverages forfeited under this section destroyed.

(Ordinance No. 94-06.)

**Section 9.16.140 Penalties -- Fines.**

A. A person convicted of violating any ordinance contained in § § 9.16.050 through 9.16.110 shall be fined an amount not to exceed three hundred dollars (\$300.00).

B. A person convicted of selling or seeking to sell alcoholic beverages in violation of § 9.16.030 shall be fined an amount not to exceed one thousand dollars (\$1,000.00).

C. A person convicted of sending, transporting, or bringing alcoholic beverages into the city in violation of § 9.16.030 shall be fined an amount not to exceed one thousand dollars (\$1,000.00).

(Ordinance No. 94-06.)

## **Chapter 9.20**

### **DRUGS**

#### **Sections:**

- 9.20.010 Prohibited use.
- 9.20.020 Penalty -- Seizures and forfeitures.

#### **Section 9.20.010 Prohibited use.**

A. It is unlawful for any person to use, consume, or distribute depressant, hallucinogenic or stimulant drugs in any public place or in or on school property or at any community social functions.

B. "Depressant, hallucinogenic or stimulant drug" means:

1. cannabis, psilocybin, dimethyltryptamine, lysergic acid diethylamide (LSD); and every other substance having similar physiological effects;

2. a drug which contains barbituric acid or any of the salts of barbituric acid;

3. a drug which contains amphetamine or any of its optical isomers; or a substance which has been designated as habit forming or dangerous because of its stimulant effect on the central nervous system.

C. Any drug lawfully prescribed by a medical doctor is not covered by the terms of this chapter.

(Ordinance No. 94-06.)

#### **Section 9.20.020 Penalty -- Seizures and forfeitures.**

A. Drugs in the possession of any person in the city in violation of § 9.20.010, drugs sold or offered for sale in violation of § 9.20.010, aircraft, vehicles, or vessels used to transport, or facilitate the transportation of, drugs imported into the city in violation of § 9.20.010, and materials and equipment used in the sale or offering for sale of drugs in violation of § 9.20.010 are subject to forfeiture.

B. Drugs possessed, carried, or transported in violation of § 9.20.010 and seized as evidence are subject to forfeiture.

C. Property subject to forfeiture under this section may be seized as provided by A.S. 04.16.220(b) and forfeited as provided in A.S. 04.16.220(c) through (h). Property forfeited under this section shall be placed in the custody of the North Slope Borough Department of Public Safety or a peace officer of the state for disposition at the direction of the court. The court shall order any drugs forfeited under this section destroyed.

(Ordinance No. 94-06.)

**TITLE 12**

**STREETS, SIDEWALKS AND PUBLIC PLACES**

**Chapters:**

Chapter 12.04 Use of Streets and Sidewalks.

Chapter 12.08 Use of Public Places.

## **Chapter 12.04**

### **USE OF STREETS AND SIDEWALKS**

#### **Sections:**

12.04.010 Obstructing streets.  
12.04.020 Littering.  
12.04.030 Playing.  
12.04.040 Drainage from businesses. 12.04.050  
Structures prohibited. 12.04.060 Removal of  
signs or barricades.

#### **Section 12.04.010 Obstructing streets.**

No person shall use any city street to: 1.

carry on a business or trade; or

2. place, permit to be placed, or leave thereon any goods, wares, articles, merchandise, or other obstructions.

(Ordinance No. 94-07.) **Section**

#### **12.04.020 Littering.**

No person shall deposit, throw or sweep into or upon the city streets any paper, rubbish, trash, crates, boxes or other refuse of any kind.

(Ordinance No. 94-07.) **Section**

#### **12.04.030 Playing.**

No person shall play on the sidewalks or upon the main traveled portion of the streets and alleys of the city, except as may be authorized by ordinance.

(Ordinance No. 94-07.)

**Section 12.04.040 Drainage from businesses.**

No owner or operator of any place of business, and no agent or employee thereof, shall allow water, grease or other fluid to flow or drain into, upon, over or across any sidewalk, parking area, street, alley or other public way.

(Ordinance No. 94-07.)

**Section 12.04.050 Structures prohibited.**

No person shall place, erect, or occupy any hut, house, building, or other structure of any kind within the bounds of any street, alley, other public way, park or other city property.

(Ordinance No. 94-07.)

**Section 12.04.060 Removal of signs or barricades.**

No person, except by proper authority, shall remove any barricade, obstruction, light or sign placed by authority of the city to regulate traffic or keep traffic off any pavement, street, curb or other area.

(Ordinance No. 94-07.)

## **Chapter 12.08**

### **USE OF PUBLIC PLACES**

#### **Sections:**

12.08.010 Use of motor vehicles on city-operated playgrounds, parks, cemetery reserves and historical sites prohibited.

12.08.020 Taking of sod, gravel and sand from public property prohibited.

#### **Section 12.08.010 Use of motor vehicles on city-operated playgrounds, parks, cemetery reserves and historical sites prohibited.**

No person shall operate a motor vehicle on city-operated playgrounds, parks, cemetery reserves or historical sites except:

1. on designated roadways within such areas;
2. for the purpose of maintaining such areas;
3. with reference to cemetery reserves, for the purpose of maintaining or preparing grave sites or for the conduct of burial services; and
4. for special events after a permit is approved by the city council. (Ordinance

No. 94-07.)

#### **Section 12.08.020 Taking of sod, gravel and sand from public property prohibited.**

A. No person shall dig and/or take away from any public property, sod, gravel or sand without the express permission of the owner or lessee of the property.

B. For the purpose of this section "public property" shall be defined as property owned or leased by the city, the North Slope Borough, or the State of Alaska, or any other property designated as city or cemetery reserve under the laws and ordinances of the city or the North Slope Borough.

(Ordinance No. 94-07.)

**TITLE 13 CITY PROPERTY**

**Chapters:**

**Chapter 13.04 Real Property -- Acquisition.**

**Chapter 13.08 Real Property -- Inventory and Management.**

**Chapter 13.12 Real Property -- Disposal.**

**Chapter 13.16 Real Property -- Leasing.**

**Chapter 13.20 Personal Property -- Disposal.**

## **Chapter 13.04**

### **REAL PROPERTY -- ACQUISITION**

#### **Sections:**

- 13.04.010 Acquisition and ownership.
- 13.04.020 Dedication by plat.
- 13.04.030 Sites for beneficial new industries.
- 13.04.040 Federal and state aid. 13.04.050  
Procedural requirements.

#### **Section 13.04.010 Acquisition and ownership.**

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

B. All real property acquired or held by the city shall be acquired and held in the name of "City of Wainwright, Alaska." The city may acquire and hold real property as sole owner or as tenant in common or other lawful tenancy, with any person or governmental body for any public purpose. The city may hold real property in trust for any public purpose.

C. The city may acquire real property by purchase, gift, devise, grant, dedication, exchange, redemption, purchase of equity of redemption, operation of law, tax or lien foreclosure, adverse possession, condemnation or declaration of taking, annexation, or by any other lawful means of conveyance.

(Ordinance No. 94-08.)

#### **Section 13.04.020 Dedication by plat.**

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

(Ordinance No. 94-08.)

**Section 13.04.030 Sites for beneficial new industries.**

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

(Ordinance No. 94-08.)

**Section 13.04.040 Federal and state aid.**

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

(Ordinance No. 94-08.)

**Section 13.04.050 Procedural requirements.**

A. The city may acquire real property by warranty, quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract for sale of real property, plat dedication, lease, tax deed, will, or any other lawful means of conveyance or grant.

B. The city may not acquire real property unless the council first adopts a resolution approving the acquisition and specifying the terms, conditions, and manner of acquisition.

C. Prior to council approval of a resolution providing for the acquisition of real property, the mayor shall furnish the council with an abstract of title, an appraisal of the real property, and a review of any anticipated problems which may be encountered in acquisition or ownership of the property. The mayor's failure to furnish the council with any such information shall not affect the validity of any acquisition of real property which complies in all other respects with this chapter.

(Ordinance No. 94-08.)

## **Chapter 13.08**

### **REAL PROPERTY -- INVENTORY AND MANAGEMENT**

#### **Sections:**

13.08.010 Inventory --Review and recommendation.  
13.08.020 Retention and management. 13.08.030 City  
rights and powers -- Disposal. 13.08.040 No adverse  
possession against city.

#### **Section 13.08.010 Inventory -- Review and recommendation.**

A. Within one (1) year after the adoption of this ordinance, the mayor shall inventory and evaluate all real property owned by the city, considering desirable uses of the property, including projected need, if any, of the land for present or future recreational or other public use. If the city hereafter acquires any real property, the mayor shall evaluate the property within six (6) months of the acquisition.

B. The mayor shall report to the council his findings and any recommendations for retention and management or disposal of city-owned property.

(Ordinance No. 94-08.)

#### **Section 13.08.020 Retention and management.**

A. The city will retain ownership of and manage those lands required for future public uses and those lands unsuitable for any private use.

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

C. Real property acquired or purchased for one city purpose may be appropriated, transferred, assigned, or directed without public sale to another city

purpose, whenever the council determines that the purpose for which the property was acquired or purchased no longer exists, or the property is no longer used or useful for the purpose.

(Ordinance No. 94-08.)

**Section 13.08.030 City rights and powers -- Disposal.**

A. The city may dispose of any real property, including property acquired or held for or devoted to public use, when the council determines that the property is no longer required for city purposes and is suitable for use by a private party or by another governmental entity.

B. The city may sell, exchange, grant, dedicate, donate, or otherwise dispose of city-owned real property subject to the requirements of chapter 13.16 of this code, or lease city-owned real property subject to the requirements of chapter 13.20 of this code.

(Ordinance No. 94-08.)

**Section 13.08.040 No adverse possession against city.**

The city cannot be divested of title to real property by adverse possession. (Ordinance No. 94-08.)

## Chapter 13.12

### REAL PROPERTY -- DISPOSAL

#### Sections:

- 13.12.010 City's general powers.
- 13.12.020 Sales -- Generally.
- 13.12.030 Sales -- Limitations.
- 13.12.040 Sales -- Preference rights.
- 13.12.050 Exchanges.
- 13.12.060 Grants; Dedication.
- 13.12.070 Donation.
- 13.12.080 Release of easements.
- 13.12.090 Predisposal procedure -- Resolution and ordinance.
- 13.12.100 Predisposal procedure -- Setting price -Minimum acceptable offer.
- 13.12.110 Predisposal procedure -- Purchase agreements and conveyances. 13.12.120
- Disposal procedure -- Methods and procedure. 13.12.130 Disposal procedure --
- Execution. 13.12.140 Tax-foreclosed land.

#### **Section 13.12.010 City's general powers.**

A. 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.

B. The city may sell or dispose of real property by warranty or quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract for sale of real property, plat dedication, lease, tax deed, will, or any other lawful method or mode of conveyance or grant.

C. Any instrument requiring execution by the city shall be signed by the mayor and attested by the city clerk. The form of any instrument shall be approved by the city attorney.

D. The city may dispose of sites acquired for new industries benefiting the city, upon the terms and conditions as the council considers advantageous to the city, to a person who agrees to install, maintain, and operate a beneficial new industry.

(Ordinance No. 94-08.)

### **Section 13.12.020 Sales -- Generally.**

The city may sell city-owned real property by public outcry auction, sealed bid auction, or lottery. If the council determines that the public good so requires, city land may be sold by a negotiated sale to a selected buyer.

(Ordinance No. 94-08.)

### **Section 13.12.030 Sales -- Limitations.**

A. An individual may purchase only one (1) residential lot from the city in any calendar year. The council may include in the resolution of sale other limitations on the number of parcels which may be purchased by any individual or other entity which, in its discretion, it deems necessary and proper to fair and equitable public disposal of the city's land.

B. Upon a finding by the city council that there is a serious local residential housing shortage, the council may impose a residential eligibility requirement for prospective purchasers at a specific sale of city land. The requirement shall provide that all prospective participants submit sworn statements of residency to the city clerk. For the purposes of this section, a resident is a person who lives in Wainwright and has the present intent to stay and make Wainwright his/her home. A person who has maintained and resided in his/her domicile in Wainwright for at least ninety (90) days immediately preceding the sale is a resident. The city council shall resolve any challenges to residency.

(Ordinance No. 94-08.)

### **Section 13.12.040 Sales -- Preference rights.**

A. When the council adopts a resolution of sale of residential lots, the council shall provide that the city shall offer to sell lots included in the lands to be sold to persons with preference rights as provided in this section.

B. The bona fide occupant(s) of a parcel of city land who have built a residence on the parcel have a preference right to purchase the parcel under either of the following circumstances:

1. the residence was built before the land was conveyed to the city, and the circumstances under which the residence was built do not make it inequitable to grant a preference right to the occupant(s); or

2. the residence was built after the land was conveyed to the city, with the express consent of the council, or based upon assurance by the mayor or council that the land would be conveyed to the occupant(s) after improvements were constructed.

C. When residential lots are to be sold by sealed bid or outcry auction, a preference right entitles the bona fide occupant(s) of a sale parcel to purchase the parcel by matching the highest bid. If no bids are received, the preference right holder may purchase the parcel at its appraised value.

D. When residential lots are to be sold by lottery or by negotiated sale, a preference right entitles the bona fide occupant(s) of a sale parcel to purchase the parcel for its appraised value before it is offered for sale to others.

E. For any specific sale, the council may prescribe additional terms and conditions regarding the exercise of preference rights.

(Ordinance No. 94-08.)

#### **Section 13.12.050 Exchanges.**

A. The city council may approve the exchange of a parcel of city property for an equivalent parcel of property owned by the State of Alaska, the United States, any political subdivision thereof or any other individual or entity subject to such conditions as the council may impose on the exchange, whenever in the judgement of the council it is advantageous to make the property exchange. The city council may exchange land to any federal, state, political subdivision, individual or other entity for public use for such consideration as the council deem appropriate.

B. The basis for the exchange shall be the appraised value of the cityowned property. If the value of the property obtained is less than the value of the property exchanged, the city shall be paid the difference in cash. If the value of the property obtained is greater than the value of the property exchanged, the city shall pay the difference in cash.

C. The city council shall follow the disposal procedures for resolution and ordinance provided in § 13.12.090 through 13.12.130 wherever applicable.

(Ordinance No. 94-08.)

**Section 13.12.060 Grants; Dedication.**

A. The council may grant or dedicate real property to the United States, the state, a political subdivision, or an agency of any of these governments, for a consideration agreed upon between the city and the grantee without a public sale if the grant or dedication is advantageous to the city and/or the public. Any approval of a federal or state program providing for the participation or cooperation of the city by grant or dedication of the real property is a disposal of that real property to the federal or state agency administering the program for the consideration stated in the program.

B. The city council shall follow the disposal procedures for resolution and ordinance provided in §§ 13.12.090 through 13.12.130.

(Ordinance No. 94-08.) **Section**

**13.12.070 Donation.**

A. The city council may donate real property to a non-profit corporation without consideration when the donation will benefit the public.

B. The city council shall follow the disposal procedures for resolution and ordinance provided in §§ 13.12.090 through 13.12.130.

(Ordinance No. 94-08.)

**Section 13.12.080 Release of easements.**

A. The city council may at any time convey, quitclaim, release, cancel, or otherwise relinquish any real property easement, right-of-way, permit, or license the city may have or hold for the purpose of installing, constructing, or maintaining a public improvement, whenever the interest is no longer used or useful for that purpose.

B. The city council shall follow the disposal procedures for resolution and ordinance provided in §§ 13.12.090 through 13.12.130.

(Ordinance No. 94-08.)

**Section 13.12.090 Predisposal procedure -- Resolution and ordinance.** A. The

council shall comply with the following procedures:

1. Review and recommendation. After reviewing the mayor's report and recommendations subject to § 13.08.010, the council may consider a resolution or ordinance providing for the disposal of city-owned property.

2. Appraisal. After the proposed resolution or ordinance providing for disposal has been introduced, the city council shall direct the city clerk to obtain an estimated value of the property by a qualified appraiser, unless the property has been appraised within six (6) months of the resolution or ordinance.

B. The council may direct the disposal of city property by:

1. Resolution, when the property is valued at twenty-five thousand dollars (\$25,000.00) or less or is tax-foreclosed.

2. Ordinance, when the city property is valued at twenty-five thousand dollars (\$25,000.00) or less or is tax-foreclosed.

C. Consent. The city council shall supply the following provisions in the consent of the resolution or ordinance:

1. The terms of all land sales. The date of sale, the methods or methods of sale, minimum qualifications of buyer, method of payment required and any other such conditions which the city council may deem appropriate to the particular disposal.

2. City use. The fact that the property is no longer needed for city uses.

3. Appraised value. The minimum bid which shall equal the appraised value of the property.

4. Future interests. A specific disclaimer of any warranty of title if the council is disposing of any after-acquired title or future interest in real property to which the city is or may in the future become entitled.

5. Unsold land. The fact that any property offered for sale but which is not sold shall either be retained and managed subject to § 13.08.020 or reoffered for sale within ninety (90) days of the first offering at a fixed price of eighty percent (80%) of the appraised value to the first buyer, or by lottery, or at any subsequent sale according to the terms determined by the city council at that time.

6. Employment of broker. If the council deems it necessary, they shall provide for a licensed real estate broker to assist in the negotiation or sale, specify the terms of the broker's employment and approve the final contract of employment.

7. Reservations: Easements and right-of-way. Any reservations of easements and rights-of-way to be used for public improvements and purposes and of any other restrictions, limitations, reservations, revisions or covenants the council may find advantageous to the city. The effect of these reservations may be considered in determining the appraised value of the property.

D. Ordinance to dispose of property valued at more than twenty-five thousand dollars -- Election.

1. No disposition of land valued at twenty-five thousand dollars (\$25,000.00) and over shall be valid unless ratified by a majority of the qualified voters voting at a regular or special election at which the question of the ratification of the ordinance is submitted;

2. Thirty (30) days notice shall be given of the election and during that period the council shall have published at least once a week in a newspaper of general circulation distributed within the city a notice stating the time of the election; the place of voting; a description of the property to be sold, leased, or disposed of; a brief statement of the terms and conditions of the sale; the consideration, if any; and the title and date of passage of the ordinance. Notice shall also be given by posting a copy of the notice in at least three (3) public places in the city at least thirty (30) days before the election. If no newspaper of general circulation is distributed within the city, the notice given by posting is sufficient for the purposes of this subsection.

E. Public notice.

1. Publication. Notice of the disposal and the manner in which the property is to be disposed of shall be published in a newspaper of general

circulation within the city once each week for four (4) successive weeks not less than thirty (30) days prior to the date of disposal. Notice of the disposal and the manner in which the land is to be disposed shall be published in a newspaper of general circulation within the city for three (3) successive weeks prior to the date of sale.

2. Posting. Notice also shall be posted in at least three (3) public places within the city for at least thirty (30) days prior to the disposal.

3. Other means. Notice may additionally be given by other means considered reasonable by the city council.

4. Content. The notice must contain a brief description of the land, its area and general location, the kind of disposal (sale, lease or otherwise), proposed use, term, computed annual minimum rental or minimum offer, limitations, if any, rules for disposal and time and place set for the auction or bid opening, if applicable.

5. Tax-foreclosure. If the property to be disposed is taxforeclosed see § 13.12.140 for other notice provisions.

F. Public inspection. The resolution or ordinance, documents and appraisal shall be kept in the city clerk's office and made available for public inspection within the specified notice period.

(Ordinance No. 94-08.)

**Section 13.12.100 Predisposal procedure --Setting price;  
Minimum acceptable offer.**

A. Consideration. The city council shall provide in the resolution or ordinance that the city shall receive consideration more than or equal to the appraised value plus the cost of disposal of the property being sold, exchanged or leased unless the council finds a public interest or the property is tax-foreclosed provided in subsection (B) and (C), thereby justifying the receipt of a lesser sum.

B. Public interest.

1. Public interest for the purposes of subsection (A) of this section, shall include a public or quasi-public purpose and use and shall also include exchanges of property to facilitate the solution of problems involving the boundary

lines of public property. Public interest shall not include a purpose to return property to private ownership, or to return property to the tax rolls, or to make property available for a desirable private enterprise or development, or other similar purposes.

2. Upon a council determination of a public interest, a negotiated bid may be accepted by the council by resolution in place of public bidding.

C. Tax foreclosure. If the real property was acquired under a tax foreclosure, the council, by resolution, may reduce the minimum acceptable offer to an amount not less than the sum of all back taxes, penalties, and interest due or which would have been due if the property had remained in private ownership up to the date of the sale, plus all costs of foreclosure, sale, and development incurred by the city.

(Ordinance No. 94-08.)

#### **Section 13.12.110 Predisposal procedure -- Purchase agreements and conveyances.**

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

B. Conveyance documents. Conveyance documents for disposal of cityowned property must meet the following requirements:

1. the document of conveyance must be in a recordable form permitted by state statutes;

2. the document of conveyance must be signed by the mayor or his or her designee and attested by the clerk;

3. the document of conveyance must contain a specific reference to the ordinance and resolution by which the city council has authorized the conveyance to be made.

(Ordinance No. 94-08.)

### **Section 13.12.120 Disposal procedure -- Methods and procedure.**

A. Resolution/ordinance. The procedure for disposal shall be in a manner provided by resolution or ordinance.

B. Methods of disposal. The city may dispose of real property by one (1) or more of the following methods for the minimum bid as determined in § 13.12.100(A):

1. Outcry auction. If the sale is by outcry auction to the highest qualified bidder.

2. Sealed bid. If the sale is by sealed bid to the highest qualified bidder.

3. Lottery. Each participant shall pay a non-refundable application fee of twenty-five dollars (\$25.00) and offer a price fixed by § 13.12.100(A).

C. Mayor.

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

2. The approval of any public sale by the council authorizes the mayor to take all steps and execute all instruments to complete and close the sale, lease or other disposal. The mayor or his designee shall conduct the sale and shall give to the buyer a receipt of all moneys received by the city.

(Ordinance No. 94-08.)

### **Section 13.12.130 Disposal procedure -- Execution.**

A. When the city council approves a resolution or ordinance providing for the exchange, grant, donation or dedication of real property pursuant to this chapter, the appropriate time has passed pursuant to this chapter, and notice was given pursuant to this chapter, or when property was sold or leased as provided above and

consideration received, the mayor and the city clerk are authorized to execute the appropriate agreement, deed, lease or other conveyance required by the resolution or ordinance, and approved by the city attorney, transferring the land to the successful buyer. In the event of any discrepancy in the legal description, form of acknowledgment or other formalities associated with the conveyance, the mayor and city clerk are authorized to execute such corrective instruments as may be required by the buyer or any title insurance company or financing institution taking a trust deed on the property as security with the approval of the city attorney.

B. After the execution of the appropriate documents, the documents of conveyance must be delivered by the city to the transferee at the time that the grant is made.

C. A purchaser at a public sale who fails to make such other cash payments within the times required by the resolution or ordinance shall forfeit any cash deposit paid to the city.

(Ordinance No. 94-08.)

#### **Section 13.12.140 Tax-foreclosed land.**

A. Real property acquired by tax-foreclosure may be retained or disposed of in the same manner as other real property of the city except as provided in § 7.03.240 of this chapter and subsections (B) and (C) of this provision.

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

C. Where the property was acquired by tax-foreclosure, the right of repurchase of the record owner at the time of the foreclosure shall be terminated passage of a resolution in accordance with § 7.03.240 of this chapter except that such termination shall not be effective until notice and passage of the time specified in

subsection (B). Sale, lease, or any other alienation of tax title property shall terminate the right of repurchase, provided that the requirements of subsection (B) have been met.

(Ordinance No. 94-08.)

## Chapter 13.20

### PERSONAL PROPERTY -- DISPOSAL

#### Sections:

- 13.20.0 10 Personal property disposal by value.
- 13.20.020 Sale of surplus or obsolete goods.
- 13.20.030 Surplus stock. 13.20.040 Declaration of obsolescence.

#### **Section 13.20.010 Personal property disposal by value.**

A. Personal property, other than surplus stock, that is valued at less than one thousand dollars (\$1,000.00) may be disposed of upon such notice and terms considered reasonable by the mayor. The mayor shall take into consideration the value of the article, the reason for disposal, and the general preference of disposal by competitive bid. The mayor shall report disposals to the council if so requested.

B. Personal property valued at more than one thousand dollars (\$1,000.00), but less than twenty-five thousand dollars (\$25,000.00), shall be disposed of in the manner provided for real property valued under twenty-five thousand dollars (\$25,000.00) as provided in chapter 13.12 of this code.

C. Personal property valued at more than twenty-five thousand dollars (\$25,000.00) shall be disposed of in the manner provided for real property valued over twenty-five thousand dollars (\$25,000.00) as provided in chapter 13.12 of this code.

(Ordinance No. 94-08.)

#### **Section 13.20.020 Sale of surplus or obsolete goods.**

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

1. surplus or obsolete supplies, materials or equipment of a total value not to exceed one thousand dollars (\$1,000.00) in a single transaction; and

2. supplies, materials or equipment when sold at a price at least as great as that paid by the city for the same.

(Ordinance No. 94-08.)

**Section 13.20.030 Surplus stock.**

A. All agencies shall submit to the mayor, at such times and in such form as he or she shall prescribe, reports showing stock of all supplies which are no longer used or which have become obsolete, worn out, or scrapped.

B. The mayor shall have the authority to transfer surplus stock to other agencies and provide for proper fiscal transfer of such.

C. The mayor, with approval of the council, shall have the authority to sell all supplies or equipment which have become unsuitable for public use, or to exchange the same for, or trade in the same on any new supplies or equipment.

D. Sales of surplus city supplies or equipment appraised at over one thousand dollars (\$1,000.00) under this section shall be made to the highest bidder.

E. The mayor, or a person chosen by the council to act on the city's behalf, shall conduct sales and issue certificates of sale to the purchasers of surplus city supplies or equipment.

(Ordinance No. 94-08.)

**Section 13.20.040 Declaration of obsolescence.**

No surplus or obsolete supplies, materials, or equipment of a value of more than one thousand dollars (\$1,000.00) may be sold until the council has declared them obsolete or surplus.

(Ordinance No. 94-08.)

**TITLE 15**  
**BUILDINGS AND CONSTRUCTION**

**Chapters:**

Chapter 15.04 Building Code.

## Chapter 15.04

### BUILDING CODE

#### Sections:

15.04.010 Definitions.  
15.04.015 Intent; Findings. 15.04.020  
State codes. 15.04.030 Permit --  
Required. 15.04.040 Permit --  
Application. 15.04.050 Permit --  
Issuance. 15.04.060 Permit -- Fees.  
15.04.070 Permit -- Posting. 15.04.080  
Compliance with plans. 15.04.090  
Standards. 15.04.100 Building setback.  
15.04.110 Building separation.  
15.04.120 Number of exits. 15.04.125  
Building height.  
15.04.130 Nonconforming structures.  
15.04.140 Enforcement. 15.04.150  
Appeals. 15.04.160 Violations.

Appendix of forms following section 15.04.160:

Form 15.04-A

Building Permit Application.

#### **Section 15.04.010 Definitions.**

"Building inspector" shall mean the clerk or his or her designee for purposes of administration of this chapter.

(Ordinance No. 94-09.)

**Section 15.04.015 Intent; Findings.**

The intent of this chapter is to promote awareness, understanding and use of various building and related codes adopted by the State of Alaska, and to promote use in the City of Wainwright of construction techniques and siting practices which will reduce the threat posed to residents by fire, including multiple escape routes from multistory structures and preservation of lanes between buildings in which firefighting equipment is able to operate.

(Ordinance No. 94-09.)

**Section 15.04.020 State codes.**

The applicant for a building permit hereunder shall state that the project will comply with current state codes, including but not limited to the effective portion of the National Electrical Code, Uniform Building Code, Uniform Fire Code, and Uniform Mechanical Code, or such other, similar codes as may be adopted from time to time by the State of Alaska, Department of Public Safety, Division of Fire Prevention.

(Ordinance No. 94-09.)

**Section 15.04.030 Permit -- Required.**

It shall be unlawful to construct, erect, place or alter any building or structure in the City of Wainwright when the costs thereof exceed one thousand dollars (\$1,000.00) or where the effect of such construction is to enlarge the capacity or affect the bearing walls or roof of any building without first having obtained a building permit.

(Ordinance No. 94-09.)

**Section 15.04.040 Permit -- Application.**

A. Application for building permits shall be made to the clerk using Form 15.04-A and shall be accompanied by plans and specifications, including a site plan showing lot lines and adjacent structures, in duplicate and in sufficient detail to show the work to be done.

B. Applications for a building permit shall be made on an application form prescribed, prepared, and furnished by the clerk.

C. The application shall be verified by the signature of the owner of the premises or by the architect or contractor in charge of the operation.

D. If the proposed structure is a commercial building, a public building or hall, or rental unit containing four (4) or more dwelling units (four-plex or above), the application shall also be accompanied by proof that the applicant has complied with the requirements of the State Fire Marshal's Office.

E. An amended application need only be accompanied by sufficient plans and/or specifications to show the material variations of the project described by the amended application from the project described by the original application.

(Ordinance No. 94-09.)

#### **Section 15.04.050 Permit -- Issuance.**

A. All applications for a building permit under this chapter shall be referred by the clerk to the building inspector.

B. The building inspector shall examine each application to determine whether the proposed activity will comply with the standards established by §§ 15.04.090 through 15.04.125 and will substantially comply with the applicable state codes described in § 15.04.020(B).

C. No building permit may be issued for any building or structure if the building inspector finds that the building or structure, as described by the building permit application, plans, and specifications, will not be substantially in compliance with the applicable state codes.

D. Upon approval, one (1) set of plans shall be returned to the applicant with the building permit and the other shall be retained by the building inspector.

E. All applicants shall be acted upon within thirty (30) working days after their filing with the clerk. Applications shall be approved, disapproved, or returned as incomplete within the thirty (30) day period or the building permit application shall be deemed approved by the building inspector and the building permit shall be issued.

(Ordinance No. 94-09.)

**Section 15.04.060 Permit --Fees.**

Each application shall be accompanied by a non-refundable application fee. Fees for building permits shall be as follows:

A. Single-family residence, twenty-five dollars (\$25.00);

B. Commercial (including rental units), two dollars (\$2.00) per one thousand dollars (\$1,000.00) of building valuation or of building improvement or twenty-five dollars (\$25.00), whichever is greater.

C. Each amended application shall be accompanied by a non-refundable fee of twenty five-dollars (\$25.00).

(Ordinance No. 94-09.)

**Section 15.04.070 Permits -- Posting.**

A copy of the permit issued hereunder shall be posted in a conspicuous place on the premises during the carrying out of the activity authorized by the permit.

(Ordinance No. 94-09.)

**Section 15.04.080 Compliance with plans.**

A. It is unlawful to vary materially from the submitted plans and specifications unless such variations are submitted in an amended plan to the building inspector and approved.

(Ordinance No. 94-09.) **Section**

**15.04.090 Standards.**

The standards set out in §§ 15.04.100 through 15.04.125 shall apply to activity requiring a building permit under this chapter.

(Ordinance No. 94-09.)

**Section 15.04.100 Building setback.**

No building permit may be issued for any building or structure if any part of the building or structure, whether at or above ground level, will be less than ten feet (10') from any adjacent street, or less than five feet (5') from any lot line or utility easement.

(Ordinance No. 94-09.)

**Section 15.04.110 Building separation.**

No building permit may be issued for any building or structure with an area of more than one hundred fifty (150) square feet if any part of the building or structure, whether at or above ground level, will be less than twenty feet (20') from any part of any other building or structure with an area of more than one hundred fifty (150) square feet.

(Ordinance No. 94-09.)

**Section 15.04.120 Number of exits.**

No building permit may be issued for any building or structure, including any single family dwelling, more than one (1) story high, unless it is provided with at least two (2) means of egress from the building as far from each other as the plan of the building will permit, or with a doorway in a firewall leading to another floor area which is provided with adequate stairs or other means of exit.

(Ordinance No. 94-09.)

**Section 15.04.125 Building height.**

No building permit may be issued for any building or structure over thirtyfive feet (35') in height as measured at the corners from the ground floor level, where such height is substantially disproportionate to other buildings or structures in the area surrounding the property or in the general neighborhood of the building or structure.

(Ordinance No. 94-09.)

#### **Section 15.04.130 Nonconforming structures.**

No vested rights to construct, erect, place or alter any building or structure shall be acquired by virtue of money spent or work done prior to obtaining a building permit required by this chapter; provided, however, that any building or structure in existence or substantially completed prior to the effective date of the ordinance from which this section derives shall not be required to obtain a building permit or otherwise comply with the requirements under this chapter except as otherwise required for alterations and new additions thereto. For the purpose of this section, "substantially completed" means the placement of piling or other foundation and the erection of flooring.

(Ordinance No. 94-09.)

#### **Section 15.04.140 Enforcement.**

The building inspector shall make or cause to be made such inspections as are necessary to see that the provisions of this chapter are enforced. When work is being done in violation of this chapter or of a building permit issued hereunder, the building inspector may order all work to be stopped until such violation is eliminated or corrected. A stop work order shall be issued in writing by the building inspector and served personally or sent certified mail, return receipt requested, to the person or entity receiving the building permit. The building inspector shall refer continued violations or failures to comply with stop work orders to the city attorney for appropriate legal action.

(Ordinance No. 94-09.) **Section**

#### **15.04.150 Appeals.**

A. Any applicant for a building permit under this chapter may appeal the denial of a building permit by the building inspector to the city council in the manner provided by chapters 2.40 and 2.44. The appeal shall be filed with the clerk and shall be scheduled for consideration by the council at the next regularly scheduled meeting. The council shall consider whether the building inspector's decision was supported by substantial evidence and is consistent with the requirements of this chapter. If the council determines that the building permit should have been issued, it shall direct the building inspector to issue the permit.

B. Failure of the council to hear the appeal and either order the permit issued or confirm its denial within fifteen (15) days after the appeal has been filed with the clerk, shall result in the immediate issuance of the building permit by the building inspector.

(Ordinance No. 94-09.) **Section**

**15.04.160 Violations.**

A. Any person, firm, partnership, corporation or other entity violating any provision of this chapter, or making any fraudulent statement in or in connection with the permit application shall, on conviction thereof, pay a fine of not more than five hundred dollars (\$500.00), together with the cost of prosecution of each offense. A separate offense shall be deemed committed on each day during or on which the violation occurs or continues.

B. In addition or as an alternative to criminal prosecution under subsection (A) of this section, the city may seek such declaratory or injunctive relief as it deems appropriate to declare the rights of the parties and restrain the violation.

(Ordinance No. 94-09.)