

POINT HOPE
CITY CODE
1990

A Codification of the General Ordinances
of City of Point Hope, Alaska

Codified and Published by
Hughes, Thorsness, Gantz, Powell & Brundin

590 University Avenue, Suite 200
Fairbanks, Alaska 99709

CITY OF POINT HOPE CODE OF ORDINANCES

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Title 1

GENERAL PROVISIONS

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Chapter 1.01

CODE ADOPTION

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1.01.010 Adoption. As required by A.S. 29.25.050, there is adopted the "City of Point Hope Code of Ordinances."

1.01.020 Title -- citation -- reference. This code shall be known as the "City of Point Hope, Code of Ordinances." It shall be sufficient to refer to this code as the "City of Point Hope Code" in any prosecution for the violation of any provision hereof or in any proceeding at law or in equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion hereof (pursuant to Section 2.12.092) as an addition to,

amendment to, correction or repeal of the "City of Point Hope, Code of Ordinances." Further reference may be had to the titles, chapters, sections and subsections of the "City of Point Hope, Code of Ordinances," and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code.

1.01.030 Contents of code. This code consists of all the general and permanent ordinances of the City of Point Hope, 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.

1.01.040 Ordinances passed prior to the adoption of the code. The adoption of this code shall repeal all ordinances passed prior to adoption, which are not otherwise expressly repealed, if the prior ordinance is inconsistent with this code.

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

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.

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.

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 Point Hope 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.

1.01.090 Effective date. This code shall become effective on the date the ordinance adopting this code as the "City of Point Hope Code of Ordinances" becomes effective.

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 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.

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.

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

B. Repealed provisions of this code shall be excluded from the code.

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.

Chapter 1.04

GENERAL PROVISIONS

Sections:

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

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 Point Hope, Alaska, or the area within the territorial limits of the City of Point Hope, Alaska.
- C.** "Clerk" means the city clerk.
- D.** "Council" means the city council of Point Hope, 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 Point Hope 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.** "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."
- J.** "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.

K. "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.

L. "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.

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

N. "Property" includes real and personal property.

O. "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.

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

Q. "State" means the State of Alaska.

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

S. "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.

T. "Written" includes printed, typewritten, mimeographed, multigraphed or other means of reproducing words or figures in permanent visible form.

U. "Year" means a calendar year.

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.

1.04.030 Interpretation of language. The following grammatical and interpretative rules apply to this code:

A. Any gender includes the other gender;

B. The singular number includes the plural and the plural includes the singular;

C. The present tense includes the past and future tenses, and vice versa, unless clearly inappropriate;

D. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language;

E. Common words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

Chapter 1.08
INCORPORATION

Sections:

1.08.010 Status of municipality.

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 Point Hope, 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.

Chapter 1.12
CITY BOUNDARIES

Sections:

- 1.12.010 City boundaries -- changes.
- 1.12.020 City boundaries -- described.
- 1.12.030 City boundaries -- illustrated.

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.

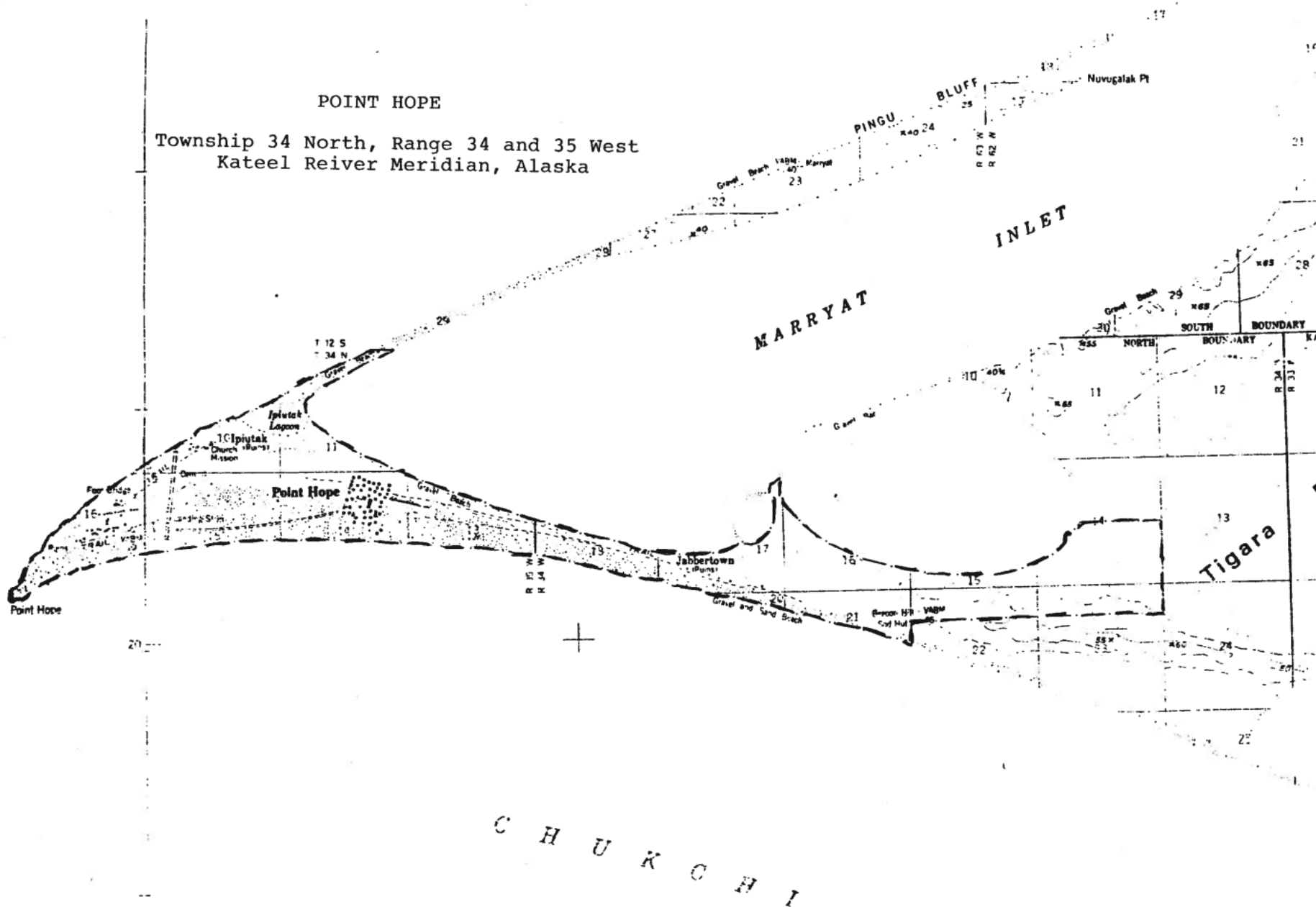
1.12.020 City boundaries -- described. The boundaries of the City of Point Hope, as set forth in the Order of Incorporation entered by the District Magistrate Court for the State of Alaska, Second Judicial District at Nome, on January 5, 1966, are as follows:

Beginning at the northeast corner of the S 1/2 of protracted Section 14, T34N, R34W, Kateel River Meridian (K.R.M.); thence south to the southeast corner of the NE 1/4 of the NE 1/4 of protracted Section 23, T34N, R34W, K.R.M.; thence west to the southeast corner of the NE 1/4 of the NE 1/4 of protracted Section 21, T34N, R34W, K.R.M.; thence south to the line of mean high tide of the Chukchi Sea; thence meandering in a northwesterly direction along the line of mean high tide of the Chukchi Sea to the outermost point of Point Hope, thence continuing to meander northeasterly along the line of mean high tide of the Chukchi Sea to the intersection with the north boundary of protracted Section 11, T34N, R35W, K.R.M.; thence east along the north boundary of Section 11 until its intersection with the line of mean high tide of Marryat Inlet, thence meandering southwesterly, southeasterly, northerly, southeasterly and northeasterly along the line of mean high tide of Marryat Inlet to the intersection with the north boundary of the S 1/2 of protracted Section 14, T34N, R34W, K.R.M.; thence east to the northeast corner of the S 1/2 of protracted Section 14, T34N, R34W, K.R.M., the true point of beginning containing 5.09 square miles, all within the Second Judicial District of the State of Alaska.

1.12.030 City boundaries -- illustrated. The following map illustrates the city boundaries described in Section 1.12.010. In the event of conflict between the map and the description contained in Section 1.12.020, the description shall control.

POINT HOPE

Township 34 North, Range 34 and 35 West
Kateel Reiver Meridian, Alaska



Each section contains 640 acres

Chapter 1.16

CITY SEAL AND LETTERHEAD

Sections:

1.16.010 City seal -- described and adopted.

1.16.020 City letterhead -- described and adopted

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 Point Hope, 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.

1.16.020 City letterhead -- described and adopted. The official letterhead of the city shall be in substantially the following form. The letterhead is adopted and declared to be the official letterhead for use in all city correspondence.



City of Point Hope

P.O. Box 169

Point Hope, Alaska 99766

368-2537

Chapter 1.20

CITY POWERS

Sections:

1.20.010 Designated.

1.20.020 Discrimination prohibited.

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

1.20.020 Discrimination prohibited. It is unlawful for the city or any elected official, appointed official, or city employee in the course of his or her duties:

A. 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;

B. 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.

Chapter 1.24
PUBLIC RECORDS

Sections:

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

1.24.010 Definitions. 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.

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

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

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

B. Establish and maintain a system for filing and 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;

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

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

E. Secure and maintain at least one copy of the Alaska Statutes and one copy of the North Slope Borough Code, and make them available for public inspection.

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.

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 3.04.080;

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

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.

Chapter 1.28

PENALTIES; ENFORCEMENT

Sections:

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

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

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.

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

1.28.040 Civil or criminal enforcement action. The city may enforce its ordinances by civil and criminal proceedings as follows:

A. 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.

B. 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.

C. Maintain a civil action to collect a civil penalty of not more than one thousand dollars for the violation of any ordinance.

D. Maintain an action prosecuting as an infraction the violation of any city ordinance for which no greater penalty is established.

E. 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 and imprisonment for not more than ninety days.

Chapter 1.32

RIGHT OF ENTRY FOR INSPECTION

Sections:

1.32.010 Right of entry to enforce city law.

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 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.

Title 2

ADMINISTRATION

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Chapter 2.04

MAYOR AND VICE-MAYOR

Sections:

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| 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 or acting mayor. |

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.

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

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

C. The mayor and vice-mayor shall have been residents of the City of Point Hope for ninety days immediately prior to the date of the election.

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

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

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

1. The person elected resigns, and the resignation is accepted by the council; or

2. The council, pursuant to Section 2.08.070, declares the person's council seat vacant.

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

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

2.04.050 Veto. The mayor does not have the veto power.

2.04.060 Compensation. The mayor of the city shall receive compensation in the amount of one hundred dollars per regular meeting except where there is no quorum to open the meeting; and one hundred dollars per special meeting except where there is no quorum to open the meeting.

2.04.070 Vice-mayor or acting mayor. The vice-mayor or acting mayor appointed under 2.04.030(C), shall perform the duties of the mayor in the temporary absence of the mayor.

Chapter 2.08

CITY COUNCIL

Sections:

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

2.08.010 Established; composition. The legislative power of the city is vested in the city council. The council shall consist of seven members elected by the voters at large.

2.08.015 Qualifications of council members. A. A council member shall be a qualified city voter. A council member who ceases to be eligible to be a city voter immediately forfeits his or her office.

B. In order to serve as a council member, a person must be a resident of the city for thirty days immediately prior to the date of the election.

C. All council members, before entering upon the duties of office shall affirm in writing the oath or affirmation provided by Section 2.24.010.

2.08.020 Election; term. A. A council member is elected for a three-year term and serves until a successor qualifies.

B. The regular term of office begins on the first Monday following certification of the election.

C. City council members shall be elected at the regular election held annually on the first Tuesday in October. Council members shall be elected to Seats C and D at the 1986 regular election and at the regular election in every third year following 1986 (1989, 1992, etc.); council members shall be elected to Seats A, B, and G at the 1987 regular election and at the regular election in every third year following 1987 (1990, 1993, etc.); and council members shall be elected to Seats E and F at the 1988 regular election and at the regular election in every third year following 1988 (1991, 1994, etc.).

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

2.08.040 Regular Meetings. A. The council shall meet on the first Monday of each month at 7:00 p.m.

B. The usual place of council meetings shall be the city offices, Point Hope, 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.

2.08.050 Special Meetings. A. Special meetings of the council may be called for a time different than that fixed for regular council meetings by the mayor or by any three members of the council. The location of all special council meetings shall be the same as that authorized for regular meetings.

B. Advance notice of at least twenty-four 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 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.

2.08.055 Notice of Meetings. Reasonable notice shall be given to the public of all regular and special council meetings.

Public notice of a meeting is reasonable if a statement containing the date, time, and place of the meeting, and the purpose of the meeting if it is a special meeting, is posted in at least three public places not less than twenty-four hours before the time of the meeting.

This section does not alter or supersede any other notice requirements which may be provided in state law.

2.08.060 Compensation. A. Each council member shall receive compensation of one hundred dollars per regular or special meeting attended and seventeen dollars per hour for each council work session attended.

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 officer 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.

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

A. Is deceased;

B. Fails to qualify or take office within thirty days after election or appointment;

C. Is physically absent from the city for ninety consecutive days unless excused by the council;

D. Resigns and the resignation is accepted;

E. Is physically or mentally unable to perform the duties of office as determined by two-thirds vote of the council;

F. Is convicted of a felony or of an offense involving a violation of the oath of office;

G. Is convicted of a felony or misdemeanor described in A.S. 15.56 and two-thirds of the council members concur in expelling the person elected;

H. Is discharged from the council pursuant to Section 2.26.050 for repeated failure to disclose potential conflicts of interest or for participating in an action when the member has a conflict of interest;

I. Is convicted of a violation of A.S. 15.13;

J. No longer physically resides in the city, and the council by two-thirds vote declares the seat vacant;

K. Misses three consecutive regular council meetings, unless excused; or

L. Has been recalled by the voters.

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 days, appoint a person to fill the vacant seat. If less than thirty days remain in the term of the vacant seat at the time that the vacancy occurs, the vacancy shall not be filled.

B. Notwithstanding subsection A of this section, if the membership of the council is reduced to fewer than four members, the remaining members shall, within seven days, appoint as many qualified persons as are necessary to increase the membership of the council to four.

C. If all seven council seats become vacant at one time, the governor shall appoint three qualified persons to the council. The governor's appointees shall appoint additional members as provided in subsection B of this section.

D. A person appointed to fill a vacancy serves until the next regular city election, when a successor shall be elected to serve the balance of the term, and until the successor has qualified.

2.08.090 Oath of office. All council members, before entering upon the duties of office, shall affirm in writing the following oath and file it with the clerk:

"I _____, do solemnly swear that I will support the constitution and laws of the United States and the State of Alaska and the laws and ordinances of the City of Point Hope, Alaska, and that I will honestly, faithfully, and impartially perform the duties of the office of _____, so help me God."

Chapter 2.12

CITY COUNCIL PROCEDURES

Sections:

| | |
|----------|----------------------------------|
| 2.12.010 | Presiding officer. |
| 2.12.020 | Public meetings. |
| 2.12.030 | Executive sessions. |
| 2.12.040 | Agenda. |
| 2.12.050 | Quorum. |
| 2.12.060 | Absence of quorum. |
| 2.12.070 | Call to order. |
| 2.12.080 | Order of business. |
| 2.12.090 | Ordinances -- when required. |
| 2.12.092 | Ordinances -- codification. |
| 2.12.094 | Ordinances -- procedure. |
| 2.12.096 | Ordinances -- form. |
| 2.12.100 | Ordinances -- emergency. |
| 2.12.110 | Resolutions -- <i>when</i> used. |
| 2.12.112 | Resolutions -- permanent file. |
| 2.12.114 | Resolutions -- procedure. |
| 2.12.116 | Resolutions - form. |
| 2.12.120 | Voting. |
| 2.12.130 | Rules of order. |

Appendix of Forms following Section 2.12.130:

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

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.

2.12.020 Public meetings. A. All meetings of the council shall be public. The only exception to the requirement

of public council meetings is when an executive session is permitted by Section 2.12.030.

B. The council shall provide reasonable opportunity for the public to be heard at all regular and special meetings.

C. This section does not apply to special meetings called solely to discuss and decide adjudicatory proceedings, if the public and the affected parties have been given an opportunity to be heard on the same topic at a prior meeting.

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;

3. Matters required by federal or state law or by city ordinance to be confidential.

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.

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 hours prior to the meeting.

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

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.

2.12.070 Call to order. The mayor or, in the mayor's absence, the vice-mayor, shall call the council to order at the time stated in the notice of the meeting and, if a quorum is present, proceed with the order of business.

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

- A. Call to order;
- H. Roll call;
- C. Invocation;
- D. Minutes of previous meeting(s);
- E. Reports;
- F. Communications and public appearance requests;
- G. Hearings, ordinances, and resolutions;
- H. Old business;
- I. New business;
- J. Public participation;
- K. Council comments;
- L. Adjournment.

2.12.090 Ordinances -- when required. A. The council may act only by ordinance, resolution, or motion. Laws of a general, uniform, and permanent nature shall be adopted by

ordinance. Statements of opinions, principles, facts, or propositions may be made by adoption of a resolution.

B. In addition to other actions which state law requires to be taken by ordinance, the council shall use ordinances to:

1. Establish, alter, or abolish city departments;
2. Amend or repeal an existing ordinance;
3. Fix the compensation of council members and other city officers and employees;
4. Provide for the sale or exchange of city property;
5. Provide for a fine or other penalty, or establish rules or regulations for violation of which a fine or other penalty is imposed;
6. Adopt the city budget;
7. Make appropriations, including supplemental appropriations or transfer of appropriations;
8. Provide for the levying of taxes;
9. Grant, renew, or extend a franchise;
10. Regulate the rate charged by a public utility;
11. Approve the transfer of a power to the borough;
12. Adopt, modify, or repeal building and housing codes;
13. Provide for the retention or sale of tax-foreclosed property; and
14. Exempt contractors from compliance with general requirements relating to providing insurance, payment bonds, and performance bonds in the construction or repair of city public works projects within the limitations set out in A.S. 36.25.025.

2.12.092 Ordinances -- codification. A. At the time of or after adoption, each general and permanent ordinance shall be made a part of and assigned a permanent subsection or section number or numbers specifying its placement in this code; a notation of the date of adoption and the number of the ordinance by which it was adopted shall be added to the end of each subsection or sections 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 substantially the following language: "That Section _____ of the Point Hope Code is hereby amended to read as follows: [insert full text of provision as amended]."

C. An amendment of this code which adds a new provision shall be made by adoption of an ordinance specifically assigning a new subsection or section number or numbers to the new provision(s) in substantially the following language: "That the Point Hope 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.

2.12.094 Ordinances -- procedure. A. A proposed ordinance shall be introduced in writing, in the form prescribed by Section 2.12.096, by the mayor or any other member of the council, or by a committee of council members, at any lawful council meeting.

B. After an ordinance is introduced, the council may approve a motion to set the time and place for a public hearing on the ordinance. At least four affirmative votes are required to approve such a motion.

C. When a proposed ordinance has been set for public hearing, the council shall direct the clerk to publish a summary of the ordinance, together with a notice of the time and place of the hearing. The summary and notice shall be posted in at least three public places in the city at least five days before the public hearing.

D. At the public hearing, copies of the ordinance shall be available for all persons present, or the ordinance shall be read in full. All persons shall have the opportunity to be heard at the public hearing. After the hearing, the council shall consider the proposed ordinance, and may adopt it with or without amendment, except that if the amendments are so substantial that they would change the basic character of the proposed ordinance, the proposed amended ordinance shall be treated as a newly introduced ordinance and set for public

hearing. If the ordinance is adopted, the council shall direct the clerk to type or print the ordinance in its final form and make copies available to the public.

E. At least four affirmative votes are required for the adoption of an ordinance.

F. Upon adoption, each ordinance shall be signed by the mayor, and attested by the clerk.

G. An ordinance takes effect upon adoption, or at a later date specified in the ordinance.

2.12.096 Ordinances -- form. A. All ordinances adopted by the council shall be in substantially the following form (which is illustrated by Form 2.12-A):

1. The heading "CITY OF POINT HOPE, 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 POINT HOPE 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. The subject of each ordinance shall be summarized in the title.

2.12.100 Ordinances -- emergency. A. To meet a public emergency, the council may adopt an emergency ordinance effective upon adoption. Each emergency ordinance shall contain a finding by the council that an emergency exists and a statement of the facts upon which that finding is based. An emergency ordinance may be adopted, amended and adopted, or

rejected at the meeting at which it is introduced. The affirmative vote of all council members present, or the affirmative vote of six council members, whichever is less, is required for the adoption of an emergency ordinance. Except as specified in this section, the requirements of Sections 2.12.090 through 2.12.096 apply to emergency ordinances.

B. An emergency ordinance may not be used to levy taxes, to grant, renew, or extend a franchise, or to regulate the rate charged by a public utility for its services.

C. An emergency ordinance is effective for sixty days unless the ordinance specifies a shorter period of time during which the ordinance is to remain in effect.

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.

2.12.112 Resolutions -- permanent file. Resolutions shall not be included in this code, but shall be kept by the clerk in a permanent file available for public inspection.

2.12.114 Resolutions -- procedure. A. A proposed resolution shall be introduced in writing, in the form prescribed by Section 2.12.116, by the mayor or any other member of the council, or by a committee of council members, at any lawful council meeting.

B. The proposed resolution shall be read aloud at the time of introduction. Before the council votes on the motion to adopt the resolution, all interested persons present shall have the opportunity to comment.

C. Adoption of a resolution must be approved by at least four affirmative votes.

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

- A. The heading "CITY OF POINT HOPE, ALASKA";
- B. The resolution number;
- C. A short title, descriptive of the resolution's subject and purpose;

D. Short premises or "WHEREAS" clauses, stating the facts underlying or describing the reasons for the resolution;

E. The resolving clause "BE IT RESOLVED:" stating the opinions, principles, findings of fact, propositions, or course of action the council believes should be taken;

F. The date of adoption;

G. Space for the signature of the mayor; and

H. Space for the clerk's signature attesting to the mayor's signature.

2.12.120 Voting. A. The final vote on each ordinance, resolution, or substantive motion is a recorded roll call vote, except that if the vote is unanimous it may be recorded as "unanimous". Each member present shall vote on every question, unless required by law to abstain from voting on a question.

B. The mayor or presiding officer shall declare all votes and the result.

2.12.130 Rules of order. A. Before speaking, a council member shall first respectfully address the mayor or other presiding officer for permission to speak. A council member must then be recognized by the mayor or presiding officer before speaking. When two or more members request to speak at the same time, the mayor or other presiding officer shall determine which one is recognized.

B. When speaking, a council member shall discuss only the subject under discussion. A council member shall not refer to any other council member except in a respectful manner.

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

D. After a motion is seconded and stated or read by the presiding officer, it shall be considered to be in the possession of the council and shall be disposed of by vote. However, the council member making the motion may withdraw it at any time before a vote is taken, if the member who made the second agrees.

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

F. Any previous decision on a motion may be changed by majority vote of the council on a motion made later at the same meeting. Subject to the requirements of Section 2.12.114, a

resolution may be repealed or modified at any time by adoption of a new resolution. Subject to the requirements of Section 2.12.094 or 2.12.100, an ordinance may be repealed or modified at any time by adoption of a new ordinance.

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

H. The clerk shall keep minutes of all regular and special meetings, and shall maintain a council meeting journal which shall include agendas and minutes of all meetings, together with copies of all resolutions and ordinances introduced, whether or not adopted. The council meeting journal is a public record. The council meeting 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.

CITY OF POINT HOPE, ALASKA

ORDINANCE NO. _____
(Form 2.12-A)

AN ORDINANCE _____

BE IT ENACTED BY THE POINT HOPE CITY COUNCIL AS FOLLOWS:

Section 1. _____

Section 2. _____

Section 3. _____

DATE INTRODUCED: _____

DATE AT PUBLIC HEARING: _____

PASSED and APPROVED by the Point Hope City Council this _____
day of _____, 19____.

MAYOR

ATTEST:

CLERK

[City
seal]

CITY OF POINT HOPE, ALASKA

RESOLUTION NO. _____
(Form 2.12-B)

A RESOLUTION _____

WHEREAS, _____

WHEREAS, _____

BE IT RESOLVED: _____

PASSED and APPROVED by the Point Hope COUNCIL THIS _____ day
Of _____, 19_____.

Mayor

ATTEST:

Clerk

Chapter 2.16

[RESERVED]

Chapter 2.20

APPOINTIVE OFFICES

Sections:

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

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 investigations into city affairs, and compel the production of books, papers, and other evidence. Failure to obey such orders to produce books or evidence shall constitute grounds for the immediate discharge of any city officer or employee.

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

2.20.020 Appointment: term; bonds. A. Appointive officials are appointed by the mayor, and must be confirmed by

the city council before taking office. Appointed officers serve at the pleasure of the mayor.

B. 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 Section 2.24.020.

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, regulations, 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 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. Maintain care of 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 shared revenue programs;
8. Perform other duties specified by state law or city ordinance or assigned by the mayor or the council; and
9. Give bond to the city in a sum that the council directs. Premiums on the bond will be paid by the city.

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

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.

2.20.050 [Reserved.]

2.20.060 Boards and commissions. The council may by ordinance establish advisors, 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 as the council may by ordinance or resolution direct, and may be dissolved by ordinance.

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.

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 Point Hope, 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.

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 joint and several, and made payable to the city in the penal sum and with the conditions required by law.

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.

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.

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 -- appointed officers and employees.
- 2.26.050 Violations.

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.

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 individual matters arise. A council member, appointed officer, or city employee should abstain from voting or refrain from acting if:

A. 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.

B. 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 or more that will be affected by the vote or action.

C. 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 or more that will be affected by the vote or action.

D. 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 or more with the city that will be affected by his or her vote or action.

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

B. The mayor shall rule on the request of a council member to be excused from voting on a matter in which the member has or believes he or she has a substantial financial interest, unless the mayor is the member making the request or has the same or a similar or related financial interest in the same matter, in which case the council shall designate another

council member who has no financial interest in the matter to rule on the request."

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

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

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

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

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.

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 suspension shall be for a period of up to ninety days, and shall be made upon a two-thirds majority vote of the council. Any council member, officer, or employee who is suspended for this reason more than once in any twelve month period may be discharged from the council or from his or her office or job. Such discharge shall be made upon a two-thirds majority vote of the council.

B. Any person who wilfully violates any provision of Section 2.26.010 shall be guilty of an infraction.

C. Any city council member or appointed city officer who wilfully violates any provision of Section 2.26.010 shall be deemed to have violated his or her oath of office and shall be subject to immediate discharge from the council or from office by two-thirds vote of the council. Any willful violation of any provision of Section 2.26.010 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.

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. |

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.

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.

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 policy 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-year recreation plan.

2.28.040 Commission -- established. A. There is created a city recreation commission.

B. The recreation commission shall consist of seven 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.

2.28.050 [Reserved.]

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

H. 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 members of the council.

C. A commission member who misses three consecutive regular meetings shall be removed from the commission. When a member has missed three 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.

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-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.

2.28.080 Commission meetings generally. A. Regular commission meetings shall be held once a month.

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

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 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.

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 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 hours prior to each special meeting.

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

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 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.

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.

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. Recounts.
- 2.36.390 Contest.
- 2.36.400 Contest -- appeal.
- 2.36.410

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 2.36.490

- Form 2.36-A Oath of Election Official.
- Form 2.36-B Notice of Election.
- Form 2.36-C Ballot.
- Form 2.36-D Tally Sheet.
- Form 2.36-E Report of Election Results.
- Form 2.36-F Oath and Affidavit of Eligibility for Questioned Ballot.
- 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

2.36.010 Voter qualifications. A person shall be qualified to vote in a city election who:

- A. Is a United States citizen qualified to vote in state elections;

B. Has been a resident of the City of Point Hope for thirty days immediately preceding the election;

C. Is registered to vote in state elections;

D. Has not been convicted of a felony involving moral turpitude without later restoration of voting rights pursuant to A.S. 15.05.030; and

E. Has not been judicially determined to be of unsound mind, unless the disability has been removed.

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

A. 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.

B. 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.

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

D. A person does not lose his 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.

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

F. 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.

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

H. 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 city clerk setting out his new voting residence.

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 Point Hope is entirely within the Point Hope election precinct. The city council shall establish the location of voting places for each precinct by resolution.

2.36.040 Supervision by city clerk. A. The clerk is the supervisor of elections for the City of Point Hope. 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.

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

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

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

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

E. Each election judge or clerk shall sign the oath specified in Section 2.36.060 and file it with the clerk on or before election day.

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 an 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 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 election ordinances and election procedures.

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

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

A. 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.

B. 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.

C. 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.

D. To knowingly 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.

E. 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.

F. To possess any counterfeit of an official ballot.

G. 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, or 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 content other than that prescribed by ordinance or as directed by the city clerk.

H. 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.

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

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

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

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

M. While the polls are open, to open any ballot received from a voter at any election place, 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.

N. To willfully delay the election returns.

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

P. 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.

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

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

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

T. To solicit a person to vote for or against any candidate, question, or proposition on the ballot within 100 feet of any entrance to the polling place during the hours the polls are open.

ARTICLE II: PREPARATION FOR ELECTION DAY

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.

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

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.

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

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

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

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

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

B. Notices of a regular election must be posted in three public places for twenty days before the election and published in a newspaper of general circulation in the city, if any.

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

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

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

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 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.

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 days and no later than ten days before the election.

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.

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 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.

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

2.36.190 Other materials. A. At least ten days prior to the day of the election, the clerk shall prepare the following materials:

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

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

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

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

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

6. Two large envelopes for each polling place, one marked "Spoiled Ballots" and the other marked "Questioned Ballots;"

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

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

9. Ballot envelopes and return envelopes for absentee ballots, prepared in accordance with Section 2.36.340.

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

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

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

ARTICLE III: ELECTION DAY PROCEDURE

2.36.200 Distribution of ballots. A. Before the polls open on election day, the clerk shall deliver the ballots and sample ballots prepared pursuant to Section 2.36.180 to an election board member at each polling place. The ballots shall be delivered in separate sealed packages, with the number of ballots enclosed in each package clearly marked on the outside of the package. A receipt for each package shall be signed by the election board to which the package is delivered and given to the clerk. No ballots shall be taken from the polling place before the closing of the polls.

B. The clerk shall keep the following records:

1. The number of ballots delivered to the polling place;
2. The name of the person to whom the ballots are delivered;
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.

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

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

C. Judges shall report to the polling place thirty 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.

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 Section 2.36.240.

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 Section 2.36.220. A voter may request replacement of a spoiled ballot no more than three times.

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

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

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

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

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.

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

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.

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.

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 Section 2.36.060 shall be permitted to handle the ballots. No person handling any ballot after it has been taken from the ballot box and before it is sealed in the package with the other ballots at the conclusion of the board's ballot count may have a marking device in hand or remove a ballot from the immediate vicinity in which the ballots are being counted.

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 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 the candidate's name in the space provided and mark the square opposite the candidate's name in accordance with subsection 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.

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

ARTICLE IV: ABSENTEE VOTING

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.

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

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

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

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.

2.36.350 Absentee voting procedure. A. The clerk shall provide each eligible absentee voter with an official ballot prepared in accordance with Section 2.36.170, 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 days before the election.

C. No absentee voter's ballot shall be mailed to any address in the city. Any voter present in the city who requires an absentee ballot shall personally obtain the ballot from the clerk.

D. The clerk may deliver an absentee ballot to a disabled person living within the city at any time until the polls close on election day.

E. Upon issuing an absentee ballot to a voter, either by mailing or by personal delivery, the clerk shall enter in the blank register the following information: the number of the ballot issued, the name of the voter to whom it was issued, and the date on which the ballot was issued.

F. If the absentee voter's ballot is personally delivered, the absentee voter shall secretly mark the ballot in the presence of the clerk, in a manner which permits the clerk to be certain that the voter personally marked the ballot, but which does not permit the clerk to see how the voter votes. The voter shall fold the ballot and seal it in the ballot envelope, and seal the ballot envelope inside the return envelope. The voter shall then complete and swear to the affidavit printed on the face of the return envelope and deliver it to the clerk. The clerk shall certify to the affidavit on the return envelope, write or stamp his name across its seal, and retain the envelope in his custody to be delivered to the council for canvassing.

G. Any voter issued an absentee ballot may, at any time prior to closing of the polls on the day of the election for which it is issued, appear at the office of the city clerk, and there cast his ballot in the following manner: The voter first shall show the city clerk that his ballot has not been marked, then shall mark the ballot with pen and ink or indelible pencil in the presence of the city clerk, in such a manner that the city clerk cannot see how it is marked. The voter shall fold the ballot and place it in the ballot envelope, then place the ballot envelope in the return envelope. Then the voter shall complete and swear to the affidavit printed on the face of the return envelope, and deliver it, properly sealed, to the city clerk. The city clerk shall certify to the affidavit printed on the return envelope, write or stamp his name across its seal, and retain the envelope in his custody to be delivered to the council for canvassing.

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

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

ARTICLE V: POST-ELECTION PROCEDURE

2.36.360 Posting result certificate. The clerk shall post copies of the Certificate of Preliminary Election Results in three public places the day after the election results are known. The notice shall include:

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

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

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

2.36.17Q Final canvass by city council. A. The city council shall meet on the first Friday after the election and canvass all absentee ballots received after the close of the polls, and all questioned and defective ballots cast in the election.

If the council is unable to obtain a quorum or complete the count on the Friday after the election, the canvass will be continued the following day and each day thereafter until completed.

B. The city clerk shall submit to the council the election board's Report of Preliminary Election Results, the master voter registration list, the register, all regular 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 ballots should be counted and, if so, whether they can determine for whom the voter intended to vote.

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

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

2. For each office voted on, the name of the office, the names of the candidates (including write-in candidates) voted for, and the number of votes cast for each;

3. Each proposition or question voted on, and the number of votes cast for and against each;

4. The disposition of all questioned and defective ballots;
and

5. Any other matter which the council deems necessary to preserve a complete record of the election.

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

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 of the votes cast for the particular council seat, and more votes than any other candidate for the same seat.

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

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

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

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

2.36,390 Recounts. A. Any defeated candidate or any ten qualified voters who believe that a mistake has been made by an election official or by the council in counting or tabulating the votes in any election may make an application in writing to the council for a recount of the votes for any particular office or on any particular question. The application must be filed with the city clerk within twenty-four hours, excluding any Saturday, Sunday or holiday, after the council declares the results of the vote being questioned. In case of a tie vote between two or more candidates, the council shall recount the votes without any application therefor.

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

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

2.36.400 Contest. A. Any defeated candidate or any ten qualified voters who believe that prohibited practices have occurred, or that the election was conducted in a manner which did not comply with the requirements of this chapter and which affected the outcome 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 or more offices or propositions or in its entirety, invalid, and order a new election.

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

ARTICLE VI: INITIATIVE, REFERENDUM, AND RECALL

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 Section 2.36.440.

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

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

1. Embrace only a single comprehensive subject not restricted by subsection B of this section;
2. Relate to a legislative rather than to an administrative matter; and
3. Be enforceable as a matter of law.

F. An application for initiative or referendum petition shall set out fully the ordinance or resolution sought to be enacted or referred. An initiative or referendum petition 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.

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 days after certification of the petition. If no regular election occurs within seventy-five days after certification of the petition, the council shall hold a special election at least forty-five but not more than seventy-five days after the petition is certified.

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

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

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

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

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

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

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 days of the term for which elected or appointed.

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

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

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

E. A petition for recall may not be filed or supplemented within one hundred eighty 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 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 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 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 appoint a successor in the manner provided in 2.08.080 for filling other council vacancies.

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

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(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 qualified voters who will sponsor the petition.

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

D. Within two weeks after the filing of the application, the clerk shall certify the application if the clerk finds that the application complies with this section, and for an initiative petition, 2.36.420 E. An application for initiative petition shall not be certified unless the clerk finds that it would be enforceable as a matter of law.

2.36.450 Petition -- preparation. A. Within two weeks after certification of an application for petition, the clerk shall prepare a petition.

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

1. The date on which the petition is issued by the clerk;

2. a. If the petition is an initiative or referendum petition, notice that the signatures on the petition must be secured within ninety 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 days from the date the petition is issued;

3. Spaces for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing addresses of each signer;

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

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

C. If the petition consists of more than one page, each page shall contain the summary of the ordinance or resolution to be initiated or 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.

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 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 days after the date the clerk issues the petition. The signatures on a recall petition shall be secured within sixty days after the date the clerk issues the petition. Signatures shall be in ink or indelible pencil.

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

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

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

official has been defeated by the voters within the preceding six months.

2.36.470 Petition -- certification: protest. A. When a petition has been filed, the clerk shall within ten days certify on the petition whether it is sufficient, and, if it is insufficient, identify the insufficiency and notify the sponsors at the address provided on the petition by certified mail.

B. To determine whether the petition is sufficient, the clerk shall first determine whether the petition complies with the applicable requirements of Sections 2.36.420 through 2.36.460. In determining whether the petition bears the required number of signatures, illegible signatures shall not be counted unless accompanied by a legible printed name, and signatures not accompanied by a legible residence address shall not be counted. The clerk shall count only those signatures which can be determined, from the information on the petition and other information known or available to the clerk, to be the signatures of qualified voters. 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 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 days after a supplementary filing, the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

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

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

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

2.36.480 Election. A. If a regular election or previously scheduled special election occurs within seventy-five days, but not sooner than forty-five days, from the clerk's certification of the 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 days of the clerk's certification of a petition, the council shall hold a special election within seventy-five days, but not sooner than forty-five days, from the date of certification.

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.

APPENDIX OF FORMS

Forms:

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

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

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

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

I will not receive any ballot or vote 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 election ordinances and election
procedures.

SIGNED: _____
Election Judge or Clerk

Witnessed:

City Clerk

CITY OF POINT HOPE, ALASKA

NOTICE OF ELECTION
(Form 2.36-B)

NOTICE: A regular (special, runoff) election will be held in the City of Point Hope on the _____ day of _____, 19____ for the purpose of filling three (3) seats on the City Council, as follows:

City Council Seat____, 3-year term

City Council Seat____, 3-year term

City Council Seat____, 3-year term

The polls will be located at: _____

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

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

Candidates for office must file a Declaration of Candidacy form with the city clerk no later than _____, 19____. Declaration of Candidacy forms may be obtained from the city clerk at the city offices from 9:00 a.m. to 5:00 p.m., Monday through Friday.

DATE

City Clerk

[City
Seal]

AFTER MARKING BALLOT, FOLD BALLOT TO THIS LINE

CITY OF POINT HOPE, ALASKA

OFFICIAL BALLOT
(Form 2.36-C)

Regular Election of October 7, 1986

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

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

To vote for a person whose name is not printed on the ballot, write his or her name in the blank space below the list of candidates. If you have any questions about how a ballot must be marked, ask the election judge from whom you got this ballot.

CITY COUNCIL SEAT

(Vote for one only) _____

Joe Smith _____

Irene Candidate _____

Fred Friendly _____

_____ .. _____

CITY COUNCIL SEAT _____

(Vote for one only) _____

Martha Mitchell _____

Jim John, Jr. _____

_____ .. _____

Initiative 86-I

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

CITY COUNCIL SEAT _____

(Vote for one only) _____

Arnold Jones, Sr _____

Bill Brown _____

_____ .. _____

For _____

Against _____

_____ .. _____

City of Point Hope
TALLY SHEET
(Form 2.36-D)

(DATE OF ELECTION)

(DATE OF VOTE COUNT)

| Candidate | Seat A | Seat B | Seat C | Seat D | Seat E | Seat F | Seat G | Total |
|-----------|--------|--------|--------|--------|--------|--------|--------|-------|
| 1. | | | | | | | | |
| 2. | | | | | | | | |
| 3. | | | | | | | | |
| 4. | | | | | | | | |
| 5. | | | | | | | | |
| 6. | | | | | | | | |
| 7. | | | | | | | | |

8.

Write-In

1.

2.

CITY OF POINT HOPE, ALASKA

REPORT OF PRELIMINARY ELECTION RESULTS
(Form 2.36-E)

The tally below is a true and accurate record of all regular votes cast in the _____ election held city of Point Hope, Alaska on _____, 19____.

Part I: ELECTIVE OFFICES

OFFICE: CITY COUNCIL SEAT _____

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

OFFICE: CITY COUNCIL SEAT _____

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

OFFICE: CITY COUNCIL SEAT _____

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

PART II: BALLOT PROPOSITIONS AND QUESTIONS

PROPOSITION _____: FOR _____ AGAINST _____

PROPOSITION _____: FOR _____ AGAINST _____

PROPOSITION _____: FOR _____ AGAINST _____

QUESTION _____: YES _____ NO _____

QUESTION _____: YES _____ NO _____

QUESTION _____: YES _____ NO _____

PART III: ACCOUNTING OF BALLOTS

Total Ballots Received From City Clerk: _____

Total Regular Ballots cast: _____

Total Questioned Ballots cast: _____

Total Ballots Returned to Clerk: Defective: _____
Unused: _____

The tally of ballots was completed between the hours of _____ p.m.
and _____ p.m. on _____, 19____.

Respectfully submitted,

_____, Election Board Chairman

_____, Election Judge

_____, Election Judge

ATTEST:
City Clerk

[City
Seal]

CITY OF POINT HOPE, ALASKA

OATH AND AFFIDAVIT OF ELIGIBILITY
(Form 2.36-F)

STATE OF ALASKA)
) ss.
BARROW JUDICIAL SERVICE AREA)

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

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

SIGNED:

(NAME)

(ADDRESS)

WITNESSED:

ELECTION JUDGE

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

I, _____,
A _____,

QUALIFIED VOTER AND RESIDENT OF THE CITY OF POINT HOPE, ALASKA
HEREBY APPLY FOR AN ABSENTEE BALLOT FOR THE CITY ELECTION TO BE HELD
ON __, 19__.

RESIDENCE ADDRESS:

P.O. BOX NUMBER OR STREET)
MAILING ADDRESS:

(IF OTHER THAN RESIDENCE ADDRESS)

REASON FOR REQUESTING ABSENTEE BALLOT: _____

ADDRESS TO WHICH ABSENTEE BALLOT SHOULD BE MAILED:

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

DATE: _____ SIGNED: _____

RECEIVED BY: _____ DATE: _____

PLEASE MAIL THIS APPLICATION TO: Office of the City Clerk, City of
Point Hope, P.O. Box 169, Point Hope, AK 99766

City of Point Hope, Alaska
STATE OF ALASKA)
) ss.
UNITED STATES OF AMERICA)

ABSENTEE BALLOT RETURN ENVELOPE
(Form 2.36 - H)

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

(Signature of Voter)

(Residence Address with city)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 19____.

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

(Official's Signature)

(Title of Officer)

(SEAL)

NOTICE - After receiving this sealed envelope from the person taking your affidavit, when voting outside
the office of the Point Hope city clerk, you must immediately return it by mail, postage prepaid, to
Office of the City Clerk, City of Point Hope, P.O. Box 169, Point Hope, AK 99766.

City of Point Hope, Alaska
" DECLARATION OF CANDIDACY
(Form 2.36-I)

Clerk: Insert date
of filing

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

If elected to the above office, I will serve for the full term of _____ years, commencing on _____, 19____ and ending on _____, 19____. I request that my name be printed on the official ballot for the municipal election to be held in the City of Point Hope, Alaska on _____ 19 ____.

Signature

City of Point Hope, Alaska

CERTIFICATE OF ELECTION
(Form 2.36-J)

THIS IS TO CERTIFY that on the _____ day of _____,
19_____, _____ was elected to the
office of _____ of the City of Point
Hope, Alaska, as confirmed by the City Council of the City of Point Hope
upon completion of the final canvass of ballots on
the _____ day of _____, 19_____.

DATED at Point Hope, Alaska this _____ day of _____,
19_____.

Mayor

ATTEST:

City Clerk

[City
Seal]

City of Point Hope, Alaska

CERTIFICATE OF ELECTION -- BALLOT PROPOSITION
(Form 2.36-K)

THIS IS TO CERTIFY that on the _____ day of _____,
19____, the ballot proposition relating to _____
a true and correct copy of which is attached hereto, was approved by the
voters of the City of Point Hope, as confirmed by the City Council of the
City of Point Hope, upon completion of the final canvass of ballots on
the ___ day of _____, 19____.

DATED at Point Hope, Alaska this _____ day of _____,
19_____.

Mayor

ATTEST:

City Clerk

[City
Seal]

CITY OF POINT HOPE, ALASKA
AFFIDAVIT OF ELECTION CONTEST
(Form 2.36-L)

STATE OF ALASKA)
) ss.
BARROW JUDICIAL SERVICE AREA)

I believe that prohibited practices occurred at the election held on _____, 19 ____.

I believe that the following laws were violated: _____

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

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

Signature of Person Contesting

SUBSCRIBED and SWORN TO before me this _____ day
of _____, 19 ____

Notary Public in and for Alaska
My Commission Expires: _____

[Notary
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.

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.

2.40.020 Initiation of informal appeal. A. 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.

B. 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.

2.40.030 Time for initiating appeal. The letter initiating an appeal must be received by the clerk within thirty days from the date of the action or decision complained of.

2.40.040 Setting matter on agenda. A. 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.

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

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.

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.

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 days of the hearing, the council shall be deemed to have rejected the appeal.

2.40.080 Final decision. A. 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 Barrow Judicial Service Area, or any other area then embracing the City of Point Hope in the manner provided by Sections 2.44.260 and 2.44.270;

B. 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 (A) (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.

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:

A. The aggrieved party is entitled by ordinance, state statute, or the Alaska Constitution to a formal hearing; and

B. The formal proceeding is filed within the time specified by 2.44.070.

Chapter 2.44

FORMAL HEARING PROCEDURES

Sections:

ARTICLE I. GENERAL PROVISIONS

- 2.44.010 Definitions.
- 2.44.020 Application of chapter.

ARTICLE I. GENERAL PROVISIONS

- 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.
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- 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 on decision.
- 2.44.220 Effective date of decision.
- 2.44.230 Default.
- 2.44.240 Reconsideration.
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ARTICLE V. JUDICIAL REVIEW

- 2.44.260 Judicial review.
- 2.44.270 Scope of review.

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

ARTICLE I. GENERAL PROVISIONS

2.44.010 Definitions. In this chapter,

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

1. Make decisions from which an appeal may be taken to another city agency; or
2. Hear appeals of decisions of a city agency; 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.

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 include, 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.

ARTICLE II. PROCEEDINGS.

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 required by law to take such action 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 correspondent, 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.

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.

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.

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.

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 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 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.

2.44.080 Service of accusation. A. Upon filing an accusation, the agency:

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

2. Shall include with the accusation a post card or other form entitled "notice of defense" which, when signed by or on behalf of the respondent and returned to the agency, acknowledges service of the accusation and constitutes a notice of defense under Section 2.44.090;

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

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

B. The statement to respondent required by subsection A(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 days after you received this notice (if it was delivered to you

in person) or within fifteen 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 it or mailing it to the city clerk. You may also request a hearing by preparing your own notice of defense in compliance with Section 2.44.090 of the city 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.

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

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

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

C. The respondent is entitled to a hearing on the merits if he files a notice of defense. 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.

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.

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

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

You are notified that a hearing will be held before (here insert name of agency) at (here insert place of hearing) upon the _____ day of _____, 19____, 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.

ARTICLE III. EVIDENCE AT HEARINGS

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.

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.

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

1. The nature of the pending proceeding;

2. The name and address of the witness whose testimony is desired;

3. A showing of the materiality of his testimony;

4. A showing that the witness will be unable or cannot be compelled to attend; and

5. A request for an order requiring the witness to appear and testify before an officer named in the petition for that purpose.

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

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.

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 any matter relevant to the issues, even though that matter was not covered in the direct examination;

4. Impeach a witness regardless of which party first called the witness to testify; and

5. Rebut the evidence against himself.

C. If any party does not testify in his own behalf, he may be called and examined as if under cross-examination.

D. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule which makes improper the admission of the evidence over objection in a civil action. Hearsay evidence may be used to supplement or explain direct evidence but it is not sufficient by itself to support a finding unless it would be admissible over 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.

2.44.170 Evidence by affidavit. A. At any time ten or more days before a hearing or a continued hearing, a party may mail or deliver to the opposing party a copy of an affidavit which he proposes to introduce in evidence, together with a notice as provided in subsection B of this section. Unless the opposing party, within seven days after that mailing or delivery, mails or delivers to the proponent a request to cross-examine an affiant, his right to cross-examine the affiant is 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 days after the date of mailing or delivering the affidavit to the opposing party).

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.

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

ARTICLE IV. DECISIONS

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.

2.44.210 Form and effect on 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.

2.44.220 Effective date of decision. A. A decision becomes effective thirty days after it is delivered or mailed to the respondent unless:

1. A reconsideration is ordered within that time;
2. The agency itself orders that the decision become effective sooner; or
3. A stay of execution is granted for a particular purpose and not to postpone judicial review.

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

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.

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

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

2,44.250 Petition for reinstatement or reduction of Penalty. A person whose license is revoked or suspended may petition the agency for reinstatement or reduction of penalty after one year from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the city attorney of the filing of the petition, and the city attorney and the petitioner shall be given an opportunity to present either oral or written argument before the agency. The agency shall decide the petition, and 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.

ARTICLE V. JUDICIAL REVIEW

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

affected by the failure to seek reconsideration before the agency.

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

C. The complete record includes:

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

D. Upon order of the superior court, appeals may be taken 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.

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

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

1. Whether the agency has proceeded without, or in excess of, jurisdiction;

2. Whether there was a fair hearing; and

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

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

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

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

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

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

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

1. The court enters judgment;

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

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

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

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

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

ARTICLE VI. MISCELLANEOUS PROVISIONS

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.

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 H 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.

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

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.

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.

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.

Title 3
PERSONNEL

Chapters:

| | |
|-------------|---|
| <u>3.04</u> | <u>Personnel System Generally</u> |
| <u>3.08</u> | <u>Hiring Policies</u> |
| <u>3.12</u> | <u>Conditions of Employment</u> |
| <u>3.16</u> | <u>Travel and Other Pay Allowances</u> |
| <u>3.20</u> | <u>[Reserved]</u> |
| <u>3.14</u> | <u>Personal Leave</u> |
| <u>3.28</u> | <u>Leave of Absence</u> |
| <u>3.32</u> | <u>[Reserved]</u> |
| <u>3.36</u> | <u>Workers' Compensation Insurance</u> |
| <u>3.40</u> | <u>Disciplinary Actions</u> |
| <u>3.44</u> | <u>Non-Disciplinary Personnel Actions</u> |
| <u>3.48</u> | <u>Grievance Procedure</u> |

Chapter 3.04

PERSONNEL SYSTEM GENERALLY

Sections:

| | |
|----------|---|
| 3.04.010 | Definitions. |
| 3.04.020 | Policy. |
| 3.04.030 | Regulations. |
| 3.04.040 | Exempt and partially exempt employees; scope. |
| 3.04.050 | Mayor. |
| 3.04.060 | Service at mayor's pleasure. |
| 3.04.070 | Exceptions at hiring. |
| 3.04.080 | Records. |

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 use 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 classifications;
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 title, except exempt and partially exempt positions.

J. "Compensation plan" shall be the official schedule of pay approved by the city council assigning one 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, disposition 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.

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 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 Section 3.04.040.

U. "Layoff" is the involuntary non-disciplinary 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 an 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 Section 3.04.040.

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 an 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. "Position" is the office or employment whether occupied or vacant, full-time or part-time, consisting of duties and responsibilities assigned to one individual by competent authority.

HH. "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.

II. "Program or project employee" means a nonpermanent employee, including a student intern, who is employed in city service and will continue to be employed for, at most, the duration of a specified program or project which is not a

regular and continuing function of a department or agency and which has an established probable date of termination.

JJ. "Promotion" shall be the assignment of an employee from one class to another which has a higher maximum rate of pay.

KK. "Provisional employee" is an individual employed for a specific time or to fill the position of an employee on a leave of absence.

LL. "Regular Employee" is an individual receiving a regular appointment in either the classified, partially exempt, or exempt service.

MM. "Removal" is the separation of any employee on probation or for failure to meet legal requirements of employment.

NN. "Suspension" is the enforced leave of absence for disciplinary purposes, or pending investigation of charges made against an employee.

OO. "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.

PP. "Workday" is the scheduled number of hours an employee is required to work per day.

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 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.

3.04.030 Regulations. A. Generally.

1. Discrimination on the basis of race, religion, gender, political affiliation, or national origin, in any phase of the employment procedure, including appointment, promotion, demotion, suspension or removal, is prohibited.

2. 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.

3. No person shall 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, exempt, or partially exempt service. Any person either offering or receiving such a gift, gratuity, consideration or extraordinary favor is subject to criminal penalty prescribed in A.S. 11.56.100 through 11.56.130.

4. No person shall require an assessment, subscription, contribution, or service for a political party from an employee in the classified, exempt, or partially exempt service.

5. No person shall seek or attempt to use a political party endorsement in connection with an appointment or promotion in the classified, exempt, or partially exempt service.

6. No person shall 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.

7. No person shall defeat, deceive, or obstruct another person in his right to examination, eligibility, certification, appointment, or promotion under this title.

8. No person 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.

B. No city employee shall:

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 nominal 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. Engage in any business or transaction, or possess a financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties;

4. 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;

5. 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;

6. Require any other employee to subscribe, contribute or provide a service to any political party;

7. 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 or national origin;

8. 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;

9. 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;

10. Invest, either directly or indirectly, in any business or participate in any private business transaction which conflicts with his or her official duties;

11. 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;

12. 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;

13. Make any false statement on any application, report or other document relating to employment status or commit any other fraud which would prevent the fair and impartial execution of this section;

14. Require or coerce any other 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;

15. Require or coerce any other 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;

16. Require or coerce, except as directly related to the performance of his official duties, any other 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;

17. Coerce any other employee of the city to invest or contribute his earnings in any manner or for any purpose;

18. Restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of any other employee of the city, if the employee does not purport to speak or act in an official capacity. The mayor, clerk, and department heads may adopt regulations for their respective departments, specifying exceptions to this subsection. These regulations shall be submitted for approval to the council.

C. An employee in the classified service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign his position in the city service.

D. 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.

3.04.040 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 (after completion of any probationary period) 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 officials, the city attorney, any employee covered by an employment contract with the city, 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. All employees newly appointed to classified positions but who have not completed their probationary period, 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 Sections 3.12.060, 3.12.130, 3.12.140, 3.12.150, 3.12.210, and 3.12.230, which sections do apply to exempt employees;
3. Chapter 3.24;
4. Chapter 3.28;
5. Section 3.36.030, except that the council may extend the coverage of this section to particular exempt positions; and
6. Chapter 3.48.

F. The following provisions of this title do not apply to partially exempt employees:

1. Chapter 3.48.

3.04.050 Mayor. The mayor shall have the basic responsibility for administering the personnel program set forth in this title. The mayor shall:

A. Be responsible for the effective administration of the personnel system;

B. Appoint, remove, suspend and discipline all officers 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;

C. 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

D. Perform such other duties and exercise such other powers in personnel administration as may be prescribed by law and this title.

3.04.060 Service at mayor's pleasure. Elected officials of the city serve at the pleasure of the voting public. All other exempt and partially exempt employees, including but not limited to all appointive officers and the mayor's office staff, serve 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.

3.04.070 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.

3.04.080 Records. A. The clerk shall maintain a separate file containing all records relating to each employee's employment. Such records shall include the employee's original application, medical examination, 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.

C. 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.

D. 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.

Chapter 3.08
HIRING POLICIES

Sections:

| | |
|----------|--------------------|
| 3.08.010 | Merit and Fitness. |
| 3.08.020 | Promotion. |
| 3.08.030 | Tests. |
| 3.08.040 | Minimum age. |
| 3.08.050 | Residence in city. |
| 3.08.060 | Hiring Procedures. |

3.08.010 Merit and fitness. Hiring or grading of city employees shall be made on the basis of merit and fitness.

3.08.020 Promotion. When well qualified individuals are available, appointments to fill vacancies shall be by promotion of persons who are current city employees.

3.08.030 Tests. Before appointment each applicant shall take such written, oral, or practical tests of his/her qualifications as the mayor may consider appropriate.

3.08.040 Minimum age. Minimum age for city employment shall be in accordance with state law.

3.08.050 Residence in city. Other qualifications being equal, preference in employment or promotion shall be given to residents of the city and the area immediately surrounding it.

3.08.060 Hiring procedures. A. Before filling any permanent position with a permanent employee, whether by hiring of a new employee or promotion or transfer of a current employee, the availability of the position shall be advertised for at least two weeks, unless the council specifies an advertising period longer than two weeks at the time it creates, funds, or authorizes the filling of the position. At a minimum, every advertising of an available permanent city position shall include posting of notices of availability in three public places in the city, circulation of notice to current city employees, and advertising of the position in a newspaper of general circulation in the North Slope Borough. Such notice or advertisement of availability of a permanent city position shall include the position title, a summary of duties, including location and hours of work, the rate or range of compensation, a list or description of minimum requirements such as experience, education, skills, or licenses, and instructions regarding how to obtain additional information and how and when to apply for employment. The mayor may, in his or

her discretion, direct the availability of a permanent position to be advertised for a period of time longer than two weeks.

B. Only those persons who apply for appointment during the time period specified in the notice required by subsection A of this section and who possess the specified qualifications may be considered in making a permanent appointment. After the application period has ended and the applications have been reviewed, the hiring authority may either appoint one of the qualified applicants or decline to make any permanent appointment to the position. In the latter case, no permanent appointment to the position shall be made until the availability of the position is readvertised.

C. The procedural requirements applicable to the filling of a permanent position with a permanent employee apply to every other appointment to city employment, including nonpermanent, temporary, fill-in, and emergency appointments, except to the extent that the mayor determines in writing that compliance with a particular requirement in the case of a particular appointment or group of appointments is impracticable.

Chapter 3.12

CONDITIONS OF EMPLOYMENT

Sections:

| | |
|----------|---|
| 3.12.010 | Permanent employees. |
| 3.12.015 | Nonpermanent employee -- appointment. |
| 3.12.020 | Temporary employees. |
| 3.12.025 | Termination of nonpermanent employees. |
| 3.12.030 | Probationary employees. |
| 3.12.035 | Oaths; bonds. |
| 3.12.040 | Work days. |
| 3.12.050 | Workweek. |
| 3.12.060 | Overtime -- mayor's approval. |
| 3.12.065 | Overtime -- payment. |
| 3.12.070 | Compensatory time off -- mayor's option. |
| 3.12.072 | Compensatory time off -- employee's option. |
| 3.12.074 | Compensatory time off -- taking time off. |
| 3.12.076 | Compensatory time off -- maximum number of hours accrued. |
| 3.12.078 | Compensatory time off payment upon termination of employment. |
| 3.12.080 | Overtime by exempt personnel. |
| 3.12.090 | Final pay. |
| 3.12.100 | Pay period. |
| 3.12.110 | Payroll deductions. |
| 3.12.120 | Holidays. |
| 3.12.130 | Holiday during vacation. |
| 3.12.140 | Holiday falling on weekend. |
| 3.12.150 | Unpaid holidays. |
| 3.12.160 | Subsistence leave. |
| 3.12.170 | Training. |
| 3.12.180 | Performance evaluation. |
| 3.12.210 | Employee operation of city-owned vehicles. |
| 3.12.230 | Procedures for handling city funds. |

3.12.010 Permanent employees. Permanent appointments are made to classified 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 at least thirty-seven and one-half 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 work week and totals at least twenty 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 hours per week.

3.12.015 Nonpermanent employee -- Appointment. A. An individual may be appointed as a nonpermanent city employee only with the mayor's prior written approval, except that an emergency employee may be appointed without said approval.

H. 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; and

2. There is an immediate need to fill an authorized, permanent position and it is impractical to fill the position within a reasonable time; or

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; or

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 determines that:

1. The need for nonpermanent employee can practicably be met through establishing and filling an authorized permanent position; or

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 reasonably have been anticipated and 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 calendar days in a twelve-month period. A department or agency may not employ any individual as a nonpermanent employee for more than one hundred twenty calendar days in a twelve-month period. In appropriate circumstances the mayor may authorize an extension of the limit imposed by this subsection if he 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.

3.12.020 Temporary employees. A temporary employee is a nonpermanent employee hired as interim replacement, or for temporary work on a predetermined work schedule that does not extend beyond three calendar months. A temporary employee may be separated from service, demoted or suspended with or without cause in the discretion of the appointing authority or mayor. If a temporary employee is appointed as a permanent employee, he is entitled to sick leave and annual leave accruals retroactive to his date of hire.

3.12.025 Termination of nonpermanent employees. If the mayor determines that a nonpermanent employee has been appointed as a result of a false or mistaken determination made under Section 3.12.010, he shall immediately notify the head of the affected department or agency in writing and the department or agency shall terminate the employee within one working day after receipt of notice.

3.12.030 Probationary employees. Every new permanent employee in the classified service (including any former city employee) and every permanent employee newly promoted to a permanent position in the classified service shall serve a probationary period. The length of the probationary period shall be at least three months and not more than one year, as determined by the mayor. During the probationary period, the employee is partially exempt as defined by Section 3.04.040. 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 position, at the discretion of the appointing authority or mayor.

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:

A. Swear to or affirm the oath or affirmation provided by Section 2.24.010; and

B. Give bond as provided by Section 2.24.020.

3.12.040 Work days. The regular work day for full-time employees shall consist of seven and one-half hours. The scheduling of the seven and one-half hour work day shall be at the discretion of the mayor.

3.12.050 Workweek. The regular workweek for full-time employees shall consist of five regular work days, totaling thirty-seven and one-half hours.

3.12.060 Overtime -- mayor's approval. No employee may work overtime unless prior permission has been obtained from the mayor. Overtime will be considered those hours worked in excess of either eight hours on any one day, or forty hours in any one week.

3.12.065 Overtime -- payment. The federal Fair Labor Standards Act (FLSA) applies to the city. An employee who works overtime hours shall be paid for those hours at one and one-half times the employee's regular rate of pay, unless the employee receives compensatory time off or is exempt from the overtime pay requirements of FLSA. The city clerk, all department heads, and all employees in the exempt service of the city are among those city employees who are exempt from the FLSA requirements.

3.12.070 Compensatory time off -- mayor's option. The mayor may elect to offer an employee compensatory time off in lieu of overtime pay. An employee shall receive one and one-half hours of compensatory time off for each hour of overtime which the employee works, or any combination of overtime pay and compensatory time off which results in the employee receiving compensation for overtime work at the rate of one and one-half times his regular rate of pay.

3.12.072 Compensatory time off -- employee's option.

A. An employee shall receive compensatory time off in lieu of overtime pay if:

1. The mayor has offered this option to the employee;
and

2. The employee has agreed to accept compensatory time off in lieu of overtime pay before working the overtime hours;
and

3. The compensatory time off received will not cause the employee to exceed the maximum number of hours of compensatory time off which can be accrued under Section 3.12.076.

B. Upon reaching agreement with an eligible employee, the mayor shall give the employee a written notice that the employee will receive compensatory time off in lieu of overtime pay, and shall place a copy of the notice in the employee's personnel file.

C. The mayor may require an employee who was employed by the city prior to April 15, 1986, to accept compensatory time off in lieu of overtime pay, without the employee's agreement or consent, if the employee is otherwise eligible to receive compensatory time off under this section.

3.12.074 Compensatory time off -- taking time off. If an employee requests to be absent from work for the purpose of taking compensatory time off, the mayor shall permit the employee to take the compensatory time off within a reasonable time after the employee makes the request. However, the mayor may deny the employee's request if the employee's absence would unduly disrupt the operations of the city.

3.12.076 Compensatory time off -- maximum number of hours accrued. A. At any given time, an employee may have accumulated not more than the following number of accrued and unused hours of compensatory time off in lieu of overtime pay.

1. If the employee's work regularly involves public safety, emergency response, or seasonal activity - four hundred eighty hours;

2. All other employees - two hundred forty hours.

B. If an employee has accumulated the maximum number of hours of compensatory time off, the employee must receive overtime pay for all additional overtime hours worked. If such an employee uses some or all of his compensatory time off, he may then be compensated for new overtime hours worked by receiving additional compensatory time off, until his total accumulated unused compensatory time off equals the maximum number of hours specified in this section.

C. In this section the following definitions shall apply:

1. "Public safety activity" means law enforcement, firefighting, or activities related thereto.

2. "Emergency response activity" means dispatching emergency vehicles and personnel, rescue work, and ambulance service.

3. "Seasonal activity" means work during periods of significantly increased demand which are of a regular and recurring nature. Examples of seasonal activity include, but are not limited to, work by park and recreation employees during the summer and snow removal work.

3.12.078 Compensatory time off -- Payment upon termination of employment. A. If an employee's city employment is terminated for any reason, the employee shall be paid for each hour of accrued and unused compensatory time off which the employee has accumulated at the date of termination, as part of his final pay. The employee shall be paid at the following rate:

1. The employee's regular rate of pay at the time of termination,; or

2. The average regular rate of pay which the employee received during his last three years of city employment, whichever is higher.

B. If the employee has been employed for less than three years, the employee's average rate of pay shall be calculated using all rates of pay which the employee received during his employment.

3.12.080 Overtime by exempt personnel. Except as otherwise approved by the mayor, exempt employees will not be paid for or given compensatory time off for overtime hours worked. 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 with pay to attend to personal or civic matters without reduction of accrued annual leave.

3.12.090 Final pay. An employee who has resigned after giving two-weeks notice, or who has been discharged without notice, shall be paid in full on the day his employment terminates. An employee who has resigned without giving two-weeks notice, or who is being terminated with notice, shall be paid in full within seventy-two hours after termination.

3.12.100 Pay period. All employees shall be paid twice a month not later than 3rd and 18th calendar days of the month.

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.

3.12.120 Holidays. The following days shall be recognized as paid holidays for all exempt, partially exempt, and permanent and probationary classified employees who are in pay status before and following such days:

- A. January 1st, known as New Year's Day;
- B. The third Monday in January, or January 15th (whichever is selected by the State of Alaska), known as Dr. Martin Luther King Day;
- C. February 12th, known as Lincoln's Birthday;
- D. The third Monday in February, known as Washington's Birthday;
- E. The last Monday of March, known as Seward's Day;
- F. The last Monday in May, known as Memorial Day;
- G. July 4th, known as Independence Day;
- H. The first Monday in September, known as Labor Day;
- I. October 18th, known as Alaska Day;
- J. November 11th, known as Veteran's Day;
- K. The fourth Thursday in November, known as Thanksgiving Day;
- L. December 25th, known as Christmas Day;
- M. 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;
- N. Days of Qagruk, the whaling feast.

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.

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.

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.

3.12.160 Subsistence leave. City employees may, with the prior approval of the mayor, be permitted up to ten days' leave for subsistence activities such as whaling, hunting, and fishing. Subsistence leave shall be leave without pay.

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 or more departments. Training programs shall emphasize practical accident prevention, employee safety, and public relations.

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 in writing of their job performance. Reports of unsatisfactory or superior performance shall be documented by memorandum for inclusion in the individual's personnel file.

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.

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 in the accident 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 otherwise adversely affect the individual's city employment as may be appropriate under the circumstances.

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 for routine expenditures for gasoline for city vehicles, water and sewage hauling for city facilities, 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 phone calls and reimburse the city for personal calls.

Chapter 3.16

TRAVEL AND OTHER PAY ALLOWANCES

Sections:

- 3.16.010 Per diem allowance.
- 3.16.020 Actual expenses.
- 3.16.030 Convention registration fee.
- 3.16.040 Transportation costs -- mayor and city council.
- 3.16.050 Transportation costs -- city employees.
- 3.16.060 Individual travel.
- 3.16.070 Job-connected training.
- 3.16.080 Advances and recovery.

3.16.010 Per diem allowance. A. City officials and employees shall be entitled to a per diem allowance of one hundred thirty-five dollars 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 official or employee leaves the city to travel to the location where the official business will be conducted, and ends at the following time:

1. When the official or employee actually returns to the city, if the official or 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

2. When the official business is concluded and the official or employee could begin to travel to the city.

C. An official or employee shall not receive per diem for any periods of time during which he is on official travel status but fails to attend to or conduct city business at times when it is possible to do so.

3.16.020 Actual Expenses. A. An official or 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 amount authorized by Section 3.16.010.

B. An official or 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.

3.16.030 Convention registration fees. In addition to the per diem allowance given pursuant to Sections 3.16.010 or 3.16.020, the city may advance to an official or employee, reimburse an official or employee for, or pay on behalf of an official or 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 official's or 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.

3.16.040 Transportation costs -- mayor and city council. The mayor and members of the council may travel on city business with their immediate family members. The transportation cost and per diem for only the mayor and council members shall be paid by the city. When there is no scheduled service and transportation is provided by charter, the immediate family members may travel in spare seats at the city's cost.

3.16.050 Transportation costs -- city employees. A. In addition to the per diem allowance given pursuant to Sections 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. Such 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; or
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 prior 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 to the city.

3.16.060 Individual travel. A. If an official or 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 reasonably necessary to complete the city business, any additional expenses incurred shall be borne by the official or employee, and the city shall pay only such expenses, including per diem, as would have been incurred had the official or 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 that may be required by such indirect travel or extended stay shall be taken by the employee as personal leave or leave without pay.

B. If an official or employee, for his or her 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 official or employee, and the city shall pay only such expenses, including per diem, as would have been incurred had the official or 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.

C. An employee shall request permission for indirect travel, extended stay, or interrupted travel before departing from the city.

3.16.070 Job-connected training. If an employee attends a school, training session, conference or any other similar program of mutual benefit to the employee and the city, at city expense, the employee shall agree:

A. To remain in the city service one month for every day, including Saturdays and Sundays, that the employee is attending the school or other program and for which the city is paying the employee's salary, travel cost and per diem;

B. That there shall be a two-year maximum to the length of time that the employee must remain in service;

C. That should the employee leave the service of the city prior to the completion of the required service time, the employee shall reimburse the city for the per diem, travel and other cost incurred by the city in sending him on job-connected training;

D. That if the employee is involuntarily separated from the service of the city before completion of the required service time, the remaining time to be served will be canceled, and the employee will not be required to reimburse the city for the costs of the school or other program.

3.16.080 Advances and Recovery. A. The city may advance funds to an official or employee pursuant to this chapter only if the mayor or council has previously approved the advance after considering the character and probable duration of the travel and the costs likely to be incurred by the official or employee.

B. An official or employee who is in official travel status for a shorter period of time than anticipated shall, upon return to the city, immediately repay to the city any amount of per diem advanced to the official or employee which is in excess of the amount of the per diem allowance to which the official or employee is entitled under this chapter. Any sums advanced to an official or employee for anticipated actual travel expenses which are not shown, upon return to the city, to have been actually spent for allowable and documented travel expenses shall be immediately repaid to the city. If an official or 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 official or employee from the city, or may be recovered by any legal method from the official or employee or his estate.

[RESERVED]

Chapter 3.24

PERSONAL LEAVE

Sections:

- 3.24.020 Purposes.
- 3.24.030 Accrual -- permanent employees.
- 3.24.040 Accrual -- temporary employees.
- 3.24.050 Authorization.
- 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.
- 3.24.110 Leave accrued under prior ordinance.

3.24.020 Purposes. Personal leave may be used for vacation, illness requiring absence from work, and absence from work for personal reasons.

3.24.030 Accrual -- permanent employees. Permanent classified and partially exempt employees, full-time and part-time, shall accrue personal leave at the following rates:

| <u>Length of Service</u> | <u>Monthly Rate</u> | <u>Annual Total</u> |
|--------------------------|---------------------|---------------------|
| 0 through 2 years | 2-1 | 27 |
| 3 through 5 years | 2-1/2 days | 30 |
| 6 through 10 years | 2-3/4 days | 33 |
| 10 or more years | 3 days | 36 |

in 16.875 weeks

An employee's rate of accrual for each month shall be on a pro rata basis for each scheduled hour actually worked during that month.

3.24.040 Accrual -- temporary employees. A nonpermanent, emergency, provisional, temporary, program, or project employee shall not accrue personal leave.

3.24.050 Authorization. Personal leave of more than three days must be authorized in advance by the mayor who shall grant the requested leave if it will not seriously impede the functioning of the city administration.

3.24.060 Employee to call in. In order for an employee to receive paid personal leave for a day when the employee will be absent from work because of illness or for personal reasons, if the leave has not been authorized in advance, that employee must notify his supervisor within one hour of the beginning of his shift. If it is impossible for the employee to so notify his supervisor due to circumstances beyond the control of the employee, he shall notify his supervisor as soon as reasonably possible.

3.24.070 Donated Leave. An employee may donate paid personal 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 administered by the mayor. Donated leave shall be paid at the regular rate of the recipient employee. An employee may receive no more than thirty days of donated leave in a single calendar year.

3.24.080 Payment on termination. All accumulated personal leave, up to a maximum of thirty days, will be paid to an employee who voluntarily terminates city employment if the employee has given two weeks prior notice of termination, or who is discharged from city employment.

3.24.090 Advance vacation pay. An employee who has had a period of personal leave approved by the mayor may, upon request approved by the mayor, receive on the day before his leave commences the amounts which would be paid to the employee on any regular payday which falls within the leave period.

3.24.100 Maximum accumulation. On the anniversary of each employee's date of hire, that employee shall arrange to use leave within ninety days thereafter or forfeit accumulated leave in excess of thirty days.

3.24.110 Leave Accrued Under Prior Ordinance. All unused personal leave accrued by an employee prior to adoption of Chapter 3.24 shall remain accrued to the employee, up to a maximum of thirty days. All leave accrued by an employee prior to the adoption of Chapter 3.24, in excess of thirty days, is forfeited. Employees shall accrue leave after the date Chapter 3.24 was adopted, as provided in Chapter 3.24.

Chapter 3.28

LEAVE OF ABSENCE

Sections:

- 3.28.005 Ten days or less.
- 3.28.010 More than ten days.
- 3.28.015 Maternity 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.

3.28.005 Ten days or less. Employees may be granted leave without pay not to exceed a total of ten working days in any year for any compelling reason, subject to the approval of the mayor.

3.28.010 More than ten days. The mayor may approve leave without pay in excess of ten working days for permanent classified and partially exempt employees, under the following conditions:

A. The employee's need for leave without pay outweighs the impairment to the administration of the city which would be caused by the employee's absence, in the opinion of the mayor.

B. The purpose of the leave without pay is travel or study calculated to equip an employee for more effective service to the city. In order to receive leave without pay for this purpose, the employee must agree to return to active city employment upon completion of the travel or study. The mayor may leave the position vacant or may fill it temporarily, subject to appropriation of sufficient funds, in his discretion.

C. The employee is suffering an extended illness but is expected to recover sufficiently to permit resumption of duties within a reasonable period of time.

3.28.015 Maternity leave. An employee who has been employed for more than one year is entitled to take maternity leave for nine weeks. This leave may be taken either before or after childbirth, or may be taken partially before and partially after childbirth, in the employee's discretion. The time shall be charged first to personal leave and then to leave without pay.

3.28.020 Active military duty. Permanent classified and partially exempt employees shall be entitled to military leave

of absence, without pay, to serve on active duty in the Armed Forces of the United States (including duty with regular, reserve, and National Guard units) and shall be entitled to re-employment by the city upon completion of military service.

3.28.030 Military reserve duty or training. An employee of the city, who is a member of the National Guard or a reserve component of the United States Armed Forces, is entitled to a leave of absence when he is ordered to active duty for training, as distinguished from active duty. The leave of absence may not exceed fifteen working days in any one calendar year. Military leave for reserve or National Guard training purposes shall be without pay.

3.28.040 Vacancies from military leave. A position made vacant by the granting of a military leave of absence of less than six months shall be filled by temporary appointment. If the period is more than six months, it may be filled by permanent appointment.

3.28.050 Witness and juror leave. A. A permanent classified or partially exempt employee who is called to serve as a juror or witness shall be entitled to court leave. The request for such leave shall be supported by written documents such as a subpoena, court summons, notice of jury service, or other document compelling the employee's presence in court. An employee who must appear in court as a party (plaintiff or defendant) to a civil or criminal action, is not entitled to court leave.

B. The employee shall turn over to the city all money received from the court as compensation for attendance and in turn shall be paid his current salary while on court leave. The employee shall not be entitled to receive per diem, meal, lodging or transportation costs, or other similar reimbursements from the city.

Charter 3.32

[RESERVED]

Chapter 3.36

WORKERS' COMPENSATION INSURANCE

Sections:

- 3.36.010 [Reserved]
- 3.36.020 Reporting accidents.
- 3.36.030 Salary when injured on the job.
- 3.36.040 Voluntary and auxiliary personnel.

3.36.010 [Reserved]

3.36.020 Reporting accidents. It shall be the duty of each employee to immediately report any and all accidents involving city employees or property to the city.

3.36.030 Salary when injured on the job. If an employee is injured on the job by accident or otherwise, and the employee qualifies for payments under the city's workers' compensation insurance, the city will pay the employee as specified below. For each day the employee is entitled to receive workers' compensation payments, the city will pay the difference between the employee's salary at the time of the accident or injury and the total amount the employee receives, or is entitled to receive, from workers' compensation insurance. In no event, however, shall the city pay an employee under this section for more than sixty calendar days following the date on which the injury or accident occurred.

3.36.040 Voluntary and auxiliary personnel. Volunteer and auxiliary personnel who receive injuries while performing work for the city are covered by workers' compensation insurance to the extent provided in the city's workers' compensation insurance policy.

Chapter 3.40

DISCIPLINARY ACTIONS

Sections:

- 3.40.010 Penalties.
- 3.40.020 Suspension, demotion, and dismissal for cause.
- 3.40.030 Exoneration -- reinstatement.
- 3.40.040 Pre-disciplinary hearing.
- 3.40.050 Post-disciplinary hearing.

3.40.010 Penalties. An employee who wilfully violates a provision of this title is subject to dismissal or other disciplinary action as provided in this chapter.

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, insubordination, habitual tardiness, use while on duty of alcoholic beverages or illegal drugs, actions which endanger the health or safety of the employee or others, willful violation of this title, violation of city ordinances or regulations during the performance of official duties, 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 days in any twelve-month period. If there is cause to suspend an employee who has previously been suspended for a total of thirty days during the preceding twelve 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.
6. The employee may be otherwise disciplined.

C. 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 placed in the employee's personnel file and provided to the mayor or council in place of a memorandum.

D. 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 months, provided there has not been a recurrence of the infraction.

E. This section and Sections 3.40.040 and 3.40.050 do not apply to probationary classified employees. The mayor or the mayor's designee may at any time dismiss, demote, or otherwise discipline a probationary employee or put a probationary employee on leave without pay for a fixed or indefinite period of time.

3.40.030 Exoneration -- reinstatement. A. If an employee has been reprimanded, suspended, or demoted for cause pursuant to Section 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 or suspended, the employee shall be immediately reinstated to the position the employee held at the time of the disciplinary action. 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, place the employee in any other city position, at the pay and benefits specified in subsection A, until the employee's prior position becomes vacant, at which time the employee shall be reinstated.

3.40.040 Pre-disciplinary hearing. A. Prior to suspending, demoting, or dismissing an employee, or taking any other disciplinary action which alters a substantial property right of an employee in city employment, the mayor shall notify the employee in writing of the following:

1. The disciplinary action which is being contemplated against the employee;

2. The nature and substance of the reasons disciplinary action is being contemplated;

3. The identity of all persons who have provided information or made accusations against the employee; and

4. All documents, including supervisor's notes, which are relevant to the proposed discipline and the reasons therefor.

B. After giving the notification required by subsection A, the mayor shall hold an informal hearing to determine whether the employee should be suspended, demoted, dismissed, or otherwise disciplined. The employee shall have the right to attend the hearing and present his side of the controversy. He may present oral or written statements, documents, and other relevant evidence to support his position. He may be represented by any person of his choice. The mayor shall provide the employee an opportunity to prepare his presentation, which is reasonable under the circumstances. If the employee requests an extension of time of reasonable duration in which to prepare, the mayor shall grant this request, unless the mayor determines that the impairment to the administration and functioning of city operations which would be caused by the extension, clearly outweighs the benefit which the employee would receive from the extension.

C. The mayor shall consider all matters presented by the employee at the informal hearing. After this consideration if the mayor finds that grounds for disciplinary action, as specified in 3.40.020(A), against the employee exist, the mayor shall take such disciplinary action and shall notify the employee in writing.

3.40.050 Post-disciplinary hearing. A. An employee who has been suspended, demoted, dismissed, or otherwise disciplined in a manner which alters a substantial property right of the employee in city employment, may request a formal hearing before the city council by filing a statement of issues with the clerk as provided in Sections 2.44.030 and 2.44.060.

B. The statement must be filed within the time required by Section 2.44.070. Failure to file a statement of issues within the required time constitutes a waiver of the right to a post-disciplinary hearing.

C. The hearing, and all pre- and post-hearing procedures, shall be conducted in the manner provided in Chapter 2.44.

D. Instead of utilizing the formal hearing procedure provided in Chapter 2.44, the employee may elect in writing, at his sole discretion, to have the post-disciplinary hearing conducted in the manner provided in Chapter 2.40. If the employee so elects, all aspects of the post-disciplinary hearing process shall be governed by Chapter 2.40, and such election shall constitute a waiver of the right to a hearing under Chapter 2.44.

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.

3.44.010 Demotion. An employee may request demotion to a lower-paid or less responsible position. A permanent employee demoted under this section retains his or her permanent status upon demotion, and is not required to serve a probationary period.

3.44.020 Layoff. A. When it is necessary to reduce the number of city employees because of lack of work or lack of funds, the mayor shall investigate the problem and present a recommended schedule of layoffs to the city council. The council shall determine the city functions to be curtailed and the positions to be affected.

H. The council shall adopt a schedule of layoffs which furthers the public interest and protects the health, safety, and welfare of the residents of the city. However, in making this determination the council shall consider, among other things, the length and quality of service rendered to the city by the affected employees, and the advisability of demoting employees in higher grades to lower grades.

C. Employees adversely affected by a layoff shall have a right to a pre-layoff and a post-layoff hearing conducted in the manner provided in Sections 3.40.040 and 3.40.050. Employees who are laid off from city service shall be given preference when new appointments to city service are made.

3.44.030 Resignation. An employee resigning his position shall give at least two weeks notice, to enable the city to make proper provision for filling the position. This requirement may be waived by the mayor where adequate provision may be made in a shorter period of time. All resignations shall be in writing and must be filled with the city clerk. The city clerk shall furnish a copy of the accepted resignation to the employee for his records.

3.44.040 Maintenance of longevity. If an employee with more than one year of continuous service with the city is laid off in accordance with 3.44.020, and then rehired within two

years after the date of layoff, the period of the person's employment with the city prior to the layoff shall be included in calculating the person's longevity in city employment.

Chapter 3.48

GRIEVANCE PROCEDURE

Sections:

- 3.48.010 Scope of chapter.
- 3.48.020 Initiation of grievance.
- 3.48.030 Confidentiality. Review
- 3.48.040 of grievance. Mayor's
- 3.48.050 decision. Further
- 3.48.060 review.

3.48.010 Scope of chapter. This chapter applies to all employee requests for review of alleged grievances arising out of personnel actions taken by the city to which the employee objects. This chapter does not apply to the following personnel actions.

- A. Dismissal, suspension, demotion, or layoff; and
- B. Any other personnel action which alters a substantial property right of an employee in city employment.

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 what remedial action is requested. The complaint shall be addressed to the mayor and may be either delivered to the mayor personally or filed with the city clerk.

3.48.030 Confidentiality. The employee statement initiating a grievance shall become part of the employee's personnel file. The statement shall not be made public without the express written consent of the employee.

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.

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.

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 Chapter 2.40.

Title 4

REVENUE AND FINANCE

Chapters:

| | |
|---------------------|---------------------------------|
| <u>Chapter 4.01</u> | <u>Budget Generally</u> |
| <u>Chapter 4.04</u> | <u>Budget Procedure</u> |
| <u>Chapter 4.08</u> | <u>Annual Audit</u> |
| <u>Chapter 4.12</u> | <u>Management of Funds</u> |
| <u>Chapter 4.16</u> | <u>Contracts and Purchasing</u> |
| <u>Chapter 4.20</u> | <u>City Sales and Use Tax</u> |

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. |

4.01.010 City obligations. A. A bond, contract, lease, or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made by ordinance and approved by the voters.

B. No payment may be authorized or made and no obligation may be incurred except in accordance with an appropriation made by ordinance. The council may make supplemental and emergency appropriations by ordinance.

C. The council may authorize contracts for capital improvements to be financed wholly or partly by the issuance of bonds. The city may not issue general obligation bonds unless the issuance has been approved by the voters.

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 for a fiscal year shall not exceed anticipated revenues and reserves available for expenditure in that fiscal year.

4.01.030 Budgeted revenues. Budgeted revenues shall be itemized, and may be composed of taxes, license and permit fees, intergovernmental revenue, charges for services, fines and forfeitures, miscellaneous revenue, cash reserves, and other sources as needed for proper accounting purposes.

4.01.040 Budgeted expenditures. Budgeted expenditures shall be itemized. Separate provisions shall be included in the budget for at least:

A. Interest, amortization of principal, and redemption charges on the public debt for which the faith and credit of the city is pledged;

B. Administration, operation and maintenance of each office, department or agency of the city;

C. The council's budgetary reserve; and

D. Expenditures proposed for capital projects, including provision for down payments on capital projects.

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 after adoption. |
| 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. |

4.04.010 Fiscal year. The fiscal year of the city 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.

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.

4.04.030 Proposed budget. A. The mayor shall prepare and submit to the council not later than May 1 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 an appropriation for all anticipated expenditures of money, including contract and other commitments, except expenditures of construction funds derived from bonds or from special assessment. These expenditures will be appropriated in the ordinance which authorizes the bonds or assessment. The budget shall be submitted as an ordinance. The council may amend the budget at any time prior to adoption.

B. The proposed budget shall include in parallel columns 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 parallel columns 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.

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 places in the city not more than ten nor less than five days prior to the time fixed for the hearing. At the public hearing, all interested persons shall be given an opportunity to be heard.

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 appropriations required to carry out the budget by ordinance not later than the fifteenth day of June.

C. If no budget has been adopted by the council before the expiration of the present fiscal year, the proposed budget as submitted, or amended, by the mayor shall be deemed adopted by the council, and the proposed expenditures therein shall be deemed appropriated for the next fiscal year.

4.04.060 Amendment after adoption. By ordinance, the council may amend the budget at any time after adoption. The procedures for posting notice and for holding a public hearing which apply to all ordinances, shall be utilized for budget amendment ordinances. The substance of the proposed amendment or amendments shall be posted with the notice of the hearing.

4.04.070 Encumbrance. No funds may be encumbered for expenditure without prior certification by the mayor that there is an unencumbered appropriation which authorizes the expenditure, and that sufficient cash is available to meet the expenditure.

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

by the clerk, and filed with the clerk. The certified budget is a public record.

4.04.080 Excess liability: lapse of appropriations. A. No person shall authorize or permit the expenditure of city funds without an appropriation, or in excess of the amount appropriated for the expenditure. All such expenditures are void and not binding on the city.

B. Except as otherwise provided in Section 4.01.010, no person shall enter into any contract, lease, or other obligation on behalf of the city which purports to require the city to make payments for which funds have not been appropriated at the time the obligation is signed by the city. All such contracts, leases, and other obligations are void and not binding on the city.

C. Except as otherwise provided by ordinance, all funds appropriated in the budget lapse at the end of the budget year to the extent that they have not been expended or lawfully encumbered.

4.04.090 Transfers. The mayor may approve the transfer of funds between items within the budget of a department. Funds may not be transferred between departments except by ordinance amending the budget.

4.04.100 Biennial projection; capital program. At the same time the mayor prepares and submits the proposed budget under the provisions of Section 4.04.030, he or she shall present to the council, as a working document for planning purposes, a proposed two-year budget summary for the city (excluding capital improvement programs) in the same general form as the proposed budget for the next fiscal year. In addition, the mayor shall present a five-year capital improvement program, as a working document for planning purposes, which shall estimate by year and for each project, anticipated costs, funding requirements and sources, and shall include a narrative outlining the need and proposed priority of each project.

4.04.110 Preparation guidelines. The budget, including the biennial projection and the five-year capital improvement program, shall be prepared in accordance with recommendations of the National Committee on Governmental Accounting of the Government Finance Officers Association.

Chapter 4.08

ANNUAL AUDIT

Sections:

4.08.010 Required.

4.08.010 Required. The council shall provide for an annual independent audit of the accounts and other evidences of financial transactions of the city and of every city department. The audit shall be made by an accountant, designated by the council, who has no personal interest, direct or indirect, as defined in the rules of professional ethics of the American Institute of Certified Public Accountants, in the fiscal affairs of the city or any of its departments. The designated accountant shall be a certified public accountant licensed to practice in the state and shall be a member of the American Institute of Certified Public Accountants. The accountant shall submit his or her report to the mayor and council no later than ninety days following the end of the fiscal year under audit.

Chapter 4.12

MANAGEMENT OF FUNDS

Sections:

- 4.12.010 Treasurer.
- 4.12.020 Deposits and withdrawals.
- 4.12.030 Investments.

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 of all bank accounts, funds, and investments held for the city;
3. Statement of expenditures compared with appropriations.

4.12.020 Deposits and Withdrawals. A. The clerk is authorized to deposit city funds in such commercial banks, savings and loan associations or investment accounts as the council may authorize by resolution. All such deposits shall be in the name of the city. The clerk, mayor, and council members are authorized signatories on such accounts.

B. All withdrawals from or checks drawn on such accounts in excess of two hundred fifty dollars except payroll checks shall require two signatures, one by the clerk and one by the mayor or another council member. Withdrawals or checks in amounts less than two hundred fifty dollars, or payroll checks in any amount, shall require only one signature.

C. No check may be drawn unless there are sufficient funds in the account on which it is drawn to pay the check.

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:

1. Preference shall be given to Alaskan securities and financial institutions.
2. Investment in corporate stocks and bonds is prohibited.
3. All transactions shall be made in the name of the city.

Chapter 4.16

CONTRACTS AND PURCHASING

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 | Contractor 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 -- bid award. |
| 4.16.150 | Local preference -- incentive payments. |

4.16.010 Competitive bidding required. A. All purchases of and contracts for supplies, equipment, materials, or services shall, except as otherwise provided in this chapter, be based on competitive bids.

B. A contract for the purchase of supplies, equipment, materials, or services with an estimated cost in excess of two thousand five hundred dollars, may be entered into without competitive bidding if the council by resolution finds that competitive bidding is either impossible, or would not be in the best interests of the city. The resolution must state the reasons for the finding and must state how the purchase shall be made or the contract shall be awarded.

4.16.020 Purchase generally. Except as otherwise provided in this chapter, all supplies, equipment, materials, or services having an estimated cost which exceeds two thousand five hundred dollars shall be purchased by formal, written contract.

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. The purchasing agent shall make all purchases of supplies, materials, equipment, and 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.

4.16.030 Bid invitation. A. Prior to making a purchase of supplies, equipment, materials, or services for which competitive bidding is required, the purchasing agent shall publish notice inviting bids or proposals to provide the supplies, equipment, materials, or services, in at least one newspaper of general circulation within the state. An invitation for bids or proposals shall be published at least once, at least five days prior to the last day set for the receipt of bids or proposals. The invitation shall include information sufficient to inform prospective bidders or proposers of the nature of the purchase to be made, and the date and place at which bids or proposals must be submitted, and shall state the location from which additional information and necessary bid documents may be obtained.

B. The purchasing agent may also solicit bids or proposals directly from all responsible prospective suppliers who have indicated an interest in bidding on city contracts.

C. The purchasing agent shall also advertise all pending purchases by posting a notice in three public places within the city.

4.16.040 Bid deposits. The purchasing agent may, in his discretion, require that bidders and proposers submit bid deposits to guarantee that the successful bidder or proposer will enter into the contract which is awarded to him. The required amount of the bid deposit shall be stated in the invitation for bids or proposals. Each unsuccessful bidder or proposer shall be entitled to the return of his bid deposit. The successful bidder or proposer shall forfeit his bid deposit if he fails or refuses to enter into a contract within ten days after the bid is awarded to him. If the successful bidder or proposer enters a contract after bid award, his bid deposit shall be returned to him.

4.16.050 Bid submittal and opening. A. Bids or proposals shall be submitted to the purchasing agent or his designee, and shall be identified as such on the envelope. The purchasing agent shall not accept a bid or proposal received after the time stated 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 received shall be posted for public inspection. A copy of the tabulation shall be forwarded to the council for acceptance or rejection of bids.

4.16.060 Rejection of bids. A. The council may reject all bids, parts of bids, or all bids for any one or more items or 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, equipment, materials, 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 quote unacceptable 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 later direct the purchasing agent to issue an identical or similar invitation for bids.

4.16.070 Award of contract. A. Only the council may award contracts for which competitive bidding is required.

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 Section 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, equipment, materials, or 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; and

8. The ability of the bidder to perform the contract in a manner which is compatible with other city supplies, equipment, materials, and administrative systems and 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 the 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 for bids;

2. The bid is received after the time set for opening;

3. The bid does not include bid deposits, plans, specifications, samples, or other items called for in the invitation for bids; or

4. The bidder does not acknowledge receipt of an amendment to the invitation.

F. The council shall waive minor deficiencies in a bid.

G. An aggrieved bidder may, within five days after the opening of the bids, file an informal appeal pursuant to Chapter 2.40.

4.16.080 Open market purchases. Except as otherwise provided, all purchases of supplies, equipment, materials or services of less than two thousand five hundred dollars, shall be made on the open market, without competitive bidding. No purchase shall be subdivided so that the purchase qualifies for open market purchasing under this section when it would not otherwise so qualify.

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, shall be awarded only after the contractor has provided payment and performance bonds pursuant to A.S. 36.25.010.

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. The council shall award all such contracts.

B. A contract for engineering, architectural, legal, medical, or other professional services may be awarded with or without competitive bidding, at the discretion of the council. Contracts for professional services shall be awarded based on competence, skill and experience. If competitive bidding is used to solicit proposals for professional services, the provisions of this chapter shall apply to the solicitation and submission of proposals, and the award of the contract.

C. The city shall not award a contract for architectural, engineering, or land surveying services to:

1. An individual who is not registered under A.S. 08.48 to perform the architectural, engineering, or land surveying services required by the contract;

2. A partnership that is not qualified under A.S. 08.48.251 to provide the architectural, engineering, or land surveying services required by the contract; or

3. 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.

4.16.110 Construction contracts -- letting. A. All contracts for the construction, alteration, or repair of any public building or public work, shall be awarded in accordance with the requirements of this chapter for competitive bidding and formal written contracts.

B. Upon awarding a contract for the construction, alteration, or repair of any public building or public work, 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.

4.16.120 Construction contracts -- administration. All contracts for the construction, alteration, or repair of any public building or public work, shall be administered by the mayor in accordance with the following provisions:

A. Any change in the contract work, contract price, or time of performance shall be made only after receiving a written change order proposal from the contractor.

B. Upon receipt of a change order proposal, the mayor shall determine whether the contractor's proposal is required for the efficient and cost-effective completion of the project, and whether the proposal is reasonable in scope and extent. The mayor may approve any change order which results in an increase in the contract price of one thousand dollars or less. The aggregate sum of such change orders approved by the mayor on any one project, shall not exceed five percent of the original contract price or one thousand dollars, whichever is greater.

C. When a proposed change order exceeds the limits set forth in subsection B of this section, the mayor shall forward the proposal, together with his recommendations, to the council. The council shall then determine whether the proposal shall be accepted or rejected.

D. Whenever a change in the contract work, contract price, or time of performance is required immediately because of the discovery of unforeseen conditions, the mayor is authorized to approve such change, and the restrictions contained in subsections B and C shall not apply. If the change would otherwise require council approval under subsection C of this section, the mayor shall make a full report 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 by 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.

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 which will or may involve the disbursement of city funds shall contain the following clause or its substantial equivalent. If the clause is not expressly set out in the contract, it shall be deemed included by operation of law.

Disbursement of monies by the city hereunder shall be subject to setoff pursuant to the provisions of Section 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.

4.16.140 Local preference -- bid award. The city may award a contract after competitive bidding to a responsible bidder who has submitted a responsive bid, who holds a city business license, and who maintains its principal place of business within the city, if that bid does not exceed the lowest responsive, responsible bid by more than ten percent. The mayor if the bid is awarded by the mayor, or the city council if the bid is awarded by the council, may either apply or refrain from applying this preference to any bid award when such action is in the best interests of the city.

4.16.150 Local preference -- incentive payments. A. Each city contract for which competitive bidding is

required shall, unless prohibited or otherwise restricted by funding sources, provide for incentive payments if the contract is awarded to a qualified contractor. Such payments shall consist of the percentages specified in subsection D, applied to the cost of salary and benefits actually paid by the qualified contractor directly or through his qualified subcontractors, to employees who were residents of the city on the date on which bids were solicited, for personal services or labor performed directly on the project covered by the contract.

B. In this section, "qualified contractor" or "qualified subcontractor" means a person, partnership, or corporation which holds a city business license, and maintains its principal place of business within the city, on the date on which the contract bids were solicited.

C. Incentive payments may be applied for at the same time as periodic payments, if any, which are authorized under the contract. The qualified contractor shall submit supporting documentation as required by the mayor.

D. The incentive payments shall be equal to:

1. Twelve percent of the first one million dollars of eligible costs;
2. Ten percent of the next four million dollars of eligible costs;
3. Eight percent of the next five million dollars of eligible costs; and
4. Six percent of all eligible costs over ten million dollars.

Amended Chapter 4.20

CITY OF POINT HOPE 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 Suspension was lifted December 20, 2004

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, or real property, or performing taxable services. It is the intent of this ordinance to levy a tax on every person and transaction within the City of Point Hope. The amount of sales tax is three percent (3%) of sales price, rental or charge for services.

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 Section 4.20.10, a tax upon the use, storage, and consumption of all tangible personal property in the City of Point Hope which is acquired by purchase or lease outside the City of Point Hope 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 Point Hope. 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 months of its acquisition; but if so brought within this City six months or more after its acquisition, the property shall be taxed on the basis of the tenement 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 City of Point Hope, that he has paid a sales or use tax to any jurisdiction within or without the state, except the City of Point Hope, on an item of tangible personal property on which a use tax is levied by this section, is required to pay the use tax levies by this section only to the extent that the tax imposed by this section exceeds the sales or use tax previously paid.

4.20.030 Exemptions. A. All transactions excluded or exempted from State or Federal law are similarly exempt from the sales tax imposed by this chapter.

B. Sales and service charges of less than \$.___(____cents);

C. Casual and isolated sales not made in the regular course of business;

D. Trade-in sales; the value of new or used articles taken in trade as a credit of part payment on the sale of a new article, and the tax paid only on the net sales price;

E. Gross receipts sales, services, rentals and transactions which the city is prohibited from taxing under the Constitution and laws of the United States or the State of Alaska;

F. Gross receipts sales and shipping and handling charges derived from orders received from outside the city where delivery is made by mail or common carrier;

G. Services under a building or construction contract or subcontract;

H. Rentals of real property for periods in excess of twenty-seven (27) days in which no personal services are provided by the landlord;

I. Sales of insurance and bonds of guarantees and fidelity;

I. gross receipts derived from funeral charges and services, medical, dental, optometry, veterinary, and hospital services or from sales of prescription medicines, oxygen used for medical purposes, blood or blood plasma, artificial devices designed or altered for the use of a particular crippled person, artificial limbs, eyes and organs, crutches and wheelchairs, hearing aids, prescription glasses, artificial teeth sold by a dentist and materials used by a dentist in treatment;

K. Gross receipts from the sale of food and beverages, bake sales, and other occasional fund raising events held by non-profit, charitable, religious, or service organizations;

L. Gross receipts from the sales of food and beverages in school cafeterias and lunch rooms operated primarily for teachers and students and not operated primarily for the public or for profit;

M. Dues or fees paid to clubs, labor unions, fraternal organizations, and other non-profit organization;

N. Gross receipts from sales, services, and rentals to any non-profit corporation, organization, or institution which is organized exclusively for religious for religious or charitable purposes;

O. Gross receipts from sales, services, and rentals to the United States Government, the state and its political subdivisions, and the city provided, however, that the exemption shall not apply to rentals or the sale of materials, supplies, and services to contractors for the manufacture or production of property or services for government agencies on a contract, in which event the contractor shall be deemed the buyer or consumer or user subject to the payment of the tax;

P. All public utility services owned and operated by the city and other services that may be operated under contract with the city so long as the city collects or has the power to collect the billings for services provided;

Q. (1) residents 65 years of age or over; (2) disabled veterans; or (3) a resident at least 60 years old who is the widow or widower of a person qualified for and exemption under

(1) or (2) of this subsection;

R. Gross receipts from purchases made with food stamps, food coupons or other food instruments that are exempted from taxation under A.S.29.45.700;

S. Child day care, pre-elementary school, and baby sitting services;

T. That part of the selling price of travel and adventure services, rentals, and goods, excluding lodging, sold outside but delivered within the city, which is not remitted to the provider of the service and which represents a selling cost or commission or similar charge;

U. Sales of goods and services for resale. A service is sold for resale when the service is directly integrated into services or goods sold by the buyer to another purchaser in the normal course of business and the service is purchased separately for each resale, and the service is identified, charged for, and billed separately from any other service;

V. Sales tax paid on leases under a lease/purchase agreement may be credited toward the payment of the tax due on the exercise of the purchase option in the same proportion as the lease payments are applied to the purchase price, provided that there will be no refund of taxes paid on the lease;

W. Rental of rooms taxed under another provision of this Title.

X. The physical transfer of refined fuel, unless the transfer is made in connection with a sale or use in the city, or (2) wholesale sales of fuel refined in the city. A sale is in the fuel is delivered to the buyer in the city. A use is in the city if the fuel is consumed in the city. The prohibitions on the levy and collection of a sales or use tax on refined fuel do not apply to a city if, on the effective date of this section, the city is

(1) Levying and collecting a sales or use tax on the sale, use, or transfer of refined fuel under an ordinance adopted before January 1, 2003; or\

(2) receiving payments in lieu of a sales or use tax on the sale, use, or transfer of refined fuel under an agreement entered into before January 1, 2003.

Y. A construction contract awarded by the state or a state agency, or on a subcontract awarded connection with the project funded under the construction contract.

4.20,040 Collections. A. All sums collected as sales tax by a seller in any calendar month shall be paid over to the City of Point Hope in the same manner, at the same time, and under the same procedures and regulations of the City of Point Hope.

B. The amount of the tax to be added to the sales price, rental, or charge shall be three percent (3%) of the gross amount of the sales price, rental, or charge.

4.20.050 Seller's Sales Tax Return. Every seller required to collect or pay the sales tax imposed by this chapter shall prepare and file with the City of Point Hope, at the time and in the manner specified by the City.

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, rental or use of taxable property as defined by AS 43.56.210 (7) (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 Point Hope of A.S 43.56 property, and the performance within City of Point Hope of all services used or associated therewith. It is the further intent of this section to permit the clerk and taxpayers in the City of Point Hope to rely upon determinations by the Mayor of the City of Point Hope that a particular transaction is or is not taxable as a conclusive determination that the same transaction is or not similarly taxable pursuant to this section. Every sale or use excepted or exempted by the City of Point Hope shall be similarly exempt from the tax levied under this section.

C. The sales tax levied pursuant to section 420.10 of this code, at the rate specified therein, is hereby imposed upon every retail sale or use within the City of Point Hope of A.S. 43.56 property actually taxed by the City of Point Hope and upon the performance within the City of Point Hope of all services used or associated therewith actually taxed by the City of Point Hope code.

D. Only the first one thousand dollars (\$1,000.00) of each taxable sale, as defined shall be taxed pursuant of 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.

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.

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 the 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.

4.20.090 Violations. A. Any seller who neglects or refuses to collect and pay over to the City of Point Hope the sales and/or use tax levied by this chapter shall be guilty of an infraction of 25% penalties and interest. 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 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 City of Point Hope Mayor or who makes a false or fraudulent return with the intent to evade the tax levied by this chapter, or who makes a false or fraudulent claim for refund, or gives or knowingly receives a false or fraudulent exemption certificate, or who violates any other provision of this chapter (including provisions incorporated by section 4.20.130), punishment for which is not otherwise herein provided, is guilty of an infraction.

4.20.100 Enforcement. A. The Mayor, when any tax becomes delinquent under this chapter, shall file suit for it's collection, together with the collection of any penalties and interest due thereon within one hundred twenty days (120) 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 and upon a showing of violation, the court shall issue an injunction.
- C. The Mayor may negotiate the settlement of any suit or other dispute arising under this chapter.

4.20.110 Application of Proceeds. Funds collected by the City of Point Hope pursuant of this chapter shall be promptly remitted to the clerk and deposited in a separate account approved by the City Council.

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 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 rent any 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. 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," " and "out of City" respectively, and shall refer to the City of Point Hope rather than the North Slope Borough.

4.20.130 Suspension lifted as of December 20, 2004.

The City Council had a regular meeting December 20, 2004 and had made a motion to lift the suspension of the sales tax of 3% within the City limits, further more they have decided to put in penalties and interest on Chapter 1.28 to the business that have failed to pay on time.

Title 6

BUSINESS LICENSES AND REGULATIONS

Chapters:

| | |
|-------------|--------------------------|
| <u>6.04</u> | <u>Business Licenses</u> |
| <u>6.08</u> | <u>Closing Hours</u> |
| <u>6.12</u> | <u>Taxicabs</u> |

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 | Reconsideration by city clerk. |
| 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. |

6.04.010 Required -- application. A. For the privilege of engaging in a business subject to licensure under A.S. 43.70.020 in the city, a person shall:

1. Apply on forms supplied by the city clerk for a city business license;
 2. Pay the fees required under this chapter;
 3. Present proof of issuance of a state business license;
- and
4. Present a completed copy of North Slope Borough sales and use tax registration form.

B. No license may be issued to a person who has had his license suspended or revoked within six months prior to the date of making the application.

6.04.020 Application deadline -- term. All applications for a city business license must be filed with the city clerk within fifteen calendar days from the commencement of business operations. Applications for renewal of a business license shall be made before January 1st of each year. All licenses shall be effective when issued and shall expire on December 31 of the calendar year of issuance.

6.04.025 Records. The city clerk shall keep a record of all licenses issued by the municipality, showing the date issued, to whom issued, the amount collected, the date of expiration.

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.

6.04.040 Nontransferability. A license issued shall be nontransferable.

6.04.050 Temporary. If at the time of application the applicant does not have a valid state business license, the clerk shall issue a temporary city business license, good for not more than ninety days, conditional upon the satisfaction of the requirements of Section 6.04.010(A)(3). If within that time, proof of issuance of a valid state business license is not presented to the city clerk, the temporary license shall expire.

6.04.060 Annual fee. A. The annual fee for issuance of a city business license is twenty-five dollars.

B. The 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.

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 hereunder, a civil action may be instituted by the city for the collection of license fees, fines and forfeitures and other monies or properties due it under the provisions of this chapter.

6.04.080 Denial -- grounds. A. If the clerk finds after investigation, that the applicant has violated any city,

borough, state or federal law, the violation of which renders the applicant unfit to conduct the business to be licensed because, under the circumstances, operation of the business by the applicant would endanger the public health or safety, 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 endanger the public health or safety, 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.

6.04.090 Reconsideration by city clerk. A. If the clerk refuses to issue an initial city business license, the clerk shall notify the applicant, in writing, of the license denial within two calendar weeks after the application is received. The applicant may request the clerk to reconsider the application within two calendar weeks from the date of receipt of the notice of denial. The clerk will review the application and schedule a meeting within two calendar weeks with the person 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. An applicant may appeal the clerk's decision using the procedures set forth in Section 6.04.110.

6.04.100 Renewal denial. If the clerk refuses to renew a city business license, all of the provisions of Section 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 Section 6.04.090 have been followed.

6.04.110 Appeal to city council. A. An applicant or licensee desiring to appeal the decision of the clerk shall, within two calendar weeks after the clerk renders a decision upon reconsideration pursuant to 6.04.090, file with the city clerk a written notice of appeal to the city council. 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 grounds will be the only issues considered by the city council in the appeal.

B. Filing a notice of appeal operate to stay only the clerk's decision which denied the reissuance of a license. A temporary license issued pursuant to 6.04.100 shall remain in effect while the appeal is pending. 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 the city council. The clerk shall notify the applicant of the date, time and place of the hearing. The notice of the hearing shall be given at least three days in advance of the hearing.

D. Both the applicant and the clerk may appear and present evidence at the hearing. The council may permit any other person to appear and present evidence. 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 council may impose conditions on the issuance of the license. The decision of the city council is final, except that it may be appealed to Superior Court in accordance with the provisions of law governing administrative appeals.

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, borough, state or federal law, the council may order the clerk to suspend or revoke, as may be appropriate under the circumstances, the business license of the business in question.

B. Whenever the city council determines that a licensee has violated any city, borough, state or federal law, the violation of which renders the licensee unfit to conduct the business which is licensed because, under the circumstances, operation of the business by the licensee endangers the public health or safety, the council may order the clerk to suspend or revoke the business license of the business in question, whichever is appropriate under the circumstances.

C. Whenever the city council determines that a business license was procured through fraud, misrepresentation, or mistake the council may order the clerk to suspend or revoke, as may be appropriate under the circumstances, the business license in question.

6.04.130 Suspension or revocation -- surrender. Whenever any licensee is informed by the clerk that his license has been

suspended or revoked, the licensee will immediately surrender the affected city business license to the clerk.

6.04.140 Suspension or revocation -- notice -- hearing. A. Prior to suspending or revoking a business license, the person whose license is to be suspended or revoked shall be so notified in writing with the specific reasons 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 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 the city council. Failure to file a request for hearing with the clerk within the allotted two-calendar-week period, constitutes a waiver of the right to a hearing. The clerk shall notify the licensee of the date, time and place of the hearing, at least three days in advance of the hearing.

C. The licensee may appear and present evidence at the hearing. The council may permit any other person to appear and present evidence. After the hearing, the city council may suspend, revoke, or attach conditions to the continued issuance of the license in question, or the council may decline to take any action affecting the license, in which case it shall remain in effect. The decision of the city council is final, except that it may be appealed to Superior Court in accordance with the provisions of law governing administrative appeals.

6.04.050 Violations. A. It is a violation of this chapter for any person to engage in business in the city without a city business license, except as otherwise provided herein. Every person who violates this chapter shall be subject to a civil penalty of one hundred dollars for each day of violation. The city may institute a civil action to collect this penalty.

B. It is a violation of this chapter for a person who applies for a business license to make a false, erroneous, or fraudulent statement in an application for a city business license. A person committing such a violation shall be subject to a civil penalty of five hundred dollars. The city may institute a civil action to collect this penalty.

C. If a person commits a violation of this chapter, the city may seek declaratory or injunctive relief in the superior court, and upon a showing of violation, the court shall issue an injunction.

D. A violation of this chapter is an infraction punishable by a fine of up to five hundred dollars and/or imprisonment for up to thirty days.

Chapter 6.08
CLOSING HOURS

Sections:

6.08.010 Designated.

6.08.010 Designated. All establishments within the city shall remain closed from the hour of twelve a.m. until the hour of six a.m. An establishment which wishes to remain open after twelve a.m. may request a waiver of this section from the city council. The council may permit an establishment to remain open after twelve a.m. for good cause.

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.

6,12.010 Definitions. The following words and phrases, when used in this chapter, have the meanings 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 persons and not operated on a fixed route.

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.

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 in sufficient detail to enable the council to evaluate the applicant's ability to operate a taxicab in a manner which protects the public health, safety, and welfare, including amounts of all unpaid judgments against the applicant and the nature of the transaction or act 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 to be used by the applicant 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;

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.

6.12.040 Issuance of certificate. If the council finds:

A. That the public convenience and necessity require further taxicab service in the city; 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.

6.12.050 Number of taxicabs. In making the finding of public convenience and necessity, the council shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience and responsibility of the applicant. However, no more than four certificates shall be outstanding at one time.

6.12.060 Insurance. Each taxicab operated under a certificate issued under this chapter shall be insured under a

policy of liability insurance issued by an insurance company licensed to do business in the State of Alaska, throughout the (period for which the certificate is issued, against liability for bodily injury and property damage, with minimum limits in the amounts of fifty thousand dollars per person and one hundred fifty thousand per occurrence for bodily injury, and twenty-five thousand dollars for property damage. The holder of a certificate under which a taxicab is operated shall at the request of the clerk produce certificates of insurance to this effect for inspection by the clerk.

6.12.070 License fee. No certificate shall be issued or continued in operation unless the holder thereof has paid an annual license fee of twenty dollars for the right to engage in the taxicab business, plus twenty dollars each year for each taxicab operated under a certificate of public convenience and necessity. The license fees shall be for one calendar year, and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the taxicabs under his operation and control.

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.

6.12.090 Suspension or revocation of certificate. A. The city council may revoke or suspend as appropriate under the circumstances, a certificate issued under the provisions of this chapter 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 certificate; or
3. Discontinued operations for more than fifteen days; or
4. Been convicted of any felony under the laws of the United States or of any state; or
5. Been convicted of any other violation of federal, state, borough, or city law, regulation or ordinance which would render the holder unfit to offer public transportation because, under the circumstances, the holder's providing of public transportation would endanger the public health or safety.

B. Prior to suspending or revoking a certificate, the holder of the certificate shall be so notified in writing with

the specific reasons for the suspension or revocation set forth in detail.

C. The holder may file a written request for a hearing before the city council. This request must be filed within two calendar weeks from the date the holder received notice of pending suspension or revocation. The holder's request for a hearing shall be filed with the clerk, who shall set a date for the hearing before the city council. Failure to file a request for hearing with the clerk within the allotted two-calendar-week period, constitutes a waiver of the right to a hearing. The clerk shall notify the holder of the date, time and place of the hearing, at least three days in advance of the hearing.

D. The holder may appear and present evidence at the hearing. The council may permit any other person to appear and present evidence. After the hearing, the city council may suspend, revoke, or attach conditions to the continued issuance of the certificate in question, or the council may decline to take any action affecting the certificate, in which case it shall remain in effect. The decision of the city council is final, except that it may be appealed to superior court in accordance with the provisions of law governing administrative appeals.

6.12.100 Driver's license. No person shall operate a taxicab for hire within the city, and no person who owns or controls a taxicab shall permit it to be so operated, and no taxicab licensed by the city shall be so operated, 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.

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, 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 succeeding the current calendar year, and the manifests shall be available to the clerk.

6.12.120 Parking or standing. No taxicab shall park or stand on any street except while actually engaged in normal business. Each holder shall provide off-street parking for all taxicabs when not engaged in the transporting of passengers. Provided, however, that a taxicab may park on a public street

if it is on charter or being used for personal business, in which case it shall display a sign stating that such taxicab is not available for hire.

6.12.130 Rate card. Every taxicab operated under a certificate shall display at all times a rate card stating the taxicab's fares in such a place as to be in view of all passengers.

6.12.140 Fares and charges. A. Rates: The maximum fare charged by any taxicab operated under a certificate shall not exceed the rates established by resolution of the city council.

B. Additional Charges:

1. Waiting time. Waiting time in excess of five minutes shall be charged at seventy-five cents per minute, forty-five dollars per hour.

2. Extra passengers. There shall be an additional charge of one dollar for each passenger who is older than twelve years old. Children under twelve may travel with adult passengers free of charge.

3. Parcels -- driver assistance. The driver may at his option charge an additional fifty cents for every parcel, suitcase or trunk that he assists the passenger with.

4. Parcels -- pickup and delivery. There shall be an additional charge of two dollars when the driver picks up a parcel and delivers it to the customer.

5. Sleds. There shall be an additional charge of five dollars for pulling a sled.

6. Charter Time. Charter time shall be charged at the rate of forty-five dollars per hour for a vehicle with a seating capacity of up to four passengers, and fifty-five dollars per hour for a vehicle with a seating capacity of five or more passengers.

6.12.150 Nonpaying passengers -- multiple fares. A. The driver of a taxicab shall not transport a friend and relative or any other nonpaying passenger in a taxicab.

B. The driver shall not have more than one fare in the cab at any time.

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.

6.12.170 Refusal to Day fare. It is unlawful for any person to refuse to pay the legal fare of any taxicab after having hired the same, and it is unlawful for any person to hire any taxicab with intent to defraud the person from whom it is hired of the value of such service.

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. Except as otherwise provided, 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. A driver may be absent from his taxicab for not more than thirty consecutive minutes. A driver may also be absent from his taxicab for any length of time during an emergency. Nothing contained in this subsection shall 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 being used in normal business upon the public streets.

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.

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 to the right-hand side of the road, and there receive or discharge passengers. Upon one-way streets passengers may be discharged at either the right-hand or left-hand side of the roadway.

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. A child in arms shall not be counted as a passenger.

6.12.210 Refusal to carry. No driver shall refuse or fail, without just cause, to carry any orderly person, upon

request, unless previously engaged or unable or forbidden to do so by the provisions of this chapter.

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.

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 taxicab company for a taxicab and is waiting for that taxicab.

6.12.240 Dispatch hours -- service standard. All holders 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 not less than fourteen hours per day for the purpose of receiving calls and dispatching taxicabs. Each holder shall answer all calls received for services inside the corporate limits as soon as reasonably practicable, and if the services cannot be rendered within a reasonable time, shall notify each prospective passenger how long it will be before the call can be answered and give reason therefor. Any holder who refuses to accept a call anywhere in the corporate limits at any time when such holder has taxicabs available, except as provided in Section 6.12.210, is a violator of this chapter, and the certificate granted to such holder may be revoked.

6.12.250 Taxicab safety. A. Each holder shall maintain his or her taxicabs in a safe and clean condition.

B. It is a violation of this section for any person to operate a taxicab upon which:

1. A tire or tires are flat;
2. Any headlight and/or turn signal is inoperable;
3. A door does 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. A window or windshield is broken; or

8. Contains another defect known to the holder which threatens the safety of the driver and/or passengers.

6.02.260 Taxicab drivers -- working hours. A. No person employed by a holder to operate a taxicab may operate a taxicab or perform any other duties for the holder, whether or not operating a taxicab is involved, for more than twelve hours in any twenty-four-hour period.

6.12.270 Violation -- penalty. A violation of this chapter is an infraction punishable by a fine of up to three hundred dollars, in addition to suspension or revocation of the certificate under Section 6.12.090.

Title 8

HEALTH AND SAFETY

Chapters:

| | |
|-------------|--|
| <u>8.04</u> | <u>Removal of Abandoned Vehicles and Personal Property</u> |
| <u>8.08</u> | <u>Fireworks</u> |
| <u>8.12</u> | <u>Nuisances</u> |
| <u>8.13</u> | <u>Smoking in Public Places</u> |
| <u>8.16</u> | <u>Firearms, Weapons and Explosives</u> |
| <u>8.20</u> | <u>Protection of Watershed</u> |
| <u>8.24</u> | <u>Motor Vehicles</u> |
| <u>8.28</u> | <u>Animal Control</u> |

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. |
| 8.04.080 | Violation - Penalty |

8.04.010 Definitions. As used in this chapter:

A. "Abandoned" means any vehicle or personal property left abandoned parked, stored, junked, wrecked, stripped, disposed of or otherwise unattended for a period of four or more days following notice of removal.

B. "Personal property" means personal property as defined by Section 1.04.010(L), but excludes refuse as defined by Section 8.12.010(D).

C. "Vehicle" means vehicle as defined in A.S. 28.40.100.

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.

8.04.030 Nuisance declared -- notice of removal. A. Any vehicle or personal property abandoned under this chapter may be declared a public nuisance.

B. 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 days later,

b. Property has been left in the same place for four days after general notices of removal are posted in at least three 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 days from the date of postmark or delivery.

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.

8.04.050 Disposal -- Reclamation. Any property, after being impounded, removed, and stored pursuant to this chapter for a period of thirty days, may be sold, crushed or disposed of in any manner selected by the mayor, as an economical, efficient means of disposal; provided, however, that if the property is a motor vehicle the 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 council citing the date of removal, the individuals involved, places of storage and the costs involved.

8.04.060 Costs. Any person who violates Section 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 Section 8.04.080 for violation of this chapter.

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 four-day notice of removal, be declared a public nuisance and immediately impounded and removed as outlined in this chapter.

8.04.080 Violation - Penalty. A person who violates any provision of this chapter shall be guilty of a Type 2 infraction and shall be punished upon the first offense within twelve consecutive months by a fine of twenty dollars (\$20); upon the second offense within twelve consecutive months by a fine of forty dollars (\$40); upon a third and each subsequent offense within twelve consecutive months by a fine of eighty dollars (\$80).

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 Violation -- Penalty.

8.08.005 Definition. As used in this chapter, "fireworks" means saleable fireworks as defined by A.S. 18.72.050(4).

8.08.010 Sale or use. The offering for sale, exposure for sale, sale, use, or explosion of fireworks except as provided by Section 8.08.015, is hereby prohibited.

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.

8.08.020 [Reserved]

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.

Chapter 8.12

NUISANCES

Sections:

- 8.12.010 Definitions.
- 8.12.020 Dangerous nuisances.
- 8.12.030 Obnoxious nuisances.
- 8.12.040 Violations.

8.12.010 Definitions. As used in this chapter:

- A. "Mayor" means the mayor or his or her designee.
- B. "Owner" means the owner as defined in Section 1.04.010(J), lessee, or other person in possession or control of any premises.
- C. "Person" means person as defined in Section 1.04.010(K).
- D. "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.

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.

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.

8.12.040 Violations. A. A person who wilfully violates Section 8.12.020(A) or who wilfully fails to comply with a removal order issued pursuant to Section 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 and imprisonment for a period of not more than thirty days.

B. Any other violation of this chapter is an infraction and subjects the violator to the penalty prescribed by Section 1.28.010.

C. In addition to any penalty imposed under this chapter, any person who violates Sections 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.

dollars (\$50) for each subsequent offense. However, the city council may dismiss a first offense complaint without payment of a fine if the defendant demonstrates that the required sign has been posted.

C. A person who knowingly violates Section 8.13.030(C) is guilty of an infraction which is punishable by a fine of twenty dollars (\$20) for the first offense, twenty-five dollars (\$25) for the second offense, and thirty dollars (\$30) for each subsequent offense.

8.13.050 Definitions. A. "Public Place" means any building or structure which is regularly open to the public and which has a seating capacity of ten people or more.

B. "Smoking Area" must be a separate room, hallway, or entrance area.

C. "Room" means an indoor area which is bordered on all sides by walls or partitions which are continuous and solid except for door portals for entry and exit and except for windows and vents.

D. "Other person who has control" means the agent of the owner, manager, or proprietor authorized to direct and supervise the activities in a public place.

E. "Smoking" means holding or carrying a lighted cigar, cigarette, pipe, or other lighted smoking equipment or material.

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. |

8.16.010 Definitions. As used in this chapter:

A. "Dangerous weapon" means a firearm, an air gun or BB gun, a knife other than an ordinary pocketknife having a blade not more than three and one-half (3 1/2) inches in length, a dagger, slingshot, crossbow, metal knuckles, blackjack, billy or any other instrument by the use of which physical injury may readily be inflicted upon any person, but does not include any instrument or tool which is 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)(18).

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.

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 the 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.

C. A knife in a sheath worn on a belt is not considered a concealed weapon.

8.16.030 Switchblade knives. No person shall possess or transfer in any manner a switchblade knife.

8.16.040 [Reserved]

8.16.050 Possession of dangerous weapon 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.

8.16.060 Carrying loaded firearms. It is unlawful for any person to possess any firearm when in a public place or on any public street within the city, unless all ammunition has been removed from the chamber, cylinder, clip, or magazine, and unless the firearm is carried with the receiver in an open position except as provided in 8.16.070.

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.

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.

8.16.090 Exclusions. A. Sections 8.16.020, 8.16.050, 8.16.060, and 8.16.080 do not apply to any duly authorized city, borough, state or federal law enforcement officer in the performance of official duties.

B. Section 8.16.070 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 a 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 a law enforcement officer fire upon any person who is merely 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 yards from any permanent dwelling, public building or within five hundred yards towards any occupied camp.

8.16.100 Violations. Any violation of this chapter is a misdemeanor.

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.

8.20.010 Definitions. As used in this chapter:

A. "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.

B. "Refuse" means refuse as defined in Section 8.12.010.

C. "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.

8.20.020 Location of Watershed. The watershed used by the city is located east of the City of Point Hope and is clearly staked and fenced as the watershed used by the city. A detailed map showing the location of the reserved watershed is available from the office of the city clerk.

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 it shall be unlawful to:

A. 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

B. Use the watershed as a recreation area at any time during the year or engage in any activity that would pollute the watershed.

8.20.030 Penalty. Any person violating the provisions of Section 8.20.030 shall upon conviction thereof be fined not to exceed five hundred dollars (\$500) or imprisoned for thirty days or both.

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.

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 water based vehicles when referred to in this chapter.

8.24.020 Speed Limits. A. It shall be unlawful for any land based vehicle to travel at a speed exceeding fifteen miles per hour within the city limits. Vehicles without speedometers shall not exceed half throttle. Regardless of the speed limit, it is also unlawful to drive a land based vehicle at a speed greater than is reasonable under the existing road or weather conditions.

B. There shall be SLOW signs posted in plain sight for all to see.

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.

8.24.040 Operation under influence of alcohol. No operator of any water or land based vehicle, shall be under the influence of alcohol.

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.

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 nearest state trooper or borough public safety officer by radio or telephone, or if neither is reasonably available by whatever other means is likely to be received at the earliest time.

8.24.070 Curfew. There shall be imposed a curfew on vehicle operation between the hours of 2:00 a.m. to 6:00 a.m. Emergency operation and operation of vehicles in the course of operating a business, are excepted.

8.24.080 Licenses. It shall be unlawful to operate a land based vehicle for which a license is required under state law, without such a license.

Chapter 8.28
ANIMAL CONTROL

Sections:

- 8.28.010 Definitions.
- 8.28.020 Scope; Intent.
- 8.28.030 Records.
- 8.28.040 Enforcement -- interference prohibited.
- 8.28.050 Identification tag required.
- 8.28.060 Immunization of animals.
- 8.28.070 Harboring diseased animals.
- 8.28.080 Cruelty and abandonment.
- 8.28.090 Puppies.
- 8.28.100 Liability.
- 8.28.110 Females in heat -- confinement.
- 8.28.120 Control of dangerous animals.
- 8.28.130 Duty of vehicle operators.
- 8.28.140 Restraint.
- 8.28.150 Disposal.
- 8.28.160 Rabies control.
- 8.28.170 Animals diagnosed as rabid -- quarantine.
- 8.28.180 Violation.
- 8.28.190 Classification of offenses.
- 8.28.200 Citation Form.

8.28.010 Definitions. The following terms used in this chapter have the following meanings:

- A. "Animal" means any dog as defined in subsection F.
- B. "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.
- C. "Animal control officer or officers" means any official authorized by law to enforce this chapter or the animal control laws of the North Slope Borough or the State of Alaska.
- D. "Animal shelter" means any premises designated by action of the animal control officer for the purpose of impounding and caring for animals impounded pursuant to this chapter or Alaska statute.
- E. "At large" means any dog not under restraint.
- F. "Dog" means any domesticated member of the family candidate.

G. "Euthanasia" means to kill painlessly.

H. "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.

I. "Neutered male" means any male animal that has been castrated.

J. "Owner" means any person, partnership, or corporation owning, keeping, or harboring, feeding or sheltering for three days or more, one or more animals.

K. "Planned breeding" means any purposeful breeding intended to perpetuate a specific animal type.

L. "Protective custody" means impoundment of an animal for its own protection.

M. "Public health officer" means any public official responsible for the investigation, collection and dissemination of information regarding anything which causes harm to human health.

N. "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.

O. "Restraint" means physical control, such as a leash, chain, fence or building; or competent voice, whistles, 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.

P. "Secure enclosure" means an enclosure in which an animal is confined and does not have access to human beings or other animals.

Q. "Spayed female" means any female animal on which an ovariectomy or ovariohysterectomy has been performed.

R. "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 or sidewalks, or on any public or private property.

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 A.S. 29.35.250(a) but not to establish regulations which would undermine the right and duty of the borough to regulate domestic animals.

8.28.030 Records. The animal control officer 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 the 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.

8.20.040 Enforcement -- interference prohibited. A. Any animal control officer, peace officer, or public safety officer may enforce Sections 8.28.010 through 8.28.190.

B. No person shall interfere with, molest or hinder any animal control officer, peace officer, or public safety officer in the performance of any duty under this chapter or seek to release any animal in the custody of such officer.

8.28.050 Identification tag required. Every dog at least six 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.

8.28.060 Immunization of animals. A. No person shall own, keep or harbor an animal over six months of age within the city unless such animal has been immunized against rabies within the past twelve 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.

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.

8.28.080 Cruelty and abandonment. A. No person shall do the following:

1. Fail to provide his or her animal with sufficient food and water, adequate shelter, veterinary care when needed to prevent suffering, protection from the weather, and humane care and treatment.

2. Abandon or cause to be abandoned any animal.

3. 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.

4. Cause, instigate or encourage any animal to fight with any other animal.

5. 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 a defense to the acts prohibited under subsection A.

C. Nothing in this section shall prohibit:

1. A person from capturing and holding a stray animal for delivery to its owner or the animal control officer, or killing an animal in defense of person or property, or humanely destroying an animal owned by him.

2. An animal control officer, peace officer, or public safety officer from taking actions authorized under 8.28.010 through 8.28.190.

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 Section 8.28.150 of this chapter.

8.28.100 Liability. An owner shall be liable for repayment or replacement of any property damaged or destroyed by his or her animal.

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.

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.

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.

8.28.140 Restraint. A. Every owner shall keep his or her animal restrained such that it does not pose a threat to any person or property, or become a public nuisance.

B. No person shall tie, stake, or fasten any animal within any 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.

8.28.150 Disposal. A. The animal control officer or in his or her absence a person appointed by the mayor shall dispose of animals in a humane manner under any of the following conditions:

1. The animal is at large and the animal's owner cannot be identified or located;

2. The animal is vicious;

3. The animal is found to have rabies;

4. An unvaccinated animal is bitten by a rabid animal during a quarantine provided in 8.28.170; or

5. The owner has consented to the disposal.

B. If an animal is considered vicious, and its owner objects to disposal and files an appeal, the animal shall be disposed of only in accordance with the appeal procedure provided in subsection C.

C. If the owner files an appeal with the city council pursuant to Chapter 2.40 or 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, the animal shall not be destroyed until the city council hears and determines the appeal.

8.28.160 Rabies control. A. Every animal which bites a human being shall be promptly reported to the animal control officer. Any other person may report the incident. If the animal's owner cannot be identified or located, the animal shall be disposed of pursuant to 8.28.150 A. Otherwise, the animal shall be quarantined, at the animal control officer's discretion, either on the owner's premises or at the owner's expense in a veterinary hospital. In the event of a bite by an animal other than a dog, if such animal is a species known to transmit rabies, the animal shall be disposed of in accordance with any applicable state and federal regulations.

B. Every physician, or other practitioner of medicine, shall report to the animal control officer the names and addresses of persons treated for bites inflicted by animals, together with such information as will be helpful in rabies control.

C. Every licensed veterinarian shall report to the animal control officer the diagnosis of any animal observed as a rabies suspect.

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 regulations 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 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 sight. '

8.28.180 Violation. A. Each person who violates any provision of this Chapter 8.28 is guilty of an infraction and shall be punished as specified below:

B. A person who commits a Type 1 infraction shall be punished upon the first offense within twelve consecutive months by a fine of ten dollars (\$10); upon the second offense within twelve consecutive months by a fine of twenty dollars (\$20); upon a third and each subsequent offense within twelve consecutive months by a fine of forty dollars (\$40).

C. A person who commits a Type 2 infraction shall be punished upon the first offense within twelve consecutive months by a fine of twenty dollars (\$20); upon the second offense within twelve consecutive months by a fine of forty dollars (\$40); upon a third and each subsequent offense within twelve consecutive months by a fine of eighty dollars (\$80).

D. A person who commits a Type 3 infraction shall be punished upon the first offense within twelve consecutive months by a fine of forty dollars (\$40); upon the second offense within twelve consecutive months by a fine of eighty dollars (\$80); upon a third and each subsequent offense within twelve consecutive months by a fine of one hundred sixty dollars (\$160).

E. For the purpose of calculating the number of infractions which a person has committed within a twelve month period, an infraction of one type shall be treated as an infraction of each other type. For instance, if a person commits a Type 1 infraction and two months later commits a Type 3 infraction, the Type 3 infraction shall be penalized as the second infraction within twelve months. A single incident which violates two or more sections of this chapter shall be treated as a single infraction for the purpose of calculating the number of previous infractions which a person has committed.

8.28.190 Classification of offenses. A. Violation of any of the following sections shall constitute a Type 1 infraction:

1. 8.28.050 - Failure to wear identification tag.
2. 8.28.080(A)(1) - Failure to provide humane care and treatment.

3. 8.28.110 - Failure to confine a female in heat.
4. 8.28.130 - Duty of vehicle operator to report striking animal.
5. 8.28.140(A) - Failure to restrain an animal.
6. 8.28.140(B) - Fastening an animal in a public place.
7. 8.28.140(C) - Releasing an animal from restraint.

B. Violation of any of the following sections shall constitute a Type 2 infraction:

1. 8.28.060 - Failure to immunize.
2. 8.28.070 - Harboring a diseased animal.
3. 8.28.080(A)(2) - Abandoning an animal.

C. Violation of any of the following sections shall constitute a Type 3 infraction:

1. 8.28.040 - Interfering with an animal control officer.
2. 8.28.080(A)(3) - Cruelty to an animal.
3. 8.28.080(A)(4) - Causing an animal to fight.
4. 8.28.080(A)(5) - Exposing a poisonous substance.
5. 8.28.120 - Failure to control a dangerous animal.
6. 8.28.160(A) - Failure to report an animal bite, or refusal to permit quarantine of an animal.
7. 8.28.160(B) & (C) - Failure to report possible rabies infection.
8. 8.28.170 - Violation of quarantine.

8.28.200 Citation Form. The following form shall be used to issue citations for violations of this chapter. A form which is substantially similar to this form shall be acceptable.

ANIMAL CONTROL
CITATION/COMPLAINT CITY OF
POINT HOPE
Date Citation Issued: _____

Issuing Animal Control Officer: _____

Person(s) Cited: _____

In accordance with City of Point Hope Code of Ordinances,
Sections 8.28.180 and 8.28.190, YOU ARE BEING CITED FOR THE
FOLLOWING INFRACTIONS in violation of the Sections of the Code
of Ordinances indicated below.

Type 1 Infractions:

- _____ 8.28.050 - Failure to wear identification tag.
- _____ 8.28.080 A 1 - Failure to provide humane care and treatment.
- _____ 8.28.110 - Failure to confine a female animal in heat.
- _____ 8.28.130 - Duty of vehicle operator to report striking
animal.
- _____ 8.28.140 A - Failure to restrain an animal.
- _____ 8.28.140 B - Fastening an animal in a public place.
- _____ 8.28.140 C - Releasing an animal from restraint.

This is the _____ (1st/2nd/3rd) infraction in a 12 month period.

The

fine is \$ _____ (\$10/\$20/\$40).

Type 2 Infractions:

- _____ 8.04.060 - Abandoning vehicle or other property.
- _____ 8.28.060 - Failure to immunize.
- _____ 8.28.070 - Harboring a diseased animal.
- _____ 8.28.080 A 2 - Abandoning an animal

This is the _____ (1st/2nd/3rd) infraction in a 12 month period.

The

fine is \$ _____ (\$20/\$40/\$80).

Type 3 Infractions:

- _____ 8.28.040 - Interfering with an animal control officer
- _____ 8.28.080 A 3 - Cruelty to an animal.
- _____ 8.28.080 A 4 - Causing an animal to fight.
- _____ 8.28.080 A 5 - Exposing a poisonous substance.
- _____ 8.28.120 - Failure to control a dangerous animal.
- _____ 8.28.160 A - Failure to report an animal bite, or refusal to
permit quarantine.
- _____ 8.28.160 B & C - Failure to report a suspected rabies
infection.
- _____ 8.28.170 - Violation of quarantine.

This is the _____ (1st/2nd/3rd) infraction in a 12 month period.

The

fine is \$ _____ (\$40/\$80/\$160).

Fines should be paid to: The City of Point Hope, P.O. Box 169, Point
Hope, AK 99766, within 15 days of the date of this citation. If the
fine is not paid to the City of Point Hope within 15 days, the
citation will be turned over to the Clerk of the Trial Courts, P.O.
Box 317, Kotzebue, AK 99752, and the NSB Law Department shall be
notified for collection.

cc: Point Hope City Office

Files NSB Public Health

Title 9

PUBLIC PEACE, MORALS & WELFARE

Chapters:

| | |
|-------------|---|
| <u>9.04</u> | <u>Offenses against property</u> |
| <u>9.06</u> | <u>Offenses against peace & decency</u> |
| <u>9.08</u> | <u>Offenses by or against minors</u> |
| <u>9.12</u> | <u>Curfew for Minors</u> |
| <u>9.16</u> | <u>Alcoholic beverages</u> |
| <u>9.20</u> | <u>Drugs</u> |

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 dog of another. |
| 9.04.080 | Tampering with water system or washeteria. |
| 9.04.090 | Injury to public library books or property. |
| 9.04.100 | Injury to roads and other utilities. |

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 without the consent of the owner or person in charge thereof.

9.04.020 Tampering with vehicles. No person shall start, otherwise tamper or meddle with, molest, enter, occupy, loiter in, take, drive away, or set in motion any automobile or other vehicle belonging to another, without the consent of the owner or person in charge thereof.

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, other vehicle or other property of another, without the consent of the owner or person in charge thereof.

B. Willfully, maliciously, or wantonly tear down, deface, mutilate or otherwise injure or destroy, in whole or in part, any public notice posted in any public place.

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 is likely to hit another person wrongfully or to injure property, nor shall any person 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 himself, of another person or of property.

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.

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.

9.04.070 Release of dog on another. No person shall wilfully release the confined dog of another person.

9.04.080 Tampering with water system or washeteria. No person shall knowingly remove, carry away, tamper with, damage or destroy any portion of the North Slope Borough water system or washeteria without the consent of the person in control thereof.

9.04.090 Injury to public library books or property. No person shall willfully tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to the city, the North Slope Borough, or any public library or reading room.

9.04.100 Injury to roads and other utilities. No person shall willfully injure, remove or destroy any portion of any public building, or willfully obstruct or injure any street or willfully cut, burn, 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 willfully cut, break or injure the wires of any apparatus belonging thereto; or willfully 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.

Chapter 9.06

OFFENSES AGAINST PEACE & 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.

9.06.010 Disturbing the peace. No person shall:

A. Use obscene or profane language violently or tumultuously in a public place; or

B. Make or excite any disturbance in either a public or private place to the disturbance or annoyance of another.

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 another.

B. When three or more persons together commit an unlawful act in a violent or tumultuous manner to the disturbance of another, they are guilty of a riot.

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 in violation of Section 9.06.060.

09.06.040 Public indecency. No person shall:

A. Intentionally expose his or her genitals, buttock, anus or female breast to another with reckless disregard for the offensive or insulting effect the act may have on that person.

H. While in a public place, engage in any conduct consisting of contact between the sex organs of two or more persons or between the sex organs of one 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 or urine.

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. Give, or offer or agree to 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 other 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 repute and repute of persons who reside in or frequent the place shall be competent evidence.

E. As used in this section:

1. "Place of prostitution" means any place where prostitution is practiced.

2. "Prostitute" means a male or female person who engages in sexual conduct in return for a fee.

3. "Prostitution" means any act prohibited by subsection A of this section.

4. "Prostitution enterprise" means an arrangement whereby two or more prostitutes are organized to conduct prostitution activities.

5. "Sexual conduct" means conduct between persons not married to each other consisting of contact between the sex organs of two persons or between the sex organs of one person and the mouth or anus of another.

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.

9.06.070 Furnishing obscene materials: exhibiting obscene Performance. No person shall:

A. Sell, rent, or possess for sale or rental 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, lend, 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 obscene material.

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, 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.

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.

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

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.

9.08.020 Operation by minor. A. No person under the age of eighteen shall play or operate any amusement device during school hours.

B. No owner or operator of any such device, nor any manager or other person in charge of premises where such amusement device is kept, maintained or operated, shall knowingly permit or allow any person under the age of eighteen to play or operate any such amusement device during school hours.

9.08.030 Knowledge of age presumed. A. 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 to play or operate any such amusement device in violation of Section 9.08.020, shall be rebuttably presumed to have known that such person was under the age of eighteen.

B. Any person who represents to such an owner, operator, manager or other person in charge that he or she is eighteen years of age or older, when in fact he or she is not of that age, shall be guilty of the same offense as the owner, operator, manager or other person in charge of the premises, and shall be punished accordingly.

9.08.035 Violation and penalty. A violation of Section 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, maintained or operated may be prosecuted as a misdemeanor punishable by a fine of up to five hundred dollars and/or imprisonment for up to thirty days.

ARTICLE II. TOBACCO

9.08.040 Supplying to minors under sixteen years. No person shall knowingly sell, exchange, or give any cigarette, cigar or tobacco in any form to any person under the age of sixteen.

9.08.050 Soliciting supply. No person under the age of sixteen years shall willfully solicit, incite or induce any person to furnish him or her any cigarette, cigar, or tobacco in any form.

9.08.060 Possession. No person under the age of sixteen shall knowingly possess or have on his or her person any cigarette, cigar or tobacco in any form.

9.08.070 Permitting violation. It is unlawful for the parent, guardian or other person in charge of a minor under the age of sixteen knowingly to permit such minor to violate any of the provisions of this article.

ARTICLE III. RESTRICTED PLACES

9.08.080 Card rooms, lodges, clubs. A. No person under the age of seventeen shall frequent or loiter in or about a public card room, hall, lodge or club operated for profit.

B. No owner, operator, manager, or other person having control of a public card room, hall, lodge, or club operated

for profit in the city, shall allow any minor under the age of seventeen to frequent or loiter in or about any such place.

9.08.090 Dance halls. A. No person under the age of seventeen 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.

B. No owner, operator, manager, or other person having control of a public dance hall shall allow any minor under the age of seventeen to frequent or loiter in or about any such place, except as provided in subsection A.

9.08.100 Employers of minors. No person employing a minor under the age of seventeen shall send any such minor so employed to any place mentioned and restricted by Sections 9.08.080 or 9.08.090, nor shall any person employ any minor under the age of seventeen in or around any of the places mentioned and restricted in Sections 9.08.080 or 9.08.090.

9.08.110 Adult responsibility. Any adult who causes or contributes to the violation of any provision of this article by any minor under the age of seventeen is guilty of a misdemeanor.

Chapter 9.12
CURFEW FOR MINORS

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 (Reserved)
- 9.12.070 Violation -- businesses.

9.12.010 definitions. As used in this chapter:

- A. "Adult" means any person over the age of eighteen.
- B. "Guardian" means a person who is legally responsible for a minor, or any adult exercising actual care and control of a minor on behalf of and with the permission of, the person who is legally responsible for the minor.
- C. "Minor" means a person who has not attained his or her eighteenth birthday and is not emancipated.
- D. "Parent" means a minor's mother or father who has legal custody of the minor, or any adult exercising actual care and control of a minor on behalf of and with the permission of, the minor's mother or father.
- E. "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. 47.10.141 or .142, or an employee of the borough department of health and social services designated to serve as a truant officer by the department, or any other person so designated by state law.

9.12.020 Hours -- summer. A. A minor shall observe, and a parent or guardian shall require a minor to observe, the following curfew during the summer: A minor (unless accompanied by a parent or guardian or unless engaged in

subsistence activity) shall not be in or upon public streets, public areas, public buildings or private businesses in the city during the hours of 2 a.m. until 6 a.m.

B. "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.

9.12.030 Hours -- school year. A. During the school year a minor shall observe, and a parent or guardian shall require a minor to observe, the following curfew: A minor (unless accompanied by a parent or guardian or unless engaged in subsistence activity) shall not be in or upon public streets, public areas, public buildings or private businesses in the city during the hours of 10 p.m. until 6 a.m.

B. The curfew for any evening on which the next day is Saturday, Sunday or a school holiday shall be the same as specified in Section 9.12.020 for the summer period.

9.12.035 Exceptions. A. The city council may grant exceptions to this curfew for public holidays, church gatherings, school associated meetings, singspirations, traditional native meetings, and other similar events.

B. This section shall not apply to a minor who is traveling directly from one place where the minor can lawfully be during the hours when curfew is in effect, to another such place.

C. This chapter shall not apply to legally emancipated minors.

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, then he may, in conformity with A.S. 47.10.141(b), take the minor into custody for the sole purpose of either returning him to his parent or guardian or, if the minor prefers, to a Safe Home Representative.

B. A minor detained under this section shall be returned to his parent or guardian or released to the custody of a Safe Home Representative, as soon after detention as is reasonably practicable. If a minor cannot be returned to his parent or guardian or released to the Safe Home Representative prior to

9:00 a.m. of the morning following detention, the minor shall be released from detention.

C. Detention records shall be kept confidential from all persons except peace officers, the minor, and his parent or guardian, except upon court order. The record of detention shall be destroyed after the expiration of the second year following the detention date.

9.12.050 Violation -- penalty. A. A parent or guardian who knowingly and willfully violates this chapter shall be punished according to the following schedule:

1. First violation, five dollars (\$5);
2. Second violation, ten dollars (\$10);
3. Third and each subsequent violation, fifteen dollars (\$15).

B. A parent or guardian of the minor cited for violations of this chapter may pay the city clerk. If violations are not paid within fifteen (15) days after receipt of citation the said matter will be turned over to the local magistrate. A parent or guardian of the minor may pay a fine or a portion of a fine, by performing community service work. The city administrator shall designate tasks which are acceptable as community service work. The value of community service work is five dollars per hour or the current State minimum wage, whichever is more.

9.12.060. (Reserved)

9.12.070 violation -- businesses. A. The owner or operator of a private business enterprise who permits a minor to remain on his business premises after the hours of curfew established by this chapter shall be punished according to the following schedule.

1. First violation, five dollars (\$5);
2. Second violation, ten dollars (\$10);
3. Third and subsequent violations, fifteen dollars (\$15).

B. These penalties shall not apply to buses and other forms of public or publicly regulated transportation.

Chapter 9.16

ALCOHOLIC BEVERAGES

Sections:

- 9.16.010 Findings.
- 9.16.020 Definitions.
- 9.16.030 Prohibitions.
- 9.16.040 Prohibitions -- licenses.
- 9.16.050 Prohibitions -- public intoxication.
- 9.16.060 Arrest or citation of violators; community service.
- 9.16.070 Penalties -- seizures and forfeitures.
- 9.16.080 Penalties -- fines.

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 Point Hope because the city is small, isolated, and lacks extensively developed law enforcement or health care facilities.

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. "Importation" means sending, transporting, or bringing an alcoholic beverage into the city from a place outside the city.

E. "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.

9.16.010 Prohibitions. A. The possession, sale, offering for 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 import an alcoholic beverage into the city, nor 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, nor sell or offer for sale any alcoholic beverage within the city.

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.

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, sale, and importation option.

9.16.050 Prohibitions -- public intoxication. A person who is under the influence of alcohol may not remain or 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.

9.16.060 Arrest or citation of violators: community service. A. When a peace officer stops or contacts a person concerning possessing an alcoholic beverage in violation of Section 9.16.030, 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 beverage involved.

B. A person cited pursuant to subsection A of this section may, within thirty 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 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 alcoholic beverages is a complete satisfaction of the violation. The clerk of court accepting the bail or the form indicating performance of community work shall provide the offender with a receipt stating that fact, if requested.

E. If the person fails to pay the bail amount stated on the citation, or fails to provide proof of performance of community work as specified in subsection C(1) of this section to the court, the citation is considered a summons.

F. Notwithstanding other provisions of law, if a person cited for possession of alcoholic beverages in violation of Section 9.16.030 appears in court and is found guilty, the penalty that is imposed for the offense may not exceed any bail amount for that offense established under A.S. 04.16.205(c).

G. Possession of an alcoholic beverage in violation of Section 9.16.030 is not considered a criminal offense, nor is a fine imposed for such a violation considered criminal punishment. A person cited for such a violation does not have a right to a jury trial or court-appointed counsel.

9.16.070 Penalties -- seizures and forfeitures. A. Alcoholic beverages in the possession of any person in the city in violation of Section 9.16.030, alcoholic beverages sold or offered for sale in violation of Section 9.16.030, aircraft, vehicles, or vessels used to transport, or facilitate the transportation of, alcoholic beverages imported into the city in violation of Section 9.16.030, and materials and equipment used in the sale or offering for sale of alcoholic beverages in violation of Section 9.16.030, are subject to forfeiture.

B. 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.

9.16.080 Penalties -- fines. A. A person convicted of violating Section 9.16.050 shall be fined an amount not to exceed three hundred dollars.

B. A person convicted of selling or offering to sell alcoholic beverages in violation of Section 9.16.030 shall be fined an amount not to exceed one thousand dollars.

C. A person convicted of importing alcoholic beverages into the city in violation of Section 9.16.030 shall be fined an amount not to exceed one thousand dollars.

D. Except as otherwise provided in 9.16.060, a person convicted of possessing alcoholic beverages in violation of Section 9.16.030 shall be subject to a civil fine in an amount not to exceed one thousand dollars.

Chapter 9.20

DRUGS

Sections:

9.20.010 Prohibited use.

9.20.020 Penalty.

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 to the user by a medical doctor is not covered by the terms of this chapter.

9.20.020 Penalty. Any person who violates Section 9.20.010 shall be punished by a civil penalty of not more than one thousand dollars.

Title 12

STREETS. SIDEWALKS AND PUBLIC PLACES

Chapters:

| | |
|-------|-------------------------------------|
| 12.04 | <u>Use of Streets and Sidewalks</u> |
| 12,08 | <u>Use of Public Places</u> |

Charter 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. |

12.04.010 Obstructing streets. No person shall use any city street to:

A. Carry on a business or trade; or

B. Place, permit to be placed, or leave thereon any goods, wares, articles, merchandise, or other obstructions.

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.

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.

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.

12.04.050 Structures prohibited. No person shall place, erect, or occupy any hut, house, building, or other structure of any kind upon or within any street, alley, or other public way, or any park or other city property.

12.04.060 Removal of signs or barricades. No person shall remove any barricade, obstruction, light or sign placed by authority of the city on any street, alley, public way, or other public or city property for the purpose of regulating traffic or parking.

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.

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 any playground, park, cemetery reserve or historical site owned or under the control of the city, except:

1. On designated roadways within such area, or;
2. For the purpose of maintaining such area, or;
3. With reference to cemetery reserves, for the purpose of maintaining or preparing grave sites or for the conduct of burial services; or
4. For special events after a permit is approved by the city council.

12.08.020 Taking of sod, gravel and sand from public property prohibited. A. No person shall dig upon public property, or take sod, gravel or sand away from any public property, without a permit issued by the city council.

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 property designated as a cemetery reserve, or any other property designated as public property under the laws of the city, borough, or state.

Title 13

CITY PROPERTY

Chapters:

| | |
|--------------|--|
| <u>13.04</u> | <u>Real Property -- Acquisition</u> |
| <u>13.08</u> | <u>Real Property -- Inventory and Management</u> |
| <u>13.12</u> | <u>Real Property -- Disposal</u> |
| <u>13.20</u> | <u>Personal Property -- Disposal</u> |

Chapter 13.04

REAL PROPERTY -- ACQUISITION

Sections:

| | |
|-----------|--|
| 13.04.005 | Validity of sections. |
| 13.04.010 | Acquisition and ownership. |
| 13.04.020 | Dedication by plat. |
| 13.04.040 | Federal and state aid. |
| 13.04.050 | Procedural requirements. |
| 13.04.060 | Eminent domain. |
| 13.04.070 | Alaska native claims settlement act lands. |

13.04.005 Validity of sections. If a court of competent jurisdiction determines that any provision of this Title 13 is illegal or unconstitutional, such determination shall not affect the validity of any other provision of this title. All unaffected provisions of this title shall remain in full force and effect.

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 Point Hope, 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, adverse possession, condemnation or declaration of taking, annexation, or by any other lawful means or conveyances.

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.

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.

13.04.050 Procedural requirements. A. The city may acquire real property by purchase, gift, devise, grant, warranty, quitclaim, tax, or trustee's deed, contract of purchase and sale, lease, dedication, permit, license, deed of trust, 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.

B. The city may not acquire real property unless the council first adopts a resolution approving the acquisition and specifying the terms, conditions, and manner of acquisition.

C. Prior to council approval of a resolution providing for the acquisition of real property, the mayor shall furnish the council with an abstract of title, an appraisal or a copy of the North Slope Borough's assessment of the real property, and a review of any anticipated problems which may be encountered in acquisition or ownership of the property. The mayor's failure to furnish the council with any such information shall not affect the validity of any acquisition of real property which complies in all other respects with this chapter.

D. No council approval is necessary to acquire any easement, right-of-way, permit, or license, if it is necessary for a public improvement which has been authorized and approved by the council.

E. Unless otherwise provided by the council, the city shall purchase marketable title in real property. Unless otherwise provided by ordinance or resolution, or upon council approval of a purchase, the mayor is authorized to obtain title insurance, to execute any instruments, and to take all steps necessary to complete and close the purchase and acquisition of the real property. Prior to acquiring any real property, the mayor shall evaluate the property for the presence of hazardous wastes or other environmental hazards and shall report his findings to the council.

F. Any instrument requiring execution by the city shall be signed by the mayor and attested by the clerk. The form of any conveyance shall be approved by the city attorney.

13.04.060 Eminent domain. A. The city may, only within its boundaries, exercise the powers of eminent domain and declaration of taking in the performance of an authorized city power or function in accordance with the procedures set out in A.S. 09.55.250 - 09.55.460.

B. To exercise the power of eminent domain or declaration of taking, the council must adopt an ordinance providing for the action, and the ordinance must be submitted to and approved by the voters at the next regular election or special election called for that purpose. A majority of the votes cast on the question is required for approval of the ordinance.

13.04.070 Alaska Native Claims Settlement Act Section 14(c)(3) lands. The council shall select lands for reconveyance pursuant to ANCSA Section 14(c)(3) by the village corporation established for Point Hope pursuant to ANCSA Section 8. If appropriate, the council, with the assistance of the city attorney, shall negotiate and enter into an agreement with the village corporation settling the city's Section 14(c)(3) rights. Before any such agreement may be executed by the mayor or be binding upon the city, it shall be approved by the council by a resolution adopted after public notice and hearing.

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. No
- 13.08.040 adverse possession against city.

13.08.010 Inventory -- review and recommendation. A. Within one year after the adoption of this ordinance, the mayor shall inventory and evaluate all real property owned by the city on the date of adoption of this ordinance, 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 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. The mayor's report shall specifically identify those lands which, in his opinion, are suitable for residential use.

13.08.020 Retention and management. A. The city will retain ownership of and manage:

1. Those lands which the council determines are or may be required for future public uses;

2. Those lands which are unsuitable for any private use due to the absence of desirable characteristics or the presence of geophysical hazards (such as slumping, flooding, or erosion hazard) or other characteristics which might cause the lands, in the judgment of the city council, to be dangerous to the public health, safety, or welfare; and

3. Those lands which, in the opinion of the council, may be disposed of by the city at some future time on terms more favorable to the city than are likely to be obtained at present, or in a manner or for uses more beneficial to the public than at present, unless the council determines that the benefits available to the public from immediate disposal of the property outweigh the future benefits which would or might result if the property were retained.

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 by the council of an ordinance 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 that the property is no longer used or useful for the purpose, or that the public would benefit if the property were devoted to some other use.

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 present or future city purposes and is suitable for use by a private party or another governmental entity, if such use will result in greater benefits to the public than will continued ownership and present or future use by the city.

B. The council hereby declares that it is the policy of the city that city-owned real property suitable for residential use and not required by Section 13.08.020 to be retained, be disposed of to the general public for construction of residential dwellings in the manner provided in Chapter 13.12.

13.08.040 No adverse possession against city. The city cannot be divested of title to real property by adverse possession.

Chapter 13.12

REAL PROPERTY -- DISPOSAL

Sections:

- 13.12.010 City's general powers.
- 13.12.020 Authorized disposals.
- 13.12.030 Title.

13.12.010 City's general powers. The city may use any method to dispose of real property which a private person could use. Any document conveying an interest in land shall be signed by the mayor and attested by the city clerk. The form of all documents shall be approved by the city attorney.

13.12.020 Authorized disposals. A. The city council is authorized to dispose of real property where such property will be used for residential purposes. The council may dispose of real property under this section by resolution.

B. The resolution authorizing disposal shall contain all of the following:

1. The terms of the proposed disposal, including the date of disposal, the method or methods of disposal, the method of payment required, if any, and any other such conditions which the council may deem appropriate to the particular disposal.

2. A specific disclaimer of any warranty of title by the city.

C. Disposal of real property for any purpose other than residential use can only be authorized by another ordinance adopted by the city council after a public hearing.

D. An individual may obtain only one residential lot from the city in any calendar year.

13.12.030 Title. A. The person receiving a residential lot from the city will receive a quitclaim deed to said lot from the city.

B. At the city's option, the deed transferring title to the person may contain any restrictions which the city council determines are necessary and which are lawful at the time of disposal. The deed shall be reviewed by the city attorney prior to its delivery to the person.

Chapter 13.20

PERSONAL PROPERTY -- DISPOSAL

Sections:

- 13.20.010 Personal property disposition by value.
- 13.20.020 Sale of surplus or obsolete goods. Surplus
- 13.20.030 stock.
- 13.20.040 Declaration of obsolescence.

13.20.010 Personal property disposition by value. A. Personal property, other than surplus stock, that is valued at less than one thousand dollars may be disposed of upon such notice and terms considered reasonable by the mayor. The mayor shall take into consideration the value of the article, the reason for disposal, and the general preference for 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, but less than twenty-five thousand dollars, shall be disposed of in the manner provided for real property valued under twenty-five thousand dollars as provided in Chapter 13.12.

C. Personal property valued at more than twenty-five thousand dollars shall be disposed of in the manner provided for real property valued over twenty-five thousand dollars as provided in Chapter 13.12.

13.20.020 Sale of surplus or obsolete goods. The mayor may sell the following without giving an opportunity for competitive bidding:

A. Surplus or obsolete supplies, materials, or equipment whose total value does not exceed one thousand dollars in a single transaction; and

B. Supplies, materials, or equipment when sold at a price at least as great as that paid by the city for the same.

13.20.030 Surplus stock. A. The mayor shall from time to time identify all stocks of all supplies which are no longer used or which have become obsolete, worn out, or scrapped.

B. 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.

C. Sales of surplus city supplies or equipment appraised at over one thousand dollars under this section shall be made at public auction to the highest responsive, responsible bidder.

D. The mayor shall conduct the sale and issue bills of sale to the purchasers of surplus city supplies or equipment.

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

Title 15

BUILDINGS AND CONSTRUCTION

Chapters:

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. Permit -
15.04.070 - posting. Compliance
15.04.080 with plans. Standards.
15.04.090 Building setback.
15.04.100 Building separation.
15.04.110 Number of exits.
15.04.120 Building height.
15.04.125 Nonconforming structures
15.04.130 Enforcement.
15.04.140 Appeals.
15.04.150 Violations.
15.04.160

Forms following Section 15.04.160:

Form 15.04-A Application for Building Permit.

15.04.010 Definitions. "Building inspector" shall mean the clerk or his/her designee for purposes of administration of this chapter.

15.04.015 Intent; findings. The intent of this chapter is to promote awareness, understanding, and use of the various building and related codes adopted by the State of Alaska, and to promote the use in the City of Point Hope of construction techniques and siting practices which will reduce the threat posed to residents by fire, including multiple escape routes from multi-story structures and preservation of lanes between buildings in which fire-fighting equipment is able to operate.

15.04.020 State codes. The applicant for a building permit hereunder shall certify that the project will comply with current state codes, including but not limited to the effective portions 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.

15.04.030 Permit -- required. It shall be unlawful to construct, erect, place or alter any building or structure in the City of Point Hope when the cost thereof exceeds \$1,000.00 (one thousand dollars) or where the effect of such construction is to enlarge the capacity or affect the bearing walls or roof of any building without first obtaining a building permit.

15.04.040 Permit -- application. A. Application for a building permit 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. Two copies of the plans and specifications shall be submitted with each application.

B. 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.

C. If the proposed structure is a commercial building, a public building, or rental unit containing four or more dwelling units (fourplex or above), the application shall also be accompanied by proof that the applicant has complied with all requirements imposed by the state fire marshal's office.

D. An application to amend an existing permit 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.

15.04.050 Permit -- issuance. A. All applications for a building permit under this chapter shall be evaluated by the building inspector.

B. The building inspector shall examine each application to determine whether the proposed activity will comply with the standards established by Sections 15.04.090 through 15.04.125 and will comply with the applicable state codes described in Section 15.04.020. 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 these codes and standards.

C. Upon approval, one set of plans shall be returned to the applicant with the building permit and the other shall be retained by the building inspector.

D. All applications shall be acted upon within thirty working days after their filing with the clerk. Applications shall be approved, disapproved, or returned as incomplete within the thirty day period or the building permit application shall be deemed approved by the building inspector and the building permit shall be issued.

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. Initial permit for single-family residence, twenty-five dollars;

B. Initial permit for commercial (including rental units), two dollars for each one thousand dollars of construction cost, or twenty-five dollars, whichever is greater;

C. Application to amend an existing permit, twenty-five dollars.

15.04.070 Permit -- 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.

15.04.080 Compliance with plans. It is unlawful to vary materially from the approved plans and specifications unless such variations are submitted in an application to amend the permit to the building inspector and approved.

15.04.090 Standards. The standards set out in Sections 15.04.100 through 15.04.125 shall apply to activity requiring a building permit under this chapter.

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.

15.04.110 Building separation. No building permit may be issued for any building or structure with an area of more than one hundred and 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 and fifty (150) square feet.

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 story high, unless there are at least two means of egress from the building separated from each other as far as the plan of the building will permit.

15.04.125 Building height. No building permit may be issued for any building or structure over thirty-five feet (35') in height as measured at any one corner 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.

15.04.130 Nonconforming structures. No vested right 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 of this chapter except as they apply to 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.

15.04.140 Enforcement. The building inspector shall make or cause to be made inspections to see that the provisions of this chapter are complied with. Whenever a building or structure is in violation, or 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 by certified mail, return receipt requested, to the person or entity receiving the building permit, or if no permit has been issued, to the owner of the real property on which the building, structure or work is located. The city may file a civil action to enjoin a violation of this chapter or of a permit or stop work order issued hereunder, and upon a showing of a violation, the court shall issue an injunction.

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 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 consider the appeal within the time limits provided in Chapters 2.40 and 2.44, shall result in the immediate issuance of the building permit by the building inspector.

15.04.160 Violations. A. Any person, firm, partnership, corporation or other entity who violates any provision of this chapter, or willfully makes any false statement in or in connection with a permit application shall, on conviction thereof, pay a fine of not more than three hundred dollars, 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 obtain an injunction as provided in 15.04.140.

APPENDIX OF FORMS

Forms:

15.04-A Application for Building Permit.

Received by City
of Point Hope
Date _____
By _____

CITY OF POINT HOPE, ALASKA
APPLICATION FOR BUILDING PERMIT
(Form 15.04-A)

This form is to be used in applying for a Building Permit from the City of Point Hope. You should review the Point Hope Building Code (Chapter 15 of the City's Code of Ordinances) before you complete or submit this application. Complete all parts of this application which apply to you and your project.

This application must be accompanied by the following:

1. A non-refundable application fee of twenty-five dollars (\$25.00) if the project is a single family residence or the application is for an amendment to an existing permit, or two dollars (\$2.00) for each one thousand dollars (\$1000.00) of construction cost or twenty-five dollars (\$25.00), whichever is greater, if the project is a commercial or rental building or structure. Checks or money orders must be payable to CITY OF POINT HOPE.

2. Two copies of the plans and specifications for your project, including a site plan showing lot lines and adjacent structures. One set of plans and specifications will be returned to you after your application is approved.

PROJECT

Location: _____
(Lot and Block, Tract, etc.)

Project is: _____ New Construction _____ Modification (check one)

Estimated Cost of Project: \$ _____

Brief Description of Project:

OWNER

Name: _____

Address: _____

Telephone No.: (_____) _____ Contact Person: _____

ARCHITECT (if any):

Name: _____

Address: _____

Telephone No.: (_____) _____ Contact Person: _____

CONTRACTOR (if any):

Name: _____

Address: _____

Telephone No.: (_____) _____ Contact Person: _____

CERTIFICATION

I hereby certify that I have reviewed and will comply with the requirements of the City Building Code, Title 15 of the Point Hope Code of Ordinances. I understand that the project constructed by authority of the permit I am applying for must comply with the National Electrical Code, Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code, and such other, similar codes as have been adopted by the State of Alaska, Department of Public Safety, Division of Fire Safety, and must also comply with the standards contained in Sections 15.04.090 through 15.04.125 of the City of Point Hope Code of Ordinances.

DATED: _____

(APPLICANT)

(Applicant: Do not write below this line)

APPROVAL

ACTION: Approved
 Disapproved

Reason: _____

Application Incomplete

Reason: _____

DATED: _____

(BUILDING INSPECTOR)

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