

WHALE PASS MUNICIPAL CODE

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TITLE 1
GENERAL PROVISIONS

Chapter 1.01
CODE ADOPTION

Sections:

- 1.01.010 Code adoption**
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1.01.010 Code Adoption.

As authorized by Section 29.25.050 of the Alaska Statutes, there is adopted the "Whale Pass Municipal Code," as compiled, edited and published by the city clerk.

1.01.020 Title, citation and reference.

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

1.01.030 Codification authority.

This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the City of Whale Pass, Alaska, codified pursuant to the provisions of Section 29.25.050 of the Alaska Statutes.

1.01.040 Reference applies to all amendments.

Whenever a reference is made to this code as the "Whale Pass Municipal Code" or to any portion thereof, or to any ordinance of the City of Whale Pass, Alaska, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

1.01.050 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 hereof.

1.01.060 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.

1.01.070 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 Whale Pass shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of the ordinance codified in this chapter, 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 of such license, fee or penalty, or the penal 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 there under appertaining shall continue in full force and effect.

1.01.080 Effective date.

This code shall become effective on the date the ordinance adopting this code as the "Whale Pass Municipal Code" becomes effective.

1.01.090 Constitutionality.

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 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.

Chapter 1.02
GENERAL PROVISIONS

Sections:

- 1.02.010 Title**
- 1.02.020 Definitions and rules of construction**
- 1.02.030 Abbreviations**
- 1.02.040 Amendment-Addition-Repeal**
- 1.02.050 Unlawfully altering code**
- 1.02.060 Temporary and special ordinances to remain in effect**
- 1.02.070 Repeal of ordinances**
- 1.02.080 Severability of parts of code**

1.02.010 Title.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Whale Pass City Code," and may be so cited.

1.02.020 Definitions and rules of construction.

In the construction of this code and of all ordinances, the following rules shall be observed, unless the context clearly indicates otherwise:

1. "Chief administrator" means the mayor, except that it means city manager in the event the city has a manager plan adopted pursuant to AS 29.20.460 et seq., or its successor.
2. "The city" or "this city" shall be construed as if the words "of Whale Pass" follow the word "city," and shall extend to and include its several officers, agents and employees.
3. "City attorney" means the attorney of the city.
4. "City clerk" means the city clerk of the city.
5. "City council" or "council" means the city council of the city.
6. "City manager" means the city manager of the city.
7. "City administrator" means the city administrator of the city.
8. Computation of Time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.
10. Interpretation. In the interpretation and application of any provisions of this code, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the code imposes greater restrictions upon the subject matter than the general provisions imposed by the code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.
11. "Mayor" means the mayor of the city.
12. Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
13. "Oath" includes an affirmation 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 "affirmed."

14. Or, And. "Or" may be read "and" and "and" may be read "or" if the sense requires it.

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

16. "Person" extends and applies to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals or groups of individuals.

17. "Personal property" includes every species of property except real property where otherwise provided in this code.

18. "Regular meeting" or "meeting," whenever the sense of a sentence requires, means "regular or special meeting."

19. "State" or "this state" means the state of Alaska.

20. Tense. Words used in the present or past tense include the future as well as the present or past.

1.02.030 Abbreviations.

A. Whenever in this code the letters "AS" are used, they mean Alaska Statutes.

B. Whenever in this code the letters "SLA" are used, they mean Session Laws of Alaska.

C. Whenever in this code the letters "WPMC" are used, they mean Whale Pass Municipal Code.

1.02.040 Amendment, addition and repeal.

A. All ordinances passed after this code which amend, repeal or in any way affect this code, may be numbered in accordance with the numbering system of this code and printed for inclusion herein. In the case of repealed chapters, sections and subsections of any part thereof, by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this code and subsequent ordinances numbered or omitted are readopted as a new code by the city council.

B. Amendments to any other provisions of this code shall be made by amending such provisions by specific reference to the section number of this code in the following language: "That section of the Whale Pass City Code is hereby amended to read as follows:"

The new provisions shall then be set out in full as desired.

C. In the event a new section not heretofore existing in the code is to be added, the following language shall be used: "That the Whale Pass city code is hereby amended by adding a section, to be numbered, which said section reads as follows:" The new section shall then be set out in full as desired.

D. All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article, or chapter number.

1.02.050 Unlawfully altering code.

It is unlawful for any person in the city to change or amend, by additions or deletions, any part or portion of this code, or to inset or delete pages, or portions thereof, or to alter or tamper with

such code in any manner whatsoever which will cause the law of the city to be misrepresented thereby. Any person violating this section shall be punished as provided in chapter 1.16.

1.02.060 Temporary and special ordinances to remain in effect.

The continuance in effect of temporary and/or special ordinances and non-code ordinances, although omitted from the Whale Pass City Code, shall not be affected by such omission therefrom; and the adoption of the code shall not repeal or amend any such ordinance or part of any such ordinance.

1.02.070 Repeal of ordinances.

The repeal of any prior ordinance of the city by any subsequent ordinance shall not operate to revive the provisions of any ordinance which may have been repealed by such prior ordinance, unless such revival shall be expressly provided for. Ordinances repealed remain in force for the trial and punishment of all past offenses of them and for the recovery of penalties and for forfeitures already incurred, and for the preservation of all rights and remedies existing by them, and so far, as they may apply to any office, trust, proceeding, right, contract or event already affected by them.

1.02.080 Severability of parts of code.

The sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

Chapter 1.03
NAME OF MUNICIPALITY

Sections:

1.03.010 Designated

1.03.020 Description of city seal

1.03.030 Seal adoption declared

1.03.040 Use of the seal

1.03.010 Designated.

The City of Whale Pass shall continue as a municipal corporation under the name: "The City of Whale Pass, Alaska."

1.03.020 Description of city seal.

The corporate seal of the City of Whale Pass is as following: three orcas in the bay with Maggie

Mountain in the background.

1.03.030 Seal adoption declared

The Whale Pass city council declares the seal as described in section 1.20.020 as the official symbol and corporate seal of the City of Whale Pass, Alaska.

1.03.040 Use of the seal.

- A. The city clerk is the custodian of the official seal of the city. The clerk affixes the seal to official documents executed on behalf of the city to certify or authenticate such documents.
- B. The seal will be used in accordance with approval by the City of Whale Pass administrative authority.
- C. The seal may be used as a logo on city stationary and additional documents produced by the city clerk or Whale Pass city council.
- D. No person, including an officer or employee of the city, may affix the official seal or any facsimile thereof to any documents except as authorized and in accordance with the law. This section however, does not prohibit the adoption and use of unofficial seals, logos, trademarks or other identifying symbols to be used in the conduct of business of the city.

Chapter 1.04 **CITY of WHALE PASS BOUNDARY**

Sections:

1.04.010 Boundary Description

1.04.010 Boundary Description.

City of Whale Pass Boundary Legal Description, located within Township 66 South, Range 79 East; Township 66 South, Range 80 East; Township 67 South, Range 79 East; Township 67 South, Range 80 East; all in the Copper River Meridian, First Judicial District, State of Alaska, more particularly described as follows:

Beginning at the southwest corner of Section 18, Township 67 South, Range 80 East, which is the true point of beginning of this description;

Thence north approximately 1 mile to the northwest corner of Section 18 Township 67 South Range 80 East,

Thence west approximately 1 mile to the southwest corner of Section 12, Township 67 South, Range 79 East,

Thence north approximately 1 mile to the northwest corner of Section 12, Township 67 South, Range 79 East,

Thence west approximately 2 miles to the southwest corner of Section 3, Township 67 South, Range 79 East,

Thence north approximately 4 miles to the northwest corner of Section 22, Township 66 South, Range 79 East,

Thence east approximately 2 miles to the southwest corner Section 13, Township 66 South, Range 79 East,
Thence north approximately 1 mile to the northwest corner of Section 13, Township 66 South, Range 79 East,
Thence east approximately 1 mile to the northeast corner of Section 13, Township 66 South, Range 79 East,
Thence south approximately 1 mile to the southeast corner of Section 13, Township 66 South, Range 79 East,
Thence east approximately 2 mile to the northeast corner of Section 20, Township 66 South, Range 80 East,
Thence south approximately 6 miles to the southeast corner of Section 17, Township 67 South, Range 80 East, located in Whale Passage,
Thence west approximately 2 mile to the southwest corner of Section 18, Township 67 South, Range 80 East, which is the true point of beginning of this description; said parcel containing approximately 26 square miles.

Based on USGS Petersburg A-4 (US Forest Service version) Quadrangle, 1994.

Chapter 1.05 **FORM OF GOVERNMENT**

Sections:

1.05.010 Designated.

The government of the city shall be that commonly known and designated as the mayor-council form as defined under AS 29.20.250.

Chapter 1.06 **EXTRATERRITORIAL JURISDICTION**

Sections:

1.06.010 Extraterritorial jurisdiction powers adopted

1.06.010 Extraterritorial jurisdiction powers adopted.

As authorized by AS 29.35.020, the city may provide for and maintain parks, playgrounds, cemeteries, emergency medical services, solid and septic waste disposal, utility services, airports, streets and roads (including ice roads), trails, transportation facilities, wharves, harbors and other marine facilities outside its boundaries and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them.

Chapter 1.07

GENERAL PENALTY

Sections:

1.07.010 Parents or guardians responsible for damages caused by minors

1.07.020 Damage to city property

1.07.010 Parents or guardians responsible for damages caused by minors.

A parent, legal guardian or other person having custody or control of a minor that causes damage or injury to city property, shall be responsible for costs incurred by city to repair or replace the damaged property, including but not limited to costs of materials, supplies, equipment, labor, clerical and all other associated costs.

1.07.020 Damage to city property.

Damage to city property or equipment which is either, willfully malicious or grossly negligent shall be recovered at the cost of repair or replacement from the person, or corporate entity causing said damage. A fine of up to three times the cost of repair or replacement of city property may be imposed on said person or corporate entity that caused willfully malicious or grossly negligent damage. The City will replace or repair city property that is damaged, despite any proceedings that may be in process to recover losses from damage in a timely manner, unless those costs cause major financial hardship to the City. A major financial hardship to the City would be determined by the City Council.

TITLE 2
CITY GOVERNMENT

Chapter 2.01
CITY COUNCIL

Sections:

- 2.01.010 Composition**
- 2.01.020 Qualifications of councilmembers**
- 2.01.030 Election of councilmembers--Terms**
- 2.01.040 Oath of office**
- 2.01.050 Compensation of councilmembers**
- 2.01.060 Indemnification**
- 2.01.070 Employment for city work**
- 2.01.080 Contractual services by councilmembers**
- 2.01.090 Conflicts of interest**
- 2.01.100 Prohibitions**
- 2.01.110 Vacancies**
- 2.01.120 Filling a vacancy**
- 2.01.130 Meetings-Open to public**
- 2.01.140 Meetings-Regular**
- 2.01.150 Meetings-Special**
- 2.01.160 Meetings-Notice**
- 2.01.170 Agendas-Posting**
- 2.01.180 Executive sessions**
- 2.01.190 Meetings-Mayor the presiding officer**
- 2.01.200 Meetings-Order of business**
- 2.01.210 Meetings-Minutes**
- 2.01.220 Meetings-Council rules**
- 2.01.230 Meetings-Motions-Second required**
- 2.01.240 Meetings-Motions-Withdrawal**
- 2.01.250 Meetings-Reduction to writing**
- 2.01.260 Meetings-Rescinding vote**
- 2.01.270 Voting-Quorum**
- 2.01.280 Duties of the clerk at council meetings**

2.01.010 Composition.

The council shall consist of seven members elected by the voters at large.

2.01.020 Qualifications of councilmembers.

- A. The councilmembers shall be qualified city voters as outlined in the Alaska Statutes SEC 15.05.020.
- B. A councilmember who ceases to be eligible to be a city voter immediately forfeits his office.
- C. A member of city council must keep current on any accounts held with the City. Any member whose account falls into delinquency for more than sixty (60) days may be removed from office by a majority vote of the council. City Council will consider financial or other hardships.
- D. Any person declaring candidacy for a committee, board or commission shall not be considered until the persons accounts are made current. City Council will consider

financial or other hardships.

E. An employee of the city cannot be appointed or elected to a seat on the city council.

F. Any person declaring candidacy for city council must have Whale Pass as their primary residence no less than twelve (12) months prior to declaration.

G. All candidates may be required to have two (2) qualified city voters verify their eligibility.

H. The city clerk shall determine whether each candidate for city office is qualified as provided by the City of Whale Pass code. At any time before the elections the city clerk may disqualify any candidate whom the city clerk finds is not qualified and immediately notify that candidate in writing. A candidate who is disqualified may request a hearing before the city clerk within five days of receiving the notice. The hearing shall be held no later than five days after the request unless the candidate agrees in writing to a later date. (Ord. 03.2018)(revised 1.21.20)

2.01.030 Election of councilmembers-Terms.

An election is held annually on the first Tuesday of October, to choose councilmembers for three-year terms and until their successors are elected and have qualified. The regular term of office begins on the first Monday following the certification of election.

2.01.040 Oath of office.

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

I do solemnly swear that I will support the Constitution of the United States and State of Alaska and the laws and ordinances of the City of Whale Pass, State of Alaska, and that I will honestly, faithfully and impartially perform the duties of the office of So help me God.

B. The oath is filed with the municipal clerk.

2.01.050 Compensation of councilmembers.

No compensation shall be paid for serving as a member of the city council.

2.01.060 Indemnification.

The city will indemnify and hold harmless the city councilmembers and their appointees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of their duties, as assigned or set forth in this code; provided that any such claims, damages, losses or expenses are not caused in whole or in part by any willful or fraudulent act or omission by such councilmember's and their appointees.

2.01.070 Employment for city work.

A. Purpose. The prohibition on city employment of councilmembers created a hardship in smaller communities where the city was an employer. In recognition of various hardships the Alaska Legislature amended the Title 29, effective January 1, 1986, and stipulated in AS 29.20.620, "The governing body shall by ordinance provide a method of determining the salaries of elected officials...". An elected official may not receive compensation for service to the municipality in addition to the salary received as an

elected official, unless otherwise provided for by ordinance. By allowing the city to pass an ordinance to deal with this issue, the law allows the city to fashion a solution for the particular circumstances.

B. A councilmember shall be required to comply with the requirements of employment and shall be paid according to the wage scale established by the city for the work involved.

C. The employment application of a councilmember for city work must be approved by the mayor and by a duly constituted quorum of the city council.

2.01.080 Contractual services by councilmembers.

A. A councilmember may provide contractual services to the city at an agreed rate of pay when in the best interests of the city.

B. The contractual services of a councilmember for city work must be approved by the mayor and a duly constituted quorum of the city council.

2.01.090 Conflicts of interest.

A. A member of the governing body shall declare a substantial financial interest the member has in an official action and ask to be excused from a vote on the matter.

B. The presiding officer shall rule on a request by a member of the governing body to be excused from a vote.

C. The decision of the presiding officer on a request by a member of the governing body to be excused from a vote may be overridden by the majority vote of the governing body.

D. A municipal employee or official, other than a member of the governing body, may not participate in an official action in which the employee or official has a substantial financial interest.

2.01.100 Prohibitions.

No person may be appointed to or removed from city office or in any way favored or discriminated against with respect to a city position because of his race, color, sex, creed, religion, national origin or, unless otherwise contrary to law, because of his political opinions or affiliations. Alaska Statutes Title 18.80 is applicable beyond the scope of this chapter.

2.01.110 Vacancies.

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

1. Fails to qualify or take office within thirty days after his election or appointment;
2. Is physically absent from the city for a ninety-day period, unless excused by council;
3. Resigns and his resignation is verified and accepted;
4. Is physically or mentally unable to perform the duties of his office;
5. Is removed from office;
6. Misses three unexcused regular or special meetings within a one-year period;

or

7. Is convicted of a felony or of an offense involving a violation of his oath of office.

8. Any qualification violation pursuant WPMC 2.01.020

2.01.120 Filling a vacancy.

If a vacancy occurs in the council, the council by vote of a majority of its remaining members shall designate a person to fill the vacant seat. The person appointed serves until the next regular city election and until his successor qualifies.

2.01.130 Meetings-Open to public.

A. All meetings of municipal bodies shall be open to the public, except as otherwise provided by this chapter. Attendance and participation at meetings by members of the public or by members of the municipal body may be by teleconferencing. Materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Voting of a municipal body shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a municipal body, described in this subsection.

B. This section does not apply to:

1. A municipal body performing a judicial or quasi-judicial function when holding a meeting solely to make a decision in an adjudicatory proceeding;
2. Staff meetings or other gatherings of the employees of the city; or
3. Meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the city, or member of a municipal body is a member, but only if no action is taken and no business of the municipal body is conducted at the meeting.

C. Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within one hundred eighty days after the date of the action. A member of a municipal body may not be named in an action to enforce this section in the member's personal capacity. A municipal body that violates or is alleged to have violated this section may cure the violation or alleged violation by holding another meeting in compliance with notice and other requirements of this chapter and conducting a substantial and public reconsideration of the matters considered at the original meeting. If the court finds that an action is void, the municipal body may discuss and act on the matter at another meeting held in compliance with this chapter. A court may hold that an action taken at a meeting held in violation of this section is void only if the court finds that, considering all of the circumstances, the public interest in compliance with this section outweighs the harm that would be caused to the public interest and to the public entity by voiding the action. In making this determination, the court shall consider at least the following:

1. The expense that may be incurred by the city, other municipal bodies, other governmental bodies, and individuals if the action is voided;
2. The disruption that may be caused to the affairs of the city, other municipal bodies, other governmental bodies, and individuals if the action is voided;
3. The degree to which the city, other municipal bodies, other governmental bodies, and individuals may be exposed to additional litigation if the action is voided;
4. The extent to which the municipal body, in meetings held in compliance with this section, has previously considered the subject;
5. The amount of time that has passed since the action was taken;
6. The degree to which the city, other municipal bodies, other governmental bodies, or individuals have come to rely on the action;
7. Whether and to what extent the municipal body has, before or after the lawsuit was filed to void the action, engaged in or attempted to engage in the public reconsideration of matters originally considered in violation of this section;

8. The degree to which violations of this section were willful, flagrant, or obvious; and

9. The degree to which the governing body failed to adhere to the policy set forth in AS 44.62.312(a).

D. Subsection C of this section does not apply to a municipal body that has only authority to advise or make recommendations to the municipal body and has no authority to establish policies or make decisions for the city.

E. In this section:

1. "Municipal body" means the city council, other councils, boards, commissions, committee, or other similar body of the city with the authority to establish policies or make decisions for the city or with the authority to advise or make recommendations to the city; "municipal body" includes the members of a subcommittee or other subordinate unit of the city if the subordinate unit consists of two or more members;

2. "Meeting" means a gathering of members of a municipal body when:
(a.) more than three members or a majority of the members, whichever is less, are present, a matter upon which the municipal body is empowered to act is considered by the members collectively, and the municipal body has the authority to establish policies or make decisions for the city; or
(b.) the gathering is prearranged for the purpose of considering a matter upon which the municipal body is empowered to act and the municipal body has only authority to advise or make recommendations for the city but has no authority to establish policies or make decisions for the city.

2.01.140 Meetings-Regular.

A. Regular council meetings shall be held on the third Tuesday of each month. The meeting may be rescheduled for cause but one monthly meetings shall be held, unless cancelled by the majority vote of the City Council.

B. Regular council meetings shall be held at City Hall/Library unless that meeting place is unavailable in which case the meeting may be held at another location designated by the council presiding officer.

2.01.150 Meetings-Special.

A. Special meetings of a municipal body are those meetings that are called for a time different than that fixed for the regular municipal body meetings. The location of all special meetings shall be the same as that authorized for regular meetings.

B. If a majority of the members are given at least twenty-four hours oral or written notice and reasonable efforts are made to notify all members, a special meeting of the municipal body may be held on the call of the presiding officer or at least three members of the municipal body. A special meeting may be conducted with less than twenty-four hour notice if all members are present or if absent members have waived in writing the required notice. Waiver of notice can be made before or after the special meeting is held. A waiver of notice shall be made a part of the journal of the meeting.

2.01.160 Meetings-Notice.

A. Except as otherwise provided in this chapter, public notice containing the date, time and place of any municipal body meeting shall be posted at City Hall/Library and in two other public places within the city at least five days before any meeting except a special meeting.

B. Public notice of a special meeting shall be posted at City Hall and in two other public places within the city at least twenty-four hours before the meeting and shall list only subjects to be considered at the meeting. Less than a twenty-four hour public notice may

be given if the waiver of the municipal body members' twenty-four hour notice is utilized as authorized in Section 2.00.140 (B).

C. If the meeting is by teleconference, the public notice must contain the location of any teleconferencing facilities that will be used.

2.01.170 Agendas-Posting.

A. The agenda for a regular meeting shall be posted in two public places within the city at least three days before the meeting. Agenda packets containing information pertinent to agenda items shall be delivered to each councilmember no later than on the Friday of the week preceding the meeting.

B. Agenda items for any other council meetings shall be included in the publicly posted meeting notice.

2.01.180 Executive sessions.

A. The following subjects may be considered 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, provided the person may request a public discussion;

3. Matters that by law, municipal charter, or ordinance are required to be confidential;

4. Matters involving consideration of city records that by law are not subject to public disclosure.

B. The following 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.

C. If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters listed in subsections A and B of this section shall be determined by majority vote of the municipal body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

D. Persons who are to be the subject of discussions set forth in subsection (A)(2) of this section shall be given a minimum of five days' written notice of the circumstance that they will be the subject of such a discussion, the time and place of the meeting and an advisement that they have the right to request that the discussion occur in public.

2.01.190 Meetings-Mayor the presiding officer.

A. The mayor shall preside at all meetings of the council. He shall preserve order among the councilmember's, and is responsible for conduct of all meetings according to the rules of the council. He may at any time make such rules as he considers proper to preserve order among the spectators in the city council room during sessions of the council.

B. In the temporary absence or disability of both the mayor and vice mayor, any member of the city council may call the council to order at any duly called meeting to elect a mayor pro tempore from among its number and the mayor pro tempore shall exercise all

the powers of mayor during such temporary absence or disability of both the mayor and the vice mayor and may also vote.

2.01.200 Meetings-Order of business.

The order of business for regular meetings of the city shall be as prescribed by the city clerk and approved by the city council.

2.01.210 Meetings-Minutes.

Minutes of all regular and special meetings shall be taken. All minutes of regular and special meetings, shall be kept in the journal of the proceedings of the council. The minutes are public record and are to be made available to anyone upon request.

2.01.220 Meetings-Council rules.

A. A councilmember about to speak shall respectfully address the mayor or presiding officer, and shall not commence to speak until recognized by the mayor or presiding officer. When two or more members request to speak at the same time, the mayor or presiding officer shall determine which one is recognized.

B. Every member while speaking shall confine himself to the subject under debate, and shall not refer to any other member of the council except in a respectful manner.

2.01.230 Meetings-Motions-Second required.

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

2.01.240 Meetings-Motions-Withdrawal.

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

2.01.250 Meetings-Reduction to writing.

Any motion must be reduced to writing if the mayor or presiding officer requires or if any councilmember demands.

2.01.260 Meetings-Rescinding vote.

Any previous vote on a motion may be rescinded by vote of the majority of the council.

2.01.270 Voting-Quorum.

A. Four council members constitute a quorum. Four affirmative votes are required for passage of an ordinance, resolution or motion.

B. The final vote on each ordinance, resolution or substantive motion is a recorded roll call vote. All councilmembers present shall vote unless the council, for special reasons, permits a member to abstain.

C. The mayor or presiding officer shall declare all votes; he shall declare the result.

D. Every member who shall be present when a question is put, where he is not disqualified by personal interest, shall vote, unless the council for special reason excuses him. Applications to be so excused must be made before the vote, and shall be decided

without debate.

2.01.280 Duties of the clerk at council meetings.

The city clerk shall give notice of city council meetings, shall attend all meetings of the council and keep the journal of its proceedings, shall authenticate by his signature and record in full in a book or file kept for that purpose all ordinances and resolutions duly indexed and open to public inspection. In case of the temporary absence of the city clerk, the city council may appoint a clerk pro tempore, with all the powers, duties and obligations of the city clerk.

Chapter 2.02
MAYOR

Sections:

2.02.010 Powers-Duties.

2.02.020 Vice Mayor.

2.02.030 Vacancy in office of mayor, vice mayor.

2.02.040 Compensation.

2.02.050 Treasury.

2.02.060 Accounting

2.02.010 Powers--Duties.

A. The mayor shall be elected from the council by the council. The term of the office of mayor shall be three years or the remainder of the term of the council seat, whichever is less. The mayor is the chief executive officer of the city. He shall preside at council meetings, act as ceremonial head of the city, and sign documents on the city's behalf upon council authorization or as otherwise authorized by municipal code.

B. The mayor shall:

1. Appoint city employees and administrative officers, except as provided otherwise. He may hire necessary administrative assistants and may authorize an appointive administrative officer to appoint, suspend or remove subordinates in his department;
2. Suspend or remove by written order city employees and administrative officers, except as provided otherwise;
3. Supervise enforcement of city law;
4. Prepare the annual budget and city construction program for the council;
5. Execute the budget and construction program as adopted;
6. Make monthly financial reports to the council on city finances and operations;
7. Report to the council at the end of each fiscal year on the finances and administrative activities of the city;
8. Prepare and make available for public distribution an annual report on city affairs;
9. Serve as city personnel officer unless the council authorizes him to appoint a personnel officer;
10. Execute other powers and duties specified in AS Title 29 or lawfully prescribed by the council.

2.02.020 Vice Mayor.

The council shall elect a councilmember to serve as Vice Mayor at the first regular council meeting after the certification of election. The Vice Mayor shall serve a three year term, or the remainder of the term of the council seat, whichever is less and the term begins on the day the Vice Mayor is elected by the council. (revised 7/21/20)

2.02.030 Vacancy in office of mayor, Vice Mayor.

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

1. Fails to qualify or take office within thirty days after election or appointment;
2. Unless excused by the governing body, is physically absent for ninety consecutive days;
3. Resigns and the resignation is accepted;
4. Is physically or mentally unable to perform the duties of office;

5. Is convicted of a felony or of an offense involving a violation of the oath of office;
 6. Is convicted of a felony or misdemeanor described in AS 15.85;
 7. Is convicted of a violation of AS 15.13;
 8. No longer physically resides in the city;
 9. Misses three consecutive regular council meetings and is not excused.
- B. Should the office of mayor be declared vacant, the Vice Mayor shall be designated mayor, and shall serve until the next general election. The office of Vice Mayor shall then be vacant.
- C. The council shall otherwise declare the office of Vice Mayor vacant according to Section 2.00.100 of this code.
- D. Should the office of Vice Mayor be declared vacant, a new Vice Mayor shall be appointed by and from the council, and shall serve the balance of the term to which appointed.
- E. Should both mayor and Vice Mayor be temporarily absent, disabled or unable to act, the council may appoint a member to preside at council meetings and sign documents on the city's behalf, upon council authorization or as otherwise authorized by municipal code, until either the mayor or Vice Mayor resumes his official duties.

2.02.040 Compensation.

No compensation shall be paid for attending regular or special meetings of the council.

2.02.050 Treasury.

- A. The treasurer shall be responsible for the collection, custody and disbursement of all moneys from whatever source.
- B. Operating cash shall be kept in one financial institution to be designated by resolution.
- C. The treasurer shall invest city money upon directive of the council in any of the following types of investments:
 1. Bonds, notes or other obligations;
 2. Certificates of deposit or saving accounts of any bank;
 3. Equities: common or preferred, American depository receipts, or real estate investment trusts.
- D. The city council of the city may delegate investment, custodial, or depository authority on a discretionary or nondiscretionary basis to independent firms, banks, financial institutions, broker-dealers, investment advisors, or trust companies by designation through appointments, contracts, or letters of authority.

2.02.060 Accounting

- A. All accounting functions for all city departments and offices, are the responsibility of the treasurer.
- B. The treasurer shall provide on a monthly basis to the council the following statements:
 1. Summary statement of cash receipts and disbursements;
 2. Reconciliation statement, banks, investments, funds;
 3. Statement of expenditures compared with appropriations.

Chapter 2.03
ORDINANCES, RESOLUTIONS AND TECHNICAL CODES

Sections:

- 2.03.010 Acts of council**
- 2.03.020 Acts required to be by ordinance**
- 2.03.030 Ordinance procedure**
- 2.03.040 Ordinance form and content**
- 2.03.050 Emergency ordinances**
- 2.03.060 Signature required**
- 2.03.070 Ordinances confined to single subject**
- 2.03.080 Adoption of technical codes**
- 2.03.090 Resolutions-Formal acts**
- 2.03.100 Resolutions-Procedure**
- 2.03.110 Rules and regulations**

2.03.010 Acts of council.

The council shall act only by ordinance, motion, or resolution. Law of a general, uniform and permanent nature shall be reduced to ordinance. When the council expresses opinions, principles, facts or propositions, it shall be in the form of a resolution.

2.03.020 Acts required to be by ordinance.

In addition to other actions which Alaska Statutes Title 29 (Municipal Government) requires to be by ordinance, the council shall use ordinances to:

1. Establish, alter or abolish municipal departments;
2. Amend or repeal an existing ordinance;
3. Fix the compensation of members of the council;
4. Provide for sale of city property valued at more than twenty-five thousand dollars;
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. Provide for levying of taxes;
7. Make appropriations and supplemental appropriations or transfer appropriations;
8. Grant, renew or extend a franchise;
9. Adopt, modify or repeal the comprehensive plan, zoning and subdivision ordinances, building and housing codes, and the official map.

2.03.030 Ordinance procedure.

- A. An ordinance is introduced in writing in the form required by the city council.
- B. The following procedure governs the enactment of all ordinances, except emergency ordinances:
 1. An ordinance may be introduced by a member or committee of the city council, or by the mayor;
 2. An ordinance shall be set by the council for a public hearing by the affirmative vote of a majority of the votes authorized on the question;
 3. At least five days before the public hearing a summary of the ordinance shall be published together with a notice of the time and place for the hearing;
 4. Copies of the ordinance shall be available to all persons present at the hearing, or the ordinance shall be read in full;

5. During the hearing the council shall hear all interested persons wishing to be heard;
 6. After the public hearing the council shall consider the ordinance, and may adopt it with or without amendment;
 7. The council shall print and make available copies of the ordinance that is adopted.
- C. An ordinance takes effect upon adoption or at a later date specified in the ordinance.
D. As used in this section, the term "publish" means either placement in a newspaper of general circulation in the city or posting in three public places in the city, or both.

2.03.040 Ordinance form and content.

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

- A. The proposed ordinance shall have a heading and number;
- B. Title. A short summary of the ordinance's provisions shall be included in a title at the head of the ordinance. The title shall make reference to any penalties imposed by the ordinance.
- C. Enacting Clause. The enacting clause shall read: "BE IT ENACTED BY THE COUNCIL OF THE CITY OF WHALE PASS:".
- D. Substantive Part of the Ordinance. The provisions of the ordinance will follow the enacting clause.
- E. Signatures. Appropriate places shall be provided for the signatures of the mayor and the clerk.
- F. Attestation. The enactment and passage date of the ordinance shall be attested by the clerk.
- G. Code Section Numbers. Ordinances which amend, add to or repeal sections of the Whale Pass Ordinance Code shall refer to the code sections by number.

2.03.050 Emergency ordinances.

- A. To meet a public emergency the council may adopt ordinances effective on adoption. Every emergency ordinance must contain a statement by the council of why an emergency exists and a statement of the facts about the emergency. The ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of all members present; or the affirmative vote of three-fourths of the total membership, whichever is less, is required for adoption. The council must print and make available copies of adopted 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. Emergency ordinances are effective for sixty days.

2.03.060 Signature required.

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

2.03.070 Ordinances confined to single subject.

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

2.03.080 Adoption of technical codes.

The council may in a single ordinance adopt or amend by reference provisions of a standard published code of regulations. The regular ordinance procedure applies except that neither the code of regulations nor its amendments need to be distributed to the public or read in full at the hearings. For a period of fifteen days before adoption of the regulations at least five copies of the code of regulations must be made available for public inspection at a time and place set out in the hearing notice. Only the adopting ordinance need be printed after adoption. The council may sell the adopted code to the public.

2.03.090 Resolutions-Formal acts.

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

1. The heading "City of Whale Pass, Alaska";
2. The space for a number to be assigned-"Resolution, No.";
3. A short and concise title descriptive of its subject and purpose;
4. Short premises or whereas clauses descriptive of the reason for the resolution, if necessary;
5. The resolving clause "Be it Resolved:";
6. Provision for signature after the date, the designated lines for the signatures of the mayor and clerk; and
7. An attestation.

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

C. Resolutions shall not be included in any municipal code of ordinances.

2.03.100 Resolutions-Procedure.

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

B. On any vote to pass the resolution, all persons interested shall be given an opportunity to be heard. After such hearing, the council may finally pass such resolution with or without amendments.

C. After adoption, every resolution shall be posted in full on the city bulletin board. Every resolution, unless it shall specify a later date, shall become effective following adoption. If the resolution is submitted at a city election when state law requires, then after a majority of favorable votes of the city voters has been certified by the council, the resolution may be adopted.

2.03.110 Rules and regulations.

Any rule or regulation made by any administrative officer or board or commission shall be posted for ten days following its approval by the city council in three public places.

Chapter 2.04
CITY CLERK

Sections:

- 2.04.010 Appointment-Term**
- 2.04.020 City clerk-Duties**
- 2.04.030 City clerk-Additional duties**
- 2.04.040 Acting clerk**
- 2.04.050 Treasurer-Duties**
- 2.04.060 Treasurer-Additional duties**

2.04.010 Appointment-Term.

The city clerk shall be hired by the council. He shall hold office at the pleasure of the council.

2.04.020 City clerk-Duties.

A. The city clerk shall:

1. Attend meetings of the governing body and its boards and committees as required and keep the journal;
2. Have custody of the official municipal seal;
3. Assure that notice and other requirements for public meetings are complied with and assure that public records are available for public inspection as required by law;
4. Manage municipal records and develop retention schedules and procedures for inventory, storage and destruction of records as necessary;
5. Maintain an indexed file of all permanent municipal records, provide for codification of ordinances, and authenticate or certify records as necessary;
6. Prepare agendas and agenda packets as required by the governing body;
7. Administer all municipal elections;
8. Assure that the municipality complies with 42 U.S.C. 1971-1974 (Voting Rights Act of 1965, as amended);
9. Take oaths, affirmations and acknowledgements as necessary;
10. Act as the parliamentary advisor to the governing body;
11. Perform other duties required by law, the governing body or the chief executive officer.

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

2.04.030 City clerk-Additional duties.

- A. The city clerk shall record and certify all actions of the council.
- B. The city clerk shall attest deeds and other documents.
- C. The city clerk shall give the proper officials ample notice of the expiration or termination of any term of office and, when necessary, the conditions or requirements of all bonds, franchises, contracts or agreements.

2.04.040 Acting clerk.

In case of the temporary absence of the city clerk, the council may appoint an acting city clerk, with all the powers and obligations of the city clerk.

2.04.050 Treasurer-Duties.

- A. There shall be a city treasurer who shall be appointed by the council. The city treasurer shall hold office at the pleasure of the council.
- B. The treasurer is the custodian of all city funds. The treasurer shall keep an itemized account of money received and disbursed.
- C. The treasurer shall have bond to the municipality in an amount set by the council.

2.04.060 Treasurer-Additional duties.

The treasurer shall:

- A. Be responsible for all matters pertaining to the maintenance of all accounts of the city, and the maintenance and care of all property used by the city;
- B. Compile the annual budget of the city based upon detailed department estimates and work programs and control it under direction of the mayor;
- C. Prepare and submit to the mayor and council such financial reports and other data as may be required;
- D. Perform such other duties as the mayor or council may require.

Chapter 2.05 **CITY ATTORNEY**

Sections:

2.05.010 Appointment

2.05.020 Duties

2.05.010 Appointment.

There may be a city attorney who shall be appointed by the council. He shall hold office at the pleasure of the council.

2.05.020 Duties.

The city attorney may:

1. Be charged with the performance of all legal services of the city, including those of legal advisor to the council, the mayor and to all departments and offices of the city;
2. Upon the request of the city council, take the necessary steps to arrange for the prosecution of violations of the city ordinances;
3. Represent the city in all matters, civil and criminal, in which the city is interested;
4. Draft any ordinance when required by the city council or mayor;
5. Perform such other duties as may be required by the city council or the ordinances of the city;
6. Attend meetings at the request of the city council;
7. Report back to the city council promptly on suits brought against the city;
8. Call to the attention of the city council and the mayor all matters of law affecting the city;
9. Render all opinions in writing, as far as is practicable;
10. Maintain a record of all of his opinions rendered and turn such record over to his successor in office.

Chapter 2.06
OFFICERS AND EMPLOYEES

Sections:

- 2.06.010 Purpose**
- 2.06.020 Hiring policy**
- 2.06.030 Employment**
- 2.06.040 Travel and per diem allowance**
- 2.06.050 Suspension, demotion and termination**
- 2.06.060 Annual leave**
- 2.06.070 Sick leave**
- 2.06.080 Jury and Court Leave**
- 2.06.090 Grievances**
- 2.06.100 Compensation**
- 2.06.110 Conduct in office-Investigations-Oath**
- 2.06.120 Indemnification**

2.06.010 Purpose.

A. The purpose of this policy is the establishment of uniform procedures to assist personnel administration in the city. The provisions of this chapter do not apply to officers or employees who serve at the pleasure of the council, except as specifically provided by ordinance or resolution.

B. The city of Whale Pass, hereinafter the city, shall maintain merit principles, so the employees shall be selected, appointed, and promoted from the most qualified, regardless of personal connections, political affiliations, race, religion, sex or age. The city further recognizes the following merit principles:

1. Adequate training and instruction to assure high quality performance;
2. Fair and just compensation comparable with earnings and benefits being received elsewhere in this area for similar kinds of work;
3. Protection from political coercion from public officials attempting to affect the result of an election or nomination for office;
4. Reasonable work rules insuring discipline, suspension, demotion, or termination for just cause only;
5. A pleasant work environment to control waste and inefficiency, insure the quality of work, enhance morale, minimize turn-over and generate good will.

2.06.020 Hiring policy.

A. Hiring and evaluation of city employees shall be made on the basis of merit and fitness.

B. There shall be no discrimination in the employment procedure, including appointment, promotion, demotion, suspension, or termination on the basis of race, color, religion, political affiliation, national origin, sex, age, handicap, familial status, or other non-merit reasons.

C. Job Announcements.

1. In order to attract qualified candidates for job vacancies in the city the mayor shall issue job announcements and post them in public places as well as advertising them local newspaper, trade journals and publications. The job announcements shall include, but not be limited to, such information as a statement of the job title, description of duties and responsibilities, salary range, job qualification requirements and the applicable procedure. Publicity for job vacancies shall be posted in a sufficient period of time to

ensure reasonable opportunity for persons to apply and be considered for employment. In any event, job vacancies shall be formally announced at least thirty calendar days prior to the closing date for filing applications.

2. The requirements in subsection (C)(1) of this section are not mandatory whenever employees other than permanent employees are being sought.

D. All applications for employment shall be made on forms prescribed by the city council. Such forms shall require background information to include training, experience and other pertinent information. All applications must be signed by the applicant. Failure to do so will nullify the application. Application forms shall not ask for any information prohibited by state or federal law.

E. The mayor may reject any application which indicates that the applicant does not have the minimum qualifications which have been established for the position. Applications may also be rejected if the applicant:

1. Has deliberately falsified any information on the application form;
2. Is unable to meet the physical or other requirements which have been demonstrated as necessary to perform the position;
3. Does not meet the legal age limit or other requirements as established by state or federal law;
4. Has established an unsatisfactory employment record of such a nature to demonstrate unsuitability for the position.

F. No person may be employed, either permanently or temporarily, in a position supervised by a family member. For the purposes of this section, "supervised" pertains to all department supervisors: the city clerk/treasurer and his/her subordinates; and the city administrator, manager, mayor and mayor pro-tem in the performance of their supervisory duties over all city employees. If an employee and his or her supervisor marry, they shall determine who will resign. "Family member" means spouse, father, mother, brother, sister, child, step-parents, step-children, step-brother, step-sister, or in-law. The city council, by resolution, may provide for exceptions on a case-by-case basis.

G. When well qualified individuals are available, appointments to fill vacancies shall be by promotion from within the municipal services.

H. Minimum age for municipal employment shall be in accordance with state law.

2.06.030 Employment.

A. Permanent Employees. Permanent appointments are made to positions which are considered to be part of the regular complement work force needed to perform municipal services.

1. Full-time. Where the work week is forty hours on a regular basis;
2. Part-time. Where the work is done during a portion of a work day, or work week, and totals at least twenty hours but less than forty hours a week on a regular basis;
3. Short-hours Employee. Where the work is done on a predetermined schedule of less than twenty hours per week on a regular basis.

B. Temporary Employees. Temporary employees are employees hired on an interim replacement basis, or for temporary work, on a predetermined work schedule with a termination date established upon hire. A temporary employee may be separated from city service, demoted or suspended without cause in the full discretion of the mayor or the city administrator. If employees hired on a temporary basis become permanent employees, they are entitled to sick leave and annual leave accruals retroactive to their date of hire.

C. Probationary Employees. A probationary employee is an employee that is considered a part of the complement needed for performing city services but without permanent status. All appointments and promotions to positions in the city, as well as former employees who are rehired, shall be on a probationary basis of six months. During the probationary period, an employee may be terminated and a promoted employee returned

to the previously held position from which he was promoted, or an equivalent one, at the discretion of the mayor. The employee may be dismissed or demoted during this period of probation at any time without right of appeal or hearing. Probationary employees shall not be entitled to benefits. Upon successful completion of probationary period (six months) full benefits will be available.

D. Project Employees. Project employees are employees hired, appointed or who volunteer for a specific project or position which is not considered to be part of the regular complement work force needed to perform municipal services. Project employees shall be hired and operate pursuant to terms and conditions approved by the mayor. Project employees may be separated from city service, demoted or suspended without cause in the full discretion of the mayor or the city administrator without right of appeal or hearing. The provisions of Section 2.25..050 do not apply to project employees. Project employees shall not be entitled to benefits. Project employees shall be entitled to benefits required by State or Federal law including Worker's Compensation, Unemployment Insurance, Medicaid and Social Security withholding. Project employees shall not be considered for hire, appointment or volunteer until the person's accounts with the city are made current. The City Council will consider financial or other hardships.

E. Pay Period. Employees shall be paid monthly.

F. Work Day. The regular work day shall consist of eight working hours. An unpaid lunch break of one hour shall be allowed.

G. Work Week. A regular work week shall consist of a total of forty hours.

H. Exceptions. The nature of certain positions may dictate terms of hire which are exceptions to the general rules. The employee will be fully informed of these exceptions at the time of hire.

I. Holidays. The following days shall be recognized as holidays with full pay for all permanent and probationary employees who are in pay status before and following said days:

New Year's Day, January 1st

Memorial Day, last Monday in May

Fourth of July, July 4th

Labor Day, first Monday in September

Thanksgiving Day, fourth Thursday in November

Half-day Christmas Eve, p.m. of December 24th

Christmas Day, December 25th

When a holiday falls on a Sunday, the following Monday will be observed as the holiday. When a holiday falls on a Saturday, the preceding Friday will be observed as a holiday.

J. Outside Occupations or Activities. Occupations or outside activity which are incompatible with employment by the city, or adversely affect the performance of municipal duties is discouraged. The mayor may, after notice to the employee, and after unsatisfactory resolution of the matter, terminate the employee.

K. Employee Performance Recognition. The mayor shall be responsible for counseling employees and informing them of unsatisfactory performance. Employees who are performing in a superior manner should also be informed of their job performance, in writing. Such reports of unsatisfactory, acceptable, or superior performance shall be documented by memorandum and initialed or signed by the mayor before being included in the employee's personnel file.

L. Gifts, Gratuities and Considerations.

1. An employee shall not accept a gift, gratuity, consideration, or extraordinary favor from any person doing business or likely to do business, with the city and shall immediately report to the city council any offer, promise or suggestion that such a gift may be made.

2. Any person either offering or receiving such gratuity consideration or

extraordinary favor is subject to criminal penalties prescribed in AS 11..85.110 and 11..85.100. This section does not apply to the giving of gifts received from an employee's family or ordinary circle of friends when not offered for a corrupt purpose.

M. Personal Hygiene. An employee shall report to work clean and well groomed.

2.06.040 Travel and per diem allowance.

A. While traveling on official business and away from home or designated posts of duty overnight, an employee shall receive a per diem according to current Federal Per Diem rates.

B. In addition to the overnight per diem reimbursement for meals and lodging in connection with approved travel, there shall be allowed at the following rate:

1. By common carrier fare, or the cost of charter or other special hire, if essential, and other similar fares as necessary for the efficient performance of official duties. No reimbursement shall be allowed for more than the lowest tourist class fare for the most direct route unless the tourist class accommodations were not available; or

2. By private vehicle at a rate of fifty cents per mile for occasional use of privately owned vehicles. Reimbursement for actual costs of ferry fare, bridge and road or tunnel tolls shall be granted.

3. Reimbursement for rental vehicles shall be preapproved by the Mayor or City Administrator.

2.06.050 Suspension, demotion and termination.

A. Suspensions. Any employee may be suspended at any time for just cause.

Suspension without pay may not exceed thirty days in any twelve-month period.

B. Exoneration. If exonerated of the charge against him or her, the employee will be reinstated with pay from the time of suspension.

C. Demotion and Termination. An employee may be demoted or terminated for incompetence, inefficiency, inability to perform duties for which the employee was hired, failure to keep current on any accounts held with the City (i.e. utilities, lease payments, rents, sales tax, phone, fees, etc.), or for similar just cause. An employee may be dismissed for insubordination, habitual tardiness, use of intoxicating liquor, narcotics or dangerous drugs on duty, or for similar just cause.

D. Layoffs. When it is necessary to reduce the number of employees because of lack of work or funds, the mayor shall make a thorough investigation of the problem. The analysis of the proposed layoffs will be presented by the mayor to the city council. The mayor shall explain the types of activities to be curtailed and the positions affected. Consideration shall be given to the employee's length of service, but, more importantly, to the quality of service rendered to the city. Employees thus separated from city service, through no fault of their own, shall be given preference when new appointments are made, for the period of one year immediately following that employee's separation of service.

E. Resignations. All resignations shall be in writing and must be filed with the city administrator. The administrator shall furnish a copy of the accepted resignation to the employee for his or her records.

F. Final Pay. An employee who has resigned will be paid in full on the next regular pay day. An employee, who is being terminated, shall be paid in full on the day of employment termination.

G. Progressive Discipline.

1. A municipal employee, under the Fair Labor Standard Act, may be disciplined in areas relating to defective work, job performance, safety, lateness, housekeeping, disobedience, or failure to adhere to rules, regulations and procedures.

2. If in the opinion of the mayor, disciplinary action is necessary with respect to

the above situations, the mayor or mayor's designee may begin disciplinary action in any of the steps listed below, depending on the seriousness of the offense committed.

(a.) Verbal Warning. A verbal warning is to be given explaining to the employee what he/she did wrong and what must be done as a corrective measure. The employee must also be advised that if there is a repetition, a written reprimand will be given.

(b.) Written Reprimand. A written reprimand is to be issued if there is repetition of the infraction within a six-month period for which the verbal warning was given. Written reprimand may also be issued for a more serious first-time infraction in the discretion of the mayor or mayor's designee. Receipt of a written notification for delinquent accounts constitutes a written reprimand.

(c.) Suspension. Repetition of infraction after a written reprimand within a further six-month period will result in suspension without pay. Suspension without pay may also be issued for a more serious first-time infraction in the discretion of the mayor or mayor's designee.

(d.) Termination. A further repetition of the infraction will result in termination from city service. Termination may also be issued for a more serious first-time infraction in the discretion of the mayor or the mayor's designee.

H. A Verbal Warning or Written Reprimand. A verbal warning or a written reprimand may, at the mayor's discretion, be removed after a period of six months, providing there has not been a recurrence of the infraction.

I. Delegation of Disciplinary Authority. The mayor, as chief administrator, may delegate his/her authority under this chapter to the city administrative office. However, the mayor shall be kept apprised of any disciplinary action taken against any employee.

2.06.060 Annual leave.

A. Permanent Full-time Employees. Permanent full-time employees shall accrue annual leave at the following rates: Four hours annual leave per pay period for the first three years of continuous city employment; five hours annual leave per pay period for the fourth and fifth years of continuous city employment; six hours annual leave per pay period for the sixth through ninth years of continuous city employment; eight hours annual leave per pay period for ten years or more of continuous city employment.

B. Permanent Part-time Employees. Permanent part-time employees shall accrue annual leave on a ratio of the hours they work to a forty hour work week.

C. Permanent Short-hours Employees. Permanent short-hour employees shall accrue annual leave on a ratio of the hours they work to a forty-hour work week.

D. Temporary Employees. An employee appointed for a position of a temporary nature shall not accrue annual leave credit.

E. Leave-Without-Pay-Status. The mayor, or his/her designee, may grant leave-without-pay status to an employee at his/her request. Such leave request must be made in writing and must be made two weeks in advance unless precluded by extenuating circumstances. Such leave shall be limited to one month for each full month of service, to a maximum of twenty-four months.

F. Saturdays, Sundays and Holidays. While on annual leave, Saturdays, Sundays and holidays will not be considered as time taken on annual leave, but only regular work days will be counted.

G. Pay During Annual Leave. If a payday falls during the annual leave of an employee, he/she shall be entitled to receive at the beginning of his/her annual leave the compensation due while on annual leave.

H. Authorization. The mayor, or his/her designee, shall authorize, in writing, annual leave requested by an employee.

I. Accumulation Limit. Up to one hundred twenty hours of annual leave time may be accrued during one fiscal year and carried over into subsequent fiscal years. An

employee shall forfeit any leave over two hundred forty hours accumulated and not taken by the end of any fiscal year.

J. Termination. Accrued annual leave time up to two hundred forty hours will be paid to employees who terminate their employment with the city after six months of service. Payment will be based on salary on date of termination.

K. Pay in Lieu of Time Off. There shall be no pay in lieu of earned annual leave time except on termination of an employee.

L. Probationary Period. Unless authorized by the mayor, annual leave time may not be taken prior to six months of continuous service. Annual leave shall accrue from the date of employment.

M. Notice of Annual Leave. All employees shall serve at least two week notice of anticipated annual leave to the mayor or his/her designee in writing and secure written permission for leaves. Any employee that is approved for a draw for any amount will not be deducted in full in the upcoming paycheck, the employee will guarantee this amount by maintaining the full number of vacation hours at the amount necessary to pay back the draw if their employment should end prior to fulfilling their debt unless authorized by the mayor. Any annual leave otherwise taken shall be deemed as unauthorized, and no vacation pay is permitted and no other benefits shall accrue. Unauthorized annual leaves may be reason for termination.

2.06.070 Sick leave.

A. Policy. All permanent full-time and part-time employees shall accrue and may use as accrued, sick leave on the basis of:

1. Permanent Full-time. Four hours per pay period;
2. Permanent Part-time. On a ratio of the hours they work to a forty-hour work

week.

B. Notification to Superior. Any employee absent due to illness or injury shall immediately notify the city offices within one hour after the normal time for reporting for duty, or as soon as possible. Failure to keep superior informed of expected return date may result in termination of employment.

C. Upon Separation. Upon his/her separation, the unused sick leave of the employee is automatically canceled without pay.

D. Accumulation. Sick leave accrued, but not used, shall accumulate until termination of employment. Upon the death of any employee, any unused sick leave in his/her account will be paid in cash to his/her beneficiaries at the employee's rate of pay at the time of death.

E. Availability of Sick Leave. Sick leave shall be granted only in the following instances, or as otherwise deemed allowable by the mayor or his/her designee:

1. Medical or Dental Appointments. An employee may be granted sick leave for medical or dental appointment for himself, herself, or immediate family.

2. Illness or Injury. An employee may be granted sick leave for personal illness or injury where his/her presence on the job could jeopardize his or her health or that of fellow employees. An employee may be granted sick leave to attend to the injury or illness of a member of his or her immediate family.

3. Death in the Family. An employee may be granted sick leave to attend the funeral of a member of his/her immediate or extended family.

F. Doctor's or Nurse's Certificate. More than five consecutive days sick leave used may require a signed medical certificate.

G. Under certain circumstances, a permanent, non-probationary employee may be entitled to leave for family or medical matters under the Alaska Family Act and upon application for same.

2.06.080 Jury and Court Leave.

The city supports the judicial system of the State of Alaska and United States of America. Employees serving jury duty or under a subpoena as a witness shall be entitled to judicial leave for required period of jury duty service or testimony. Judicial leave shall be supported by written documents such as a subpoena or statement of attendance from the Court. Employees shall continue to receive regular rate of pay for hours employees would have worked had the employee not been on judicial leave

2.06.090 Grievances.

A. Definitions.

1. "Grievance" means an alleged violation, misapplication or misinterpretation of a specific provision of this personnel policy as adopted by the city council.
2. "Grievant" means an employee of the city filing a grievance.

B. General Policy.

1. The purpose of this procedure is to attempt to secure equitable solutions to grievances. All parties agree that these proceedings will be kept confidential and that the grievant and immediate supervisor should attempt to resolve the grievance at the informal level.
2. The filing of a grievance shall in no way interfere with the right of the city to proceed in carrying out its management responsibilities subject to the final decision of the grievance.
3. The filing of a grievance shall not reflect unfavorably upon the grievant, or upon the immediate supervisor with whom it may be filed.
4. The employee and immediate supervisor shall have the right to include in grievance hearings such witnesses as they may deem necessary to develop facts pertinent to the grievance.
5. Once a grievance arising from a particular incident(s) or circumstance(s) has been resolved, another grievance based on that particular incident may not be filed.
6. An employee who fails to comply with the time limits shall forfeit all rights to apply the grievance procedure for the alleged violations. A grievance shall be initiated within ten days of the incident or circumstance giving rise to that grievance.

C. Steps for Handling Grievances.

1. The grievance of any employee shall be handled in the following manner, each step to be taken only if a satisfactory resolution cannot be obtained at the previous level.
2. Failure to follow the procedure and time limits outlined below will render the grievance invalid.
 - a. Informal Procedure Step One. Within ten days from the date of the incident or circumstance giving rise to the grievance, employee shall reduce the grievance into writing and submit the grievance to employee's immediate supervisor. Within five days from the supervisor's receipt of the written grievance, employee and the immediate supervisor shall meet to discuss the potential grievance and attempt to resolve it informally. The supervisor shall have five days from the date of the meeting to respond to the employee with a written decision.
 - b. Informal Procedure Step Two. In the event the employee is not satisfied with the decision at the first step of the informal procedure, the employee shall within five days from the date of receipt of the immediate supervisor's written decision, meet with the mayor to discuss the potential grievance in an attempt to resolve it informally. The mayor shall have five days from the date of the meeting to respond to the employee with a written decision.
 - c. Informal Procedure Step Three. In the event the employee is not satisfied with the decision at the second step of the informal procedure, the employee may request that the grievance be submitted to a mediator for voluntary grievance

mediation. The employee shall have five days from the date of employee's receipt of the decision at the second step to request mediation. The procedure for the resolution of grievances through the voluntary grievance mediation process is as follows:

i. Within five days from city's receipt of employee's request for mediation, city shall obtain a list of three impartial, professional mediators from the Alaska Dispute Settlement Association, or the successor or equivalent of that organization.

ii. Within five days after city's receipt of the list, employee and city shall meet and select one mediator from the list mutually acceptable to both. If no agreement can be reached, the parties shall select a mediator by lot. City shall place the mediator's names in a container and employee shall draw one name out of the container. The person whose name is drawn shall be the mediator. Mediation shall commence as soon as possible following the appointment of the mediator.

iii. The mediator shall conduct a caucus according to generally accepted standards and procedures for grievance mediation. The mediator may meet with the parties jointly or separately in order to help them reach a settlement. Each party agrees to negotiate in good faith to attempt to resolve the grievance through mediation.

iv. Any agreement reached on settlement of a grievance utilizing the mediation process shall be final and binding on the parties.

d. Informal Procedure Step Four. In the event no agreement can be reached on settlement of a grievance utilizing the mediation process, the grievance shall be reviewed by the city council whose decision shall be final and binding unless there is judicial review of the case.

e. Litigation. Litigation or other form of judicial review of a grievance shall occur only if the grievance cannot be resolved at the mandatory step one, step two, and step four informal procedure levels.

3. Expenses of mediation shall be borne by city, except for attorney's fees. Each party shall bear their own costs for attorney's fees incurred during any step of the grievance process.

2.06.100 Compensation.

A. As per employment contract.

1. To establish the framework for equal pay for work similar in nature, degree of difficulty or level of responsibility;

2. To provide a means of rewarding city employees for continued good or outstanding service;

3. To establish salary rates which compare favorably with those of other public and private employers in the area, subject to availability of funds;

4. To provide administrative flexibility in recognizing differences among employees whose positions are the same but who differ in terms of quality and length of service rendered;

5. To allow within the annual budget planning to give consideration to possible revision and amendment to the pay schedule;

6. To allow employees completing the six-month probationary period to have their rate of pay reviewed.

B. Benefits (At the Option of the Employee). To be determined as per employment contract.

1. Employees who work thirty-two hours a week or more shall have eighty percent of life and health insurance paid by the city. The remaining twenty percent of life and health insurance premiums is to be deducted from employee's monthly wages.

2. Permanent part-time employees shall have fifty percent of life and health insurance paid by the city. The remaining fifty percent of life and health insurance premiums is to be deducted from employee's monthly wages.

C. Overtime.

1. Employees who work over forty hours per week or eight hours per day shall be compensated at the rate of one and one-half their hourly rate.

2. Employees, except employees specifically hired to work on holidays, who are authorized to work on stated city holidays will be compensated at the rate of usual holiday pay plus regular pay for each hour they work up to eight hours then at regular overtime rates for time worked over eight hours.

D. Pay Increases. The mayor may adjust an employee's rate of pay according to the quality of service rendered, length of service, and funding availability.

2.06.110 Conduct in office-Investigations-Oath.

A. The council, the mayor, or any person or committee authorized by either of them, shall have the power to inquire into the conduct of any office, department, or officer of the city and to make investigations in municipal affairs and compel the production of books, papers and other evidence. Failure to obey such orders to produce books or evidence shall constitute grounds for the immediate discharge of any officer or employee of the city.

B. All officers of the city, including mayor and councilmen, shall before entering upon the duties of his office, severally take an oath in writing to honestly, faithfully and impartially perform and discharge the duties of his office and trust, which oath shall be filed with the city clerk. WPMC 2.01.040.

C. All records and accounts of every office and department of the city shall be open to inspection by any person. Except, that records and documents the disclosure of which would tend to defeat the lawful purpose for which they were intended, may be withheld from inspection. Such records as are required by state law or city ordinance to be kept confidential are not open to inspection. Each department head shall be held responsible for the preservation of all public records under his jurisdiction and shall provide a system of filing. No public records, reports, correspondence or other data relative to the business of any department shall be destroyed or removed permanently from the files without the knowledge and approval of the city clerk.

2.06.120 Indemnification.

The city will indemnify and hold harmless the city officers and employees and their appointees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of their duties, as assigned or set forth in this code; provided, that any such claims, damages, losses or expenses are not caused in whole or in part by any willful or fraudulent act or omission by such city officers, employees and their appointees.

Chapter 2.07
ELECTIONS

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2.07.010 Administration of elections.

The city council shall prescribe the general rules for conducting city elections.

2.07.020 Voter qualification.

A person may vote in a city election only if the person:

- A. Is qualified to vote in state elections under AS 15.05.010;
- B. Has been a resident of the city for thirty days immediately preceding the election;
- C. Is registered to vote in state elections at a residence within the city limits at least thirty days before the city election at which the person seeks to vote; and
- D. Is not disqualified under Article V. of the State Constitution.

2.07.030 General election-Time.

On the first Tuesday of November of each year a general election will be held in the city, for the purpose of filling vacant city offices. The determination of other matters may be placed on the ballot. (Revised 7/21/20)

2.07.040 Special election-Time

The city council, by resolution, may order that a special election be held.

2.07.050 Expenses.

- A. The city shall pay all necessary election expenses, including those of securing places for polls and providing ballot boxes, ballots, voting booths, screens, national and state flags and other supplies, and any wages due to judges. Salaries for the election judges shall be set by the council.
- B. When the results of an election are contested, the contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse a result of the election, or the difference between the winning and losing vote on the result contested is more than two percent.
- C. If an election is established by petition all costs and expenses incurred shall be the responsibility of those petitioning for a special election. If the subject or question brought by petition is placed on the ballot in a general election the cost to be paid by petitioner will be any additional ballot/judge/election expenses over and above the general election expenses.

2.07.060 Time off for voting.

Any qualified voter who is an employee of the city who does not have time to vote at any city and borough, state or national election may, without loss of pay, take off working time that will enable him to vote. It is the policy of the city to encourage employers to make allowances for residents to exercise their voting rights without penalty of loss of pay, particularly where employment may conflict with normal voting hours.

2.07.070 Determining election winner

Write in votes (unless declared) shall not be considered in computations for determining the number of votes necessary to be elected as a declared candidate. In case of a tie vote refer to WPMC 2.07.620.

2.07.080 Write-in candidates.

A write-in candidate shall complete and file with the city clerk a declaration of intent by 12 pm the Friday preceding the election.

2.07.090 Write-in votes not counted.

If a write-in candidate does not file a declaration of intent for candidacy the votes cast for that candidate will not be counted towards determining the winning candidate.

2.07.100 Administration.

The city clerk is the supervisor of elections and is responsible for the administration of city elections. The election duties of the city clerk include, among other duties, obtaining from the state of Alaska a list of voters registered in accordance with AS 15.07.000. The clerk may publish notices urging voter registration and may cooperate with the state of Alaska in encouraging city residents to register.

2.07.110 Election judges.

A. Before each city election, the council shall appoint three judges for each city polling place to constitute the election board for the polling place. A judge shall be a registered voter of the City. If the council is unable to locate a registered voter in the city who is willing and able to serve on the election board, they may appoint a qualified individual registered to vote in the state. One judge in each polling place shall be designated chairman by the City Clerk and shall be responsible for the election in that polling place. The city clerk may appoint up to two additional election judges at any polling place when necessary to facilitate the orderly conduct of the election or to relieve the judges of undue hardship.

B. Candidates for office and their immediate family members (parents, spouse, children, and siblings) shall not serve as judges.

2.07.120 Election board-Vacancy filling.

If an appointed judge fails to appear and subscribe to the oath on Election Day or becomes unable to work during the time of the election or canvass, the City Clerk shall appoint, a qualified voter to fill the vacancy.

2.07.130 Election official-Oath.

The city clerk will choose an election judge from each polling place to appear before the city clerk and take the oath set out in this section. This election official will administrate the same oath to all other election judges and clerks at his polling place. The oath will be as follows:

"I do solemnly [swear or affirm] that I will honestly and faithfully perform the duties of election [judge or clerk] to the best of my ability."

2.07.140 Canvass committee.

- A. A canvass committee shall canvass all votes after the election judges have completed their tally of votes.
- B. The council shall serve as the canvass committee for special and general elections.

2.07.150 Qualifications-General election.

No person shall hold any elective city office or be eligible to seek election to any elective office, unless he is a qualified voter of the city.

2.07.160 Declaration of candidacy-Filing for general election.

- A. A person who wishes to become a candidate for an elected office shall complete and file a declaration of candidacy. The declaration shall be completed under oath before the city clerk and on a form provided by the city clerk. The declaration shall state definitely:
 - 1. The full name of the candidate and the manner it is to appear on the ballot;
 - 2. The full residence address of the candidate;
 - 3. The full mailing address of the candidate;
 - 4. The office for which the candidate declares;
 - 5. That the candidate is a qualified voter and resident of the city;
 - 6. That the candidate agrees to serve if elected to the office of councilmember for a term of three years or the remainder of the term of office elected.
- B. The city clerk shall post a notice containing the date, time and place of filing a declaration of candidacy in at least three (3) locations within the city, in a newspaper of general circulation if there is one in the area, and may post a notice on the City's website, before a candidate may submit a declaration.
- C. A person seeking elective office shall file a Declaration of Candidacy form with the city clerk.
- D. A declaration of candidacy filing period shall be filed with the city clerk not earlier than 50 days and not later than 30 days before the election. No declaration of candidacy may be filed on weekends.

2.07.170 Declaration of candidacy-Record.

The city clerk will maintain a record containing the name and address of every person who filed a declaration of candidacy and also the date and time of the filing.

2.07.180 Declaration of candidacy-Time for withdrawing candidacy.

A candidate may withdraw his declaration of candidacy through the last day for filing declarations, by submitting a written notice of withdrawal with the city clerk.

2.07.190 Notice of election.

The city clerk shall give at least twenty days' notice of each general, or special elections by posting notices in three locations within the city; If the city has two or more precincts or polling places within the city limits, the clerk shall post notices of elections in each voting precinct or polling place.

2.07.200 Election notice contents.

Notices for general, or special elections must contain the following:

- 1. The date of the election;

2. The offices to be filled or the propositions to be voted upon;
3. The time the polling places will open and close;
4. The location of city polling places;
5. A boundary description of the voting precinct or a reference to the Alaska Administrative Code sections establishing precinct boundaries;
6. The procedure for declaring candidacy; and
7. Whether the election is general, or special.

2.07.210 Election booths.

At each polling place the city clerk shall provide voting booths and enough supplies and materials to enable each voter to mark his ballot unobserved. At least three sides of each voting booth shall be within plain view of the judges, clerks, voters and other persons at the polling places.

2.07.220 Furnishing instruction cards.

The city clerk will furnish to each election Judge written instructions on voting procedures for the guidance of voters, including but not limited to:

1. How to obtain ballots;
2. The manner for marking them;
3. The method for obtaining information; and
4. How to obtain a new ballot to replace any ballot destroyed or spoiled.

2.07.230 Ballots-Printing and inspection.

In all city elections, the city clerk will be responsible for the printing of ballots. The ballots will be printed and in the possession of the city clerk, at least fifteen days before the general election. Ballots shall be available for inspection by the candidates or the public through a public records request.

2.07.240 Ballots-Form.

- A. A ballot shall show the list of candidates and issues to be decided at the election.
- B. Before the list of candidates for each office there will be placed the words "vote for not more than one,"
- C. Under the title of each office and below the printed names of the candidates, there will be printed the number of candidates to be elected to the office.
- D. Somewhere on the ballot, so as to be clearly visible, will be printed the words:
 1. "OFFICIAL BALLOT";
 2. The date of the election; and
 3. The City Seal along with the signature of the clerk who had the ballots printed.
- E. The ballots will be printed on plain white paper and numbered in consecutive order. The names of the candidates will be printed the same size. On each line on which the name of a candidate is printed and on the line of each blank provided for write-in candidates, a square not less than one-quarter of an inch on each side will be printed.
- F. The names of candidates shall be printed as they appear upon the declarations of candidacy filed with the city clerk, in the order received, except that any honorary or assumed title or prefix shall be omitted.
- G. Following the names of the offices and candidates, there shall be placed on the ballot all propositions and questions to be voted upon. The words "yes" and "no" shall be placed below the statement of each proposition and question.

2.07.250 Sample ballots.

The city clerk will have a number of sample ballots printed. The sample ballots will be printed on nonwhite paper and clearly labeled as a "sample ballot." Sample ballots will be delivered to the election board in each voting place.

2.07.260 Division of elections precinct lists-Distribution to precinct officials.

Prior to the opening of the polls, the city clerk shall deliver a division of elections precinct list to the election judges. The precinct list will provide enough space to allow voters to sign their name. The signing of the precinct list is a declaration by the voter that he is qualified to vote. A record shall be kept in a separate register of the names of persons who are required to vote a questioned ballot.

2.07.270 Time for opening and closing polls.

A. On the day of any election, each election board shall open the polls for voting at eight in the morning, shall close the polls for voting at eight in the evening, and shall keep the polls open during the time between these hours. The election board members shall report to the polling place at seven thirty in the morning of an election day.

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

2.07.280 Distribution of ballots.

A. The city clerk shall deliver the ballots to the election judges before the polls are opened on Election Day. The ballots shall be delivered in separate sealed packages, with the number of ballots enclosed in each package clearly marked on the outside of it. A receipt of each package shall be taken from the election judges to which it is delivered, and saved by the city 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 various polling places;
2. The name of the persons to whom the ballots are delivered; and
3. The time the ballots are delivered.

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;
4. The condition of the ballots.

2.07.290 Preparation of ballot box.

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

2.07.300 Voting procedure.

- A. A voter shall give the judges his/her name, and sign his/her name adjacent to his printed name in the precinct list. If any judge present believes the person is not qualified to vote, he/she immediately shall question the voter.
- B. If the voter is not questioned, he/she shall be given one ballot with the ballot number torn off by the election judge and shall 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 this 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 for questions and propositions. Before leaving the voting booth, the voter shall fold his ballot and deliver it to the ballot box.
- C. A voter who by accident or mistake spoils his ballot shall, upon returning the spoiled ballot to the judges, be given another ballot. The number of the spoiled ballot shall be recorded on the ballot accountability sheet by the judges and the spoiled ballot shall be destroyed in front of the voter. A voter who is blind or otherwise incapable of marking his ballot shall be assisted in doing so by a judge if he/she requests such assistance.

2.07.310 Marking of ballots by voters.

- A. A voter may mark his ballot only by the use of cross marks, "X" marks, diagonal, horizontal or vertical marks, solid marks, stars, circles, asterisks, checks or plus signs that are clearly spaced in the square opposite the name of the candidate the voter desires to designate.
- B. A failure to properly mark a ballot as to one or more candidates does not itself invalidate the entire ballot.
- C. If a voter marks fewer names than there are persons to be elected to the office, a vote shall be counted for each candidate properly marked.
- D. If a voter marks more names than there are persons to be elected to the office, the votes for candidates for that office shall not be counted.
- E. The mark shall be counted only if it is mostly inside the square provided, or touching the square so as to indicate clearly that the voter intended the particular square to be designated.
- F. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates made properly. No ballot shall be rejected if the election judges can determine the candidate for whom the voter intended to vote or proposition to be chosen.
- G. An erasure or correction invalidates only that section of the ballot in which it appears.
- H. Write-in votes are not invalidated by writing in the name of a candidate whose name is printed on the ballot.
- I. Write-in votes are invalidated if the voter fails to mark the square provided.
- J. Write-in candidates will not be counted towards determining the winning candidate unless the candidate has filed a declaration of intent with the city clerk not earlier than the last day of filing period for declaration of candidacy and not later than 12 pm on the Friday before the election. The declaration of intent shall state:
1. The full name of the candidate;
 2. The full residence and mailing address of the candidate;
 3. The seat in which the candidate wishes to be written in on the ballot by the voter;
 4. The date of the election in which the candidate seeks election;
 5. A certification by the candidate that the candidate:
 - a. Is a qualified voter;
 - b. Is a resident of the City
 - c. Qualifies or shall qualify as of the date of election, for the office to which the candidate seeks election;
 - d. Shall serve if elected; and
 - e. Is not a candidate for any other office to be voted on at the election.

2.07.320 Questioning a voter's ballot.

If a voter's right to vote is questioned by an election judge, city clerk or other qualified voter in the city, the voter shall be allowed to vote and any election official shall consider the ballot a questioned ballot.

2.07.330 Questioned ballots-Disposition.

Before voting a questioned ballot the voter shall take an oath and sign an affidavit provided by the election judge or city clerk attesting to the fact the voter is a qualified voter. After the questioned voter has taken the oath and signed the affidavit, the voter may vote. After a questioned voter has cast his ballot, the questioned voter will insert the ballot into an envelope with the signed oath and affidavit taped or glued to the outside of the envelope. If the questioned person refuses to take the oath or sign the affidavit, the person may not vote. The election judges shall deliver the oath and affidavit envelope to the city clerk. The city clerk will present these materials to the canvass committee and assist the canvass committee in determining the validity of the question.

2.07.340 Ballots-Counting and tallying.

A. Immediately after the polls close and the last vote has been cast, the election judges will open the boxes containing the ballots. The ballots will be counted to determine whether the total number of ballots is equal to the total number of persons who voted as indicated in the precinct list and questioned ballot list. If the number of ballots drawn from the ballot box does not match the number of ballots indicated by the precinct list and questioned ballot list, the ballots shall be recounted until the election board finds that there is an unexplained error or that the number of ballots cast matches the number of ballots indicated by the precinct list and questioned ballots list. If a discrepancy is determined to exist between the number of votes cast and the precinct list and questioned ballot list, it shall be explained in detail on the tally paper or papers, and the explanation shall be signed by the election judges.

B. The counting of the ballots shall be public. The opening of the ballot box at the close of the polls shall be done in full view of any persons present. The public may not be excluded from the area in which the ballots are counted. However, the election board chairman and/or the city clerk shall not permit anyone present to interfere in any way or to distract the appointed officials from their duties, and no one other than appointed election officials may handle the ballots. The judges shall tally the number of votes for each candidate and for or against each issue. The ballots shall be inspected for disqualifying marks or defects. The election judges shall cause the vote tally to be continued without adjournment until the count is complete.

C. Write-in votes shall be tallied but not used to determine percentage for the winning vote unless the person written in has filed a declaration of intent with the city clerk as set forth in WPMC 2.07.310 (J).

2.07.350 Defective and unused ballots.

If a voter shall mark more names than there are persons to be elected to any office, or if for any reason it is impossible to determine from his ballot any voter's choice for any office to be filled, the ballot shall not be counted as to that office or issue. A failure to properly mark a ballot as to one or more candidates or issues shall not invalidate the entire ballot. No ballot shall be rejected if the election judges can determine the person for whom the voter intended to vote. Ballots not counted shall be marked "Defective" on

the back. An explanation of the defect shall be written on the back of the ballot and signed by the chairman. All such ballots shall be enclosed in an envelope marked on the outside with the label "defective ballots." All ballots not voted on shall be returned by the judges to the city clerk, who shall give a receipt for them and keep a record of the number and condition of ballots returned to him, indicating when and by which judge each was returned.

2.07.360 Election certificate.

After the votes are announced and counted, a certificate will be drawn stating the number of votes each person has received, and designating the office for which he has run. The poll lists and tallies will be attached to the certificate. The certificate will be signed by the election judges. The precinct list tallies or tally papers, oath of judges, oaths of voters, other papers, and the certificate will be delivered to the city clerk.

2.07.370 Majority decision of election judges.

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

2.07.380 Prohibitions near election polls.

During the hours the polls are open, no person who is in the polling place or within two hundred feet of any entrance to the polling place, may attempt to persuade a person to vote for or against a candidate, proposition or question.

2.07.390 Canvass committee-Meeting-Postponing canvass.

The canvass committee will meet on the first Friday after the election and canvass all absentee and questioned ballots executed in the election. The canvass may be postponed from day to day for cause but not exceeding three days in total.

2.07.400 Canvass to be made public.

- A. The canvass of all absentee and questioned ballots will be made in public by opening the returns and announcing the results thereof in front of those present.
- B. Absentee ballots shall be counted by the city clerk and two or more assistants in the following manner: All ballot envelopes shall be removed from return envelopes, and placed in a ballot box. The return envelopes shall be delivered to the city clerk. The absentee ballots shall one by one be removed from the ballot box, taken out of the ballot envelopes and counted, in the same manner in which ballots cast at the polls are counted.
- C. The canvass shall include a review and comparison of the tallies of paper ballots with the election certificates to correct any mathematical error in the count of paper ballots.
- D. If the city clerk finds an unexplained error in the tally of paper ballots, he may count the ballots from the ballot box.

2.07.410 Investigation of questioned ballots.

The canvass committee may request the assistance of the city clerk to investigate the questioned ballots. Any city elector may appear to give testimony concerning the questioned ballots. The city clerk will check with the Division of Elections to determine whether the questioned ballot voter was a registered voter of the city. The council may accept or reject a questioned ballot. If a questioned ballot is rejected, the ballot rejected will not be opened or counted, but will be saved as are other ballots. If a questioned

ballot is accepted, the ballot accepted will be counted with the absentee ballots. The city clerk will notify a voter whose ballot is not counted that the ballot was rejected.

2.07.420 Questioned ballots-Subpoenas.

The council may order testimony of witnesses and issue subpoenas while investigating questioned ballots. The subpoenas may be enforced by the court upon certification as provided by the state of civil procedure concerning the enforcement of administrative and state agency subpoenas.

2.07.430 Canvass committee-Report-Contents.

The canvass committee will submit a report of its findings at a special meeting on the first Friday following the election. The report will show:

1. The number of ballots cast in the election;
 2. The names of the persons voted for and the propositions voted upon;
 3. The offices voted for;
 4. The number of votes cast for each candidate and the number of votes cast for or against each proposition voted on at the election;
 5. A proposed disposition of all absentee, write-in, questioned and voided ballots;
- and
6. Other matters which the canvass committee may determine to be necessary.

2.07.440 Certificate of election.

The city council will authorize the city clerk to make and deliver a certificate of election to every person elected. The certificate of election will be signed by the mayor and clerk. It shall display the corporate seal of the city.

2.07.450 Absentee voting-Eligible persons.

Any qualified voter, who expects to be absent from the city or who will be unable to vote by reason of physical disability on the day of any election, may cast an absentee ballot.

2.07.460 Absentee ballot-Application-Filing.

- A. A person who seeks to vote by absentee ballot may file either in person or by mailing his written application to the city clerk.
- B. An application made by mail must be received by the city clerk, no less than five days before a city election. An application made in person must be filed with the city clerk not earlier than 30 days before the city election date, and no later than the close of business on the day before a city election.
- C. The application must be signed by the applicant and show his place of residence.
- D. Nothing in this section is intended to limit the city clerk in personally delivering a ballot to a person who, because of physical incapacity, is unable to make application in person at the city clerk's office for an absent voter's ballot.

2.07.470 Absentee ballot-Delivery.

Upon receipt of an application for an absentee voter's ballot, the clerk will check the latest state registration listings to determine whether the applicant is a qualified voter. If the applicant is a qualified voter, the clerk will deliver to the applicant, personally or by mailing to the address given by the applicant, an official ballot for the election, an identification envelope and a return envelope. If the absentee voter's ballot is personally

delivered, it shall be completed before the clerk at the time of delivery.

2.07.480 Absentee ballot-Notation of ballot number and date of application.

Upon personal delivery or the mailing of absent voter's ballot, the clerk will enter on the space provided in the absentee voter by mail register, the number of the ballot and the date the ballot was delivered or mailed. On election day, the clerk will give the election judges a list of voters who have voted absentee in the form of the ballot accountability register and it will clearly indicate who voted by mail absentee and who voted in person absentee prior to polls being opened.

2.07.490 Absentee ballot-Completion-Return.

The identification envelope and return envelope provided to the voter will be of a form, size and weight as determined by the city clerk. The identification envelope for by mail ballots will have printed on its face an affidavit as follows:

"IDENTIFICATION ENVELOPE"

I state that: I am a resident of and a voter in the City of Whale Pass, Alaska, and I hereby enclose my ballot.

VOTER
(SEAL)
Residence address within the city

SUBSCRIBED AND SWORN before me, this day of , 20, at m. I hereby certify in my presence this affiant enclosed a ballot and handed me this envelope sealed; that he signed this affidavit and I acknowledged his signature and affidavit, all in accordance with the law.

Official's Signature
(SEAL)
Title of Officer

NOTICE: After receiving the sealed envelope from the person taking your affidavit when voting outside the office of the city clerk of the City of Whale Pass, you must immediately return it by mail, postage prepaid, to the City Clerk, P.O. Box WWP, Whale Pass, Alaska 99950
MARKED BALLOT ENCLOSED TO BE OPENED ONLY BY ELECTION JUDGE.

2.07.500 Absentee ballot-Execution in city.

A voter who receives an absentee voter's ballot may, on any day prior to the day of the election, appear at the office of the city clerk, and execute his ballot in the following manner:

1. The voter will first display the ballot to the clerk to show that the ballot has not been previously marked. He then will proceed to mark the ballot in the voting booth at the clerk's office. The voter will place the ballot in the envelope provided to him in a manner that permits the clerk to see the number of the ballot. The voter will then hand the envelope to the clerk, who will examine it. If the clerk determines that the ballot is numbered correctly, he will tear the printed number off and permit the voter to enclose the ballot in the identification envelope.

2. The voter will then make out and swear to the affidavit printed on the face of the envelope. He will seal the envelope and deliver it to the clerk.

3. The clerk will certify the affidavit printed on the identification envelope by writing or stamping his name across the seal. The clerk will deposit the envelope in a safe place in his office, to be kept by him and be counted with other absentee ballots in accordance with this code.

4. If an absentee voter returns to the city on Election Day, he will not be allowed to vote unless he surrenders the absentee voter's ballot and any other supplies mailed to him.

2.07.510 Absentee ballot-Execution outside city.

A. After receiving an absentee voter's ballot, the voter may appear on any day prior to and including the day of the election, before a notary public, post master, clerk or officer of any city, state, territory or district within the United States. Before the officer he may complete his ballot as set out in Section 2.30.510 of this chapter.

B. Absentee ballots executed outside of the City may be faxed to ensure receipt by the city clerk prior to canvass. Ballot by fax must contain a disclaimer that the voter understands his/her vote cast will not be secret.

2.07.520 Absentee ballot-Receipt.

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

2.07.530 Absentee ballot-Voting supplies.

All supplies necessary for the voter to cast and return his ballot will be furnished by the clerk. No city official may make any charge for services rendered to any voter under the provisions of this chapter.

2.07.540 Liberal construction.

This article will be liberally interpreted, so as to accomplish the purposes set forth.

2.07.550 Contest of election.

A. Any candidate or any ten qualified voters may contest the election of any person and the approval or rejection of any question or proposition.

B. A candidate or elector who believes that prohibited practices occurred at an election will appear before the council at the special council meeting held on the first Monday following the election. He will deliver a sworn written notice of contest, which will state with particularity the provisions of the law which he believes were violated and the specific acts he believes to be misconduct. A notice shall read:

"NOTICE OF ELECTION CONTEST"

The undersigned believes that prohibited practices occurred at the election held on _____

The undersigned states that the following laws were violated:

The undersigned states that the above provisions of the law were violated in the

following manner:

Signature of Person Contesting

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

2.07.560 Recount expenses-Appeal.

A. The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election or the difference between the winning and a losing vote on the result contested is more than two percent.

B. No person may appeal or seek judicial review of a city election for any cause or reason unless the person is qualified to vote in the city, has exhausted his administrative remedies before the city council and has commenced, within ten days after the council has finally declared the election results, an action in the superior court in the city's judicial district. If no such action is commenced within the ten-day period, the election and election results shall be conclusive, final and valid in all respects.

2.07.570 Contest of election-Investigation.

The city council will order an investigation to be made by the city clerk and/or the mayor, if a notice of contest is received. Investigation proceedings will be public.

2.07.580 Ballot recount.

If only a recount of ballots is demanded, the election board where the error allegedly occurred shall recount the ballots.

2.07.590 Prohibited practices alleged.

When the contestant alleges prohibited practices the council will direct the city clerk to produce the original register books for the election.

2.07.600 Sustained charges-Recount.

If the charges alleged by the contestant are upheld, the canvassing committee will make a recount and report immediately to the council. The council will then certify the correct election returns as provided in WPMC 2.07.360.

2.07.610 Determination of tie votes.

If after a recount and appeal two or more candidates tie in having the highest number of votes for the same office, the mayor shall notify the candidates who are tied. The mayor shall notify the candidates of a reasonably suitable time and place to determine the successful candidate by lot. After the determination has been made by lot, the mayor shall so certify.

Sections:

- 2.08.010 Designated**
- 2.08.020 Adjustment procedure**
- 2.08.030 Appeals**

2.08.010 Designated.

A. The Whale Pass city council is the board of adjustment for the area within the city boundaries of Whale Pass, Alaska. Meetings of the board are held at the call of the mayor. The presiding officer or mayor may administer oaths and compel attendance of witnesses. Meetings and hearings of the board shall be open to the public and the board shall keep minutes of its proceedings as a public record.

B. The board of adjustment shall hear and decide:

1. Appeals regarding alleged errors in enforcement of zoning ordinances and building codes;
2. Appeals from the decisions of the planning commission on requests for conditional uses;
3. Appeals from the decisions of the planning commission on requests for variances from the terms of the zoning ordinance which are not contrary to the public interest, when a literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the same district.

C. A variance shall not be granted because of special conditions caused by actions of the persons seeking relief or for reasons of pecuniary hardship or inconvenience. A variance shall not be granted which will permit a land use in a district in which that use is prohibited.

2.08.020 Adjustment procedure.

An interested party, including but not limited to a city official, may file with the board of adjustment an appeal specifying his objections. Copies are filed with the administrative officer involved and with the city clerk within the time required by the zoning ordinance. The officer shall provide the board with all pertinent records, including his written decision. An appeal to the board stays enforcement proceedings unless the board or a court issues an enforcement order based on a certificate of imminent peril to life or property made by the enforcement officer.

2.08.030 Appeals.

Appeals from decisions of the board of adjustment shall be governed by AS 29.40.060.

Chapter 2.09
COMMITTEES, BOARDS AND COMMISSIONS

Sections:

- 2.09.010 Committees, boards and commissions-Regulations**
- 2.09.020 Members-Terms-Officers**
- 2.09.030 Appointment**
- 2.09.040 Compensation**
- 2.09.050 Vacancy**
- 2.09.060 Ex officio members**
- 2.09.070 Meetings**

- 2.09.080 Procedure**
- 2.09.090 Conflict of interest**
- 2.09.100 Quorum**
- 2.09.110 Executive session**
- 2.09.120 Reports and minutes**
- 2.09.130 Appeal**

2.09.010 Committees, boards and commissions-Regulations.

- A. Unless a specific provision provides otherwise in the ordinances of the city, a committee, board or commission of the city shall be governed by each of the following provisions set forth in this chapter.
- B. A committee, board or commission shall be established in the manner provided in this chapter.
- C. Committees, boards and commissions shall, unless otherwise provided, act in an advisory capacity to the mayor and council.

2.09.020 Members-Terms-Officers.

- A. The term for each member of a committee, board or commission shall be as set by the mayor or council in the committee's, board's, or commission's formation or as otherwise specified by ordinance.
- B. A member of a committee, board or commission shall be a resident of the city and a qualified city voter as defined in this code.
- C. A member of a committee, board or commission must keep current any accounts held with the City (i.e., utilities, lease payments, rents, sales tax, etc...). Any member whose accounts fall into delinquency for more than sixty (60) days may be removed from office by a majority vote of the council. City council will consider financial or other hardships.
- D. Any person declaring candidacy for a committee, board or commission shall not be considered until the persons accounts are made current. City Council will consider financial or other hardships.
- E. A committee, board or commission shall appoint one of its member's chairs, for a term to be fixed by the committee, board or commission. The committee, board or commission shall also appoint a vice chair to act in the absence of the chair, or if the chair is unable to act.

2.09.030 Appointment.

Each member of a committee, board or commission shall be appointed by the mayor, subject to approval of the council. The term of appointment to an ad hoc committee, board or commission shall be set by the mayor subject to approval of the council. The terms of initial appointment to a standing committee, board or commission shall be staggered so that, as nearly as possible, a pro rata number of members shall be appointed for each year during the regular term of office established for the members of the committee, board or commission. A member shall serve until the expiration of the member's term. The regular term of a member of a committee, board or commission shall commence on November 15th of the year of appointment and shall expire on November 14th of the year the member's term expires or until filled by the members successor.

2.09.040 Compensation.

Compensation and expenses of committees, boards or commissions are paid as directed by the city council.

2.09.050 Vacancy.

The office of a member of a committee, board or commission shall become vacant on the failure of a member:

1. To attend three consecutive regular and special meetings without excuse; or
2. To attend a majority of regular and special meetings during any calendar year without excuse.

A member intending to be absent at a regular or special meeting shall request to be excused in advance of the meeting from which the member will be absent.

2.09.060 Ex officio members.

The mayor shall be an ex officio member of any committee, board or commission. The mayor may appoint an employee of the city who shall be an ex officio member of a committee, board or commission for the purpose of acting as a secretary to the committee, board or commission or to furnish the committee, board or commission with technical advice and information. An ex officio member shall not be entitled to vote on any question to be determined by the committee, board or commission, nor shall such ex officio member be considered a member for the purpose of establishing a quorum of any committee, board or commission.

2.09.070 Meetings.

A committee, board or commission shall hold regular meetings at such time and place as may from time to time be designated by the committee, board or commission, but meetings need not be held if no business is pending. The chair of a committee, board or commission, or the city employee, who is an ex officio member of the committee, board or commission, may call a special meeting of the committee, board or commission. A notice showing the time, date and place of the committee, board or commission meeting shall be posted in City Hall and five other public places within the city at least five days before the meeting.

2.09.080 Procedure.

A committee, board or commission shall establish its own rules and order of business. An appeal or quasi-judicial committee, board or commission shall establish reasonable rules and regulations governing proceedings before the committee, board or commission. In all matters of procedure not covered by rules adopted by the committee, board or commission, Robert's Rules of Order shall be applicable and govern.

2.09.090 Conflict of interest.

- A. A member of the committee board or commission shall declare a substantial financial interest the member has in an official action and ask to be excused from a vote on the matter.
- B. The presiding officer shall rule on a request by a member of the governing body to be excused from a vote.
- C. The decision of the presiding officer on a request by a member of the governing body to be excused from a vote may be overridden by the majority vote of the governing body.
- D. A municipal employee or official, other than a member of the governing body, may not participate in an official action in which the employee or official has a substantial financial interest.

2.09.100 Quorum.

A majority of the voting members of a committee, board or commission shall be a quorum for the transaction of business. In the absence of a quorum for the transaction of business, any number less than a quorum may recess a meeting to a later time or date.

2.09.110 Executive session.

A committee, board, or commission may meet in executive session in the manner provided and for the reasons set forth in Alaska Statute 44.62.310.

2.09.120 Reports and minutes.

The committee, board or commission shall keep minutes of the committee, board or commission proceedings and such minutes shall record the vote of each member upon every question. The minutes shall immediately be filed in the office of the city clerk and shall be a public record open to inspection by any person. Each committee, board and commission shall prepare an annual report to be submitted to the mayor and council prior to July 31st summarizing the activities and business of the committee, board or commission during the preceding twelve-month period ending June 30th.

2.09.130 Appeal.

An action or decision of a committee, board or commission may be appealed to the council within ten days by filing with the mayor a written notice of appeal expressly setting forth the grounds of the appeal unless otherwise provided for by ordinance. The mayor shall place the appeal on the next council meeting agenda and the council may continue on the appeal hearing up to thirty days. After a hearing on the record, the council may, in whole or part, affirm, modify or deny any appeal.

Chapter 2.10 **DOCUMENTS**

Sections:

2.10.010 Documents-Approval-Attestation

2.10.020 Filing with state

2.10.030 Public records-Retention-Disposal

2.10.010 Documents-Approval-Attestation.

All legal documents transferring title to real property of the city or personal property having a value of more than two thousand dollars at the time of transfer require the assent of the city and shall be:

1. Approved by the city council;
2. Signed by the mayor on behalf of the city;
3. Attested to thereon by the city clerk.

2.10.020 Filing with state.

The city shall file with the State Department of Community and Regional Affairs:

1. Maps and descriptions of all annexed or excluded territory;

2. A copy of an audit or statement of annual income and expenditures;
3. Tax assessment figures as requested.

2.10.030 Public records-Retention-Disposal.

The City of Whale Pass adopts the State of Alaska Local Government Model General Administrative Records Retention Schedule #300.1 by reference.

Chapter 2.11 **CITY PROPERTY**

Sections:

- 2.11.010 Acquisition and ownership-Authority.**
- 2.11.020 Real property defined.**
- 2.11.030 Acquisition-Form.**
- 2.11.040 Eminent domain-Authority.**
- 2.11.050 Eminent domain-Adverse possession.**
- 2.11.060 Acquisition and ownership-Rights and powers.**
- 2.11.070 Acquisition-Dedication of plat.**
- 2.11.080 Industrial sites.**
- 2.11.090 Federal and state aid.**
- 2.11.100 Real property as security.**

2.10.010 Acquisition and ownership-Authority.

The city may acquire, own and hold real property within or outside the city boundaries by any lawful means or conveyance.

2.11.020 Real property defined.

As used in this chapter, "real property" includes any estate in land, tideland, submerged land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture or any other right, title or interest in land or a building.

2.11.030 Acquisition-Form.

A. The city may acquire, own and hold real property by warranty or quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract of sale of real property, plat dedication, lease, tax deed, will or any other lawful method or mode of conveyance or grant. Real property shall be held in the name of "The City of Whale Pass, Alaska." Any instrument requiring execution by the city shall be signed by the mayor and attested by the city clerk.

B. Only upon a specific resolution of the city council, may the mayor act on its behalf in the acquisition of real property or interest in real property when the property to be acquired is for a valuable consideration.

C. Prior to approval, the mayor is to furnish the council with an abstract of title, an appraisal or other estimate of the property value of the real property, or a review of any

problems in acquisition, but the failure to furnish the council with such material shall not affect the validity of any acquisition or purchase of real property by the city.

D. Unless otherwise provided by council, the city shall purchase marketable title in the 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.

2.11.040 Eminent domain-Authority

A municipality may, only within its boundaries, exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the municipality under the procedures set out in AS 09.55.250 through 09.55.460. In the case of a second class city, the exercise of power of eminent domain or declaration of taking must be by ordinance that is submitted to the voters at the next general election or at a special election called for the purpose. A majority of the votes on the question is required for approval of the ordinance.

2.11.050 Eminent domain-Adverse possession.

The city cannot be divested of title to real property by adverse possession.

2.11.060 Acquisition and ownership-Rights and powers.

The city shall have and may execute all rights and powers in the acquisition, ownership and holding of real property as if the city were a private person.

2.11.070 Acquisition-Dedication of 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 writing and signed by the mayor.

2.11.080 Industrial sites.

The city may acquire, own and hold real property, either inside or outside the city boundaries, for sites available for new industries or expanding industries which will potentially enhance the revenues of the city and its residents.

2.11.090 Federal and state aid.

The city may apply for, contract and do all things necessary to cooperate with the United States Government and the state of Alaska for the acquisition, holding, improvement or development of real property within and outside the city boundaries.

2.11.100 Real property as security.

The city council may pledge, mortgage or otherwise secure city real property for the payment of city bonded or other indebtedness when required, as authorized by law.

Chapter 2.12 **REAL PROPERTY SALES**

Sections:

- 2.12.010 Applicability**
- 2.12.020 Commencement**
- 2.12.030 Without warranty**
- 2.12.040 Appraisal required – Minimum price**
- 2.12.050 Disposal methods**
- 2.12.060 Disposals for public use**
- 2.12.070 Disposal procedures**

2.12.010 Applicability.

The provisions of this chapter shall constitute the formal procedures for the sale or other permanent disposal of real property or an interest in real property owned by the City of Whale Pass.

2.12.020 Commencement.

- A. The disposal process will commence upon, and be further governed and controlled by, a non-code ordinance consistent with the procedures set forth herein, and such other terms or conditions as the council may determine, identifying the particular land to be disposed of and the particular disposal method to be used.
- B. Lands may not be sold or otherwise permanently disposed of until the land has been classified or zoned and the council had determined (in a non-code ordinance) that the disposal and subsequent use of the land is in the city's best interest.
- C. Where a public hearing reveals that a particular upland or tideland disposal may have significant and wide spread public opposition, the council may, but is not required to do so, obtain approval of the disposal by the qualified voters of the city.

2.12.030 Without warranty.

Real property sold, traded, or exchanged shall be conveyed by the city without warranty; except in cases where a land trade with the federal government cannot proceed unless the city agrees to warrant title to the land being traded by the city, and any such warranty shall be supported by title insurance.

2.12.040 Appraisal required – Minimum price.

Except as otherwise provided in this chapter, the mayor or the mayor's designee may sell, exchange or otherwise dispose of real property, or an interest therein, only after appraisal of the fair market value thereof by a qualified appraiser obtained by the city and conducted within thirty-six (36) months before the date of the sale, or the use of a comparable property appraisal or sale within the last thirty-six (36) months may be used to determine the value of the property as determined by a vote of the city council. The price shall be as directed by the city council. If the Council determines that an appraisal is not feasible or will delay the acquisition of the property, and the council determines it otherwise has sufficient information to complete the transaction as in the best interests of the City, the Council may complete the transaction without an appraisal from a qualified appraiser.

2.12.050 Disposal methods.

- A. Methods. Land may be disposed of by sealed competitive bid, auction, over-the-counter offerings of unsold remnants of equal value, exchange, negotiated sale, or such other lawful methods as the council may approve by non-code ordinance for the specific

disposal.

B. Negotiated Sales and Exchanges. Upon authorization by the council by non-code ordinance, the Mayor or City Administrator may commence negotiations for the sale or exchange or other disposal of city land. The final terms of a negotiated disposal are subject to approval by the council unless the minimum essential terms and the authority of the mayor to execute the disposal are set forth in the ordinance authorizing negotiations. The negotiated disposal may not be executed until the effective date of the ordinance.

C. Competitive bidding not required. The mayor or the mayor's designee, after council approval by non-code, non-emergency ordinance, may sell exchange or otherwise dispose of the following real property or an interest therein, without giving an opportunity for competitive bidding.

1. Real property, or an interest therein, to be exchanged for other real property, or an interest therein, which is determined by an appraisal prepared by a qualified appraiser obtained by the city to be at least equal in value to the city owned property or the interest therein that is to be exchanged, or appraisal or sale of a comparable parcel within the last thirty-six (36) months and approved by the city council, or if the city's property is determined to be greater in value, if the difference is made up in cash or additional property of equivalent value. The equal-value requirement is not mandatory in transactions with other government entities. The person receiving the city owned property or interest to be exchanged shall pay the cost of the appraisal, plus survey, platting, recording and all other costs to the city attendant to the transaction; except where the exchange is with a governmental entity whose rules prohibit such payment.

2. Sale, lease, donation, exchange or other transfer of real property, or an interest therein, to or with another municipality, a state, or the United States, when and under such terms and conditions as the council, in its sole judgment, deems advantageous to the city.

3. Parcels of real property that are adjacent to an existing parcel or that are substandard in size may be disposed of by sale or exchange to the legal owner of adjoining property, with such adjoining parcel to be then re-platted to incorporate therein such parcel sold or exchanged. That the sale price or exchange value shall be at least equal to the fair market value of the city-owned or interest therein transferred which may be determined by using the current assessed value of the property, or appraisal of a comparable parcel within the last thirty-six (36) months and approved by the city council.

4. Easements may be released to the legal owner of the servient property when and under such terms and conditions as the council, in its sole judgment, deems advantageous to and in the best interest of the city.

2.12.060 Disposals for public use.

A. Disposal to Governmental Agency. The sale or disposal of land may be made to a state or federal agency for less than the appraised value, provided the council approves the terms and conditions of such disposal by ordinance.

B. Disposal to nongovernmental agency. The sale, lease or disposal of city land may be made to a private, nonprofit corporation at less than fair market value, provided the disposal is approved by the council by ordinance adopted after fourteen days public notice and the land or interest in land is to be used solely for the purpose of providing a service to the public which is supplemental to a governmental service or is in lieu of a service, which could reasonably be provided by the state or the city.

2.12.070 Disposal procedures.

A. Conduct of Sale. The mayor or his designee shall conduct sales in accordance with the ordinance approved by the council for a specific sale. The Mayor or his designee

shall prescribe the procedures for the conduct of the sale to the extent not provided by this chapter or otherwise prescribed by the council for a specific sale.

B. Advertisement for any parcels requiring competitive bidding.

1. The city shall publish notice in a newspaper of general circulation once per week for two weeks and the notice in at least three public places within the city at least thirty days prior to the sale date. The notice shall contain a general description of the types and locations of the parcels available, the terms and conditions of purchase, the last day upon which a person may register for the sale, the date, time and place of any sale activities, and the name, address and telephone number of the person or office to contact for sale or registration forms and further information.

2. Public notice as set forth above shall be required prior to all sales or other permanent disposals.

C. Qualifications. To qualify to purchase city lands, an individual must be eighteen years of age or older; a corporation must be registered to do business in the state. No person, corporation or other entity may register or bid if they have failed to remedy a default on a prior sale or lease of city real property, or if they have failed to pay in full the amount of any judgment obtained against them by the city from a court of law, or are delinquent on any accounts owed to the City.

D. Conditions of Sale.

1. The buyer shall pay all closing costs, including fees for preparation of documents, escrow fees and recording fees.

2. The city reserves the right to require, in the event the buyer desires to remove or cause to be removed, merchantable timber, sand or gravel, or other materials, that prior to commencement of such activity, the entire remaining principal and accumulated interest, or any unpaid portion of the purchase price, be paid in full to the city and the buyer enter an agreement to defend and indemnify the City for any and all actions taken by the buyer.

3. The city council shall consider placing restrictive covenants, reversionary clauses, performance bond requirements, or other similar restrictions in the deeds, or require the submission of a development plan when deemed reasonably necessary to protect the public health and welfare or to uphold the city's ordinances, or other officially adopted land use plans.

E. Subsequent Transfers. Any subsequent transfer or sale of the property by the buyer prior to full payment therefore shall require the prior written approval of the city, followed by the transferee's personal guarantee for and assumption of any remaining balance on the original buyer's promissory note and the original buyer's deed of trust to the city. The city may withhold approval based on lack of credit worthiness of the proposed transferee or other commercially reasonable grounds, in which case the sale or transfer shall not be made unless the entire remaining balance due the city is paid in full either prior to or as part of the buyer's sale transaction. The City will not approve a transfer to an LLC without all the members of an LLC signing an agreement to personally guarantee the remaining balance on the promissory note to the City.

Chapter 2.13 **LEASE OF CITY OWNED REAL PROPERTY**

Section:

2.13.010 Lands available for leasing – classification of lands

2.13.020 Levels of approval required

2.13.030 Minimum rent

2.13.040 Term of leases

2.13.050 Public Notice

- 2.13.060 Negotiated or competitive leasing**
- 2.13.070 Applications, fees, terms, payment**
- 2.13.080 Competitive bidding -- Appeals**
- 2.13.090 Negotiated leases**
- 2.13.100 Rights prior to leasing**
- 2.13.110 Terms and conditions of leases**

2.13.010 Lands available for leasing-classification of lands.

- A. All lands and interest in land owned by the city, including tide and submerged lands, may be leased or rented as hereinafter provided. Whale Pass Harbor Facilities, Parking and other service rented by the day, week, month or year are regulated in other sections of the Whale Pass Municipal Code.
- B. Before accepting applications to lease lands, the city shall have zoned by ordinance or otherwise classified the lands in question for leasing and for particular land uses. No lease shall be granted except for the particular uses for which the tract is zoned or classified. The classification of a tract of leased land may be changed by ordinance after consideration by the City.
- C. No city-owned property shall be leased or otherwise developed prior to the assignment of a particular zone or the repeal of the reserved use classification.
- D. Long Term Lease. A long term lease herein referred to as "Lease" may not exceed 30 years. A renewal option exercisable at the discretion of the lessee with approval of the city council may extend a long term lease, for an additional periods of time, not to exceed 30 years. Long term leases are subject to terms set forth in Article III.
- E. Short Term Lease. A short term lease herein referred to as "Rental Agreement" may not exceed 5 years. A renewal option exercisable at the discretion of the lessee with approval of the city council may extend a short term lease for additional periods of time not to exceed 5 years. The City may in its discretion require amendments or revisions to the lease as a condition of approval for extension. Short term leases are subject to the specific short term lease terms set forth in Article III.

2.13.020 Levels of approval required.

- A. Except as provided in subsection B and C, leases of city-owned property shall be authorized by non-code ordinance.
- B. Leases valued at ten thousand dollars or less and for a lease term (including the lessee's rights of renewal) of 5 years or less, and involving two acres or less, may be authorized by the council by resolution.
- C. All short term leases or rental agreements may be authorized by the city council.

2.13.030 Minimum rent.

- A. Rent for short term leases and lands leased for public use, shall be derived through negotiations with the City based on the best interest of the city. All monthly or annual rents or lease payments shall be reviewed and adjusted, at a minimum, every five (5) years unless provisions provide for automatic adjustments to the rent or lease payments.
- B. Public Use. City lands may be leased or rented to any state or federal agency or political subdivision of the state or to a nonprofit organization and for a consideration determined by the council to be in the best interest of the city.
- C. Appraisal. With the exception of the public uses described in paragraph B of this section, the city council may determine it is in the best interest of the City, that prior to leasing of land, or renewal of a lease that the land be appraised according to Municipal Code, but the council is not required to obtain an appraisal.
- D. Short Term Leases. With the exception of the public uses described in paragraph B of

this section, all lands leased through a short term lease “rental agreement”, or a renewal lease issued therefore, shall be negotiated by the city and approved by the city council.

2.13.040 Term of leases.

A. Any Long Term Lease will be negotiated between the applicant and the city and be for a term not to exceed 30 years with the option of renewal, in the sole discretion of the city, for a period not to exceed 30 year increments and with such revisions and amendments as deemed by the city in the best interest of the city. The applicant shall state in the application the term desired. In determining whether to grant a lease for the requested term, the council shall consider the nature, extent and cost of the improvements which the applicant agrees as a condition of the lease to construct and the value of ~~the~~ other relevant factors. The term of any given lease shall depend upon the desirability of the proposed use, the amount of investment and improvements proposed to be made by the lessee, and the nature of the improvements proposed with respect to the durability and time required to amortize the proposed investment. A renewal option exercisable at the discretion of the lessee, with approval of the council, shall be considered in determining the term of the lease for purposes of this subsection.

B. Any Short Term Lease will be negotiated between the applicant and the city and be for a term not to exceed 5 years with the option of renewal in the sole discretion of the city, for periods not to exceed 5 years and with such revisions and amendments as deemed by the city in the best interests of the city. The applicant shall state in the application the term desired. In determining whether to grant an agreement for the requested term, the council shall consider the nature, extent and cost of the improvements which the applicant agrees as a condition of the rent to construct and the value of other relevant factors. The term of any given rental agreement shall depend upon the desirability of the proposed use, the amount of investment and improvements proposed to be made by the renter, and the nature of the improvements proposed with respect to the durability and time required to amortize the proposed investment. A renewal option exercisable at the discretion of the lessee with approval of the council, shall be considered in determining the term of the rental agreement for purposes of this subsection.

2.13.050 Public Notice.

A Thirty day notice shall be given by posting notice thereof in three public places and by publication in a newspaper of general circulation *twice*. The notice must contain the name of the applicant, a brief description of the land, its area and general location, proposed use, term, computed annual minimum rent, limitations if any, a declaration stating the particular method of disposal to be used and the time and place set for a hearing on the proposed lease.

2.13.060 Leasing Land - Negotiated or competitive

A. Negotiated leasing may be conducted with a single prospective lessee or renter through the use of resolution.

B. Competitive leasing may be conducted if determined by the City, though a non-code ordinance and competitive bidding requirements.

2.13.070 Applications, fees, terms, and payments for competitive bidding.

Unless otherwise provided by the council in the ordinance or resolution authorizing the lease of specific lands, the following procedures shall be followed for competitive bidding:

1. Qualifications of applicants or bidders. An applicant or bidder for a lease is qualified if the applicant or bidder:

- (a.) Is eighteen years of age or over;
- (b.) Is a group, association, partnership or corporation which is authorized to conduct business in the State of Alaska; or
- (c.) Is acting as an agent for another meeting one of the above criteria, and has qualified by filing with the administrator or his designee, prior to the time set for the disposition, a power of attorney or a letter of authorization creating such agency. The agent shall represent only one principal, to the exclusion of himself.

2. Applications for lease. All applications for lease of lands shall be filed with the City Clerk on forms provided by the city. Only forms completed in full and accompanied by a one hundred dollar (\$100.00) nonrefundable filing fee will be required for filing. Applications that qualify as a public use as defined in 2.110.210 (B) may be exempted from the filing fee. With every application the applicant shall submit a development plan showing and stating:

- (a.) The purpose of the proposed lease;
- (b.) The use, value and nature of improvements to be constructed;
- (c.) The type of construction;
- (d.) Dates construction is estimated to commence and be completed; and
- (e.) Whether the intended use complies with the zoning and the Whale

Pass land use code.

3. Deposits for Cost. All applications filed with the city clerk will be forwarded to the administrator to determine estimated costs required to handle the application, including, but not limited to one or more of the following: survey, appraisal, and advertising of the proposed lease of the area under application. Upon determination of the estimated costs, the administrator shall notify the applicant in writing of such costs, and a deposit must be made within thirty calendar days after the notice is mailed. Failure of the applicant to pay the deposit shall result in the application being cancelled. If the applicant does not accept a lease within thirty-calendar days after it is offered to the applicant, all deposit money spent or encumbered for survey, appraisal or advertising shall be forfeited, and the balance, if any, shall be returned to the applicant. If the land applied for is leased to another, the latter shall be required to pay actual costs of survey, appraisal and advertising, and the original deposit shall be returned to the depositor. The lessee shall be required to pay any excess of costs over deposits, and where the deposit exceeds actual costs, the excess shall be credited to present or future rents under the lease. All survey, appraisal and advertising shall be performed only under the control of the city, and any such work done without such control will not be accepted by the city. Those applications defined as a public use in 2.110.210 may be exempted from the requirements of this subsection.

2.13.080 Competitive bidding -- Appeals.

A. Where competitive bidding is used, the city may either require written sealed bids stating the annual rental amount offered, or hold an auction on the rent amount. Only applicants who have completed the application requirements to the city's satisfaction (including submittal of a development plan and the deposits for cost) shall be qualified to bid. The City may base its award of lease on a combination of factors (including the development plan and the extent to which the proposed project will meet community needs) rather than solely upon rental amount bid. The city reserves the right to reject all bids and return the deposits to the applicants.

B. Appeal. In cases involving competitive bidding, an aggrieved bidder may appeal the determination of the winning bid to the council with five days (excluding Saturday and Sunday) following such determination. Such appeals must be in writing, signed and notarized and contain a complete statement of the grounds for appeal. The council shall

within thirty days after receipt of a timely appeal review the asserted grounds for appeal and rule on the appeal. The council's decision shall be final.

C. Lease to Successful Bidder. Following the appeal period or the council's ruling, the city administrator shall notify the successful bidder that the city is prepared to issue the lease. The bidder shall be given thirty calendar days from date of mailing the notice in which to remit to the city ~~clerk~~ any bid balance. Failure to do so shall result in forfeiture of any and all rights previously acquired in the proposed lease, and in addition, any monies paid or deposited with the city shall be forfeited.

D. Issuance of Lease. After expiration of the appeal period, or after the ruling on the appeal to the council, the administrator shall cause a lease to be issued and executed containing such terms as the council shall have established.

2.13.090 Negotiated leases.

The city mayor or his designee may commence negotiations with a single prospective lessee for the lease of city land. The final terms of a negotiated lease are subject to approval by the council through a resolution for short term lease and non-code ordinance for a long term lease. The negotiated lease may not be executed until the effective date of the ordinance or resolution.

2.13.100 Rights prior to leasing.

A. The filing of an application for a short or long term lease shall give the applicant no right to a lease nor to the use of the land applied for.

B. Any use of city-owned property not authorized by a short or long term lease shall constitute a trespass against the city.

2.13.110 Terms and conditions of leases.

In addition to other applicable provisions of this code, the terms, conditions and covenants following as subsections A. through V. of this section shall govern all long term leases and may govern short term leases (rental agreements) made under the provisions of this chapter and shall be as a matter of law incorporated in all such leases of land made, or issued by the city unless the council by resolution provides otherwise as to a specific lease, and are incorporated as though set out in full in the lease. Each lease shall contain such additional provisions as the council deems necessary to protect the public interest. Violation by the lessee of any duty of lessee's contained in subsections A through V shall be grounds for the city's termination of the lease, if, following written notice to lessee of lessee's breach, lessee has not in thirty days entirely remedied the breach to the city's satisfaction. All long term and short term leases shall be reviewed every five years throughout the life of all leases. Additions, modifications, adjustments or changes may be made to all leases at the time of review.

A. Lease Utilization. Leased lands shall be utilized only for purposes within the scope of the applicable land use classification or zoning and the terms of the lease, and in conformity with the ordinances of the city, Federal and State Laws and Regulations. Utilization or development for other than the allowed uses shall constitute a violation of the lease and subject the lease to termination or cancellation by the city at any time.

B. Adjustment of Rent for long term or short term leases. The annual rent payable pursuant to any lease becomes subject to adjustment by the council on the fifth anniversary of the date of the lease and at each five year interval thereafter unless specified otherwise in the lease. The process upon which rents may be adjusted by the City Council will be determined prior to finalizing any lease.

C. Subleasing. The lessee may sublease lands or any part thereof leased to him hereunder, provided that the lessee obtains the approval of the council to such sublease.

Leases not having improvements thereon shall not be sublet. Subleases shall be in writing, and subject to the terms and conditions of the original lease and such further terms and conditions, as the council may deem proper including adjustments to rents and conditions. A copy of the sublease shall be filed with the city administrator.

D. Assignments. The lessee shall not assign the lease without prior approval of the city council, which may impose terms and conditions on the assignment. The assignee shall be subject to all of the provisions of the original lease, and the assignor shall not be relieved of his obligations there under. A copy of any assignment shall be filed with the city administrator. The city council will not approve an assignment to an LLC unless all the members of the LLC sign a personal guarantee for performance of the lease terms and conditions.

E. Modification. Any modification or amendment of a lease shall be in writing, signed by both the city and the lessee. Modification of any lease does not require authorization by ordinance or resolution where the lease was negotiated with a single prospective lessee.

F. Cancellation and Forfeiture.

1. Leases in good standing may be cancelled in whole, or in part, at any time, upon mutual written agreement by lessee and the council. Any lease may, at the council's option, include a term providing that the lease may be terminated by the lessee upon ninety days' notice in writing to the city before the end of an annual rental period unless stated otherwise in the lease.

2. If the lessee defaults in the performance or observance of any of the lease terms, covenants or stipulations, or any applicable term of this chapter, or any portion of the city code as applied to the property in question, the lessee is automatically in default on the lease by operation of law. Incurring debt with the City shall not constitute a default. If such default continues for thirty calendar days after service upon lessee of written notice of default by the city without remedy of lessee of the default, the council shall take such action as is necessary to protect the rights and best interests of the city, including the exercise of any or all rights after default permitted by the lease. Lessee shall not remove any improvements during the time the lessee is in default.

3. The city may terminate or cancel the lease if the land is used for any unlawful purpose.

4. Failure to make substantial use of the land, consistent with the proposed use, within one year shall with the approval of the council constitute grounds for termination or cancellation. This time period may be extended by the council by resolution or by council authorization to the administrator.

G. Site contamination Prohibited-Environmental Compliance Required.

1. Any violation, at the site of the leased land, by lessee, or by a third party present upon the land with lessee's permission, of an environmental statute or regulation of the city, state or federal governments shall be grounds for immediate termination of the lease by the city, at the city's sole discretion. By entering into the lease, the lessee agrees not to make any claim for monetary damages against the city for lease termination or cancellation pursuant to this subsection.

2. The lessee shall at all times manage lessee's activities upon the leased lands, and the activities of third parties present with lessee's permission, so as to positively prevent any and all contamination of the site which would violate any Federal or State statute or regulation, which could subject the city to an enforcement action or any administrative proceeding by a state or federal agency, or which could subject the city to statutory or common law liability, diminish the value of the land, or cause city expenditures for response costs or remediation costs caused by a hazardous substances release, discharge, or spill. The City shall have the right to inspect or otherwise enter on to the leased premises during the term of the lease to assure lessee's compliance with federal and State Environmental Laws and Regulations.

3. By entering into the lease, the lessee agrees to defend and indemnify the city

from and against any and all claims of any kind and any nature, including death, by third parties (including governmental entities and industry pollution-based claims) brought against city arising out of or relating to in any way the use of the leased premises by the lessee or anyone on the leased premises by invitation or authorization of the lessee. This obligation to defend and indemnify the City shall extend beyond the term of the lease to any claim or action occurring during the term of the lease.

4. By entering into the lease, the lessee agrees to reimburse the city for any and all expenses reasonably incurred by the city (including any response, remediation or site cleanup costs) because of activities on the land during the period of lessee's lease, including the City's attorney's fees.

H. Rights of Mortgagee or Lien holder. In the event of cancellation or forfeiture of a lease for cause, the holder of a properly recorded mortgage of the improvements on the land shall be given a duplicate copy of any notice of default in the same manner as notice is given the lessee, provided such mortgagee has given the city clerk notice of such mortgage and the mortgagee's address.

I. Payment of Annual Rentals. Unless otherwise provided by the council by ordinance or resolution, all rent and lease payments shall be due and payable on the first of the month. Payments not made by the 10th of the month shall be considered delinquent.

J. Entry and Re-entry. In the event the lease is terminated, or in the event that the demised lands, or any part thereof, are abandoned by the lessee during the term, The city or its agent or representative may, immediately or any time thereafter, reenter and resume possession of such lands or such part thereof, and remove all persons and property there from either by summary proceedings or by a suitable action or proceeding at law without being liable for any damages therefore. No reentry by the city shall be deemed an acceptance of a surrender of the lease.

K. Re-Lease. In the event that a lease is terminated, the city council may offer the lands for lease or other appropriate disposal pursuant to the provisions of this Chapter.

L. Forfeiture of Rental. In the event that the lessee terminates the lease because of any breach, the rental payment last made by the lessee shall be forfeited and retained by the city.

M. Written Waiver. The receipt of rent by the city with knowledge of any breach of the lease by the lessee, or of any default on the part of the lessee in observance or performance of any of the conditions or covenants of the lease, shall not be deemed to be a waiver of any provision of the lease. No failure on the part of the city to enforce any covenant or provision of the lease, nor any waiver of any right thereunder by the city unless in writing, shall discharge or invalidate such covenants or provisions or affect the right of the city to enforce the same in the event of any subsequent breach or default. The receipt by the city of any other sum of money after the termination in any manner, of the term demised, or after the giving by the city of any notice thereunder to effect such termination, shall not reinstate, continue or extend the resultant term therein demised, or destroy, or in any manner impair the efficiency of any such notice or termination as may have been given thereunder by the city to the lessee prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by the city administrator.

N. Expiration of Lease. Unless the lease is renewed or sooner terminated, as provided herein, the lessee shall peaceably and quietly leave, surrender and yield up unto the Lessor all of the leased land on the last day of the term of the lease.

O. Renewal of Lease.

1. Upon the expiration of the term of any lease, or the cancellation of a lease by mutual consent of all parties, thereto, the council may grant a new lease to the lessee or his assignee who owns valuable improvements thereon, *provided*:

(a.) The lessee or his assignee makes written application at least ninety days prior to such termination;

(b.) The lessee is not in default under the lease;

(c.) The use to which the land is to be put is compatible with the current use classification (or with such new classification as the council may adopt effective at the end of the current lease term) or with the applicable zoning provisions;

(d.) The lessee's improvements on the leased land are in compliance with applicable building codes, fire and safety codes;

(e.) The lessee has complied with all requirements of the lease, particularly including the provisions of subsection G of this section, and there are no outstanding and unresolved environmental enforcement actions or proceedings or notice of violation pertaining to the leased premises;

(f.) The lessee is current in all monetary obligations to the city, including property taxes, sales taxes, utility bills, and rents for any other lands leased from the city; and

(g.) Mutually agreeable terms, consistent with the provisions of this chapter governing lease terms, are negotiated by the city and the prospective lessee.

2. Such lease shall be for an annual rent equal to the value of the land which is then being charged for new leases or a consideration is determined by the council to be in the best interest of the city, and shall be subject to adjustment on every fifth anniversary.

3. Any renewal preference granted the lessee is a privilege, and is neither a right nor bargained for consideration.

P. Removal or Reversion of Improvements upon Termination of Lease. Improvements owned by a lessee may within thirty calendar days after the termination of the lease be removed by the lessee, provided, such removal will not cause injury or damage to the lands or improvements of the City; and further provided that the city council may extend the time for removing such improvements in cases where actual hardship is Established to the satisfaction of the City Council. All periods of time granted the lessee to remove improvements, are subject to the lessee paying to the city pro rata lease rentals for such periods. If any improvements and/or personal property are not removed within the time allowed, such improvements and/or personal property shall revert to, and absolute title shall vest in, the city, without further notice to the lessee.

Q. Inspection. The lessee shall allow an authorized representative of the city to enter the leased land at any reasonable time for the purposes of inspecting the land and improvements thereon. Upon the city's request, the lessee shall permit an authorized representative of the Alaska Department of Environmental Conservation (ADEC) to make an environmental audit of the leased premises. Notwithstanding any confidentiality provisions in federal or state law, by entering into the lease, the lessee agrees that the results of any environmental audit of the premises made by or at the order of any state or federal agency shall be made available to the city as land owner.

R. Use of Material. All coal, oil, gas and other minerals, and all deposits of stone, earth or gravel valuable for extraction or utilization, are reserved by the city and shall not be removed from the land except with written permission of the council. The lessee shall not sell or remove for use elsewhere any timber, stone, gravel, peat moss, topsoil, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the leasehold may be used, if its use is first approved by the council in writing.

S. Rights-of-way. The lessor expressly reserves the right to grant easements or right-of-way across leased land if it is determined in the best interest of the city to do so. If the lessor grants an easement or right-of-way across any of the leased land, the lessee shall be entitled to damages for all lessee-owned improvements destroyed or damaged. Damages shall be limited to improvements only and loss shall be determined by fair market value. Annual rentals may be adjusted to compensate the lessee for the loss of uses.

T. Warranty. The city does not warrant by its zoning, classification or leasing of land that the land is ideally suited for the use authorized under the zoning, classification or lease, and no guaranty is given or implied that it will be profitable to employ the land for any use.

U. Notice or Demand. Any notice or demand, which under the terms of a lease or under any statute must be given or made by the parties shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address of record. However, either party may designate in writing such new or other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed delivered when deposited in the U.S. mails enclosed in a registered or certified mail prepaid envelope addressed as herein provided. Email shall not constitute proper notice under this section.

V. Additional Lease Terms. Any lease shall contain such additional limitations, reservations, requirements or special conditions as the council may determine to protect the city's interest, including (without limitation) requirements:

1. for improvements of a specified kind and value to be constructed or located on the land by the lessee within a specified time period,
2. for the lessee to complete the improvements set forth in the development plan submitted with the lease application within a specified time period, or
3. requirements that the lessee defend and indemnify the city against the third party claims for personal injury or property damage arising from lessee's occupancy of or use of the land, and provide liability insurance in an amount determined by the city and requiring that the city be named as an additional insured.

Chapter 2.14

DISPOSITION OF CITY OWNED PERSONAL PROPERTY

Sections:

2.14.010 Value schedule for disposal of personal property.

2.14.020 Competitive bidding not required for sale of surplus or obsolete goods.

2.14.030 Surplus stock or obsolete supplies, materials or equipment.

2.14.040 Declaration of obsolescence.

2.14.010 Value schedule for disposal of personal property.

A. Personal property, other than surplus stock, valued at less than five thousand dollars may be disposed of upon such notice and terms considered reasonable by the mayor, taking 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.

B. Personal property valued at more than five thousand dollars but less than ten thousand dollars may be disposed of upon such notice and terms considered reasonable by the mayor and approved by the city council by resolution, taking into consideration the value of the article, the reason for disposal, and the general preference of disposal by competitive bid.

C. Personal property valued at more than ten thousand dollars, but less than one hundred fifty thousand dollars shall be disposed of in the manner provided for land under one hundred fifty thousand dollars as required in subsection C of Section 2.12.050.

D. Personal property valued at more than one hundred fifty thousand dollars shall be disposed of in the manner provided for land over one hundred fifty thousand dollars as required in subsection B of Section 2.12.050.

2.14.020 Competitive bidding not required for sale of surplus or obsolete goods.

The mayor may sell the following without giving an opportunity for competitive bidding:

1. Surplus Stock or obsolete supplies, materials or equipment whose total value

does not exceed five thousand dollars in a single transaction.

2. Supplies, materials or equipment when sold at a price at least as great as that paid by the city for the same.

2.14.030 Surplus stock or obsolete supplies, materials or equipment.

A. All city departments shall submit to the mayor or the mayor's designee at such times and in such form as the mayor shall prescribe, reports showing stocks of all supplies, materials or equipment that are no longer used or that have become obsolete, worn out or scrapped.

B. The mayor or the mayor's designee shall have the authority to transfer surplus stock from one city department to another and provide for proper fiscal transfer of such.

C. The mayor or the mayor's designee, with the approval of the city council by resolution shall have the authority to sell all surplus stock or obsolete supplies, materials or equipment valued at over five thousand dollars in a single transaction, that have become unsuitable for public use, or to exchange the same for or trade-in the same on any new stock, supplies, materials or equipment.

1. Sales of surplus stock or obsolete supplies, materials or equipment valued at over five thousand dollars under this section shall be made to the highest responsible bidder.

2. The mayor or the mayor's designee shall conduct the sale and issue the certificates of sale to the purchaser of surplus stock or obsolete supplies, materials or equipment.

2.14.040 Declaration of obsolescence.

No surplus stock or obsolete supplies, materials or equipment having a value of more than five thousand dollars may be sold until the city council by resolution shall have declared them obsolete or surplus.

Chapter 2.15 **SALE OF NATURAL RESOURCES**

Sections:

2.15.010 Power to dispose of natural resources

2.15.020 Natural resources defined

2.15.030 Sale or disposal-Form

2.15.040 Sale of disposal-Rights and powers

2.15.050 Natural resource exchanges

2.15.060 Public sale-When required

2.15.070 Public sale procedures

2.15.080 Minimum acceptable offer

2.15.090 Conditions of sale

2.15.010 Power to dispose of natural resources.

Except as provided herein, the city may sell, convey, exchange, transfer, donate, dedicate, direct or assign to use, or otherwise dispose of city-owned natural resources by any

lawful means of conveyance.

2.15.020 Natural resources defined.

As used in this chapter, "natural resources" includes any timber, rock, minerals, water, or other materials created by natural causes. "Natural resources" also includes trees or plants planted by man.

2.15.030 Sale or disposal-Form.

The city may sell or dispose of natural resources by any lawful means. Any instrument requiring execution by the city shall be signed by the mayor or the mayor's designee and attested by the city clerk.

2.15.040 Sale or disposal-Rights and powers.

Except as provided herein, the city shall have and may exercise all rights and powers in the sale and disposal of natural resources as if the city were a private person. The city may sell or dispose of any natural resource, including natural resources acquired or held for or devoted to a public use, when in the judgment of the city council it is no longer required for city purposes.

2.15.050 Natural resource exchanges.

The city council by resolution may approve the conveyance and exchange of natural resources, exceeding five thousand dollars, for equivalent natural resources, or for goods and services subject to such conditions as the council may impose on the conveyance or exchange, whenever, in the judgment of the city council, it is advantageous to the city to make the natural resource exchange.

2.15.060 Public sale-When required.

Unless otherwise provided in this chapter, natural resources no longer used or useful for a public use or purpose, exceeding five thousand dollars, shall be sold to the highest responsible bidder at a public sale.

2.15.070 Public sale procedures.

Natural resources of the city, except as otherwise provided in this chapter, shall be sold or otherwise disposed of as follows:

1. The city council shall make a determination that the natural resource exceeding five thousand dollars is no longer used or useful for a public use or purpose and shall recommend that the natural resource be sold.

2. An estimated value of the natural resource shall be made using the best available information to determine current market value.

3. After the estimated value of the natural resource has been determined, the city council may by resolution direct the sale of such natural resource under such terms and conditions as is required, including the minimum offered sales price.

4. Notice of disposition and the manner in which the natural resource is to be disposed of shall be published in a newspaper of general circulation within the city once each week for two successive weeks not less than thirty days prior to the date set for the public sale.

5. Notice shall also be posted in at least three public places within the city for at least thirty days prior to the date set for the public sale.

6. The notice must contain a brief description of the natural resource, its location, terms and conditions of sale, minimum offered sales price, and the time and place set for auction or bid opening.

2.15.080 Minimum acceptable offer.

If there are no acceptable offers, the mayor, or the mayor's designee may negotiate for the sale of natural resources but the city council must, by resolution, approve the terms, price, and conditions of any such negotiated sale, exceeding five thousand dollars, before such sale shall be binding upon the city.

2.15.090 Conditions of sale.

The city council, in the resolution authorizing the sale of natural resources exceeding five thousand dollars, shall set forth the terms and conditions of the public sale. The council reserves the right to reject any and all bids received at the public sale, if the highest bid is below the minimum offered sales price plus the cost of sale or is not made by a responsible bidder. The resolution shall provide if the sale is for cash, or cash deposit and purchase agreement. The city council shall approve any purchase agreement prior to its execution by the city. The approval of any public sale by the council authorizes the mayor or the mayor designee to take all steps and execute all instruments to complete and close the sale. The mayor, or the mayor's designee, shall conduct the sale, and shall give to the buyer a receipt for all moneys received by the city. A purchaser at a public sale who fails to make such other cash payments within the times required by the resolution shall forfeit any cash deposit paid to the city.

TITLE 3
FINANCE AND REVENUE

Chapter 3.01
FISCAL POLICIES

Sections:

- 3.01.010 Budget**
- 3.01.020 City obligations**
- 3.01.030 Fiscal year**
- 3.01.040 Funds designated**
- 3.01.050 Audit of city government accounts**

3.01.010 Budget.

- A. The mayor shall arrange for the preparation of a budget. The budget shall be submitted as an ordinance.
- B. After public hearing, the council may approve budgets with or without amendments and shall appropriate the funds required.

3.01.020 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.
- B. The council may make supplemental and emergency appropriations. No payment may be authorized or made and no obligation incurred unless an appropriation has been made by ordinance.
- C. The council may authorize contracts for construction improvements to be financed wholly or partly by the issuance of bonds.

3.01.030 Fiscal year.

The fiscal year of the municipality shall begin on the first day of July and end on the last day of June in the calendar year.

3.01.040 Funds designated.

Funds designated for the city:

1. General fund;
2. Federal revenue sharing fund;
3. State revenue sharing fund;
4. Capital improvement project fund;
5. Debt retirement fund;
6. Enterprise fund;

7. Other funds which may be created as needed by resolution of the city council.

3.01.050 Annual Financial Statement.

A. The treasurer shall prepare and submit for review and approval of the council an annual financial statement on or before the end of the month following the end of the fiscal year. The statement shall contain the same basic information and accounts as the city treasurer's monthly financial statement.

B. City council shall periodically arrange for an audit conducted by a certified public accountant, licensed to practice in the State of Alaska, who has no personal interest, direct or indirect, in the fiscal affairs of the city or any of its departments, not less than once every five (5) years.

Chapter 3.02
BUDGET

Sections:

3.02.010 Scope of budget

3.02.020 Anticipated revenues-Designated

3.02.030 Anticipated revenues-Comparison to previous years

3.02.040 Proposed expenditures-Designated

3.02.050 Proposed expenditures-Comparison to previous years

3.02.060 Budget summary

3.02.070 Budget to be public record

3.02.080 Public hearing-Notice

3.02.090 Public hearing-Required

3.02.100 Amendment restrictions

3.02.110 Adoption-Vote required

3.02.120 Effective date-Certification

3.02.010 Scope of budget.

A. The budget shall be a complete financial plan for all the operations of the municipality, showing dollar reserves, anticipated revenues, and proposed expenditures.

B. The budget shall include a comparative statement of projected actual expenditures and projected actual revenues for the preceding year and the budgeted current fiscal year.

C. Proposed operating expenditures shall not exceed total anticipated revenues. Capital expenditures shall not exceed anticipated revenues and cash reserves.

3.02.020 Anticipated revenues-Designated.

A. Anticipated revenues shall be composed of taxes, licenses and permits, intergovernmental revenue, charges for services, fines and forfeits and, miscellaneous revenue.

B. Cash reserves shall be composed of prior revenue carryover and reserves.

3.02.030 Anticipated revenues-Comparison to previous years.

In the anticipated column opposite the items of anticipated revenues there shall be placed the projected amount of each such item actually received in the preceding year.

3.02.040 Proposed expenditures-Designated.

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

1. Interest, amortization of principal and redemption charges on the public debt for which the faith and credit of the municipality is pledged;
2. Administration, operation and maintenance of each office, department or agency of the municipality;
3. Expenditures proposed for construction projects including provisions for down payments on capital projects.

3.02.050 Proposed expenditures-Comparison to previous years

In a parallel column opposite the several items of proposed expenditures there shall be placed the projected amount of each such item actually spent in the preceding fiscal year and the budget for the current fiscal year.

3.02.060 Budget summary.

At the head of the 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.

3.02.070 Budget to be public record.

The budget and the budget summary shall be a public record in the office of the clerk, open to public inspection. The mayor, or the mayor's designee shall cause to be prepared for distribution to interested persons, copies of the budget and budget summary.

3.02.080 Public hearing-Notice.

The council shall determine the place and time of the public hearing on the budget, and shall post such notice in three places in the city. The council shall include in the notice a summary of the budget and capital improvement program and a statement setting out the time and place for a public hearing.

3.02.090 Public hearing-Required.

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

3.02.100 Amendment restrictions.

After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law. The council may not vary the titles, descriptions or conditions of administration specified in the budget.

3.02.110 Adoption-Vote required.

The budget shall be adopted by favorable votes of at least a majority of all the members of the council. The budget must be submitted by the last meeting in May.

3.02.120 Effective date-Certification.

Upon adoption of the budget, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be certified by the mayor and the clerk and filed in the office of the clerk. The budget so certified shall be printed, copied or otherwise reproduced, and sufficient copies shall be made available for the use of all officers, departments and agencies and for interested persons and civic organizations through the clerk's office.

Chapter 3.03
PURCHASING

Sections:

- 3.03.010 Purchasing agent-Created**
- 3.03.020 Purchasing agent-Authority**
- 3.03.030 Purchasing agent-Powers and duties**
- 3.03.040 Inspection and testing**
- 3.03.050 Mayor-Authority**
- 3.03.060 Public improvement contracts**
- 3.03.070 Prior council approval-Required when**
- 3.03.080 Estimates**
- 3.03.090 Contracts over ten thousand dollars**
- 3.03.100 Bids-Notice**
- 3.03.110 Contract documents-Changes and addenda**
- 3.03.120 Pre-bid conference**
- 3.03.130 Bids-Opening procedure**
- 3.03.140 Bids-Rejection**
- 3.03.150 Bids-Waiver of irregularities**
- 3.03.160 Award of contract**
- 3.03.170 Sealed bidding-Submission-Exceptions**

- 3.03.180 Contracts of one thousand dollars or less**
- 3.03.190 Contracts between one and ten thousand dollars**
- 3.03.200 Insurance policies**
- 3.03.210 Subdivision prohibited**
- 3.03.220 Emergency contracts**
- 3.03.230 Encumbrance of funds**
- 3.03.240 Billing-Payment certification**

3.03.010 Purchasing agent-Created.

- A. There will be a purchasing agent for the city to make all purchases of supplies, materials, equipment, and contractual services for the offices, departments and agencies of the city.
- B. The mayor or his/her designee will be the city purchasing agent.

3.03.020 Purchasing agent-Authority.

- A. The purchasing agent will have the authority and it shall be his/ her responsibility to purchase or contract for supplies, materials, equipment, and contractual services needed by any using office, department or agency of the city and to sell surplus or obsolete personal property of such using office, department or agency in accordance with the ordinances of the city and such rules and regulations as shall be prescribed by the mayor and approved by the city council.
- B. The purchasing agent will have the authority to join with other units of government in cooperative purchasing ventures when the best interests of the city would be served thereby, and same is in accordance with the city and state laws.
- C. The purchasing agent shall have bond to the municipality in a sum which the council directs.

3.03.030 Purchasing agent-Powers and duties.

The purchasing agent will:

1. act to procure for the city, the highest quality in supplies and contractual services at the least expense to the city;
2. recommend to the city council the establishment, and amendment when necessary, of all rules and regulations pertaining to purchasing;
3. prescribe and maintain such forms as he/she may find reasonably necessary;
4. act to procure for the city all state and federal tax exemptions to which it is entitled.

3.03.040 Inspection and testing.

- A. The purchasing agent will inspect, as far as possible, and supervise the inspection of all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract.
- B. The purchasing agent will have the authority to authorize using agencies having the staff and facilities for adequate inspection to inspect all deliveries made to such agencies under rules and regulations which the agent will prescribe.

C. The purchasing agent will have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the purchasing agent will have the authority to make use of laboratory facilities of any agency of the city government or other laboratory that may be available.

3.03.050 Mayor-Authority.

The mayor or his/her designee may transfer supplies, materials, and equipment to or between offices, agencies or departments.

3.03.060 Public improvement contracts.

Except as provided in this chapter, contracts for public improvements for any amount estimated to exceed ten thousand dollars shall be by competitive sealed bid and be awarded to the lowest responsible bidder (highest value).

3.03.070 Prior council approval-Required when.

A. Every contract for, or purchase of, supplies, materials, equipment or contractual services for more than two thousand dollars (excluding day-to-day city operational expenses such as utilities, insurances, payroll, etc.) will require the prior approval of the city council; and under no circumstances may such contracts or purchase be made without first obtaining the approval of the council.

B. Any proposed project exceeding Ten thousand dollars (\$10,000.00) being presented to the City Council must answer the following questions:

1. What is the proposed project, objectives, cost and location?
2. What is the reason for the project being proposed (e.g., health, safety, public and resident access, financial, housing or Real Estate development, harbor development or other needs)?
3. What would it mean not to meet the need for the project action?
4. What other actions would meet the same need, and/or are there other firms that could supply the needed service for a lower cost?
5. What would be the consequence of the project in terms of adverse effects?
6. If there are possible adverse effects, what can be done to lessen these effects?
 - (a.) This question must answer if the costs of mitigation are built into the project.
7. If there are ways to alleviate adverse effects, who will be responsible for this mitigation?

These questions shall be answered in writing in two pages, or less by the employee, or person, or entity, proposing any action that requires city funds, or administration of City funds, or funds granted to the City by the State, Federal Governments. The public may comment on these answers during any council consideration of projects. The City Council may forego these questions for projects deemed needed in emergencies (i.g., utility failures washed out roads, or disasters, or other events the Council deems an emergency).

3.03.080 Estimates.

A. All offices, departments or agencies of the city that use supplies will, either by or with authorization of the department head under which the using office, department or agency operates, file with the purchasing agent estimates of their requirements for supplies, materials, equipment and contractual services in such a manner, at such times, and for such future periods as the purchasing agent will prescribe.

B. Unforeseen Requirements. A using office, department or agency will not be prevented from filing, in the same manner, with the purchasing agent at any time an estimate for any supplies, materials, equipment and contractual services, the need for which was not foreseen when the detailed estimates were filed.

C. Revisory Power in Agent. The purchasing agent will examine each estimate and shall have the authority to revise the estimate as to quantity, quality or estimated cost.

3.03.090 Contracts over ten thousand dollars.

Unless otherwise prohibited or exempted by the ordinances of the city, all contracts and purchases for any amount estimated to exceed ten thousand dollars shall be by competitive sealed bid

3.03.100 Bids-Notice.

A. Notice inviting competitive sealed bids will be posted in at least three separate places in the city, at least fourteen days preceding the last day set for the receipt of bids. The notice required therein will include a general description of the work, or materials or service, will state where bid forms and specifications may be secured, the closing time for submission of bids and place of submission and the time and place of opening of bids. Bid deposits if they are required will be prescribed in the public notices inviting the bids.

B. Bidder List. The city will also invite sealed bids from all responsible prospective contractors who have requested that their names be added to a bidder list, which the city shall maintain, by sending them a copy of such notice or such other notice as will acquaint them with the proposed contract. In any case, invitations sent to the contractors on the bidders list will be limited to work that is similar in character and ordinarily performed by the contractors to which the invitations are sent. Failure of any person on the bidders list to receive such invitation to bid shall not invalidate the bidding procedures.

3.03.110 Contract documents-Changes and addenda.

No official or officer, and the bid documents will so state, shall make any oral interpretations which may affect the substance of the contract documents. Addenda will be issued when questions arise which might affect the bids. The purchasing agent will be certain that all bidders receive the addenda which should be delivered by certified mail with a return receipt requested, by email, or by hand delivery. When delivered by hand, receipt of the addenda should be obtained. When an addenda is issued less than four working days before the time for receipt of bids the addendum will contain a new bid date which will be at least four working days after the

normal receipt of the addendum by the prospective bidder. Receipt of addenda will be acknowledged as part of the bid submitted.

3.03.120 Pre-bid conference.

All department heads or the purchasing agent may provide for a pre-bid conference at least seven days prior to the time for submission of bids or upon the request of any bidder. All points of clarifications and questions answered at the conference which may affect the bid will be issued in the form of addenda.

3.03.130 Bids-Opening procedure.

- A. Submitting. Sealed bids will be submitted personally or by mail to the officer designated in the notice inviting bids and will be identified as bids on the outside of the envelope.
- B. Opening. Bids will be opened in public at the times and place so stated in the public notices which will be immediately after the closing time for submission of the bids.
- C. Tabulation. A tabulation of all bids received will be forwarded to the council by the purchasing agent with appropriate recommendations for acceptance or rejection of bids. A copy of the tabulation will be furnished to each bidder.

3.03.140 Bids-Rejection.

- A. Upon receipt of the bids, the city council or its delegate will have the authority to:
 - 1. Reject defective or nonresponsive bids;
 - 2. Reject all bids;
 - 3. Negotiate with the three lowest responsible bidders, if bid prices are in excess of the money available;
 - 4. Re-advertise the project for bidding, after making substantial changes in the project plans to bring the cost within the limit of money available.
- B. Negotiation. If the lowest and best bid exceeds the budgeted amount and the city council does not make additional funds available, the proposed contract for purchase or sale or for services or for construction projects may be reduced in scope sufficiently to bring the estimate of cost within the funds available.

3.03.150 Bids-Waiver of irregularities.

The city council will have the authority to waive any and all irregularities on any or all bids.

3.03.160 Award of contract.

- A. Lowest Responsible Bidder. Contracts will be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to price, there will be considered:
 - 1. The ability, capacity and skill of the bidder to perform the contract;
 - 2. Whether the bidder can perform the contract within the time specified, without delay or interference;
 - 3. The quality of performance of previous contracts;

4. The previous and existing compliance by the bidder with laws and ordinances relating to the contract;

5. Sufficiency of the financial resources and ability of the bidder to perform the contract;

6. If some bids are approximately equal, preference may be given to local bidders, if the cost differential is less than ten percent between the parties. For the purpose of this chapter, "local bidder" shall be defined as a bidder who:

a. Has a current state business license;

b. Submits a bid under the name that appears on the current state business license;

c. Maintains a business within the boundary of the city ninety days immediately preceding the date of the bid;

d. Is not delinquent in the payment of taxes, charges, assessments owing to the city on the account of the business making the bid.

7. The city council may require such document or verification by the person claiming to be a local bidder as deemed necessary to establish the requirements as in this section.

B. Award to Other than Low Bidder. When the award is given to other than the lowest bidder, a full and complete written statement of the reasons therefor will be delivered to the unsuccessful low bidder or bidders and filed with the other papers relating to the transaction. The minutes of the city council meeting relating to the matter may be used as the required written statement.

C. Award to Delinquent Contractor. The city shall not make an award under this section to a contractor who is delinquent in the payment of taxes, charges, assessments or fees owed to the city by the contractor's business, unless the contractor immediately brings all overdue accounts current or authorizes the city to deduct the delinquent amount, plus any late fees or interest from the amount.

3.03.170 Sealed bidding-Submission-Exceptions.

The restrictions and provisions of this chapter do not apply:

1. To contracts involving the obtaining of professional or specialized services such as, but not limited to, services rendered by architects, attorneys, engineers, appraisers, surveyors, accountants and other specialized consultants;

2. Where calling for bids on a competitive basis is unavailing and impossible, including but not limited to situations where rates are set by statute or ordinance or where like items are traded in, or where used items are being purchased;

3. Where the city's requirements can be met solely by an article or process obtainable only from a single source;

4. To placement of insurance coverage;

5. When public work is performed by the city with its own employees;

6. When it is advantageous to the city to enter into a contract with a bidder for the same supplies or services such bidder is providing another Alaskan local government, the state of Alaska, or the United States where such supplies and services are being provided the other governmental unit on the basis of formal bids submitted, and where the city contract is on substantially the same terms and those bid; or the contract is with or through such other governmental unit so that the benefit of the responsible bid accrues to the city;

7. To contracts primarily involving the purchasing of supplies, materials, equipment, or contractual services using state or federal grants when the grant funds are being spent by a state or federal agency pursuant to that state or federal agency's procurement rules and regulations;

8. When either competitive procedure has been followed, but no bids or quotations are received. In such a case, the purchasing agent may proceed to have the services performed or the supplies purchased without further competitive bidding or quotation;

9. When supplies, materials, equipment or contractual services are purchased from another unit of government at a price deemed below that obtainable from private dealers, including war surplus;

10. When contractual services are purchased from a public utility corporation at a price or rate determined by state or other government authority; and

11. When the city council determines that the public interest would be best served by the purchase of used equipment and, by resolution, authorizes the purchasing agent to locate and purchase a particular type and quantity of used equipment.

3.03.180 Contracts of one thousand dollars or less.

Purchases of supplies, materials, equipment and contractual services where the actual cost, excluding freight, is one thousand dollars or less may be made on the open market without competitive bidding or quotations.

3.03.190 Contracts between one and ten thousand dollars.

A. All purchases of supplies, materials, equipment and contractual services of a total estimated value of more than one thousand dollars and less than ten thousand dollars may be made in the open market without advertisement but otherwise observing the procedure prescribed by this chapter for formal purchasing and sale procedures.

B. Minimum Number of Bids. All open market purchases or sales will whenever possible, be based on at least two competitive bids and will be awarded to the lowest responsible bidder in accordance with the standards set forth in Section 3.12.070.

C. Invitation to Bid. The purchasing agent whenever possible solicit written bids for open market purchases or sales.

D. Public Record. The purchasing agent will keep a record of all open market bids submitted in competition thereon; and such records will also be open to public inspection.

3.03.200 Insurance policies.

A. The city will purchase policies of insurance following the open market procedures provided in this chapter.

B. Open market procedures will not be required for a policy that:

1. has an annual premium or charge less than three hundred dollars;
2. provides liability coverage for a single event;
3. is for property title insurance;
4. has its premium or charge fixed by state statute;
5. is health, life, or disability insurance procured by the city for the benefit of city

employees, their spouses or dependents made available to the city as a political subdivision of the state; or

6. is provided through a joint insurance arrangement as set forth in AS 21.76.
C. Open market procedures are not required for a change in policies in effect, or to acquire policies supplemental to an existing policy if the policies in effect cannot be changed; provided the change or supplemental policies are approved by the council.

3.03.210 Subdivision prohibited.

No project or contract specifications will be subdivided to avoid the requirements of this chapter. This provision will not apply in the event that a funding source is located by the city which will pay a portion of an overall project; in that event, the portion that is being paid from a separate source may be deducted from an overall project or contract.

3.03.220 Emergency contracts.

Whenever, because of an emergency, it is deemed necessary and in the public interest by the mayor to enter into any contract for the purchase of supplies, materials, equipment, or contractual services without following the competitive bidding procedures required by this chapter, or without obtaining council approval as required in Section 3.12.070, the mayor will authorize such emergency contract if the estimated sum involved is less than ten thousand dollars. If the estimated contract sum involved is greater than ten thousand dollars the mayor will refer any proposed emergency contract to the council for its approval and authorization to waive the competitive bid procedures.

3.03.230 Encumbrance of funds.

Except in cases of emergency declared by the mayor or the council, as provided in this chapter, no contract or any change order to an existing contract will be authorized unless there is a sufficient unencumbered balance in the budget appropriation of the using agency or sufficient bond funds available, in excess of actual expenditures or commitments, to cover such contract or change order.

3.03.240 Billing-Payment certification.

- A. The mayor, or his/her designee, shall certify all bills for payment.
- B. The mayor, or his/her designee, will insure that such payments are fiscally regular, legal, and within budgetary constraints.

CHAPTER 3.04
SHORT TERM INVESTMENT POLICY

Sections:

3.04.010 Investment of Operating Funds

3.04.020 Treasury management

3.04.030 Permissible investments

3.04.010 Investment of Operating Funds.

There are opportunities from time to time for the city to invest surplus operating funds. Such funds are generally short-term in nature and are often restricted as to their use. Safety of principal is the foremost investment objective of the City of Whale Pass. Each investment transaction shall seek to first ensure that capital losses are avoided, whether they are from securities defaults or erosion of market value. The City of Whale Pass seeks to attain market rates of return on its investments, consistent with constraints imposed by its safety objectives and cash flow considerations that restrict placement of public funds. All participants in the investment process shall seek to act responsibly as custodians of the public trust. Investment officials shall avoid any transaction that might impair public confidence in the City of Whale Pass.

3.04.020 Treasury management.

The responsibility for conducting investment transactions resides with the mayor and treasurer. The mayor and the city administrator shall not deposit funds in any depository that is not a member of the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA) or the Securities Investor Protection Corporation (SIPC). Investments shall be made with judgment and care – under circumstances then prevailing – which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

3.04.030 Permissible investments.

Operating funds of the City of Whale Pass may be invested in:

1. Federally insured or fully collateralized certificates of deposit of banks and credit unions maturing within two years;
2. U.S. Government Treasury, agency and instrumentality securities;
3. Notes or bonds issued by the state of Alaska or its political subdivisions or other states of the United States, maturing within two years, with a credit rating of A-/A3 or better from two national ratings agencies, maturing within two years;
4. Repurchase agreements collateralized by U.S. Treasury securities and marked to market. If repurchase agreements are overnight investments or if securities are collateralized in excess of 102 percent, marked to market is not necessary;

5. A state investment pool formed within the state of Alaska and comprised of agencies of the state and/or its political subdivisions;

6. Money market mutual funds whose portfolios consist entirely of U.S. Government securities.

Chapter 3.05 **CITY CHECKS**

Sections:

3.05.010 Signature-Issuance approval

3.05.020 Insufficient funds

3.05.030 Minimum checking account balance

3.05.010 Signature-Issuance approval.

All checks drawn on the checking account of the city in excess of 500 dollars shall be signed by two signatories. The approved signatories on the checking account of the city shall be the mayor, the vice mayor and the city treasurer. All checks prior to issuance shall be approved to be within budget allowances.

3.05.020 Insufficient funds.

Insufficient funds. No city check may be written at any time when funds are insufficient. Willful violation of this provision and conviction shall result in a fine of not more than five hundred dollars.

3.05.030 Minimum checking account balance.

Minimum checking account balance. A minimum balance of two thousand dollars shall be maintained in the checking account of the city.

TITLE 4
CITY BOAT HARBOR

Chapter 4.01
GENERAL PROVISIONS

Sections:

- 4.01.010 Objective**
- 4.01.020 Applicability of Provisions**
- 4.01.030 Definitions**
- 4.01.040 Policy and Intent-City Liability Denied**
- 4.01.050 Harbor Committee**
- 4.01.060 Harbormaster**

4.01.010 Objective.

The objective of these ordinances is to provide for the development and management of a self-supporting boat harbor for the residence of Whale Pass.

4.01.020 Applicability of provisions.

The provisions of this title shall apply to all persons on or within the city's harbor jurisdiction.

4.01.030 Definitions.

Whenever the following words or terms are used in this title, they shall have the meaning ascribed to them in this section, unless the context makes such meaning repugnant thereto.

- A. "Boat Grid" means all facilities maintained, leased or owned by the city for the use while repairing, bottom scrapping or painting vessels by allowing said vessels to go dry on low tides.
- B. "City's harbor jurisdiction" means the harbor facility and all navigable waters situate within the city's tideland lease area.
- C. "Commuter vessel" means any vessel not used for commercial activities (including the embarking or disembarking of passengers as part of such commercial activities), homeported in the city which is used by a resident of the city for the main purpose of transporting that resident or his family from place of residence to the main town site for purposes of attending work, obtaining materials and supplies, or attending school or school-related activities.
- D. "Constituting a nuisance" means any vessel which is not kept and regularly pumped free of excess water inside her hull, or is submerged, or creates a fire, health or

navigation hazard, or is a derelict, or has become a nuisance because of nonpayment of fees.

E. "Derelict vessel" means a vessel that has been left unattended for a continuous period of more than 48 hours, if:

1. The vessel is sunk or in immediate danger of sinking, is obstruction a waterway, or is endangering life or property; or
2. The vessel has been moored or otherwise left in the city boat harbor, and if:
 - a. The vessel's certificate of number or marine document has expired, and the registered owner no longer resides at the address listed in the vessel registration or marine document records of a state department or the United States Coast Guard; or
 - b. The last registered owner of record disclaims ownership and the current owner's name or address cannot be determined; or
 - c. The vessel identification numbers and other means of identification have been obliterated or removed in a manner that nullifies or precludes efforts to locate or identify the owner; or
 - d. The vessel registration records of a state department and the marine document records of the United States Coast Guard contain no record that the vessel ever has been registered or documented, and the owner's name cannot be determined.

F. "Finger float" means the floats attached and connected to the master floats. All floats, now or hereafter installed, whether or not connected with master floats, shall be suitably identified.

G. "Float" means all floating or stationary walkways and structures appurtenant thereto to which vessels may be moored, which are owned or maintained by the city.

H. "Harbor facility" means any float, piling, dock, ring, buoy, stall, seaplane float, boat ramp, vehicle parking area, structure, submerged lands and uplands directly associated with submerged lands use or other harbor improvement constructed, maintained, or owned or leased by the city.

I. "Haul-outs" are floating ramps for the storage of skiffs.

J. "Residence" means the dwelling unit where one actually resides; one's home.

K. "Seaplane" means an airplane which is capable of landing in water.

L. "Transient/guest vessel" means any vessel not home-ported in Whale Pass by designation or transactional utilization.

M. "Un-conventional Moorage" Includes Hot Berthing and Rafting.

1. Hot Berthing is the practice of mooring in someone else's slip with permission of the harbormaster when it is not being used.

2. Rafting is the practice of mooring two vessels in one slip, usually one alongside the other.

N. "Vehicle" means all trucks, automobiles, motorcycles, all-terrain vehicles and non-motor vehicles of every kind and description, pleasure and commercial.

O. "Vessel" means all ships, boats, skiffs, and craft of every kind and description, pleasure and commercial, including a seaplane, on the water, used or capable of being used as a means of transportation on or through the water.

P. "Vessel owner, master or agent" means the individual, partnership or corporation renting a stall or mooring space in the city boat harbor, someone acting for that individual or corporation.

4.01.040 Policy and intent – City liability denied.

It is declared that the intent of this title is to further the use of facilities of the city boat harbor by commercial fishermen, government vessels, commercial vessels in trade and commerce, pleasure craft, seaplanes, and the general public. It is the further intent of this title to prevent and discourage the use of the facilities of the city boat harbor by vessels which have been abandoned by their owners to the point of becoming derelict vessels, as defined in this title. The policy of this title is to maximize the safe and efficient use of the harbor facilities. Payment of a user fee entitles an individual to facility use on a priority basis. Nothing shall limit the ability of the harbormaster to assign the vessels to any unused berth, stall or mooring space (“hot-berthing”) in the interest of public safety. It is the policy of the city that any persons visiting or using the harbor facility will do so at their own risk. The city does not assume responsibility for loss or damage to property, or injury to persons within or upon the harbor facility.

4.01.050 Harbor Advisory Committee.

There is established an ad hoc harbor advisory committee for the city to assist and advise the city with respect to all harbor related problems or activities. The harbor committee shall consist of members from the community. The committee chair will be appointed by the City Mayor. In the event that a harbor committee chair is not appointed, the city council will perform the duties of the harbor committee.

4.01.060 Harbormaster.

The Mayor shall appoint a person as harbormaster for the city. The harbormaster shall, under the direction of the Mayor, supervise and manage all Whale Pass boat harbor facilities.

Chapter 4.02 **REGISTRATION AND STALL ASSIGNMENT**

Sections:

- 4.02.010 Transactions to be conducted at City Hall**
- 4.02.020 Application for mooring or use of the harbor facilities**
- 4.02.030 Rental and use fees-Use of vacant stalls**
- 4.02.040 Payment of rental and use fees**
- 4.02.050 Lien for unpaid rentals and fees**
- 4.02.060 Priority in space assignment-Method**
- 4.02.070 Unconventional Moorage**
- 4.02.080 Sale of vessel terminates moorage-Exception**
- 4.02.090 Commuter vessel moorage**
- 4.02.100 Haul-out moorage**

4.02.010 Transactions to be conducted at City Hall or at the harbor office.

All registration of boats and seaplanes, payment of harbor facility charges, and other harbor facility business will be conducted at City Hall or at the Harbor office.

4.02.020 Application for mooring or use of the harbor facilities.

- A. The application for mooring of vessels, seaplanes or use the harbor facilities, as defined in Title 4, shall be in such form as is required by the city and shall be filed with the city clerk.
- B. A list or display of assigned moorage spaces will be displayed in the City Office.
- C. Harbor use fee schedule will be displayed in the City Office.
- D. A list of those wishing to rent a stall will be displayed in the City Office. The list will include the name of those waiting and the size of slip requested. The list will be updated annually.
- E. An annual fee of \$5.00 is charged to remain on the list. Harbormaster will notify those on the list when payment is due. If payment is not received, the name will be removed from the list. The intent of the fee is to ensure that the list remains current.
- F. A copy of Title 4, City of Whale Pass Municipal Code, pertaining to use of harbor facilities as defined in Title 4 shall be given to each successful applicant along with an approved signed application.

4.02.030 Rental and use fees-Use of vacant stalls.

Fees for the privilege of berthing or mooring any vessel or seaplane, short or long term, at the harbor facility or for use of other harbor facilities, including but not limited to seaplane floats, boat grid, pump out station, fish cleaning station, boat launch ramp, hoists or any other harbor facility as defined in Title 4, shall be levied according to the fees, charges and conditions set by resolution of the council. From time to time, when deemed necessary, the council may modify, change or amend such fees, charges and conditions.

4.02.040 Payment of rental and use fees.

- A. All use of any harbor facilities shall be payable in advance. Fees shall be established by the City Council. Use of Harbor Facilities for less than 1 month will be charged daily guest rates or charged the appropriate annual rate with a signed contract. All contracts shall begin at the first of July each year.
- B. The harbormaster shall send a bill to persons renting a stall or mooring space on or about the first day of the fiscal year. Said bill shall be due and payable on the 20th day of July. Such bill will also contain a statement for additional services which have been rendered during the prior year. Bills not paid by the due date shall be subject to a 2% monthly service charge.

4.02.050 Lien for unpaid rentals and fees.

- A. All rentals and other fees accruing to the city from the use of the harbor facilities shall constitute a lien against such vessel, seaplane, vehicle or other lien able item.
- B. It is unlawful for any vessel, seaplane, or vehicle owner, master or agent who is in default of any charges accruing to the city under the provisions of this chapter to use any harbor facilities prior to the payment of all charges imposed by this chapter.
- C. If the owner, master or agent of any vessel, seaplane or vehicle shall fail to pay any charges within the first 20 days of the month; a notice of delinquency shall be mailed or delivered to the owner, master or agent of the vessel advising of delinquency and assessing a fee established by resolution of the city council.
- D. If fees are not paid in full by the 5th day of the next month, the vessel is in default and is subject to both tow away and loss of moorage space assignment.
- E. In the event any mooring fees are not paid within 60 days after the same are due, the boat for which the fees are in arrears shall be considered abandoned and a nuisance. In the event that any boat is abandoned or declared to be a nuisance by reason of the failure to timely pay such fees, notice thereof will be given to the owner, master or agent of the boat as shown on the registration statement, and said notice shall state that unless such fees are paid within 30 days after the service of the notice, said boat shall be subject to removal, impoundment, destruction or sale in the discretion of the harbor committee because the boat has been declared to be a nuisance.

4.02.060 Priority in space Assignment-Present renters.

Effective with the adoption of the ordinance codified in this title, those persons already assigned a stall shall be given the option of renewing that stall. Only ONE boat stall per applicant shall be permitted without prior approval of the harbor committee or City Council. Those paying annual moorage and those paying annual moorage that operate licensed Whale Pass business and demonstrate a need for more than ONE stall may request approval of the harbor committee or City Council for additional stalls subject to availability.

4.02.070 Unconventional Moorage.

Includes hot berthing and double moorage or rafting. First contact the harbormaster and in the case of rafting, the other vessel owner if available.

- A. Hot Berthing: In the case of those seeking permanent moorage and have applied for a permanent slip and paid the annual application fee will pay a prorated annual moorage fee.
- B. Rafting: Is restricted to certain dock areas do to ease of boat traffic, and to ease drag and wear on harbor facilities. Rafting is only permitted on transient spaces and only at the harbormaster's discretion.
- C. Rafting fees for the second permitted vessels will be the same as the first vessel. For periods less than a month, the transient moorage will apply.

D. Transient vessels, hot berthing or rafting will pay the standard Transient fee for each vessel.

4.02.080 Sale of vessel terminates moorage-Exception.

Sale of an assigned vessel shall constitute termination of the mooring privilege unless the stall renter replaces the vessel with a similar-sized vessel, or demonstrates to the harbormaster that he or she intends to replace the vessel within a 6-month period of time.

4.02.090 Commuter vessel moorage.

Commuter vessel moorage spaces in the City Boat Harbor shall be on a daily first-come first-served basis. City makes no guarantee regarding the sufficiency or availability of day-to-day commuter vessel moorage. Commuter vessels may not occupy the same moorage space for more than 18 consecutive hours in a 24-hour period of time. Violations shall be governed by WPMC chapter 4.06 of this code.

4.02.100 Haul-out moorage.

- A. Skiffs shall NOT be more than 16ft. in hull length
- B. Shall HAVE a beam of less than 6ft.
- C. Shall NOT have a total gross weight exceeding 650 lbs. (vessel & motor combined). Manufactured weight and shall NOT have an outboard of more than 40 MAX horsepower.

Chapter 4.03

RULES FOR USE OF HARBOR FACILITIES

Sections:

4.03.010 Live-aboard policy

4.03.020 Conduct in harbor facility-Rules generally

4.03.030 Condition of vessels

4.03.040 Power of harbormaster to board and inspect vessels and facilities

4.03.050 Power of harbormaster to move vessels

4.03.060 Persons to comply with harbormasters communications

4.03.070 Persons to obey lawful regulations and meet accepted safety standards

4.03.080 Use of grids

4.03.090 Use of seaplane floats

4.03.100 Use of boat launch ramp

4.03.110 Use of fish cleaning station

4.03.120 Use of other harbor facilities

4.03.130 Loading zones

4.03.140 Conducting business in harbor from any vessel

4.03.150 Acts prohibited without prior approval of the harbormaster

4.03.160 Prohibited acts

4.03.170 Penalty for prohibited acts

4.03.010 Live-aboard policy.

Other than short term transient vessels, live-aboard vessels are not permitted. When the City Council decides to permit live-aboard vessels, the council may consider the following:

- A. Applications and first month's fee and deposit, must be submitted to the City at the time of occupying slip and paid in monthly, 6 month or annual installments thereafter.
- B. No more than 2 pets may be kept on a live-aboard vessel at the discretion of the harbormaster. Any complaint may constitute the immediate termination of moorage.
- C. Vessels being used for live-aboard purposes must meet all sanitary requirements as established by the United States Coast Guard and the Alaska Department of Environment Conservation.
- D. Oil, gas, electric or wood heating units, if installed, must be installed and utilized in conformance with manufacturer's specifications.
- E. Live-aboard fees shall be established by resolution of the city council and will be established by resolution of the City Council and will not be prorated unless the moorage agreement is terminated and the boat removed from the harbor.
- F. Deposit for Live-aboard agreements shall be established by resolution of the City Council.

4.03.020 Conduct in harbor facility-Rules generally.

- A. Vessel moorage within the harbor facilities shall be for active or operational motor vessels or seaplanes only, unless specifically authorized by the harbormaster.
- B. Vessels, when unattended, must be securely moored with adequate bow, stern and spring lines or tie-downs, as applicable. For vessels longer than 18 feet, moorage lines must exceed ½ inch in diameter and the boat and dock must be protected with fenders that extend from the vessels waterline and beyond the height of the dock. Fenders must have a diameter great enough to prevent contact between the float and vessel.
- C. Vessels moored in the harbor facility must, at all times, be completely seaworthy or air worthy, as applicable, and ready for immediate or emergency departure into local waters and also may not be chained or locked to any float.
 - 1. Harbormaster may request owner or agent of any vessel to start and move said vessel out 100 yards and back under its own power.
 - 2. Mechanical problems must be immediately reported to the Harbormaster.
 - 3. Harbormaster may grant a 30-day grace period for repairs with additional grace period if needed, so long as progress toward repairs is being made.
- D. All motorized vessels entering the harbor facility must have a valid identifying name or number permanently affixed to the vessel and visible from the outside. Failure to have either shall be cause for refusal of moorage.
- E. All berthing and moorage of vessels in the city boat harbor shall be in strict accordance with signs posted by the harbormaster.

F. The movement of vessels within the moorage areas shall be for the purpose of mooring and entering or leaving his area only. Vessel speeds within and approaching the harbor facility shall be slow enough so that there is no wake.

G. All vessels and vehicles will be parked, moored and maneuvered in a safe and orderly manner.

H. All children 12 years of age or younger shall wear a US Coast Guard approved life vest at all times while on harbor facilities and have adult supervision.

I. All power cords, lines and other equipment must be used and kept in a way not to create hazardous conditions for other users of harbor facilities.

J. Vessel owner will be held libel for any damage to harbor facilities caused by the owner/operator including improper moorage.

4.03.030 Condition of vessels.

All vessels owners, masters, agents, crew or guests, when using the harbor facility for moorage or otherwise, shall keep their vessel, equipment, pier, float or finger float in the vicinity of their vessel neat, clean and in an orderly manner.

4.03.040 Power of harbormaster to board and inspect vessels and facilities.

The harbormaster reserves the right to inspect any and all vessels and leased areas within the harbor facility at any time, for just cause. This regulation should not be construed to mean that performing such inspections just the responsibility of the harbormaster or harbor facility.

4.03.060 Persons to comply with harbormaster's communications.

Any person present, upon, within, or using the harbor facility or the facility equipment shall comply with all verbal or written communications of the harbormaster. These communications include administrative and operational policies and procedures, as issued by the harbormaster or council.

4.03.070 Persons to obey lawful regulations and meet accepted safety standards.

Those persons and vessels utilizing the harbor facility shall obey all harbor facility, municipal, state, and federal laws and regulations, as well as those generally accepted safety standards and requirements. Violators are subject to the enforcement provisions of this title as well as prosecution under the aforementioned laws.

4.03.080 Use of grids.

The harbor does not currently have a grid. When the City Council authorize installation of a grid, they may consider the following:

A. The Harbormaster shall assign grid privileges on a first-come basis.

B. Fees for the privilege of using grids shall be levied according to the fees, charges and conditions set by resolution of the council. From time to time, when deemed necessary, the council may modify, change, or amend such fees, charges and conditions.

C. Grid users shall obey all grid use laws, rules and regulations issued by the harbormaster or council or set forth in municipal, state or federal law, rules or regulations. Violators are subject to the enforcement provisions of this title as well as prosecution under the aforementioned laws.

4.03.090 Use of seaplane float.

A. The harbormaster shall assign seaplane parking float moorage privileges on a first-come, first-served basis.

B. Boats permitted to moor at assigned locations, including the haul-out ramp.

C. Boats are NOT permitted on the face or sides of the main airplane float.

4.03.100 Use of boat launch ramp.

A. The boat launch ramp shall be used on a first-come, first-served basis.

B. Fees for the privilege of using the boat launch ramp shall be levied according to the fees, charges and conditions set by resolution of the council. From time to time, when deemed necessary, the council may modify, change or amend such fees, charges and conditions.

C. Boat launch ramp users shall obey all boat launch ramp use rules and regulations issued by the harbormaster or council or set forth in municipal, state, or federal law, rules or regulations. Violators are subject to the enforcement provisions of this title as well as prosecution under the aforementioned laws.

D. Annually, the harbormaster will remove and store 2 or 3 of the float sections to protect them from winter storms and ice damage.

4.03.110 Use of fish cleaning stations.

A. The fish cleaning stations shall be used on a first-come, first-served basis.

B. Fish cleaning station users shall obey fish cleaning station rules and regulations issued by the harbormaster or council or set forth in municipal, state, or federal law, rules or regulations. Violators are subject to the enforcement provisions of this title as well as prosecution under the aforementioned laws.

4.03.120 Use of other harbor facilities.

A. Other harbor facilities shall be used as directed by the harbormaster or council.

B. Fees for the privilege of using other harbor facilities shall be levied according to the fees, charges and conditions set by, resolution of the council. From time to time, when deemed necessary, the council may modify, change or amend such fees, charges and conditions.

C. Users of the other harbor facilities shall obey all use rules and regulations issued by the harbormaster or council or set forth in municipal, state, or federal law, rules or regulations. Violators are subject to the enforcement provisions of this title as well as prosecution under the aforementioned laws.

4.03.130 Loading zones.

There shall be reserved loading zones within the harbor facilities. Zones shall be adequately marked, with mooring time being limited to the hours posted. Violations shall be governed by Chapter 4.05.

4.03.140 Conducting business in harbor from any vessel.

Any vessel owner, master or agent desiring a temporary mooring space within the harbor facilities for the purpose of selling any merchandise shall make application to the harbormaster for such space, and shall pay a daily rental established by resolution. Peddlers and itinerant merchants shall have a valid license, all in accordance with applicable laws.

4.03.150 Acts prohibited without prior approval of harbormaster.

The following acts are prohibited unless the prior written approval of the harbormaster has been obtained.

- A. Issuance of a permit or license for commercial use of the harbor facility. The requirements and conditions for such permits or licenses shall be prescribed in separate instructions as issued.
- B. Major maintenance or repair work, including spray painting, sandblasting, welding, burning, outfitting, etc., upon any vessel.
- C. Tapping, connecting, disconnecting, interfering with or tampering with electrical outlets or devices installed with the harbor facilities.
- D. Moving or altering any wharf, float, gang plank, ramp or other facility in the harbor facility.
- E. Posting of signs on the harbor facility for the sale of items or the charter or rental of vessels.
- F. Borrowing or using any harbor facility equipment.
- G. Leaving a four-wheeler, all-terrain vehicle, with or without a trailer, unattended at the seaplane float facility.

4.03.160 Prohibited acts.

Unless otherwise provided in this chapter, following acts are prohibited

- A. Operating or causing any vessel to be operated recklessly, or otherwise engaging in a careless manner within the harbor jurisdiction that is dangerous or a nuisance to the person or property of another.

- B. Tying or mooring pile drivers, scows, barges, boat houses, or other similar vessels or vessels over 100 feet in length or more than 20% of stall length as measured by length overall from the furthest part of the bow to furthest part of the stern, to any float or stall unless authorized to do so by the Whale Pass Harbormaster.
- C. Using bumpers that cause damage to docks
- D. Dumping garbage, trash, oil, fuel, debris or other materials, liquid or solid, into the waters, or onto the land areas, floats, and piers of the harbor facility, except into such containers provided for that specific purpose.
- E. Discharging of sewage from toilet facilities on vessels while within the harbor jurisdiction.
- F. Setting any net or fish-taking device within the harbor jurisdiction unless it is attended at all times. The net or device cannot be over the length of the vessel and must be alongside of the vessel. No net or device may be set so as to obstruct navigation or mooring within the harbor jurisdiction.
- G. Water skiing, scuba diving except for maintenance and special occasions.
- H. Storing personal items on the floats and finger floats. Oily rags, open paints and other combustible and explosive materials shall not be stored on docks at any time.
- I. Using the harbor facility fire-fighting equipment for any purpose other than fighting fires.
- J. Disregarding, defacing, removing or damaging any sign or notice posted or erected by the harbormaster relating to the use of mooring areas or other facilities.
- K. Sub-assigning or subleasing assigned mooring space.
- L. Generating loud or boisterous noises tending to disturb the reasonable peace and privacy of others.
- M. Obstruction or interfering with the harbormaster in the performance of his duties or refusing to comply with a lawful order of the harbormaster.
- N. Challenging or intending to provoke another to fight or engaging in fighting.
- O. Following and repeatedly accosting any person for the purpose of obtaining money or other property from that person.
- P. Consuming alcohol, except upon licensed premises or private vessels, or engaging in the use of, or being an instrument in the exchange of, unlawful narcotics and other dangerous drugs.
- Q. All animal owners WILL be responsible for proper cleanup and disposal of animal wastes.
- R. Riding or operating bicycles, skateboards, roller skates, or other similar devices on finger floats. This prohibition does not apply to wheeled carts or similar devices use for the transport of goods to and from vessels.

4.03.170 Penalty for prohibited acts.

In the event that the city is informed of, or witnesses one or more of the prohibited acts listed in WPMC 4.03.160 the city reserves the right to refuse harbor service to the violating party.

Chapter 4.04
CONTROL OF NUISANCE AND DERELICT BOATS

Sections:

4.04.010 Derelict, nuisance, unseaworthy, wrecked and sunken vessels

4.04.020 Abatement of nuisance-Impoundment-Removal and sale

4.04.030 Procedure for destruction, sale or other disposition of boat

4.04.040 Impoundment-Final disposition of sold and unsold vessels

4.04.050 Other property becoming a nuisance

4.04.010 Derelict, nuisance, unseaworthy, wrecked and sunken vessels.

A. No person may bring into or keep within the small boat harbor facilities or property a vessel that is derelict or a nuisance, or in the opinion of the harbormaster, is so unseaworthy or in such a deteriorated condition that it may sink, become a hazard to navigation, or damage docks, floats, or other vessels, except as required in an emergency, but only for so long as required by the emergency.

B. If the harbormaster determines that the derelict condition of a vessel constitutes a fire or safety hazard to harbor facilities or other vessels, or a pollutant hazard to the waters and marine life of the harbor, and that damage from such fire, safety, or pollutant hazard will more likely than not occur within the notice period required under this subsection, the harbormaster may take reasonable steps to prevent damage from the fire, safety or pollutant hazard without prior notice or hearing, including without limitation impounding the vessel by immobilizing the vessel or by hauling the vessel out of the water and storing it, with all expenses and risks of the haul-out and storage to be borne by the owner of the vessel. The City of Whale Pass shall not be held liable for any damages resulting from the haul-out or storage of any impounded vessel. Promptly after impounding a vessel under this subsection, the harbormaster shall give notice of the impoundment in accordance with WPMC 4.05.020 subsection A.

4.04.020 Abatement of nuisance-Impoundment-Removal and sale.

In the event any boat constitutes a nuisance or is a derelict, as defined, liable to sinking, sunk, or in a hazardous condition, notice thereof shall be given to the owner, master, or agent of the boat as shown on the registration statement filed with the harbormaster, stating that unless said boat is removed, repaired, or that other action is taken to remedy such nuisance, the boat will be subject to destruction or sale, in the discretion of the Harbor committee, upon the expiration of a period of 14 days from the receipt of such notice.

A. In the event any mooring fees are not paid within approximately 30 days after the same are due, the boat for which the fees are in arrears shall be considered abandoned and a nuisance. In the event any boat is abandoned or declared to be a nuisance by reason of the failure to timely pay such fees, notice thereof will be given to the owner, master or agent of the boat as shown on the registration statement and said notice shall

state that unless such fees are paid within 30 days after the service of the notice, and boat shall be subject to removal, impoundment, destruction or sale in the discretion of the Harbor committee because the boat has been declared to be a nuisance.

B. Notices provided for in Chapter 4 shall be given by the city clerk by a method which assures a signed receipt therefore (certified mail return receipt requested, or personal delivery with a signed receipt obtained for the city's records); notice shall be given to such owner, master or agent, as well as (for documented vessels) each recorded holder of a mortgage interest in the vessel. The notice shall be in writing, signed by the city clerk and dated and shall inform the recipient of his right to a hearing before the Harbor committee no later than 14 days from receipt of the notice, as well as informing the notice recipient of the potential consequences (set forth in subsections A and B of this section) for failure to appear.

4.04.030 Procedure for destruction, sale or other disposition of boat.

A. Any boat which is declared a nuisance may, after the expiration of the time stated in the notice delivered to the owner, master, or agent, either be impounded in the waters of the Whale Pass Boat Harbor or removed there from to a place of safe storage in the vicinity thereof and impounded at such location. A notice of impoundment signed by the harbormaster to be posted on or in said boat at a place where likely to be seen by anyone inspecting said boat. During the period of impoundment or storage by the harbormaster, the boat, its owner, master or agent shall be liable for a monthly storage charge and costs incurred by reason of the impounding or removal of the accordance with pre-established amounts set by resolution of the city council.

B. After any boat is so impounded or removed, the city clerk shall again give written notice (by a method assuring return receipt) that the boat has been impounded, that the notice recipient has opportunity for a hearing before the Harbor committee no later than 14 days following receipt of notice, and that after the expiration of that period the boat may be destroyed, sold, or disposed of as the Harbor committee shall determine unless the fees have been paid in full. Such notice shall go to such owner, master, or agent and (for documented vessels) to any holder of a recorded mortgage on the boat at such an address as is shown on the last registration statement for the boat.

C. Any boat so impounded or removed shall, after the expiration of the period stated in the notice delivered to the owner, master, or agent be destroyed, sold, or disposed of as the Harbor committee shall determine unless sooner repaired so as to no longer be a nuisance or unless the fees have been paid in full. In the event of a disposition by sale of the boat, a notice of sale shall be mailed to the owner, master, or agent of the boat and then posted in 3 public places for a period of 10 days prior to the date of sale and shall be signed and posted by the city clerk. Said notice shall state the identification of the boat; that it is being sold after having been declared a nuisance under the provisions of this title: and that all of the rights, title and interest of the owners and lien holders of said boat will be sold to the highest and best bidder for cash a public auction at such time and place as stated in the notice. The proceeds from the sale shall be applied first to the cost of conduction the sale, impounding and removal of the boat, and the payment of all fees assessed and payable by said boat, its owner, master or agent under this title. The

balance shall be held in trust for the owner to claim, and if not claimed within 2 years, the balance shall be deposited in the general fund of the city.

4.04.040 Impoundment-Final disposition of sold and unsold vessels.

Upon the sale being made, the city shall make and deliver its bill of sale, without warranty, conveying the vessel to the buyer according to law. If, at the public sale, there are no bidders for the vessel, the city may destroy, sell at private sale, or otherwise dispose of said vessel, such disposition to be made without liability to the owner, master, agent or creditors of the vessel.

4.04.050 Other property becoming a nuisance.

A. All engines, machinery, equipment, lines, skiffs, nets, gear, animals or other personal property left upon the dock, approach, floats or other facilities of the Whale Pass Boat Harbor for a period of more than 48 hours without being removed there from by the owner or person in possession thereof may be declared to be a nuisance by the harbormaster and impounded, removed, or sold in the discretion of the Harbor committee in the manner provided for the removal, impoundment, sale or other disposition of boats which are declared a nuisance.

B. Written notice and opportunity for a hearing before the Harbor committee shall be provided to the property owner (if the identity of the property owner is known to , or can reasonable be ascertained by, the Harbor committee) in the same manner as notice and opportunity for a hearing provided to boat owners under Section 4.50.010 and 4.50.020 In cases where the owner has left no record of such property with the harbormaster, and Harbor committee makes reasonable efforts to determine ownership but is unable to do so, then such property shall be held by the harbormaster for a period of 15 days prior to its destruction or sale, during which period the harbormaster shall post prominent notices upon the personal property itself and upon a place designated by the harbormaster for the routine posting of notices at the harbor. Such notice shall be in a reasonably calculated to notify the property owner of the date by which the property will be destroyed or sold unless the owner redeems it, and notifies the owner of his right to a hearing before the Harbor committee by a date stated in the notice, such date to be no earlier than 7 days after the initial posting of the notice.

Chapter 4.05 **ENFORCEMENT**

Sections:

4.05.010 Enforcement powers of harbormaster

4.05.020 Penalties

4.05.010 Enforcement powers of harbormaster.

- A. The city authorizes the harbormaster of the harbor facility to notify any violator of any provision of this chapter by either written or verbal communication.
- B. The harbormaster may secure by lock and chain any vessel, vehicle or equipment that is in violation of any provisions of Chapter 4 until such time as said violations are resolved to the harbormasters satisfaction. The harbormaster may also order persons and/or vessels found in violation of any provision of Chapter 4 to depart from the harbor facility. Failure of a person or vessel to depart from the harbor facility when the harbormaster orders may result in a civil penalty and/or the impoundment of the vessel.
- C. Vessels impounded by the harbormaster may be removed by a private contractor, with charges to be assessed against the vessel and/or its owner, master or agent.

4.05.020 Penalties.

The City Council under advisement by the harbormaster may assess penalties.

- A. Imposition of a fine.
- B. Loss of moorage privileges.

Chapter 4.06 **CITY HARBOR FUND**

Sections:

4.06.010 City Harbor fund

4.06.010 City Harbor fund.

- A. The City of Whale Pass will deposit harbor gross revenue into an identified harbor account to be used for improvements to the harbor, including replacement of harbor facilities at the end of their service life.
- B. Revenues accrued through the rental of the Community Charter Halibut Permits will be deposited in the City Harbor Fund.

TITLE 6
CITY DEPARTMENTS AND CONTRACTED SERVICES

Chapters:

6.15 Whale Pass Public Library

Chapter 15

Whale Pass Public Library

Sections:

- 6.15.010 Library established**
- 6.15.015 Statement of library policy**
- 6.15.020 Library advisory committee**
- 6.15.025 Management**
- 6.15.030 Staff**
- 6.15.035 Use of library**
- 6.15.040 Failure to return library property**

6.15.010 Library established.

There shall be a library in and for the City of Whale Pass known as the Whale Pass Public Library, owned and operated by the City of Whale Pass as a city department.

6.15.015 Statement of library policy.

A. The library shall be operated in conformance with applicable federal and state laws and regulations including but not limited to:

1. AS 09.25.140, Confidentiality of Library Records.
2. AS 14.56.030, State Library Programs.
3. 4 AAC 57.020-33, Annual Report Library Operations.

B. The City of Whale Pass Adopts the American Library Association Library Bill of Rights and Freedom to Read. These Documents will be maintained for reference in the Whale Pass Public Library.

6.15.020 Library advisory committee.

There may be created a library advisory committee, that supports the librarian(s) in the operation of the library.

6.15.025 Library management.

The city council shall have authority and responsibility over the Whale Pass Public Library.

6.15.030 Library employees.

The librarian(s), under the supervision of the mayor, or chief administrative officer, shall direct the services and perform all administrative tasks necessary for efficient and economical operation of the library.

6.15.035 Use of library.

A. All persons shall be extended the privilege of using the library.

B. A librarian, or librarian designee, may prohibit any person from using the library who willfully or persistently violates any rule, or whose demeanor is deemed dangerous to other persons.

6.15.040 Failure to return library property.

A. The Librarians shall set and fix any overdue fees and materials replacement charges and may suspend library privileges for delinquent or non-returned library materials.

B. Any person who, after notice is provided, under Section **6.15.040** (A) does not return library material within sixty (60) days, shall be billed for the full replacement cost of the material(s) plus administrative fees and shall be subject to suspension of library privileges.

TITLE 8
HEALTH AND SAFETY

Chapter 8.01
MARIJUANA

Sections:

- 8.01.010 Prohibiting the Operation of Marijuana Cultivation Facilities**
- 8.01.020 Prohibiting the Operation of Licensed Retail Marijuana Stores**
- 8.01.030 Prohibiting the Operation of Licensed Marijuana Product Manufacturing**

8.01.010 Prohibiting the Operation of Marijuana Cultivation Facilities.

The City of Whale Pass prohibits the operation of licensed marijuana cultivation facilities. Prohibiting any marijuana cultivation facility or entity registered to cultivate, prepare, and package marijuana.

8.01.020 Prohibiting the Operation of Licensed Retail Marijuana Stores.

The City of Whale Pass prohibits an entity registered to purchase marijuana from a marijuana cultivation facility, to purchase marijuana and marijuana products from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

8.01.030 Prohibiting the Operation of Licensed Marijuana Product Manufacturing.

The City of Whale Pass prohibits an entity registered to purchase marijuana: manufacture, prepare, and package marijuana products.

Chapter 8.02
WHALE PASS EMERGENCY SERVICES DEPARTMENT

Sections:

- 8.02.010 Establishment and purpose**
- 8.02.020 Emergency services coordinator appointment and accountability**
- 8.02.030 Fire chief appointment and accountability**
- 8.02.040 EMS coordinator appointment and accountability**
- 8.02.050 Duties of fire chief**
- 8.02.060 Duties of EMS coordinator**
- 8.02.070 Apparatus and equipment**

8.02.010 Establishment and purposes.

A department, known as the Whale Pass emergency services department, is created. The purpose of the department is to prevent and respond to fire and emergency medical service incidents for the benefit of people and property in Whale Pass. The department consists of two components: a fire squad, led by the fire chief; and an emergency medical services squad, led by the EMS coordinator.

8.02.020 Emergency services coordinator appointment and accountability.

- A. The Emergency Services Coordinator for the City of Whale Pass will be appointed by, and answer to the Whale Pass City Council.
- B. The Emergency Services Coordinator is the lead person in emergency management and is the adviser to the city council regarding disaster and emergency related issues.
- C. The duties of the Emergency Services Coordinator will be direct over site of the Whale Pass Fire and Rescue. Facilitating a go-between, the Fire Chief, the EMS director, and the Whale Pass City Council. This “Coordination” title will serve as a command chain between State and Federal agencies and the City of Whale Pass in the event of a disaster or emergency.
- D. The Emergency Services Coordinator will be responsible for facilitating all fiscal responsibilities of the Whale Pass Fire and Rescue. Assisting the Fire Chief and EMS Coordinator in preparation of necessary paperwork for State Agencies and reports both progressive and financial for the Whale Pass City Council.
- E. The response of the Emergency Services Coordinator to emergency calls whether working within the scope of the Fire Department, an EMS call or in the case of emergencies where duties and responsibilities overlap, the objective is to coordinate a safe, cohesive working environment providing an exceptional level of service for the citizens of Whale Pass.
- F. In the event of an emergency within our jurisdiction the Emergency Service Coordinator will establish and manage an Emergency Operations Center.
- G. Responsibilities include but are not limited to the maintaining a working relationship with regional emergency and governmental personnel. It is better to have a good working relationship with other levels of government, fully aware of what they can and cannot provide, before a disaster rather than during a disaster. Public education, and the preparation of a community at large for an emergency may very well be the best “preparation” for any unexpected event.

8.02.030 Fire chief appointment and accountability.

- A. The chief shall be appointed by the members of the fire squad and be subject to confirmation by the city council, for an indefinite period of time. The chief’s tenure of office shall depend upon good conduct and efficiency. The chief is an at-will position and may be removed at any time by the council. The chief shall report to and take direction from the emergency services coordinator.
- B. The chief shall be held accountable for the Whale Pass volunteer fire squad only, and shall make written and verbal reports as the council may require. All fire squad volunteers shall be accountable to and subject to removal by the chief.

8.02.040 EMS coordinator appointment and accountability.

- A. The EMS coordinator shall be appointed by the members of the EMS squad and subject to confirmation by the city council, for an indefinite period of time. The coordinator's tenure of office shall depend upon good conduct and efficiency. The coordinator is an at-will position and may be removed at any time by the council. The coordinator shall report to and take direction from the emergency services coordinator.
- B. The EMS coordinator shall be held accountable for the Whale Pass EMS squad only, and shall make written and verbal reports as the council may require. All EMS volunteer shall be accountable to the EMS coordinator and subject to removal by the coordinator.

8.02.050 Duties of fire chief.

- A. The fire chief shall formulate a set of rules and regulations to govern fire squad volunteers, and shall be responsible for the personnel, morale and general efficiency of the squad.
- B. The fire chief shall conduct, at least once a month, suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings in the city, fire prevention, water supplies, and all other matters generally considered essential to safety of life and property from fire.
- C. The fire chief shall see that complete records are kept of all fires, inspections, apparatus and minor equipment, personnel, training, and other information about the work of the fire squad. Records shall be maintained in compliance with the state of Alaska statutes governing management and preservation of public records.
- D. The fire chief shall report regularly to the council the condition of the apparatus and equipment; the number of fires since the prior report, their location and cause, and date of same and loss occasioned thereby; the number and purpose of all other runs made; and the number of members responding to each fire or other run, and any changes in membership.
- E. The fire chief shall make a complete annual report to the council within one month after the close of the fiscal year, such report to include the information specified in subsection C of this section, together with comparative data for previous years and recommendation for improving the effectiveness of the squad.

8.02.060 Duties of EMS coordinator.

- A. The EMS coordinator shall formulate a set of rules and regulations to govern EMS volunteers, and shall be responsible to the council for the personnel, morale and general efficiency of the squad.
- B. The EMS coordinator shall conduct, at least once a month, suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, and all other matters generally considered essential to good emergency services practices and safety of life and property.
- C. The EMS coordinator shall see that complete records are kept of all calls, inspections, apparatus and minor equipment, personnel, training, and other information about the work of the squad.

D. The EMS coordinator shall report regularly to the council the condition of the apparatus and equipment; the number of EMS calls during the month, the number and purpose of all other runs made; and the number of members responding to each medical emergency or other run; and any changes in membership.

E. The EMS coordinator shall make a complete annual report to the council within one month after the close of the fiscal year, such report to include the information specified in subsection C of this section, together with comparative data for previous years and recommendation for improving the effectiveness of the EMS squad.

8.02.070 Apparatus and equipment.

A. The department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property.

B. Recommendations of apparatus and equipment needed shall be made by the chief and/or EMS coordinator to the emergency services coordinator, and upon approval by the council shall be purchased in such a manner as may be designated by the council.

C. All equipment of the department shall be safely and conveniently housed in such places as may be designated by the council.

D. No person shall use any department apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the department.

E. No person shall enter any place where department apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by or having the permission of the mayor, the mayor's designee, or an authorized member of the department.

Chapter 8.03 **ABANDONED VEHICLES**

Sections:

Section 08.03.010	Authority
Section 08.03.020	Definitions
Section 08.03.030	Abandonment Unlawful
Section 08.03.040	Presumption of Abandonment
Section 08.03.050	Removal of Abandoned Vehicles
Section 08.03.060	Notice to Owners and Lien Holders
Section 08.03.070	Vesting of Title
Section 08.03.080	Redemption
Section 08.03.090	Disposal of Abandoned Vehicles
Section 08.03.100	Disposal Facilities
Section 08.03.110	Towing and Storage Lien on Abandoned Vehicles
Section 08.03.120	Opportunity for Hearing Required
Section 08.03.130	Hearing and Appeals

08.03.010 Authority.

The mayor is authorized to impound any abandoned, wrecked and/or junked vehicles as defined in section 08.30.020 from a street or highway to a safe location, or if no such place exists within the city, the vehicle shall be impounded where it is.

08.03.020 Definitions.

A. A vehicle includes cars, trucks, buses, motor homes, recreational vehicles or remnants thereof, trailers, trailers with boats and boats.

B. An abandoned vehicle is any vehicle without current Alaska state registration (AS 28.10)

C. All wrecked or junk vehicles are considered abandoned vehicles.

1. a vehicle that is disabled and cannot be used as a vehicle without substantial repair.
2. is stripped, wrecked or otherwise inoperable due to mechanical failure,
3. has not been repaired because of mechanical difficulties or because the cost of repairs required to make it operable exceeds the fair market value of the vehicle,
4. is in a condition that exhibits more than one of the following elements:
 - a. broken glass;
 - b. missing wheels or tires;
 - c. missing body panels or parts;
 - d. missing drive train parts.

08.03.030 Abandonment Unlawful.

A. A person may not abandon a vehicle upon a highway, vehicular way, or area. Area includes, but is not limited to, City, State and Federal land within the city limits of Whale Pass unless specifically provided for by the granting authority.

B. A person may not abandon a vehicle upon public property without consent.

C. A person who abandons a vehicle in a place in A or B of this section is considered responsible for the abandonment of the vehicle and is liable for the cost of its removal and disposition.

D. The lawful owner of a vehicle, as shown by the records of the Department of Motor Vehicles is considered responsible for the abandonment of the vehicle and is liable for the cost of its removal and disposition of the abandoned vehicle.

08.03.040 Presumption of Abandonment.

A. A vehicle that has been left unattended, standing, parked upon or within the road right of way, in excess of 48 hours, or a vehicle left standing or parked on private or public property for more than 30 days without the consent of the owner or person in charge of the property may be removed under 08.30.030. The city for good cause may make provisions for parking of vehicles on city property other than specified in this section.

B. Notwithstanding other provisions of law, a wrecked or junk vehicle that reasonably appears to have been left unattended, standing, parked upon or within the road right of way in excess of 24 hours, or a wrecked or junk vehicle that reasonably appears to have been left standing or parked in a private property or other public property in excess of 24 hours and without consent of the owner or person in charge of the property, may be removed under 08.30.030 and treated as an abandoned vehicle, unless the vehicle is reclaimed and removed before removal occurs under 08.30.050.

C. The mayor and/or person(s) given the authority by the mayor, is authorized to remove or cause to be removed to a place of safety any vehicle found on the street when:

1. a report has been made that the vehicle has been stolen or taken without the consent of its owner;
2. the person(s) is unable to provide for its custody or removal;
3. parked in violation of this title, or;
4. parked in such a manner as to create a significant danger to the safety of people or property.

08.03.050 Removal of Abandoned Vehicles.

A. The Mayor or designated employee of the city may remove or have removed to a place of storage a vehicle abandoned on public or private property.

B. Removal of an abandoned vehicle from private property shall be upon written request of the owner or person in lawful possession or control of the property, and on a form prescribed by the City.

C. A written report of the removal shall be made by the city employee who removes, or has removed a vehicle under this section, and the report shall be sent immediately to the Alaska State Troopers, Prince of Wales Post and a copy of the report shall be given to the person who stores the property. The report must describe the vehicle, the date, time and place of removal, the grounds for removal, and the place of impoundment of the vehicle.

08.03.060 Notice to Owners and Lien Holders.

A. The City shall request the names and addresses of an abandoned vehicle's owner of record and any lien holders from the Alaska Division of Motor Vehicles or the Alaska State Troopers.

B. When a vehicle has been removed under 08.30.050, the city shall within 30 days give notice to the vehicle owner of record and to lien holders of record, stating the grounds for removal and the location of the place of impoundment of the vehicle. If the vehicle is not registered in the State or the name and address of the registered or legal owner or lien holder cannot be ascertained, notice shall be given by publication in a newspaper of general circulation within the city stating the grounds for removal and the place of impoundment of the vehicle.

C. A written report of the removal shall be made by the city employee who removes, or has removed a vehicle under this section, and the report shall be sent immediately to the Alaska State Troopers, Prince of Wales Post and a copy of the report shall be given to the person who stores the property. The report must describe the vehicle, the date, time and place of removal, the grounds for removal, and the place of impoundment of the vehicle.

Any notice given under this section must include the means of disposal if not reclaimed.

08.03.070 Vesting of Title.

Title to an impounded vehicle not reclaimed by the registered owner, a lien holder, or other person entitled to possession of the vehicle within 15 days from the date the notice was given under 08.03.060 vests with the City of Whale Pass. However, nothing in this section prohibits a lien under 08.03.060

08.03.080 Redemption.

A. A person who presents satisfactory proof of ownership or right to possession may redeem a vehicle removed under this chapter at any time before disposal under 08.30.090 by paying the charges of towing, storage, notice, other costs of impoundment and any applicable penalty imposed by law.

B. If the fines have not been paid within 90 days of having been levied, the city shall place a lean on the owner of record's property in the amount of the fines plus additional processing an legal costs.

08.03.090 Disposal of Abandoned Vehicles.

A. Upon satisfaction of the notice and reporting requirements prescribed in this chapter, a vehicle may be disposed of by removal to a scrap processing yard or auto wrecker for disposal or by public auction 20 days after notice of the auction is published in a newspaper of general circulation in the area of municipality in which the vehicle was found and presumed abandoned. The notice of auction must describe the vehicle and specify the place, date, and time at which it will be sold.

B. A vehicle disposed of under this section by public auction must be titled under AS 28.10, and may not be subsequently sold without a certificate of title issued by the department.

C. Notwithstanding the provisions of this section, a person who disposes of an abandoned vehicle under this section may initiate a civil action against a person named in 08.30.030, if liable, for costs exceeding receipts for the disposal of the vehicle.

08.03.100 Disposal Facilities.

The City shall place any vehicle stored pending sale or being disposed of at the City storage area.

08.03.110 Towing and Storage Lien on Abandoned Vehicles.

A. A person authorized by contract or other official order to remove an abandoned vehicle has a lien upon a vehicle towed, moved, or stored by and in possession of the person in accordance with Alaska Statutes unless the fee for the removal has been paid by the City.

B. Before any vehicle which has been impounded is released, there shall be paid all costs incident to the removal and impounding of such vehicle, in addition to whatever fines may be imposed by the court upon the owner or operator of such vehicle for any violation of this chapter. In addition, the fine schedule decided upon by the City Council shall apply.

08.03.120 Opportunity for Hearing Required.

A. Unless otherwise specifically provided, or unless immediate action of impounding is necessary for the protection of the health, safety, or welfare of the public, the city shall give notice of the opportunity for an administrative hearing before a vehicle is impounded under this section.

B. The notice under this section must state the reasons for the cities proposed action and provide for a reasonable attendance date of not less than 7 days after service of the notice. If there is no request for a hearing by the attendance date specified in the notice, the hearing is considered to have been waived.

08.03.130 Hearing and Appeals.

A. The hearing officer shall be the mayor or designate appointed by the mayor.

B. A hearing shall be held in the city council chambers or other suitable place within the City of Whale Pass.

C. The hearing officer shall grant a hearing delay if the person presents good cause for delay. If a person fails to appear for the hearing at the time and place stated by the city or if the hearing delay was not granted, the person's failure to appear is considered a waiver of the hearing and the city may take appropriate action with respect to the abandoned vehicle.

D. A person aggrieved by the decision of the hearing officer may within 30 days after a decision, file an appeal in superior court for judicial review of the hearing officer's decision

Chapter 8.04
PARKING

Sections:

8.04.010 Parking

8.04.010 Parking.

Parking areas shall be determined by City Council resolution and posted accordingly.