

**City of Kake**  
**Municipal Code**

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

## **Kake Municipal Code Table of Contents**

- Title 01 General Provisions
- Title 03 Administration and Personnel
- Title 06 Council
- Title 09 Elections
- Title 12 Ordinances
- Title 15 Public Finance
- Title 18 Business Licenses and Regulations
- Title 24 Health and Safety
- Title 27 Emergency Management
- Title 30 Crimes
- Title 39 Alcoholic Beverages
- Title 45 Streets, Sidewalks, Public Places
- Title 48 Traffic
- Title 51 Animals
- Title 54 Building Regulations
- Title 57 Municipal Property
- Title 58 Lands

Title 59 Real Property Disposals

Title 60 Public Utilities

Title 64 Boat Harbor

Title 67 Taxation

Title 72 Subdivisions

Title 90 Zoning

Title 93 Planning Commission

# TITLE 01. GENERAL PROVISIONS.

## Chapter 10. City Code.

### **01.10.010. Title.**

This city code is hereby declared to be and shall hereafter constitute the official city code of the City of Kake. Any reference made to the number of any section contained herein shall be understood to refer to the position of the same under its appropriate chapter and title heading and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this city code by title in any legal document.

### **01.10.020. Acceptance.**

This city code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this state as the ordinances of the city of general and permanent effect.

### **01.10.030. Construction of Words.**

- (a) Whenever any word in any section of this city code importing the plural number is used in describing or referring to any matters, parties, or persons, in any single matter, party, or person shall be deemed to be included, although distributive words may not have been used.
- (b) When any subject matter, party, or person is referred to in this city code by words importing the singular number only or the masculine gender, several matters, parties, or persons and females as well as males and bodies corporate shall be deemed included. Provided, that these rules of construction shall not be applied to any section of this city code which contains any express provision excluding such construction or where the subject matter or context may be repugnant thereto.

### **01.10.040. Definitions.**

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

- (a) City. The City of Kake, Alaska.
- (b) Code. The Code of Ordinances, City of Kake, Alaska
- (c) Person. A corporation, company, partnership, firm, association, organization, business trust or society, as well as a natural person.
- (d) State. The State of Alaska.
- (e) Publish. To post a notice within the city in three locations, one of which shall be the city offices for a period of not less than five days.

**01.20.010. Permanent and General Ordinances.**

All ordinances and parts of ordinances of a permanent and general nature shall henceforth be repealed at such time as the specific subject matter contained therein is adopted into this code.

**01.20.020. Repeal Not to Affect Offenses and Rights.**

The repeal of ordinances and parts of ordinances of a permanent and general nature by the above section of this chapter shall not affect any offense committed or act done or any penalty or forfeiture incurred or any contract, right, or obligation established prior to the time when said ordinances and parts of ordinances are repealed.

**01.20.030. Temporary and Special Ordinances to Remain in Effect.**

The continuance in effect of temporary and/or special ordinances and parts of ordinances, although omitted from the said 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. Among the temporary and/or special ordinances not repealed or amended by the adoption of the code are the following: ordinances creating, opening, dedicating, name, vacating, or closing specific streets, alleys, and public ways; establishing the grades or lines of specific sidewalks; authorizing or relating to specific sewer, paving, and other local improvement districts; making special assessments for local improvements; annexing territory to, or excluding territory from, the city; calling or relating to a specific election; approving or authorizing specific contracts with the State or with others; authorizing a specific lease, sale, purchase, or transfer of property; granting a franchise to a public utility; making an annual levy of taxes; and appropriating money.

Chapter 30. Penalty.

**01.30.010. Penalty.**

- (a) Every act prohibited by ordinance of this city is unlawful. Unless other penalty is expressly provided by this code for any particular provision or section, every person convicted of a violation of any provision of this code, or any rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine of not more than three hundred dollars (\$300.00). Unless specifically provided, upon the second conviction such person shall be punished by a fine of not more than five hundred dollars (\$500.00) or not more than thirty days' imprisonment, or both. Each act of violation and every day upon which such violation shall occur shall constitute a separate offense.
  
- (b) The penalty provided by this section shall, unless any other penalty is expressly provided, apply to the amendment of any section of this code, whether or not such penalty is re-enacted in the amendment ordinance.

**01.40.010. Name of Municipality and Form of Government.**

- (a) The City of Kake shall continue as a municipal corporation under the name: “The City of Kake, Alaska.”
- (b) The government of the city shall be that commonly known and designated as the mayor-council form.

**01.40.020. City Limits.**

- (a) The boundaries of the City of Kake are as follows:
  - (1) Commencing at Corner No. 1, which is identical with Corner No. 1 of U.S. Survey Alaska No. 1871 and from which United States Land Monument No. 1871 bears South 28° 17' East a distance of 879.70 feet;
  - (2) Thence North 57° 16' East a distance of 1164.14 feet to Corner No. 2;
  - (3) Thence South 43° 10' East a distance of 4678.56 feet to Corner No. 3;
  - (4) Thence South 45° 17' East a distance of 4092.51 feet to Corner No. 4;
  - (5) Thence South 38° 00' West a distance of 2371.66 feet to Corner No. 5;
  - (6) Thence North 51° 46' West a distance of 2420.56 feet to Corner No. 6;
  - (7) Thence North 42° 11' West a distance of 3712.12 feet to Corner No. 7;
  - (8) Thence North 62° 49' West a distance of 2479.23 feet to Corner No. 8;
  - (9) Thence North 7° 34' West a distance of 1905.81 feet to Corner No. 9;
  - (10) Thence North 77° 57' East a distance of 1250.00 feet to Corner No. 1, the point of beginning;
  - (11) containing 640 acres more or less.
- (b) The boundaries of the city as above-described were the effective city limits as of November 7, 1952.

# TITLE 03. ADMINISTRATION AND PERSONNEL.

## Chapter 05. Form of Government.

### **03.05.010. Mayor-Council Form of Government.**

The form of government of the City of Kake shall be and remain the mayor-council form of government.

Chapter 06. Official Seal.

**03.06.010. Corporate Seal.**

*(Reserved)*

**03.06.020. Custody of Seal.**

The official corporate seal of the City of Kake shall be and remain in the sole custody and keeping of the city clerk and shall never be affixed to or upon any document or other paper of any kind or character except under the express authority and direction given by the city council.

**03.07.010. Conflicts of Interest.**

An officer or employee shall disqualify himself from participating in any official action in which he has a substantial financial interest.

**03.08.010. Conduct in Office, Investigations, Oath, Records, and Reports.**

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

**03.09.010. Documents, Assent, Approval, and Attestation.**

All legal documents requiring the assent of the city shall be:

- (1) approved by the city council;
- (2) signed by the mayor on behalf of the city; and
- (3) attested to thereon by the city clerk.

**03.09.020. Documents to File with the State.**

The city shall file with the Alaska Department of Commerce, Community, and Economic Development:

- (1) maps and descriptions of all annexed or excluded territory;
- (2) a copy of an audit or statement of annual income and expenditures; and
- (3) tax assessment figures as requested.

**03.09.030. Retention and Disposal of Public Records.**

- (a) Records Retention Program. The mayor shall prepare a schedule of records specifying the records to be:
  - (1) Retained permanently;
  - (2) Destroyed;
  - (3) Disposed of routinely in the regular course of public business.
- (b) The records retention schedule shall list, with sufficient detail for identification, records without legal or administrative value or historical interest to be destroyed and periodically disposed of by the city. Records to be destroyed shall be certified by the city clerk as having no legal or administrative value or historical interest.

**03.13.010. Office of Mayor.**

- (a) The mayor shall preside at meetings of the council and shall sign all ordinances and resolutions passed by it. He shall be recognized as the head of the city government for purposes of military law. He shall not vote except in case of a tie. He shall have the power to veto any ordinance, resolution, or motion on items in appropriation ordinances, thereafter submitting to the council at its next regular meeting a written statement advising of his veto and stating the reasons. Two-thirds of the council's authorized membership may override a veto.
- (b) A vacancy in the office of mayor occurring within six months of a regular election shall be filled by the council. The person designated shall serve until the next regular election and until the successor is elected and qualified. If a council member is chosen, he shall resign his council seat. If a vacancy occurs more than six months before a regular election, the council shall call a special election to fill the unexpired term.
- (c) At the first meeting after the time prescribed for the beginning of the terms of newly elected councilmen or as soon thereafter as practicable, the council shall elect one of its members acting mayor, who shall serve as such until the next such meeting. The acting mayor shall act as mayor during the absence or disability of the mayor or, if a vacancy occurs in the office of mayor, until another mayor is elected by the council and qualifies. If the office of acting mayor becomes vacant, the council shall elect from its members another acting mayor for completion of the unexpired term.

**03.13.020. Powers and Duties.**

The mayor shall be the chief administrative officer of the city, having all powers and duties hereinafter prescribed and all powers inherently conferred upon the office. The mayor shall sign such written obligations of the city as the council may authorize and shall be responsible to the council for the administration of all city affairs placed in his charge by statute or delegated by ordinance. Not by way of limitation, he shall have the following powers and duties:

- (1) He shall appoint city employees and administrative officers, except as provided otherwise in the personnel policies recited in Chapter 60 of this Title;
- (2) He may hire necessary administrative assistants and may authorize an appointive administrative officer to appoint, suspend, or remove subordinates in his department;
- (3) He may suspend or remove by written order city employees and administrative officers, except as otherwise provided in Chapter 60, Personnel Policies;
- (4) He shall supervise enforcement of city law;
- (5) He shall prepare the annual budget and capital improvement program for the council;
- (6) He shall execute the budget and capital program as adopted;
- (7) He shall make monthly financial reports to the council on city finances and operations;
- (8) He shall report to the council at the end of each fiscal year on the finances and administrative activities of the city;
- (9) He shall prepare and make available for public distribution an annual report on city affairs;
- (10) He shall serve as city personnel officer unless the council authorizes him to appoint a personnel officer;

- (11) He shall execute other powers and duties specified in this ordinance or lawfully prescribed by the council.

## Chapter 15. City Clerk.

### **03.15.010. Duties of Clerk.**

The clerk shall attend all meetings of the council, keep the minutes of the meetings, have custody of the corporate seal, and shall perform such duties as are designated by law and the council. The clerk shall attest and certify all resolutions, ordinances, and other official documents on behalf of the city. In the absence of the clerk, the council may appoint a clerk pro tem.

### **03.15.020. Books and Records.**

The books and records of the city shall be kept by the clerk, who shall deliver the same to his successor; except that other officers of the city may keep such records as are necessary for the performance of their duties and the treasurer shall keep the financial books and records. When such records are no longer needed in the possession of such other officer, the same shall be delivered to the clerk for safekeeping. Books and records of a permanent nature shall be destroyed only with approval of the council.

**03.17.010. Office Established, Duties.**

The treasurer shall have custody of all funds of the city and shall deposit the same as directed by the council. The treasurer and the clerk shall sign all checks, warrants, and orders on banks for withdrawal of funds after the same shall have been authorized by the council. In the absence of the treasurer or clerk, the mayor or acting mayor may sign such warrants, checks, and orders in place of the absent treasurer or clerk. In the absence of the treasurer, the clerk shall be the acting treasurer. The treasurer shall keep proper books of accounts showing all receipts and disbursements of the city and all assets and liabilities. The funds kept by the treasurer shall be kept in the general fund except as to funds required by the council to be kept in special funds. The books of the treasurer shall be audited annually by such auditor as is designated by the council and a report shall be rendered to the council.

Chapter 20. Department of Finance.

*(Reserved)*

**03.22.010. City Attorney.**

The city attorney appointed by the council shall be the legal advisor of all the officers of the city with respect to any legal matter affecting the city's interest.

Chapter 24. Police Department.

**03.24.010. Supervision.**

*(Reserved)*

**03.24.020. Personnel.**

*(Reserved)*

**03.24.030. Powers and Duties.**

The chief of police is charged with the duty of enforcing all ordinances, the violation of which may be punished by imprisonment or fine. He shall serve all legal process issued by the city. He shall supervise all peace officers of the city and preserve the peace of the community.

**03.24.040. Poundmaster.**

*(Reserved)*

**03.26.010. Fire Chief.**

The chief of the fire department shall be the general executive officer thereof and shall have the care, custody, and control of all firefighting equipment and property of the city held for such purpose. He shall drill, direct, and discipline all persons who participate in the control of fires. He may appoint such persons as are willing to serve to assist him in fighting fires and performing his other duties. He may prevent any and all persons from in any way interfering with the operations of the department and its equipment. He shall perform all duties required of him to be performed under any ordinance of the city with relation to safety from fire or exposure.

**03.26.020. Workers' Compensation Insurance.**

The city of Kake may purchase at its own expense and provide workers' compensation insurance in accordance with the provision of the Workers' Compensation Act of the State of Alaska for not to exceed at any one time thirty-three (33) members of the Kake Volunteer Fire Department. Such insurance shall be provided under the policies insuring other city employees under said Act. Such insurance may be provided for each employee who is paid less than \$300.00 per year and the premiums will be paid by the city, as if each such volunteer fireman was paid a salary of \$300.00 per policy year. For each employee who receives more than \$300.00 in a policy year, the insurance may be provided and the premiums paid by the city based upon the actual salary paid.

**03.26.030. Registration for Insurance.**

In order for a volunteer fireman to be insured, he must be registered with the state fire marshall or a member of a regularly organized volunteer fire department serving the City of Kake or one who serves a full-time fire department of the city on a temporary, volunteer basis. The city clerk shall keep a roll of those eligible for such insurance with the same information regarding each volunteer fireman as is kept for other city employees. All volunteer firemen desiring to be covered by such insurance shall register with the city clerk on the roll of volunteer firemen and no such person shall be accepted for enrollment until the chief of the fire department of the city of Kake certifies such person as being an active member of the department. It shall be the duty of any volunteer firemen enrolled as such to submit his resignation when no longer serving as an active member of the department and upon such resignation such person shall be stricken from the roll. It shall be the duty of the chief of the fire department to determine who are active members of the volunteer fire department and to cause the city clerk to strike from the rolls the name of any person who ceases to be an active member of the department.

**03.26.040. Fire Department Organization.**

- (a) The fire department shall consist of a fire chief plus one or more assistant chiefs and other volunteer members of the Kake Fire Department. The chief of the department shall be elected by the membership at its annual meeting at a time determined by the by-laws of the department and the secretary shall report the election to the council within 10 days following the election. The council shall have 30 days within which to approve or reject the election. If rejected, the department shall elect a new chief within 30 days who shall be subject to the approval or rejection by the council within 30 days after election certification. The chief of the fire

department shall be subject to removal by the council. Other officers of the department may be removed only by the membership as provided in the by-laws.

- (b) The fire department shall adopt by-laws to govern its internal management, membership, and organization, but by-laws shall not limit the powers of the fire chief who is accountable to the council. The fire department shall initially consist of the present officers and members and changes in the membership constituting the fire department shall be as prescribed by by-law. Members may resign at any time or be dismissed as provided in the by-laws or dismissed by the fire chief for good cause shown to the council.
- (c) All property of any type owned by the fire department is, becomes, and shall remain the property of the City of Kake under the custody and control of the fire department, but all fire hydrants and water supplies thereto shall be maintained by the department of public works in a manner consistent with implementation and execution of the fire department's duties.

**03.26.050 Duties of the Fire Department.**

The department, under the control and direction of the chief, shall have the duty to extinguish uncontrolled fires and to take all lawful action required by the ordinances of the city and the fire code to prevent and extinguish fires.

**03.26.060 Remuneration.**

One fireman may be the only full-time employee of the department and may be paid such salary as the city council shall authorize. The fire chief and assistant fire chiefs, officers, and members of the fire department may receive pay for their services in such manner and amount as the council may, in its discretion, set from time to time.

**03.26.070 Duties of Assistant Chiefs.**

The assistant chiefs shall rank next to the fire chief in authority. They shall, in the absence of the chief, be vested with the powers and duties of the fire chief. They shall, in his presence, have such powers and duties as he delegates to each of them. The fire chief shall provide that in his absence at least one assistant chief will be present to assume the powers and duties of fire prevention and control.

**03.60.010. Purpose.**

- (a) The purpose of these policies is to promote:
  - (1) recruitment and retention of the best persons available for the municipal service;
  - (2) security of tenure for city employees subject to requirements for the work performed, availability of funds, and continued acceptable work performance and personal conduct of the employee; and
  - (3) opportunities in the municipal service based on ability.
- (b) These policies shall apply to all employees of the City of Kake in departments supervised by the Mayor.

**03.60.020. Personnel Officer.**

The mayor is designated as personnel officer.

**03.60.030. Personnel Records.**

Records of the work history of employees shall be maintained. Such confidential records will include the employee's original application, reports of the results of other employment investigations and tests, reports of performance, reports of employee's progress, and disciplinary actions affecting him.

**03.60.040. Hiring.**

- (a) Hiring is the responsibility of the personnel officer with the advice of the department head.
- (b) It shall be the general policy to make all appointments on the basis of ability.
- (c) Before appointment, each applicant shall take such tests of his qualifications as the department head and personnel officer may consider appropriate.

**03.60.041. Discrimination.**

There shall be no discrimination in the employment status, including appointment, promotion, demotion, suspension, or removal.

**03.60.042. Nepotism.**

No person may be employed in a position supervised by a family member (spouse, father, mother, brother, sister, or child).

**03.60.050. Types of Appointment.**

The determination of the type of appointment as follows is made by the personnel officer:

- (1) Permanent: Where the position is a part of the regular complement needed for performing city services and the employee has successfully completed his probationary period in a position. Permanent positions may be:
  - (i) Full Time: Where the work involved totals 40 hours a week on a regular basis;
  - (ii) Part Time: Where the work involved is to be done during a portion of a work day or work week and totals less than 40 hours a week on a regular basis.
- (2) Temporary: Where the anticipated need for the employee, by reason of duration of the work to be performed, is for less than six months. Employees hired on a temporary basis will after six months continuous service become permanent employees and entitled to the benefits of permanent employees retroactively to their date of hire if this is approved by the personnel officer. A temporary employee may be separated from the service, demoted, or suspended with or without cause in the full discretion of the department head.
- (3) Probationary: Where the position is a part of the regular complement needed for performing city services and the employee is, whether by original appointment or promotion, serving his probationary period. All appointments and promotions to positions in the city service, as well as former employees who are rehired, shall be on a probationary basis for six months. During the probationary period, an employee may be terminated and a promoted employee may be returned to the position from which he was promoted or an equivalent one at the discretion of the appointing authority.

**03.60.060. Suspensions.**

An employee may be suspended at any time for cause. Suspensions without pay may not exceed thirty days in any 12-month period.

**03.60.061. Demotion.**

An employee may be demoted when his ability to perform required duties falls below an acceptable standard or for disciplinary purposes.

**03.60.062. Dismissal.**

An employee may be dismissed for incompetence, inefficiency, insubordination, habitual tardiness, use of intoxicating liquor on duty, or for similar causes. Permanent employees who are being dismissed for any reason will be given written notice of dismissal date and reasons therefore. They may appeal to the mayor and then to the city council.

**03.60.063. Layoffs.**

When it is necessary to reduce the number of employees because of lack of work or funds, the department head concerned will make a thorough investigation of the problem. The analysis of the proposed layoffs will first consider the types of activities to be curtailed and the classes of

positions thereby affected and consideration shall be given to the employee's length of service to the city. The advisability of demoting employees in higher grades to lower grades shall also be considered. Employees thus separated from service through no fault of their own shall be given preference when new appointments are made. If rehired, all previous benefits will be reestablished.

**03.60.064. Resignation.**

An employee resigning his position shall give at least two weeks' notice to enable the city to make proper provisions for filling his position. The requirement may be waived by department heads where adequate provision can be made in a shorter period of time. All resignations shall be in writing and must be filed with the department head. The department head shall cause a copy of the accepted resignation to be furnished to the employee.

**03.60.065. Final Pay.**

An employee who has resigned giving adequate notice, or who is being discharged without notice, shall be paid in full on the day his employment terminates.

**03.60.070. The Grade-Step Plan.**

- (a) Each type or level of work currently being performed or contemplated in the city service shall be assigned a grade level based on the type of work performed, its responsibilities and difficulty, the minimum qualifications in experience or education, and the equivalent salary in the same or similar positions in other government employment and industry in the area.
- (b) There is a starting step and three increments in the grade-step plan. The minimum step of each grade shall be the normal starting rate.
- (c) The grade-step plan is designed to:
  - (1) establish the framework for equal pay for work similar in nature, responsibility, or difficulty;
  - (2) provide a means of rewarding city employees for continued, good, or outstanding service;
  - (3) establish salary rates which compare with those of other public and private employees in the same area; and
  - (4) provide administrative flexibility in recognizing differences among employees whose positions are allocated on the same grade and in meeting conditions requiring salary adjustment.
- (d) The overall grade-step plan shall be revised yearly to reflect changes in the cost of living.

**03.60.075. Assignment of Positions.**

The personnel officer, with the advice of the department heads, shall be responsible for assignment of positions to the appropriate grade and in making reassignments of positions when changes and responsibilities justify such action, all subject to approval of the council.

**03.60.080. Starting Above Grade or Step.**

The department head may, with the approval of the mayor, authorize initial appointment in a higher step in recognition of recruiting difficulties in the minimum rate. Appointments may also be made above the minimum step in cases where candidates possess special skills and training or whose experience warrants employment a higher rate. Personnel appointed above the minimum rate normally will be required to serve one year in the initial employment rate.

**03.60.081. Above Grade for Training.**

Employees may be assigned to duties of a higher classification for purposes of training or demotion of skill up to a period of six months without change or classification for pay purposes.

**03.60.085. Step Increases.**

Step increases shall be for continuing service in the position grade and shall reflect improved performance on the job. Step increases in salary shall be automatic upon completion of a specified period unless performance, as reviewed by the department head, is unsatisfactory. Annual review of employee performance shall be made on the anniversary of the original employment or promotion to a higher grade. This review shall be made to determine eligibility for increase in salary to the next higher step within the established range for the grade. Normally, the first step increase shall be on the first of the month following completion of six months employment, with subsequent increases being at yearly intervals if merited.

**03.60.086. Merit Increases.**

Merit increases may be made at any time to recognize outstanding performance of duty based on written recommendations of the department head and approval by the mayor.

**03.60.087 Promotions.**

In the case of promotion (the advancement of an employee from one grade to another having a higher maximum salary limit), the rate of the employee promoted shall be increased to the rate for the new step that is nearest to but not less than his rate before promotion. The date of promotion shall become the employee's anniversary date for purposes of salary review and step increases.

**03.60.088. Demotions.**

In the case of demotion (the movement of any employee from one grade to another having a lower maximum salary), the rate of the employee demoted shall be changed to that rate in the range for the new step that is nearest to his rate before demotion. The employee's anniversary date for purposes of salary review and step increases shall not change by reason of demotion.

**03.60.090. Working Hours.**

The regular work day shall consist of eight working hours and the regular work week shall consist of five consecutive regular work days, 40 working hours. For purposes of salary rate conversion, one month contains 173 working hours.

**03.60.095. Overtime.**

Work performed in excess of the regular work day or regular work week shall be compensated at the rate of one and one-half times the normal rate. Work on holidays shall be compensated at double the normal rate. This shall be paid for unless the employee approves the use of compensatory time off to be taken at a time approved by the department head.

**03.60.096. Department Head Overtime.**

Department heads will not be compensated for overtime unless such compensation is approved in writing by the city manager. Department head salaries reflect this policy.

**03.60.100. Vacation.**

(a) Permanent full-time employees shall accrue vacation at the following rates:

<u>Length of Service</u>	<u>Monthly Accrual</u>
0 – 2 years	1 day
3 – 5 years	2 days
5 – 7 years	2.5 days
7 + years	3 days

(b) Permanent part-time employees shall accrue vacation on a ratio of the hours they work to a 40-hour week.

(c) An employee appointed for a position of temporary nature shall not accrue vacation.

(d) Taking of vacation time shall be approved by the department head. The mayor shall approve taking of vacation time by department heads.

(e) An employee may carryover 40 hours of vacation leave to the next year. Any other accrued vacation leave will be lost if not used by December 31<sup>st</sup> of any given year.

(f) Vacation leave “buy outs” shall not be permitted.

**03.60.105. Holidays.**

(a) The following are recognized as City holidays:

- (1) New Year’s Day, January First;
- (2) Lincoln’s Birthday, February Twelfth;
- (3) Washington’s Birthday, Third Monday in February;
- (4) Seward’s Day, Last Monday in March;
- (5) Memorial Day, Last Monday in May;
- (6) Independence Day, July Fourth;
- (7) Labor Day, First Monday in September;
- (8) Alaska Day, October Eighteenth;
- (9) Veterans Day, November Eleventh;
- (10) Thanksgiving Day, Fourth Thursday in November;
- (11) Christmas Day, December Twenty-Fifth;
- (12) All holidays proclaimed by the President, Governor, or Mayor

- (b) Holidays falling on Saturday are taken on the preceding Friday; those falling on Sunday are taken on the following Monday.

**03.60.110. Sick Leave.**

- (a) Permanent full-time employees shall accrue sick leave at the following rates:

<u>Length of Service</u>	<u>Monthly Accrual</u>
0 – 2 years	½ day
3 – 5 years	1 day
5 – 7 years	1.5 days
7 + years	2 days

- (b) Permanent part-time employees shall accrue sick leave on a ratio of the hours they work to a 40-hour week.
- (c) An employee appointed for a position of temporary nature shall not accrue sick leave credit.
- (a) An employee may carryover 20 hours of sick leave to the next year. Any other accrued sick leave will be lost if not used by December 31<sup>st</sup> of any given year.
- (b) Sick leave “buy outs” shall not be permitted.
- (c) Any employee absent due to illness must notify his immediate supervisor prior to the normal time for reporting for duty. The city may require a doctor’s certificate for illness.
- (d) Upon the death of a member of the immediate family of an employee, he may avail himself of not more than five days of accrued sick leave with pay.
- (e) Upon his separation, the unused sick leave of an employee is automatically cancelled without pay.

**03.60.115. Leave Without Pay.**

Employees may be granted leave without pay for any compelling reason, subject to approval of his department head, except that such leave in excess of ten days in any calendar year must also be approved by the mayor.

**03.60.120. Maternity Leave.**

A female employee who has been employed for not less than ten consecutive months is entitled to take a total of nine weeks leave of absence immediately preceding and following childbirth. This leave shall be charged first to sick leave and if that is not sufficient, then to annual leave, and then to leave without pay.

**03.60.125. Military Leave.**

- (a) Permanent employees shall be entitled to military leave of absence without pay to serve in the Armed Forces of the United States and shall be entitled to re-employment.

- (b) An employee of the city who is a member of a reserve component of the United States Armed Forces is entitled to a leave of absence when he is ordered to training duty, as distinguished from active duty, with troops or at field exercises or for instruction. The leave of absence may not exceed 15 working days in any one anniversary year.

**03.60.130. Retirement Age.**

Retirement is mandatory when an employee attains the age of sixty-five. An employee may request early retirement at age sixty-two.

**03.60.135. Employment Grievances.**

The grievance of any employee shall be handled in the following manner, each step to be taken only if a satisfactory adjustment cannot be obtained on the previous level within five working days of the presentation of the grievances to that level:

- (1) to the employee's immediate supervisor;
- (2) to the department head;
- (3) to the mayor; and then
- (4) to the city council.

**03.60.140. Training.**

Each department head shall develop and conduct such practical training programs as are suited to the special requirements of his department. The department heads shall institute and provide for the conducting of training programs which are needed for efficient management of two or more departments. Training programs shall particularly emphasize accident prevention, employee safety, and public relations.

**03.60.150. Traveling on City Business.**

Travel on city business, as approved by the mayor, will be compensated for by regular salary and expenses approved by the mayor.

**03.60.155. Performance Evaluation.**

Department heads shall be responsible for counseling employees and informing them of unsatisfactory performance. Employees who are performing in a superior manner also should be informed in writing of their job performance. Reports of unsatisfactory or superior performance shall be documented by memorandum for inclusion in the individual's personnel file.

**03.60.160. Other Employment.**

Full-time employees shall not engage in occupations or outside activities which are incompatible with their employment by the city or adversely affect the performance of city duties.

# TITLE 06. COUNCIL.

## Chapter 10. City Council.

### **06.10.010. Councilmen; Number and Qualifications.**

There shall be a council of six members and the mayor, who shall be an ex-officio councilman. Only qualified voters of the city who, at the time of their election of choice to fill a vacancy, are at least 18-years-old and have resided within the city at least thirty days immediately preceding the date of election, and meet the other qualifications of a city elector shall be qualified for the offices of mayor and councilman. If the mayor or any other councilman ceases to be a resident of the city, he shall thereupon cease to hold office.

### **06.10.020. Relationship to Mayor.**

The mayor shall preside at all meetings of the council and shall certify the passage of all ordinances and resolutions passed by it. As ex-officio councilman, he shall have all powers, rights, privileges, duties, and responsibilities of councilmen, except that he may not vote except in the case of a tie. The mayor shall have the power of veto as provided in Sec. 06.20.050.

### **06.10.030. Compensation.**

- (a) The mayor of the City of Kake shall be paid a salary of \$500.00 per month, provided, however, if the mayor is out of the city for a period of more than fifteen days, his salary shall be suspended for the entire period of his absence and paid to the acting mayor.
- (b) Each member of the council of the City of Kake shall be paid a salary of \$50.00 for each regular and special meeting of the council attended by the councilmen. In the event a councilman acts as mayor in the absence of the mayor, he shall receive no compensation as a councilman for any time during which he has been paid a salary as acting mayor.

### **06.10.040. Powers.**

All powers of the city, including the determination of all matters of policy, shall be vested in the council. Without limitation of the foregoing, the council shall have power:

- (1) by ordinance to enact legislation relating to any or all subjects and matters not prohibited by law;
- (2) to adopt the budget, raise revenue, make appropriations, and regulate salaries, wages, and all other fiscal affairs of the city;
- (3) to inquire into the conduct of any office, department, or agency of the city and investigate municipal affairs;
- (4) to appoint or elect and remove its own subordinates, personnel in the department of law, election personnel, the members of the personnel board, the members of the planning commission, the members of the zoning commission, the members of the board of adjustments, and other quasi-legislative, quasi-judicial, or advisory officers and authorities now and when and if established or prescribe the method of appointing or electing or removing them; and

- (5) to create, change, and abolish all offices, departments, and agencies of the city government and to assign additional powers, duties, and functions to offices, departments, and agencies so created or modified.

**06.10.050. Appointments and Removals.**

Neither the council nor any of its members may direct or request the appointment of any person to or his removal from office for employment by the mayor, except as may be hereafter otherwise provided in Kake Code Title 03, Administration and Personnel. Except for the purpose of inquiry, the council and its individual members shall deal with the administrative service of the municipality solely through the mayor and neither the council nor its individual members may give orders on administrative matters to any subordinate of the mayor, either publicly or privately.

**06.10.060. Meetings.**

Meetings of the council and all committees thereof shall be public as and except as provided by AS 44.62.310. The council shall provide reasonable opportunity for the public to be heard at all regular and special meetings of the council. Regular meetings of the council shall be held on the first and third Tuesdays of every month at 7:00 p.m. at City Hall unless public notice is given for a period of at least 24 hours that the meeting will be held at a different hour or at a different place. Whenever a first or third Tuesday of the month is a holiday, the regular meeting scheduled for that day shall be held the following Tuesday. No notice of any regular meeting is required, except that in the month of January of each year, the clerk shall post a notice in three public places in the city stating the time and place of regular meetings of the council as provided in this ordinance. Special meetings shall be held on a call by the mayor or two councilmembers. Notice of special meetings of the council shall be posted in three public places in the city for a period of at least 24 hours before any special meeting; notices shall be communicated to the mayor and the members of the council either verbally or by personal delivery of such notice at least 24 hours before the meeting. If any of them cannot be personally notified as above provided, a copy of the notice shall be mailed to them at least 72 hours before the meeting. Notice of any special meeting shall state in general terms the nature of any items scheduled to be presented to the meeting, but any and all business which may come before the meeting may be transacted thereat. No irregularity in giving notice of the purpose of the meeting shall invalidate such special meeting.

**06.10.070. Quorum.**

Four councilmen constitute a quorum. Four affirmative votes are required for the passage of an ordinance, resolution, or motion. The final vote on each ordinance, resolution, or substantive motion must be by recorded roll call vote. All councilmembers present shall vote unless the council, for special reasons, permits a member to abstain from voting.

**06.10.080. Absences to Terminate Membership.**

The council shall declare a vacancy in the office of mayor or councilman in the event such elective official misses three (3) consecutive regular meetings unless excused; the foregoing in addition to other conditions constituting a vacancy under 06.10.100 for all elected municipal offices.

**06.10.090. Removal.**

The mayor or any other councilman may be removed from office for any cause specified by applicable state law for the removal of officers and in the manner prescribed thereby or recall as provided by statute.

**06.10.100. Vacancies.**

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

- (1) fails to qualify to take office within 30 days after his election or appointment;
- (2) is physically absent from the municipality for a 90-day period, unless excused by the council;
- (3) resigns and his resignation is accepted;
- (4) is physically or mentally unable to perform the duties of his office;
- (5) is removed from office;
- (6) misses three consecutive regular meetings unless excused; or
- (7) is convicted of a felony or of an offense involving a violation of his oath of office.

**06.10.110. Filling a Vacancy.**

- (a) 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 vacancy until the next regular election and until a successor is elected and has qualified. A vacancy in the office of mayor occurring within six months of a regular election shall be filled by the council. The person designated shall serve until the next regular election and until the successor is elected and is qualified. If a councilman is chosen, he shall resign his council seat. If a vacancy occurs more than six months before a regular election, the council shall call a special election to fill the unexpired term.
- (b) If the number of vacancies is such that the council no longer has enough members to constitute a quorum, then the mayor shall appoint the minimum number of councilmen required to enable the council to have a quorum.

**06.10.120. Conflict of Interest.**

An officer or employee shall disqualify himself from participation in any official action in which he has a substantial financial interest.

**06.10.130. Payment of Accounts.**

All claims and accounts for payment shall be approved by the council before payment. Vouchers for such purpose shall be prepared for each separate account to be paid. The vouchers shall be submitted to the members of the council for inspection and the accounts may be paid only by being approved by the council.

**06.10.140. Motions.**

When a motion is under consideration no other motion shall be made except to adjourn, to lay on the table, for the previous question, to postpone to a time certain, to commit, to amend, or

postpone indefinitely, which several motions shall have precedence in the order in which they are herein mentioned.

**06.10.150. Parliamentary Procedure.**

Except as otherwise provided in this ordinance, Robert's Rules of Order shall be followed in matters of parliamentary procedure.

**06.10.160. Committees.**

Within thirty (30) days after the annual election of members of the council, the council shall designate standing committees of the members of the council and such other committees as are required for the discharge of municipal business. The council may appoint special committees from time to time. The members of the committee shall be appointed by the mayor but, any appointment may be vetoed by the council.

**06.10.170. Order of Business.**

At meetings of the council, the following order of business shall be observed:

- (1) Proof of service of any notice of special meeting shall be presented and filed;
- (2) Roll call;
- (3) Reading of minutes of previous meeting;
- (4) Hearing of members of audience regarding ordinances or resolutions under consideration, proposals for action by the council, and other matters of public concern;
- (5) Reports of standing committees;
- (6) Reports of special committees;
- (7) Reports of city officers;
- (8) Reading of correspondence;
- (9) Consideration of resolutions, petitions, and memorials;
- (10) Consideration of proposed ordinances;
- (11) Unfinished business;
- (12) New business; and then
- (13) Adjournment.

**06.20.010. Acts Which Shall Be By Ordinance.**

Formal acts of the council intended to regulate any of the affairs of the City of Kake may be enacted by ordinance. Those acts of the council may be by ordinance which:

- (1) establish, alter, or abolish any city department;
- (2) fix the compensation of members of the council;
- (3) provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (4) provide for the levying of taxes, which levy may be by resolution;
- (5) make appropriations or supplemental appropriations or transfer appropriations;
- (6) grant, renew, or extend a franchise;
- (7) regulate the rate charged for its services by any public utility;
- (8) adopt, modify, or repeal the comprehensive plan, zoning, and subdivision ordinance, building and housing codes, and the official map;
- (9) approve the transfer of a power to a borough from the city;
- (10) regulate, change, or fix the rates to be charged by a municipally-owned utility or a public service corporation, association, or individual not regulated by AS 42.05.

**06.20.020. Procedure for Adopting Ordinances.**

- (a) The following procedure governs the enactment of all ordinances, except emergency ordinances:
  - (1) An ordinance shall be introduced by a member of committee of the council or by the mayor;
  - (2) An ordinance shall be set for hearing by the affirmative vote of a majority of the votes authorized on the question;
  - (3) A summary of the ordinance and its amendments shall be published in a notice of time and place for public hearing;
  - (4) The hearing shall follow publication by at least five days;
  - (5) Publication shall be by posting on bulletin boards in three places in the city;
  - (6) At the hearing, copies of the ordinance must be available to all persons present or the ordinance must be read in full; and
  - (7) The council shall hear all interested persons wishing to be heard.
- (b) After the hearing, the council shall consider the ordinance and may adopt it with or without amendment. The clerk shall print and make available copies of adopted ordinances.
- (c) Ordinances take effect upon adoption or at a later date specified in the ordinance.

**06.20.030. Emergency Ordinances.**

- (a) To meet a public emergency, the council may adopt ordinances effective on adoption without a public hearing. Every emergency ordinance must contain a finding by the council that an emergency exists and a statement of the facts upon which the finding is based. The ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of all members present or the affirmative vote of three-fourths of the total

membership, whichever is less, is required for adoption. The clerk must print and make available copies of adopted ordinances.

- (b) An emergency ordinance may not be used to levy taxes.
- (c) Emergency ordinances are effective for 60 days.

**06.20.040. Vote Required.**

At least four votes are required for the passage of an ordinance or resolution. The mayor shall not vote except in the case of a tie vote. All councilmen present shall vote unless the council, for special reasons, permits a member to abstain.

**06.20.050. Mayor's Veto Power.**

The mayor may veto any ordinance, resolution, motion, or other action of the council and may by veto strike or reduce items in appropriation ordinances except for school budget items. He shall submit to the council at its next regular meeting a written statement advising of his veto and giving his reasons. A veto may be overridden by the vote of two-thirds of the authorized membership of the council.

**06.20.060. Effective Date.**

Emergency ordinances and ordinances making, repealing, transferring, or otherwise changing appropriations shall be effective immediately upon passage, unless specifying a later date. All other ordinances shall become effective upon adoption unless a later effective date is specified.

**06.20.070. Number.**

Immediately upon passage, each ordinance shall be assigned the next consecutive number indicating the total number of ordinances passed.

**06.20.080. Form of Ordinances.**

All ordinances to be eligible for introduction shall be substantially in the following form and contain and conform to the following requirements:

- (1) Heading. "City of Kake, Alaska"
- (2) Number of Provisions. "Ordinance No. \_\_\_\_"
- (3) Title. A descriptive title, including reference to penalties if imposed by the ordinance.
- (4) Premises. Whereas clauses may be necessary to describe the reasons for the proposed ordinance.
- (5) Enacting Clause.
  - (i) The enacting clause of all ordinances passed by the council shall be:  
"BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KAKE, ALASKA"
  - (ii) and all ordinances proposed by the voters under their power of initiative:  
"BE IT ORDAINED BY THE PEOPLE OF THE CITY OF KAKE, ALASKA"

- (6) Classification. Section 1 of each ordinance shall classify the contents of the ordinance as between those of a general and permanent nature intended to be filed as part of the city code and contents of a less permanent or less general interest not intended as part of the code.
  - (i) If a permanent nature, the section shall read:  
“Sec. 1. This ordinance is of a general and permanent nature and the code sections adopted hereby shall become part of the city code”.
  - (ii) Ordinances authorizing the conveyance of property, salary ordinances, appropriation ordinances, and ordinances for the annual levy of general taxes are examples of ordinances of a temporary nature.

**06.20.090. Code Ordinances.**

- (a) Ordinances classified and intended for code filing shall also contain on the first page (and subsequent pages, if necessary) additional sections containing the formal parts of the ordinances not necessary for filing in the code as follows:
  - Sec. 1. Classification
  - Sec. 2. Severability Clause
  - Sec. 3. Effective Date
  - Sec. 4. Repealer Clause
- (b) The fifth clause shall read as follows:
 

“Sec. 5. The following annexed sections, bearing code number sections \_\_\_\_\_ though and including \_\_\_\_\_ are hereby adopted as parts of this ordinance and Title \_\_\_\_\_ of the Code of Ordinances of the City of Kake, Alaska.”
- (c) Code Sections. The text of the ordinance shall be arranged in sections bearing the appropriate section number indicating the code title, the code chapter, and the code section. In the event of the ordinance being prepared by a person unfamiliar with the code classification, each section shall be headed as follows: “Sec. \_\_.\_\_.\_\_\_\_,” thereby reserving spaces for two title numbers, two chapter numbers, and three section numbers.
- (d) Page Headings. All pages intended for code filing should bear the heading in the center of the page at the top “City of Kake Code” and at the top left seven digits designating the title, chapter, and section containing the text appearing on the last line of the page.
- (e) Paper. All ordinances shall be submitted on clear white paper 8-1/2 inches by 11 inches.
- (f) Margins. Left margin 2 inches, right margin 1 inch, top 1 inch, bottom 1 inch.
- (g) Type of Printing. All ordinances shall be submitted typed in black pica type (or equivalent size) or printed equivalent single spaced on one side only in a manner and form suitable for photocopy or other means of duplication for permanent filing as required by law and ordinance.
- (h) Signatures. Appropriate places on the first page shall be provided for the signatures of the mayor and clerk.

- (i) Number of Copies. All ordinances shall be submitted in at least 10 (ten) copies.

**06.20.100. Non-Code Ordinances.**

- (a) Ordinances of less than general and permanent nature and not intended to become a part of the code shall conform to the requirements of subsections (a), (b), (c), (d), (e), and (f) of Section 27.20.080 of this chapter and to subsections (d), (e), (f), and (h) of Section 27.20.090 of this chapter.
- (b) Section 1 shall classify the contents as non-code. Subsequent sections shall contain an appropriate text and provision for date of passage and signature.

**06.20.110. Adoption by Reference.**

The council by ordinance may adopt by reference codes, ordinances, standards and regulations, and amendments thereto, relating to building, plumbing, electrical installations, milk and milk products, and other matters which it has power to regulate otherwise. Such code ordinance standard or regulation to adopted need not be enrolled in the book of ordinances, but at least 5 copies of the code shall be filed in the office of the city clerk and be kept available for public use, inspection, and examination for a period of fifteen (15) days before adoption of the ordinance which incorporates the code by reference. After its adopting the code shall be kept available for public use, inspection, and examination so long as it remains in force. Nothing in this ordinance relieves the city from the requirement of publishing in full the ordinance which adopts a code or amended code of technical regulations, nor may the city adopt penalties by reference.

**06.20.120. Resolutions.**

Formal acts by the council not required by law to be enacted by ordinance and not being acts of a general and permanent nature which should become part of the code may be adopted by resolution bearing:

- (1) the heading City of Kake;
- (2) space for the serial number to be assigned “Resolution Serial No. \_\_\_\_”;
- (3) a short and concise title descriptive of the subject and purpose;
- (4) short premises or whereas clauses descriptive of the reasons for the resolution if necessary;
- (5) resolving clause “BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KAKE, ALASKA”; and
- (6) provision for signature after the text “Adopted (date)” and designated lines for the signatures of the mayor and clerk. All resolutions adopted by the council shall conform to that set forth in subsection (a) of Section 06.30.100 and shall be on white 8-1/2 x 11 inch paper with 1-1/2 inch left margin suitable for permanent filing.

**06.20.130. Codification.**

The ordinance of the city shall be codified and published in a book or pamphlet form at least every 5 years unless the council by use of a loose leaf system provides for keeping the code up-to-date as herein provided. Titles, enacting clauses, and emergency sections may be omitted from the code and temporary and special ordinances and parts of ordinances may be omitted.

Ordinances and parts of ordinances included in the code may be revised, rearranged, and reorganized and the code may contain new matter, provisions of the state constitution, and law applicable to the city. The council by non-emergency ordinance shall adopt the new code. One or more copies of the code shall be filed and kept in the office of the city clerk after adoption, but the code need not be enrolled in the book of ordinances.

**06.20.140. Repeal of Ordinances.**

Ordinances and parts of ordinances shall be specifically repealed by ordinance number or by section if only amended or partially repealed.

# TITLE 09. ELECTIONS.

## Chapter 04. General Provisions.

### **09.04.010. Administration of Elections.**

Municipal elections shall be conducted in accordance with rules promulgated by the city council.

### **09.04.020. Voter Qualifications.**

The following requirements must be met before a person may vote in a municipal election:

- (1) The person must be a citizen of the United States;
- (2) The person must be qualified to vote in a State election of the State of Alaska;
- (3) The person must have been a resident of Kake for thirty days preceding the election;
- (4) The person must be registered to vote in state elections of the State of Alaska; and
- (5) The person must not be under any of the voter disqualifications listed in Article V. of the Constitution of the State of Alaska.

### **09.04.030. Disqualification of Voters.**

A person may not vote if he has been convicted of a felony involving moral turpitude unless his civil rights have been restored. A person declared by a court of competent jurisdiction to be of unsound mind, unless the disability has been judicially removed, may not vote.

### **09.04.040. Time of Election.**

On the first Tuesday of October, there shall be a general election. At such general election, vacant city offices will be filled. At the same general election, other matter may be put on the ballot. From time to time, for good cause and by resolution, the city council may order that a special election be held.

### **09.04.050. Expenses.**

Necessary election expenses shall be paid by the city. Necessary election expenses shall include the costs of securing polling places, providing ballot boxes, voting booths, screens, national and state flags, supplies, and wages due to election judges and clerks. If an election is contested by a candidate or by voters, then expenses arising from a recount shall be paid by the candidate or voters contesting the election. If a recount results in a change in the outcome of the election, then the costs of the recount will be paid by the council. When a recount is obtained by a group of voters, each individual voter may be held liable for the entire cost of the recount.

### **09.04.060. Time Off for Voting.**

A qualified and registered voter whose employment will prevent him from voting will be given time off to enable him to go to the place of balloting, cast his vote, and return to his place of employment even if during normal working hours.

**09.04.070. Majority Elections.**

In the event a candidate fails to receive over forty percent of the votes cast for the office for which he is running, then the city council shall, after giving five days notice, conduct a runoff election between the two candidates receiving the greatest number of votes.

**09.04.080. Incorporation of State and Federal Law.**

All provisions of the United States Constitution, the Constitution of the State of Alaska, and statutes enacted pursuant to the federal and State constitutions affecting municipal elections are incorporated into this chapter as if fully set forth herein.

**09.04.090. Scope of This Title.**

The provisions contained in this title shall apply to all general annual elections held in the city, to all special elections, and to all school elections insofar as the same may apply.

**09.08.010. Election Administrator.**

The city clerk shall be the administrator of municipal elections. The city clerk will obtain from the State of Alaska a list of qualified voters. The city will not register voters and voter registration data will be obtained from the State. The city clerk will post notices encouraging voters to participate in elections and otherwise cooperate with State election officials.

**09.08.020. Election Judge and Clerks.**

Before each municipal election, the council shall appoint from among the registered voters of the city three election judges for the polling place. The three election judges will constitute the election board for the polling place. The city council will choose one of the three election judges to be the chairman of the election board and he shall be responsible for the polling place. The city clerk may further appoint up to three clerks to assist the election board.

**09.08.030. Vacancies.**

In the event an election official fails to appear, fails to take the prescribed oath, or is otherwise unwilling or unable to serve, then the remaining election judges, by majority vote, shall choose a replacement judge or clerk.

**09.08.040. Oaths.**

The election administrator will choose an election judge from the polling place to appear before the election administrator and take the oath set out in this section. The election official will administer the same oath to all other election judges and clerks at the polling place. The oath shall be as follows:

“I, \_\_\_\_\_, do solemnly swear that I will honestly and faithfully perform the duties of an election official. All of this I will perform to the best of my ability, so help me God.”

**09.08.050. Canvassing Committee.**

The city council shall be the canvassing committee and will canvass all votes after the election judges have completed their tally of the votes.

**09.12.010. Qualifications.**

Candidates must meet the following qualifications:

- (1) Be a qualified voter of the city;
- (2) Be at least eighteen years old at the time of filing;
- (3) Be a resident of the city for at least one year preceding the election day in the case of a council member or mayor; and
- (4) Be a resident of the city for at least thirty days preceding the election in the case of a school board member.

**09.12.020. Party Affiliation.**

Municipal elections shall be non-partisan. No candidate shall file for election or run for office as a member of a political party which is active in State or national elections.

**09.12.030. Filing for Office.**

Any qualified person may have his or her name placed on the ballot for the election as a candidate for any elective office in the city by filing not more than four weeks nor less than one week prior to the election with the city clerk a sworn declaration of his candidacy and a petition signed by at least twenty qualified voters of the city, provided that the petition may be circulated and may be filed by the candidate himself or by one or more qualified voters of the city other than the candidate.

**09.12.040. Declaration of Candidacy.**

- (a) The declaration will include:
  - (1) the full name of the candidate and the form in which he desires his name 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) facts showing that the candidate is a qualified voter and resident of the city;
  - (6) the length of time the candidate has been a resident of the City of Kake; and
  - (7) that the candidate agrees, if elected, to serve the full term of office.
- (b) The declaration shall be sworn to and subscribed by the candidate in the presence of the city clerk.

**09.12.050. Record.**

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

**09.12.060. Withdrawal.**

Any 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.

**09.16.010. Notice of General Election.**

At least ten days before any general election, the city clerk shall post and publish, or cause to be posted and published, by posting notice thereof at a continuous place in City Hall and by publishing notice in a newspaper of general circulation within this judicial district once prior to the election notice of the general election. The notice of general election shall be in the following form:

Notice of General Election:

Notice is hereby given that on the \_\_\_\_ day of October \_\_\_\_\_, there will be held in the City of Kake, Alaska, an election for the purpose of \_\_\_\_\_. The polls for the election will be open at 8:00 a.m. on the said day and will close at 8:00 p.m. on the same day.

Registration is not required, but a person at the polling place must certify his qualifications as follows: Be a United States citizen qualified to vote in an Alaska State election and registered therefor at least thirty days preceding the date of this municipal election, be at least eighteen years of age, be a resident of the City of Kake for thirty days immediately preceding the election, and not be disqualified under Article V. of the Constitution of the State of Alaska.

**09.16.020. Notice of Special Election.**

Notice shall be given by both publication and posting as in the case of general elections, except that in the case of a special election, notice must be given twenty days prior to the holding of the election.

**09.20.010. Election Booths.**

Polling booths shall be provided at the polling place by the city clerk. The voting booths shall be constructed and supplied so that each voter may mark his ballot without being subject to observation. Ballot boxes shall not be placed inside the voting booths but shall be outside the voting booth and subject to the observation of the election judges.

**09.20.020. Instruction Cards.**

Instruction cards will be provided to the election officials by the city clerk to be distributed to the voters. The instruction cards will provide the following guidance:

- (1) How to obtain ballots;
- (2) How to mark the ballots;
- (3) How to obtain information regarding voting procedure; and
- (4) How to obtain a new ballot to replace a destroyed or spoiled ballot.

**09.20.030. Ballots.**

- (a) In municipal elections, the printing of ballots is the responsibility of the city clerk. Within five days of the election, the city clerk will have the ballots printed and will make them available to the candidates for inspection.
- (b) The ballot shall consist of a list of candidates and issues to be decided at the election.
- (c) Before the list of candidates for each office, there shall be placed the words "Vote for not more than three", "Vote for not more than one", or whatever number is appropriate.
- (d) Provision will be made on the ballot for write-in candidates for each office on the ballot.
- (e) On the ballot there shall appear the following:
  - (1) "OFFICIAL BALLOT";
  - (2) Facsimile signature of the city clerk; and
  - (3) Date of the election.
- (f) The ballots will be printed on plain white paper with consecutive serial numbers. Names of candidates will be printed in capital letters of the same size and shade of color. Next to the name of each candidate and next to each space provided for write-in candidates, there shall be printed a one-quarter inch square.
- (g) The names will be printed on the ballot in the same way they appear on the candidate's petition. The positions of the candidates' names shall be changed from one ballot to the next as required by the laws of the state for state elections.
- (h) Following the names of the offices and candidates, there shall be placed on the ballot all propositions and questions to be voted upon by the electorate. The words "Yes" and "No" shall be placed below the statement of each proposition and question.

- (i) Sample ballots shall be printed by the city clerk. The sample ballots will be printed on yellow paper, unnumbered, and be clearly labeled as “Sample Ballot”. Sample ballots shall be delivered to election officials at the polling place.

**09.20.040. Registration Index.**

Before the polls are opened, the city clerk shall deliver to the elections officials at the polling place a registration index and an original register. Voters will enter their signatures, mailing addresses, and residence addresses in the original register. When the election officials deny permission to a voter to vote, the incident and the reasons for the denial will be entered into the original register. When a voter signs his name into the original register, it will constitute a declaration by him that he is qualified to vote.

**09.24.010. Place and Time of Voting.**

A qualified voter shall vote only once per election and shall exercise that right at the Kake High School building. On the day of the election, the election board shall open the polls at 8:00 a.m. for voting and shall keep them open until 8:00 p.m. The polling place shall be kept open during these hours. The election board will arrive at the polling place no later than 7:30 a.m. The election times are to be computed in accordance with the standard or daylight time set by the United States Department of Transportation for the time zone in which Kake is located. An election judge shall formally proclaim the polls open and the polls closed at the appropriate time at the threshold of the door to the room in which the polling place has been located.

**09.24.020. Voting.**

- (a) Before the first ballot is issued, the election board will open and examine the ballot box in the presence of the election board to ensure that the ballot box is empty of ballots. Once it is determined that the ballot box is empty, it will be closed, sealed, and not opened until after the polls have closed.
- (b) A person seeking to exercise his vote will give his name and address to the election official. The election official will then determine whether the voter is qualified by examining the registration index. If the election official believes a voter is not qualified, he will challenge the voter.
- (c) If it is not necessary to challenge the voter, or if the voter has complied with the challenged ballot procedure, the election official will issue the appropriate ballot to him.
- (d) If a person is physically unable to mark a ballot, he may be assisted by an election judge or a person of the voter's own choosing. If the person assisting the voter is not an election judge, he will swear an oath stating that he will not divulge the elector's vote.
- (e) Unless a voter needs assistance as described in the preceding paragraph, only one person is allowed in a voting booth at a time. A voter may only remain in the voting booth for the reasonable time necessary to complete his ballot.
- (f) Before the ballot is placed in the ballot box, the election judge will remove that part of the ballot containing the serial number. The election judge will not examine the ballot other than to remove that part of it containing the serial number. Then the election judge will place the ballot in the ballot box for the voter.
- (g) A voter may obtain from the election judge a replacement for an improperly marked or damaged ballot. The voter will be allowed up to three replacement ballots. The discarded ballot will then be destroyed without being examined by the election official.

**09.24.030. Closing of the Polls.**

Fifteen minutes before closing the polls, the time remaining will be proclaimed aloud by an election official. When the time for the closing of the polls is reached, the closing of the polls shall be proclaimed in the same manner. At this point, no more ballots will be issued except to those persons waiting in line to begin the voting procedure.

**09.24.040. Rejection of Ballots.**

If a ballot contains on the outside any identifying mark, it shall be rejected and not placed in the ballot box. The election judge shall sign his name to any rejected ballot and retain it for safekeeping.

**09.24.050. Challenging an Elector.**

It shall be the duty of any election judge to challenge any person offering to vote whom they know, suspect, or believe to be unqualified as a voter. A challenged voter will be issued a ballot if he executes an affidavit of qualification. Once having done this, the challenged voter may mark his ballot. The ballot will be placed in a sealed envelope along with his affidavit and placed in the ballot box. Once the ballot box is later opened at the appropriate time, the sealed envelope will be forwarded to the canvass board for them to consider the validity of the challenge.

**09.24.060. Unused Ballots.**

The number of ballots not used by the time the polls close will be recorded in a log. The unused ballots will then be burned before the ballot box is opened. The logs containing the numbers of the unused ballots and damaged ballots will be forwarded to the city clerk.

**09.24.070. Election Paraphernalia.**

The city clerk shall supply to the election board at the polling place materials needed for the conduct of the election. These items shall include voter qualification certification books, logs, pens, ballots, sample ballots, and whatever else is necessary for the conduct of the election.

**09.28.010. Counting Ballots.**

- (a) Once the polls are closed and the unused ballots have been accounted for and destroyed, the election officials will begin the count of the ballots by opening the ballot box. Once the counting procedure is commenced, it may be interrupted. The counting of the ballots will be done in full view of any person or persons who want to observe. Under no circumstances may the counting for the ballots be hidden from the public. Only the election judges may handle the ballots and no person may interfere with or attempt to distract the election judges while they are counting the ballots.
- (b) The candidate for mayor receiving the greatest number of votes shall be elected. The three candidates for council receiving the greatest number of votes shall be elected. A simple majority of the votes cast on a proposition shall be sufficient for passage.

**09.28.020. Tallies.**

The number of ballots found in the ballot box shall be compared with the number of voters recorded as having voted. If there is a discrepancy, another comparison will be made. If a discrepancy cannot be resolved, then a description of the discrepancy will be written on the face of the tally sheet and signed by the election judges. When the tally of votes is completed, a certificate of returns shall be prepared and signed by the three election judges. After completion of the certificate of return, the counted ballots shall be sealed into the envelope provided by the clerk and shall be delivered to the clerk for preservation in an unopened condition for one year. The envelope containing the ballots may be reopened for an official recount.

**09.28.030. Legitimacy of Ballots.**

The election board shall evaluate the ballots in accordance with the following rules:

- (1) A voter must clearly indicate his choice by executing a mark within the appropriate space;
- (2) A failure to mark one candidate's box will not invalidate the entire ballot;
- (3) A vote will be counted for each candidate properly marked;
- (4) If more marks are made than there are offices to be filled, then the votes for that office will not be counted;
- (5) To be counted, the mark must be substantially within the box provided in such a way to clearly identify the voter's selection;
- (6) An erasure only invalidates that part of the ballot erased;
- (7) Stickers may be placed in the space reserved for write-in ballots; and
- (8) If duplicate ballots are found folded together, both will be rejected.

**09.28.040. Delivery of Ballots.**

After completion of the certificate of returns, the counted ballots and the rejected ballots shall be sealed into an envelope provided by the city clerk and delivered to the canvass board.

**09.28.050. Canvass of Returns.**

- (a) The city council shall constitute the canvass board. Within seven days after the election, the canvass board shall convene for the purpose of canvassing the election returns.
- (b) The board must complete the canvass within three days after beginning the canvass.
  - (1) The canvass board shall consider the certificate of returns submitted by election officials;
  - (2) The canvass board shall hear the complaints or objections of any member of the public;
  - (3) The canvass board will review challenged ballots; and
  - (4) The canvass board will review and compare the tallies of paper ballots with election certificates to correct any mathematical error in the count of paper ballots.
- (c) If there is an unexplained error in the tally of ballots, the city clerk may recount the ballots. The city clerk shall certify in writing to the state canvass board any changes resulting from the count.
- (d) The canvass board may request the assistance of the city attorney to investigate any challenges made to the election. Any city elector may appear to give testimony concerning challenged ballots before the canvass board. If a challenge is upheld, the ballot challenged will not be counted, but will be preserved. If a challenge is denied, the challenged ballot will be counted with the absentee ballots. The city clerk will notify a voter whose ballot is not counted that the challenge was upheld.
- (e) The council acting separately from its function as canvass boards may review its own findings. During such a subsequent review, the council may order testimony of witnesses and issue subpoena or subpoena duces tecum while investigating challenged ballots. The council may also decline to review its own findings.
- (f) If the city council concludes that the election was validly held, such conclusions shall be publicly announced and entered upon the minutes of the meeting. The minutes also shall include:
  - (1) the number of votes cast in the election;
  - (2) the names of the persons voted for and the propositions and questions voted upon in the election;
  - (3) the offices voted for and the number of votes cast for each candidate for each office; and
  - (4) the number of votes for and against such propositions and questions voted upon.
- (g) If the council concluded that the election is not valid, it shall order a new election.
- (h) If the council concludes that a valid election was held, that substantial compliance with all voting procedures was effected, and that no material discrepancy exists which may affect the outcome of the election, the council shall direct the city clerk to deliver to each person elected to office a certificate of election signed by the mayor and clerk.
- (i) If two or more persons receive an equal and highest number of votes for any one and the same office, the city clerk shall give notice to each candidate to appear at City Hall. Once the candidates have appeared, the city clerk shall choose the winner by lot and issue to the winner an appropriate certificate.

Chapter 32. Absentee Voting.

**09.32.010. Absentee Voter.**

Any qualified voter of the City who cannot be present, expects not to be able to be present at a city election, or is physically unable to go to the polling place on the day of the election may vote in the election by absentee ballot.

**09.32.020. Application.**

No more than twenty days before the election and no less than one day before, the absentee voter will submit to the city clerk an application to vote by absentee ballot. The application shall be substantially in the following form:

Application for ballot to be voted at the \_\_\_\_\_ election held at Kake, Alaska on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

State of Alaska  
City of Kake, Alaska

I, \_\_\_\_\_, whose address is \_\_\_\_\_, do solemnly swear that I am a duly qualified elector of the City of Kake. I expect to be absent from the City of Kake or otherwise disabled on the date of the above election. I hereby apply for an official ballot to be voted upon by myself at such election.

\_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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

**09.32.030. Absentee Ballot.**

- (a) Once the clerk has verified that the applicant is a qualified voter, the city clerk shall deliver to the applicant an absentee ballot either personally or by registered mail, return receipt requested. Included with the ballot there shall be a blank affidavit for the voter to fill out certifying that he is a bona fide absentee voter. The form shall be designed by the city clerk. If the clerk challenged the right of the absentee voter to cast a ballot, the absentee voter will be required to comply with the procedure for challenged voters.
- (b) The clerk will maintain a log of all applications to vote by absentee ballot and shall record the names of those voters who have been issued absentee ballots. Such logs will be delivered to the election judges and canvass board when requested. The log shall reflect the ballot number and the date it was delivered or mailed.

**09.32.040. Casting the Absentee Ballot.**

- (a) The ballot and absentee ballot affidavit shall be completed, folded, and sealed by the voter in private and in secret. The envelope to be used by the absentee voter is to be the official envelope

provided. The ballot and affidavit are to be delivered by the absentee voter to the city clerk by 5:00 p.m. of the day preceding the election or are to be postmarked by the day preceding the election.

- (b) When the city clerk receives the absentee ballot and affidavit, it is to be enclosed unopened in another envelope simply with a notation on it that it is an absentee ballot and that it is not to be opened until the day of the election. On the day of the election, the envelope is to be taken from a place of safekeeping and delivered to the election judges.
- (c) At the closing of the polls, the election judges shall gather together the absentee ballots which will have been delivered to them by the city clerk. The election judges will open the envelopes without reading the ballots. They will remove the completed absentee ballot affidavit and will use them to ensure that a purported absentee voter has not already cast a vote in person.
- (d) If an absentee voter has not cast a vote in person, his ballot will be placed in the ballot box without being unfolded and after having the stub removed from the ballot. Once the ballot has been placed in the ballot box, the absentee voter's name will be entered into the register as if he had voted in person.

**09.32.050. Rejection of Absentee Ballots.**

The judges shall reject any ballot which does not substantially conform to the foregoing requirements or in case the ballot envelop has been theretofore opened or contains more than one ballot. Rejected ballots shall be endorsed as "rejected" and enclosed in an envelope labeled "defective absentee ballots" and signed by the election judges and forwarded to the canvass board.

**09.36.010. Contest of an Election.**

- (a) Any candidate or ten qualified and registered voters may contest an election or the voting on a proposal. One or more of the following grounds must exist:
  - (1) Misconduct on the part of an election official which was great enough to change the outcome of the election;
  - (2) Existence of a corrupt election practice under Alaska State law;
  - (3) Disqualification of a person elected under the provisions of State law or ordinance.
  
- (b) The person or persons seeking to contest the election must appear in person before the canvass board at the time the board meets to certify election returns. At the meeting of the canvass board, the person or persons seeking to contest the election will serve written notice on the canvass board. The written notice shall contain the following:
  - (1) Identification of the election being contest;
  - (2) Statement of the grounds for challenge in detail; and
  - (3) Notarized signature or signatures of the person or persons seeking to contest the election.
  
- (c) Once the written notice is served on the canvass board, the board shall direct an investigation conducted by the city attorney and the city clerk. The public will be allowed to attend any investigative hearing or recounting.
  
- (d) If the contest is limited to a demand for a recount of ballots, then the election board will recount the ballots.
  
- (e) After the city clerk and the city attorney have completed their investigation, they will submit a report to the canvass board. The board will consider the report and determine whether there were any irregularities and whether these irregularities changed the outcome of the election. If the board finds no irregularities or finds that they did not change the outcome of the election, the board may reaffirm their certification of the election. Otherwise the board may exclude those votes which were the product of irregularities.

**09.40.010. Election Offenses and Corrupt Practices Designated.**

The following acts are declared to be election offenses and corrupt practices and are prohibited:

- (1) Inducing, compelling, or attempting to induce or compel any person to vote or refrain from voting for any candidate in any election or for or against any election proposition or question by, directly or indirectly, using or inflicting or threatening to inflict damage, harm, or loss upon or against the person;
- (2) Giving, promising to give, or offering any money or other valuable thing to any person with the intent to induce him to vote for or restrain from voting for any candidate or for or against any election proposition or question;
- (3) Writing, printing or circulating, or causing to be written, printed or circulated, any letter, circular, bill, placard, or poster, or causing any paid advertising to be placed in a newspaper or any other publication, or paying or contributing to the payment for any such advertisement, or making any radio broadcast, with knowledge that the letter, circular, bill, placard, or broadcast contains any false statement, charge, or comment relating to any candidate at any election or to any election proposition or question;
- (4) Possession of an official ballot outside of the voting room by any person not authorized by law;
- (5) While the polls are open, opening any ballot received from a voter, or marking a ballot by folding or otherwise so as to be able to recognize it, or otherwise attempting to learn how any voter marked his ballot, by an election judge or clerk or by any other person with his permission;
- (6) Publishing or causing to be published any letter, circular, poster, bill, publication, or placard knowing that it contains any false statement or false charges reflecting on the character, morality, or integrity of any candidate at any election;
- (7) Voting or attempting to vote in the name of another person or in any name other than his own;
- (8) By force, threat, intimidation, or offer of reward inducing or attempting to induce any election judge or clerk to fail in his duty;
- (9) Willfully changing or causing to be changed any official election documents including ballots, tallies, and returns, or attempting to do so;
- (10) Willfully delaying or causing to be delayed the election returns or causing to do so;
- (11) Willfully voting or attempting to vote more than once at the same election;
- (12) Willfully making a false affidavit or swearing falsely under the oath required by this title;
- (13) Willful failure to perform any election duty or knowingly doing any unauthorized act with the intent to affect the election or its results by any election judge or clerk;
- (14) Willfully permitting, making, or attempting to make any false count of the election returns by an election judge or clerk;
- (15) Willful concealment, withholding, or destruction of the election returns or any attempt to do so by an election judge or clerk;
- (16) Electioneering on Election Day within the polling place or within one hundred feet of same.

**09.40.030. Civil Remedy for City's Expenses.**

The city may institute civil litigation to recover its costs and expenses of duplicate elections in the event the canvass board determines voting infractions attributable to one or more individuals

were sufficient to have changed the outcome of the election and recommends declaration of whole or partial invalidity and that new elections be held regarding same.

**09.44.010. Reservation of Powers.**

The powers of initiative and referendum are reserved to the residents of Kake, though the powers do not extend to matters restricted by Sec. 7 Art. XI of the Constitution of the State of Alaska and as such, the initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation. The referendum shall not be applied to dedications of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety.

**09.44.020. Petition.**

A petition for initiative or referendum must be filed with the city clerk and an initiative petition must be filed not less than ninety days before the next regular election.

**09.44.030. Form of Petition.**

A petition for an initiative or referendum shall:

- (1) embrace only a single comprehensive subject;
- (2) set out fully the ordinance or resolution sought by the petition;
- (3) state upon the petition, when circulated, the date of first circulation of the petition;
- (4) contain the statement, when circulated, that the signatures on a petition shall be secured within ninety days from the date of the first circulation; and
- (5) have the required signature, dates of signature, and residential addresses of the signers.

**09.44.040. Signature Requirements.**

- (a) The necessary signatures on a petition shall be secured within ninety days from the date of the first circulation of the petition. The petition shall be signed in ink or indelible pencil.
- (b) Every petition for either the initiative or referendum in the government of the municipality shall be signed by a number of qualified voters residing within the territorial limits of the city or, if the act sought to be initiated or referred pertains exclusively to the area outside cities or to a service area, by a number of qualified voters residing within the area outside cities or within the service area, as the case may be, equal to twenty percent of the total number of votes cast at the last general election in the city or special election called for the purpose of electing city officers.
- (c) When signing a petition, each voter shall write or print after his signature the date of signing the petition and his resident address.
- (d) Illegible signatures unless accompanied by a legible printed name may be rejected by the city clerk.
- (e) A petition signer may withdraw his signature upon written application to the clerk within seven days after the petition has been filed with the clerk.

**09.44.050. Certification of Sufficiency.**

- (a) Within ten days from the filing date, the city clerk shall certify on the petition whether or not it is sufficient.
- (b) If the petition is insufficient, it may be amended or supplemented within ten days after the date on which the petition is rejected as insufficient.
- (c) Within ten days after supplementary filing, the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

**09.44.060. Protest of Clerk's Decision.**

If the city clerk certifies the petition is insufficient, a signer of the petition may file a protest with the mayor within seven days after the certification. The mayor shall present the protest at the next regular meeting to the city council, which shall hear and decide the protest.

**09.44.070. Filing New Petition.**

Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition may not be filed sooner than six months after a petition is rejected.

**09.44.080. Council Action on Initiative.**

When a petition seeks enactment of an ordinance or resolution within the powers of the city council, the city clerk shall present it to the council at its next meeting after certification. The assembly of council may reject the petition if the subject matter of the initiative or referendum is within the restrictions of Sec. 09.44.010.

**09.44.090. Initiative Election.**

- (a) Unless a petition is granted within thirty days of its submission to the city council, the city clerk shall, with the assistance of the city attorney, prepare an ordinance or resolution to implement the petition and shall submit it to the voters at the next regular election. The ordinance or resolution shall be published in full in the notice of election but may be summarized on the ballot to indicate clearly the proposal submitted.
- (b) If a majority of those voting favor the proposal, it becomes effective when the election results are officially declared.
- (c) The council may at any time not less than ten days from the date of election adopt an ordinance or resolution to implement the petition. In that event an election shall not be held.

**09.44.100. Referendum Election.**

- (a) When a petition seeks a referendum vote of an ordinance or resolution, the city clerk shall submit the ordinance to the voters of the city at the next regular or special election. If no regular or special election occurs within seventy-five days of the filing of a sufficient petition with the clerk, the city council shall hold a special election within seventy-five days of filing.

- (b) If a majority of those voting favor the referendum legislation, it remains in effect. If a majority rejects the legislation, it is repealed.

**09.44.110. Effect of Referendum Pending Election.**

If a sufficient petition for referendum is filed within thirty days after final passage of the ordinance, the ordinance against which the petition is filed shall be suspended pending the referendum on the ordinance. During the period of suspension, the city council may not enact an ordinance substantially similar to the suspended ordinance, but may repeal the suspended ordinance.

**09.44.120. Integrity of Voters' Decision.**

- (a) The city council may not, within two years, act in any way to modify or negate the effect of a successful initiative or referendum. If an ordinance against which a referendum is directed has been repealed by the council after a petition has been filed but before the referendum, the council may not enact substantially similar legislation for a period of one year after repeal.
- (b) An unsuccessful initiative or referendum precludes the filing of a new petition for the same purpose sooner than six months after voter disapproval of the initiative or referendum.

**09.48.010. When Permissible.**

An elected official may be recalled by the voters after he has served six months in office.

**09.48.020. Grounds.**

Grounds for recall are malfeasance, misfeasance or nonfeasance in office, failure to uphold one's oath of office, dishonesty, or incompetency, in the manner prescribed by Alaska Statutes for the recall of elected officials in general-law cities in Alaska.

**09.48.030. Recall Petition Requirements.**

- (a) A petition seeking recall of one or more municipal officials is filed with the city clerk. The petition shall contain:
  - (1) the signatures and resident addresses of twenty-five percent of the qualified voters residing within the territorial limits of the city;
  - (2) the date each voter signed the petition; and
  - (3) a statement of the grounds of the recall stated with particularity as to specific instances.
- (c) A petition for recall must be filed with the clerk within sixty days after the date of the earliest signature on the petition.

**09.48.040. Examination for Sufficiency.**

The city clerk shall review the petition for content and signatures and shall certify on the petition within ten days of the filing date whether it is accepted or rejected. Until the petition is accepted, a petition signer may withdraw his signature upon written application to the clerk.

**09.48.050. Supplemental Petition; Filing and Certification.**

- (a) If the petition is rejected because of insufficient signatures, it may be supplemented by additional signatures within ten days after the date of rejection. If the petition is insufficient for any other reason, it shall be rejected and filed as a public record.
- (b) Within ten days after supplementary filing, the city clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

**09.48.060. Refiling After Rejection.**

Failure to secure sufficient signatures does not preclude the filing of a new recall petition. However, a new petition may not be filed sooner than six months after a petition is rejected.

**09.48.070. Submission to Council.**

If a recall petition is sufficient, the city clerk shall immediately submit it to the city council.

**09.48.080. Recall Election.**

- (a) If a regular election occurs within seventy-five days of the submission, the city council shall submit the recall at that election.
- (b) If no regular election will occur within seventy-five days, the council shall hold a special election within seventy-five days of submission.
- (c) If a vacancy occurs in the office after a recall petition is filed, the petition shall not be submitted to the voters.

**09.48.090. Form of Recall Ballots.**

A recall ballot shall contain:

- (1) the grounds as stated in the recall petition;
- (2) the officer's statement of two hundred words or less, if the statement is filed with the city clerk for publication and public inspection within twenty days before the election; and
- (3) the following question: "Shall (name of person) be recalled from the office of (office)?  
Yes [ ] No [ ]".

**09.48.100. Election Procedure.**

Procedures for conducting a recall election are those of a regular election. A majority vote on the question is required to recall an officer.

**09.48.110. Effect of Defeat.**

If an incumbent is not recalled at the recall election, a petition to recall the same incumbent may not be filed sooner than six months after the recall election.

**09.48.120. Election to Fill Vacancy.**

If the voters recall an officer, the city clerk shall conduct an election for a successor to fill the unexpired term. The election shall be held at least ten but not more than forty-five days from the date of the recall election. However, if a regular or special election occurs within seventy-five days of the recall election, the successor to the recalled official shall be chosen at that regular or special election.

# TITLE 12. ORDINANCES.

## Chapter 04. Ordinances.

### **12.04.010. Acts Which Must be Made by Ordinance.**

Formal acts of the city council intended to regulate any of the affairs of the city may be enacted by ordinance. Those acts of the council may be by ordinance which:

- (1) establish, alter, or abolish any city department;
- (2) fix the compensation of members of the council;
- (3) provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (4) levy taxes;
- (5) make supplemental appropriations or transfer appropriations;
- (6) grant, renew, or extend a franchise;
- (7) regulate the rate charged for its services by any public utility;
- (8) authorize the borrowing of money within such limits as will not create a greater indebtedness or liability of any kind in any year that the current revenue of the city of that year;
- (9) adopt or modify the official map, platting, or subdivision controls or regulations, or the zoning plan; and
- (10) such additional acts of the council as provisions of law require to be by ordinance.

### **12.04.020. Emergency Ordinances.**

- (a) An emergency ordinance is an ordinance which in the judgment of the city council is necessary for the immediate preservation of the public peace, health, or safety and must become effective prior to the time when an ordinance of nonemergency nature would become effective.
- (b) Every such ordinance shall contain as part of its title the words "and declaring an emergency."
- (c) A separate section, called the emergency section, shall declare the nature and existence of the emergency.
- (d) An affirmative vote of all council members present shall be required for the final passage of an emergency ordinance, which vote shall be by yeas and nays and shall be entered in the journal.
- (e) Emergency ordinances shall be permanent municipal enactments not requiring subsequent consistent nonemergency legislation.

### **12.04.030. Preparation.**

All ordinances, except ordinances initiated by electors of the city under provisions of the city charter, shall be prepared in writing and/or reviewed by the city attorney. No ordinance shall be prepared for presentation to the city council unless requested by a councilman or the mayor. Sufficient duplicate copies of each ordinance to be presented shall be prepared for the mayor,

each councilman, the city clerk, and a sufficient number for distribution to the public at such meeting.

**12.04.040. Introduction.**

- (a) All ordinances shall be introduced by a member of the city council at a regular meeting, except emergency ordinances, which may be introduced at a special meeting called for that specific purpose.
- (b) Upon introduction of any ordinance, sufficient copies shall be furnished to the city clerk in order for him to distribute immediately at least one copy to each council member and the mayor.
- (c) At any council meeting at which the ordinance is considered, additional copies shall be distributed to persons present who request them and in the event of a deficiency in the number of copies of the ordinance available to the public, pertinent portions of the proposed ordinance shall be read in full upon request.
- (d) No motion need be made to introduce an ordinance; at the appropriate period during the meeting, each councilman wishing to introduce an ordinance shall in his turn introduce it.

**12.04.050. Procedure for Passage.**

- (a) Prior to the passage of any ordinance, it shall be read at three separate meetings of the city council. The first reading shall be in full, unless the council determines by majority vote to read by title only. The second and third readings may be by title only. With the consent of a majority of the members present, a proposed ordinance may be passed through more than one reading at the same meeting; provided, that no ordinance except an emergency ordinance may be finally passed on the same day that it is introduced.
- (b) The suggested form of motion for the reading and passage of an ordinance and each of its readings is as follows:
  - (1) First reading. "I move that the ordinance before the council be read by title only (or, in full) and be passed in first reading."
  - (2) Second reading. "I move that the ordinance before the council be read by title only (or, in full) and passed in second reading."
  - (3) Third reading. "I move that the ordinance before the council be read by title only (or, in full) and passed in third and final read."
- (c) No separate motion shall be entertained for entering an ordinance into the first, second, or third reading. The reading of the ordinance, either in full or by title, shall be concomitant of the motion for passage in any of the readings.

**12.04.060. Voting of City Council**

- (a) A vote of a majority of the council members is required on any ordinance questions.
- (b) The mayor has a power of veto.
- (c) No member of the council may vote on any question upon which he has a substantial direct interest. Otherwise, each member of the council shall vote on each question before the council

for determination, unless excused therefrom by the affirmative vote of all remaining members able to vote on the question.

- (d) If a question is raised under this section at any council meeting, such question shall be determined before the main question and shall be voted on, but the council members affected may not vote on such determination.

**12.04.070. Publication.**

Each ordinance shall be published by posting a copy of the ordinance on a bulletin board in the office of the city clerk and at one other public place in the city within fifteen days after the date of adoption.

**12.04.080. Effective Date.**

All ordinances, except emergency ordinances and ordinances imposing or increasing a tax, shall go into effect on the third day after passage, excluding the day of enactment. No ordinance which provides for or increases a tax shall become effective less than thirty days after the date of adoption by the city council.

**12.04.090. Numbering of Ordinances.**

All ordinances shall be numbered in the order of their passage. The title of each ordinance shall be designated to express the subject, object, or purpose of the ordinance.

**12.04.100. Form of Ordinances.**

- (a) All ordinances to be eligible for introduction shall be in the following form and contain and conform to the following requirements:

- (1) Heading. "City of Kake, Alaska."
- (2) Number. "Ordinance No. \_\_\_\_\_."
- (3) Title. A descriptive title, including reference to penalties if imposed by the ordinance.
- (4) Premises. "Whereas" clauses may be necessary to describe the reasons for the proposed ordinance.
- (5) Enacting clause. The enacting clause of all ordinances passed by the city council shall be: "THE CITY OF KAKE ORDAINS" and all ordinances proposed by the voter under their power of initiative "THE PEOPLE OF THE CITY OF KAKE, ALASKA HEREBY ORDAIN."
- (6) Classification. Section 1 of each ordinance shall classify the contents of the ordinance as between those of a general and permanent nature intended to be filed as part of the city code and contents of a less permanent or less general interest not intended as part of the code. If of a permanent nature, the section shall read:

"Sec. 1. This ordinance is of a general and permanent nature and the code sections adopted hereby shall become part of the city code."

- (b) Ordinances shall contain sections substantially conforming with the following sequence:

- (1) Classification (code or noncode);

- (2) Purpose and intent of declaration of emergency (optional);
  - (3) Substantive provisions;
  - (4) Penalty clause (if any);
  - (5) Repealer (if applicable);
  - (6) Severability clause;
  - (7) Effective date.
- (c) To the extent practicable, the practice of having an ordaining page adopting annexed sections by attachment shall be provided.
  - (d) Paper. All ordinances shall be submitted on clear white paper eight and one-half inches by eleven inches.
  - (e) Margins. Left margins shall be not less than one and one-half inch; right margins not less than five-eighths and one inch; top, not less than one inch; bottom not less than one inch.
  - (f) Type of printing. All ordinances shall be submitted typed in black type and printed single-spaced on one side only in a manner and form suitable for photocopy or other means of duplication for permanent filing as required by law and ordinance.
  - (g) Date and signatures. Appropriate places at the bottom of the last page shall be provided for insertion of the date of adoption and the signatures of the mayor and city clerk.
  - (h) Number of copies. All ordinances shall be submitted in at least nineteen copies.

**12.04.110. Form of Noncode Ordinances.**

- (a) Ordinances of less than general and permanent nature and not intended to become a part of the code shall conform to the requirements of subsections (a)(1) through (a)(6) and (d) through (h) of Sec. 12.04.100.
- (b) Section 1 shall classify the contents as noncode. Subsequent sections shall contain the appropriate text and provisions for date of passage and signature.

**12.04.120. Adoption by Reference.**

- (a) The city council, by ordinance, may adopt by reference codes, ordinances, standards, regulations, and amendments thereto relating to building, plumbing, electrical installations, milk and milk products, and other matters which it has power to regulate.
- (b) Such code ordinance standard or regulation so adopted need not be enrolled in the book of ordinances, but at least five copies of such adopted code shall be filed in the office of the city clerk and be kept available for public use, inspection, and examination for a period of fifteen days before adoption of the ordinance which incorporates the code by reference. After its adoption, the code shall be kept available for public use, inspection, and examination so long as it remains in force.
- (c) Nothing contained in this ordinance relieves the city from the requirement of publishing in full the ordinance which adopts a code or amended code of technical regulations, nor may the city adopt penalties by reference.

**12.04.130. Repeal of Ordinances.**

Ordinances and parts of ordinances shall be specifically repealed by ordinance number or by section if only amended or partially repealed.

**12.04.140. Resolutions.**

- (a) Formal acts by the city council not required by law to be enacted by ordinance and not being acts of a general and permanent nature which should become part of the code may be adopted by resolution bearing:
- (1) the heading “City of Kake”;
  - (2) space for the serial number to be assigned, “Resolution No. \_\_\_\_\_.”
  - (3) A short and concise title descriptive of the subject and purpose;
  - (4) Short premises or “Whereas” clauses descriptive of the reasons for the resolution, if necessary;
  - (5) The resolving clause “BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KAKE, ALASKA”; and
  - (6) Provision for signatures after the text “Adopted   date  ” and designated lines for the signatures of the mayor and city clerk.
- (b) All resolutions adopted by the council, whether at the instance of and presented by third parties or on the motion of an instance of the council, shall conform to that set forth in Sec. 12.04.100(b) and shall be on white, eight and one-half by eleven inch paper with one and one-half inch left margin suitable for permanent filing.

**12.08.010. Penalty.**

- (a) Violations of any ordinance of the City of Kake shall be a misdemeanor punishable by a fine not to exceed five hundred dollars or, if the code or ordinance provisions specifically authorize, then either such fine or imprisonment for not more than thirty days, or by both such fine and imprisonment.
- (b) The right to trial by jury extends to prosecution by ordinance violations in which there involves a possibility of incarceration in a jail or penal institution, or loss of a valuable license, or which connote criminal conduct in the traditional sense of the term. When a jury is impaneled, it shall consist of six members; the vote of five shall be sufficient for conviction.

# TITLE 15. PUBLIC FINANCE.

## Chapter 04. Fiscal Policies.

### **15.04.010. Budget and Capital Program.**

- (a) The mayor shall arrange for the preparation of a budget and capital program. The budget and capital expenditure proposals shall be given a public hearing.
- (b) After public hearing, the council may approve budgets with or without amendments and shall appropriate the funds required for the approved budgets.

### **15.04.020. City Obligations, Appropriations.**

- (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 or approved by ordinance adopted by a majority of the votes authorize on the question.
- (b) The council may make supplemental and emergency appropriations. No payment may be authorized or made and no obligation incurred except in accordance with appropriations.
- (c) The council may authorize the payment or make of contracts for capital improvements to be finance wholly or partly by the issuance of bonds.

### **15.04.030. Fiscal Year.**

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

### **15.04.040. Funds Designated.**

The funds designated for the city include:

- (1) General fund;
- (2) Federal revenue sharing fund;
- (3) Construction project fund;
- (4) Debt retirement fund; and
- (5) Other funds created by resolution as needed.

**15.12.010. Central Treasury.**

- (a) The treasurer shall be responsible for the collection, custody, and disbursement of all monies from whatever source. The responsibilities of Treasurer may be delegated.
- (a) The central treasury operating cash shall be kept in one financial institution to be designated for a minimum period of two years by the council by resolution. The resolution shall outline the services the financial institution agrees to provide and the minimum balance required to obtain the services outlined.
- (b) The treasurer shall prepare an annual forecast of cash and, based upon the same as revised at least monthly, shall invest temporary idle money in the following types of investments:
  - (1) bonds, notes, or other obligations, direct or otherwise, of the United States;
  - (2) bonds and other evidence of indebtedness of the State of Alaska;
  - (3) bonds or other evidence of indebtedness of any municipality or political subdivision of the State of Alaska;
  - (4) savings accounts or certificates of deposit in any financial institution authorized to do business in the municipality;
  - (5) certificates of deposit of any bank, providing that the total certificates or deposit of any such institution shall not exceed the paid up capital of such institution;
  - (6) any investment authorized in the terms of the trust for trust funds.
- (c) The treasurer shall provide on a monthly basis to the council the following statements:
  - (1) summary statement of cash receipts and disbursements;
  - (2) reconciliation bank statement of investments and funds; and
  - (3) forecast of cash position compared with actual.

**15.12.020. Central Accounting.**

- (a) All accounting functions for all departments, offices, and agencies are centralized in the office of the treasurer. The treasurer may utilize to the maximum extent allowable by the state the services of the Division of Finance, Data Processing, of the Department of Administration, State of Alaska. Where utilization of the services of the Division of Finance is not practicable or undesirable, the council may authorize exceptions.
- (b) the treasurer shall provide on a monthly basis to the council the following statements:
  - (1) consolidated balance sheet of all funds;
  - (2) state of revenue with estimated and actual; and
  - (3) state of expenditures compared with authorizations.

**15.12.030. Vouchers.**

All vouchers shall be numbered. All vouchers shall bear the signature of approval of the treasurer and have attached thereto supporting documents or references to documents to clearly set forth the purpose of the expenditure and to provide accounting data. All vouchers shall be

submitted to the council for its approval. The city clerk shall record the council's approval of vouchers, including the number(s) of such vouchers, in the journal of the council.

**15.12.040. Checks.**

- (a) All checks drawn on the treasury of the city shall be signed by two eligible signers. All checks prior to issuance shall be supported by a voucher approved by the council except as hereafter provided.
- (b) Checks may be issued prior to council approval of the vouchers when such prior issuance is necessary to:
  - (1) comply with the requirements of bond ordinances relating to the payment of principal and interest on bonds, payments to bond reserve, sinking, or redemption funds;
  - (2) meet contractual requirements for payment of funds;
  - (3) make deposit refunds;
  - (4) payroll transfer; and
  - (5) take advantage of discounts on purchases of supplies or services.

**15.12.050. Insufficient Funds in Bank Account.**

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

**15.12.060 Delegation of tasks.**

The Treasurer may delegate tasks to appropriate City of Kake staff.

**15.16.010. Preparation and Adoption of Budget.**

The mayor shall recommend to the council an annual budget. The city treasurer shall compile the budget based upon detailed departmental estimates and work programs and control the same under the direction of the mayor.

**15.16.020. Budget Message: Current Operations.**

The budget message submitted by the mayor to the council shall be explanatory of the budget, shall contain an outline of the proposed financial policies of the municipality for the budget year, and shall describe in connection therewith the most important features of the budget plan. It shall set forth the reasons for the salient changes from the previous year in appropriation and revenue items and it shall explain any major changes in policy.

**15.16.030. Budget Message: Capital Improvements.**

As part of the budget message, with relation to the proposed expenditures for down payments and other proposed expenditures for capital projects stated in the budget, the mayor shall include a statement of pending capital projects and proposed new capital projects, relating the respective amounts, if any, proposed to be raised therefor by the issuance of bonds during the budget year. A forecast of the projected debt ratios will be provided.

**15.16.040. Scope of capital Improvement Program.**

- (a) The mayor shall submit a capital improvement program and budget of proposed projects for the three following fiscal years which shall accompany the current operating budget.
- (b) The capital improvements program and budget shall contain at least the following:
  - (1) a summary of current capital improvements which are unfinished, including costs to date and projected costs to completion;
  - (2) a simple, clear summary of the detailed contents of the program;
  - (3) capital improvements pending or proposed to be undertaken within the ensuing fiscal year, together with the estimated cost of each improvement and the proposed method of financing it;
  - (4) an estimate of additional annual cost of operating and maintaining the improvements;
  - (5) an estimate of annual cost reduction in operation and maintenance with completion of improvement; and
  - (6) a three-year projection of operating expenditures and debt service compared with a forecast of revenues by fund.

- (c) Based upon the three-year projection of expenditures and revenues, a financial management program and policy will be proposed which should work toward reducing debt pressures, enhance the municipal credit and rating, and accomplish the needed improvement program.
- (d) The appropriation ordinance shall appropriate from the various funds the monies for the capital improvement projects to the capital projects fund. Disbursement shall be made for each authorized project or improvement from the capital projects fund.
- (d) A pay-as-you-go program for projects contained in the three-year program to accomplish recognized levels of capital outlay to total budget will be presented in each fiscal year's operating budget.
- (e) The school board shall make its recommendations to the council through the comprehensive capital improvement program and budget with staff assistance provided by the Department of Commerce, Community, and Economic Development, State of Alaska.

**15.16.050. Budgetary Control.**

- (a) No budget appropriations can be encumbered without certification by the city treasurer that there is an unencumbered appropriation and available funds.
- (b) No officer, department, or agency shall, without council approval during any budget year, expend or contract to expend any money or incur any liability in excess of the amounts appropriated for that general classification of expenditures by the current budget.
- (c) All appropriations lapse at the end of the budget year to the extent that they have not been expended or lawfully encumbered.
- (d) Unencumbered appropriation balances may be transferred within a department by the mayor at any time. At the request of the mayor or on its own prerogative, the council may transfer unencumbered appropriation balances from one office, department, or agency to another.

**15.20.010. Scope of Budget.**

- (a) The budget shall be a complete financial plan for all the operations of the municipality, including the education function, showing all reserves, all estimated revenues from all sources, and all proposed expenditures for all purposes.
- (b) The budget shall include a comparative statement of actual expenditures and actual revenues for the preceding fiscal years and estimated expenditures and anticipated revenues for the current fiscal year.
- (c) Proposed expenditures shall not exceed total anticipated revenues and reserves.

**15.20.020. Anticipated Revenues.**

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

**15.20.030. Anticipated Revenues Compared with Other Years.**

In parallel columns opposite the several items of anticipated revenues, there shall be placed the amount of each such item actually received in the next two preceding fiscal years, the amount of each item of the budget of the current year, and the amount actually received during the first six months of the current year.

**15.20.040. Year-End Surpluses.**

Unencumbered year-end surpluses available for appropriation shall be restricted to available surplus, which is defined for purposes of this title as the amount by which cash plus accrued net receivables exceeds current liabilities at the beginning of the current fiscal year. Net receivables for particular funds shall be determined as provided by the National Committee on Governmental Accounting in their manual, “Governmental Accounting, Auditing and Financial Reporting,” published in 1968.

**15.20.050. Anticipated Surplus from Public Service Enterprises.**

The anticipated revenues and proposed expenditures of each public service enterprise owned or operated by the municipality shall be stated in a separate section of the budget. Any anticipated year-end surpluses, if legally available for general purposes, anticipated payment in lieu of taxes (utilizing the same evaluation basis which would be used if privately owned multiplied by the applicable millage rate), and reimbursements for central services rendered shall be stated as an item of revenue in the general fund budget. However, no payment for general purposes or payment in lieu of taxes may be made if the utility or enterprise is not self-liquidating in regard to debt.

**15.20.060. Revenues, Measures of Estimates.**

No revenues from any source, except year-end surpluses from publicly-owned enterprises, shall be included as an anticipated revenue in the budget in an amount in excess of the average of the amount actually realized in cash from the same source in the next preceding fiscal year and that actually realized in the first six months of the current fiscal year plus that anticipated for the remaining portion of the fiscal year, estimated as accurately as may be, unless the mayor shall determine that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the budget year and the budget message explains this determination.

**15.20.070. Revenues from New Sources.**

No revenue from a new source not previously stated in the budget shall be included, unless the mayor shall determine that the facts clearly warrant the expectation that such revenue will be actually realized in cash during the budget year in the amount stated and the budget message explains such determination. If the new revenue is to be received from the state or federal agency, the anticipated amount shall not exceed the amount which an appropriate officer of the state or federal agency shall declare in writing to be the amount which may reasonably be anticipated in the budget year.

**15.20.080. Proposed Expenditures.**

Proposed expenditures shall be itemized. Separate provision 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) other expenditures required by statute;
- (3) the payment of all judgments, unless the municipality is authorized by law to issue bonds to pay such judgments and actually has made provision for payment under such authorization;
- (4) cash deficit of current year to the extent provided by this title;
- (5) an amount equal to the aggregate principal amount of all tax anticipation notes which it is estimated will be outstanding on the first day of the budget year;
- (6) an amount equal to the aggregate of all discounts, cancellations, remissions, abatements, and refunds of taxes that have been made during the current fiscal year provided, where applicable, this shall be set out as a specific item of reduction in the revenue projections;
- (7) an amount equal to the aggregate of all special revenue notes or warrants which it is estimated will be outstanding at the end of the current year in anticipation of the collection of revenues other than the property tax;
- (8) an amount equal to the aggregate of all emergency notes or warrants which it is estimated will be outstanding at the end of the current year;

- (9) any deficit arising from the operations of utility or other public service enterprise, an amount equal to the deficit from such operations during the next preceding fiscal year, separately stated for each utility or other public service enterprise which appears in a separate section of the budget. However, provision shall be made for increased service charges or increased contributions from taxes in an amount sufficient to eliminate the deficit;
- (10) administration, operation, and maintenance of each office, department, or agency of the municipality;
- (11) council's budgetary reserve in an amount not more than three percent of the total amount stated pursuant to subdivision (10) of this section;
- (12) expenditures proposed for capital projects including provisions for down payments on capital projects to be transferred to the capital projects fund; and
- (13) provision for appropriations to a reserve for capital outlay account to be maintained in the capital projects fund for all projects scheduled for pay-as-you-go or for a partial down payment as provided for in this title.

**15.20.090. Provision for Cash Deficit of Current Year.**

Under the caption "Cash Deficit of Current Year," there shall be included an amount equal at least to the amount by which the aggregate of expenditures and encumbrances in the current year will exceed the aggregate of cash receipts in the current year, unless or to the extent that such deficit will have been provided for from available reserves of the various service areas or areawide accounts or through the issuance of notes, warrants, or other interim or temporary financing needs for which appropriation is made under this title.

**15.20.100. Proposed Expenditures Compared with Other Years.**

In parallel columns, opposite the several items of proposed expenditures, there shall be placed the amount of each such item actually expended in the next two preceding fiscal years, the budget for the current fiscal year, and the amount actually expended for the first six months of the fiscal year in which the budget is being prepared.

**15.20.110. Down Payments on Capital Projects.**

- (a) The budget may separately state a sum which is not less than five percent of the amount of expenditures from bond proceeds for each capital project during the budget year; said sum shall be a "down payment" on projects and appropriated from the reserve for capital outlay account. If accumulated otherwise, the sum shall be appropriated from the applicable fund if to the extent the down payment was not provided for in prior operating budgets. Each capital project shall be individually listed, along with the amount expected to be authorized for bonds to finance the project. For the purpose of the down payments, all street improvements expected to be financed in part by the issuing of bonds during the budget year may be considered a single project; so may all proposed extensions of the water system and likewise all extensions of the sewer system. Such an appropriation for a down payment shall not be required before the issuance of bonds to finance any capital expenditure which is the result of fire, flood, or other disaster, or which is for a municipally owned or operated utility or other public service enterprise, or which is to be met

in part in cash, labor, or materials by an agency of the government of the United States of America or of this state.

- (b) The down payment may be accumulated in a reserve for capital outlay account in the capital projects fund as well as the enterprise funds, annually based upon the long range capital improvements program and budget.

**15.20.120. Reserve for Capital Outlay Account.**

- (a) Reserve for capital outlay accounts will be established within the capital projects fund and each utility and other enterprise fund.
- (b) Based upon the three-year program submitted per this title, provisions will be made to accumulate annually the minimum down payment for each project in the current budget to be expended from bond proceeds. In addition, provisions will be made to annually appropriate funds to this account for projects outlined in the three-year program.

**15.20.130. Budget Summary.**

At the head of the budget, there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and by departments and kinds of expenditures, in such a manner as to present to the taxpayers a simple and clear summary of the detailed estimates of the budget.

**15.24.010. Budget Public Record.**

The budget, the budget message, and the capital improvement program shall be a public record in the office of the clerk, open to public inspection by anyone. The mayor shall cause to be prepared for distribution to interested persons copies of the budget and budget message equal in number to at least one-half of one per centum of the population of the municipality.

**15.24.020. Publication of Notice of Public Hearing.**

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. This notice shall be published at least five days prior to the hearing.

**15.24.030. Public Hearing on the Budget.**

At the time and place so advertised or at any time and place to which such hearing from time to time be adjourned, 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.

**15.24.040. Adoption of Budget: Vote Required.**

The budget shall be adopted by favorable votes of at least a majority of all the members of the council preferably by May 1<sup>st</sup> and not later than May 31<sup>st</sup>.

**15.24.050. Effective Date of Budget, Certification, Copies Made Available.**

Upon adoption of the budget, the budget shall be in effect for the budget 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, mimeographed 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 organization through the clerk's office.

# TITLE 18. BUSINESS LICENSES AND REGULATIONS.

## Chapter 04. Licenses and Permits.

### **18.04.010. Regulation by Licenses or Permits.**

- (a) In the course of regulating businesses and occupation under authority of its police power, the city may require businesses and occupations affected with a public interest to obtain licenses or permits.
- (b) Any fee exacted by the municipality for a license or permit shall be for the purpose of defraying the costs of regulation and shall not constitute a tax against any business or activity.
- (c) Where the ordinances of the city require a license or fee for the conduct of any business, occupation, or activity, no person shall engage in such business, occupation, or activity within the city unless he has a valid city license or permit therefore.

### **18.04.020. Clerk to Keep Record of Licenses Issued.**

The city clerk shall keep a record of all licenses granted by the municipality showing for each license the date issued, to whom issued, the amount collected, the date of expiration, the premises described therein, change of location, or transfer, if any, and any other pertinent fact with reference thereto.

### **18.04.030. Applications Generally.**

A person who desires to secure a license or permit to engage in an activity regulated by this title shall make written application to the mayor on forms prepared and furnished by the city. An applicant shall pay the application fee and file with the clerk a bond if required by this title. No license or permit may be issued to a person who has had his license suspended or revoked within a period of six months prior to the making of the application.

### **18.04.040. Investigation of Application.**

The mayor may direct the chief of police or other city official to investigate the facts stated in each license or permit application. The mayor may require approval of the application by any city officer before granting any license or permit.

### **18.04.050. Grounds for Issuance or Denial of License in General.**

- (a) If the mayor shall find that any application for license or any person interested in the ownership of any business sought to be licensed is a person of such character that the business to be licensed may be operated in such manner as to be detrimental to the public health, peace, morals, or general welfare of the municipality, he shall deny such application.
- (b) If the mayor shall find after investigation that the premises or buildings of the business to be operated under license are in unsafe condition or are constructed or operated in such a way as to be detrimental to the public welfare, he shall deny the application for license.

- (c) No license or permit shall be granted to any applicant by the mayor until such applicant has complied with all the ordinances of the city applicable to the activity for which application for license or permit is made.

**18.04.060. Terms and Conditions of Licenses and Permits.**

- (a) All licenses and permits issued by the city are good for one calendar year (January 1-December 31, unless otherwise provided in this title.
- (b) A license or permit may not be assigned or transferred unless specifically authorized by a provision of this title.
- (c) A licensee or permittee shall at all times conspicuously display the license or permit at the place of business. If the regulated activity does not have a fixed place of business, the licensee or permittee shall carry the license or permit upon his person when engaging in the activity. A licensee or permittee shall produce the license or permit for examination when making application for renewal or when requested to do so by an officer of the city authorized to enforce this title.
- (d) Unless otherwise provided in this title, an application for renewal of a license or permit will be considered in the same manner as an original application.
- (e) A license or permit is issued upon the condition that police, fire, and building officials shall be permitted to have reasonable access to the licensed or permitted premises.
- (f) A condition precedent to issuance of any license or permit included in this title is the agreement of the applicant to:
  - (1) hold the city free and harmless from all liability which may be imposed on the city;
  - (2) reimburse the city for legal liability that may be adjudged against the city; and
  - (3) reimburse the city for all expenses incurred by the city during litigation in connection with the defense of claims arising from the issuance of the permit or because of negligence in the performance of the work for which the permit was issued.
- (g) No license issued by the city shall cover more than one classification of license or more than one trade, business, occupation, pursuit, vocation, or entertainment.

**18.04.070. Appeal from Decision of Mayor.**

- (a) An applicant, licensee, or permittee desiring to appeal a decision of the mayor may, within fifteen days after the written decision is mailed to the applicant, licensee, or permittee, file a written notice of appeal with the city council. The notice of appeal shall state with particularity the order or decision from which the appeal is take and the grounds of the appeal. The state grounds will be the only issues considered by the city council in the appeal.
- (b) Filing of a notice of appeal will operate to stay a decision of the mayor which denies renewal, revokes o suspends a license or permit, or issues corrective orders with respect to a license or permit.

- (c) Upon receipt of the notice of appeal, the mayor shall set the date of the hearing before the city council. The mayor shall notify the appellant of the time and place of the hearing. The notice of the appeal hearing shall be given at least three days prior to the hearing.
- (d) After the appeal hearing, the city council may modify, revoke, rescind, or affirm the order from which the appeal is taken or may enter its own order. A decision of the city council may be appealed to the proper court.

**18.04.080. Renewal, Inspection, Conditional License.**

- (a) Upon receipt of certification by any municipal officer that a required inspection for the renewal of a prior valid license cannot reasonably be completed by the expiration date of the license, the city clerk may issue a conditional license. This license is conditioned upon and subject to the receipt from each applicable certifying officer of certification that the inspection revealed that the activity is in compliance with the requirements for his department. The inspection shall be completed within a reasonable time, which may not exceed ninety days, unless extended by the mayor in writing.
- (b) When a conditional license is issued and the inspection shows that the activity is not in compliance with this title, the city clerk shall notify the applicant by registered mail. The notice shall list the conditions for the license that have not been satisfied and state that the conditional license will terminate unless compliance is made within ten days after mailing of the notice. If full compliance is not established within the ten days, the city clerk shall notify the applicant that renewal of the license is denied. The applicant shall surrender the conditional license to the city clerk upon receipt of notice that renewal is denied. If the inspection shows that the activity is in compliance, the clerk shall notify the applicant in writing that the condition of license is satisfied.

**18.04.090. Grounds for Suspension or Revocation of Licenses.**

- (a) Whenever the council determines that any licensee or permittee is conducting the activity licensed or permitted in a manner which violates any ordinance or regulation of the municipality or has operated the business licensed or permitted in any manner detrimental to the public health, morals, or welfare, the council may order the suspension or revocation of the license.
- (b) The council may revoke or suspend any license for fraud or misrepresentation in its procurement or for a violation of any federal or state statute.
- (c) If, when revoked, any license has an unexpired period of six months or more, fifty percent of the license fee collected thereunder shall be refunded to the licensee upon demand, provided that the demand for refund be made within thirty days after such revocation.

**18.04.100. Procedure on Suspension or Revocation of License.**

Before considering the suspension or revocation of any license issued under this title, the council shall give the licensee an opportunity to appear before it and be heard in relation to any matter under investigation. The licensee shall be notified in writing of the time and place of the hearing or investigation.

**18.04.110. Disposition of Fees, Recovery of Fees.**

All licenses and taxes, license fees, fines, and forfeitures collected under the provisions of this title shall be deposited in the treasury; in addition to any penalties provided therefore, an action may be instituted by the city and in its name for the collection of license fees and amounts due under the provisions of this title. The institution and prosecution of a civil action to recover a fee shall not be a bar to the criminal actions and prosecutions herein provided.

**18.04.120. Fees Designated.**

An applicant for a license or permit required by this title shall pay a fee or fees at the time of application in compliance with the following schedule:

- (1) License or Permit: \$50.00
- (2) *(Reserved)*

**18.04.130. Penalties.**

- (a) A person who fails to procure a license or permit and pay the prescribed fee when required by this title shall be assessed a penalty of twenty-five percent of the license or permit fee due for each thirty day period, or portion thereof, during which the business activity operates without a license or permit. This penalty will be added to the basic license or permit fee and shall be in addition to any other penalty established by this code.
- (b) No person may:
  - (1) engage in an activity regulated by this title without first obtaining a license or permit for the activity;
  - (2) engage in an activity in a manner or at a time or place contrary to a general or special term or condition of the license or permit;
  - (3) engage in a regulated activity in a manner contrary to a term or condition established by the mayor or city council by ordinance or regulation;
  - (4) obtain or attempt to obtain a permit or license by making a false statement in the application for the license or permit, or by other dishonest or fraudulent means; or
  - (5) forge, counterfeit, or fraudulently alter a license or permit required by this title.

**18.08.010. Regulation by Licenses or Permits.**

Whenever the following words or terms are used in this chapter, they shall have the meaning herein ascribed to them, unless the context makes such meaning repugnant:

- (a) “Itinerant merchant” means any person who temporarily engages in the making or selling of any kind of goods, wares, or merchandise at retail within the city, regardless of whether such goods, ware, or merchandise are peddled from house to house, sold upon the streets or other public places, or sold from any room, building, structure, or lot rented or leased for the purpose of carrying on such business.
- (b) “Solicitor” means any person who goes from house to house or from place to place in the city selling or taking orders for any goods, wares, merchandise, or any article for future delivery, provided, however, that the provisions of this chapter shall apply only to solicitors who demand, accept, or receive payment or a deposit of money in advance of final delivery of such goods, wares, or merchandise and who make retail sales.

**18.08.020. License Required.**

No person, firm, or corporation shall engage in the business of itinerant merchant or solicitor in the city without first procuring a license to do so as provided by this chapter.

**18.08.030. Itinerant Merchant: License Application.**

Any person, firm, or corporation desiring to engage in the business of itinerant merchant within the city shall make application in writing to the mayor for a license to do so, which application shall be filed with the clerk at least two days before such applicant shall be authorized to begin to do business within the city. Such application shall state:

- (1) the name and address of the applicant;
- (2) the place where such business is to be conducted;
- (3) the kind of goods to be sold;
- (4) the length of time for which the license is desired; and
- (5) any other information that the clerk finds reasonably necessary to effectuate the purpose of this chapter.

**18.08.040. Itinerant Merchant: Issuance of License.**

Upon filing application, without the necessity for bond, a license shall be issued by the mayor to an applicant to be in business not less than two days after the date of filing such application upon the payment of a fee of fifteen dollars for each day that the person, firm, or corporation desires to engage in the business of itinerant merchant in the city, payable in advance. If such licensee desires to continue in business after the expiration of such license, a new license must be secured in the same manner and upon the same terms as hereinabove provided.

**18.08.050. Solicitor: License Application.**

Any person desiring to engage in the business of solicitor shall, before engaging in said business, file with the city clerk an application containing:

- (1) his name and address;
- (2) the name and address of the firm or corporation which he represents;
- (3) the kind of goods to be offered;
- (4) the length of time he desires to engage in such business; and
- (5) any other information that the clerk finds reasonably necessary to effectuate the purpose of this chapter.

**18.08.060. Solicitor: Issuance of License, Fee.**

Upon the filing of the statement provided for in Sec. 18.08.050, without the necessity for bond, a license shall be issued to such solicitor to engage in a business upon the payment of a fee of five dollars per day for each day that such solicitor desires to engage in the business of solicitor in the city, payable in advance. If such person desires to continue in business after the expiration of such license, a new license must be secured in the same manner and upon the same terms as hereinabove provided.

**18.08.070. Exemptions.**

The provisions of this chapter shall not apply to sales by producers of farm products, nor to the sale of moccasins or other curios, reindeer, fish or other marine products, any commodity of value of more than three hundred dollars, or any commodity sold to a person for resale or use in a retail, wholesale, or service establishment.

**18.08.080. Enforcement.**

The collection of any license fee that may become due under provisions of this chapter may be enforced by a civil action against the person, firm, or corporation upon whom such license, tax, or license tax is imposed or from whom it may be due.

**18.12.010. Distribution and Posting of Handbills and Advertising Matter.**

- (a) No person may throw, drop, or scatter in any street, alley, or public area or place on any vehicle located in any street, alley, or public area any poster, handbill, card, samples, or other matter used for the purpose of advertising.
- (b) No person may distribute advertising handbills, cards, samples, or other advertising matter on private property in a manner which may cause littering of any street, alley, or public place or of any private property not his own.
- (c) No person may attach, place, paint, write, stamp, or paste any advertisement upon a lamp post, electric light, railway, telephone, telegraph pole, tree, fire hydrant, bridge, pavement, sidewalk, crosswalk, public building, or property belonging to the city.
- (d) No person may attach, place, paint, write, stamp, or paste an advertisement upon a house, wall, fence, gate, post, or tree without first having obtained the written permission of the owner, agent, or occupant of the premises and having complied with all provisions of this title.

**18.16.010. Secondhand Merchant: License.**

- (a) No person may engage in the business of buying, selling, or otherwise dealing in secondhand personal property without first having obtained a secondhand merchant's license. A specific location for the conduct of business shall be designated in the license.
- (b) The applicant for a license shall obtain a certificate of approval from the chief of police, fire marshal, and building inspector.
- (c) A licensee may not purchase or receive property:
  - (1) from a person under the age of eighteen years or from a person eighteen years of age or older who has purchased or received the article from a person under eighteen years old for the purpose of selling it;
  - (2) from a person who is or appears to be under the influence of drugs or intoxicating beverages; or
  - (3) from a person who cannot provide proof of ownership of the property of if the licensee has knowledge of facts that would create a belief in a reasonable man that the property may have been stolen, embezzled, or otherwise illegally obtained.
- (d) The licensee shall maintain a record by date of forms provided by the police department containing the names and addresses of all persons with whom the licensee transacts business and a complete and accurate description of the items purchased or sold. A weekly report of the recorded information shall be submitted to the chief of police. The records required by this subsection shall be open to inspection by a member of the police department during normal business hours.
- (e) The requirements of this section do not apply to bona fide nonprofit organizations.

**18.20.010. Definitions.**

Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this chapter:

- (a) “Automobile graveyard” means an establishment or a place of business or premises which are maintained, operated, or used for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.
- (b) “Junk” means used or scrap rope, rags, batteries, paper, trash, rubber debris or waste, junked or dismantled or wrecked automobiles or parts thereof, or used or scrap iron, steel, copper, brass, and other ferrous or nonferrous metals; but, “junk” does not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his own business or materials or materials or objects held and used by a manufacturer as an integral part of his own manufacturing processes.
- (c) “Junk dealer” means a person who owns or operates a junkyard or automobile graveyard as defined above within the city.
- (d) “Junkyard” means an establishment, place of business, or premises which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. The term includes garbage dumps and sanitary fills.
- (e) “Person” means any person, firm, partnership, association, corporation, company, or organization of any kind.

**18.20.020. License Required.**

It is unlawful for any person to act as a junk dealer in the city whether personally, by agents, or by employees, singly or along with some other business or enterprise, without first having obtained a license therefor from the mayor. A junk dealer who owns or operates more than one junkyard within the city shall be required to have in effect a separate license for each yard.

**18.20.030. License: Application.**

An applicant for license under this chapter shall file with the clerk a written application signed by himself, if an individual, by all partners, if a partnership, and by the president or chief officer of a corporation or other organization upon forms provided by the clerk, together with two additional copies of such application and a fee as hereinafter prescribed. The application shall be sworn to by each of its signers before a notary public or other officer authorized by law to administer oaths and shall include the following information or material:

- (1) the name, residence, address, and telephone number of each individual, owner, partner, or if a corporation or other organization, each officer and director;
- (2) the trade names used by the applicant and each person signing the application along, along with the locations of prior establishments, if any;
- (3) the trade name and address of the business on behalf of which application is being made and its telephone number, if assigned;

- (4) the name, residence, address, and telephone number of each person employed or intended to be employed in the business as of the time the application is filed;
- (5) the exact address or location of the place where the business is or is proposed to be carried on, plus a sketch of the actual premises to be used in connection with the business, giving distances in feet and showing adjoining roads, property lines, buildings, and uses;
- (6) a description of the materials with which any buildings to be used in connection with the licensed business are or are to be made;
- (7) a sketch showing the location of such buildings on the business premises and gives distances;
- (8) a diagram showing floors, exits, entrances, windows, ventilators, and walls that gives distances and heights; and
- (9) such other information as the clerk finds reasonably necessary to effectuate the purpose of this chapter and to arrive at a fair determination of whether the terms of this chapter have been met.

**18.20.040. License: Standards for Granting.**

- (a) The following standards shall govern the grant of a junk dealer license:
  - (1) the nature and development of surrounding property;
  - (2) the need to protect the local economy, adjacent land owners, and the traveling public from economically depressing and unsightly locations on roadways and seaways;
  - (3) the proximity of churches, schools, hospitals, public buildings, recreation areas, or other places of public gathering;
  - (4) the sufficiency in number of other similar establishment sin the vicinity;
  - (5) the adequacy of fences and other types of enclosures to prevent the unsightly display of junkyard;
  - (6) the health, safety, and general welfare or the public; and
  - (7) the suitability of the applicant to establish, maintain, or operate a junkyard.
- (b) Before any license is granted:
  - (1) the chief of police shall approve the application if he finds the applicant's responsibility and moral character are satisfactory and that all agents or officers of applicant, if any, who will take part in the operation of such business are of good character and reputation and capable of operating the junkyard in a manner consistent with public health, safety, and good morals;
  - (2) the building official shall approve the application if he finds that any and all proposed or existing buildings or equipment with which the junkyard is being or is to be operated conform to the requirements of the building code and the requirements of this chapter;
  - (3) the health officer shall approve the application if he finds that the proposed or existing premises and equipment conform to the requirements of this chapter and all applicable health laws; and
  - (4) The fire chief shall approve the application if he finds that the proposed or existing premises and equipment conform to the requirements of this chapter and all applicable fire prevention laws.

- (c) If any of the findings provided for in subsection (b) above are unfavorable to the applicant or if the license should not be issued due to the nonconformance of the junkyard with the standards or any of them in subsection (a) above, the clerk shall, within thirty days after the filing of the application, notify the applicant that his application is disapproved and that no license will be issued. Upon request he shall furnish the applicant with a brief written statement of the grounds upon which the application is disapproved. If the findings in subsection (b) above are favorable to the applicant and the application is otherwise in conformity with the standards set for in subsection (a) above, then the clerk shall, within thirty days after the filing of the application, issue a junk dealer's license to the applicant if he finds:
- (1) that the applicant had obtained from the city zoning board a certificate to the effect that the junkyard will not be a violation of existing pertinent zoning regulations; and
  - (2) that the applicant has paid the fee prescribed by this chapter.

**18.20.050. License: Period, Renewal Procedure.**

Any license or renewal license issued hereunder shall be effective as of the date of its issuance and shall expire at the end of the calendar year during which it is issued. An applicant for a renewal license shall file with the clerk a written application upon forms provided by him signed and sworn to in the same manner required in the original application, together with two additional copies of the application and the fee as hereinafter prescribed. The application shall contain such information about the applicant's demeanor and conduct in operation of the licensed business during the preceding license period as is reasonably necessary to enable the clerk to determine the applicant's eligibility for a renewal license.

**18.20.060. License: Not Transferable.**

No license issued under this chapter shall be transferred, assigned, or used by any person other than the one whom it was issued and no junk dealer's license shall be used at any location other than the one described in the application upon which it was issued.

**18.20.070. General Operating Requirements.**

The following general operating requirements shall apply to all junk dealers licensed in accordance with the provisions of this chapter.

- (a) The junkyard, together with things kept therein, shall at all times be maintained in a sanitary condition.
- (b) No space not covered by the license shall be used in the licensed operation.
- (c) No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises, unless incinerated or disposed of by the sanitary landfill method pursuant to standards set forth by the United States Public Health Service, nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as defined herein and is in use in the licensed operation.
- (d) No junk shall be allowed to rest upon or protrude over any public street, walkway, or curb or become scattered or blown off the premises.
- (e) No combustible material of any kind not necessary or beneficial to the licensed operation shall be kept on the premises, nor shall the premises be allowed to become a fire hazard.

- (f) Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.
- (g) No junk or other material shall be burned on the premises in any incinerator not meeting the requirements of the building code. No junk or other material shall be burned on the premises in the open, except in accordance with pertinent ordinances and regulations of the fire department.
- (h) A junkyard which is in violation of any provision of this chapter or regulation promulgated hereunder is a public nuisance. No junkyard shall be operated in such manner as to become injurious to the health, safety, or welfare of the community or of any residents close by.
- (i) For aesthetic reasons or any of the other criteria enumerated in this chapter, the clerk, as a condition of granting the license, may order that the premises where junk is kept shall be enclosed, except for entrances and exits with a solid vertical wall or fence of a minimum height of eight feet measured from ground level. Entrances shall not be wider or more numerous than reasonably necessary for the conduct of the licensed operation.

**18.20.080. Compliance, Time Limit.**

Any person acting as a junk dealer on the date this chapter becomes effective shall have a period of sixty days after the date this chapter becomes effective to comply with provisions of this chapter.

**18.20.090. Nuisance, Injunction.**

At the direction of the council, the city attorney may institute an action in the court of competent jurisdiction to abate any junkyard that is a nuisance as defined in this chapter.

**18.20.100. Automobile Graveyards.**

All the provisions of this chapter applicable to junkyards shall be applicable with like effect to automobile graveyards.

**18.24.010. Auctioneer: License.**

- (a) No person may sell or offer to sell goods, wares, or merchandise at auction within the city until he has secured an auctioneer's license. An auctioneer's license shall be issued only to individuals in their proper name. No auctioneer's license will be required for:
  - (1) an officer conducting sales at action pursuant to legal process; or
  - (2) a person conducting sales at a one-day auctioned sponsored by a bona fide nonprofit organization which retains the proceeds solely to further the purposes of the organization.
- (b) An applicant for an auctioneer's license shall file with his application a bond in the amount of five thousand dollars. The bond shall be conditioned on compliance with this title and provide for indemnification of principles, bidders, or purchasers for losses cause by fraud, failure to account, or commission of an unlawful act by the auctioneer, his agent, or employee. The bond may be cancellable on fifteen days' written notice to the city clerk, subject to liability for damages produced by acts committed prior to cancellation. Injured parties shall have a right to file suit against the auctioneer and the surety in its own name. Recovery on the bond may be conditioned on commencing an action within one year after the date of injury.
- (c) An auctioneer's license shall terminate upon the effective date of cancellation of the required bond unless another bond meeting the requirements is filed.

**18.24.020. Nonprofit Organization Auction Permit.**

- (a) A person conducting an auction sponsored by a bona fide nonprofit organization may not conduct a sale without first procuring a permit. The application for permit shall be filed with the city clerk and shall contain the name of the nonprofit organization, the purpose of the auction, the intended use of the proceeds, the name of the auctioneer, the place of the auction, a list of all items to be auctioned, and other information determined by the city clerk to be necessary to ascertain the status of the organization and the purpose of the auction.
- (b) The permit required by this section shall be issued without charge.

**18.24.030. Inventory.**

When gold, silver, plated ware, watches, jewelry, precious stones, furs, garments, made of fur, guns, or cameras are sold at auction, the licensee shall take an inventory of all merchandise to be offered for sale. The inventory shall be submitted to the police chief at least twenty-four hours prior to the commencement of the auction sale. The licensee shall attach to the inventory a sworn affidavit stating that the inventory contains a true itemized account of all the property to be sold. No property or merchandise may be sold at such an auction except property itemized in the inventory required by this section.

**18.24.040. Auctioneer: Prohibited Acts.**

An auctioneer may not, directly or through an employee or agent:

- (1) conduct a public auction between the hours of 12:00 midnight and 9:00 a.m.;

- (2) substitute or deliver to a purchaser an item different from the article displayed, bid on, or sold;
- (3) sell or dispose of an item by chance, lot, or as a prize or misrepresent the quantity or quality of goods, wares, or merchandise sold or offered for sale;
- (4) directly or indirectly act or employ another person who does not intend to purchase or bid on an item or employ a person to induce bona fide bidders to purchase goods, wares, or merchandise offered for sale; or
- (5) employ bell men, criers, music, or any other means of attracting attention or conduct such sale for any transient merchant.

**18.24.050. Bona Fide Nonprofit Organization Defined.**

A “bona fide nonprofit organization” means a nonprofit and nonpolitical religious, charitable, civic, fraternal, recreational, social, scientific, or other group, association, or corporation organized and existing for a purpose that is beneficial to the community or for the chief purpose of furthering the education, knowledge, or improvement of its members.

**18.28.010. Hotel License.**

- (a) No person may engage in the business of operating a hotel without first obtaining a hotel license. The application shall be signed by the owner of the hotel.
- (b) No building may be advertised as a hotel, nor may a sign, placard, poster, banner, or other advertising using the words “hotel,” “rooming house,” “lodging house,” “motel,” “autel court,” “trailer court,” or words of similar import, be placed, erected, or displayed on the outside of or in close proximity to the premises, or in a manner by which the advertising may be seen from the outside of the premises, unless the business has first obtained a hotel license.
- (c) An application for a hotel license shall require certifications from the fire marshal, the police chief, and a building official and shall contain the following information:
  - (1) the number of rooms to be used in the conduct of the business;
  - (2) the number of rooms to be used for sleeping or lodging purposes; and
  - (3) the name of the person or persons who are or will be active managers of the hotel.
- (d) A license may not be issued to:
  - (1) a person who is not at least nineteen years of age at the time of application;
  - (2) a person who has been convicted within a period of ten years prior to the date of application of a felony or who has been convicted within five years prior to application of a misdemeanor involving dangerous drugs, sale or distribution of intoxicating liquor, or relating to prostitution;
  - (3) a person who has had a hotel license revoked for cause within three years prior to the date of the application; or
  - (4) a person who causes to be employed in the hotel a person who would not be eligible for a license under subdivisions (2) or (3) of this subsection.

**18.28.020. Conduct of Operations.**

- (a) The licensee shall be responsible for the personal superintendence of the hotel operations and shall be jointly liable for the acts of agents, servants, and employees.
- (b) Each sleeping room, lodging room, or apartment shall be numbered in a plain and conspicuous manner by numbers on the outside of the room door. The same number may not be used on two rooms.
- (c) The licensee shall keep a register in which each guest shall be required to register in a legible manner their name and address. The person in charge of registering guests shall enter on the register:
  - (1) the time and date of each registration;
  - (2) the time and date of departure;
  - (3) the number of the room or rooms assigned to each guest; and
  - (4) the number of each room which the guest is subsequently assigned.

- (d) The hotel register shall be open for inspection by law enforcement officers at all reasonable times and shall be preserved for a period of two years after the date of the last entry.
- (e) If a person under the age of eighteen years or a person whom a reasonable and prudent person would believe to be under the age of eighteen years registers, is lodged, or applies for lodging or registration, the person in charge of registering guests shall notify the police department of the registration, lodging, or application for lodging, unless the person believed to be under the age of eighteen years is accompanied by a spouse, parent, or legal guardian.
- (f) A person in charge of a premises licensed as a hotel as owner, agent, manager, clerk, servant, or employee may not knowingly permit the licensed premises or a part of it to be used for the purpose of prostitution or other illegal activities.
- (g) A person may not be employed in the hotel if he comes within the categories described in subdivisions (2) or (3) of subsection (d) of Sec. 18.28.010.

**18.28.030. Refusal to Register.**

The owner or manager of a hotel or rooming house shall not authorize, permit, or allow any person to occupy a room in his hotel or rooming house unless the person occupying the room is registered as herein required. It shall be the duty of the owner or manager to refuse a room or sleeping accommodations to any person who refuses to register as herein required.

**18.32.010. Charitable Organizations: Permit Required.**

- (a) No person, corporation, or organization of any kind, nor their agent, representative, or employee, may solicit funds or secure subscriptions for future payment of funds for religious, charitable, educational, or like organizations without first securing a permit to do so from the mayor.
- (b) The applicant for a permit may be required to answer such questions as may be put to him by the mayor. If the mayor determines that the organization is a bona fide religious, charitable, educational, or like organization and that the proposed solicitation will not constitute a public nuisance, a permit shall be granted. The permit shall be issued by the mayor and directed to the chief of police informing him that the proposed solicitation has been authorized. No fees shall be charged for a permit issued under the authority provided in this section. In the event that a person or organization deems themselves aggrieved by the determination of the mayor, the decision of the mayor may be appealed to the city council.

**18.36.010. Laundries and Dry Cleaners.**

- (a) No person may engage in the business of washing or cleaning clothes or other articles of cloth or fabric by means of soap or other chemical process, whether manually or by machine, without first obtaining a laundry and dry cleaning license.
- (b) Certificates of approval shall be obtained from the fire marshal and city building officer prior to issuance of the license.

**18.36.020. Beauty Shops.**

- (a) No person may engage in the business of operating premises where hairdressing services are provided for hire without first obtaining a beauty shop license. Hairdressing services include trimming, arranging, dressing, curling, waving, cleansing, bleaching, coloring, or similar work on another person's hair.
- (b) Certifications of approval shall be obtained from the fire chief and the building official prior to issuance of the license.

**18.36.030. Building Code Contractor.**

- (a) No person may engage in business as a building contractor without first obtaining a building code contractor's license.
- (b) In this section, "building code contractor" means a person who undertakes to perform any part of the construction, reconstruction, alteration, repair, improvement, moving, wrecking, or demolition of a building, highway, road, railroad, excavation, or other structure, project, development, or improvement including the erection of scaffolding, electric signs, marquees, or other similar structures, for which a condition, rule, regulation, or standard is prescribed by the ordinance of the city or by the Uniform Building Code, or any other such building code which is adopted by the city. "Building code contractor" does not include regular employees of a building code contractor licensed under this section or a person who, as owner of a building or structure, performs work on the building or structure for his own use and benefit that would otherwise subject him to the licensing requirement of this section.
- (c) The building inspector shall prepare a list describing all trades and businesses for which a rule, condition, regulation, or standard is prescribed by the ordinances of the city, by the Uniform Building Code, or by any other such building code which is adopted by the city. The city clerk shall maintain a copy of that list for public inspection.
- (d) An application for a building code contractor's license shall contain a certification by the applicant that he has in his possession a current copy of the applicable code pertaining to the work to be performed by the applicant.
- (e) An applicant for a building code contractor's license shall file a copy of the construction contractor's bond required by state law with his application.

**18.36.040. Vehicle Rentals.**

- (a) No person may engage in the business of renting cars, trucks, or other motor vehicles designed, equipped, or intended to be operated on a street or highway without first obtaining a license. The applicant shall file with his application a certificate of insurance covering all vehicles available for rental with policy limits of at least one hundred thousand dollars per person and three hundred thousand dollars per accident for personal injury, and twenty-five thousand dollars for property damage.
- (b) Certificates of approval shall be obtained from the fire marshal and city building officer prior to issuance of the license.

**18.36.050. Service Stations and Garages.**

- (a) No person may engage in the business of operating a gasoline service station, body and paint shop, or garage for automobiles or airplanes without first obtaining an appropriate license.
- (b) Prior to issuance of the license, certificates of approval shall be obtained from the fire chief and city building inspector.

**18.36.060. Garage or Body and Paint Shop: License and Certification Required.**

No person shall operate a garage or body and paint shop without first obtaining a license therefor. No such license shall be granted except upon certification of the fire chief and city building inspector.

**18.40.010. Amusement Concessions.**

- (a) No person may operate a place of amusement without first obtaining an appropriate permit.
- (b) Certificates of approval are necessary from the police chief, fire chief, and city building inspector.
- (c) The application for a permit shall be accompanied by a certificate of insurance specifying, at the least, liability coverage with limits of fifty thousand dollars for each person and fifty thousand dollars for each occurrence for bodily injury and ten thousand dollars for property damage.

**18.44.010. Dance Hall Permits.**

It is unlawful for any person, firm, or corporation to operate or conduct any public dance or dance hall in the city without first having obtained a permit therefor from the mayor, with approval of the council, and unless a permit so issued is conspicuously displayed in the room or hall wherein the dance is conducted.

**18.44.020. Dance Hall Permits: Revocation, Suspension.**

An application for a permit hereunder shall be made to the mayor by the owner or lessee of the building or room wherein the dances are to be held or conducted, setting forth the location of the room or building wherein the dances are to be conducted and that the person, firm, or corporation will comply with all the ordinances of the city and that all dances conducted therein shall be conducted in an orderly and moral manner. It shall also set for the name or names of the owner or owners of the room or building, the name or names of the lessee or lessees, and that the owner, owners, lessee, or lessees will be responsible for the conduct of any and all dances held or conducted in the room or building. If the council is satisfied that a permit should be granted and that the applicant will conduct proper dancing in the room or building in accordance with good morals, the council shall approve the application and a permit shall be issued by the mayor granting the owner or owner, owners, lessee, or lessees the right to conduct dances in the said room or building. The city council may permanently revoke such permit or suspend the same for not less than ten days nor more than ninety days for good cause shown or upon the recommendation of the chief of police, provided, however, the person, firm, or corporation whose permit is suspended or revoked may appear before the council with witnesses and show cause why the same should not be revoked or suspended after first having given written notice of his or their intention so to appear. The council shall thereupon set a day and hour for the hearing and give the person, firm, or corporation written notice of the same and an opportunity to be heard on the same.

**18.44.030. Exceptions.**

This chapter shall not apply to private dances conducted in private homes, provided the same are not conducted for monetary gain, directly or indirectly, or where any monetary gain may be received on account of the said dance and provided further that this chapter shall not apply to the room or building wherein such private dance is conducted.

# TITLE 24. HEALTH AND SAFETY.

## Chapter 04. Disease Control.

### **24.04.010. General Powers and Duties of Health Officer.**

It shall be the duty of the health officer to enforce all ordinances containing provisions for the protection of public health, to make inspections of foodstuffs and of the premises used for storing or selling provisions as may be provided by ordinance, and to perform such other duties and functions as may be required by statute or ordinance. The chief of police is designated the city health officer.

### **24.04.020. Screening and Detention of Immigrants for Disease.**

- (a) The health officer may, whenever he deems it necessary, examine or cause to be examined by some competent physician, all person entering the city from any town, city, district, location, state, or other place when the officer has reason to believe there are any cases of cholera, yellow fever, smallpox, or other contagious or infectious diseases. For the purpose of making such examination, the health officer shall have authority to enter any ship, steamboat, other water craft, or any vehicle. Said health officer may direct and enforce the cleansing and purifying of any such ship, steamboat, other water craft, or any vehicle.
- (b) The health officer may provide by and with the consent of the city council a suitable place for the temporary detention of person who have been exposed to the infection of cholera, yellow fever, smallpox, or other infectious or contagious diseases. The health officer shall have the power to order and compel said person or persons to remain in such place of detention for such time as may be necessary and to forbid and prevent any and all communications with such person or persons. The health officer shall have the power to forbid or prevent any and all persons living or being in or about such house or premises where any person has been sick with cholera, yellow fever, smallpox, or any other infectious or contagious disease and from leaving such house or premises without first having obtained permission to do so from the health officer.

### **24.04.030. Reporting by Health Officer.**

The health officer shall make such reports to the city council as may be required. He shall also make recommendations for rulings, orders, or ordinances respecting the public health whenever he is requested to do so or whenever he deems it necessary or advisable.

### **24.04.040. Power to Compel Vaccination.**

The health officer may enforce compulsory vaccination on persons or passengers coming from infected places or ports and when he deems it necessary for the promotion and protection of health of the city, may also enforce compulsory vaccination of the inhabitants.

### **24.04.050. Investigation and Removal of Afflicted Persons.**

The health officer shall make it his duty to investigate all cases where it is alleged that cases of communicable, infectious, or contagious diseases are said to exist. Whenever he may deem it necessary, he may remove or order the removal from the premises occupied by any person

having such communicable, infectious, or contagious disease. The expense of said removal shall be paid by the city.

**24.04.060. Power to Quarantine.**

The health officer shall have charge of the enforcement of quarantine rules. Whenever a case of cholera, yellow fever, smallpox, diphtheria, scarlet fever, or other contagious, infectious, or communicable disease is found to exist, the health officer shall have the power and authority to place any premises within which a contagious or epidemic disease occurs under quarantine. He shall cause suitable notice by setting forth the facts to be posted in appropriate places and shall determine the time when the quarantine ends.

**24.04.070. Conditions of Quarantine.**

No person or persons except a physician, clergyman, undertaker, or those having written permits from the health officer shall enter or depart from any house where cholera, yellow fever, smallpox, diphtheria, or scarlet fever exists within the house, nor within ten days thereafter, or until the building and its contents shall have been disinfected or otherwise disposed of to the satisfaction of the health officer.

**24.04.080. Disinfection of Premises.**

During the prevalence of an epidemic, the health officer shall have power to fumigate and disinfect any premises which, in his judgment, require disinfection.

**24.08.010. Food Service Sanitation Code Adopted.**

The definitions, the inspection of food service establishments, the issuance, suspension, and revocation of permits to operate food service establishments, the prohibition of the sale of adulterated or misbranded food or drink, and the enforcement of this chapter shall be regulated in accordance with the unabridged form of the most recent edition of the "United States Public Health Service Food Service Sanitation Ordinance and Code," one copy of which shall be on file in the office of the city clerk, provided, however, that the words "Municipality of Kake" in said unabridged form shall be understood to refer to the city.

**24.08.020. Adulteration of Food, Drink, and Medicine Prohibited.**

It is unlawful for any person to:

- (1) adulterate any substance of any kind or character, held or intended for sale, so as to make it injurious to the health of any person eating or drinking the same;
- (2) sell or offer for sale within the city any substance so adulterated knowing the same to be adulterated;
- (3) adulterate any drug or medicine held or intended for sale in such manner as to render the same injurious to the health of any person take the same; or
- (4) knowingly sell or offer for sale in the city any adulterated drug or medicine.

**24.12.010. Litter Defined.**

Litter is “garbage,” “refuse,” “rubbish,” and “rubble” and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger or nuisance to public health, safety, and welfare.

**24.12.020. Prohibited: Public Places.**

No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the city, except in public receptacles, in authorized private receptacles for collection, or in disposal areas designated by the city.

**24.12.030. Prohibited: Bodies of Water.**

No person shall throw or deposit litter in any body of fresh or salt water within the city.

**24.12.040. Prohibited: Occupied Private Property.**

No person shall throw or deposit litter on any occupied private property within the municipality whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon any private property.

**24.12.050. Prohibited: Vacant Lots.**

No person shall throw or deposit litter on any open or vacant private property within the city whether owned by such person or not.

**24.12.060. Prohibited: Thrown by Persons in Vehicles.**

While a driver or passenger in a vehicle, no person shall throw or deposit litter upon any street or other public place within the city or upon private property.

**24.12.070. Prohibited: Truck Loads Causing Litter.**

- (a) No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited upon any street, alley, or other public place. No person shall drive or move any vehicle or truck within the city, the wheels or tires of which carry unto or deposit in any street, alley, or public place litter or foreign matter of any kind.
- (b) Any person in charge of operating any truck or other vehicle having knowledge of his truck or vehicle causing litter to be deposited within the city shall immediately take all necessary steps to cease such littering and cause to be removed all litter which was deposited as a result of the operation of the truck or other vehicle it was his charge to operate.

- (c) Any person in charge of operating any truck or other vehicle having knowledge of his truck or other vehicle causing litter to be deposited within the city who is unable for any reason except his personal injury to immediately cease such litter and cause it to be removed shall immediately report such litter to the chief of police or any other agent designated by the city. Removal of such litter may then, if deemed in the public interest, be removed at the expense of the owner or operator of the truck or other vehicle causing the litter. Such removal or cleanup shall be to the satisfaction of the chief of police or his agent.

**24.12.080. Prohibited: Dropping Litter from Aircraft.**

No person in an aircraft shall throw out, drop, or deposit within the city any litter or handbill.

**24.12.090. Prohibited: Sweeping Litter into Gutters.**

No person shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. No person owning or occupying a place of business shall sweep into or deposit in any gutter, street, or other public place within the municipality the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.

**24.12.100. Proper Placement of Litter in Receptacles.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property. Public litter receptacles shall not be used for the deposition of household litter, dead animals, or other putrescible matter.

**24.12.110. Responsibilities of Property Owners and Occupiers.**

- (a) Premises. The owner or person in control of any private property shall at all time maintain the premises free of litter, provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.
- (b) Adjoining sidewalks. Persons owning or occupying property shall keep the sidewalk adjoining their premises free of litter. Persons owning or occupying places of business within the city shall keep the sidewalk adjoining their business free of litter, mud, and dirt.

**24.12.120. Clearing of Litter from Private Property by City**

- (a) Notice to remove. The mayor is authorized and empowered to notify the owner of any private property within the city or the agent of such owner to properly dispose of litter located on such owner's property. Such notice shall be by registered mail, addressed to the owner at his last known address as shown on the assessment rolls of the city.
- (b) Action upon noncompliance. Upon the failure, neglect, or refusal of any owner or agent so notified to properly dispose of litter within ten days after receipt of written notice provided for in subsection (a) or within ten days after the date of such notice in the event the same is returned to the city because of inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the agent designated by the city is authorized and empowered to pay for the disposing of such litter or to order its disposal by the city.

- (c) charge included in tax bill. When the municipality has effected the removal of litter or has paid for its removal, the actual cost there of plus accrued interest at the rate of eight percent per year from the date of completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the city. Said charge shall be due and payable by the owner at the time of payment of such bill.

## Chapter 16. Nuisances.

### **24.16.010. Defined.**

For purposes of this chapter, “nuisance” means any act or creation which is injurious to the public health, or which prevents or obstructs the free and comfortable enjoyment of life and property, or is dangerous to surrounding property.

### **24.16.020. Unlawful.**

It is unlawful for any person, firm, or corporation to permit or maintain the existence of any nuisance on any property under his or its control.

### **24.16.030. Abatement.**

Whenever a nuisance is deemed to exist, it shall be abated by the health officer at the expense of the person maintaining such nuisance.

**24.20.010. Defined.**

All buildings or structures which have any or all of the following defects shall be deemed “dangerous buildings”:

- (1) those whose interior walls or other vertical structural members list, lean, or buckle to such an extent that the plumb line passing through the center of gravity falls outside of the middle of its base;
- (2) those which, exclusive of the foundation, show thirty-three percent or more of damage or deterioration of the non-supporting enclosing or outside walls of covering;
- (3) those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;
- (4) those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city;
- (5) those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein;
- (6) those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein;
- (7) those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication;
- (8) those which have parts thereof which are so attached that they may fall and injure members of the public or property;
- (9) those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety, or general welfare of the people of the city; and
- (10) those buildings existing in violation of any provision of the building code of the city, any provision of the fire prevention code, or other ordinances of the city.

**24.20.020. Standards for Repair, Vacation, or Demolition.**

The following standards shall be followed in substance by the director of public works and the city council in ordering repair, vacation, or demolition.

- (a) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.

- (b) If the dangerous building is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered vacated.
- (c) In any case where a dangerous building is fifty percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this chapter, any ordinance of the city, or statute of the State of Alaska, it shall be demolished.

**24.20.030. Unlawful.**

- (a) It is unlawful for any person, firm, association, club, or corporation to have, keep, or maintain within the city any building or other structure which is or has become a fire hazard, a health hazard, or a public nuisance.
- (b) All dangerous buildings within the terms of Sec. 24.20.010 declared to be public nuisances under Chapter 24.16 shall be repaired, vacated, or demolished as provided in this chapter.

**24.20.040. Inspection Duties of Director of Public Works.**

The director of public works shall:

- (1) inspect or cause to be inspected semiannually all public buildings, schools, halls, churches, theaters, hotels, tenements, and commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render such places dangerous buildings with the terms of Sec. 24.20.010;
- (2) inspect any building, wall, or structure about which complaints are filed by any person to the effect that the building, wall, or structure is or may be existing in violation of this chapter; and
- (3) inspect any building, wall, or structure reported by the fire or police department in the manner provided in this chapter as probably existing in violation of the terms of this chapter.

**24.20.050. Notice Duties of Director of Public Works.**

The director of public works shall:

- (1) notify in writing the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in any building found by the director of public works to be a dangerous building within the standards set forth in Sec. 24.20.010 of this chapter that:
  - (i) the owner must vacate, repair, or demolish the building in accordance with the terms of the notice and this chapter;
  - (ii) the occupant or lessee must vacate the building or may have it repaired in accordance with the notice and remain in possession;
  - (iii) the mortgagee, agent, or other person having an interest in the building may, at his own risk, repair, vacate, or demolish the building or have such work or act done.

- (2) set forth in the notice provided for in subdivision (1) a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building, and an order requiring the same to be put in such condition as to comply with the terms of this chapter within thirty days of the date of notice, provided, however, that any person so notified may petition the city council for a thirty-day extension of time in which to comply with the provision of the notice;
- (3) report to the council any noncompliance with the notice provided for in subdivisions (1) and (2);
- (4) appear at all hearings conducted by the council and testify as to the condition of dangerous buildings; and
- (5) place a notice on all dangerous buildings reading as follows:

“This building has been found to be a dangerous building by the director of public works. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building and all other persons having an interest in said building. It is unlawful to remove this notice until such notice is complied with.”

**24.20.060. Noncompliance Hearing: Before City Council.**

For every case of noncompliance with the notice provided for in this chapter reported by the director of public works, the city council shall hold a hearing and hear testimony as the director of public works or the owner, occupant, mortgagee, lessee, or any other persons having an interest in the building shall offer relative to the dangerous building.

**24.20.070. Noncompliance Hearing: Notice.**

Upon receipt of a report from the director of public works as provided for in Sec. 24.20.050(2), the city council shall give notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in the building to appear before the council on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the director of public works’ notice provided for in Sec. 24.20.050(2).

**24.20.080. Noncompliance Hearing: Findings of City Council.**

The city council shall make written findings of fact from the testimony offered at the hearing as to whether or not the building in question is a dangerous building within the terms of Sec. 24.20.010.

**24.20.090. Issuance of Order to Repair, Vacate, or Demolish.**

In the event the city council determines in its findings of fact that the building in question is in fact a dangerous building within the terms of Sec. 24.20.010, the council shall issue an order based upon its findings commanding the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in the building to repair, vacate, or demolish the building within such

time period and upon such terms and conditions as the council may prescribe. Any person not the owner of the dangerous building but having an interest in the building may demolish said dangerous building at his own risk to prevent the acquiring of a lien against the land upon which the dangerous building stands by the city as provided in Sec. 24.20.100.

**24.20.100. City Action Upon Failure to Comply.**

If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in Sec. 24.20.090 within the time established by the city council for such compliance, then the council shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant under the standards provided for in Sec. 24.20.020.

**24.20.110. Cost of Repair, Vacation, or Demolition.**

- (a) In the event that any building is repaired, vacated, or demolished as provided for in Sec. 24.20.100, the costs thereof shall constitute a lien in favor of the city upon the land on which the building existed and such lien shall be enforced and foreclosed.
- (b) In addition to the provisions of subsection (a) as to lien, the owner of the land upon which the building existed shall be personally liable for such costs of repair, vacation, or demolition and such liability may be enforced in a personal action brought by the city against such property owner in the courts of the State of Alaska.
- (c) In any case where such procedure is desirable and any delay thereby cause will not be dangerous to the health, morals, safety, or general welfare of the people of the city, the city may institute any appropriate action or proceedings against the owner of the land upon which the building existed to force such owner to make all necessary repairs or demolish the building.
- (d) If any person becomes obliged under the provisions of this chapter to demolish any building or other structure, then he shall likewise be obliged to remove from the land upon which such building is or was situated all debris and other property resulting from or related to such demolition, except permanent foundations.
- (e) None of the provisions contained in this section shall be deemed exclusive of any of the others or of any other remedies that the city may have within law.

**24.20.120. Emergency Cases.**

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous building as defined in Sec. 24.20.010 is immediately repaired, vacated, or demolished, the director of public works shall report such facts to the city council and the council shall cause the immediate repair, vacation, or demolition of such dangerous building. The costs of such emergency repair, vacation, or demolition shall be collected in the same manner as provided in Sec. 24.20.110.

**24.20.130. Manner of Notice When Owner Absent.**

In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the city, all notices or orders provided for in this chapter shall be sent by registered mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in the building as shown by the land records to the last known address of each. A copy of such notice shall be

posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

**24.20.140. Administrative Liability Denied.**

No officer, agent, or employee of this city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent, or employee of this city as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the city attorney.

**24.20.150. Duty to Report: Fire Department.**

The members of the fire department shall make a report in writing to the director of public works of all buildings or structures which are, may be, or are suspected to be dangerous within the terms of this chapter.

**24.20.160. Duty to Report: Police Department.**

All police officers shall make a report in writing to the director of public works of any buildings or structures which are, may be, or are suspected to be dangerous buildings within the terms of this chapter.

**24.20.170. Violations, Penalties.**

- (a) The owner of any dangerous building who fails to comply with any notice or order to repair, vacate, or demolish the building given by any person authorized by this chapter to give such notice or order shall be guilty of a misdemeanor, punishable by a fine of not more than three hundred dollars or by imprisonment for not more than thirty days, or both. Each and every day that a person fails to so comply beyond the date fixed for compliance shall constitute a separate offense.
- (b) The occupant or lessee in possession who fails to comply with any notice to vacate or fails to repair the building in accordance with any notice given as provided for in this chapter shall be guilty of a misdemeanor. Each and every day that such person fails to comply beyond the date fixed for compliance shall constitute a separate offense.

**24.24.010. Restrictions.**

- (a) Business district. It is unlawful to burn any trash, waste, rubbish, refuse, grass, or weeds within the business district of the city unless the same is confined within an iron, brick, or concrete incinerator, stove, or furnace equipped with lids or doors so that the material is entirely enclosed, except for such opening as may be provided in a chimney or screen top. No incinerator, stove, or furnace shall be used for such purpose out of doors unless the same is more than twenty-five feet from any building or structure and unless the design and construction of the same has been approved by the fire department or an authorized official or committee thereof. Outside burning of combustible materials within the business district shall be restricted to authorization by special permit of the fire chief.
- (b) Residential district. No person shall start any fire for the purpose of burning trash, waste, rubbish, refuse, grass, or weeds out of doors within the residential district of the city and within twenty feet of any building or structure.
- (c) General restrictions. No person shall start any fire out of doors for the purpose of burning trash, waste, rubbish, refuse, grass, or weeds, either in the business district or the residential district, unless such person is over the age of fourteen years and attends and watches the fire until it has ceased to flame and takes all necessary precautions to prevent the spread of the fire to property not intended for burning.
- (d) Over tidelands. No person shall burn any trash, waste, rubbish, or refuse on any dock, wharf, pier, or on or in any structure built over an area where the tide runs, ebbs, or flows, unless the same is burned within a stove, incinerator, or furnace, the design and construction of which have been approved for such purpose by the fire chief.

## Chapter 28. Fireworks.

### **24.28.010. Defined.**

“Fireworks,” as used in this chapter, is meant to include all torpedoes, roman candles, rockets, skybombs, skyrockets, M-80’s, cherry bombs, and all other articles which are commonly known as fireworks or firecrackers.

### **24.28.020. Ignition Prohibited, Exceptions.**

- (a) It is unlawful for any person to ignite, discharge, or fire within the corporate limits of the city between the hours of 11:00 p.m. and 8:00 a.m. any firecrackers or fireworks which make a loud noise or which ascend into the air by their own power, excepting caps, cap pistols, geysers, and sparklers. It is unlawful at any time for any person to ignite, discharge, or fire firecrackers or fireworks in a manner that is unsafe for persons or property nearby.
- (b) Exceptions to the hours in above subsection (a) include July 3<sup>rd</sup> and 4<sup>th</sup>, January 1<sup>st</sup>, and other special occasions which may be designated by the city council.

### **24.28.030. Sale Prohibited, Exceptions.**

It shall be unlawful to offer for sale or bargain to any person or persons any firecrackers or fireworks of any kind or description within the corporate limits of the city, excepting caps, cap pistols, geysers, and sparklers, except at areas designated by the City of Kake with required permits. A city business license is required.

### **24.28.040. Power of City Council to Permit Display.**

The city council may grant permission to any person or persons, firm, corporation, or other association to make or give a fireworks display for a special occasion within the city limits, but the same shall be made or given only under the supervision of and in the manner designated by the city council and only after such permission has been first secured from the city council, who shall give such permission only after establishing to its satisfaction that the same will be given or conducted in a manner which will protect the safety of all persons watching the same and the property in the immediate vicinity. Such display shall be made only in the manner designated by the city council, under its supervision, and at such time and place as it shall designate. No court shall find any person in violation of any section of this chapter when that person is doing acts pursuant to a display sanctioned by the city council.

### **24.28.050. Penalty**

Violation of any provisions of this ordinance constitutes a misdemeanor.

Chapter 32. Smoking.

**24.32.010. Restricted in Transient Accommodations and Dangerous Areas.**

There shall be no smoking:

- (1) in beds of hotels, motels, apartments, or roominghouses; or
- (2) in areas where combustible materials are stored or handled.

**24.32.010 Drug, Alcohol, and Smoke Free**

City-owned buildings shall be drug- and alcohol-free and smoke-free per State of Alaska laws and regulations

**24.36.010. Interference with Health Officer, Violation of Health and Safety Provisions.**

Any person who resists or attempts to resist the entrance of the health officer into any boat, vessel, building, room, lot, or other place in his city or waterfront adjacent thereto while in the performance of his duty, or any person who neglects to comply with the lawful order of the health officer, or resists such health officer in the discharge of his duty, or who violates any of the provisions of this Title, shall be guilty of a misdemeanor and upon conviction thereof before the magistrate of the city, be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or be imprisoned in the city jail for a term not exceeding thirty days, or by both such fine and imprisonment, at the discretion of the magistrate. This penalty provision shall not pertain to offenses to which Sec. 24.20.170 applies.

# TITLE 27. EMERGENCY MANAGEMENT.

## Chapter 04. Emergency Preparedness and Civil Defense.

### **27.04.010. Intent and Purpose.**

- (a) It is the intent and purpose of this ordinance to provide for the complete and efficient utilization of the city's personnel, facilities, and equipment in the event of natural or man-made disasters and disasters resulting from enemy actions, and to provide for the coordination of disaster and civil defense functions of the city with all other public agencies and affected private persons, corporations, and organizations.
- (b) The Kake Office of Emergency Management (OEM) will be the coordinating agency for all activity in connection with civil defense and other disaster operations; it will be the instrument through which the OEM director may exercise the authority and discharge the responsibilities vested in him by law.
- (c) This ordinance will not relieve any city department of the moral responsibilities or authority given to it by law, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.

### **27.04.020. Definitions.**

The following definitions shall apply in the interpretation of this ordinance:

- (a) "Disaster" includes but is not limited to actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, earthquake, epidemic, or other impending or actual calamity endangering or threatening to endanger health, life, property, or constituted government.
- (b) "Civil disorder" means a public disturbance involving:
  - (1) an act or acts of violence by one or more persons part of an assemblage of four or more persons, which act or acts constitute a clear and present danger of or result in damage or injury to the property of any other person or to the person of any other individual; or
  - (2) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of four or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.
- (c) "Civil emergency" means:
  - (1) a civil disorder;
  - (2) a natural or man-made calamity.

- (d) “Civil defense” in its broad meaning is to carry out the basic governmental functions of maintaining the public peace, health, and safety during a civil emergency. This should include plans and preparation for protection from, and relief, recovery, and rehabilitation from, the effects of an attack on the city by the force of an enemy nation or the agents thereof, and it shall also include such activities in connection with a civil emergency as defined herein. It shall not however include any activity that is the primary responsibility of the military forces of the United States.
- (e) “Attack” shall mean a direct or indirect assault against the city, its government, its environs, or the nation by forces of a hostile nation or the agents thereof, including assault by bombing, radiological, chemical or biological warfare, or sabotage.
- (f) “Civil defense forces” shall mean the employees, equipment, and facilities of all city departments, boards, institutions, and commissions; in addition, it shall include all volunteer personnel, equipment, and facilities contributed by, or obtained from, volunteer persons or agencies.
- (g) “Volunteer” shall mean contributing a service, equipment, or facilities to the civil defense organization without remuneration.
- (h) “Civil defense volunteer” shall mean any person duly registered, identified, and appointed by the coordinator of the office of emergency management and assigned to participate in the civil defense activity.
- (i) “Curfew” means a prohibition against any person walking, running, loitering, standing, or operating a vehicle upon any public property, alley, sidewalk, thoroughfare, vehicle parking area, or vacant premise within the city, except as required for persons officially designated to duty with reference to the civil emergency.
- (j) “Intoxicating liquor” means whiskey, brandy, rum, gin, wine, ale, porter, beer, and all other spirituous, vinous, malt, and other fermented or distilled liquors intended or used for human consumption and containing more than one percent alcohol by volume.
- (k) “Director” shall mean the mayor or his designated alternate duly appointed in accordance with law.
- (l) “Coordinator” shall mean the coordinator of the office of emergency management, appointed as prescribed in this ordinance.
- (m) “Regulation” shall include plans, programs, and other emergency procedures deemed essential to civil defense.

**27.04.030. Succession to Office of Director, Office of Emergency Management.**

Should the Office of Director, Kake Office of Emergency Management (OEM), become vacant or should the director be absent or unable to perform the duties of the OEM, the order of interim succession shall be determined as follows:

- (1) the mayor shall assume the Office of Director, OEM;

- (2) should the director and acting director be absent or unable to perform the duties of the OEM, the Mayor's designee shall assume the Office of Director, OEM.

**27.04.040. The Director, Office of Emergency Management and Disasters.**

- (a) The director is responsible for meeting the dangers presented by disasters to the city and its people.
- (b) The director may issue orders, proclamations, and regulations to carry out the purpose of this chapter, and amend or rescind them. These orders, proclamations, and regulations have the force of law.
- (c) An order, proclamation, or regulation issued under this chapter shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless prevented or impeded by circumstances attendant upon the disaster, a copy will be filed with the city clerk.
- (d) A condition of disaster emergency shall be declared by proclamation of the director if he finds that a disaster has occurred or that such an occurrence is imminent or threatened. If the city council is not in session when a proclamation is issued, concurrent with the issuance of the proclamation, a special session of the city council will be requested to ratify the actions taken under this chapter. The emergency proclaimed in accordance with the provision of this section shall terminate after seven (7) days from the issuance of a proclamation, or upon issuance of a proclamation or resolution of the council declaring that an emergency no longer exists, whichever occurs first; except, that such emergency may be extended for such additional periods of time as deemed necessary by resolution of the council. All proclamations issued under this subsection shall indicate the nature of the disaster, the area, or areas threatened or affected, and the conditions which have brought it about or which make possible the termination of the disaster emergency. A copy of all proclamations issued under this subsection shall, if possible, be sent to the appropriate State of Alaska department or agency.
- (e) A proclamation of a disaster emergency activates the disaster response and recovery aspects of the city disaster emergency plans and constitutes authority for the deployment and use of any civil defense forces to which the plan or plans apply and for use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available under this chapter or any other provisions of law relating to disaster emergency response.
- (f) During the effective period of a disaster emergency, the mayor is the director of all civil defense and other unorganized forces available for emergency duty. The mayor may delegate or assign direction authority by appropriate orders or regulations.
- (g) In addition to any other powers conferred upon the mayor by law, he may, under this chapter:
  - (1) suspend the provisions of any regulatory ordinance prescribing procedures for the conduct of city business, or the orders or regulations of any city department, if compliance with the provisions of the statute, order, or regulation would prevent, or substantially impede or delay, action necessary to cope with the disaster emergency;
  - (2) use all the resources of the city government as reasonably necessary to cope with the disaster emergency;

- (3) transfer personnel or alter the functions of city departments and offices or units of them from the purpose of performing or facilitating the performance of disaster emergency management;
  - (4) subject to any applicable requirements for compensation under Sec. 27.04.090, commandeer or utilize any private property, except for the news media other than as specifically provided for in this chapter if he considers them necessary to cope with the disaster emergency;
  - (5) direct and compel the relocation of all or part of the population from any stricken or threatened area in the city, if he considers relocation necessary for the preservation of life or for other disaster mitigation purposes;
  - (6) prescribe routes, modes of transportation, and destination in connection with necessary relocation;
  - (7) control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in it;
  - (8) suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, ammunition, explosives, and combustibles;
  - (9) make provisions for the availability and use of temporary emergency housing;
  - (10) impose a curfew upon all or any portion of the city thereby requiring all persons in such designated and restricted curfew areas to remove themselves from public property, streets, alleys, sidewalks, thoroughfares, vehicle parking areas, or other public places except that physicians, nurses, and paramedical personnel performing essential medical services, utility personnel maintaining essential public services, firemen, members of the news media upon showing of authorized press cards, civil defense volunteers, and city, state, and federal authorized law enforcement officers and personnel may be exempted from such curfew. The curfew may be applicable to any such hours of the day or night as the director deems necessary in the interest of the public safety;
  - (11) allocate, ration, or redistribute food, water, fuel, clothing, and other items he deems necessary.
- (h) The director may obtain vital supplies, equipment, and other properties found lack and needed for the protection of the health, life, and property of the people, and bind the city for the fair value thereof.
  - (i) The director may order civil defense forces to the aid of other communities when required in accordance with the statutes of the state and he may request the state or political subdivision of the state to send aid to the City of Kake in case of disaster when conditions in the city are beyond the control of the city's civil defense forces.

**27.04.050. Violations and Penalties.**

It shall be a misdemeanor, punishable by a fine not to exceed the sum of five hundred dollars (\$500.00) or by imprisonment for a term not to exceed six months or both for any person during a proclaimed disaster emergency to willfully:

- (1) obstruct, hinder or delay any accredited member of the disaster and civil defense organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter or in the performance of any duty imposed upon him by virtue of this chapter;
- (2) do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such a nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives or property of inhabitants of the city, or to prevent, hinder, or delay the defense or protection thereof;
- (3) to wear, carry, or display, without authority, any means of identification specified by the City of Kake Office of Emergency Management of the State of Alaska.

**27.04.060. Office of Emergency Management.**

- (a) There is created in the office of the mayor an office of emergency management possessing the powers and duties set out in Sec. 27.04.070.
- (b) The mayor shall appoint an emergency management coordinator for the office of emergency management who shall be a person well versed and trained in planning operations involving the activities of many different agencies which will operate to protect the public health, safety, and welfare in the event of danger from enemy action or disaster as defined in this ordinance.
- (c) The office of emergency management will function as the disaster agency within the City of Kake as defined in Alaska Statute.

**27.04.070. Powers and Duties of the Office of Emergency Management.**

- (a) The emergency management coordinator shall be responsible to the mayor in regard to all phases of the civil defense activity in the city. Under the supervision of the mayor, he shall maintain liaison with the state and federal authorities and the authorities of other nearby political subdivisions as to insure the most effective operation of the emergency preparedness plan.
- (b) The office of emergency management shall prepare and maintain a city emergency plan and keep it current. The plan may include provisions for:
  - (1) prevention and minimization of injury and damage caused by disasters;
  - (2) prompt and effective response to disasters;
  - (3) emergency relief;
  - (4) recommendations for zoning, building, and other land-use controls, safety measures for securing mobile homes, and other non-permanent or semi-permanent structures, and other preventive and preparedness measures designed to eliminate, reduce, or mitigate disasters of their impact;

- (5) assistance to local officials in designing local emergency action plans and standard operating procedures;
  - (6) authorizations and procedures for the construction of temporary works designed to protect against or mitigate danger, damage, or loss from disaster;
  - (7) preparation and distribution to the appropriate local officials of catalogs or extracts listing federal, state, city, and private assistance programs;
  - (8) organization of manpower and command and control;
  - (9) coordination of federal, state, and local disaster activities;
  - (10) coordination of the city emergency plan with the disaster plans of the state government;
  - (11) other matters necessary to carry out the purpose of this chapter.
- (c) In preparing and maintaining the city emergency plan, the office of emergency management shall seek the advice and the assistance of local governments, business, industry, civic, and volunteer organizations, community leaders, and the City of Kake.
- (d) The city emergency plan or any part of it may be incorporated in regulations or orders of the office of emergency management. Regulations and orders of the office of emergency management have the force of law when properly promulgated by the mayor in accordance with Sec. 27.04.040.
- (e) The basic plan and all amendments shall be submitted to the mayor. If approved after coordination with all departments involved, the mayor will submit the plan and its amendments to the city council for their approval. The plan and any amendments will take effect 30 days from the date of approval unless action is taken by the council disapproving the mayor's submission. In the event the plan or amendment is pending at the time that a disaster is proclaimed under the provisions of this chapter, the plan or amendment will be considered approved immediately and will remain effective unless specifically revoked by the council.
- (f) The office of emergency management shall:
- (1) coordinate the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the city for civil defense purposes;
  - (2) develop and coordinate plans for the immediate use of facilities, equipment, manpower, and other resources of the city for the purposes of minimizing or preventing damage to persons and property, and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety, and welfare;
  - (3) negotiate and conclude agreements with owners or persons in control of buildings or other property for the use of such buildings or other property for civil defense purposes and designating suitable buildings as public shelters;
  - (4) through public information programs, educate the public as to actions necessary and required for the protection of their persons and property in case of enemy attack or disaster as defined herein, either impending or present;

- (5) conduct public practice alerts and training to insure the efficient operation of civil defense forces and to familiarize residents with civil defense procedures, regulations, and operations;
- (6) coordinate the activity of all other public and private agencies engaged in civil defense activities;
- (7) determine requirements of the city for food, clothing, and other necessities in the event of a disaster emergency;
- (8) procure and pre-position supplies, medicines, materials, and equipment;
- (9) adopt standards and requirements for local plans and standard operating procedures;
- (10) determine requirements and standards for local disaster communication;
- (11) make surveys of industries, resources, and facilities in the city, both public and private, as are necessary to carry out the purpose of this chapter;
- (12) establish a register of persons with types of training and skills important in disaster prevention, preparedness, response, and recovery skills;
- (13) establish a resource manual of mobile and construction equipment, temporary housing, and other resources available for use in a disaster emergency;
- (14) prepare for issuance by the mayor orders, proclamations, and regulations as necessary or appropriate in coping with disasters;
- (15) develop and carry out procedures and policies to effectively employ disaster relief funds made available by the mayor's authority or by the governor's authority through the appropriate department of the State of Alaska; these procedures shall include application; documentation, review, verification, and funding approval;
- (16) do other things necessary or proper for the implementation of this chapter, including assuming such authority and conducting such activity as the mayor may direct to promote and execute the emergency plan.

**27.04.080. Financing.**

- (a) It is the intent of the council and the administration and declared to be the policy of the city that funds to meet disaster emergencies will always be available.
- (b) Whenever, and the extent that money is needed to cope with disaster, the first recourse shall be to funds regularly appropriated to local agencies. If money available from these sources is insufficient, the mayor may, notwithstanding any limitations imposed by local ordinance, transfer, or spend money appropriated for other purposes or, in situations involving natural or man-made disasters, borrow from the federal or state government or other public or private sources for a term not to exceed two (2) years.

- (c) Nothing in this section limits the mayor's authority to apply for, receive, administer, and spend grants, gifts, or payments from any source to aid in disaster prevention, preparedness response, or recovery.

**27.04.090. Compensation.**

- (a) No personal services may be compensated by the city or agency of it, except in accordance with Alaska law or local ordinance.
- (b) Compensation for property shall be made only if the property was commandeered or otherwise used in coping with a disaster emergency, and its use or destruction is ordered by the mayor or by a member of the disaster emergency forces of this city who is authorized by the office of emergency management to issue such an order.
- (c) Any person claiming compensation for the use, damage, loss, or destruction of property occasioned by action taken under this chapter shall file a claim for that compensation with the City of Kake in the form and manner required by that office.
- (d) Unless the amount of compensation resulting from property damaged, lost, or destroyed is agreed upon in writing between the claimant and the city office of emergency management, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property under the condemnation laws of the state.
- (e) The city shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of the city or the representative of the deceased members of those forces in the event those members sustain injuries or death while rendering aid under this chapter, provided those members are not already covered by a comparable form of insurance or health benefits plan.

**27.04.100. No Governmental or Private Liability.**

- (a) This ordinance is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety and neither the city nor agents and representatives of said city, or any individual, receiver, firm, partnership, corporation, association, or trustee, or any of the agents thereof, in good faith carrying out, complying with, or attempting to comply with any order, rule, or regulations promulgated pursuant to the provisions of this chapter, shall be liable for any damage sustained to persons or property as the result of said activity.
- (b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the city the right to inspect, designate, and use the whole, part, or parts of such real estate or premise for the purpose of sheltering persons during an actual, impending, or practice civil emergency or enemy attack shall not be civilly liable for the death of, or injury to, any persons on or about such real estate or premise under such license, privilege, or other permission, or for loss of, or damage to, the property of such person.

**27.04.110. Disaster Prevention.**

In addition to the disaster prevention measures as included in the city disaster plan, the mayor shall consider, on a continuing basis, steps that could be taken to prevent or reduce the harmful consequences of disasters. At his direction and under any other authority and competence they

have, city departments, including but not limited to those charged with responsibilities in connection with flood plain management, stream encroachment and flow regulation, weather modification, fire prevention, air quality, public works land use, and land use planning and construction standards, shall make studies of disaster-prevention-related matters. The mayor shall from time to time make recommendations to the city council and other appropriate public and private entities as may facilitate measures for the prevention or reduction of the harmful consequences of disasters.

**27.04.120. Limitations.**

Nothing in this chapter:

- (1) interferes with or allows interference with the course of conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;
- (2) interferes with or allows interference with dissemination of news or comment on public affairs; but any communications facility or organization, including but not limited to radio, television, wire services, and newspapers, may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency in a manner which encroaches as little as possible upon the normal functions of the news media;
- (3) affects the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel of them when on active duty; but disaster emergency plans shall place reliance upon the civil defense forces available for performance of functions related to disaster emergencies;
- (4) limits, modifies, or abridges the authority of the mayor to proclaim martial law or exercise any other powers vested in him by law independent of, or in conjunction with, any provision of this chapter.

**27.04.130. Administration.**

This chapter shall be administered by the office of emergency management, which is responsible to, and which may receive delegations of authority from, the mayor.

**27.04.140. Civil Defense Advisory Board.**

- (a) The mayor may establish and appoint members to a civil defense advisory board. This board will provide advice and assistance in the establishment of a viable civil preparedness program within the city. Membership of the board will include the mayor as or his designated representative as chairman, the emergency management coordinator as vice chairman, a member of the city council, the police chief, fire chief, and members selected from the business community and the general public.
- (b) It shall be the duty of the civil defense advisory board to develop and recommend for adoption by the city council emergency and mutual aid plans and agreements and such ordinances, rules, and regulations as are necessary to implement such plans and agreements. The advisory board shall meet upon the call of the chairman or, in his absence from the city or inability to call such a meeting, upon call of the vice chairman.

**27.04.150. Severability.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of the chapter are declared to be severable.

**27.04.160. Conflicting Orders, Rules, Ordinances, and Regulations Suspended.**

At all times when the order, rules, and regulations made and promulgated pursuant to this chapter shall be in effect, they shall supersede all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.

**27.04.170. Effective Date.**

This ordinance shall take effect on the day after it is passed by the Kake City Council.

# TITLE 30. CRIMES.

## Chapter 04. Offenses Against Public Officers and Government.

### **30.04.010. Resisting, Interfering with, or Impersonating Police Officers.**

With respect to police officers, the following shall be deemed unlawful acts:

- (1) challenging to fight a policeman in the performance of his duties;
- (2) assault or battery of a policeman in the performance of his duties;
- (3) engaging in deliberate and continued baiting of a policeman by verbal excess or abuse which has no apparent purpose other than to provoke a violent action from the policeman;
- (4) resisting arrest by a police officer or assisting another in resisting such arrest;
- (5) assisting a person in lawful custody of a police or other municipal officer to escape; and
- (6) impersonating a police officer or, without authority, exercising or attempting to exercise his powers.

### **30.04.020. False Fire Alarms, Damaging Firefighting and Alarm Equipment**

No person or persons shall turn in, sound, or cause to be communicated to the fire department a false alarm or fire, or molest any firefighting apparatus or equipment, or anything pertaining to the fire alarm system or to the volunteer fire department.

### **30.04.030. Injury to Posted Notices.**

It is unlawful for any person or persons to willfully tear down, alter, deface, or injure so as to render illegible any posted, written, or printed notice, or any part thereof, when said written or printed notice is posted or put up in pursuance to any law requiring or authorizing the same to be done in the city, before the expiration of the time for which such notice is required to be posted.

### **30.04.040. Injury to Public Improvements, Obstructing Streets, Excavations.**

It is unlawful for any person to:

- (1) tear up, injure, or remove any sidewalk, crosswalk, water pipe, water main, drain or sewer, or to hinder or obstruct the making or repairing of the same, or any public work or improvement being done by the city or by any person authorized by the city to construct or repair the same;
- (2) obstruct any street, highway, alley, crossing, sidewalk, or other public passageway of the city; or
- (3) without written permission of the city council, dig, remove, or carry away, or cause or procure any person to dig, remove, or carry away, any wood, stone, earth, sand, or gravel from any graded street, alley, or improved public land.

**30.08.010. Public Place Defined.**

For purposes of Sec. 30.08.020 and 30.08.030, a “public place” is a street, sidewalk, wharf, road, or other publicly-owned area where the public is permitted to assemble, enter, or pass through or is a privately-owned area so dedicated to public use that exclusive possession or restricted access is not and has not been exercised either during the day or night for a reasonable period of time.

**30.08.020. Crime Designated.**

A person who does any of the following while within the corporate limits of the city is guilty of disorderly conduct:

- (1) Creating noise. In a public place, repeatedly or continuously shouts, blows the horn, plays a musical, recording, or amplifying instrument, or otherwise generates loud noises intending to disturb, or acts with reckless disregard, having been informed by another that the conduct is disturbing the reasonable peace and privacy of others not in the same place
- (2) Interfering with peace officers. In a public place, when a criminal offense has occurred, there is a fire, peace officers are effecting an arrest or a peace officer is performing any authorized act, knowingly resists or obstructs the performance by the peace officer, or refuses to comply with a lawful order of peace officer to disperse, or in a private place refuses to comply with an order of the peace officer to leave the premises in which he has neither a right of occupancy nor the expressed invitation to remain of the person having the right of possession;
- (3) Provoking and fighting. In a public or private place, challenges or intends to provoke another to fight, uses abusive epithets personally addressed to another which would likely cause an average addressee to fight, or engages in fighting other than in self-defense;
- (4) Dangerous acts. In a public or private place, knowingly or recklessly engages in a course of conduct or repeatedly commits actions, or creates a condition dangerous to the person or property of another, and such conduct or actions have no legal justification or excuse;
- (5) Accosting persons. In a public place, follows and repeatedly accosts any person for the purpose of obtaining money or other property from the person;
- (6) Disrupting assemblies. In a public or private place boisterously or brawlingly interferes with the quiet and good order of any assembly, including schools, churches, libraries, council meetings, and reading rooms when intending only to disrupt others in the exercise of their rights and impede the business or purpose of the assembly and has no bona fide intention to exercise a constitutional right of his own;
- (7) Public intoxication. In a public place, is under the influence of alcohol, narcotics, or other drugs to the degree that he may endanger other persons or property;
- (8) Conspiracy. In a public or private place, comes together with three or more persons with a common design or intent, or thereafter such design or intent is conceived, to accomplish an unlawful end or use unlawful means to accomplish an end;

- (9) Obscenity. In a public place, utters, distributes, or circulates obscene language or material, defined as erotic stimuli or expressions which, taken as a whole, lack serious literary, artistic, political, or scientific value and is depicted or described in a patently offensive manner including descriptions of ultimate sex acts, normal perverted, actual or stimulated, and patently offensive verbal representations or certain descriptions of masturbation, excretory functions, and lewd exhibitions of the genitals, and which are not otherwise a legitimate and protect exercise of free speech under the First Amendment of the Constitution.

**30.08.030. Interpretation for Prosecution.**

In a prosecution under Sec. 30.08.020(1):

- (a) If the loud noise constitutes speech, the content of speech or evidence of specific works used by the defendant is admissible in evidence against him only as permitted by court rul.
- (b) “Loud noise” in a public place means noise which is loud enough to inhibit the ability of the average person in the same place to speak freely without leaving the public place.
- (c) “Loud noise” in a private place means noise which is loud enough to awaken the average person sleeping in a place other than a private place.

**30.08.040. Assault, Assault and Battery.**

Any person, not armed with a dangerous weapon, who unlawfully assaults or threatens another in a menacing manner is guilty of assault, or who unlawfully strikes another is guilty of assault and battery.

**30.12.010. Keeping Bawdy House.**

It is unlawful for any person to keep or set up a house of ill fame, brothel, or bawdy house for the purpose of prostitution, fornication, or lewdness.

**30.12.020. Gambling.**

It is unlawful for any person to deal, play, carry on, open, cause to be opened, or to conduct either as owner, proprietor, or employee, whether for hire or not, a game played with cards, dice, or other device if it is played for money or for checks, chips, credit representing money, or other representative value.

**30.12.030. Indecent Exposure.**

It is unlawful for any person to appear in any public place and to be exposed to public view in an indecent or lewd state of dress or attire, or to make any indecent exposure or exhibition of his or her person, or commit or engage in any lewd or indecent act or behavior therein, but this provision shall not be construed to prohibit simple nudity.

**30.12.040. Invading Privacy by Peeping or Peering.**

It is unlawful for any person, other than a police officer engaged in the lawful pursuit of his official duties, to knowingly invade the privacy of another by visually peeping or peering through any door, window, transom, or aperture of any dwelling, vessel, or other habitation with the intent to invade the privacy of the lawful occupant thereof.

**30.16.010. Petit Larceny.**

It is unlawful for any person to steal, take, and carry away the property of another consisting of any goods or chattels or any government note, bill of exchange, or other thing in action, or any book of accounts, order, or certificate concerning matters or goods due or to become due or to be delivered, or any deed or writing containing a conveyance of land or any interest therein, or any bill of sale or writing containing a conveyance of goods or chattels or any interest therein, or any other valuable contract in force, or any receipt, release, or defeasance, or any writ, process, or public record, which property does not in the aggregate exceed in value the sum of one hundred dollars.

**30.16.020. Defrauding Hotel Keepers.**

It is unlawful for any person to put up or stay at a hotel, inn, boardinghouse, or lodginghouse and to procure fare, board, or lodging from the owner or keeper by means of a trick, deception or false representation, or a false show of baggage or effects, with the intent to cheat or defraud the owner or keeper out of the pay for the fare, board, lodging, or accommodation; or, with that intent, to abscond, surreptitiously remove, or cause to be removed baggage or effects from a hotel, inn, boardinghouse, or lodginghouse without first paying the proper charges due.

**30.16.030. Malicious Mischief.**

It is unlawful for any person to maliciously or wantonly cut down, destroy, injure, or damage the property of another.

**30.16.040. Injury to Boundary Monuments and Improvements along Public Ways.**

It is unlawful for any person to:

- (1) willfully deface, break down, injure, remove, or destroy any monument erected or used for the purpose of designating the boundary of the city, or any tract or parcel of land therein, or any street or alley of the city, or any tree marked for that purpose;
- (2) willfully break down, injure, remove, or destroy any board, post, guide, fingerboard, or street sign erected or placed upon any street, alley, or highway in the city;
- (3) willfully alter, deface, or obliterate the inscription upon any such monument stone, post, or board in the city; or
- (4) willfully extinguish any lamp or break, injure, or destroy any lamp or lamppost, gate, fence, sign, or signpost or any railing or post erected upon any street, highway, alley, sidewalk, pathway, or passage in the city.

**30.16.050. Trespassing.**

It is unlawful for any person to willfully enter upon the garden, yard, or other improved lands of another person or in the possession of another person with the intent to cut, take, carry away, or injure the trees, grass, hay, fruit, or vegetable products thereon growing and being, or to willfully

cut down, destroy, or injure any standing or growing tree upon the said land, or to willfully take or remove from any such lands any timber or wood previously cut or severed from the same, or to willfully dig, take, quarry, or remove from such lands any earth or stone, or to take or remove or injure or destroy any property of any kind whatsoever on any such lands.

**30.20.010. Carrying a Concealed Weapon.**

It is unlawful for any person to carry, concealed about his person in any manner, a firearm other than permitted by AS 11.21.660, a knife, other than an ordinary pocketknife, or a dirk or dagger, slingshot, metal knuckles or any instrument by the use of which injury could be inflicted upon the person or property of another.

**30.20.020. Discharging Pistol or Firearm.**

It is unlawful for any person to fire or discharge, within the corporate limits of the city, any pistol, gun, rifle, or any other firearm or weapon unless otherwise authorized by Kake Municipal Code or Alaska Statutes.

**30.20.030. Possession of Firearms While Intoxicated.**

It is unlawful for any person, while under the influence of intoxicating liquor or any drug, to handle, use, or discharge a firearm or to carry a firearm on his person or in any vehicle occupied by him.

**30.24.010. Designated.**

Any person, firm, or corporation violating any of the provisions of Chapters 30.01 through 30.20, except Sec. 30.04.020, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by fine, or by imprisonment equivalent to that imposed by the State of Alaska for similar offenses in force at the time of conviction.

**30.28.010. Public Consumption Prohibited.**

Except as otherwise provided in Sec. 30.28.030, not person may consume intoxicating liquor on or within any public place.

**30.28.020. Public Possession in Open Containers Prohibited, Open Defined.**

Except as otherwise provided in Sec. 30.28.030, no person may have in his physical possession in any public area intoxicating liquor in a glass, mug, open can, open bottle, or other open container. A can, bottle, or other container is open if it would not contain its contents when turned on its side or upside down.

**30.28.030. Exceptions.**

No person may possess or consume intoxicating liquor in a public place except under conditions authorized by the city council by resolution or, in the absence of such resolution, as specifically authorized by the mayor or his designee.

**30.28.040. Penalty.**

Any person, organization, business, or establishment violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine, or by imprisonment equivalent to that imposed by the State of Alaska for similar offenses in force at the time of conviction.

## Chapter 32. Curfew for Minors.

### 30.32.010. Definitions.

Whenever the following words or terms are used in this chapter, they shall have the meaning ascribed to them as follows, unless the context makes such meaning repugnant thereto:

- (a) “Holiday” means approved holidays and all days preceding holidays proclaimed as such by the local school board during the school year.
- (b) “Public places” includes all stores, factories, plants, theaters, restaurants, hotel lobbies, and other places which may be entered by the public without trespassing thereon.
- (c) “School year” means as designated by the School District.
- (d) “Street” means all public lands and thoroughfares, including improvements thereon owned by the city, streets, alleys, sidewalks, playgrounds, docks, wharves, and other public lands.
- (e) “Summer” means June 1<sup>st</sup> through August 31<sup>st</sup>.

### 30.32.020. Curfew Designated.

- (a) Age seventeen and under. Except when actually accompanied by a parent, legal guardian, or other responsible person designated or lawfully appointed with his care, custody, or control, it is unlawful for any child through the age of seventeen years inclusive to be upon the street or upon or within public places in the city during the following times:
  - (1) During the summer, the curfew shall be in effect between the hours of 11:00 p.m. and 6:00 a.m., Monday through Sunday, without exception for Friday and Saturday night and nights preceding legal State of Alaska holidays;
  - (2) During the school year, the curfew shall be in effect between the hours of 9:30 p.m. and 6:00 a.m., Sunday through Thursday, exempting Friday and Saturday nights and nights preceding Kake Public School holidays, on which the curfew will commence at 10:30 p.m.
  - (3) After the installation of a tsunami warning siren in October 2011, a ten-minute warning tone that is distinguishable from a tsunami warning and distinguishable from a fire-alarm warning will be activated each night.
- (b) School age children. Except when actually accompanied by a parent, legal guardian, or other responsible person designated with his lawful care, custody, or control, it is unlawful for any child between the ages of sixteen through seventeen inclusive to be upon the street or within public places in the city during the following times:
  - (1) During the summer, the curfew will be in effect between the hours of 11:00 p.m. and 6:00 a.m., Monday through Sunday, without exception for Friday and Saturday night and nights preceding legal State of Alaska holidays;

- (2) During the school year, the curfew shall be in effect between the hours of 10:30 p.m. and 6:00 a.m., Sunday through Thursday, exempting Friday and Saturday nights and nights preceding Kake Public School holidays, in which the curfew will commence at 11:00 p.m.

**30.32.040. Parents Not to Allow Violation.**

No parent, guardian, or other person who is responsible for the care or custody of such child shall allow such child to be upon any street or in any public place in the city in violation of this chapter.

**30.32.050. Proof of Age.**

A police officer of the city may require of any child or any parent, guardian, or any person having the care or custody of any child, such proof of age of such child as shall be required by such police officer and unless such proof is furnished, such child shall be deemed to be of the age determined by such police officer.

**30.32.060. Aiding or Abetting Violations.**

It is unlawful for any person to aid or abet the violation of any section of this chapter.

**30.32.070. Police Custody of Children in Violation, Report.**

Any child found upon the streets or in any public place within the city in violation of this chapter shall be taken into custody by the police and delivered to his or her parents, guardian, or person having care or custody of such child and a report thereof shall be maintained in the office of the chief of police.

**30.32.080. Penalty.**

- (a) Any parent, guardian, or other responsible person designated or lawfully appointed with the care, custody, or control of such child who is upon public streets or within public places in the city in violation of this chapter shall, for the first offense, be informed of the facts concerning the same and for all subsequent offenses, shall be sentenced to pay a fine not to exceed fifty dollars for the first offense, one-hundred dollars for the second offense, and five-hundred dollars for the third and subsequent offense(s).
- (b) Any person who helps, assists, facilitates, promotes, or encourages a child to commit a violation of this chapter by advancing or bringing about its commission shall be sentenced to pay a fine not to exceed fifty dollars for the first offense, one-hundred dollars for the second offense, and five-hundred dollars for the third and subsequent offense(s).
- (c) Fines under this chapter are subject to change by Resolution either alone or in conjunction with other fines and fees on an annual or on an as-needed basis.

# TITLE 39. ALCOHOLIC BEVERAGES.

## Chapter 04. Alcoholic Beverages.

### 39.04.010. Definitions.

The following words and phrases used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them as follows:

- (a) “Alcoholic beverage” shall be construed identically with “intoxicating liquor” to include, whiskey, brandy, rum, gin, wine, ale, porter, beer and all other spiritous, vinous, malt, and other fermented or distilled liquors intended for human consumption and containing more than three percent alcohol by volume.
- (b) “Beer parlor” means any room or place which is operated under or by virtue of a beverage dispensary license in force, regardless of what other kinds or classes of licenses the owner thereof may possess or what other kinds of business may be conducted therein.
- (c) “Beverage dispensary” means a State of Alaska beverage dispensary license empowered to sell for cash or serve on the premises beer, wine, and hard liquors for consumption on the premises only.
- (d) “Club bar” shall be construed identically with “beer parlor” and/or “beverage dispensary.”  
“Cocktail bar” shall be construed identically with “club bar.”
- (e) “Common drunkard” means any person who, in any twelve-month period, has been convicted three or more times of drunkenness or disorderly conduct arising from the use of intoxicating liquor, in any court of the State of Alaska including, without limitation, any municipal magistrate.
- (f) “Consumption” means an act or process by which a person introduces or consumes an intoxicating liquor into his or her body.
- (g) “Intoxicating liquor” shall have the same meaning as “alcoholic beverage” in subsection (a).
- (h) “License” means every class and type of license issued for the sale of intoxicating liquor as defined in Section 35-4-21 ACLA 1949, as amended.
- (i) “Licensed premises” means any building, structure, or other premises in respect to which a State of Alaska license for the sale of intoxicating liquor has been issued.
- (j) “Licensee” means every person, firm, or corporation to whom a valid and subsisting State of Alaska license for the sale of intoxicating liquor has been issued.
- (k) “Open container” means any drinking glass, jar, bottle, can, receptacle, or other object capable of holding or retaining an intoxicating liquor and possessing an opening within the container through which a person having possession could obtain access to the intoxicating liquor therein.

- (l) “Public place” means any street, sidewalk, dock, float, or any other location, including any store, establishment, or business where the public is permitted to assemble, enter, or pass through, whether publicly or privately maintained, including but not limited to places of accommodation, transportation, business, and entertainment, or any other place which is not a private place.
- (m) “Retail liquor store” shall be construed identically with “retail licensee” and it shall mean any place where intoxicating liquors in the original packages, and when in bulk, are sold for cash or other consideration.
- (n) “Sale” includes, without limitation, selling, trafficking in, bartering, or exchanging for goods in the city any intoxicating liquors.
- (o) “Unlicensed establishment” means any building, business, store, structure, or other premises in respect to which a State of Alaska license for the sale of intoxicating liquor has not been issued.

**39.04.020. License Required.**

It is unlawful for any person, firm, or corporation to sell any intoxicating liquors within the city, unless such person, firm, or corporation is the owner or holder of a valid and subsisting license issued by the State of Alaska and complies with all laws and regulations of the State of Alaska relating to the sale of alcoholic beverages.

**39.04.030. Minors Prohibited on Licensed Premises.**

It is unlawful for any licensee to permit any person under the age established as the drinking age by the State Legislature to enter any licensed premises within the city unless such person is accompanied by his or her parents, guardian, or by a spouse who is over the age established by the State Legislature.

**39.04.040. Employment of Minors.**

A person under the age established by the State Legislature may enter and remain upon the licensed premises of a hotel or restaurant in the course of his employment if the employment does not require or involve the serving, mixing, delivering, or dispensing of alcoholic beverages and if the person has the written consent of a parent or guardian and an exemption from the appropriate agency of the State of Alaska for the employment.

**39.04.050. Hours of Sale.**

- (a) It is unlawful for any licensee to sell, give, barter, or exchange upon licensed premises any intoxicating liquors or to permit the consumption or removal of any intoxication liquors upon or from a licensed premises in any manner whatsoever during closed hours. Retail liquor stores shall be closed from 2:00 a.m. until 8:00 a.m. on weekdays and from 3:00 a.m. to 2:00 p.m. on Sundays. Cocktail bars and club bars shall be closed from 2:00 a.m. until 10:00 a.m. on weekdays, closing on Sundays from 3:00 a.m. until 2:00 p.m. Licensed restaurants may serve intoxicating liquors with meals beginning at 11:00 a.m. on Sundays.
- (b) A licensee shall NOT be permitted to sell, give, barter, or exchange upon licensed premises any intoxicating liquor or to permit the consumption or removal of any intoxicating liquors upon or from a licensed premises during the normal hours listed in subsection (a) on days when an election is being held, including elections where a candidate for office appears on the ballot.

**39.04.060. Serving Intoxicated Person or Common Drunkards Prohibited.**

It is unlawful for any licensee knowingly to permit any intoxicated person or any common drunkard to enter licensed premises, or to sell to any such intoxicated person or common drunkard any intoxicating liquors or alcoholic beverages.

**39.04.070. Transfer to, Possession, and Misrepresentation by Minors Prohibited.**

- (a) It is unlawful to sell, give, barter, or exchange intoxicating liquors to or with any person under the age established by the State Legislature.
- (b) It is unlawful for any person under the age established by the State Legislature to procure or possess, or to attempt to procure or possess, intoxicating liquors for his own use or consumption.
- (c) It is unlawful for any person to misrepresent his age or the age of any person for the purpose of having intoxicating liquor sold, given, bartered, exchanged, or furnished to a person under the age established by the State Legislature.
- (d) It is unlawful for any person to provide to a minor his own drivers license or other form of identification reflecting a birthplace so as to enable a minor to misrepresent his age and enable the minor to purchase alcoholic beverages as if he had reached majority.

**39.04.080. Licensee Responsible for Acts of Employees.**

The act of any agent, servant, or employee of any licensee which is a violation of any provision of this chapter, or the laws of the State of Alaska, shall be deemed the act of such licensee and the licensee shall be guilty of any such violation.

**39.04.090. Tumultuous Conduct Prohibited.**

It is unlawful for any licensee to permit tumultuous or disorderly conduct upon the premises.

# TITLE 45. STREETS, SIDEWALKS, AND PUBLIC PLACES.

## Chapter 04. Street Names.

### **45.04.010. Street Names.**

All streets shall be known and designated by the names applied to them on the official street name map of the city. The official street name map may be adopted, enacted as an ordinance, and filed with the city clerk. The naming of any new street or the changing of the name of a street shall be done by ordinance, which ordinances shall amend the official street name map, provided that the final approval of a new subdivision or re-subdivision within the city shall constitute a change in the street name map without further action by the council and the annexation of any new area in the city shall likewise accomplish an amendment of the official street name map without further action by the council.

### **45.04.020. Street Numbering.**

- (a) A street numbering map containing the proper street numbers for every property in the city shall be prepared by the director of public works. The street numbering map may then be enacted as an ordinance. Copies of the map shall be placed on file in the office of the city clerk and made available for public inspection.
- (b) After the enactment of the street number ordinance, every person owning a building in the city shall furnish the building with a street number. Each building shall bear a distinctive street number in accordance with and as designated upon such street numbering map.
- (c) No owner shall fail to place the correct number upon the front of occupied premises, said number facing the street and adjacent to the principal entrance and in such position to be plainly visible from the street. Numbers shall be not less than three inches in height and shall contrast in color with the color of the building or background to which they are attached.

**45.08.010. Necessity of Permit.**

No person shall excavate, obstruct, occupy, or otherwise use any street or other public place within the city unless he has obtained a permit to do so from the director of public works.

**45.08.020. Application: Contents.**

- (a) Applications for permits herein provided for shall be filed with the director of public works upon a form furnished by him. Such applications shall contain:
  - (1) an accurate description of the public place or portion thereof desired to be used;
  - (2) the use desired to be made of such public place by the applicant; and
  - (3) the plans, specifications, descriptions of work, limits of work, methods to be employed, and other pertinent data to provide the director of public works with all information necessary to evaluate the design, location, and other aspects of the proposed installation;.
- (b) The location of all other aerial, surficial, or underground facilities shall be shown on the plans in relation to the proposed work.

**45.08.030. Application: Processing.**

Permits shall be obtained at least two working days before the work is commenced and shall not be transferred or assigned except as provided herein. The director of public works shall examine each application to determine if it complies with the provisions of this title and may inspect the premises which are desired to be used in order to ascertain any facts which may aid in determining whether a permit shall be granted. If the director of public works finds that the application conforms to the requirements of this title pertaining therein and also that the proposed use of such public place will not unduly interfere with the rights of the public, he may approve the application. If the application is approved, the director of public works shall issue a permit, upon the applicant's compliance as herein specified with the provisions of this title relative to bond and indemnity. The permit shall provide a time limit within which the work shall be completed and work shall commence within ten (10) days after application is approved. Unless an extension of time is granted by the director of public works, the permit shall be void if the work is not commenced and completed within the dates specified in the permit.

**45.08.040. Agreement by Permittee.**

Every permit issued by the city shall contain a statement signed by the permittee which shall provide substantially as follows:

- (1) The permittee shall be responsible for all claims and liabilities arising out of work performed or arising out of failure to perform his obligations with respect to street or other maintenance incidental to the permitted work. The permittee shall agree to forever indemnify, defend, save, and hold harmless the city, its officers, and employees from and against any and all law suits, claims, or actions brought by any person for or on account

of damage to property or injury, disease, illness, or death of persons, including all costs and expenses incident thereto, arising wholly or in part from or in connection with the existence of construction, alteration, maintenance, repair, renewal, reconstruction, operation, use, or removal of the work to be performed.

- (2) The permittee agrees that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, that upon thirty (30) days' notice, posted on the premises, or by publication in a newspaper of the city, or without such notice, in case the permitted use shall become dangerous or such structures shall become insecure or unsafe, or shall not be constructed, maintained, or used in accordance with the provisions of the ordinance of the city, the permit may be revoked and the structure and constructions ordered removed.
- (3) If any structure or obstruction, or use or occupancy, is not discontinued upon notice to do so by the director of public works, he may forthwith remove such structure or obstruction from such place, or make such repairs upon the structure or obstruction as may be necessary to render the same secure and safe, at the expense of the grantee of the permit, or his successor, and such expense may be collected from the permittee as provided by law.

**45.08.050. Bond or Indemnity Deposit on Approved Applications.**

- (a) Cash deposit. If the director of public works determines that there is a possibility of damage or expense to the city arising from an applicant's proposed use of any public place, the applicant shall furnish to the city a surety bond, cash, or certified check payable to the city to be in an amount not less than two hundred dollars (\$200). The cash deposit shall be in an amount determined by the director of public works at the time of approving the application. The deposit shall be used to pay the cost of the permit as specified in Sec. 45.08.090 and to pay for any possible extra expense that the city may be called upon to pay. Additional expense items may include the employment of additional inspectors, surveys, or other services performed by the city above those included within the permit fee, the costs of restoring the street and removing any earth or other debris from the street, the replacement of any utility interrupted or damaged, the completion of any work left unfinished, and any other expense the city may sustain in conjunction with the permitted work. In the case of a cash indemnity deposit, the balance, if any, after the foregoing deductions, shall be returned to the applicant; if the deposit is insufficient, the applicant will be liable for the deficiency.
- (b) Bond. If a surety bond is filed, the bond shall assume all the requirements provided in subsection (a) of this section in relation to a cash indemnity deposit, shall run for the full period of the permit, and shall be conditioned that such applicant shall faithfully comply with all the terms of the permit and all the provisions of this title and all other ordinances of the city. Such bond shall indemnify and save the city free and harmless from any and all claims, actions, or damages of any kind and description which may accrue to or be suffered by any person by reason of the use of any public place, as provided for in said application. The bond shall be approved as to form by the city attorney.
- (c) Duration of security. The city also reserves the right to determine the circumstances and length of duration of a bond, cash, or certified assurance required to cover possible damages and repairs which may result from the permittee's construction. If the application is to construct, reconstruct, repair, maintain, or remove any sidewalk, pavement, grading, underground installation of any

kind, or any other work which may affect the integrity of the street or other public place, the applicant shall file a surety bond, approved as to form by the city attorney, which bond shall run for the full period of the permit plus one year after the acceptance of the permitted work by the director of public works. The amount of the bond shall be in an amount fixed by the director of public works and conditioned that the applicant shall faithfully complete all portions of the work according to the special plans and other data approved or specified by the director of public works.

**45.08.060. Additional Bond.**

- (a) Where it is probable that more than one permit will be desired or that an applicant shall be periodically using public places, the applicant may of his own volition, or the director of public works may require the applicant to, post a surety bond of sufficient amount to cover the accumulated cost or risk involved at any certain time in a calendar year for a number of permits outstanding as determined by the director of public works, said bond to be in force during the period of all outstanding permits, but to no case for less than one year. The bond shall be approved as to form by the city attorney, conditioned to assume all the requirements provided in Sec. 45.08.040 in relation to a cash indemnity deposit.
- (b) However, if at any time any applicant applies for a permit to use a public place and in the opinion of the director of public works the work or risk involved in the application will, together with other permits outstanding in the name of the applicant, exceed the amount of the then presently posted surety bond, the applicant may be required to post an additional or separate surety bond to cover the additional risk or work involved prior to the issuance of any new permits. The bond shall remain in force during the period of all outstanding permits, but in no case for less than one year.
- (c) In addition, the director of public works may require any permittee to post a surety bond in the calendar year following the period of a permit when the extent of possible damage to a public place has not been completely determined.

**45.08.070. When Bond or Deposit Not Required.**

- (a) No deposit shall be required of any public utility of any city, public utility district, public corporation, or political subdivision which is authorized by law to establish or maintain any works or facilities in, under, or over any public street, alley, or right-of-way.
- (b) Permittees falling within this category will instead be required to furnish a certified statement assuring the city that any and all costs for the repair of damage to the street or public place or installations within it will be at the liability of the permittee when it has been determined by the director of public works that there is a reasonable basis to require such protection.
- (c) No bond, certified statement, or permit fee will be required of the various city departments or divisions nor of a city contractor where the contract documents specifically require approved progress schedules and a complete coverage performance bond.
- (d) This section, however, shall not relieve any person of the responsibility of obtaining the permit.
- (e) The director of public works shall have the sole authority to waive the requirements for bonding or certified assurances.

**45.08.080. Issuance of Permits.**

- (a) Upon approval by the director of public works of an application for the use or occupation of a public place, and upon posting of the bond, indemnity deposit, or certified statement by the permittee, the director of public works shall issue a permit therefor. The director of public works may attach to and make a part of the permit any special provisions and/or stipulations that he deems necessary to protect the public place or its appurtenances, other existing or approved installations, and the general public, or may specify methods, sequences of construction and materials and other pertinent items.
- (b) The original permit shall remain in the custody of the director of public works and a copy shall be given to the permittee. Additional copies may be made for use by such other divisions of the city as have need for them.

**45.08.090. Schedule of Permit Fees.**

- (a) Permit fees shall be as follows:

	<u>Type of Use</u>	<u>Inspection Fee</u>	<u>Minimum</u>
(1)	Blasting		\$15.00
(2)	Beautification or landscaping	No fee, except when insurance or bond is required; then \$2.50	
(3)	Tree removal or trimming when involving temporary blocking of street	Per abutting lot	\$2.50
(4)	Curb cuts, residential		\$15.00
(5)	Curb and gutter	First 300 feet at 10 cents per L.F., all additional at 5 cents per L.F.	\$10.00
(6)	Sidewalk	5 cents per square foot	\$10.00
(7)	Repair existing sidewalk, driveway, or curb	Sidewalk and curb at half rate of new construction	\$5.00
(8)	Concrete or asphalt planting strip	First 500 sq. ft. at 2 ½ cents per square foot, all additional at 1 cent per square foot	\$5.00
(9)	Retaining walls, rockeries, fences		\$10.00
(10)	Gravel street or alley improvements, survey, and plans when required	Inspection time to be additional	\$10.00

(11)	Paving in roadway, and plans when required	Inspection time to be additional	\$10.00
(12)	Culverts	Per each	\$5.00
(13)	Opening public places for various construction	Depth in excess of 5 feet Inspection time, if necessary, for any installation in trench to be additional	\$15.00
(14)	Opening public places for various construction	Depth 5 feet or less \$10.00 per each 100 feet, or portion thereof, after first 600 feet Inspection time, if necessary, for any installation in trench to be additional	\$10.00
(15)	Sanitary or storm sewer or water connection on property	\$10.00 for first hour and \$7.00 for each succeeding hour	\$10.00
(16)	Fuel oil, gasoline, or other underground storage tank or fill pipe (installation or replacement only – does not include annual fee)	Inspection time to be additional	\$15.00
(17)	Exhibitions, curb service, similar obstructions, loading/unloading in parking meter zone, signs		\$10.00
(18)	Street broadcasting, parades, processions		By agreement with mayor
(19)	Searchlight for advertising, 5-day minimum		\$5.00
(20)	Banners, placards, and street decorations		\$5.00
(21)	Marquee, awning, canopy (retractable and non-retractable)	10 cents per square foot	\$10.00
(22)	Cornices, belt courses, etc.,	First 200 square feet 25 cents per	\$10.00

in public places under 50 feet above street level for new construction

square foot, 200 square feet to 1,000 square feet 12 ½ cents per square foot, over 1,000 square feet 5 cents per square foot

(23)	Swing staging or scaffolds covering work of less than 30 days duration over a public place for exterior maintenance of a building (maximum \$75). 15 cents per front foot of building. Work of longer duration to be charged on same basis as street use for construction		\$10.00
(24)	Sidewalks or curb crossings with heavy equipment	Per 12 L.F. or portion thereof	\$10.00
(25)	Hoisting		\$10.00
(26)	Moving buildings and heavy equipment, oversize and overweight loads	\$5.00 plus \$2.00 per hour of move plus fees to reimburse city for utility moves, police escort, etc.	\$10.00
(27)	Use of street for building demolition (30 days or less). Work of longer duration to be charged on same basis as street use for construction		\$10.00
(28)	Street use for construction, including storing and work areas, material storage, etc.		
(29)	Downtown core	16 ½ cents per square foot per month	\$20.00
(30)	Downtown periphery	4 ½ cents per square foot per month	\$15.00
(31)	Other business zoning	2 ½ cents per square foot per month	\$15.00
(32)	Residential zoning	1 cent per square foot per month	\$10.00
(33)	(Through street blockage to		

be charged at next higher rate)

- |      |   |   |         |
|------|---|---|---------|
| (34) | Barricading or blocking streets temporarily for private use | \$5.00 per day  | \$10.00 |
| (35) | Other use not covered in this schedule                      | If applicable, 7 ½ cents per square foot for first 1,000 and 2 cents per square foot for additional | \$10.00 |

(b) Encroachment fees to be renewed annually:

	<u>Type of Use</u>	<u>Inspection Fee</u>	<u>Minimum</u>
(1)	Signs and billboards	40 cents per square foot	\$30.00
(2)	Flag poles, signs, etc. extending over public property, lowest point 12 feet	Per unit	\$5.00
(3)	Piers, loading platforms, bridges, scales, overhead hoists, beams and cranes, all buildings in street area, and all building overhangs (cornices excepted) in street area, commercial ramps or steps or any similar installations	15 cents per square foot for 1,000, 7 ½ cents per square foot additional	\$15.00
(4)	Ventilating ducts	Per each	\$10.00
(5)	Areaways and vaults	15 cents per square foot for 1,000, 7 ½ cents per square foot for additional	\$15.00
(6)	Fuel oil, gasoline, or other underground storage tank		\$10.00
(7)	Fuel oil, gasoline, or other storage tank fuel fill pipe leading off street		\$5.00
(8)	Permit not otherwise covered in the renewable schedule		\$10.00
(9)	Fences, retaining walls,		\$10.00

other item on or over public property with lowest point below 12 feet above surface (exclusive of signs and billboards)

- (c) In any case where two separate methods of computing the permit fee are found to conflict, the director of public works shall charge the greater amount.
- (d) In all cases of dispute regarding fees, permits, or other matters relating to this title, the decision of the director of public works shall be final and conclusive, unless otherwise provided in this title.
- (e) An annual review may be made to determine the cost of administering, policing, and inspecting this schedule of fees for a comparison as to the reimbursement from the fees to the city. At such time adjustments may be made in charges, increasing or decreasing the charges, the director of public works with the approval of the city council, by resolution.
- (f) Adjoining areas may be covered on one permit for any one applicant.

**45.08.100. Revocation or Suspension of Permit.**

- (a) The director of public works may revoke or suspend the permit provided for in this chapter whenever:
  - (1) the permittee requests such revocation or suspension;
  - (2) the work does not proceed in accordance with the plans, as approved, or is not in compliance with the requirements of this chapter, the city building code, or other city ordinances or the State Safety Code;
  - (3) entry upon the property for the purposes of investigation and inspection has been denied;
  - (4) the permittee has made a misrepresentation of a material fact in applying for the permit;
  - (5) the progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, street, utilities in the street, or the work endangers or will endanger the public, the adjoining property, street, or utilities in the street;
  - (6) the permit has not been acted upon within sixty days or the time allowed by extensions; or
  - (7) the related building permit, if any, has expired without renewal or has been revoked or cancelled.
- (b) Upon suspension or revocation of the permit, all work thereupon shall cease, except as authorized or directed by the director of public works.

**45.08.110. Appeal from Decision of Director of Public Works.**

- (a) An applicant for the permit provided for in this chapter, feeling aggrieved by any of the following actions, charges, or determinations of the director of public works may within ten (10) days thereof appeal the same to the city council by filing a written notice of appeal with the mayor.
  - (1) The denial of a permit;
  - (2) The amount of sufficiency of the security to be posted;
  - (3) The amount and coverage of the insurance to be supplied;
  - (4) Requests for soil investigations; and
  - (5) Actions imposing conditions modifying or rejecting any special plans, specifications, and proposed methods of construction, provided no appeal may be made from such actions or determinations after the applicant has accepted the permit. Unless otherwise directed by the mayor, no such permit shall be issued until after final determination of any such appeal.
  
- (b) After issuance of a permit, the holder of the permit, feeling aggrieved by any of the following actions, charges, or determinations of the director of public works, may within ten (10) days thereof appeal the same to the council by filing a written notice of appeal with the mayor.
  - (1) A directive by the director of public works to increase the security;
  - (2) Suspension or revocation of the permit;
  - (3) Provided, that such permit holder shall fully comply with the orders of the director of public works pending the decision of the council and no compensation shall be paid or allowed such permit holder for any expenses incurred in connection with compliance.
  
- (c) The council may sustain, modify, or reverse any action, charge, or determination of the director of public works and its decision shall be final.

**45.08.120. Appeals, Notice, Form.**

The written notice of appeal required in Sec. 45.08.110 shall be filed in duplicate, describe precisely the action or determination appealed, explain the error alleged therein, and state the action desired by the appellant.

**45.08.130. Street Closures.**

No street or intersection shall be closed in the performance of the work when a traffic restriction or street closure is already in effect on an adjacent parallel street, except in emergencies or by special authorization of the director of public works.

**45.08.140. Work: Commencement Notice.**

At least two working days before the work is commenced, the permittee shall give notice of the time of commencement of the work to the director of public works.

**45.08.150. Work: Notice to Police and Fire Departments.**

The police and fire departments shall be notified before work is commenced of any street closures, parking restrictions, rerouting of traffic, or other restrictions which may interfere with the normal use of the street.

**45.08.160. Work: Conduct.**

All work shall be performed in a neat and workmanlike manner and so programmed as to cause the minimum of interference with traffic and inconvenience to the public. Detours shall be planned and coordinated with the mayor, as necessary, to allow for a smooth flow of traffic at all times. Access shall be provided to all mail boxes, fire hydrants, water gate valves, and other public service structures and property as may be required for emergency use. Public service structures or property shall not be removed or relocated without proper coordination with the constituted authorities charged with their control and maintenance. The working area shall be confined so as not to obstruct roadways and walks unnecessarily. Temporary roadways, driveways, and walks for vehicles and pedestrians shall be constructed where required and progress or work schedules shall be so arranged as to provide access to all lots at all times.

**45.08.170. Occupation of Public Place by Permit Holder.**

- (a) During the period of the permit, the permittee will be permitted to occupy such portions of streets, alleys, and other public places as allowed by the ordinances of the city and as shown on the plans or as permitted by the director of public works.
- (b) A reasonable amount of tools, materials, and equipment for construction purposes may be stored in such space, but not more than is necessary to avoid delays in the construction. Excavated and waste material shall be piled or stacked in such a way as not to obstruct unused areas, nor inconvenience occupants of adjoining property.

**45.08.180. Repair of Damage Which Causes Hazard.**

Upon notice from the director of public works, immediate repairs shall be made by the permittee of any injury or damage in any portion of a public place which occurs as a result of the work done, and which, in the opinion of the director of public works, constitutes a public hazard. In the event such repairs are not made within twenty-four hours after notice, the director of public works is authorized to make such repairs and charge all costs plus overhead to the permittee.

**45.08.190. Completion Notice.**

Notice of completion shall be filed by the permittee with the director of public works within ten days after completion of the work.

**45.08.200. Inspection of Completed Work, Refund of Deposit.**

All work done by the permittee shall be inspected and approved by the director of public works prior to refund of any part of the bond or indemnity deposit.

**45.08.210. Maintaining Pipes or Conduits, Emergency Operations.**

Nothing in this chapter shall be construed as to prevent any person from maintaining any pipe or conduit in any public street, alley, or public place, or from making such excavations as may be necessary for the preservation of life or property when necessity arises, provided, however, that he shall assume all cost and liability in connection with the work. When an emergency excavation has been commenced, the person making such excavation shall secure a permit therefor on the next working day.

**45.08.220. Emergency Operations, Notice.**

In emergency situations where facilities block, obstruct, or have damaged the highway or appurtenances or have created a danger or hazard to the traveling public, the shall be reported by the permittee by the most expeditious means of communication, as soon as reasonably possible to do so, to the director of public works and the city police, as to the location, type, and extent of the emergency. The permittee shall take such measures as are required to protect the health and safety of the travelling public during such emergency operations.

**45.08.230. Emergency, City Right.**

If at any time during the performance of any work an emergency should arise, the city shall have the right to use all or any part of the area occupied by the permittee under the permit.

**45.08.240. Survey Markers: Removal, Replacement, Cost.**

Any monument of granite, concrete, iron, or other lasting material set for the purpose of locating or preserving the lines of any street or property subdivision or a precise survey reference point within the city shall not be removed or disturbed or cause to be removed or disturbed unless a written permit for such purpose has been granted by the director of public works. Permission shall be granted upon the condition that person applying therefor shall cause to be replaced at his expense the monument so removed or disturbed. A city contractor shall not be held responsible for monuments not shown on the construction plans if said responsibility of all other contractors and permittees to determine the location of all monuments prior to commencing work.

**45.08.250. Assignment and Transfer of Permit.**

The permittee shall not assign or transfer any of the rights of his permit to another individual or company without first notifying and securing the approval of the director of public works. The permittee shall not allow another person or company to share its permitted facilities unless the other person or company has first obtained a permit.

**45.12.010. Warning Lights and Barricades.**

- (a) It is unlawful for anyone, in any manner, to obstruct, excavate, or tear up any public place without at all times during the performance of the work providing and maintaining such fences, barricades, red lights, flares, warning and directional signals, flagmen, and watchmen as are necessary for the safety of the general public. All barricades, fences, warning, and directional signs shall be illuminated from one-half hour before sunset to one-half hour after sunrise. “No parking” signs shall be placed the evening prior to commencement of work and shall be equally spaced at the rate of four per block each side of the street. Lettering on signs shall be three inches high. The sign shall show hours of the day in which parking is restricted. Barricades may be removed at the completion of the work or the removal of obstructions in public places providing the surface of the roadway has been restored to the satisfaction of the director of public works.
- (b) The contractor or municipal department will provide and maintain all necessary lighting devices (torches, lanterns, flashers, and electric lights) throughout the period when a street or other public place is used and will be responsible for providing and maintaining any necessary warning signs and barricades adjacent to the construction or work area. In the event that a city crew must be called to perform any maintenance on any lighting devices, or other means of protecting the public due to the failure of the contractor to comply with this regulation, a service call fee of fifty dollars per location will be billed to the responsible private firm or individual by the city. No payments on any contract with the city will be made until all such fees are paid in full.

**45.12.020. Damaging Warning Devices.**

It is unlawful to deface, move, injure, damage, alter, or remove any barricade or light placed at or near any obstruction or defect in the street or posted to obstruct the passing of vehicles.

**45.12.030. Areas Adjacent to Public Places.**

It is unlawful to leave any excavation or fill within four feet of any public place without adequate barricades and warning devices to protect the public or to fail to maintain the lateral support of any public place or of a fill adjacent to such public place.

**45.16.010. Permits for Excavations and Fills Required.**

Whoever shall propose to excavate or fill any site within a street or other public place in the city shall obtain a permit from the director of public works in the manner required by Chapter 45.08.

**45.16.020. Major Excavations.**

For any excavation within a public place in the city, the director of public works may use the following procedures and criteria in processing an application for the permit provided for in Chapter 45.08:

- (1) Plans, specifications, and methods of construction required by the director of public works shall be submitted in duplicate;
- (2) Shoring plans submitted shall be designated by and bear the seal of a professional engineer or architect licensed in the State of Alaska;
- (3) All shoring systems, including the members, their connections, and support, shall be designated to carry the loads imposed on them and details shall be shown on the plans;
- (4) Allowable stresses, including allowance for short term loading, for timber, steel, or concrete shall be based on the building code of the city; and
- (5) Soil investigations and reports may be required for all excavations so that appropriate pressures may be established. The director of public works may require investigations at any depth whenever specific conditions existing at the site of such excavation reveal an unstable soil structure, or when circumstances indicate that the excavation may impair the lateral support of any public place, or whenever further investigation will supply information necessary to properly evaluate the application for the permit.

**45.16.030. Hazardous Conditions, Remedy.**

- (a) Whenever an excavation or fill within or outside a public place has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place or endangers the public, an adjoining public place, street utilities, or city property, the director of public works may direct the contractor making such excavation or fill and/or owner of the property upon which such excavation or fill is being made, at his own expense, to take action to protect the public, adjacent public places, city property, and street utilities.
- (b) In the event that the owner or contractor fails or refuses to take the action directed promptly, or fails to fully comply with such directions given by the director of public works, or if emergency conditions exist requiring immediate action, the director of public works may enter upon the public place, the adjacent streets, or street utilities or to maintain the lateral support thereof, including placing of temporary shoring, backfilling, alteration of drainage patterns, and any other action reasonably necessary to decrease the possibility or extent of earth movement, or regarded as necessary safety precautions; the owner and/or contractor shall be liable to the city for the costs thereof.

**45.16.040. Exposed Utility: Notice Required.**

Whenever any utility is to be exposed by an excavation and the exact location and depth of the utility is unknown, the utility company shall be notified and excavations shall not be commenced until a representative of the utility company is present to aid in the location of the utility. It shall be the duty of the utility company under this section to have a representative at the location where the work is being done within twenty-four hours of notice to him by the contractor.

**45.16.050. Underground Facilities, Location Information, Damage.**

- (a) Every effort will be made to appraise the permittee of underground facilities within the permitted area; such information, however, is provided for convenience only and the city will assume no responsibility for failure to provide complete data. The permittee shall take adequate and proper measures to inform himself as to the existence and location of any and all underground utilities which are apt to be encountered during his operation and shall protect the same against damage.
- (b) If any pipes, conduits, poles, wires, or other apparatus are damaged, the permittee shall immediately notify the director of public works and the utility company involved. The damage shall be repaired by the authorities having control of same at the permittee's expense.

**45.16.060. Backfill.**

All trenches and excavations within public places shall be backfilled in accordance with city construction specifications and the directions of the director of public works.

**45.16.070. Restoring Surface.**

- (a) After completion of an excavation of fill, pavement shall be replaced with standard type pavement as indicated on the permit or as shown on the plans. Curbs, gutters, sidewalks, sewers, drains, structures, street signs, and all other improvements damaged, disturbed, or removed during the progress of the excavation work shall be restored or replaced in as good condition as existed prior to commencement of work in accordance with the standard construction specifications of the city and to the satisfaction of the director of public works.
- (b) Concrete surfaces and pavements disfigured or damaged shall be replaced and repaired so that they will have a smooth and uniform appearance.

**45.20.010. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this chapter.

- (a) "Roadway" means that portion of a street or highway improved, designed, or ordinarily used for vehicular traffic, exclusive of the berm or shoulder.
- (b) "Sidewalk" means that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians, whether improved or not.

**45.20.020. Sidewalk Construction and Repair.**

No person shall construct or repair any sidewalk except in accordance with the line, grade, slope, and specifications established by the city council, nor without first obtaining a written permit from the director of public works, which permit shall be prominently displayed on the construction site.

**45.20.030. Sidewalk Maintenance Required.**

An owner of real property shall keep the sidewalk or sidewalk door, if any, adjacent to or abutting on such real property in a good state of repair and clear of obstructions and hazards.

**45.20.040. Notice to Construct, Reconstruct, or Repair Sidewalk.**

Whenever the director of public works shall find that any sidewalk should be constructed or that any sidewalk or sidewalk area (including driveways and grass strips) is not in good repair or not free from defect or not safe, he shall notify in writing the owner of the abutting property to have the necessary construction, reconstruction, or repairs made. Such notice shall be sent to the owner or his agent by certified mail, return receipt requested, postage prepaid. For the purpose of such notice, any person charged with the collection of rents or the payment of taxes on the property or having general control of it in any way shall be considered the agent of the owner. Notice in writing sent by certified mail to the owner of record at the address shown thereon as determined in the tax rolls of the tax assessing authority shall be sufficient.

**45.20.050. Contents of Notice.**

The notice required by Sec. 45.20.040 shall identify the property and give the location of the sidewalk and the period of time allowed the property owner in which to have the work done. Such time shall be reasonable, but shall not be less than thirty (30) days for construction or reconstruction and not less than fifteen (15) days for repair. The notice shall state in a general way what is wrong with any sidewalk to be reconstructed or repaired.

**45.20.060. Notice, Failure to Comply.**

If the owner does not complete the sidewalk construction, reconstruction, or repair within the time indicated in the notice or by decision of the council, the city may proceed with the construction, reconstruction, or repair.

**45.20.070. Sidewalk Work by City, Payment.**

Upon completion by the city of any sidewalk, or repair thereof, pursuant to the provisions of this chapter, the abutting property owner or his agent shall be billed for the cost and expense thereof and the owner shall be liable to pay all construction costs, including barricading, and permit fees and a charge for administrative costs. Any such amount billed shall become a line against the property.

**45.20.080. Charges and Penalties, Collection.**

Any of the aforementioned charges and penalties which are entered as a line against the abutting property for work described herein may be collected in the same manner as taxes. Alternately, such fees, costs, and charges may be recovered in a legal suit against the owner.

**45.20.090. Building Construction: Sidewalk Required.**

Whenever application for a building permit is made for a new residential, industrial, commercial, or other structure, or for an alteration of an existing structure, the cost of which alteration is estimated to be in excess of ten thousand dollars, the owner of any such structure within the city shall also apply to the director of public works for a sidewalk permit and construct to standards approved by the city council a sidewalk if any such sidewalk does not exist or repair or reconstruct a sidewalk if any existing sidewalk is not in repair or not free from defect or not safe on all side of the property upon which such structure is situated, so long as such side adjoins or abuts a dedicated street or walkway. The director of public works may waive the construction, reconstruction, or repair requirement herein whole or in part if the sidewalk construction in any particular location is impossible or not feasible.

**45.20.100. Failure to Construct, Reconstruct, or Repair.**

Should any owner fail to construct, reconstruct, or repair a sidewalk as required in Sec. 45.24.110, the city may proceed with the work. Upon completion by the city, the abutting owner or his agent shall be billed for the cost and expense thereof and the owner shall be liable to pay all construction costs including barricading, any permit fees, and a charge for administrative costs. Any such amount billed shall become a lien against the property.

**45.24.010. Driveways, Curb Cuts, and Culverts.**

- (a) No person shall make any opening in or through any curb or sidewalk of any public place for the construction of a driveway without first obtaining a written permit from the director of public works. The permit issued by the director of public works shall limit the type, size, and number of curb cuts to conform with safety consideration for pedestrians and motor vehicle movement on adjacent streets or alleys.
- (b) All driveways constructed on public places where paved roadways and curbs exist shall be constructed according to the standard construction specifications established by the city council. The minimum width of curb cuts shall be twelve feet at the curb.
- (c) No person shall install a driveway culvert in any ditch, drain, or gutter in any roadway, right-of-way, street, alley, public place, or public easement without first obtaining a written permit from the director of public works.

**45.24.020. Scaffolds.**

- (a) It is unlawful for any person to erect, hang, build, or maintain any scaffolding over any public place without a permit from the director of public works. A general permit for the use of said public place while building or remodeling a structure shall carry with it the right for such scaffolding; however, where scaffolding is to be placed on or immediately adjacent to a public place, proposals for covered walkways or other methods or protecting passersby will be subject to the approval of the director of public works.
- (b) It is unlawful for anyone to use any scaffolding or staging unless it has sufficient strength to support the weight to be placed upon it and unless it has sufficient width to prevent persons and materials from falling from it. Tarpaulins and scaffolds shall be braced sufficiently or anchored to the building so that they will not fall or be blown about or otherwise collapse.

**45.24.030. Building Cleaning, Painting, or Changing: Permit Required.**

When necessary to occupy a public place to clean or paint any building, wall, or sign, or part thereof (window washing, etc.), or to make periodic changes to any such structure, whether of a material nature or not, it is unlawful for anyone to undertake such leaning, painting, or changing without first having a permit to do so from the director of public works. The permit shall specify the portion of the public place which may be occupied with equipment for the generating of steam or compressed air, hanging scaffold, or for any purpose whatsoever.

**45.24.040. Building Cleaning, Painting, or Changing: Permit, Term.**

A permit issued under Sec. 45.24.030 shall be valid only for the number of days stated therein and at such hours as may be designated.

**45.24.050. Building Cleaning, Painting, or Changing: Tarpaulins Required.**

A substantial tarpaulin shall be attached to the underside of a scaffold where directed by the director of public works in such a manner as to stop any spray or other materials from spreading on the street below.

**45.24.060. Building Cleaning, Painting, or Changing: Barricades.**

During the operations described in Sec. 45.24.030, a suitable portion of the sidewalk or other public thoroughfare as required by the director of public works shall be barricaded in an approved manner.

**45.28.010. Depositing Refuse on Streets or Sidewalks.**

It is unlawful for any person, firm, or corporation to deposit, throw, or sweep into or upon the streets, alleys, parking, or sidewalks of the city any paper, rubbish, grass, weeds, tree trimmings, dirt, trash, crates, boxes, or other refuse of any kind.

**45.28.020. Drainage from Business.**

It is unlawful for any owner or operator of a filling station or other place of business, or any agent or employee thereof, to cause or allow water, grease, or other fluid to flow or drain into, upon, over, or across any sidewalk, parking area, street, alley, or other public way.

**45.28.030. Obstructing Ditches, Gutters, and Drains.**

No person shall create any obstruction in any ditch, drain, or gutter that may hinder the passage of water therein.

**45.28.040. Spilled Loads.**

The owner or operator of any vehicle which has spilled, dropped, dumped, or in any manner deposited any matter upon a public place shall cause the public place to be cleaned immediately unless specific permission for delay is authorized by the director of public works.

**45.28.050. Hazardous Sidewalk Area.**

It is unlawful for the owner or occupant of property abutting upon a sidewalk or sidewalk area to permit the sidewalk or sidewalk area adjacent to the property to become a hazard to persons using the sidewalk or sidewalk area.

**45.28.060. Installation of Oil Pipes.**

No person shall install or maintain in or upon any public roadway or sidewalk, or adjacent thereto, any oil or water intake pipe which extends above the surface of the roadway or sidewalk. Every such pipe, object, or thing which extends above the surface of any roadway or sidewalk is hereby declared a public nuisance and may be summarily removed by any police officer of the city.

**45.28.070. Dragging Objects Prohibited.**

No person shall drag or haul any timber, pipe, or any other material or object along any street or highway in such a manner that a portion of such object shall rest upon or come in contact with the surface of the street or highway.

**45.28.080. Injurious Materials on Highway Prohibited.**

- (a) No person shall throw or deposit upon any highway any glass, nails, tacks, wire, cans, or other substance likely to injure any person, animal, or vehicle upon such street or highway.

- (b) Any person who drops or permits to be dropped or thrown upon any street or highway any destructive, injurious, or unsightly material shall immediately remove the same or cause it to be removed.

**45.28.090. Debris in Public Places, Removal.**

Whenever it is expedient to the safety or convenience of the public, the director of public works may remove obstructions, hazards, or nuisances from public places and anyone causing said obstructions, hazards, or nuisances shall be responsible for reimbursing the city for the expense of cleaning the public place as well as being subject to prosecution in a court of law.

**45.28.100. Water Allowed to Collect or Freeze on Sidewalks.**

No owner, agent, or person in possession of any house, building, or other structure within the city limits shall allow or permit any roof or caves to drip or leak water, or allow or permit any water to flow or filter from any such property upon any public sidewalk within the city in any manner whereby such dripping, leaking, flowing, or filtering water collects or freezes upon any public sidewalk.

**45.28.110. Snow and Ice Removal.**

- (a) No person having the care, either as owner or occupant, of any premises bordered by a graded, wooded, or paved sidewalk shall fail to remove promptly any snow or ice which may fall, accumulate, or become deposited on such sidewalk, nor fail to remove or sand any ice which may form thereon.
- (b) The director of public works is authorized to cause to be cleaned any sidewalk which in his opinion is hazardous, dangerous, or inconvenient due to presence of any such substance or material. The director of public works shall keep accurate records of all costs of such cleaning and shall cause the same to be billed to the appropriate persons owning, occupying, and managing the premises. In the event of nonpayment, the costs shall become a lien against the property. Such costs may be recovered in the same manner as taxes.

**45.28.120. Placing Snow in Public Ways Prohibited.**

- (a) No person may place or cause to be placed any snow or ice in or on any public sidewalk, street, roadway, parking place, or other public place in such a manner as to, in any material way, impede travel or make vehicle or pedestrian use of the public way or place unsafe.
- (b) In accordance with subsection (a), exception shall be made when, for the purpose of snow removal, the city has blocked a street to vehicular traffic, snow may be placed in any part of such street which will be cleared of snow by the city. This exception shall not be deemed to permit the placement of snow on any sidewalk at any time, nor the placement of snow on any part of a street which part has been recently cleared of snow.
- (c) No person may place or cause to be placed in any street any snow or ice which has accumulated in a private, commercial, or business associated parking lot. The exceptions of subsection (b) above do not apply to this prohibition.

**45.32.010. Building Construction, Demolition, or Repair Generally.**

In any district where a building is to be erected, razed, repaired, or altered, the specifications set out in this chapter shall be complied with by the owner of the building or his agent.

**45.32.020. Permit for Street or Walk Area Use.**

- (a) A permit shall be filed with the director of public works for use of street or walk area deemed necessary for building operations.
- (b) A permit issued under this chapter shall allow use of walk or street area abutting the construction area except on arterial highways and bus routes. The permittee shall be granted the use of the street area between the sidewalk and the curb and, where necessary, that area adjacent to the outside of the curb, generally occupied by the parked automobile. On arterial highways and bus routes, the use of street area is to be limited to the area authorized by the director of public works.

**45.32.030. Fence or Enclosure Required.**

It shall be necessary to erect a fence or enclosure at any location wherein a building is to be erected, razed, repaired, or altered and a hazard to pedestrian traffic is created:

- (1) within ten feet of a walk or roadway;
- (2) in a business district; or
- (3) in any case deemed necessary by the director of public works.

**45.32.040. Fence or Enclosure Requirements.**

- (a) Fences or enclosures at building sites on which construction or demolition operations are being performed shall be solid and tight for their full length, except for such openings which shall be provided with sliding doors or hinged doors swinging inward as may be necessary for the proper execution of the work. The doors of such openings shall be securely fastened in a closed position when not in use.
- (b) Such fence, unless otherwise provided, shall be at least eight feet in height and shall, where practicable, be erected before any work is commenced, provided that if said enclosure is adjacent to a street intersection or corner, that portion of the fence from four feet to eight feet high which is within thirty (30) feet each way from the corner must be of wire mesh to provide for traffic visibility at all times, unless otherwise designated by the director of public works.

**45.32.050. Obstructions to Public Utility or Traffic.**

No materials, fence, or shed shall obstruct the approach to any fire hydrant, manhole, fire alarm box, catch basin, inlet, vault, valve chamber, or any other public utility or traffic facility which is within an area being used by a permittee. No obstruction shall be placed so that there will be any interference with the passage of water in the gutter.

**45.32.060. Mixing Mortar and Concrete.**

It is unlawful to mix mortar or concrete in a public place unless confined to a tight box or mixing board. In no case shall mixers or boxes be washed so that the water will run into the street unless free of all sand, cement, or any similar material.

**45.32.070. Excavations Adjacent to Public Place, Driving Over Sidewalk.**

Whenever an excavation is to be made adjacent to a public place or in any case wherein materials are to be moved across a public sidewalk or curb or a portion thereof not set aside as a driveway and the adjacent street area is not being used under permit while building, the owner, agent, or contractor shall secure a permit to drive over the walk and/or curb and deposit cash, a surety bond, or both as provided herein and as the director of public works directs.

**45.32.080. Covered Walkways.**

Whenever structures are built or extended to a point where the height of construction exceeds twenty-five (25) percent of the distance from the sidewalk or where the height or extension of the structure exceeds eight (8) feet and materials are to be moved across the sidewalk, a covered walkway not less than four (4) feet wide shall be constructed along the entire construction length on the street side. The protective roof shall have a clear height of eight (8) feet above the walkway and shall be tightly boarded with a covering of roofing paper or other material to prevent water from falling through. Every such walkway shall have a tight board fence built along its entire length on the side abutting the building site.

**45.36.010. Trees and Shrubbery to be Trimmed.**

The owner of any premises abutting on any street of the city shall trim all trees and shrubbery growing on the premises between the sidewalks and the roadway or any such street and all trees and shrubbery growing on any part of the premises adjacent to the sidewalks or any street or alley in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage and travel along the streets, sidewalks, and alleys. When such premises are occupied by some person other than the owner, such occupant shall trim the trees and shrubbery in the same manner as required of the owner. Such trees and shrubbery shall be trimmed so that the lowest branches or foliage shall not be lower than ten (10) feet above the roadway of a street or alley, no lower than eight (8) feet above the sidewalk.

**45.36.020. Tree Planting, Prohibited Trees.**

No one shall plant in any public place any tree or shrub or any other plant, the roots of which will cause injury to the sewers, sidewalks, or pavements.

**45.36.030. Care of Trees.**

It shall be the duty of any person who is responsible for trees growing on property abutting on public places:

- (1) to treat or remove diseased trees or plants and to treat or remove any tree or plant which creates a nuisance or is a hazard to any public place by reason of being diseased or insect ridden; and
- (2) to remove any tree which has become dead or is in such condition as to be hazardous to the public.

**45.36.040. Contact with Public Service Wires, Trimming.**

No trees shall be allowed to come in contact with telephone, telegraph, electric, or power wires of the city. When the director of public works shall find that trees are coming in contact with the wires of the city, he may order the trees trimmed. If not so trimmed within ten (10) days after service of written notice upon the owner of such trees or the posting of written notice thereof upon the premises, he may issue a permit to the owners of the wires, authorizing them to trim such trees at their own expense. If the work is done by the owners of the wires, the director of public works may accompany them and have charge of the work. The cost of supervision shall be borne by the owners of the wires.

**45.36.050. Injury to Trees and Shrubbery.**

It is unlawful for any person to injure any tree or shrubbery on a street, alley, or other public area in the city, provide that this shall not prohibit the lawful and proper care and removal of such trees and shrubbery.

# TITLE 48. TRAFFIC.

## Chapter 04. General Provisions.

### **48.04.010. State Law generally-Adoption by reference.**

- A. Pursuant to Alaska law (AS 28.01.010), certain provisions of the Alaska Statutes and the Alaska Administrative Code, comprising the motor vehicle laws of the state of Alaska have been adopted by reference and made a part of this chapter as if fully set forth herein. Such provisions are identified herein by numerical citation to the specific statutory or regulatory section adopted.
- B. “Alaska State Trooper” and “peace officer” (when they appear in the provisions incorporated by reference) shall be interpreted as being identical with the law enforcement officer or any duly appointed officer of the Mayor. “Department” appearing in the Alaska Statutes and Alaska Administrative Code provisions adopted by reference shall be interpreted to mean the City of Kake public safety department.
- C. At least one copy of the chapters of the Alaska Administrative Code, the Alaska Statutes and the schedule of fines for bail able offenses adopted herein shall be filed in the office of the city clerk and shall there be kept available for public use, inspection and examination so long as the provisions thereof remain in force.

### **48.04.020. Definitions.**

The definitions applicable to this chapter are the same as those which appear in Title 13, Chapter 40 of the Alaska Administrative Code; in Title 17, Chapter 25 of the Alaska Administrative Code; and Title 28 of Alaska Statutes.

### **48.04.030. AAC Title 13 provisions-Adoption by reference.**

The following provisions from Title 13 of the Alaska Administrative Code are adopted by reference:

- A. Chapter 2: Motor Vehicle and Driving Offenses: Rules of the Road;
- B. Pursuant to the authority granted in 13 AAC 02.455, two, three, four, six, eight wheeled and tracked all terrain vehicles (hereinafter called “ATV”) may be driven on a roadway or shoulder of a highway on any road or property over which the city has jurisdiction, subject to the following restrictions:
1. No person shall operate an ATV faster than the posted speed limit;
  2. ATV’s may be driven only on the extreme right-hand side of the roadway and in the same direction as the roadway motor vehicle traffic in the nearest lane of the roadway;
  3. All ATV’s must be equipped with a fluorescent orange flag measuring at least four inches by ten inches, mounted on a pole attached to the rear portion of the ATV at a height of no less than six feet from the ground;
  4. No person under the age of 18 shall drive or be a passenger on an ATV without wearing an approved helmet.
  5. Passengers will be limited to one per vehicle unless vehicle was designed by the manufacturer to carry more than one passenger.
  6. No one is allowed to drive an ATV without a valid driver’s permit, valid driver’s license or city youth permit.
    - A. The city youth permit (CYP) is for youth’s age 12 thru age 17 only, and will be renewed yearly.

B. Applications for a City Youth Permit must be sponsored by a Parent or guardian by completing and signing the Parent/Guardian Consent for Minor Form.

C. The cost for written, road and vehicle inspection and certification are:

1. Written-\$25.00
- 2a. Road and Vehicle Inspection Certification-\$25.00
- 2b. Yearly Renewal-\$10.00
3. Reinstatement of Permit after revocation-\$50.00
4. Fine amount for any violation of this ordinance-\$50.00

D. City Youth Permit will also be revoked for any violation of any part of this ordinance and will be eligible for recertification one (1) year from date of revocation.

E. City Youth Permit will also be revoked if minor is convicted for the following crimes:

1. Operating a Vehicle, Aircraft or Watercraft while intoxicated.
2. Possession of Alcohol by minor
3. Negligent, or reckless Driving
4. Using an ATV in the Harbor without Council or Commission permission

F. A City Youth Permit will not be issued to anyone who has had their drivers permit, or drivers license suspended, revoked or cancelled by the State of Alaska.

7. ATV's will not pass other moving vehicles on the roadway.

8. ATV use will not be permitted between the hours of dusk and dawn unless the ATV is equipped with operational headlights which provide adequate illumination to at least 15 feet, an operational taillight, break light and turn signal lights.

9. All wheels or tracks of the ATV will remain in contact with the road at all times.

10. The driver of the ATV will not follow another vehicle closer than fifteen (15) feet or three (3) ATV lengths which ever is greater.

11. Every person operating an ATV must comply with all other motor vehicle laws of the state of Alaska;

C. Chapter 4: Motor Vehicle and Driving Offenses: Vehicle Equipment and Inspection;

1. All ATV's will be inspected by the Law Enforcement officer, Mayor or another person designated by the City of Kake.

2. All ATV's will have an ATV Inspection Certification Sticker affixed to a Prominent area of the vehicle and will be renewed every year.

3. No ATV will be allowed on city road without this sticker.

D. Chapter 6: Inspection of Vehicles;

1. All ATV's before certification will have to have the following inspected:

- a. Brakes
- b. Lights
- c. Tires
- d. Fluorescent flag

E. Chapter 40: Definitions;

F. School Bus Operator's Permit: 13 AAC 08.030;

G. Unlawful use of classified license: 13 AAC 08.140.

#### **48.04.040. AAC Title 17 provisions-Adoption by reference.**

The following provisions from Title 17 of the Alaska Administrative Code are adopted by reference:

A. Chapter 25: Operations, Wheeled Vehicles (Vehicle Weight, Load and Dimension Restrictions, 17 AAC 25.010-25.110).

**48.04.050. AS Title 11 provisions-Adoption by reference.**

The following provisions from Title 11 of Alaska Statutes are adopted by reference:

A. Obstruction of Highway: AS 11.61.150.

**48.04.060. AS Title 12 provisions-Adoption by reference.**

The following provisions from Title 12 of Alaska Statutes are adopted by reference:

A. Arrest Authority: AS 12.25.030;

B. Driving While Intoxicated: AS 12.25.033.

**48.04.070. AS Title 19 provisions-Adoption by reference.**

The following provisions from Title 19 of Alaska Statutes are adopted by reference:

A. Driving Through Obstructions/Closed Area/Damaging Obstruction or Sign: AS 19.25.030.

**48.04.080. AS Title 28 provisions-Adoption by reference.**

The following provisions from Title 28 of Alaska Statutes are adopted by reference:

1. Disobeying Signal of Policeman/Fireman/Flagman: AS 28.35.180;
2. Obstructing/Blocking Traffic: AS 28.35.140;
3. Driving Without License: AS 28.15.011(b) [with AS 28.15.021 exemption];
4. Visitor/Tourist (over 90 days): AS 28.15.021(2);
5. Driving with License Revoked/Canceled/Suspended: AS 28.15.281;
6. Driving in Violation of Limitation: AS 28.15.291;
7. Driving in Violation of Restricted License: AS 28.15.121;
8. Unlawful Use of License: AS 28.15.281;
9. Allowing Unlicensed Driver to Use Vehicle: AS 28.15.281;
10. Failure to Carry/Show License: AS 28.15.131;
11. Driving Without School Bus Operator Permit: AS 28.15.041(b);
12. Possessing Original and Duplicate Licenses: AS 28.15.141;
13. Driving Unregistered Vehicle: AS 28.10.011;
14. Failure to Carry and Show Registration: AS 28.10.081(b);
15. Misuse of Plates: AS 28.10.171(a);
16. Driving Without Two Plates: AS 28.10.171(a);
17. Plate Location and Visibility Requirements: AS 28.10.171(b);
18. Driving with Expired Registration: AS 28.10.107(d);
19. Dealer Plate Violations: AS 28.10.181(j);
20. New Owner to Register Within 30 Days: AS 28.10.321(a);
21. Registration Must be Current: AS 28.10.105(a);
22. Nonresident with Out-of-state Plates (over 90 days): AS 28.10.121(a);
23. Resident with Out-of-state plates (over 15 days): AS 28.10.121(a);
24. Commercial Vehicle with Out-of-state Plates: AS 28.10.121(a);
25. Leased/Rented Vehicle (Alaskan Operator) Without Alaska Plates: AS 28.10.121(b);
26. Students with Out-of-state Plates (Employed or Resident): AS 28.10.121©;
27. Decals/Plates/Permits not Properly Displayed: AS 28.10.461;
28. Violating Registration/Title Requirements: AS 28.10.451;
29. Driving Without Evidence of Registration: AS 28.10.461;
30. Driving with Expired/Suspended/Revoked Registration: AS 28.10.471;
31. Improper Use of Registration/Plates: AS 28.10.481;
32. Operating with Chains/Studs (Out of season): AS 28.35.155(a);

- 33. Driving Without School Bus Operator Permit: AS 28.15.041(b);
- 34. Carrying Registration Within Vehicle: AS 28.10.461;
- 35. Obstructing/Blocking Traffic: AS 28.35.140.

**48.04.090. AS Title 42 provisions-Adoption by reference.**

The following provisions from Title 42 of Alaska Statutes are adopted by reference:

- A. Temporary Permit: Common Carrier/Contract Carrier: AS 42.10.130;
- B. Weight Fees: AS 42.10.240;
- C. Vehicle Identification: AS 42.10.113.

**48.04.100. Enforcement Authority.**

- A. It shall be the duty of the officers of the public safety department to enforce all street traffic laws of the city and all of the state vehicle laws applicable to street traffic in the city.
- B. Officers of the public safety department are authorized to direct all traffic by voice, hand or signal in conformance with traffic law; provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.
- C. Officers of the fire department, when at the scene of a fire, may direct or assist the public safety officer in directing traffic thereat or in the immediate vicinity.

**48.04.110. Obedience to traffic laws required.**

It is a violation of this title for any person to do any act which is forbidden or to fail to perform any act required to be performed in this title.

**48.04.120. Obedience to officials required.**

The failure or refusal to comply with any lawful order or direction of a public safety officer or fire department official is a violation of this title.

**48.04.130. Prohibited Devices.**

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, sled or similar device shall go upon any street or roadway open to through traffic except while crossing a street on a crosswalk; and when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.

**48.04.140. Applicability to public employees.**

The provisions of this title apply to the driver of any vehicle owned by or used in the service of the United States Government, of the state of Alaska or of the city, and it is unlawful for any driver to violate any of the provisions of this title, except as otherwise permitted herein or by state statute.

**48.04.150. Violations-Penalties.**

A. Every person who violates any provision of this title shall be subject to the fines set forth in 48.04.150(A)(1).

<b>Offense</b>	<b>Statute/Regulation</b>	<b>Fine</b>	<b>Points</b>
	<u>Driver's License</u>		
Driving with expired license Less than one year.	AS 28.15.011(b)	\$75.00	2
Driving without a valid license	AS 28.15.011(b) AS 28.15.021(2) or (6)	\$200.00	2
Driving with an out-of-state license After 90		\$75.00	2
School bus driver permit required	AS 28.15.041(b)	\$150.00	2
Operating a vehicle in violation of A provisional license	AS 28.15.057(b)	\$200.00	2
Driving in violation of restricted License	AS 28.15.121(d)	\$150.00	2
License to be carried and exhibited On demand	AS 28.15.131 Correctable within five days Of offense only	\$50.00	2
Unlawful use of driver's license	AS 28.15.281(a)	\$50.00	2
Permitting unauthorized person to Drive	AS 28.15.281(b)	\$100.00	2
Driving while license suspended Or revoked or driving in violation Of limitation	AS 28.15.291	State penalties	
Unlawful use of classified license	13 AAC 08.140	\$50.00	2
Proof of Insurance	AS 28.22.019(a)	\$500.00	6

<b>Offense</b>	<b>Statute/Regulation</b>	<b>Fine</b>	<b>Points</b>
<u>Emergency Vehicles/Equipment</u>			
Failure to yield to authorized Emergency vehicle	13 AAC 02.140(a) and (b)	\$300.00	6
Driver of emergency vehicle Not to disregard safety	13 AAC 02.140(c)	\$100.00	2
Emergency vehicle regulations	13 AAC 02.517(a)-(g)	\$60.00	2
Following emergency vehicle Closer than 500 feet	13 AAC 02.520(a)	\$100.00	4
Crossing fire hose	13 AAC 02.520(c)	\$100.00	2
Improper use of flashing blue lights	13 AAC 04.100(a)-(h)	\$60.00	2
<u>Equipment</u>			
<u>Brakes</u>			
Brake requirements	13 AAC 04.205(a)-(c)	\$90.00	0
<u>Horn</u>			
Failure to give audible warning	13 AAC 04.210(a)	\$50.00	2
Horn/warning device requirements	13 AAC 04.210(a)-(d)	\$60.00	0
<u>Lights</u>			
Illuminate lights as required	13 AAC 04.010	\$50.00	2
Lights in good working order/not Obstructed	13 AAC 04.015(a)	\$75.00	0
Headlight requirements	13 AAC 04.020(a)(f) and (g)	\$40.00	0
Headlight dimming requirements	13 AAC 04.020(e)(1) and (2)	\$50.00	0
Tail light requirements	13 AAC 04.025(a)-(c)	\$40.00	0
Reflector requirements	13 AAC 04.030(a)	\$40.00	0
Stop light requirements	13 AAC 04.035(a)-(c)	\$40.00	0
Turn light requirements	13 AAC 04.037(a)-(c)	\$40.00	0
Additional lighting requirements	13 AAC 04.040(a)-(q)	\$40.00	0
Parking light requirements	13 AAC 04.070(a)-(d)	\$40.00	0
Parking lights not used when vehicle In motion	13 AAC 04.070(e)	\$50.00	0
Additional lights required for Emergency vehicle	13 AAC 04.090(a)(c) and (g)	\$40.00	0
Flashing yellow vehicular light Requirements	13 AAC 04.095(c)-(i)	\$40.00	0
Flashing yellow lights used when Required	13 AAC 04.095(d)(g) and (i)	\$75.00	0
Improper use of auxiliary/spot lights	13 AAC 04.145(a)-(e)	\$60.00	0
Restriction on lighting equipment	13 AAC 04.145(a)-(e)	\$40.00	0

<b>Offense</b>	<b>Statute/Regulation</b>	<b>Fine</b>	<b>Points</b>
<u>Mirrors</u>			
Mirror requirements	13 AAC 04.220(a)-(c)	\$60.00	0
<u>Muffler</u>			
Muffler requirements	13 AAC 04.215(a) and (b)	\$60.00	0
<u>Steering and Body</u>			
Steering assembly/wheel Alignment/body condition	13 AAC 04.227(a) and (b)	\$50.00	0
<u>Tires</u>			
Operating vehicle with studded Or chained tires when prohibited	AS 28.35.155	\$50.00	0
Tire restrictions and requirements	13 AAC 04.230(a)-(e)	\$100.00	0
<u>Windshields and Wipers</u>			
Front windshield, driver/passenger Overly tinted windows	13 AAC 04.223	\$150.00	0
View not to be obstructed	13 AAC 04.225(a) and (b)	\$60.00	0
Windshield and wiper requirements	13 AAC 04.225(a)-(g)	\$50.00	0
<u>Equipment Inspection and other General Requirements</u>			
Unlawful to drive unsafe vehicle	13 AAC 04.002	\$150.00	0
Minimum equipment required for Sale/rent/lease/loan	13 AAC 04.003	\$75.00	0
Sale or use of equipment	13 AAC 04.004(a)-(c)	\$50.00	0
Disconnection/alteration of Equipment	13 AAC 04.005	\$50.00	2
Submit to roadside vehicle Inspection	13 AAC 04.006(b) and (c)	\$75.00	2
Not to move unsafe vehicle unless Authorized	13 AAC 04.007(c) and (d)	\$150.00	0
Prohibited practices-inspection/ Repair	13 AAC 04.009(a)-(c)	\$50.00	0
Unlawful driving of unsafe vehicle	13 AAC 06.010	\$150.00	0
Refusing to submit to vehicle Inspection or test	13 AAC 06.020(a)	\$75.00	2
Operating vehicle modified to be Too high or too low	13 AAC 04.005(b)	\$300.00	2
Operating vehicle after being Directed to have it repaired	13 AAC 06.020(b)	\$75.00	0
Failure to stop and submit to Roadside inspection	13 AAC 06.040(a)	\$75.00	2
<u>Equipment: Miscellaneous</u>			
Anti-spray devices required	AS 28.35.253	\$60.00	0
Slow moving vehicle emblem	13 AAC 04.252(a)-(c)	\$50.00	0
Air conditioning equipment Requirements	13 AAC 04.225(b)-(d)	\$100.00	0

<b>Offense</b>	<b>Statute/Regulation</b>	<b>Fine</b>	<b>Points</b>
Emission control system Requirements	13 AAC 04.257	\$100.00	0
Restrictions on television/headset In motor vehicle	13 AAC 04.260(a)-(c)	\$150.00	0
Anti-spray device requirements (see AS 28.35.253 also)	13 AAC 04.265(a) and (b)	\$50.00	0
Safety belt requirements	13 AAC 04.270(a) and (c)	\$75.00	0
Connections/safety devices-Towed vehicle	13 AAC 04.275(a)-(e)	\$75.00	0
Following too closely	13 AAC 02.090(a)-(c)	\$100.00	4

Lane and Roadway Usage

Disobedience to traffic-control Devices	13 AAC 02.005(a)	\$100.00	2
Lane use control signals	13 AAC 02.025	\$75.00	2
Vehicle not to use left lane at less Than speed limit	13 AAC 02.050(b)	\$75.00	2
Failure to yield half of roadway to Oncoming vehicle and failure to Pass on right of oncoming vehicle	13 AAC 02.070	\$100.00	2
Improper lane change	13 AAC 02.085(a)	\$75.00	2
Drive nearest right edge on narrow Winding roadway	13 AAC 02.107	\$75.00	2
Limitation on backing	13 AAC 02.485(a) and (b)	\$75.00	2

Load and Size requirements

Contained or confined beds	AS 28.35.251	\$300.00	0
Haul/drag material causing damage To highway	13 AAC 02.530(d)	\$150.00	2
Flares/other warning devices Requirements	13 AAC 04.240(a)-(c)	\$75.00	0
Display of warning devices Requirements	13 AAC 04.420(a)-(c)	\$75.00	0
Display of warning lights/devices Requirements for transporting	13 AAC 04.425(a)-(j)	\$75.00	0
Hazardous material	13 AAC 04.250(a) and (d)	\$25.00	0
Give notice of transporting Hazardous material	13 AAC 04.250(b)	\$25.00	0

Miscellaneous Crimes and Infractions

Open container of alcohol	AS 28.35.029	\$200.00	2
Negligent driving	AS 28.35.045	\$300.00	6
Failure to notify department of Change of name/address	AS 28.35.135(b)	\$40.00	0
Obstructing or blocking traffic	AS 28.35.140	\$75.00	0

<b>Offense</b>	<b>Statute/Regulation</b>	<b>Fine</b>	<b>Points</b>
Disobedience to signal or officer Regulating traffic	AS 28.35.180	\$75.00	2
Display of unauthorized signs, Signals or markings	13 AAC 02.030(a)	\$50.00	0
Requirements for unattended motor Vehicles	13 AAC 02.480	\$50.00	0
Obstructing driver's view/control Of vehicle	13 AAC 02.495(a)-(c)	\$75.00	2
Opening doors/entering or leaving When vehicle in motion	13 AAC 02.495(d)	\$25.00	0
Person riding outside vehicle or in Trailer	13 AAC 02.495(e) and (f)	\$100.00	0
Interfering with funeral procession/ Parade	13 AAC 02.497(a)	\$75.00	2
Requirements for drivers in funeral Procession/parade	13 AAC 02.497(b)	\$60.00	2
Permit requirements for funeral Procession/parade	13 AAC 02.497(c)	\$40.00	2
Motor vehicle drivers to exercise Due care re: animals	13 AAC 02.505(d) and (e)	\$125.00	2
Coasting prohibited	13 AAC 02.515	\$50.00	2
Dangerous major/littering/depositing Material on highway	13 AAC 02.530(a) and (b)	\$300.00	0
Drinking while driving	13 AAC 02.545(a)	\$300.00	2
Minor littering on highway		\$100.00	0
Medium over five pounds		\$50.00	2
Minor under five pounds			
<u>Motorcycles</u>			
Speed limitation on motor-driven Cycles at night	13 AAC 02.325(a)	\$60.00	2
Special motorcycle violations	13 AAC 02.425(a)-(d)	\$60.00	2
Motor vehicle not to deprive Motorcycle of full lane use	13 AAC 02.427(a)	\$50.00	2
Motorcycles more than two abreast	13 AAC 02.427(a)	\$50.00	2
Motorcycle passing in same lane as Other motor vehicle	13 AAC 02.427(b)	\$50.00	2
Motorcycle headlight requirements	13 AAC 04.320(a) and (b)	\$40.00	0
Lights turned on when on highway Motor driven cycle	13 AAC 04.320(d)	\$60.00	2
Motorcycle tail light requirements	13 AAC 04.325(a) and (b)	\$40.00	0
Motorcycle stop/turn light Requirements	13 AAC 04.330(a) and (b)	\$40.00	0
Motorcycle reflector requirements	13 AAC 04.335(a)	\$40.00	0
Motorcycle brake requirements	13 AAC 04.340(a)	\$90.00	0
Motorcycle handgrips and foot rests For passengers	13 AAC 04.345(a)	\$50.00	0
Motorcycle handlebar requirements	13 AAC 04.345(b)	\$75.00	0

<b>Offense</b>	<b>Statute/Regulation</b>	<b>Fine</b>	<b>Points</b>
Helmet required minors/passenger (AS 28.35.245 exempt adult driver)	13 AAC 04.350(a)	\$75.00	0
Eye-protective device required when No windscreen	13 AAC 04.350(b)	\$50.00	0
Minimum equipment for rent/lease/ Loan of motorcycle	13 AAC 04.350(c)	\$75.00	0
Motor driven cycle; other equipment Required (horn, mirrors, tires, emission control system)	13 AAC 04.355(a)	\$60.00	0
Motorcycle windshield requirements	13 AAC 04.355(b)	\$60.00	0

Passing (Overtaking)

Improper overtaking on right	13 AAC 02.055(a)	\$75.00	2
Return to lane only when clear	13 AAC 02.055(b)	\$100.00	4
Improper overtaking on left	13 AAC 02.065(a)	\$150.00	2
Failure to yield overtaking vehicle	13 AAC 02.065(a)	\$150.00	4
Failure to yield to oncoming traffic When passing	13 AAC 02.065(b)	\$150.00	4
Passing/driving left or center in no Pass zone	13 AAC 02.075(b)	\$150.00	2
Vehicle not to pass vehicle stopped For pedestrian	13 AAC 02.155(c)	\$75.00	4

Parking Violations

Stopping/standing/parking on Highway/other location	13 AAC 02.340(a)-(d)	\$25.00	0
Additional parking regulations	13 AAC 02.365(a)-(g)	\$25.00	0
Not to stop/stand/park in loading Zone	13 AAC 02.367(d)	\$25.00	0
Position of bus stopping to load/ Unload passengers	13 AAC 02.372(b)	\$25.00	0
Improper stopping/parking at Emergency scene	13 AAC 02.520(b)	\$100.00	0
Improper handicapped parking	AS 28.35.235	\$125.00	0

Pedestrian Violations

Failure to obey pedestrian control Signal	13 AAC 02.015	\$40.00	0
Pedestrians subject to traffic Regulations	13 AAC 02.150(a) and (b)	\$40.00	0
Pedestrians to exercise due caution	13 AAC 02.155(b)	\$50.00	0
Pedestrian to use sidewalk/left edge Of roadway and not interfere, sleep, Loiter or obstruct	13 AAC 02.175(a)-(e)	\$40.00	0
Pedestrian not to distract drivers When soliciting rides and pedestrian Not to solicit employment, business or contributions from vehicle occupants	13 AAC 02.180	\$50.00	0

<b>Offense</b>	<b>Statute/Regulation</b>	<b>Fine</b>	<b>Points</b>
Not to use white cane/guide dog Unless blind	13 AAC 02.190(b)	\$150.00	0
Pedestrians failure to yield to Authorized emergency vehicle	13 AAC 02.195(a)	\$50.00	0

Registration and Vehicle License Plates

Failure to register vehicle	AS 28.10.451	\$90.00	0
Plates/decals/permits must be Properly attached and displayed	AS 28.10.461	\$75.00	0
Failure to carry certificate of Registration in vehicle	AS 28.10.461	\$40.00	0
Operating vehicles with expired Registration	AS 28.10.471	\$90.00	0
Operating vehicle with suspended/ Revoked registration	AS 28.10.471	\$300.00	0

School Buses

Use of flashing red lights-school bus	13 AAC 04.097(a)	\$60.00	2
Special school bus lighting Equipment	13 AAC 04.097(a)-(c)	\$100.00	0
Color/special equipment on school Buses	13 AAC 04.247(a)-(c)	\$100.00	0
Improper use of signs/stop arm on School bus	13 AAC 04.247(d)	\$50.00	2
School bus driver permit must be Carried and displayed upon demand	13 AAC 08.030	\$50.00	2
Owner of vehicle which illegally Passes a stopped school bus	AS 28.35.145(e)	\$75.00	0

Signals

Signals required turn/stop/slowng Discontinue after	13 AAC 02.215(a)-(f)	\$30.00	2
Give warning with horn when vision Restricted/alley/driveways/buildings	13 AAC 02.257	\$30.00	2

Snow Machines, ATV's and Other Off-Highway Vehicles

Operating an unregistered snow Vehicle	AS 05.30.010	\$50.00	0
Failure to display snow vehicle Numbered registration decal	AS 05.30.040(a)	\$50.00	0
Snow/ATV vehicle equipment Required	AS 05.30.080(a)(1)-(4)	\$25.00	0
Snow/ATV vehicle operator to Report accidents	AS 05.30.100	\$300.00	0

<b>Offense</b>	<b>Statute/Regulation</b>	<b>Fine</b>	<b>Points</b>
Snowmobile and other off-highway Vehicle violations	13 AAC 02.445	\$75.00	0
Snowmobile and other off-highway Vehicle operation on highways and Other locations	13 AAC 02.455(a)-(g)	\$50.00	0
Snowmobile/off-highway vehicle Lights and reflectors	13 AAC 04.400 (a) and (b)	\$60.00	0
Snowmobile/off-highway brakes	13 AAC 04.405	\$60.00	0
Snowmobile/off highway vehicle Throttle	13 AAC 04.410	\$60.00	0
Snowmobile/off highway vehicles Muffler/emission controls	13 AAC 04.415 (a) and (b)	\$60.00	0
Snowmobile/off highway vehicle Other equipment	13 AAC 04.420(a) and (b)	\$40.00	0

Speed

Turn-off required when 5 or more Vehicles are behind	13 AAC 02.050(b)	\$100.00	4
Basic speed: reasonable and prudent For road conditions	13 AAC 02.275(a)	\$90.00	2
Speeding:			
3-9 mph over posted limit		\$8.00/mile	2
10-19 mph over posted limit		\$8.00/mile	4
20 mph over posted limit		\$12.00/mile	6
Altered speed limits:	13 AAC 02.280(a)-(d)		
3-9 mph over posted limit		\$8.00/mile	2
10-19 mph over posted limit		\$8.00/mile	4
20 mph over posted limit		\$12.00/mile	6
Minimum speed regulation	13 AAC 02.295	\$60.00	2
Special speed limit when:	13 AAC 02.325(b)(c)(e)(f)		
(b) Towing mobile home (45mph)			
(c) Headlights illuminate only 100 feet (20mph)			
(e) Passing school bus with flashing yellow lights (20mph)			
(f) Crossing over bridge or through tunnel (posted limit)			
3-9 mph over posted limit		\$8.00/mile	2
10-19 mph over posted limit		\$8.00/mile	4
20 mph over posted limit		\$12.00/mile	6
Speed: Over 20 mph in school zone/ Playground/crosswalk	13 AAC 02.235(d)	\$300.00	6
Racing on highways	13 AAC 02.330(a)	\$300.00	10

Stop and Go

Failure to stop for school bus with Flashing red lights	AS 28.35.145(a)	\$300.00	6
Improper position of vehicle Stopping at stop sign	13 AAC 02.130(b)	\$75.00	2
Failure to stop for stop sign	13 AAC 02.130(b)	\$100.00	4

<b>Offense</b>	<b>Statute/Regulation</b>	<b>Fine</b>	<b>Points</b>
Improper start from parked/ Stopped/standing	13 AAC 02.210	\$75.00	2
Stop: Emerging from alley/ Driveway/building	13 AAC 02.257	\$100.00	4
Position of stop when emerging From alley/driveway/building	13 AAC 02.257	\$75.00	2
Stop when traffic may be obstructed	13 AAC 02.265	\$75.00	2
<u>Turns</u>			
Turning on red signal when Prohibited	13 AAC 02.010(a)(3)(b)	\$75.00	2
Improper position/method turning At intersection	13 AAC 02.200(a)-(c)	\$75.00	2
U-turn only when safe/not on hill, Crest or curve	13 AAC 02.205(a) and (b)	\$75.00	2
<u>Watercraft</u>			
Failure to give assistance or Identification at watercraft accident	AS 05.25.030(a)	\$300.00	0
Failure to report watercraft accident	AS 05.25.030(b)	\$300.00	0
Negligent driving of watercraft	AS 05.25.060(a)	\$300.00	0
Reckless driving of watercraft	AS 05.25.060(a)	\$300.00	0
<u>Wrong Side/Wrong Way/Wrong Location</u>			
Failure to drive on right side of Roadway	13 AAC 02.050(a)	\$75.00	2
Limitations on driving left of center	13 AAC 02.060(a)	\$100.00	2
Wrong way on one-way roadway	13 AAC 02.080(b) and (c)	\$100.00	2
Driving over, across or within Barrier/median	13 AAC 02.095(a)	\$100.00	2
Failure to stay on right side of Divided highway	13 AAC 02.095 (a)	\$100.00	2
Improper entry/exit controlled Access highway	13 AAC 02.095(c)	\$75.00	2
Not to drive within or through Pedestrian safety zone	13 AAC 02.155(e)	\$50.00	2
Driving a motor vehicle where Prohibited	13 AAC 02.482(a)	\$150.00	2
Driving on sidewalk	13 AAC 02.487	\$150.00	2
Failure to yield to person crossing Road to/from school bus	AS 28.35.145(b)	\$150.00	6
Failure to yield when driving left Of obstructed roadway	13 AAC 02.050(a)(3)	\$150.00	4
Failure to yield to vehicle on right At unsigned intersection	13 AAC 02.120(a)	\$90.00	4

<b>Offense</b>	<b>Statute/Regulation</b>	<b>Fine</b>	<b>Points</b>
Failure to yield to vehicle entering Intersection after stop	13 AAC 02.120(b)	\$150.00	4
Failure to yield when turning left	13 AAC 02.125	\$150.00	4
Failure to yield after stopping or at Yield sign	13 AAC 02.130(b) and (c)	\$150.00	4
Failure to yield when entering From non-roadway	13 AAC 02.135(b)	\$100.00	4
Failure to yield to pedestrian in Crosswalk	13 AAC 02.155(a)	\$100.00	4
Failure to yield to pedestrian with White cane/guide dog	13 AAC 02.190(a)	\$150.00	4
Drivers to exercise due care to Avoid collision	13 AAC 02.545(b)	\$150.00	2

Seatbelts

Failure to wear safety belt (16 or older)	AS 28.05.095(a)	\$15.00	0
Failure to provide child safety Devices	AS 28.05.095(b)	\$50.00	2
Failure to properly secure child	AS 28.05.095(b)	\$50.00	2
Illegal removal of safety belt	AS 28.05.095(d)	\$15.00	0
Safety belt requirements	13 AAC 04.270(a)(c)	\$75.00	0

B. Certain vehicle and traffic offenses shall be amenable to disposition without court appearance upon payment and forfeiture of the bail amounts listed. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense shall not exceed the bail amount listed for that offense. An offense for which a bail forfeiture amount has been established shall be charged on a citation which meets the requirements of District Criminal Court Rule 8© and shall not be filed, numbered or processed as a criminal case.

C. The city has adopted by reference, as if fully incorporated herein the list of bail able traffic offenses and the corresponding bail amounts, published by the Alaska Supreme Court as Administrative Rule 43.1, in effect on the date of adoption of the ordinance adopted in this title.

D. Any person who fails or refuses to pay fines duly assessed against him for violations of this title, after the accumulated fines equal or exceed three hundred dollars, shall become subject to impoundment of any motor vehicle of which he is a registered owner and which was involved in any of such violations.

**48.04.160. Disposition of fines and forfeitures.**

All fines or forfeitures collected upon conviction or upon the forfeitures of bail of any person charged with the violation of any of the provisions of this title shall be paid into the city treasury.

**48.08.010. Forms and Records.**

The chief of public safety shall procure and provide books of traffic citation forms which comply with the requirements of District Court Criminal Rule 8(c), identify the offender and the offense, and meet the needs of public safety and the administration of justice.

**48.08.020. Procedure of Issuance.**

A. When a person is found violating any provision of this chapter, other than a provision regulating the parking of motor vehicles, and the violation is one which (pursuant to the city's adoption of Alaska Administrative Rule 43.1) is amenable to payment by fine without a court appearance, the arresting officer shall, except when required by law or the immediate circumstances, issue a citation to the person in charge of or operating the motor vehicle involved.

B. If the offense for which the citation is issued is one for which a fine may be paid without a court appearance, the person to whom it is issued may plead guilty to the offense by signing an appropriate blank on the citation and paying the fine specified on the citation, either in person or by mail within five days from the date of citation, to the office of the city clerk. Acceptance and payment of the prescribed fine is a complete satisfaction for the offense, and the offender shall be given a receipt which so states.

C. If the offender refuses to accept the citation or refuses to sign the acknowledgment of receipt and promise to appear, the officer shall proceed with the arrest in the manner otherwise provided by law. If the offender accepts the notice, but fails to pay the fine or appear in court as required, the citation shall be considered a summons as for a charge of a violation or infraction, and the offender shall be proceeded against in the manner prescribed by law. However, the maximum penalty which may be imposed for the original offense may not exceed the penalty set out in the schedule of fines set forth in Alaska Administrative Rule 43.1.

D. If the violation is one which is not amenable to payment by fine without a court appearance, the arresting officer shall proceed with the arrest in the manner otherwise required by law.

**48.08.030. Disposition and Record.**

A. Every officer upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of the city shall deposit the original of the citation with the office of the city clerk.

B. Upon the filing of such original citation as aforesaid, the citation may be disposed of only by trial before the magistrate of the district court, by other official action by the magistrate including forfeiture of bail or by payment of a fine imposed by the court, or by payment of the fine specified on the back of the citation.

C. The chief of public safety shall also maintain or cause to be maintained a record of all warrants issued by the magistrate which are delivered to the departments for service and of the final disposition of all such warrants.

D. It is unlawful and official misconduct for any member of the department or for any other officer or public employee to dispose of, alter or deface a traffic citation or any copy thereof, or the record of the issuance or disposition of any traffic citation, complaint, or warrant in a manner other than as required by law.

**48.08.040. Illegal Cancellation.**

It is lawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than as provided by this chapter.

**48.08.050. Citation deemed complaint.**

In the event the form of citation provided under Section 48.08.010 includes information and is sworn to as required under the laws of the state in respect to a complaint charging commission of the offense alleged in the citation to have been committed, then such citation when filed with a court having jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution under this title.

**48.08.060. Failure to obey.**

It is unlawful for any person to violate his written promise to appear given to an officer upon the issuance of a traffic citation regardless of the disposition of the charge for which such citation was originally issued.

**48.08.070. Illegally parked vehicle.**

Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by ordinances of the city or by state law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation for the driver to answer to the charge against him within five days during the hours and at a place specified in the citation.

**48.08.080. Failure to comply with citation attached to vehicle.**

If a violator of the restrictions on stopping, standing or parking under the traffic laws or ordinances does not appear in response to a traffic citation affixed to such motor vehicle within a period of five days, the clerk or public safety officer shall send the vehicle owner a letter informing him of the violation and warning him that in the event such letter is disregarded for a period of five days a warrant of arrest will be issued.

**48.08.090. Owner presumed driver.**

A. In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, constitutes in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

B. The foregoing stated presumption applies only when the procedure as prescribed in Section 48.08.070 and 48.08.080 has been followed.

**48.08.100. Warrant Issuance.**

In the event any person fails to comply with a traffic citation given to such person or attached to a vehicle or fails to make appearance pursuant to a summons directing an appearance in the district court or if any person fails or refuses to deposit bail as required and within the time permitted by ordinance, the magistrate, upon the request of the public safety officer, shall issue a warrant for the arrest of such person.

**48.08.110. Records.**

The city clerk shall keep or cause to be kept a record of every traffic complaint, traffic citation or other legal form or traffic charge deposited with or presented to the office of the clerk and shall keep a record of every official action by the city in reference thereto, including the disposition of each citation.

Chapter 12 Impounding

**48.12.010. Authority.**

A. The law enforcement officer is authorized to impound a vehicle from a street or highway to a place of safety, or to a parking lot maintained by the city, at the owner's expense, or if no such place exists within the city, the vehicle shall be impounded where it is as is, under the circumstances hereinafter enumerated:

1. When any vehicle is left unattended upon any bridge or causeway where such vehicle constitutes an obstruction of traffic;
2. When a vehicle upon a street or highway is so disabled as to constitute an obstruction of traffic and the person or persons in charge of the vehicle are by reason of physical disability incapacitated to such an extent as to be unable to provide for its custody or removal;
3. When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic;
4. When any vehicle is parked in violation of parking prohibitions defined by Alaska regulations adopted herein by reference;
5. When any vehicle is left unattended on the private property of any other person, without such other person's permission and such other person requests the chief of public safety to remove the same;
6. When any vehicle has been parked within the right-of-way of any public street or roadway for longer than forty-eight hours or abandoned within such right-of-way. The presence of any vehicle which is inoperative and upon such right-of-way shall be prima facie evidence of abandonment;
7. When the vehicle's owner has accumulated three hundred dollars or more in unpaid fines or penalties pursuant to this chapter.

B. Whenever a law enforcement officer removes a vehicle from a street as authorized in this section, and the officer knows or is able to ascertain from the registration record in the vehicle the name and address for the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal, the reason therefore and of the place to which such vehicle has been removed.

C. Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, and in the event the vehicle is not returned to the owner within the period of three days, then and in that event the officer shall immediately send or cause to be sent written report of such removal by mail to the state department or agency

whose duty it is to register motor vehicles. Such notice shall include a complete description of the vehicle, the date, time and place from which removed and the reasons for such removal.

**48.12.020. Costs and fines.**

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 following fine schedule shall apply:

Impoundment fine:

All vehicles, boats on trailers, storage containers or like items	\$250.00
Boat trailers, motor cycles, or off-road vehicles	\$100.00
Storage fee per day	\$2.00

**48.12.030. Abandoned vehicle.**

When a vehicle has been impounded as provided in Section 48.12.010, then if it has not been claimed or reported as a stolen vehicle within thirty days subsequent to the date when notice of such impounding was given as provided in subsection B of Section 48.12.010, it shall be deemed to be an abandoned vehicle.

**48.12.040. Sale of abandoned vehicles.**

Any abandoned vehicle may be sold by the city as follows:

A. The clerk shall send via registered or certified mail (return receipt) to the owner of such vehicle, and to any person who holds a lien upon such vehicle, at such owner's or such lien holder's last known address, a notice which shall contain the following: an accurate description of the vehicle, the date that the vehicle was impounded, and a statement that unless the owner or lien holder reclaims the vehicle within ten days from the date of mailing the notice, that such vehicle shall be sold at public auction at a designated time and place. If with the exercise of reasonable diligence the name of the owner or of a lien holder in respect to such vehicle cannot be ascertained, or if no address can be found with respect to any such person, then the requirement for sending such notice shall be dispensed with.

B. After ten days have elapsed subsequent to the date of the mailing of the notice provided in subsection A of this section, or if no such notice is required then at any time an abandoned vehicle shall be sold at public auction after notice is given as follows: a written notice of the time and place of such sale shall be posted in three public places within five miles of the place where the sale is to be held, not less than ten days prior the date of sale, and one of such notices shall be posted at the post office nearest to the place where the sale is to be held.

C. At the time and place of such sale, such abandoned vehicle shall be sold to the bidder who makes the highest and best bid for cash. Any surplus remaining from the proceeds of such sale, after deducting the costs incident to the impounding and storage of such vehicle and in giving notice of such sale and selling the same, and deducting any accumulated fines owed to the city pursuant to this title, shall be held for the owner of such vehicle for a period of ten days, and if not claimed by the expiration thereof shall be abandoned into the city treasury.

D. The owner of any abandoned vehicle or lien holder in respect thereof may reclaim such vehicle at any time prior to the date of sale upon payment to the city of the following: any fine that may be imposed upon the owner or operator of such vehicle by reason of a violation of any provision of this title, and the costs incident to the impounding and storage of the vehicle.

E. If any abandoned vehicle is judged by the impounding officer under reasonable grounds to be worth less than the impound fee, the vehicle will be classified not for sale, and shall be turned over to the public works department for disposal of such vehicle.

#### Chapter 16 Traffic Control Authority

##### **48.16.010. Applicability.**

The provisions of this chapter shall apply to all streets, roads and alleys within the corporate boundaries of the city of Kake.

##### **48.16.020. Law enforcement duties-Law enforcement office and fire department officials authority.**

A. It shall be the duty of the law enforcement officer and such officers as are assigned by the mayor to enforce all traffic regulations and all of the state of Alaska Motor Vehicle Laws applicable to street and highway traffic of the city, to make arrests for traffic violations, to investigate accidents and to carry out those duties especially imposed upon the department of public safety by this chapter.

B. Law enforcement officers and such officers as are assigned by the mayor are authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided, that, in the event of a fire or other emergency or to expedite traffic or safeguard pedestrians, law enforcement officers may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

C. Officers of the fire department, when at the scene of a fire or when operating firefighting apparatus on public streets may direct or assist the police in directing traffic thereat or in the immediate vicinity.

##### **48.16.030. Traffic Violation Record.**

A. The public safety department shall keep a record of all moving violations of the traffic code of the city or the state of Alaska Motor Vehicle Laws of which any person has been charged. Such records shall be so maintained as to show all such types of moving violations and the total of each. The records shall accumulate during at least a five-year period, and from that time on the records shall be maintained for at least the most recent five-year period.

B. All forms for records of the herein mentioned violations and notices of the violation shall be serially numbered. For each month and year, a written record shall be kept available to the public, showing the disposal of all such forms.

##### **48.16.040. Traffic Accident Reports.**

The police department shall receive and properly record all traffic accident reports made under any provision of this code or state statute or regulation.

##### **48.16.050. Accident Report Confidentiality.**

All written reports made of traffic accidents shall be without prejudice to the individual so reporting and shall be for the confidential use of the police department and the Alaska Department of Public Safety, except that the Public Safety Department may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such

person denies his presence at such accident. No written report of a traffic accident shall be used as evidence at any civil trial and no written report made by the defendant in a criminal prosecution shall be used as evidence in a criminal trial, arising out of the reported accident, except that the police department shall furnish upon demand of any person who has, or claims to have, made such a report or upon demand of any court a certificate showing that the specified accident report has or has not been made to the police department solely to prove the compliance or failure to comply with the requirement that the report be made to the department.

**48.16.060. Accident Studies.**

Whenever the accidents in any particular location become numerous, the police department shall conduct studies of such accidents and determine remedial measures.

**48.16.070. Annual Report – Public Safety Department.**

The public safety department shall annually prepare a traffic report which will be filed with the mayor. Such report shall contain information on traffic matters in the city as follows:

- A. The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data;
- B. The number of traffic accidents investigated and other pertinent data on the safety activities of the police.
- C. The plans and recommendations of the department for future traffic safety activities.

**48.16.080. Experimental regulations.**

- A. The mayor or his/her designee is empowered to make emergency and experimental regulations; such regulations are not to remain in effect for more than ninety days.
- B. The mayor may test traffic control devices under actual conditions of traffic.

**48.16.090. Authority to change speed limits.**

Whenever the mayor determines upon the basis of an engineering and traffic investigation that a speed greater or less than the speed limits set forth in this chapter would facilitate the orderly movement of vehicular traffic, he may determine and declare a speed limit which is found to be most appropriate to facilitate an orderly movement of traffic and is reasonable and safe, which declared speed limit shall be effective when appropriate signs giving notice thereof are erected upon the street, road or highway.

**48.16.100. Regulation of speed traffic control signals.**

The mayor is authorized to regulate the timing of traffic control signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance with the speeds otherwise applicable under this chapter.

**48.16.110. Special stops-Arterial streets or highways.**

The mayor may designate and describe arterial street or highways and when so designated it shall be the duty of the law enforcement officer, or his designee, to place and maintain a "stop" sign on each and every street or highway intersection such arterial street or highway or intersecting that portion thereof described and designated as such unless traffic at any such

intersection is controlled at all times by traffic control signals; provided, however, that at the intersection of two such arterial streets or highways or at the intersection of any arterial street and a heavy traffic street not so designated, "stop" signs shall be erected at the approaches of either of the streets as may be determined by the law enforcement officer on the basis of a traffic study.

**48.16.120. Stop intersections.**

The mayor is authorized to determine and designate intersection where particular hazard exists upon other than arterial streets or highways and to determine and designate intersections where particular hazard exists upon other than arterial streets or highways and to determine whether vehicles shall stop at one or more entrances to any such intersection, and shall erect a "stop" sign at every place where a stop is required.

**48.16.130. Traffic control device installation authority.**

The law enforcement officer, or his designee, shall place and maintain traffic control signs, signals and devices when required under the traffic laws of the city to make effective the provisions of the laws, and may place and maintain such additional traffic control devices as the mayor or his designee may deem necessary to regulate traffic under the traffic laws of the city or under state law, or to guide and warn traffic. The mayor or his designee may determine whose intersections at which it would facilitate the orderly movement of traffic and would be reasonable and safe to permit vehicles to turn right after stopping and shall place property signs at such intersections. Vehicular traffic facing the red signal and signs permitting a right turn shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and after stopping, may proceed with caution to make a right turn but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

**48.16.140. Crosswalks-safety zones.**

The mayor or his designee is authorized:

- A. To designate and maintain, by appropriate devices, marks or lines upon the surface of roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadways, and at such other places as he may deem necessary;
- B. To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

**48.16.150. Traffic Lanes.**

The law enforcement officer or his designee may mark lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

**48.16.160. One-way streets and alleys.**

A. The mayor or his designee may designate any one-way street or alley and when so designated the chief of police shall cause a sign to be placed and maintained giving notice thereof and no such regulations shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

B. Upon those streets and parts of streets and in those alleys designated as one-way, vehicular traffic shall move only in the indicated direction when signs or other markings indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

C. The mayor or his designee is authorized to determine and designate streets, parts of streets, or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The law enforcement officer may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway.

**48.16.170. Street closed to traffic.**

The mayor or his designee is authorized to close streets to vehicle or pedestrian traffic.

B. Whenever any street is closed to the use of traffic and the same so indicates by authorized signs or barriers, no vehicle shall proceed into the street or any portion thereof except as directed by the signs. Whenever a street is closed, notice shall immediately be given to the fire chief and the law enforcement officer, if appropriate, by the person who closed the street.

**48.16.180. Marker placement authority.**

The law enforcement officer is authorized to place markers, buttons or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled so as indicated may conform to or be other than as prescribed by law.

**48.16.190. Restricted turn sign placement.**

A. The mayor or his designee is authorized to determine those intersections at which drivers of vehicles shall not make a right or left turn and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs so they may be removed when such turns are permitted.

B. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

**48.16.200. Pedestrian and vehicle operation restriction authority.**

The mayor or his designee is authorized to post signs where necessary:

A. 1. To prohibit the operation of commercial vehicles on certain residential streets or highways where such operation would create exceptional hazardous conditions or cause undue public inconvenience; 2. Where signs are erected giving notice thereof, no person shall operate any commercial vehicles at any time upon any of the streets or highways or part of streets or highways so designated, except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street or highway at the intersection nearest the destination of the vehicle and proceeding thereon no further than the nearest intersection thereafter.

B. To prohibit pedestrians and non-motorized vehicles on certain heavily traveled streets or highways. No person shall do any act in violation of such signs.

**48.16.210. Angle parking-signs and marking.**

The mayor or his designee shall determine upon what streets or highways angle parking shall be permitted and shall mark or sign such streets. Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive on the left side of the roadway or where angle parking would create a hazard to passing traffic.

**48.16.220. Traffic control devices-specifications.**

All traffic control signs, signals and devices shall, so far as is practical, conform to the "Manual of Uniform Traffic Control Devices for Streets and Highways." All signs and signals required hereunder for a particular purpose shall, so far as is practical, be uniform as to type and location throughout the city. All traffic control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic control devices.

**48.16.230. Stop sign-specifications.**

Every sign erected pursuant to this chapter shall be of hexagonal design and in conformance to the National Safety Council Standards and shall bear the word "STOP" in letters not less than eight inches in height and such signs shall at nighttime be rendered luminous by efficient reflecting elements on the face of the sign. Every stop sign shall be located as near as practical at the nearest line of the crosswalk on the near side of the intersection or, if none, at the nearest line of the roadway and shall be placed on the right side of such street.

Chapter 20 Parking, Standing and Stopping

**48.20.010. Parking not to obstruct traffic.**

No person shall park any vehicle upon a street or highway, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of such roadway for the free movement of vehicular traffic.

**48.20.020. Parking in alleys.**

No person shall park a vehicle within an alley except for the expeditious loading or unloading of freight or materials and then the vehicle shall be parked in such manner or under such conditions as to leave available not less than ten feet of width of the alley for the free movement of vehicular traffic. Exceptions: Compliance with this section is waived whenever it may be impossible to fully comply with its provisions by reason of limitations in the width of the alley.

**48.20.030. Parking for certain purposes prohibited.**

No person shall park a vehicle upon a roadway for the purpose of:

- A. Commercial advertising;
- B. Displaying such vehicle for sale;
- C. Greasing or repairing such vehicle, not necessitated by an emergency;
- D. Washing such vehicle when the person so engaged is in the business of washing vehicles.

**48.20.040. Stopping, standing or parking prohibited where.**

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places and no signs are required:

- A. Within ten feet of an intersection;
- B. Within fifteen feet of an unprotected fire hydrant;

**48.20.050. Emergency, street maintenance and snow removal vehicles-obstruction prohibited.**

- A. No person shall leave a disabled or abandoned vehicle on any public street, alley or road for more than forty-eight hours.
- B. No person shall leave any vehicle parked on any public street, alley or road when snow removal or road maintenance activities are planned or are in progress. Any vehicle that is parked on a public street, alley or road shall be moved by the owner or the owner's representative within four hours after notification by the mayor or the mayor's designated representative.
- C. In the event that the owner of a vehicle, which is parked on a public street, alley or road, is absent from his/her home, does not have a telephone, or lives in a place that is not readily accessible to the mayor, his designee or street maintenance crews, shall notify the city clerk in advance of a person who is available to move such parked vehicle.
- D. The mayor or his/her designee shall post signs on any streets where snow removal or routine repairs are planned. These posted notices shall be in a prominent place and displayed at least eighteen hours before the work is to be performed. This section does not apply to emergency work that may, from time to time, become necessary on any public utility which is accessible from a street, alley or roadway and which work is required without time for planning and notification of the public.

**48.20.060. Off-street parking place-removal of unauthorized vehicles.**

- A. Removal of Unauthorized Vehicles. The rightful owner, lessee or other person authorized to control or use an off-street private parking space may remove an unauthorized vehicle from an off-street private parking space by having it towed. The city shall not be liable for any towing, storage or other charges of for the acts of any person taken under the authority of this chapter.
- B. Definition. For the purpose of this section, "private parking spaces" include both publicly and privately owned off-street parking spaces which are reserved for the use of a specific individual or group of individuals or are otherwise restricted when such reservations or restrictions are posted.

**48.20.070. Restrictions and exceptions-authority.**

The mayor or his/her designee is authorized to determine when and where parking, standing or stopping restrictions or exceptions enumerated in this section are required, or will contribute to the safe and orderly flow of traffic, or will contribute to the efficient use of public streets or public places or property; and to implement such restrictions or exceptions by causing signs to be erected:

- A. To authorize parking on the left-hand side of certain one-way streets where such parking would otherwise be prohibited;
- B. To prohibit parking or standing on the left-hand side of any one-way street. No person shall park or stand a vehicle in violation of such signs;
- C. To prohibit parking upon any street or highway when the width of the roadway does not exceed twenty-four feet, or upon one side of a street or highway as indicated by such signs when

the width of the roadway does not exceed thirty-six feet. No person shall park a vehicle in violation of such signs;

D. To prohibit parking upon either or both sides of any street or highway adjacent to any school property when such parking would in his opinion, interfere with traffic or create a hazardous situation. No person shall park a vehicle in violation of such signs;

E. Limiting the length of time a vehicle may occupy a parking space. No person shall park a vehicle in violation of such signs, provided, that such limitation shall not apply on Sundays and holidays;

F. To prohibit parking, standing, or stopping of vehicles during certain hours of the day or night. No person may park, stand or stop a vehicle in violation of such signs;

G. To prohibit the parking of any of certain large vehicles such as trailers, travel homes, trucks, etc., on designated streets within the city boundaries. No person may park any such vehicle in violation of such signs;

H. To prohibit parking, standing or stopping where such would create an especially hazardous condition or would cause an unusual delay in traffic. No person may stop, stand or park a vehicle in violation of such signs.

**48.20.080. Time-limited parking spaces-additional restrictions.**

No overnight camping allowed on City property where posted.

**48.20.090. Violations-penalty.**

A. Any person, firm, co partnership or corporation violating provisions of this chapter shall be fined not more than fifty dollars for each separate violation.

B. Any person, firm, copartner ship or corporation violating subsection A of Section 48.20.080 shall be fined not less than twenty-five dollars.

C. Any person, firm, copartner ship or corporation violating Section 48.20.050 shall pay all applicable fines and the cost of towing and storage of the vehicle which is moved under the authority of this chapter.

# TITLE 51. ANIMALS.

## Chapter 04. Animals.

### 51.04.010. Purpose.

This chapter is enacted for the purpose of regulating the keeping of animals within the city. The fees, charges, and penalties collected hereunder shall be budgeted to defray, in whole or in part, the expense of such regulation.

### 51.04.020. Definitions.

As used in this chapter:

- A. "Animal" means every nonhuman species of animal, both domestic and wild.
- B. "Animal-at-large" means any animal not under the restraint of a person capable of controlling the animal and/or off the premises of the owner.
- C. "Animal control officer" means any person designated by the state of Alaska as a law enforcement officer or by the mayor as an animal control officer.
- D. "Animal shelter" means any facility operated by a municipal agency or its authorized agents, for the purpose of impounding animals under the authority of this chapter or state law for care, confinement, return to owner, adoption or euthanasia.
- E. "Household" means all the persons who live in one dwelling.
- F. "Pet" means any animal kept for pleasure rather than utility and that is dependent upon people for food and shelter.
- G. "Public nuisance" means any animal or animals that unreasonably annoy humans, or substantially interfere with the rights of any citizens to enjoyment of life or property. "Public nuisance animal" means and includes, but is not limited to, any animal that:
  - 1. Is repeatedly found at large;
  - 2. Damages the property of anyone other than its owner;
  - 3. Chases vehicles;
  - 4. Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
  - 5. Causes fouling of the air by odor and thereby creates unreasonable discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
  - 6. Causes unsanitary conditions in enclosures or surrounding where the animal is kept or harbored;
  - 7. Has been found by the animal control officer to be public nuisance animal by virtue of being a menace to the public health, welfare or safety.
- H. "Restraint" means any animal secured by a leash, lead or cage and under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner.
- I. "Veterinary care" means care administered to an animal by a veterinarian licensed in the state of Alaska.
- J. "Wild animal" means any living member of the animal kingdom, including those born and/or raised in captivity, except the following animals kept solely as pets: domestic cats, domestic dogs (including wolf-hybrids), farm animals, rodents, captive-bred species of common cage birds, aquatic and amphibian animals.

**51.04.030. Licensing.**

- A. Any person owning, keeping, harboring or having custody of any animal over six months of age within this municipality must obtain a license as therein provided. This provision does not apply to the following animals: small cage birds, rodents, domestic livestock (horses, cows, chickens, etc.), aquatic and amphibian animals.
- B. Written application for licenses, which shall include name and address of applicant, description of the animal, and the appropriate fee shall be made to the city clerk or designee. Persons applying for a license shall be required to show proof of rabies vaccination before a license is issued.
- C. Application for a license must be made within thirty days after obtaining, or bringing into the city, an animal over six months of age. This requirement will not apply to a nonresident keeping an animal within the municipality for not longer than sixty days.
- D. Owners of impounded animals, regardless of residential status of the owner, shall be required to license the animal with the city before regaining custody of the animal.
- E. License fees shall not be required for certified Seeing Eye Dogs, Hearing Dogs or other certified dogs that are trained to assist the physically handicapped.
- F. Animal owners aged sixty-five and over will not be required to pay a license fee for any neutered or spayed animal. Animals not spayed or neutered shall be subject to applicable license fees.
- G. The licensing period shall begin July 1 and end June 30 and shall be reviewed annually.
- H. Persons applying for a license after December 31 shall be required to pay fifty percent of the fee stipulated in this section.
- I. Persons who fail to obtain a license as required within the time period specified in this section will be subjected to a fine of twenty dollars. Persons fined for failure to obtain a license will be subject to an additional charge of one dollar per weekday starting from the date of the fine until a license is obtained.
- J. The following license fees will apply:
  - 1. Un-neutered male dog, fifty dollars;
  - 2. Un-neutered male cat, fifty dollars;
  - 3. Un-spayed female dog, fifty dollars;
  - 4. Un-spayed female cat, fifty dollars;
  - 5. Neutered male dog, thirty dollars;
  - 6. Neutered male cat, thirty dollars;
  - 7. Spayed female dog, thirty dollars;
  - 8. Spayed female cat, thirty dollars;
  - 9. All other animals, fifty dollars.
- K. Upon acceptance of the license application and payment of all license fees and late fines, the city clerk or designee shall issue a durable license tag stamped with an identifying number.
- L. A duplicate license may be obtained upon payment of a five dollar replacement fee.
- M. The city clerk or designee shall maintain a record of the identifying numbers of all tags issued.
- N. Licensed animals must wear identification tags at all times when off the premises of the owner.
- O. No person may use any license for any animal other than the animal for which it was issued.
- P. Whenever the ownership of an animal changes, the new owner shall notify the city clerk's office, whereupon the records for the animal will be changed. Failure to notify the city clerk or designee of change of ownership shall result in a fine of ten dollars.

Q. Persons or households owning, keeping or harboring more than three animals requiring a license under this chapter are required to obtain a kennel permit. The kennel permit shall be issued by the animal control officer after inspection of the area where animals are to be kept. The area must meet the requirements set by the animal control officer and approved by the city council. The fee for kennel permit shall be twenty dollars for each licensing period.

**51.04.040. License-Issuance-Revocation.**

A. The city may revoke any license if the person holding the license refuses or fails to comply with this title, the regulations and policies approved by the city council, or any law governing the protection and keeping of animals.

B. Any person whose license is revoked shall, within ten days thereafter, humanely dispose of all animals owned, kept or harbored. No part of the license fee shall be refunded.

C. It shall be a condition of the issuance of any license or permit that the animal control officer shall be permitted to inspect all animals and the premises where animals are kept at any reasonable time of day and shall, if permission for such is refused, revoke the license or permit of the refusing owner.

D. If the applicant has withheld or falsified any information on the application, the city clerk or designee shall refuse to issue a license.

**51.04.050. Animal Control Officer.**

A. Under this chapter the Mayor shall be given the authority to appoint an animal control officer who has charge for administering the provisions of this chapter.

B. As may be necessary, the Mayor may delegate authority to carry out the provisions in this chapter to any person or persons.

C. It is the duty of the animal control officer to keep or cause to be kept accurate and detailed records of the licensing, impoundment and disposition of all animals coming into his custody. All records will become permanent records of the city.

D. It is the duty of the animal control officer to respond to animal complaints lodged by citizens. All animal complaints lodged by citizens shall be confidential records.

**51.04.060. Restraint.**

A. All dogs shall be kept under restraint.

B. No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance.

C. Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

D. Any animal that bites a person shall be quarantined securely for a period of not less than ten days on the premises of its owner, in a municipal animal shelter or, at the discretion of the animal control officer, in a veterinary hospital at the owner's expense. It is unlawful for anyone other than the animal control officer to euthanize any animal which has bitten a person until this quarantine period has been observed and it has been determined by a veterinarian that the animal is not rabid.

**51.04.070. Impoundment.**

- A. Unrestrained dogs and public nuisance animals may be taken by animal control officer(s) and impounded and there confined in a humane manner.
- B. Impounded animals not claimed by the owner shall be kept for not less than three days.
- C. An owner attempting to reclaim an impounded animal shall pay the following fees to the city clerk before being allowed to regain custody of the animal:
  - 1. Fifty (\$50.00)dollar fine for the first impoundment in a twelve-month period.
  - 2. Seventy-Five (\$75.00) dollar fine for the second impoundment in a twelve month period.
  - 3. One-hundred (\$100.00) dollar fine for the third impoundment in a twelve month period.
  - 4. Fifty (\$50.00) dollar fine for an animal not registered with the City of Kake.
- D. The owner of any animal impounded four times within any calendar year shall be subject to a fine of one hundred dollars and any room and board fees incurred by the impounded animal. The license for the animal shall be revoked and the animal, at the discretion of the animal control officer, shall for a fee be made available for adoption in suitable home or humanely euthanized.
- E. Any animal not reclaimed by its owner within three working days shall for a fee be made available for adoption in a suitable home or humanely euthanized.
- F. In addition to, or in lieu of, impounding an animal found at large, the animal control officer may issue to the known owner of such animal a notice of ordinance violation. Such notice shall impose upon the owner a penalty as described in Section 51.04.140. A criminal warrant shall be initiated before a magistrate and upon conviction of a violation of this chapter, the owner shall be punished as provided in Section 51.04.140.
- G. The owner of an impounded animal may also be proceeded against for violation of this chapter.
- H. The animal control officer shall keep complete and accurate records of the care, feeding, veterinary treatment and disposition of all animals impounded.

**51.04.080. Animal Care.**

- A. No person shall fail to provide all animals in their possession with sufficient wholesome and nutritious food, water in sufficient quantities, proper air, shelter space and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.
- B. No person shall beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate, or permit any combat between animals or between animals and humans.
- C. No owner of an animal shall abandon such animal.
- D. No person shall give away any live animal as a prize for, or as an inducement to enter, any contest, game lottery, raffle or competition.
- E. Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner or caretaker; in the event the owner or caretaker cannot be ascertained and located, such operator shall at once report the accident to the animal control officer, law enforcement officer or city clerk.
- F. No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any domestic animal.
- G. At the request of the animal owner, the animal control officer will humanely euthanize an animal for the fee of twenty dollars.

**51.04.090. Keeping Wild and Non-Native Animals.**

A. No person shall keep or permit to be kept any wild or non-native animal as a pet.

**51.04.100. Dogs Disturbing Peace and Quiet.**

A. It is unlawful for the owners or keepers to own or keep under their control or care any dog within the city which disturbs the peace and quiet of any neighborhood by howling, yelping, or barking. A dog which howls, yelps, or barks in a manner which causes an audible annoyance to a person or person other than the owner shall be deemed a public nuisance upon the filing of a formal complaint with the local law enforcement.

B. In the event that a formal complaint is filed with the police department charging that a dog is habitually disturbing the peace and quiet of another person or person while within the confines of the private property of such dog's owner or keeper, then the animal control officer or a police officer shall, for a first offense, issue a formal warning, which may be either written or verbal form, directing the owner or keeper of such dog to abate the nuisance immediately. Should such dog continue to be a nuisance and a formal complaint is again filed with the police department, then the owner or keeper of such dog shall be issued a citation and summoned to appear in court.

**51.04.110. Animal Waste.**

The owner of every animal shall be responsible for the removal of any excreta deposited by his/her animal(s) on public property, recreation areas, or private property other than their own.

**51.04.120. Enforcement.**

The civil and criminal provisions of this chapter shall be enforced by those persons and/or agencies designated by state or municipal authority. It shall be a violation of this chapter to interfere with any animal control officer in the performance of their duties.

**51.04.130. Liability.**

The city shall not be held liable for any damages to persons or property resulting from administration of the provisions of this chapter.

**51.04.140. Violation-Penalties.**

A. Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars and not more than three hundred dollars, as further specified in subsection D of this section.

B. If a violation continues, each day's violation shall be deemed as a separate violation.

C. If any person is found guilty by a court of violating Section 51.04.080, his permit to own, keep, harbor or have custody of animals shall be deemed automatically revoked and no new permit may be issued.

D. The city, in enforcing this chapter, will utilize written citations and a system of graduated penalties, as established by ordinance of the city council.

E. The person to whom the citation is issued may plead no contest to the offense by signing an appropriate blank on the citation and paying the fine specified in the citation, either in person or by mail, within five days from the date of citation, to the office of city clerk. Acceptance of any payment of the prescribed fine is a complete satisfaction for the offense. If the offender accepts

the citation but fails to pay the fine or appear in court, the citation shall be considered a summons, and the offender shall be proceeded against in the manner prescribed by law.  
F. Fines under this chapter are subject to change by Resolution either alone or in conjunction with other fines and fees on an annual or on an as-needed basis.

## Chapter 05. Dangerous Animals.

### **51.05.010. Definitions.**

- A. For purposes of this chapter, a "potentially dangerous animal" is any animal that:
1. Without provocation, threatens to attack, or bites causing physical injury to, a human being or domestic animal;
  2. Without provocation, chases or approaches a person upon the streets, highways, sidewalks or other areas open to the public in a menacing fashion;
  3. Has a known propensity, tendency or disposition to attack without provocation, or cause physical injury or otherwise threaten the safety of human beings or domestic animals; or
  4. Is owned or harbored primarily or in part for the purpose of fighting or is trained for fighting.
- B. For purposes of this chapter, a "dangerous animal" is any animal that:
1. Has inflicted physical injury on a human being without provocation on public or private property;
  2. Has, while off the premises of its owner or responsible person, killed a domestic animal without provocation; or
  3. Has been previously classified as potentially dangerous and is found in violation of the provisions of this chapter, or whose owner or person responsible for that animal has, in relation to that animal violated any provisions of this chapter.
- C. No animal shall be classified as potentially dangerous or dangerous when:
1. Acting to defend an attack upon a human being by a person or other animal;
  2. Owned by any police department or other law enforcement agency and which is used in the performance of law enforcement work;
  3. Acting against a trespasser who had illegally entered any residence; or
  4. Acting against a trespasser who had illegally entered upon or into any fenced or enclosed business premises, when those premises have been conspicuously posted with signs warning of a potentially dangerous animal on the premises.
- D. "Physical injury" means physical pain or an impairment of physical condition.

### **51.05.020. Classification of Animals, Appeals, Restrictions Pending Appeals.**

- A. The animal control officer shall have the sole authority to determine, based on probable cause, that an animal is potentially dangerous or dangerous.
- B. Written notice of an animal's classification under subsection A of this section, shall be served on the owner of the animal or responsible person at that owner's or responsible person's last known address. The notice shall describe the animal, state the grounds for its classification, and state the restrictions applicable to such animal by reason of its classification. The notice shall also state that, if a written request for a hearing is filed with the animal control officer within ten days after completion of service of the notice, a hearing will be conducted to review the classification of the animal. The right to a hearing shall be deemed waived if not timely requested as set forth in this subsection.
- C. The notice referred to in subsection B of this section shall be given either by personal delivery to the person to be notified or by certified mail, return receipt requested, addressed to

the person at the person's last known address. Notice by personal delivery shall be complete upon delivery and notice by mail shall be deemed completed upon return of the receipt or upon return of the notice as undeliverable, refused or unclaimed.

D. Any hearing held under this section shall be heard by the chief executive officer within fourteen days of receipt of request for hearing. The hearing shall be informal, and technical rules of evidence shall not apply. The classification shall be determined based upon the preponderance of the evidence. The hearing officer shall not be required to file a full opinion or make formal findings of fact or conclusions of law, but the hearing officer must state the reasons for the determination, and indicate the evidence relied upon. Such determination shall be made no later than forty-eight hours after the close of the hearing. The proceedings at the hearing shall be recorded.

E. When an animal has been classified as dangerous, the hearing officer shall first determine if that classification is proper. If the hearing officer determines that the animal was improperly classified as dangerous, the hearing officer shall then determine if the animal is potentially dangerous. Should the hearing officer determine that the animal is potentially dangerous, the owner or person responsible shall comply with the requirements of this chapter applicable to potentially dangerous animals.

F. During the pendency of any hearing and any appeal there from on the classification of a potentially dangerous animal, the animal control officer may require that the animal be kept securely confined on the premises of the owner or responsible person, or other location acceptable to the animal control officer.

G. During the pendency of any hearing and any appeal there from on the classification of an animal as dangerous, the animal shall be quarantined at the animal shelter at the owner's or responsible person's cost.

H. Should the hearing officer determine that the animal is neither dangerous or potentially dangerous, no costs shall be charged for quarantine of the animal during pendency of the hearing.

**51.05.030. On-premises confinement.**

While on the owner's or responsible person's property, a potentially dangerous animal must immediately be securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and so that the animal cannot reach postmen, delivery boys and others who may have occasion for lawful entry upon the owner's premises in the course of their work or with the owner's permission. The structure must be designed to prevent the animal from escaping by climbing, burrowing or otherwise. The potentially dangerous animal must be securely confined indoors at all times until such enclosure is available. Such enclosure must have minimum dimensions of five feet by ten feet and must have secure sides and a secure top. If the enclosure has no bottom secured to the sides, the sides must be embedded into the ground to a depth of not less than one foot. The enclosure must also provide adequate protection from the elements and be kept in a clean and sanitary condition.

**51.05.040. Off-premises confinement.**

A potentially dangerous animal may be off the owner's or responsible person's premises only if it is humanely muzzled and restrained by a substantial leash not exceeding four feet in length. The leash and animal shall be under the actual physical control of a person suitable to control the animal at all times. Such animals shall not be leashed to inanimate objects such as trees, posts, buildings, etc. The muzzle must be made in a manner that will not cause injury to the animal or interfere with the animal's vision or respiration, but must prevent the animal from biting any person or animal.

**51.05.050. Impoundment of Dangerous Animals.**

A. The city, by its properly constituted officers, shall impound any dangerous animal when the animal is:

1. Found to be at large or harbored under circumstances constituting a violation of this chapter;
2. Damaging property of a person other than the owner of the animal, except in defense of the property of its owner or members of its owner's household;
3. Causing bodily harm to any person; or
4. Acting in such manner as to cause reasonable apprehension of bodily harm by persons or animals not within or upon the premises of the dangerous animal's owner.

B. When an animal believed to be dangerous has been impounded, the village public safety officer shall give written notice to the animal's owner (see Section 51.05.020(B)). The village public safety officer shall, if timely requested by the owner, hold a hearing. The village public safety officer shall determine whether the animal is dangerous, as defined by Section 51.05.010 of this chapter. If the animal is determined not to be dangerous, it shall be released to its owner. If the animal is determined to be dangerous, it may be killed by any humane method.

**51.05.060. Capture Methods.**

The use of trap cages, catch poles and tranquilizer guns is an approved, humane method for the capture of dangerous animals.

**51.05.070. Emergency Situations.**

A. If the law enforcement officer has probable cause to believe that any person is in imminent danger of bodily harm because of a dangerous animal, such animal may be slain by the law enforcement officer.

B. An officer in hot pursuit of an animal known to be or reasonably suspected of being dangerous to persons other than wrongful trespassers upon his owner's premises, may enter the owner's premises and demand possession of such animal. If, after such request, the owner or keeper of the animal refuses to deliver the animal to the law enforcement officer, and the officer cannot with reasonable safety catch the animal, he may cause the animal to be killed; provided, however, such officer shall not enter the owner's premises without a valid warrant.

**51.05.080. Biting Dogs.**

A. Any dog which has once (at any time in the dog's history) engaged in biting any human beings or kills animals, is hereby declared to be a nuisance, and shall not be kept within the city, it shall be impounded and disposed of as an unredeemed dog, and the owner shall have no right to redeem such dog. The method of disposal shall be the same as that in Section 51.05.050(B), for dogs impounded over three times.

B. It is unlawful for the owner of any dog, when notified that such dog has bitten any person or has so injured any person as to cause an abrasion of the skin, to sell or give away such dog or permit such dog to be taken beyond the limits of the city except to a veterinarian, it shall be the duty of the dog's owner, upon receiving notice of such biting event, to immediately place such dog with a duly licensed veterinarian where such animal shall be confined for a period of at least fifteen days, or to deliver such animal to any law enforcement officer for such placement.

**51.05.090. Notification of change of status.**

The owner or responsible person shall immediately notify the animal control officer if a potentially dangerous animal is loose, unconfined, has attacked another animal, or a human being, or has died, been sold, been given away, or is otherwise no longer in the possession of the owner or responsible person. If the animal has been given away, the owner or responsible person shall provide the animal control officer with the name, address and telephone number of the new owner or responsible person, who, if located within the city limits, shall comply with the requirements previously applied to such animal and the requirements of this chapter.

**51.05.100. Signs.**

The owner or responsible person shall display a sign or signs in such form as required by the city on their premises warning that there is a potentially dangerous animal on the premises. Such a sign or signs shall be visible and capable of being read from any public right-of-way abutting the premises. Such a sign shall also be posted on the enclosure for the potentially dangerous animal.

**51.05.110. Spay or neuter requirement for potentially dangerous animals.**

Within thirty calendar days after its classification as a potentially dangerous animal, the owner or person responsible for a potentially dangerous animal shall have the animal spayed or neutered and present proof of that fact to the animal control officer.

**51.05.120. Destruction of dangerous animals.**

Any animal that is classified as dangerous shall be humanely euthanized after being quarantined for such period as provided by law.

# TITLE 54. BUILDING REGULATIONS.

## Chapter 02. Definitions.

### **54.02.010. Application.**

The following words and phrases when used in this title shall, for the purpose of this title, have the meanings respectively ascribed to them in this chapter, unless the context makes the meaning repugnant thereto.

### **54.02.020. Alterations.**

“Alterations” means any change in design or structural factors in any building.

### **54.02.030. Building Inspector.**

“Building inspector” means the mayor or his qualified representative appointed by the mayor.

### **54.02.040. Person.**

“Person” means a firm, partnership, or corporation, as well as an individual.

### **54.02.050. Interpretation of Terms.**

When not inconsistent with the context, words used in the present tense shall include the future and the singular number includes the plural.

**54.04.010. Uniform Building Code Adopted.**

For the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings and structures or portions thereof in the city, there is adopted by reference, as the building code of the city, that certain compilation of rules and regulations prepared and published by the International Conference of Building Officials, a nationally recognized technical trade organization, which compilation is entitled "Uniform Building Code, 1970 Edition," Volume 1, five copies will have been filed in the office of the city clerk for public use, inspection and examination, and which compilation is made a part of this chapter as if fully set forth in this chapter.

**54.04.020. Alterations to Uniform Building Code.**

The following deletions, amendments, and other modifications to the 1970 edition of the Uniform Building Code shall be applied as follows:

- (a) Change Section 420 by adding to the definition of structure:

“and shall include earth, soil, rock, rubble, or concrete fills where such fills are placed to reclaim land, create usable land, or to serves as the foundation of other structures, or where such fills are to be used as roadways, dikes, dams, or any water diversion purpose.”
- (b) The last paragraph of subsection 202(d) is deleted to the extent that it prescribes as an offense the refusal to permit entry of the building inspector for inspection on demand, in the absence of an emergency or warrant.

**54.04.030. Provisions Additional to Adopted Codes: Signs Erected Over Right-of-Way.**

- (a) Streets. Signs may be located on the right-of-way of city streets, provided, that permission is first obtained from the chief of police after his determination that such sign is of reasonable size and in no way interferes with the necessary line of sight for safe traffic and after written approval of the building inspector. Permission to maintain any sign on said right-of-way may be revoked without reason given.
- (b) Through Streets. There shall be no signs located on the right-of-way of through streets except those signs required to regulate traffic.
- (c) Sidewalks and Behind Curbs. There shall be no signs or marquees suspended from structures on private property which will hang over rights-of-way or sidewalks or areas over the back of the curbline. If no curb is installed, then signs or marquees shall not hang over the back of the shoulder line, unless such signs are of reasonable size, do not obstruct vision for the purposes of the safe pedestrian or vehicle traffic, are placed so that the bottom is not less than eight feet above the pedestrian walkway, and are securely and safely constructed.

- (d) Enforcement. The chief of police is authorized to determine the factors stated in this section and upon any adverse determination, shall give notice to the owners thereof to change said signs or marquees to conform to the provisions set forth in this section within thirty days.

**54.04.040. Building Permit Fees: Designated by Reference.**

For building permit fees, see Schedule A, attached to the end of this chapter and incorporated into this section by reference.

**54.04.050. Building Permit Fees: Doubled if Work Started Without Permit.**

Where work for which a permit is required by this title is started or proceeded with prior to obtaining a building permit, the fees specified in Schedule A shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this title in the execution of the work or from any other penalties prescribed in this code.

**54.04.060. Building Permit Fees: Loan of Building Code upon Payment.**

Payment of the building permit fees entitles each permit holder to one copy of the short form of the Uniform building Code, providing the applicant desires said copy for his study, but same must be returned to the office of the city clerk. Failure to return said copy shall result in applicant being billed twenty dollars for it.

**54.04.070. Building Inspector Recommendation and Council Authorization of Exceptions.**

The city council may, at its discretion, authorize issuance of a building permit for new construction which fails to comply with the requests of this chapter, but only upon recommendation of the building inspector. The recommendation shall be made in writing, addressed to the council, shall contain conditions on which the proposed construction does not meet building requirements, and shall state the reasons why the recommendation is made.

**54.04.080. Schedule A. Building Permit Fees.**

- (a) Fees.

	<u>Value of Construction</u>	<u>Fee</u>
(1)	Less than \$3,000	\$30
(2)	\$3,000 to \$14,999	\$25, plus \$4 per \$1,000 of construction in excess of \$15,00
(3)	\$15,000 to \$49,999	\$75, plus \$3 per \$1,000 of construction in excess of \$15,000
(4)	\$50,000 and Above	\$150, plus \$1 per \$1,000 of construction in excess of \$50,000

- (b) “Value of Construction” Defined. For the purpose of determining the value of construction, the following shall apply:

<u>Type of Construction</u>	<u>Est. value of Construction</u>
(1) Alterations, remodeling	Permit required, no fee
(2) Alterations, remodeling, or additions that increase housekeeping units or actual square footage	Cost of construction
(3) Sing-family residential up to and including fourplexes	\$35 per square foot times the number of square feet of the structure
(4) Multifamily residential (fiveplexes and above)	\$38 per square foot times number of square feet of the structure
(5) Commercial (office and retail)	\$42 per square foot times the number of square feet of the structure
(6) Industrial (manufacturing, warehouse, etc.)	\$12 to \$30 per square foot (to be determined by the building inspector) times the number of square feet of the structure
(7) Garages, residential	\$15 per square foot times the number of square feet of the structure
(8) Carports, residential	\$12 per square foot times the number of square feet of the structure
(9) Mobile homes	Cost of construction (foundation, roof, etc., not to include the cost of the mobile home)

**54.08.010. National Electrical Code Adopted by Reference.**

Each and all of the regulations, provisions, penalties, conditions, and terms of the “National Electrical Code, 1971.” published by the National Board of Fire Underwriters and recommended by the National Fire Protection Association, copies of which are on file in the Office of the city clerk, are hereby referred to, adopted, and made a part of this chapter as if fully set out in this code. The code is hereby adopted and shall be known as the electrical code of the city.

**54.08.020. Definitions.**

In construing the provisions of this chapter, except when otherwise plainly declared or when another meaning is apparent from the context, the following definitions shall be applied:

- (a) “Certificate of approval” means a type of card or other means of notice of approval, as designated by the electrical inspector, which shall be posted upon the main entrance switch of any structure or building.
- (b) “Electrical inspector” means the mayor or his duly appointed representative.
- (d) “Radio interference” means any form of unauthorized or uncontrolled radiation, regardless of source and regardless of whether radiated in space or by conductors or ground conduction which causes interference with the transmission or reception of radio signals, messages, and transmission.

**54.08.030. Applicability: Retroactivity.**

This chapter shall not be applied retroactively to any electrical installation, unless it was made in violation of the provisions of a law of the city at the time installation was made.

**54.08.040. Applicability: Exceptions.**

The provisions of this chapter shall not apply to installations used by the electrical power supplier or communication agencies in the generation, transmission, or distribution of electricity, or for the operation of signals or the transmission of intelligence, and located within or on buildings or premises used exclusively by such agency, or on public thoroughfares.

**54.08.050. City Liability for Damages Denied.**

This chapter shall not be construed to affect the responsibility or liability of any party owning, operating, controlling, or installing any electrical equipment for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability by reason of the inspection or reinspection in this chapter or the certificate of approval issued as provided by this chapter, or by reason of the approval or disapproval of any equipment authorized in this chapter.

**54.08.060. Provisions in Addition to Code: Location of Electric Meters.**

The electrical inspector shall designate all meter and service entrance locations on new or altered construction. Location shall be in the most advantageous positions for service line connection. Meters shall be located not less than six and one-half feet, nor more than nine feet, above ground or floor level. The electrical inspector may make exceptions in meter elevations, providing such elevation is approved by the building inspector.

**54.08.070. Permits: Approval Required, Posting.**

Electrical installations shall be made only upon approval of permits received from the office of the city clerk. Permits are required to be posted in a conspicuous location whenever electrical installations are being made and must be displayed until such time that final approval has been received on the entire installation.

**54.08.080. Permits: Approval of Plans, Fees, Issuance.**

(a) Permits shall be issued only upon submission of a drawing or description in writing of the work to be performed therefore, which shall be approved by the electrical inspector and the payment of the following fees:

- |  |  |
|--|--|
| (1) Residential up to six sockets or outlets   | \$2.50                                   |
| (2) Residential over six sockets or outlets  | \$5.00                                   |
| (3) Temporary meter setting and other miscellaneous works                                  | \$2.50                                   |
| (4) Commercial buildings   | \$5.00, plus \$0.10 per socket or outlet |
| (5) For each additional inspection made necessary by defective workmanship or materials    | \$3.50                                   |
| (6) For inspection of any electrical equipment for which no fee is specifically prescribed | \$4.00 per hour                          |

(b) Upon failure to make application and secure a permit by the second workday after commencing work, add \$5.00 to the permit fee. Permits will be issued by the city clerk within forty-eight hours from time of application, Saturdays, Sundays, and holidays excluded.

**54.08.090. Permits: When Required, When Not Required.**

No electrical equipment shall be installed within or on any building, structure, or premises publicly or privately owned, nor shall any alteration or addition be made in any such existing equipment without first securing a permit therefore from the office of the city clerk approved by the electrical inspector; except, that no permit will be required to execute any of the classes of electrical work specified in the following subsections:

- (1) Minor repair work, the replacement of lamps, or the connection of portable electrical equipment to suitable permanently installed receptacles;
- (2) The installation, alteration, or repair of electrical equipment for the operation of signals or the transmission of intelligence;

- (3) The installation, alteration, or repair of electrical equipment installed by or for the electrical supply agency for the use of such agency in the generation, transmission, distribution, or metering of electricity;
- (4) Any work involved in the manufacturing, testing, servicing, altering, or repairing of electrical equipment or apparatus; except, that this exception shall not include any permanent wiring other than that required for testing purposes.

**54.08.100. Electrical Inspector: Duties.**

- (a) It shall be the duty of the electrical inspector to enforce the provisions of this chapter. He shall, upon application, approve permits for the installation or alteration of electrical equipment and shall make inspections of the electrical installation, all as provided in this chapter.
- (b) The electrical inspector may delegate any of his powers or duties to any qualified assistant.

**54.08.110. Electrical Inspector: Conflicts of Interest Prohibited.**

It is unlawful for the electrical inspector or any of his assistants to engage in the business of the sale, installation, or maintenance of electrical equipment, either directly or indirectly, and they shall have no financial interest in any concern engaged in such business in the city at any time while performing the duties of electrical inspector.

**54.08.120. Inspection: Authority of Electrical Inspector, When Notice Required.**

The electrical inspector shall have the right, during reasonable hours, to enter any building or premises in the discharge of his official duties or for the purpose of making any inspection, reinspection, or test of the electrical equipment contained therein or its installation. It is unlawful to prevent or seek to prevent the inspection of any electrical equipment or installation by the electrical inspector. Before entering occupied private dwellings or apartments for the purpose of making an inspection, the consent of the occupant thereof shall first be secured; a twenty-four hour written notice of the intention to enter and make inspection shall be served upon such occupant by the electrical inspector. He shall have authority to inspect any electrical installations made after the effective date of this code.

**54.08.130. Inspection: Notice and Correction of Defects, Authority to Discontinue Service.**

When any electrical equipment is found by the electrical inspector to be dangerous to persons or property because it is defective or defectively installed, the person responsible for the electrical equipment shall be notified in writing and shall make any changes or repairs required in the judgment of the electrical inspector to place such equipment in safe condition. If such work is not commenced within thirty days and completed within time specified by the electrical inspector, the electrical inspector shall have the authority to order the discontinuance of electrical service to said electrical equipment.

**54.08.140. Inspection: Emergencies.**

- (a) In case of emergency, where necessary for safety to persons or property or where electrical equipment may interfere with the work of the fire department, the electrical inspector shall have the authority to disconnect or cause the disconnection immediately of any electrical equipment.

- (b) If the danger to life and property is manifest, the electrical inspector may direct that changes be made within a period of days. In such cases, concise written instructions as to the required changes shall be given to the occupant or owner. In requiring such immediate changes, the minimum amount of changes consistent with safety shall be imposed upon the occupant or owner.

**54.08.150. Inspection: Not Generally Authorized Without Warrant.**

Notwithstanding his duties, the electrical inspector shall not be authorized to make a warrantless inspection of a residence, commercial dwelling, or other structure in the absence of an emergency.

**54.08.160. Inspection: Authority to Remove Obstructions, Concealment or Sealing Before Inspection Prohibited.**

The electrical inspector shall have authority to inspect every electrical installation in or on any building or structure within the city and shall inspect all major installations, changes, and repairs and shall have power and authority to remove or require the removal of any obstruction that prevents proper inspection of the installation. No work or materials used or expended in altering, changing, repairing, or installing any electrical wiring or electrical circuits, in or on any building structure, shall be concealed or sealed over until the electrical inspector shall have been notified that such work and materials are about to be covered or sealed over in a permanent manner and until such inspector has been given a reasonable opportunity to examine and inspect the same.

**54.08.170. Certification.**

- (a) Upon request, the electrical inspector shall issue to a person, firm, or corporation holding an electrical permit a certificate or letter of approval authorizing a connection to the source of supply of current, but no such connection to the source of supply of current shall be made until the electrical inspector has been notified and given a reasonable opportunity to inspect the labor and material involved.
- (b) The electrical inspector shall notify any permit holder of the defects or unsatisfactory workmanship or materials which must be changed, altered, or corrected before such connection is made to the source of supply of current.
- (c) The fees for permits shall be paid at the time the permit is issued.

**54.08.180. Suspension of Work: Authority, Violation Unlawful.**

- (a) The electrical inspector shall have authority to order the immediate suspension of all or any portion of the work of installing, altering, repairing, or removing of electrical equipment by attaching notice to that effect on the premises whenever it is found by him that:
  - (1) such work is being performed without a lawful permit;
  - (2) the drawings or specifications bearing his approval are not on the premises and available for examination;
  - (3) the work is not being installed as per plans and specifications;
  - (4) the materials and workmanship are not in compliance with the provisions of this chapter;
  - (5) the materials and workmanship are not in compliance with the permit; or
  - (6) such suspension is necessary for the proper inspection of work previously performed.

- (b) It is unlawful for any person to continue the work of installing, altering, repairing, or removing electrical equipment after the suspension of work on it has been ordered suspended as provided in this chapter.

**54.08.190. Suspension of Work: Notice of Defects.**

If, upon inspection, the installation is not found to be in full conformity with the provisions of this chapter, the electrical inspector shall at once notify the representatives of the person, if present on the job, of the violation or violations. If no such person or his representative is present on the job, a notice shall be posted at the location of the job in a conspicuous place and the permit holder notified by phone or other suitable means that violations exist. In all cases, written notice shall be forwarded to the permit holder (with a copy retained in the electrical inspector's file) stating the violations which have been found and the sections or paragraphs of the electrical code involved.

**54.08.200. Temporary Electrical Installations: Permits, Application of Code Standards.**

- (a) If the electrical inspector finds that the safety of life and property will not be jeopardized, he shall issue permits for temporary electrical installations for use during the construction of buildings or for conventions, festivals, fairs, the holding of religious services, or temporary lights of areas. Permission to use such temporary installation shall not be granted for a greater length of time than thirty days, except that a permit for a temporary installation to be used for the construction of a building may be issued for the period of construction. Should such temporary lighting be over the street area, the authority for such use of the street must first be obtained.
- (b) All such temporary installations shall be made in a manner as nearly practicable in conformance with the requirements of this chapter for permanent work, provided that the electrical inspector may permit deviations which will not permit hazards to life or property, and provided further that whenever such hazards are deemed by the electrical inspector to exist, he may immediately rescind or cancel the permit covering such installation and disconnect, or order the disconnection of, all energy to such installation.

**54.08.210. Radio Interference Suppression: Inspection Authority.**

The electrical inspector shall have authority at all reasonable times to enter upon property within the city and enter any building or structure and therein or thereon inspect every electrical wire, circuit, appliance, fixture, equipment, and machine for the purpose of determining whether the same creates radio interference.

**54.08.220. Radio Interference Suppression: Notice and Correction Order Authority.**

- (a) The electrical inspector shall have the authority to require within such time as he shall specify that all radio interference originating from any electrical wire, circuit, appliance, fixture, machine, or equipment in the city shall be eliminated and abated to the extent that the same can be done by the installation of ordinary and commonly used filters and other equipment for the elimination of such radio interference. All such notices given by the electrical inspector shall be in writing and specify what is required for the elimination of such radio interference and the property upon which the same shall be installed and required to be kept.
- (b) No person shall be arrested or punished for the violation of this chapter until after a notice in writing has been given by the electrical inspector to such person and a reasonable opportunity

given to repair the property and to install the necessary filters and equipment to eliminate the radio interference. Such notice may be given by ordinary mail deposited in the U.S. Post office at Kake, addressed to such person at his last known address with postage prepaid.

**54.08.230. Radio Interference Suppression: Responsibility of Tree Owners to Trim.**

Any part of any tree, whether dead or alive, which makes steady or intermittent contact with any power line within the city shall be trimmed at all times to prevent such contact. Any owner or person in possession of such untrimmed and contacting trees shall be guilty of a misdemeanor and punished as provided in Sec. 54.08.260 after reasonable notice has been given by the electrical inspector, as this chapter provides, to eliminate such interference.

**54.08.240. Radio Interference Suppression: Unlawful Equipment.**

- (a) It is unlawful for any person to own, install, or use any luminous tube lighting other than incandescent lighting for display signs, window signs, border lighting, or general lighting, unless the same is filtered to prevent radio interference. The electrical inspector is given authority to disconnect from the power source all such unfiltered equipment.
- (b) It is unlawful to maintain or operate any radio receiver which oscillates and radiates waves which interfere with other radio reception and transmission. Any person operating such radio equipment shall be guilty of a misdemeanor and shall be punished, as provided in this code, for operating such radio equipment after reasonable notice has been given, as provided in this chapter, by the electrical inspector to cease such radio transmission or reception until such condition is corrected.
- (c) It is unlawful to erect any antenna poles or other pole structures which could fall over or upon any power line, unless the same are satisfactorily secured by guy wires for every twenty feet of height, each set of guy wires consisting of four guys of not less than 12-gauge galvanized iron wire and installed symmetrically every ninety degrees around the pole. Each guy shall be securely anchored at the lower end and shall be attached to the pole in such manner as not to injure or weaken the pole.

**54.08.250. Violation, Penalties.**

- (a) Any person who is convicted of violation of any section or portion of this chapter shall be punished by a fine of not less than twenty-five dollars nor more than three hundred dollars, or by imprisonment for not less than two days nor more than thirty days, at the discretion of the magistrate.
- (b) A person convicted of violating a lawful suspension order duly imposed shall be punished by a fine of not less than two hundred dollars nor more than three hundred dollars, or by imprisonment for not less than five days nor more than thirty days, or both such fine and imprisonment.

**54.12.010. National Plumbing Code Adopted by Reference.**

A certain document, copies of which are on file in the office of the city clerk, being marked and designated as the “National Plumbing Code, 1970 Edition,” sponsored by the American Public Health Association and published by the American Society of Mechanical Engineers, is adopted and shall be known as the plumbing code of the city and by reference is incorporated in this chapter.

**54.12.020. Definitions.**

The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them as follows, unless the context makes the meaning repugnant thereto:

- (a) “Plumbing inspector” means the mayor or his duly appointed and qualified representative.
- (b) “Plumbing permit” means the permit issued for such work, secured from the office of the city clerk.

**54.12.030. Applicability.**

The provisions of this plumbing code shall apply to and govern plumbing as defined in this code including the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following:

- (1) sanitary drainage systems within or adjacent to any building or other structure or conveyance;
- (2) storm drain water supply systems within or adjacent to any building or other structure or conveyance; and
- (3) the practice and materials used in the installation, maintenance, extension, or alteration of the stormwater or sewage system of any premises or their connection with any point of public disposal or other terminal, including private septic tanks.

**54.12.040. Limited Ownership of Facilities Recognized.**

It is recognized that certain facilities in or adjacent to public streets are referred to in this code, only a portion of which is under the ownership and control of the owner or occupant of the building or premises to which this code applies.

**54.12.050. Permit: Requirement, Borrowing of Code Copies.**

Unless excepted in this chapter, no plumbing work shall be undertaken prior to the issuance of a permit therefor by the office of the city clerk. A permit shall be issued to anyone requesting same, provided that other requirements of this chapter are met. Permit holders shall be entitled to a copy of the plumbing code for their study, but the code must be returned to the city clerk. Failure to return said code shall result in the applicant being fined twenty dollars, which shall be paid unless the code is returned.

**54.12.060. Permit: Not Required for Small Repairs.**

Repairs costing less than two hundred dollars in materials and involving relatively no change in the essential plan of the plumbing system may be made without a permit.

**54.12.070. Permit: Conditioned on Approval of Plans.**

- (a) No permit shall be issued until plans and specifications showing the proposed work in necessary detail have been submitted to the plumbing inspector and he has determined from examination that the work will conform to the provisions of this chapter.
- (b) If a permit is denied, the applicant may submit revised plans and specifications without payment of additional fee, provided that said revised plans and specifications are submitted within forty-five days from date of notification of rejection.
- (c) If, in the course of the work, it is found necessary to make any change from the plans and specifications on which a permit has been issued, amended plans and specifications shall be submitted on a supplementary permit, subject to the same conditions applicable to original application for permit. A revised permit shall be issued to cover the change.

**54.12.080. Permit: Application and Fees.**

Application for permit shall be made on suitable forms provided by the city. The application shall be accompanied by fees in accordance with the following schedule:

- (1) Basic fee                                      \$2.50, plus fifty cents for each plumbing fixture and waste-disposal device, new or reconstructed sewer connection, construction or reconstruction of cesspool, septic tank, water heater and water-distribution system or service connection, and repair or alteration of any plumbing system
- (2) Each inspection                              \$3.50  
    made necessary by  
    faulty workmanship

**54.12.090. Plumbing Inspector: Establishment.**

There is created the office of plumbing inspector for the city, who shall be the mayor or his duly appointed and qualified representative.

**54.12.100. Plumbing Inspector: Authority and Duty to Enforce Code.**

The administration and enforcement of the city plumbing code shall be the duty of the plumbing inspector, who is authorized to take such action as may be reasonably necessary to enforce the purpose of this chapter.

**54.12.110. Plumbing Inspector: Duty to Make Inspections and Tests.**

It shall be the duty of the plumbing inspector to enforce the provision of this code and to make inspections and tests required thereunder.

**54.12.120. Plumbing Inspector: Right of Entry.**

The plumbing inspector shall, after proper identification, have the right to enter any premises for the purpose of inspecting any plumbing system at such times and upon giving at least twelve hours notice, as may be reasonably necessary to protect the public health.

**54.12.130. Protection of Water Supply System.**

The plumbing inspector shall make such rules and regulations in furtherance of the purposes of this code and not inconsistent with the specific provisions of this code, for the installation, repair, or alteration of water treatment systems and water-operated devices as may be deemed necessary to properly protect the water system.

**54.12.140. Sewer Service Line Termination.**

Sewer service lines from any premises shall be installed to the point of termination with the trunk sewer system at the owner's or occupant's expense and shall continue to be the owner's or occupant's responsibility thereafter.

**54.12.150. Sewer Line Taps.**

Sewer service line tapping at the trunk sewer shall be done only by city personnel after approval of the entire installation by the plumbing inspector and after the sewer tapping fee has been paid in the office of the city clerk.

**54.12.160. Water Service Line Termination.**

Water service lines shall be tapped and extended to the property line by the city. There shall be a cutoff valve placed at the property line and the owner or occupant shall be responsible for service beyond that valve. Water service lines shall be tapped and extended to property lines only after water tapping fees have been paid in the office of the city clerk.

**54.12.170. Penalty for Violations.**

Any person who is convicted of violation of any section or portion of this chapter shall be punished by a fine of not less than twenty-five dollars nor more than three hundred dollars, or by imprisonment in the municipal jail for not less than fifteen days nor more than sixty days, at the discretion of the magistrate.

**54.16.010. Adopted.**

There is adopted by the city council, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the "Fire Prevention Code," recommended by the American Insurance Association, being particularly the 1970 edition thereof and the whole thereof. The city clerk is directed to obtain five copies of the subject Fire Prevention Code adopted by reference in this section and to make them available for inspection and familiarization at the clerk's office.

**54.16.020. Definitions.**

Whenever the terms listed in this section are used in the Fire Prevention Code, they shall have the meanings ascribed to them as follows:

- (a) "City" means the City of Kake, Alaska.
- (b) "Corporation Counsel" means the attorney for the City of Kake, Alaska.

**54.16.030. Amendments.**

The Fire Prevention Code is amended and changed as follows:

- (a) At Article 1, General Provisions, Section 1.9, Permits, add paragraph (f) as follows:

“(f) No permit of a non-temporary nature shall be valid unless approved by a majority of the members of the city council. Any permit so approved shall bear the signature of the mayor.”

**54.16.040. Bureau of Fire Prevention: Establishment, Duty, Administration.**

- (a) There is established within the city a Bureau of Fire Prevention. It shall be the duty of the bureau of fire prevention to enforce the Fire Prevention Code within the jurisdiction of the city. The fire chief shall constitute the bureau of fire prevention.
- (b) A report by the Bureau of Fire Prevention shall be made annually and transmitted to the mayor. It shall contain all proceedings under this code, with such statistics as the fire chief may wish to include therein. The fire chief shall also recommend any amendments to the code which, in his judgment, are desirable.

**54.16.050. Modification.**

- (a) The fire chief shall have power to modify any of the provisions of the fire prevention code upon application in writing by the owner, lessee, or his duly authorized agent when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done.

- (b) The particulars of such modifications, when wanted or allowed, and the decision of the fire chief thereon, shall be entered upon the records in the department and a signed copy shall be furnished to the applicant.
- (c) No exceptions or modifications to the requirements of the code of a permanent or continuing nature shall be granted, unless such exceptions or modifications are more stringent than the code, or, if less stringent, unless approved by a majority of the members of the city council.

**54.16.060. Appeals from Decisions of Chief.**

- (a) Whenever the Bureau of Fire Prevention disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply, or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief to the city council within thirty days from the date of the decision appealed. The council shall hear the appeal within twenty-one days of receipt of the appeal.
- (b) An appeal shall not act to stay a legal order issued by the Bureau of Fire Prevention under the provisions of Sections 1.5 and 1.6 of the code if the order states that an extreme hazard exists.

**54.16.070. Provisions for New Materials, Processes, or Occupancies that May Require Permits.**

The Bureau of Fire Prevention and the building code enforcement officer shall act as the committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes, or occupancies which shall require permits, in addition to those not enumerated in the code. The chief of fire prevention shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons.

**54.16.080. Chief May Order “No Smoking” Signs Posted.**

Where building or structure conditions are such as to make smoking a hazard to the welfare of the residents of the city, the fire chief is empowered to order the owner or occupant to post “No Smoking” signs in such places.

**54.16.090. Notice to Remedy Dangerous Conditions: Duty of Chief.**

Whenever the fire chief determines that an unsafe or dangerous fire prevention or control condition exists in or about any building or structure, he shall forthwith issue a written order describing the unsafe or dangerous condition and demanding its prompt removal or remedy.

**54.16.100. Notice to Remedy Dangerous Conditions: Service.**

Service of orders to remedy dangerous conditions may be made upon the owner, occupant, or other persons responsible for the care and maintenance of the building, structure, or premises and may be made personally or by mailing, postage prepaid, to such person’s last known post office address. In all instances where possible, the owner shall be thus notified.

**54.16.110. Notice to Remedy Dangerous Conditions: Appeal.**

- (a) Appeals for orders to remedy dangerous conditions may be made within twenty-four hours of the giving thereof, or forty-eight hours of the giving thereof if the person appealing is outside the State of Alaska
- (b) Appeals shall be made to the city council and shall be heard within fourteen days.
- (c) Unless the council revokes or modifies the order, it shall remain in full force and effect and be promptly complied with after the hearing, unless further appeal is made to the courts as provided under state law.

**54.20.010. Designated.**

The city shall be divided into fire zones by the fire chief to implement the provisions of the Fire Prevention Code. The fire chief will communicate the zone designations to the mayor and a map indicating the fire zones will be posted in City Hall. The fire chief may revise and update the fire zone map as development of the city may require. Appeals of the zone designations may be made to the city council, who must approve a zone designation within sixty days by majority vote before it will stand.

**54.20.020. Fire Department to Maintain Maps.**

Maps of the fire zones shall also be maintained at all times in the fire department.

## Chapter 24. Trailers and Trailer Parks.

### **54.24.010. Definitions.**

The following words and phrases, when used in this chapter, shall, for the purpose of this chapter, have the meanings respectively ascribed to them as follows, unless the context makes the meaning repugnant thereto:

- (a) “Person” means any person, firm, association, partnership, or corporation.
- (b) “Trailer coach” means and includes any vehicle or portable structure constructed so as to permit its being transported, towed, or used as a conveyance on a public street and so as to permit the occupancy thereof as a dwelling by one or more persons.
- (c) “Trailer park” means and includes any area of land on which two or more trailer coaches may be located or occupied, regardless of whether any rent is charged or such use of the area, together with any buildings, structures, or enclosures used in connection therewith.

### **54.24.020. License: Required.**

It is unlawful for any person to establish, maintain, or operate any trailer park in the city without first having obtained a license therefor from the city.

### **54.24.030. License: Application.**

Applications for trailer park licenses shall be made in writing to the city clerk and shall contain:

- (1) the name of the applicant and whether it is an individual, partnership, association, or corporation;
- (2) the correct mailing address of the applicant;
- (3) the location of the proposed trailer park; and
- (4) the number of trailer spaces therein.

### **54.24.040. License: Good Moral Character Required.**

- (a) No license shall be issued to any person who is not of good moral character or to any partnership, association, or corporation having a partnership or officer who is not of good moral character.
- (b) It is unlawful to hire or keep as manager, superintendent, or person in charge of a trailer park any person who is not of good moral character or any person who has been convicted of a felony.

### **54.24.050. License: Park Plan to Accompany.**

Each such application shall be accomplished by a plan drawn to scale and showing the external boundaries of the park, the size and location of all trailer spaces, buildings and structures, sewer lines and their connections, electric lines and their connections, water lines and their connections, power poles, and meter locations. The clearance of all power lines, their construction, and all electric connections must conform to the ordinances of the city and shall conform and comply in all respects with the National Electrical Code.

**54.24.060. Standards: Supervision.**

Each trailer park, while occupied, shall be under the supervision and control of responsible attendant or caretaker who shall be responsible, together with the licensee, for full compliance with the provisions of this chapter.

**54.24.070. Standards: Trailer Spaces.**

- (a) Each trailer coach shall be allotted a site or space as shown and numbered on the plan.
- (b) No trailer coach shall be parked closer than five feet to the side lines of the site or space, or less than two and one-half feet from the end line of any such space, or less than ten feet from a public street, alley, or building.
- (c) Each space shall abut or face on a driveway or clear, unobstructed area not less than twenty-five feet in width, which shall have unobstructed access to a public street or alley.
- (d) There shall be an open space of at least ten feet between the sides of adjoining trailer coaches and at least five feet between the ends of adjoining trailer coaches.

**54.24.080. Standards: Water Supply.**

- (a) An adequate supply of water from the water supply system of the city for drinking and domestic purposes shall be supplied to an connected with every trailer coach located in a trailer, provided, however, that two days shall be allowed after a trailer coach is moved into a trailer space and occupied within which to make such connection
- (b) the licensee of the trailer park shall pay the city two dollars and fifty cents per month per each trailer space equipped for occupancy for water rent, which shall be payable as are other water charges, provided, however, that this rate may be superseded by any rate established by the city council in any other schedule of rates applicable to trailer coaches or trailer parks.

**54.24.090. Standards: Sanitary Facilities.**

Each trailer park shall be equipped with a sanitary sewer and each trailer coach shall be connected thereto within two days after the same is moved onto a trailer space and occupied.

**54.24.100. Standards: Garbage Disposal.**

It shall be the duty of the licensee and the person in charge of every trailer park to provide covered garbage containers for each trailer space and they shall be responsible for maintaining the trailer park in a clean and sanitary condition at all times, free of trash and debris.

**54.24.110. Standards: Utility and Recreation Rooms.**

When separate utility and recreation rooms are provided by the licensee for the occupants of the trailer park, such room shall be maintained in a clean and sanitary condition at all times and shall be available for inspection at all reasonable hours by any representative of the city authorized to make such inspections. Such rooms shall be metered for electric current on the established commercial rate through a separate meter.

**54.24.120. Prohibited Acts: Fixing Trailers to Ground Without Permit.**

- (a) It is unlawful for any person to remove the wheels or other transportation device from any trailer coach, or otherwise affix said trailer coach permanently to the ground so as to prevent ready removal, unless a permit to do so is obtained as required for the construction of a new building.
- (b) Any alteration of a trailer coach which converts the same into a permanent dwelling shall be subject to the requirements of the building code and zoning ordinance of the city.

**54.24.130. Prohibited Acts: Occupying Trailer Not Connected to Utilities.**

It is unlawful to occupy for sleeping or other residence purposes any trailer coach which has been rendered immobile by the removal of the wheels or placing the same on foundations or the ground, unless such trailer coach is connected to water, electric, and sewer facilities mentioned in this chapter and the construction and location of the same complies with the ordinances applicable to single-family dwellings.

**54.24.140. Prohibited Acts: Using Trailer as Business Place Outside Park without Permit.**

It is unlawful for any person to own, operate, or maintain any trailer coach used as a place of business at any place other than in a licensed trailer park, unless a variance has first been approved by the board of adjustment.

**54.24.150. Occupancy Records.**

- (a) It shall be the duty and responsibility of the licensee and the person in charge of each trailer park to provide and maintain a permanent record showing all occupants of each lot in the trailer park.
- (b) The occupancy record must be signed by the owner of the trailer coach and show the date of first and last occupancy by such owner. The record shall also show the license number of the trailer coach, the state in which the same is registered, the make and model of the vehicles used for towing the trailer coach, the make and model of the coach, and the number of the trailer space occupied.
- (c) Occupancy records shall be maintained for a period of four years from the last date of occupancy by each occupant and shall be available to all law enforcement officers and representatives of the city upon request at any reasonable hour.

**54.24.160. Storage of Trailers Not Used for Living or Sleeping.**

Nothing in this chapter is to be construed to prohibit the storage of any trailer coach for any length of time when said trailer is not used for living or sleeping purposes.

# TITLE 57. MUNICIPAL PROPERTY.

## Chapter 04. Definitions.

### **57.04.010. Applicability of Definitions.**

For the purpose of this title, the terms contained in this chapter shall have the following meanings stated and rights defined unless the context requires otherwise.

### **57.04.020. Additional Land.**

“Additional land” means the additional tide and contiguous submerged lands as shall be reasonably necessary in the opinion of the city council for such occupant’s use and enjoyment of the occupied or developed land, but which additional land shall not include tide or submerged lands which, if granted to the occupant, would unjustly deprive an occupant of adjoining lands of his reasonable use and enjoyment.

### **57.04.030. Agricultural Lands.**

“Agricultural lands” means the tidelands chiefly valuable for agricultural purposes.

### **57.04.040. Alaska.**

“Alaska” means the State of Alaska.

### **57.04.050. City.**

“City” means the City of Kake, Alaska.

### **57.04.060. Clerk.**

“Clerk” means the clerk of the city.

### **57.04.070. Council.**

“Council” means the city council of the city.

### **57.04.080. Director.**

“Director” means the Director of Lands, State of Alaska.

### **57.04.090. Director’s Line.**

“Director’s line” means a line seaward of the city, approved by the Director with the concurrence of the Commissioner of Natural Resources, State of Alaska, seaward of all tide and submerged lands occupied or suitable for occupation and development without unreasonable interference with navigation.

**57.04.100. Fair Market Value.**

“Fair market value” means the highest price, described in terms of money, which the property would bring if exposed for sale for a reasonable time in the open market, with a seller willing but not forced to sell and a buyer willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used.

**57.04.110. Fill.**

“Fill” means earth, gravel, rock, sand, or other similar materials placed upon tide or contiguous submerged lands to a height above the mean high water line for the purpose of elevating the lands for a specific useful purpose.

**57.04.120. Harbor Line.**

“Harbor line” means that line fixed by the U.S. Secretary of the Army which is the limit to which piers, wharves, bulkheads, or other work may be extended in navigable waters without further authorization (30 Stat. 1151; 33 U.S.C. 404).

**57.04.130. Hearings Officer.**

“Hearings officer” means that city official employed to hear disputes between claimants, summarize the testimony, attempt to reach stipulations of fact between parties, assemble the record of the dispute, and submit the same to the council for determination.

**57.04.140. Improvements.**

“Improvements” means buildings, wharves, piers, drydocks, and other similar types of structures permanently fixed to the tide or contiguous submerged lands that were constructed and/or maintained by the applicant for business, commercial, recreational, residential, or other beneficial uses or purposes. Floats secured by guide piles and used as floating wharves, where access is provided to the shore, shall be improvements within the meaning of this section.

**57.04.150. Industrial and Commercial Lands.**

“Industrial and commercial lands” means tidelands chiefly valuable for industrial, manufacturing, or commercial purposes.

**57.04.160. Mayor.**

“Mayor” means the mayor of the city.

**57.04.170. Mean High Tide.**

“Mean high tide” means, for any place subject to tidal influence, the tidal datum plane derived from averaging all the high waters observed at that place over a period of nineteen years. Mean high water line means the intersection of the datum plane of mean high tide with the shore.

**57.04.180. Mean Low Tide.**

“Mean low tide” means the mean lower low water, which is the mean of the lower of the two low waters of each day for a tidal cycle of nineteen years.

**57.04.190. Occupied or Developed.**

“Occupied or developed” means the actual use, control, and occupancy, but not necessarily residence, of the tideland or submerged land by the establishment thereon of substantial permanent improvements.

**57.04.200. Ordinance.**

“Ordinance” means the Kake Lands and Tidelands Ordinance, as codified in Title 57 of the Kake Code of Ordinances.

**57.04.210. Recreations Lands.**

“Recreation lands” means the tidelands chiefly valuable for public recreation use, including scenic overlooks.

**57.04.220. Person.**

“Person” means any person, firm, corporation, cooperative, association, partnership, or other entity legally capable of owning land or any interest therein.

**57.04.230. Preference Right.**

“Preference right” means the right of an upland owner to meet or exceed the amount of the highest bid or offer tendered by a non-upland owner for the lease or purchase of a tract of tideland or submerged lands.

**57.04.240. State.**

“State” means the State of Alaska.

**57.04.250. Submerged Lands.**

“Submerged lands” means lands covered by tidal waters between the line of mean low water and seaward to a distance of three geographic miles, in their natural state, without being affected by manmade structures, fill, and so forth.

**57.04.270. Tidelands.**

“Tidelands” means land periodically covered by tidal waters between the elevations of mean high and mean low tides, without regard to artificial interference with tidal flows caused by manmade structures, breakwaters, fill, and the like. It shall also include submerged lands conveyed by the state to the city.

**57.04.280. Upland Owner.**

“Upland owner” means the record owner, or owners if there is more than one, of real property above and adjoining the mean high tide line of a tract of tidelands.

**57.08.010. Acquisition: Power to Acquire.**

The city, by authorization of the council expressed in a resolution for such purpose, may purchase or lease real property needed for a public use on such terms and conditions as the council shall determine, but no such purchase or lease shall be made until the property has been appraised.

**57.08.020. Sale and Lease: Application.**

- (a) Any person, corporation, or other legal entity desiring to purchase, lease, or otherwise acquire title to or possession of real property, the title to which is vested in the city, shall make application in writing in a form to be approved by the mayor.
  - (1) Such application shall state whether the applicant desires to purchase, lease, or acquire other interests in such real property.
  - (2) The applicant may be required to state the nature, extent, size, and general specifications of improvements which the applicant intends to construct upon the land and the time within which such improvements will be completed if the application is granted.
  - (3) The applicant may also be required to furnish site plans with the application.
- (b) All applications filed shall be forwarded to the mayor or other designated official to determine an estimate of costs required to handle the application, including but no limited to one or more of the following: title report, survey, independent appraisal, legal fees, and advertising of the proposed sale or lease under application.
- (c) Upon determination of the estimated costs, said official shall notify the applicant in writing of such costs and a deposit thereof must be made within thirty calendar days after said notice is mailed. Failure of the applicant to pay the deposit shall result in the application being cancelled.
- (d) The applicant shall be required to pay any excess of costs over deposits and where the deposit exceeds actual costs, the excess balance, if any, shall be returned to the applicant.
- (e) All title research, surveying, appraisal, and advertising shall be performed only under the control of the city and work done without such control will not be acceptable by the city.
- (f) The filing of an application shall give the applicant no right to purchase or lease the land applied for.

**57.08.030. Land Use Classification Required.**

No application shall be accepted unless the property involved shall have first been zoned and classified as available for sale or lease. No sale or lease shall be granted except for the particular use for which the tract is zoned.

**57.08.040. Independent Appraisal.**

- (a) No property, the title to which is vested in the city, shall be sold, leased, or otherwise conveyed unless the property has been appraised at fair market value by a competent independent appraiser within twelve months prior to the date of the application.
- (b) In the event that an independent appraisal has not been made within twelve months prior to the date of the application, the mayor shall cause the property to be appraised upon receipt of a deposit for the costs of the application.
- (c) The appraisal report together with the application and other relevant recommendations pertaining thereto shall be transmitted to the council for a determination of terms and conditions subject to procedures described in this title.

**57.08.050. Property Dedicated to Public Use.**

If the property described in the application is dedicated to a public use, the mayor shall cause a resolution to be prepared which, if adopted, would indicate the council's consent to the proposal. Such resolution shall be introduced at a meeting of the council and shall remain on file for not less than thirty days before said resolution is submitted to a vote of the council.

**57.08.051. Title to Vacated Area.**

- (a) The title to the street or other public area vacated on a plat shall be attached to the lot or lands bordering on the area in equal proportions unless the owner(s) of the record of land fronting the area waive the rights of title to the area which would be vacated.
- (b) Fair market value of the street or public area to be vacated shall be determined as provided in Sec. 57.08.010 of this chapter and paid to the city on final vacation, unless the council by its own motion approves other terms or conditions.

**57.08.060. Procedures for Approval of an Application.**

- (a) Property valued more than \$100,000. The application for the sale or lease of property of appraised value greater than one hundred thousand dollars shall be submitted to the electors of the city for ratification and, upon approval of a majority of those voting on the ratification and, upon approval of a majority of those voting on the question, the council shall approve the sale or lease on terms and conditions contained in the application. All cost of the election shall be borne by the applicant, unless the council by its own motion indicates that the costs shall be borne by the city.
- (b) Property valued more than \$25,000. The sale, lease, or other disposition of real property of appraised value of twenty-five thousand dollars or more shall be by ordinance. The ordinance shall incorporate the contract of sale by reference. No sale, lease, or other disposition of real property may be authorized by the council unless the council first determines that the property is not required for municipal purposes. The ordinance shall contain an authorization for the appropriate officers of the city to execute all deeds, leases, agreements, or other documents required to complete the transaction upon execution and compliance with the contract documents.

- (c) Property valued less than \$25,000. The sale, lease, or other disposition of real property of appraised value less than twenty-five thousand dollars shall be authorized by a resolution of the council in substantially the following form:

RESOLUTION NO. \_\_\_\_\_

The City Council of the City of Kake, Alaska hereby authorizes the sale (lease) of real property, the title of which is vested in the city and more particularly described as:

\_\_\_\_\_  
(*Legal Description*)

The sum of \$ \_\_\_\_\_ is the appraised value of the property.

The terms or conditions of the sale (lease) are as follows:

\_\_\_\_\_  
\_\_\_\_\_

The mayor and city clerk are hereby authorized and directed to execute a deed (lease) to:

\_\_\_\_\_  
(*Buyer or Lessee*)

upon execution and compliance with all terms and conditions of this Resolution.

PASSED and APPROVED by the City Council of the City of Kake, Alaska this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**57.08.070. Public Auction.**

Any sale of lease of property shall be offered at public auction unless the council specifically approves a motion to allow an exemption to an auction. When property is sold or leased at a public auction, the following procedures shall apply.

- (a) The minimum accepted bid shall be determined by the council after the review of an independent appraisal of fair market value.
- (b) Property owners adjacent to the property to be auctioned shall be notified of the sale by certified mail.
- (c) Notice of the auction shall be published once a week for two consecutive weeks in a newspaper of general circulation in the judicial district.

- (d) At the completion of the auction, the high bidder shall pay to the city an earnest money deposit equal to five percent of the bid together with any costs of survey, appraisal, advertising, and other expenses incidental to the conveyance.
- (e) All lands not sold at public auction shall be sold on a first-come, first-served basis using the application procedures described in Sec. 57.08.020.

**57.08.080. Earnest Money Deposit.**

Five percent of the purchase price shall be deposited with the city for each lot or parcel of land within two working days after the approval of an application by the city council. Said earnest money deposit shall be applied toward the purchase price and the balance of the purchase price shall be due and payable within one hundred and eighty days. If the applicant fails to make the payment in full at the end of one hundred and eighty days, the earnest money deposit shall be forfeited to the city unless an extension is authorized by a formal motion and approval by the council.

**57.08.085. Sale of Forfeited Lots.**

- (a) In the event the high bidder on a parcel sold at auction defaults, the parcel shall become available for over-the-counter sale for an amount equal to the high bid offered at the auction at which the parcel was first sold.
- (b) Costs paid by the defaulting bidder for appraisal shall be refunded if the parcel is sold within one year of the date of the appraisal.
- (c) Costs paid by the defaulting bidder for survey of the parcel shall be refunded upon resale of the parcel.
- (d) Costs paid by the defaulting bidder for advertising shall not be refunded.
- (e) All costs for survey, appraisal, and advertising shall be borne by the purchaser for the forfeited lot pursuant to subsections (a), (b), and (c) of this section.
- (f) The city reserves the right to offer any forfeited lot at public auction at any time.

**57.08.090. Construction as a Condition of Sale or Lease.**

- (a) The city council may require the construction of certain improvements within a specified period of time as a condition of the conveyance of any city-owned property by sale, lease, or other disposition.
- (b) Whenever the council determines that construction shall be required as a condition of the conveyance, the terms and conditions shall be incorporated in the contract of sale or lease agreement.

**57.08.095. Issuance of Deeds.**

Deeds for real property sold by the city will be issued to the purchaser upon receipt of full payment for the real property and compliance with all terms and conditions of the conveyance.

**57.08.100. Sale of Tidelands: Policy.**

The policy of outright disposal by sale of tide and submerged lands is not favored; the orderly development of the city with due consideration toward ocean resource harvesting, municipal revenue, and public recreation would indicate a strong preference toward tidelands leasing.

**57.08.110. Sale of Tidelands: Procedure.**

- (a) In isolated and necessary instances, the council may, in a the manner provided for the sale of other real property owned by the city, sell tracts of tide and submerged lands which are not devoted to public use.
- (b) No such sale shall occur except upon public hearing, thirty days' notice of which shall be given by three successive weekly publications in a nearby newspaper, the cost of which shall be borne by the applicant.
- (c) At the hearing, the applicant must clearly demonstrate the benefits of sale of the subject tidelands tract that could not be realized through leasing; a determination by the council adverse to the applicant may not be appealed unless clearly erroneous.
- (d) An applicant for purchase of tidelands must conclusively demonstrate that outright sale of the nominated tideland tract, as contrasted with lease of such tract, is in the city's best interests. The city reserves the right to refuse sale of any tidelands tracts, regardless of sufficiency of proof.

**57.08.120. Sale of Tidelands: Conditions.**

- (a) Any sales of tide and submerged lands shall not be made for a consideration less than the appraised value of such lands.
- (b) The upland owner of the subject tidelands tract shall be accorded the same purchase preference in the form of right to meet high bid as more fully described in Chapter 16.20 (is this the right reference????)

**57.08.130. Permits for Tideland Use.**

The council may authorize the clerk to grant permits to applicants and to issue such applicants permits for the temporary use of tidelands and/or submerged lands for a period not to exceed five years, without appraisal of the value of the land or public auction of the permit, for any purpose compatible with the land use classification of such lands, and on such terms and for such rentals as the council shall determine.

**57.12.010. State Conveyance Approved and Accepted.**

The conveyance by the state to the city of tidelands and submerged lands lying seaward of the city is approved and accepted.

**57.12.020. Subdivision Plat Approved and Adopted.**

The tidelands subdivision plat, otherwise referred to in this chapter as “plat” is approved and adopted as the official tidelands subdivision plat of the tidelands and submerged lands conveyed by the state to the city.

**57.12.030. Plat to be Retained at City Hall.**

The plat shall be retained in the clerk’s office at the Kake City Hall and made available for public inspection at reasonable hours.

**57.12.040. Unlawful Use or Removal of Tideland Materials.**

Any person, firm, or corporation, who, without written authority from the city, removes rock, gravel, or other materials from the tidelands and submerged lands conveyed by the state to the city shall be guilty of a misdemeanor. No deed or lease granted by the city to any person, firm, or corporation shall contain terms or be construed as granting any right to remove materials from city tidelands and submerged lands nor to use any such material removed from such tidelands and submerged lands.

**57.16.010. Lands Available for Leasing.**

- (a) All tidelands and submerged lands within the limits of the city to which the city holds title and which the council has classified for leasing may be leased as provided in this chapter for surface use only.
- (b) A tract of tideland and submerged land shall not exceed the width of the upland real property adjoining the mean high tide line.
- (c) A particular tract may be offered for lease by the city upon its own motion or may be nominated for lease by an application which must demonstrate:
  - (1) the strong likelihood that the nominated parcel is not subject to a valid tideland preference right claim being asserted;
  - (2) the proposed use of the nominated tract is beneficial use in terms of highest and best use; and
  - (3) that it is in the city's interest to lease the nominated tract of tidelands or submerged lands.

**57.16.020. Applications: Filing.**

- (a) All applications for lease of tidelands shall be filed with the clerk on forms provided by him.
- (b) Only forms completed in full and accompanied by a ten-dollar filing fee will be accepted for filing. Filing fees are not refundable.
- (c) With every application, the applicant shall submit a development plan showing and stating:
  - (1) the purpose of the proposed lease;
  - (2) the use, value, and nature of improvements to be constructed;
  - (3) the type of construction;
  - (4) the dates construction is estimated to commence and be completed; and
  - (5) whether the intended use complies with the zoning ordinance and comprehensive plan of the city.

**57.16.030. Applications: Grounds for Rejection by Mayor.**

The mayor may reject an application nominating a tidelands tract for lease based upon inadequate justification as required by Sec. 57.16.010 and for insufficient development plan as required by Sec. 27.16.020, in which case the filing fee shall not be refunded.

**57.16.040. Applications: Appeal to Council.**

- (a) An applicant may appeal the mayor's decision to the council. At a public hearing with at least fifteen days' public notice thereof posted in advance, the council shall review the action taken by the mayor, take whatever additional testimony and evidence it deems appropriate, and render a decision by motion.
- (b) Denial is appealable to the courts by the applicant.

- (d) Granting of applicant's application shall merely constitute initial acceptance; it shall not preclude subsequent imposition of additional terms and conditions by the mayor and council or amendment to the terms proposed.

**57.16.050. Applications: Deposits for Costs.**

- (a) All applications filed with the clerk will be forwarded to this mayor or other designated official to determine his estimate of 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 are under application.
- (b) Upon determination of the estimated costs, said official shall notify applicant in writing of such costs and a deposit thereof must be made within thirty calendar days after said notice is mailed. Failure of applicant to pay the deposit shall result in the application being cancelled.
- (c) If the applicant does not accept, 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.
- (d) If the land applied for, and upon which deposit for costs is made, 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.
- (e) 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.
- (f) All survey, appraisal, and advertising shall be performed only under the control of the city and any such done without such control will not be accepted by the city.

**57.16.060. No Rights Prior to Leasing.**

The filing of an application for lease shall give the applicant no right to a lease or to the use of the land applied for. Any use not authorized by a lease shall constitute a trespass against the city.

**57.16.070. Land Use Classification Prior to Lease Required.**

Before accepting applications to lease tidelands, the area involved shall have first been classified for leasing and for particular land uses and a land use plan of the area prepared and publicly posted in the office of the clerk for a period of not less than ten calendar days. The land use plan shall be prepared and approved by the council prior to posting. No lease shall be granted except for the particular use for which the tract is classified.

**57.16.080. Leases for Public Use.**

The lease of any city tidelands may be made to any state or federal agency or political subdivision of the state for less than the appraised value and for a consideration to be determined by the council to be in the best interest of the city.

**57.16.090. Review.**

The classification of a tract of leased land may be changed only by the council on application of the lessee. No renewal lease may be issued until the proposed renewal has been reviewed and approved by the council.

**57.16.100. Term.**

Leases may be issued for a term of not less than five nor more than fifty-five years. The applicant shall state in his application the term desired. In determining whether to grant a lease for the request 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 thereon, the value of the applicant's proposed use to the economy of the city, and other relevant factors. The council may amend the term of lease to a point in time longer or shorter than proposed by the applicant, who may decline to accept the lease, with the deposit to be treated as recited in this Title.

**57.16.110. Appraisal.**

- (a) No tidelands shall be leased, or a renewal lease issued therefor, unless the same has been appraised within six months prior to the date fixed for beginning of the term of the lease of renewal lease. No land shall be leased for an annual rent less than six percent of the appraised value of the land and any improvements thereon owned by the city.
- (b) Upon initial acceptance of the nominating application for a lease of a parcel of classified tidelands and the deposit of the costs estimated by the mayor, the mayor shall cause the tract and any improvements thereon owned by the city to be appraised at their fair market value.
- (c) The appraisal shall be transmitted by the mayor to the council, which shall review the same and determine the appraised value of the tract and improvements thereon owned by the city. Facilities for supplying utility services shall not be considered as such improvements.

**57.16.120. Determination and Notice of Rental.**

- (a) The council shall determine the annual rental at not less than six percent of the appraised value and shall determine any limitations, reservations, requirements, or special conditions to be included in the lease.
- (b) The applicant shall be notified of the amount of the minimum annual rental and the value of improvements required to be constructed thereon.

**57.16.130. Payment of Annual Rentals.**

- (a) Unless the lease specified otherwise, annual rentals of two hundred fifty dollars and less shall be paid annually in advance.
- (b) Unless the lease specified otherwise, annual rentals of an amount between two hundred fifty-one dollars and five hundred dollars shall be paid in two equal installments every six months.
- (c) Unless the lease specified otherwise, annual rentals of an amount between five hundred one dollars and one thousand dollars shall be paid in advance every calendar quarter.

- (d) Unless the lease specified otherwise, annual rentals exceeding one thousand dollars shall be paid in advance each calendar month.

**57.16.140. Leases to Require Improvements.**

Each shall contain a requirement that the lessee construct improvements suitable for the use for which the land is classified of a specified minimum value within one year from the date of the lease.

**57.16.150. Uplands Owners' Preference Rights.**

All uplands owners of tidelands and submerged lands for which lease application is submitted, whether submitted by the uplands owner or owners of a non-upland owner, shall be entitled to a preference right in the form of the right to meet or exceed the highest bid or offer tendered by another person for the lease of the tide and/or submerged lands. This preference right shall apply to leases of land with an initial annual minimum rental of less than one hundred dollars as well as to leases of land of such value as to be offered at public auction.

**57.16.160. Public Notice.**

Public notice of lease of land is required to be given under the provisions of this chapter. Thirty days' notice shall be given by publishing notice thereof in three public places for three weeks prior to final action of public auction. The notice must contain a brief description of the land, its area and general location, proposed use, term, computed annual minimum rental, limitations if any, and time and place set for the lease auction, if auction is required, together with the name or names of the record owner or owners of the adjacent upland.

**57.16.170. Public Auction.**

- (a) All leases shall be offered at public auction. All public auctions of tidelands in the city shall be held in the council chambers at City Hall by the mayor or, in his absence, the clerk.
- (b) At the completion of the auction of each tract of land, said official shall indicate the apparent high bidder. The apparent high bidder shall thereupon deposit with said official the portion of the annual rental then due, together with the unpaid costs of survey, appraisal, and advertising. All payments must be made in cash, money order, check, or cashier's check, or any combination thereof, within one hour.

**57.16.180. Invocation of Uplands Owners' Preference Right.**

Upon receipt of the bid submitted by the apparent high bidder, the official conducting the auction shall thereupon inquire of the person or persons entitled to a preference right if they wish to meet or exceed the apparent high bid. The uplands owner or owners shall exercise his preference right and indicate the amount of his bid at that time, or forever waive his preference right to the subject parcel. Thereafter, the official conducting the auction shall demand payment and issue to the successful bidder a receipt of the required sum.

**57.16.190. Appeal of Bid Award.**

An aggrieved bidder may appeal the determination of the apparent high bidder to the council within five days, excluding Saturday and Sunday, following such determination. Such appeals

must be in writing and contain a short statement of the grounds for appeal and rule thereon. The council's decision shall be final, but without prejudice to any other right or rights the aggrieved bidder may have.

**57.16.200. Completion of Bid Requirement.**

Following the appeal period of the council's ruling, the clerk shall notify the successful bidder that the city is prepared to issue an appropriate lease. The bidder shall be given fifteen calendar days from date of mailing the notice in which to remit to the clerk any bid balance or any other sums that may be due, and sign the lease. Failure to do so shall result in forfeiture of any and all rights previously acquired in the proposed lease and, in addition, any moneys paid or deposited with the city shall be forfeited.

**57.16.210. Issuance.**

After expiration of the five-day appeal period provided in Sec. 27.16.190 or after the ruling on the appeal to the council, the clerk shall execute a lease containing such terms as the council, by its determination, shall establish.

**57.16.220. Document to Include Council's Conditions and Limitations.**

All leases shall be issued on standard forms approved by the council, but shall contain such limitations, reservations, requirements, or special conditions as the council has determined, including requirements for improvements of a specified value to be constructed or located on the land within one year from the date of the lease.

**57.16.230. Responsibility to Properly Place Improvements.**

It shall be the responsibility of the lessee to properly locate his improvements on the leased land within such one-year period. It is unlawful to encroach on other lands of the city or on lands owned or leased by another and violation shall constitute a misdemeanor.

**57.16.240. Utilization.**

Leased tidelands shall be utilized for purposes within the scope of the land use classification, the terms of the lease, and in conformity with the ordinances of the city, including any zoning ordinance. Utilization or development for other than the allowed uses shall constitute a violation of the lease and subject the lease to cancellation at any time. The terms of this chapter are made a part of all leases and any violation thereof shall be grounds for cancellation of any leases.

**57.16.250. Adjustment of Rental.**

The annual rental payable pursuant to any lease issued under the provisions of this chapter shall be subject to adjustment by the council on the fiftieth anniversary of the date of the lease and each anniversary date thereafter which is divisible by the number five. All adjusted rates shall be computed at not less than six percent of the fair market value of the land and improvements owned by the city and leased thereunder. Such value shall be determined by an appraisal made by the mayor and reviewed and determined by the council as provided in this Title.

**57.16.260. Subleasing Permitted with Council Approval.**

Any lessee may sublease lands or any part thereof leased to him under this chapter, provided that the proposed lessee first obtains the approval of the council to such sublease. Subleases shall be in writing and be subject to the terms and conditions of the original lease. A copy of the sublease shall be filed with the clerk.

**57.16.270. Assignments Permitted with Council Approval.**

Any lessee may assign the lease issued to him, provided that the proposed assignment shall be first approved by the council. The assignee shall be subject to all provisions of the lease and the assignor shall not be relieved of his obligations thereunder.

**57.16.280. Modification.**

No lease may be modified orally or in any manner other than by an agreement in writing signed by all parties in interest or their successors in interest.

**57.16.290. Cancellation.**

- (a) Leases in good standing may be cancelled in whole or in part, at any time, upon mutual written agreement by lessee and the council.
- (b) Any lease of lands used for an unlawful purpose may be terminated by the council.

**57.16.300. Forfeiture for Default.**

If the lessee defaults in the performance or observance of any of the lease terms, covenants, or stipulations, or the terms of this chapter, or any of the ordinances of the city, and the default continues for thirty calendar days after service of written notice by the city on lessee, without remedy by lessee of the default, the council shall take such action as is necessary to protect the rights and best interest of the city, including the exercise of any or all rights after default permitted by the lease. No improvements may be removed by lessee or any other person during any time the lessee is in default.

**57.16.310. Delivery of Notices or Demands.**

- (a) Any notice or demand, which under the terms of a lease or under any statute must be given or made by the parties thereto, 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 by so given, made, or mailed.
- (b) A notice given under this chapter shall be deemed delivered when deposited in a United States general or branch post office enclosed in a registered mail or certified mail prepaid wrapper or envelope, addressed as provided in this section.

**57.16.320. Right to Notice of Mortgage or Lienholder.**

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 and every sublessee thereof shall be given a duplicate copy of any notice of default in the same manner as notice is given the lessee, provided such mortgagee or sublessee has given the clerk notice of such mortgage or sublease.

**57.16.330. Entry and Reentry by Lessor.**

- (a) 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 lessor or its agents, servants, or representatives may, immediately or any time thereafter, reenter and resume possession of said lands or such part thereof, and remove all persons and property therefrom, either by summary proceedings or by a suitable action or proceeding at law, without being liable for any damages therefor.
- (b) No reentry by the lessor shall be deemed an acceptance of a surrender of the lease.

**57.16.340. Re-Lease upon Termination.**

In the event that a lease is terminated, the council may offer said lands for lease or other appropriate disposal pursuant to the provisions of this chapter.

**57.16.350. Forfeiture of Rental upon Termination.**

In the event that the lease should be terminated because of any breach by the lessee, as provided in this chapter, the annual rental payment last made by the lessee shall be forfeited and retained by the lessor.

**57.16.360. Only Written Agreement May Change Term and Provisions.**

- (a) The receipt of rent by the lessor 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.
- (b) No failure on the part of the lessor to enforce any covenant or provision therein contained, nor any waiver of any right thereunder by the lessor, unless in writing, shall discharge or invalidate such covenants or provisions or affect the right of the lessor to enforce the same in the event of any subsequent breach or default.
- (c) The receipt by the lessor of any rent or any other sum or money after the termination, in any manner, of the term demised, or after the giving by the lessor 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 efficacy of, any such notice or termination as may have been given thereunder by the lessor 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 lessor.

**57.16.370. Surrender of Land upon Expiration.**

Unless the lease is renewed or sooner terminated as provided in this chapter, 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.

**57.16.380. Conditions of Renewal.**

- (a) 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 that:

- (1) the lessee is not in default under the lease;
  - (2) the use to which the land is to be put is compatible with the current use classification and zoning provisions of the city ordinances on that subject; and
  - (3) mutually agreeable terms are negotiated by the council and the prospective lessee.
- (b) Such lease shall be for an annual rental equal to the percentage of the appraised value of the land which is then being charged for new leases, and shall be subject to adjustment on every fifth anniversary.

**57.16.390. Removal or Reversion of Improvements upon Termination.**

- (a) Improvements owned by a lessee may, within sixty calendar days after the termination of the lease, be removed by him, provided that the council may extend the time for removing such improvements in cases where hardship is proved. The retiring lessee may, with the consent of the council, sell his improvements to the succeeding lessee. All periods of time granted the lessees to remove improvements are subject to said lessees' payment to the city of pro rata lease rentals for said periods.
- (b) If any improvements and/or chattels are not removed within the time allowed, such improvements and/or chattels shall revert to, and absolute title shall vest in, the city.

**57.16.400. Lawful Sanitation Required, Lessee to Avoid Polluting.**

The lessee shall comply with all ordinances of the city which are promulgated for the promotion of sanitation. The premises of the lease shall be kept in a neat, clean, and sanitary condition and every effort shall be made to prevent the pollution of the waters.

**57.16.410. Compliance with Building and Zoning Codes Required.**

Leased lands shall be utilized only in accordance with the building and zoning ordinances and rules and regulations thereunder. Failure to do so shall constitute a violation of the lease.

**57.16.420. Compliance with Fire Protection Standards Required.**

The lessee will take all reasonable precaution to comply with all laws, regulations, and rules promulgated by the city for fire protection within the area wherein the leased premises are located.

**57.16.430. City's Right of Inspection.**

The lessee shall allow an authorized representative of the city to enter the leased land at any reasonable time for the purpose of inspecting the land and improvements thereon.

**57.16.440. Personal Use of Minerals and Deposits.**

All coal, oil, gas, and other minerals and all deposits of stone, earth, or gravel valuable for extraction or utilization are reserved by lessor and shall not be removed from the land. 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 sued if its use is first approved by the council.

**57.16.450. Provisions are to Protect Public Interest.**

The lease shall contain such restrictions and reservations as are necessary to protect the public interest.

**57.16.460. Sale of Certain Tide and Submerged Lands.**

The council may, in the manner provided for the sale of real property owned by the city, sell tracts of tide and submerged lands which are not devoted to public use. Such sales of tide and submerged lands shall not be made for a consideration less than the appraised value of such lands.

**57.16.470. Lease for Erosion Control.**

- (a) In instances where the city council has determined that the tideland is necessary for use to control erosion to the upland property, and has classified the tideland for lease, the city council may waive the provisions set for in Sec. 57.16.110, 57.16.120, and 57.16.140.
- (b) All state and federal approvals must be obtained by the lessee before the lease is granted. The annual lease rent for these tidelands shall be fifty dollars annually and shall be the deposit for costs as described in Sec. 57.16.050. The ten dollar filing fee required in Sec. 57.16.020 shall be part of the annual fee for the first year of the lease.
- (c) Only structures designed to stop wave and tidal action from eroding the shoreline may be constructed on tidelands leased under these provisions.

**57.20.010. Established.**

From and after the passage of the ordinance codified in this chapter, the municipal cemetery new owned and operated by the city shall be known as the Kake Memorial Cemetery and shall be available, subject to the provisions of this chapter, to all persons, irrespective of race, creed, or color.

**57.20.020. Employment and Duties of Caretaker.**

In order to carry out the purpose of this chapter, there may be employed a caretaker who shall be under the supervision of the mayor. Subject to such supervision, the caretaker shall be in charge of the cemetery and shall perform the duties of superintendent and sexton thereof.

**57.20.030. Powers of Caretaker.**

The caretaker is empowered to enforce all cemetery rules and regulations and to exclude from the cemetery any person or persons violating them. Subject to the supervision of the mayor, the caretaker shall have full control of the cemetery and the opening and closing of all graves.

**57.20.040. Plot Ownership and Burial Records.**

The caretaker shall keep record books in which he shall record the names of owners of each plot owned or sold, the names of persons interred therein, the date of the death and burial of each person, and such other statistics as may be required by the mayor and the laws of the state for a complete report of all deaths, burials, or disinterments, and of the status of each plot.

**57.20.050. Application required for Burial or Disinternment.**

No burial or disinternment shall be permitted within the cemetery unless application to the clerk is made therefor containing the name of the person to be buried or disinterred, the cause of death, the name of the owner of the plot or grave, and such other information as may be required.

**57.20.060. Mayor May Make Rules and Regulations.**

The mayor is authorized to make rules and regulations governing the operation and maintenance of the cemetery. Such rules and regulations shall not be effective until filed with the clerk.

**57.20.070. Opening Graves.**

- (a) All graves shall be opened and closed by city employees and a charge shall be made and collected by the city from any person requesting the opening and closing of a grave.
- (b) The fee for each opening and closing of a grave shall be one hundred fifty dollars for an adult grave and seventy-five dollars for the grave of a child under six years of age, except that if any part of the work is done on a holiday, Saturday, or Sunday, the charge shall be two hundred dollars for an adult grave and one hundred dollars for the grave of a child under six years of age.

- (c) The funeral director or person in charge shall notify the caretaker when graves are to be opened and shall give the date and time graveside services will be conducted. The caretaker shall be notified not less than forty-eight hours in advance of any service.

**57.20.080. Burial Permits Required.**

It shall be the funeral director's responsibility to deliver a burial permit to the caretaker for each burial. Permits must be delivered on the same date as the burial thereunder and must accompany the body when it enters the cemetery.

**57.20.090. Markers Restricted.**

Markers shall be standardized as to design and materials and there shall be no other structures of any type installed within the cemetery grounds.

**57.20.100. Price: Adult Plots.**

Adult plots or grave spaces may be purchased from and after the passage of the ordinance codified in this chapter at the following price, which includes perpetual care thereof to-wit: each adult plot is two hundred dollars with plots and grave spaces to be paid in full at time of purchase.

**57.20.110. Price: Infant Plots.**

There shall be reserved certain plots or areas or fractional graves for the burial of infants under six years of age at a cost of one hundred dollars per grave space, including perpetual care.

**57.20.120. Price: Payment in Full Required.**

The price of plots and grave spaces is to be paid in full at time of purchase.

**57.20.130. Sale or transfer of Plots Permitted, Report Required.**

The owners of any cemetery plots may dispose of the unused portions thereof to any person, subject to the rules and regulations of this chapter. Such sale or transfer must be reported to the caretaker and the clerk and must be in writing with the owner's signature attached.

**57.20.140. Paupers' Graves.**

A certain section of the cemetery shall be reserved and made available for the burial of persons whose relatives or friends are unable to purchase plots or grave space and where they may be buried without the cost of the plot or grave space, but no such burial shall be made without first having made application to the clerk for a permit. Such burials shall be subject to the rules and regulations made and provided for in such cases.

**57.20.150. Special Arrangements Permitted.**

Owners of plots and graves may arrange with the caretaker in charge for any special care desired other than uniform care as is provided by the city.

**57.24.010. Eminent Domain.**

The city may exercise the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the municipality in accordance with AS 09.55.250 – 460. The council may not exercise the power of eminent domain or declaration of taking without the formal approval of the Department of Commerce, Community, and Economic Development. The exercise of the power of eminent domain or declaration of take shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or special election called for that purpose. A majority of the qualified voters voting on the question is required for approval of the ordinance.

**57.28.010. Title by Prescription.**

The city cannot be divest of title by prescription or be divested of property rights by adverse possession. Any failure on the part of the city to object to any encroachment upon its property shall not confer title on anyone other than the City of Kake.

**57.32.010. Purchasing Agent.**

- (a) There shall be a purchasing agent of the city to make all purchases of supplies, materials, equipment, and contractual services for the offices, departments, and agencies of the city government.
- (b) The mayor or his designee shall be the city purchasing agent.

**57.32.020. Purchasing Agent: Scope of Authority.**

- (a) The purchasing agent shall have the power and it shall be his duty to purchase or contract for supplies and contractual services needed by any using agency of the city and sell surplus personal property of such using agencies, in accordance with the ordinances of the city and such rules and regulations as shall be prescribed by the mayor and approved by the council.
- (b) The purchasing agent shall have the authority to join with other units of governments in cooperative purchasing ventures when the best interest of the city would be served thereby, and same is in accordance with the city and state law.

**57.32.030. Purchasing Agent: Other Powers and Duties.**

- (a) Minimum expenditure. The purchasing agent shall act to procure for the city the highest quality in supplies and contractual services at least expense to the city.
- (b) Rules and regulations. The purchasing agent shall keep informed of current developments in the field of purchasing, prices, market conditions, and new products, and secure for the city the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition, and by private businesses and organizations.
- (c) Forms. The purchasing agent shall prescribe and maintain such forms as he shall find reasonably necessary.
- (d) Tax exemptions. The purchasing agent shall act so as to procure for the city all state and federal tax exemptions to which it is entitled.

**57.32.040. Inspection and Testing.**

- (a) The purchasing agent shall 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) Inspection by using agency. The purchasing agent shall have the authority to authorize using agencies having the staff and faculties for adequate inspection to inspect all deliveries made to such using agencies under rules and regulations which the agent shall prescribe.
- (c) Tests. The purchasing agent shall have the authority to require chemical and physical test of samples submitted with bids and samples of deliveries which are necessary to determine their

quality and conformance with specifications. In the performance of such tests, the purchasing agent shall have the authority to make use of laboratory facilities of any agency of the city government or of any outside laboratory.

**57.32.050. Authority of Mayor.**

- (a) The mayor may authorize any department, office, or agency of the city to purchase directly certain specified supplies, materials, equipment, or contractual services under conditions not less restrictive than those prescribed under this chapter whenever the purchase price is fifty dollars or less.
- (b) The mayor may transfer supplies, material, and equipment to or between agencies, offices, and departments.

**57.32.060. Public Improvement Contracts.**

Contracts for public improvements shall be by competitive sealed bid and be awarded to the lowest qualified bidder.

**57.32.070. When Prior Approval by the Council is Required.**

Every contract for, or purchase of, supplies, materials, equipment, or contractual services for more than two thousand dollars shall require the prior approval of the council; under not circumstances may such contract or purchase be made without first obtaining the approval of the council.

**57.32.080. Requisitions and Estimates.**

- (a) All agencies of the city which use supplies shall, either by or with the authorization of the department head under which the using agency operates, file with the purchasing agent requisitions or estimates of their requirements in supplies and contractual services in such manner, at such times, and for such future periods as the purchasing agent shall prescribe.
- (b) Unforeseen requirements. A using agency shall not be prevented from filing in the same manner with the purchasing agent at any time a requisition or estimate for any supplies an contractual services, the need for which was not foreseen when the detailed estimates were filed.
- (c) Revisory power in agent. The purchasing agent shall examine each acquisition or estimate and shall have the authority to recommend revisions as to quantity, quality, or estimated cost.

**57.32.090. Contracts Over Two Thousand Dollars.**

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

**57.32.100. Bids, Notice Inviting.**

- (a) Newspaper. Notice inviting competitive sealed bids shall be published once in a newspaper of general circulation published in the judicial district and by posting in three separate places in the city at least fourteen days preceding the last day set for the receipt of bids. The notice required

herein shall include a general description of the work, materials, or service, shall 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 for opening bids. Bid deposits, if required, shall be prescribed in the public notice inviting bids.

- (b) Bidders' List. The city shall also invite sealed bids from all responsible prospective contractors who have requested their names be added to a "bidders' 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 shall 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.

**57.32.110. Change s and Addenda in Contract Documents.**

No official or officer, and the bid documents shall so state, shall make any oral interpretations which may affect the substance of the contract documents, nor shall make any oral change in the contract documents. Addenda shall be issued when questions arise which might affect the bids. The purchasing agent shall be certain that all bidders receive the addenda which should be delivered by certified mail (receipt requested), telegraph, or hand. When delivered by hand, receipt of the addenda should be obtained. When an addendum is issued less than four working days before the time for receipt of bids, the addendum shall contain a new bid date which shall be at least four working days after the normal receipt of the addendum by the prospective bidder. Receipt of addenda should be acknowledged as part of the bid submitted.

**57.32.120. Pre-Bid Conference.**

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

**57.32.130. Bids: Opening Procedure.**

- (a) Submitting. Sealed bids shall be submitted personally or by mail to the officer designated in the notice inviting bids and shall be identified as bids on the envelope.
- (b) Opening. Bids shall be opened in public at the time and place state in the public notices which shall be immediately after the closing time for submission of bids. The time of submission should preferably be on a Tuesday, Wednesday, Thursday, or Friday afternoon. Bids not received by the city prior to the bid opening shall not be opened and considered. Any bidder may review all bids immediately after opening and prior to tabulation or summary.
- (c) tabulation. A tabulation of all bids received shall be forwarded to the council by the purchasing agent with appropriate recommendations for acceptance or rejection of bids. A copy of the tabulation shall be furnished to each bidder.

**57.32.140. Bids: Rejection.**

- (a) Upon receipt of the bids, the city council or its delegate shall 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; and
  - (4) re-advertise the project for bidding, after making substantial changes in the project plans to bring the cost within the limit of the 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 shall be reduced in scope sufficiently to bring the estimate of cost within the funds available.

**57.32.150. Bids: Waiver of Irregularities.**

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

**57.32.160. Award of Contract to Lowest Bidder, Exception.**

- (a) Lowest responsible bidder. Contract shall be awarded to the lowest responsible bidder. In determining the “lowest responsible bidder,” in addition to price, there shall 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 character, integrity, reputation, judgment, experience, and efficiency of the bidder;
  - (4) the quality of performance of previous contracts;
  - (5) the previous and existing compliance by the bidder with laws and ordinances relating to the contract;
  - (6) the sufficiency of the financial resources and ability of the bidder to perform the contract;
  - (7) the number and scope of conditions attached to the bid; and
  - (8) if some bids are approximately equal, some preference may be given to local bidder.
- (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 shall be delivered to the unsuccessful low bidder or bidders and filed with the other papers relating to the transaction. The minutes of the council relating to the matter may be used as the required written statement.

**57.32.170. Exceptions to Competitive Sealed Bidding and Submission of Quotations.**

The restrictions and provisions of this chapter shall 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, and other specialized consultants;
- (2) where calling for bids on a competitive basis is unavailing or 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;

- (5) to placement or insurance coverage;
- (6) when public work is performed by the city with its own employees;
- (7) 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 State where such supplies or services are being provided the other government unit on the basis of formal bids submitted, and where the city contract is on substantially the same terms as those bid, or to contract with or through such other governmental unit so that the benefit of the responsible bid accrues to the city;
- (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) to supplies, materials, equipment, or contractual services purchased from another unit of government at a price deemed below that obtainable from private dealers, including war surplus; or
- (10) to contractual services purchased from a public utility corporation at a price or rate determined by state or other governmental authority.

**57.32.180. Contracts of Fifty Dollars or Less.**

Unless otherwise prohibited by the ordinances of the city, purchases of services, supplies, and equipment where the actual cost is fifty dollars or less may be made on the open market without competitive bidding or quotations.

**57.32.190. Contracts Between Fifty and Two Thousand Dollars.**

- (a) All purchases of supplies and contractual services of a total estimated value of more than fifty dollars and less than two thousand dollars shall be made in the open market without newspaper advertisement and without observing the procedure by this title for formal purchasing or sale procedures.
- (b) Minimum number of bids. All open market purchases or sales shall, whenever possible, be based on at least three competitive bids and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in Sec. 57.36.090 through 57.36.170 of this chapter.
- (c) Invitation of bids. The purchasing agent may solicit either oral or written bids for open market purchases or sales.
- (d) Public record. The purchasing agent shall keep a record of all open market bids submitted in competition thereon and such records shall also be open to public inspection.

**57.32.200. Contracts Between Fifty and Two Thousand Dollars.**

- (a) The city shall purchase policies of insurance by the open market procedures provided in this chapter.
- (b) Open market procedures may not be required for a policy which:

- (1) has an annual premium or charge of less than two hundred fifty dollars;
  - (2) provides liability coverage for a single event;
  - (3) is for property title insurance; or
  - (4) has its premium or charge fixed by state statute.
- (c) Open market procedures may not be required for a change in policy 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 council.

**57.32.210. Subdivision of Specifications Prohibited.**

No project or contract specifications shall be subdivided to avoid the requirements of this title. This provision shall not preclude the use of alternate deductible items.

**57.32.220. Emergency Contracts.**

Whenever, because of any emergency, it is deemed necessary and in the public interest by the mayor to enter into any contract without following the competitive bidding procedures as may be required by this title, he shall authorize such emergency contract if the estimated sum involved is less than two thousand dollars. If the estimated contract sum involved is greater than two thousand dollars, the mayor shall refer any proposed emergency contract to the council for its approval and authorization to waive the competitive bid procedures.

**57.32.230. Encumbrance of Funds.**

Except in cases of emergency declared by the mayor of the council as provided in this chapter, no contract or any change order to an existing contract shall 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.

**57.34.010. Disposal of Personal Property Under One Thousand Dollars.**

- (a) Personal property, other than surplus stock, that is valued at less than one thousand dollars may be disposed of upon such notice and terms considered reasonable by the purchasing agent, taking into consideration the value of the article, the reason for disposal, and the general preference of disposal by competitive bid. The purchasing agent shall report disposals to the council if so requested.
- (b) Personal property valued at more than one thousand dollars, but less than twenty-five thousand dollars shall be disposed of in the following manner:
  - (1) The personal property subject to disposal will be appraised by a qualified appraiser.
  - (2) The mayor, if he thinks it in the best interests of the city, may recommend to the city council that such pieces of personal property be sold.
  - (3) Such recommendation will include the appraisal of the personal property.
  - (4) After receipt of the recommendation from the mayor, the council may by resolution direct the sale of the personal property under such terms and conditions as it requires.
  - (5) Notice of the proposed sale shall be posted in at least three public places within the city for at least thirty days. In addition, notice of the proposed sale shall be published in a newspaper within the judicial district for two consecutive weeks not less than thirty days before the disposal.
  - (6) Notice may also be given by other means considered reasonable by the mayor or council.
  - (7) The notice must contain a brief description of the property, its dimensions, general location, minimum offer, limitations, if any, and time and place set for the auction or bid opening.
  - (8) The procedure for disposal shall be in a manner provided by resolution of the council.
- (c) Personal property valued at more than twenty-five thousand dollars shall be disposed of in the following manner:
  - (1) The personal property subject to disposal will be appraised by a qualified appraiser.
  - (2) The mayor, if he thinks it is in the best interests of the city, may recommend to the city council that such pieces of personal property be sold.
  - (3) Such recommendation will include the appraisal of the personal property.
  - (4) No disposal of personalty valued at twenty-five thousand dollars and over shall be valid unless the council by ordinance directs sale of the personal property under such terms and conditions as it requires.

- (5) No disposition of personalty valued at twenty-five thousand dollars and over shall be valid unless ratified by a majority of the qualified voters voting at a regular or special election at which the question of the ratification of the above described ordinance is submitted.
- (6) Thirty days notice shall be given of the election and during that period, notice shall be posted in three public places within the city and for two consecutive weeks in a newspaper published in the judicial district. The notice must contain a brief description of the property, its dimensions, general location, minimum offer, limitations, if any, and time and place set for the auction or bid opening.
- (7) The procedure for disposal shall be in a manner provided by ordinance.

**57.34.020. When Competitive Bidding is Not Required for Sale of Surplus or Obsolete Goods.**

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

- (1) surplus or obsolete supplies, materials or equipment whose total value does not exceed one thousand dollars in a single transaction; and
- (2) supplies, materials, or equipment when sold at a price at least as great as that paid by the city for the same.

**57.34.030. Surplus Stock.**

- (a) All using agencies shall submit to the purchasing agent, at such times and in such form as he shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out, or scrapped.
- (b) Transfer. The purchasing agent shall have the authority to transfer surplus stock to other using agencies and provide for proper fiscal transfer of such.
- (c) Sale. The purchasing agent, with approval of council, shall have the authority to sell all supplies or equipment which have become unsuitable for public use, or to exchange the same for or trade in the same on any new supplies or equipment.
- (d) Competitive bidding. Sales of surplus city supplies or equipment appraised at over one thousand dollars under this section shall be made to the highest responsible bidder.
- (e) The city purchasing agent shall conduct the sale and issue the certificates of sale to the purchaser of surplus city supplies or equipment.

**57.34.040. Declaration of Obsolescence.**

No surplus or obsolete supplies, materials, or equipment of a value of more than one thousand dollars may be sold until the council shall have declared them obsolete or surplus.

# TITLE 58. LANDS.

## Chapter 20. Sale of Public Lands.

### **58.20.010. Interpretation.**

For the purpose of this chapter, the terms “sale,” “lease,” and “other disposition” shall be used interchangeable respecting uplands properties. The disposition procedure prescribed in Sec. 58.20.030 shall not apply to sale, exchange, or dealings with the United States, State of Alaska, or other political subdivisions, nor shall such procedure apply to disposals of lands acquired from the State unless the council’s resolution authorizing the sale or other disposal expressly provides. This chapter shall not have application to leasing of tidelands, but tidelands sales are treated in Sec. 58.20.070 of this chapter.

### **58.20.020. Commencement.**

Proceedings commencing disposition shall be initiated by the council or a councilman upon a motion at a meeting, or by an interested third party upon written application to the council submitted to the city clerk prior to council meeting. Such motion, application, or request must identify the property by general or legal description, state the interest to be disposed (sale, lease, or other), and state the reason and purpose of the proposed disposition. The council shall make a determination that it is in the public interest to dispose of the subject property pursuant to the proposed disposition procedure.

### **58.20.030. Disposition Procedure.**

The city clerk shall have the estimated fair market value of the subject property determined by a qualified appraiser of the city assessor. Thereafter, the clerk shall give notice of the sale, lease, or other disposition by publication of said notice by posting in three (3) public places in the city at least 30 days before the date of the sale, lease, or disposition. Said notice shall contain a description of the property and the interest therein which is being disposed, the estimated value of the property, prescribe the qualifications for bidders, declare that the disposition shall be effected through sealed bids, the forms for which may be obtained in advance at the city clerk’s office at the city hall, shall specify the address to which the sealed bids shall be addressed or delivered by the bidders, state the date and hour upon which said bids shall be opened in public, and that sealed bids may be submitted at any time prior to said opening, that the property shall be sold, leased, or disposed to the highest responsible and qualified bidder for cash, or best terms established by the council, and any other terms and conditions fixed by the council.

### **58.20.040. Authorization of Disposition.**

The city clerk shall report the results of the sealed bid sale to the city council after the public opening where after the council shall determine the highest responsible bidder. In the case of a disposition of property valued at less than twenty-five thousand dollars, the council shall adopt a resolution specifying all material terms and conditions of the disposition and authorizing the issuance of an instrument of conveyance by the appropriate city officials. A resolution providing for the disposition of such property shall become effective upon passage. In the case of a disposition of property valued at or sold at twenty-five thousand dollars or more, the council shall adopt an ordinance specifying all material terms and conditions of the disposition and

authorizing the issuance of an instrument of conveyance by the appropriate city officials. An ordinance providing for the disposition of such property shall not be effective unless ratified by public election.

**58.20.050. Ratification by Election.**

No disposition of land valued at or sold at twenty-five thousand dollars or more shall be valid unless ratified by a majority of the qualified voters voting at a regular or special election at which the question of the ratification of the ordinance is submitted. Thirty days notice shall be given of the election and during that period, the council shall have published at least once a week in a newspaper of general circulation distributed within the municipality, a notice stating the time of the election and the place of voting, describing the property to be sold, leased, or disposed of, giving a brief statement of the property to be sold, leased, or disposed of, giving a brief statement of the terms and conditions of the sale and the consideration, if any, and stating the title and date of passage of the ordinance. Notice shall also be given by posting a copy of it in at least three public places in the municipality at least thirty days before the election. If no newspaper of general circulation is distributed within the municipality, the notice given by posting is sufficient for the purposes of this section.

**58.20.060. Construction as Condition of Sale.**

- (a) The council or its agents may require the construction of certain improvements within a specified period of time as a condition to the conveyance of any city-owned real property by sale or other disposition. Whenever the contract of sale, installment agreement, and/or instrument of conveyance recites “construction” or “construction conditions” or similar language or if the notice of sale pertaining or relating to the subject property recites the aforementioned terminology or similar language pertaining to construction requirements, all of the provisions of this section shall be applicable thereto and become incorporated by reference to said transaction as if fully set forth.
- (b) Real property sold or otherwise disposed of by the city with the stipulation that construction requirements or construction as a condition subsequent to vesting shall mean that construction shall occur within two (2) years from the date of sale, however, mobile homes defined as originally wheeled structures to be used for residential, office, or commercial purposes, regardless of whether the wheels may subsequently be removed for location to a foundation or other attachment to the land shall be constructed within a one (1) year period from the date of sale. The date of sale for the purposes of this section shall mean the effective date of the ordinance or resolution authorizing or ratifying the conveyance of the subject property, or the date on which the down payment is received by the city pursuant to terms of payment recited in a contract of sale, installment purchase agreement, lease agreement, or other agreement evidencing the conveyance and requiring initial payment, whichever of the foregoing first occurs.
- (c) “Construction” within the meaning of this section shall require eighty (80) percent completion of a residential or commercial structure. Eighty percent completed is intended to infer greater progress than mere substantial completion. Standard for minimum acceptable completion shall include the following in compliance with applicable building, plumbing, electrical, and fire prevention codes: earthwork site preparation; foundation completion; structural completion of the building, including all exterior walls and the completed roof; installation and connection of electrical, water, and sewer utilities, installation of all plumbing including internal fixtures; and installation of all electrical wiring completed through the point of installing boxes and connections thereto from the primary power source; and installation of all insulation materials.

Completion shall not require installation of the following: finished flooring; dry wall; sheet rock or other interior wall board or ceiling material; installation of internal lighting fixtures, switches, outlets, and box covers; interior walls or partitions not containing plumbing or electrical wiring; paint; drain gutters; nor finished landscaping.

- (d) No extensions of time for construction completion will be granted. In the event of assignment or subsequent conveyance of the initial purchaser or lessee, the original completion requirements shall remain in effect and be binding upon the subsequent grantee or lessee.
- (e) In the event of the acquiring party's failure to strictly comply with the aforementioned completion requirements, the following default provisions shall apply automatically at the expiration of the two-year period without requirements of notice being sent by the City of Kake:
  - (1) In the event there has been no foundation or site preparation work, the contract shall terminate and the real property or interest therein shall revert to the city. The city may require that the defaulting party or parties execute a quitclaim deed to the city conveying all of their interest in the subject property to the City of Kake. The city shall refund to the purchaser of the subject property except the greater of 25 percent of the total purchase price of \$500.00, whichever is greater, which shall be retained by the city, as liquidated damages. In the event of a lease, the city shall retain all sums paid to the date of default as liquidated damages.
  - (2) In the event of default after completion of substantial earth work and site preparation but before installation of a foundation, the contract shall terminate and the real property shall revert to the City of Kake. The city may require the defaulting party or parties to execute a quitclaim deed conveying all of their interest in the subject property to the City of Kake. The city shall refund 25 percent of the total purchase price to the defaulting party or parties and retain all other amounts paid to that date as liquidated damages; in the event of default under a lease, the city shall retain all rental amounts theretofore paid the city as liquidated damages.
  - (3) In the event of default after the foundation is substantially complete, whether the foundation be piling, poured concrete, or other recognized and acceptable foundation material, the defaulting party shall have the option of removing the foundation and restoring the lot to its original condition within thirty (30) days and relinquishing all of his right, title, and interest therein by quitclaim conveyance to the City of Kake, which shall also retain all amounts theretofore paid for the purchase of said property as liquidated damages. A lessee in default shall have the option of terminating the lease and relinquishing the real property and all improvements thereon to the city and forfeiting all rental payments theretofore paid as liquidated damages, or, may retain the property and continue the lease and pay the city the additional amount of \$2,000.00 in liquidated damages within thirty (30) days after the default.
- (f) A quorum of the planning and zoning commission (or the council's designate in the absence of a planning and zoning commission) shall have the duty of inspecting all property subject to the construction conditions at or about the date constituting expiration of the terms for construction completion, and shall determine whether or not there has been compliance with the construction requirements according to the standards hereinabove contained. They shall immediately prepare a report of their findings and submit it promptly to the city clerk who shall take whatever action is appropriate in the circumstances. The commission shall also mail or otherwise forward a copy of the report to the purchaser or lessee of the subject property. An aggrieved party wishing to

challenge or controvert such findings may appeal to the city council by giving and delivering written notice of the determination. Thereafter, the council shall conduct a hearing on the appeal at a special or regular meeting or council within ten (10) days after receipt of notice of appeal. The council may enter its findings at the hearing or may take the matter under advisement and thereafter collectively inspect the subject property, disregarding any work on the building occurring between their inspection, and shall enter its decision within two (2) days after the hearing without necessity for formal reconvention at special or regular meeting.

- (g) In the event of sale to the federal or state government or any agency thereof, a letter of intended compliance signed by the officials executing the sales agreement or filing the application shall be sufficient to satisfy the fee simple conditional construction requirements stated in subsections (a) and (b) preceding if said letter certifies that application for an appropriation of funds has been made. Said letter of intent shall be submitted to the city within eight (8) months of the purchase application date, and failure to timely submit shall strictly invoke the terms of subsections (a) and (b).

**58.20.070. Sale of Tidelands.**

- (a) The policy of outright disposal by sale of tide and submerged lands is not favored; the orderly development of the city with due consideration toward ocean resource harvesting, municipal revenue, and public recreation indicate a strong preference toward tidelands leasing.
- (b) In isolated and necessary instances, the council may, in the manner provided for the sale of other real property owned by the city, sell tract of tide and submerged lands which are not devoted to public use. NO such sale shall occur except upon public hearing, 30 days notice of which shall be given by three successive weekly publications in the local newspaper, the cost of which shall be borne by the applicant. At the hearing, the applicant must clearly demonstrate the benefits of sale of the subject tidelands tract that could not be realized through leasing; a determination by the council adverse to applicant may not be appealed unless clearly erroneous. An applicant for purchase of tidelands must conclusively demonstrate that outright sale of the nominated tideland tract, as contrasted with lease of such tract, is in the City of Kake's best interests. The city reserves the right to refuse sale of any tidelands tracts, regardless of sufficiency of proof.
- (c) Any sales of tide and submerged lands shall not be made for a consideration less than the appraised value of such lands. The upland owner of the subject tidelands tract shall be accorded the same purchase preference in the form of right to meet high bid as more fully described in chapter 40 on tidelands leasing.

**58.20.080. Permits for Five Years or Less.**

The council may authorize the city clerk to grant permits to applicants and to issue such applicants permits for the temporary use of lands for a period of not to exceed five (5) years, without appraisal of the value of the land or public auction of the permit, for any purpose compatible with the land use classification of such lands and on such terms and for such rentals as the council shall determine. The provisions of code Sec. 58.20.020, 58.40.040-.070, 58.40.190-.230, and 58.20.250-.400 shall, insofar as procedurally and substantively practicable, apply and be a part of every such permit. Such permits may, however, be granted or other material from such lands, in which even the rental may be on a yardage basis and code Sec. 58.40.390 shall not apply.

**58.20.090. Disposal by Auction or Lottery.**

- (a) Land disposal shall be by sale at public auction or by lottery unless the council by ordinance authorizes the mayor to negotiate a sale or lease or to otherwise dispose of the land.
- (b) The city lands set out in the "Listing of Public Sale Lands" are classified as sale lands to be sold in accordance with this ordinance at public sale.
- (c) The city shall dispose of public sale lands as follows:
  - (1) The land sale shall be conducted at the earliest practicable time;
  - (2) The city shall dispose of only those parcels to which it has patent or legal right to title;
  - (3) The city will not be liable for the surveying and platting of any properties disposed of to the general public, or for the provision of access to the parcels;
  - (4) That all sales will be made by real estate contract to those person selected by lottery, at the fair market value of the parcel as determined by the city appraiser. The city shall make no representation as to the actual market value of the parcel at the time of sale. All parcels shall be valued on the basis of the estimated acreage of the parcel as shown by the city clerk's records and multiplied by the appropriate "per-acre" valuation set by the assessor or by the appraiser. If a registered land surveyor determines within nine (9) months from the date of sale that the parcel contains less than ninety percent (90%) of the acreage indicated by the city clerk's records, then the purchase price shall be reduced proportionately;
  - (5) That prior to sale of the parcel, the city will reserve rights and easements necessary to provide for public rights-of-way and access as may be authorized by the council (by resolution or by ordinance);
  - (6) That the selected purchaser of any parcel must deposit with the city clerk a down payment equal to ten percent (10%) of the total purchase price of the parcel within 14 days of being notified of his selection. The principal balance shall be paid in 10 equal installments on all balances up to \$25,000.00, inclusive, in 15 equal annual installments on balances of \$25,000.000 to \$40,000.00, inclusive, and in 20 equal annual installments on balances exceeding \$40,000.00. Simple interest at the annual rate of ten percent (10%) will accrue upon the unpaid balance and shall be paid annually.
  - (7) Payment on principal and upon accrued interest shall become due and payable on September 1 of each year, and shall become delinquent after October 1 of the same year. There shall be a five percent (5%) reduction allowed in the sale price for each full year of city residence up to a maximum credit (reduction) of fifty percent (50%).
  - (8) Upon final payment of all sums due under the purchase, a warranty deed will be conveyed by the city to the purchaser. No right shall vest in the purchaser until satisfactory completion of any contract for purchase. In the event of a default for non-payment or for any other reason, the interest of the purchaser shall be forfeited; such forfeiture shall include all improvements made on or upon the subject land.

- (9) All parcels are sold “as is” and the purchaser shall be responsible for visiting the parcel, for inspecting it, and for ascertaining the condition of the site.
  - (10) The planning commission shall not permit the subdivision of any sale land upon which there exists an unpaid principal balance until payment in full of the balance due has been made to the city.
- (d) That a lottery for the disposal of public sale lands shall be conducted in a manner substantially as provided in this ordinance:
- (1) Participants in a lottery must file an application with the city clerk, no less than 10 days prior to the date of the lottery. A \$10.00 non-refundable deposit must accompany each application. Each applicant may make only one (1) application for any given lot; each applicant may apply for as many different lots as he desires, but must pay the full application fee for each separate application.
  - (2) Not less than two weeks prior to the closing date for lottery registration, the city clerk shall post notices in three (3) conspicuous public places within the city, giving notice of the date of sale and of lottery registration requirements.
  - (3) In order to be eligible for the lottery, a person must have reached the age of at least 18 years and be a citizen of the United States and a resident of Kake. An applicant must be a one-year resident of the city immediately prior to the sale. A person may file an application for purchase only on his or her own behalf. An applicant may not act as an agent of another party or for a corporation or other business association organized for profit. All applications must be made on the form provided by the city clerk.
  - (4) Every application for purchase of a sale unit of land shall be assigned a number and a separate drawing for each sale unit shall be made from those numbers. The city clerk shall conduct the sale and shall draw the number of the eligible purchaser and of two alternates. In the event that the first eligible applicant does not, or cannot, proceed with the sale, then the alternate purchasers shall be afforded the opportunity to purchase the property in the order that their applications are drawn. The successful applicant and alternate(s) must be present at the drawing in order to be awarded the purchase rights provided herein.
  - (5) The first eligible purchaser shall be required to deposit with the city clerk the necessary down payment, and to sign the appropriate real estate contract and promissory note within 14 business days of selection or his rights shall be forfeited. The alternate purchasers in turn shall be afforded a similar period to complete the transaction if the prior eligible applicant(s) forfeit their rights.
  - (6) A person shall be entitled to purchase by lottery only one parcel of city-selected lands within any five-year period.
  - (7) The down payment to the city clerk shall be in cash or certified or cashier’s check.
  - (8) Lots not disposed of by lottery shall be sold over the counter.

**58.20.091. Provisions.**

The provisions of the Kake Municipal Code, Sec. 58.20.060, and Title 58, Chapter 25 “Disposition of Public Lands” shall apply to the disposal of lands provided for in this ordinance.

**58.20.092. Severability.**

If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to the other persons or circumstances shall not be affected thereby.

**58.25.010. Applicability of Provisions.**

The provisions of this chapter shall constitute the formal procedure for the lease, sale, or other disposition of real property or interest in real property owned by the city.

**58.25.015. Disposal of Public Lands for Public Use.**

- (a) When the city council determines it is in the best interests of the public to dispose of real property, excluding tidelands, which is owned by the city and which has a value of less than twenty-five thousand dollars, to the State of Alaska or the U.S. Government for public use, the disposal may be made without sealed bid procedures and at less than fair market value.
- (b) Prior to disposal under subsection (a) of this section, the council shall hold a public hearing. The city clerk shall:
  - (1) publish notice of the hearing in a newspaper of general circulation in the city at least ten (10) days prior to the hearing; or
  - (2) post a notice in at least three (3) public places within the city and for a period of at least ten (10) days preceding the hearing.
- (c) The notice shall include the date, time, and place of the hearing and a description of the real property, stating in full the proposed public use.
- (d) Following the hearing, the council may authorize disposal of the real property by resolution, which shall include any special terms and conditions the council may require for the disposal. Upon adoption of the resolution, the city attorney shall prepare a deed or other appropriate instrument of conveyance.

**58.25.020. Commencement of Proceedings.**

Proceedings commencing disposition of real property, excluding tidelands, to other than the State of Alaska or the U.S. government as provided in Sec. 58.25.015, shall be initiated by the city clerk or by the council or a councilman upon motion at a meeting, or by an interested third party upon written application or request submitted to the city clerk seven (7) days prior to the council meeting. Such motion, application, or request must identify the property by general or legal description, state the interest to be disposed (sale, lease, or other), and state the reason and purpose of the proposed disposition.

**58.25.030. Value Assessment, Notice of Terms.**

- (a) Following approval by the council, the city clerk shall have the estimated fair market value of the subject property determined by a qualified appraiser or the city assessor. If the subject property has a value of less than twenty-five thousand dollars (\$25,000.00), the city clerk shall thereafter give notice of the sale, lease, or other disposition by publication of notice in a newspaper of general circulation in the city at least thirty days before the date of the sale, lease, or disposition, and the notice shall be posted within that time in at least three (3) public places in the city.

- (b) The notice shall contain a description of the property and the interest therein which is being disposed; the estimated value of the property; declare that the disposition shall be effected through sealed bids, the forms for which may be obtained in advance at the city clerk's office at City Hall; shall specify the address to which the sealed bids shall be addressed or delivered by the bidders; state the date and hour upon which bids shall be opened in public, and that sealed bids may be submitted at any time prior to the opening; that the property may be sold, leased, or disposed to the highest responsible bidder for cash, or best terms established by the council; that the city reserves the right to reject any and all bids; and any other terms and conditions fixed by the council.

**58.25.040. Resolution Required to Finalize Disposition.**

The city clerk shall report the results of the closed bid sale to the council after the public opening whereafter the council shall determine the highest responsible bidder. Immediately thereafter, the council shall adopt a resolution specifying all material terms and conditions of the disposition. A resolution shall be required for all dispositions.

**58.25.050. Effective Date of Resolution.**

A resolution providing for the disposition of property shall become effective upon adoption by the council. Thereafter the city attorney shall prepare a deed or other appropriate instrument of conveyance and exchange same with the successful purchaser of the bid price case.

**58.25.060. Ratification by Election: Procedure.**

Real property which has a value of twenty-five thousand dollars (\$25,000.00) or more shall be disposed of by a noncode ordinance, ratified by election. The ordinance shall provide for the terms and conditions of the subject disposal. The ordinance may be submitted at a special or general election and the ordinance shall give the time and place of the election.

**58.25.070. Over-the-Counter Sales.**

- (a) Lots or parcels of land offered for sale pursuant to Sec. 58.25.030 for which no responsive bids are received may, upon resolution of the council, be offered for public sale over the counter upon such terms and conditions as the council may prescribe.
- (b) The resolution shall specify the date and hour on which over-the-counter sales shall commence and an expiration date.
- (c) Such lots shall be offered by the city clerk over the counter at City Hall on a first-com first-served basis and be sold for the minimum bid value (assessed valuation).
- (d) The purchases shall be ratified by a resolution authorizing the mayor and clerk to subsequently issue an appropriate form of deed.

**58.25.080. Construction as Condition of Sale: Generally.**

The council or its agents may require the construction of certain improvements within a specified period of time as a condition to the conveyance of any city-owned real property by sale or other disposition. Whenever the contract of sale, installment agreement, and/or instrument of conveyance recites "construction" or "construction conditions" or similar language, or if the

notice of sale pertaining or relating to the subject property recites the aforementioned terminology or similar language pertaining to construction requirements, all of the provisions of this section and Sec. 58.25.090 through 58.25.130 shall be applicable thereto and become incorporated by reference in the transaction as if fully set forth.

**58.25.090. Construction as Condition of Sale: Term During Which Construction Must Begin.**

Real property sold or otherwise disposed of by the city with the stipulation that construction shall be undertaken or otherwise subject to construction requirements or construction as a condition subsequent to vesting shall mean that construction shall occur within two (2) years from the date of sale. The date of sale for the purposes of this section shall mean the effective date of the ordinance authorizing or ratifying the conveyance of the subject property, or the date on which the down payment is received by the city pursuant to terms of payment recited in a contract of sale, installment purchase agreement, lease agreement, or other agreement evidencing the conveyance and requiring initial payment, whichever of the foregoing first occurs.

**58.25.100. Construction as Condition of Sale: Construction Completion Terms.**

- (a) “Construction,” within the meaning of Sec. 48.25.080 through 48.25.130, shall require eighty percent (80%) completion of a residential or commercial structure. “Eighty-percent completed” is intended to imply greater progress than mere substantial completion.
- (b) Standards for minimum acceptable completion shall include the following in compliance with Title 18 of this code:
  - (1) earthwork site preparation;
  - (2) foundation completion;
  - (3) structural completion of the building, including all exterior walls and the completed roof;
  - (4) installation and connection of electrical, water, and sewer utilities;
  - (5) installation of all plumbing, including internal fixtures;
  - (6) installation of all electrical wiring completed through the point of installing boxes and connections thereto from the primary power source; and
  - (7) installation of all insulation materials.
- (c) Completion shall not require installation of the following:
  - (1) finished flooring;
  - (2) dry wall, sheet rock, or other interior wallboard or ceiling material;
  - (3) installation of internal lighting fixtures, switches, outlets, and box covers;
  - (4) interior walls or partitions not containing plumbing or electrical wiring;
  - (5) paint;

- (6) drain gutters; or
- (7) finished landscaping.

**58.25.110. Construction as Condition of Sale: Extension of Term Prohibited.**

No extensions of time for construction completion will be granted. In the event of assignment or subsequent conveyance by the initial purchaser or lessee, the original completion requirements shall remain in effect and be binding upon the subsequent grantee or lessee.

**58.25.120. Construction as Condition of Sale: Default Provisions.**

In the event of the acquiring party's failure to strictly comply with the completion requirements set forth in this chapter, the following default provisions shall apply automatically at the expiration of the two-year period without requirements of notice being sent by the city.

- (a) In the event there has been no foundation or site preparation work, the contract shall terminate and the real property or interest therein shall revert to the city. The city may require that the defaulting party or parties execute a quitclaim deed to the city conveying all of their interest in the subject property to the city. The city shall refund to the defaulting party or parties the amounts paid toward the purchase of the subject property except the greater of twenty-five percent (25%) of the total purchase price or five-hundred dollars (\$500.00) whichever is greater, which shall be retained by the city as liquidated damages. In the event of a lease, the city shall retain all sums paid to the date of default as liquidated damages.
- (b) In the event of default after completion of substantial earthwork and site preparation but before installation of a foundation, the contract shall terminate and the real property shall revert to the city. The city may require the defaulting party or parties to execute a quitclaim deed conveying all of their interest in the subject property to the city. The city shall refund twenty-five percent (25%) of the total purchase price to the defaulting party or parties and retain all other amounts paid to that date as liquidated damages. In the event of default under a lease, the city shall retain all rental amounts theretofore paid the city as liquidated damages.
- (c) In the event of default after the foundation is substantially complete, whether the foundation is of piling, poured concrete, or other recognized and acceptable foundation material, the defaulting party shall have the option of removing the foundation and restoring the lot to its original condition within thirty (30) days and relinquishing all of his right, title, and interest therein by quitclaim conveyance to the city and be refunded fifty percent (50%) of the total purchase price, or to retain the real property and pay the city liquidated damages for breach of conditions in the amount of the original lot purchase price within thirty (30) days after default; and, in the event of failure to timely make such remittance, the real property and all improvements thereon shall revert to the city which shall also retain all amounts theretofore paid for the purchase of said property as liquidated damages. A lessee in default shall have the option of terminating the lease and relinquishing the real property and all improvements thereon to the city and forfeiting all rental payments theretofore paid as liquidated damages, or may retain the property and continue the lease and pay the city the amount of two thousand dollars (\$2,000.00) in liquidated damages within thirty (30) days after the default.

**58.25.130. Construction as Condition of Sale: Inspection and Report Authority, Appeals.**

- (a) A quorum of the planning and zoning commission shall have the duty of inspecting all properties subject to the construction conditions at or about the date constituting expiration of the term for construction completion, and shall determine whether or not there has been compliance with the construction requirements according to the standards contained in this chapter.
- (b) They shall immediately prepare a report of their findings and submit it promptly to the city clerk or to the mayor, who shall take whatever action is appropriate in the circumstances. The commission shall also mail or otherwise forward a copy of the report to the purchaser or lessee of the subject property.
- (c) An aggrieved party wishing to challenge or controvert the findings of the planning and zoning commission may appeal to the city council by giving and delivering written notice of appeal to the mayor or city clerk within five (5) days after receipt of notice of the commission's determination. Thereafter, the council shall conduct a hearing on the appeal at a special or regular meeting of the council within ten (10) days after receipt of notice of appeal. The council may enter its findings at the hearing or may take the matter under advisement and thereafter collectively inspect the subject property, disregarding any work on the building occurring between their inspection, and shall enter its decision within two (2) days after the hearing without necessity for formal reconvention at special or regular meeting.

**58.30.010. Purpose.**

- (a) The purpose of this ordinance is to carry out the duty of the city as expressed in the Alaska Land Act, Article III, Section 5(3)h, as follows:

“h. Each municipal corporation receiving such conveyances (of tide and submerged land lying seaward of the city) shall by ordinance provide for reasonable regulations governing the filing and processing of applications, publication of notices and the adjudication of disputes between claimants and the governing body of the corporation. Any party aggrieved by its determination shall have a right of appeal to the Superior Court.”

- (b) The intent of the council in enacting this ordinance is:

- (1) to expedite granting conveyances to qualified occupants who are entitled to and who exercise their preference rights in accordance with the provisions of law and of this ordinance;
- (2) to provide due process and sufficient notice to all parties who qualify as occupants of such lands and who are entitled to exercise preference rights, of applications filed, disputes and conflicting claims, and of approved applications;
- (3) to provide simple procedures by which occupants may exercise their preference rights;
- (4) to equitably apportion the costs of administering and processing applications, hearing disputes, costs of appraisal, transfer, and survey among those who will benefit therefrom;
- (5) to limit the issues to be determined by the council in adjudication of disputes to rights conferred by the Alaska Land Act and this ordinance;
- (6) to safeguard and protect the interests of the city and its citizens in tide and submerged lands conveyed to the city not subject to preference rights, or where preference rights were or will not be exercised in the time allowed by law, by providing for rules and regulations for the administration of such lands in the best interests of all the residents of the city;
- (7) to acknowledge that public notice by publication or posting as required by law allowing certain classes of tidelands occupants who had constructed improvements to perfect tidelands rights by application within two (2) years was not properly accomplished, thus invalidating the two-year expiration date presented in Kake Tidelands ordinance Nos. 61 and 64.
- (8) to afford those persons and entities who qualified as occupants to now apply for preference rights notwithstanding the lapse of more than five (5) years from which time preference rights claims could have been filed. (Ord. No. 65, adopted 7/22/77.)

**58.30.020. Definitions.**

For purpose of this ordinance the terms defined herein shall have the meanings provided and rights defined unless the context requires otherwise:

- (a) “Additional land” means additional tide and contiguous submerged lands as shall be reasonably necessary in the opinion of the city council for such occupant’s use and enjoyment of the occupied or developed land, but which additional land shall not include tide or submerged lands which if granted to the occupant would unjustly deprive an occupant of adjoining lands from his reasonable use and enjoyment of them.
- (b) “Alaska” means the State of Alaska.
- (c) “Assessor” means the Assessor of the City of Kake, Alaska.
- (d) “City” means the City of Kake, Alaska.
- (e) “City engineer” means the city engineer, or other city official designated to perform the functions herein assigned to the city engineer.
- (f) “Class I Preference Right” means the right extended to persons who occupied or developed tide or submerged land seaward of surveyed townsite on and prior to September 7, 1957, upon the execution by such persons of a waiver to the city and state of all rights such occupant may have had pursuant to Public Law 85-303. Upon execution of the waiver, such persons or their successor in interest, have the right to acquire such occupied or developed tide or submerged lands from the city for a consideration equal to the cost of surveying, transferring, and conveying such lands.
- (g) “Class III Preference Right” means the right extended to persons who occupied or developed tide or submerged lands after September 7, 1957 and who continued to occupy the same on January 3, 1969. Such persons, or their successors, have the right to acquire such occupied or developed tide or submerged lands for a consideration not to exceed the cost of appraisal, administering, transferring, and surveying such lands, together with the appraised fair market value thereof, exclusive of any value from improvements or development, such as fill material, buildings, or structures thereon. Appraised fair market value shall be as of date of application.
- (h) “Clerk” shall mean the clerk of the city.
- (i) “Council” means the council of the city.
- (j) “Director” means the Director of the Division of Lands, State of Alaska.
- (k) “Director’s line” means a line seaward of the city, approved by the director, with concurrence of the Commissioner of Natural Resources, State of Alaska, seaward of all tide and submerged lands occupied or suitable for occupation and development without unreasonable interference with navigation.
- (l) “Fair market value” means the highest price, described in terms of money, which the property would bring if exposed for sale for a reasonable time in the open market, with a seller, willing but nor forced to sell, and a buyer, willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used.

- (m) “Fill” shall mean earth, gravel, rock, sand, or other similar materials placed upon tide or continuous submerged lands to a height above the mean high water line for the purpose of elevating the lands for a specific useful purpose. Earth, gravel, rock, sand, or other similar materials placed on tide or contiguous submerged land solely for the purpose of spoils disposal shall not be considered fill unless such fill was used for a useful and beneficial purpose on and prior to January 3, 1959.
- (n) “Harbor line” means that line fixed by the Secretary of the Army which is the limit to which piers, wharves, bulkheads, or other work may be extended in navigable waters without further authorization ([3] Stat. 1151; 33 U.S.C. 404).
- (o) “Hearings officer” means that city official employed to hear disputes between claimants, summarize the testimony attempt to reach stipulations of fact between the parties, assemble the record of the dispute, and submit the same to the council for determination.
- (p) “Improvements” means buildings, wharves, piers, dry docks, and other similar types of structures permanently fixed to the tide or contiguous submerged lands that were constructed and/or maintained by the applicant for business, commercial, recreation, residential, or other beneficial uses or purposes. Floats secured by guide piles used as floating wharves, where access is provided to the shore, shall be improvements within the meaning of this section. Fill material to the extent actually in place above the line of mean high tide on January 3, 1959, and actually utilized for beneficial purposes on January 3, 1959 by the applicant shall be considered a permanent improvement, but in no event shall fill be considered a permanent improvement when placed on the tidelands solely for the purpose of disposing of waste or spoils. Fill material not utilized for a beneficial purpose on and prior to January 3, 1959, shall not be the basis for an application, nor shall it be included in any application for the exercise of preference rights hereunder.
- (q) “Industrial and commercial lands” means tidelands chiefly valuable for industrial, manufacturing, or commercial purposes.
- (r) “Kake” means the City of Kake, Alaska.
- (s) “Mayor” means the Mayor of the City of Kake, Alaska.
- (t) “Mean high tide” at any place subject to tidal influence shall be interpreted as the tidal datum plane derived from averaging all the high waters observed at the place over a period of 19 years. Mean high water line shall be interpreted as the intersection of the datum plane of mean high tide with the shore.
- (u) “Mean low tide” shall be interpreted to be mean lower low water which is the mean of the lower of the two low waters of each day for a tidal cycle of 19 years.
- (v) “Occupant” means any person as defined herein, or his successor in interest, who actually occupied for any business, residential, or other beneficial purpose, tide, or submerged lands within Alaska Tidelands Survey No. 277, on or prior to January 3, 1959, with substantial permanent improvements. The holder of a permit of clearance in respect to interference of navigation, or of a special use permit from a government agency will not qualify as an “occupant” unless such entry on the land had, through exercise of reasonable diligence, resulted in actual occupancy and substantial permanent improvements. No person shall be considered an occupant by reason of having:

- (1) placed a fish trap in position for operation or storage upon the tide, shore, or submerged land;
- (2) placed a setnet or piling therefor or any other device or facility for taking of fish;
- (3) placed pilings or dolphins for log storage or other moorage;
- (4) placed telephone, power or other transmission facilities, road, trails, or other improvements not requiring exclusive use or possession of tide or contiguous submerged lands; or
- (5) claimed the land by virtue of some form of constructive occupancy.

Where land is occupied by a person other than the owner of the improvements thereon, the owner of the improvements shall, for the purposes of this ordinance, be considered the occupant of such lands.

- (w) “Occupied or developed” means the actual use, control, and occupancy, but not necessarily residence, or the tide or submerged land by the establishment thereon of substantial permanent improvements.
- (x) “Ordinance” means Title 58, Chapter 30 of the Kake City Code.
- (y) “Park and recreation lands” means tidelands chiefly valuable for public park and recreation use, including scenic overlooks.
- (z) “Person” means any person, firm, corporation, cooperative, association, partnership, or other entity legally capable of owning land or any interest therein.
- (aa) “Preference right” subject to the classifications thereof herein established means the right of an occupant to acquire by grant, purchase, or otherwise, at the election of the occupant, except as otherwise limited or prescribed in this ordinance, any lot, piece, parcel, or tract of tidelands or submerged land occupied or developed by such occupant on and prior to January 3, 1959.
- (bb) “Pierhead line” is a line fixed by the Corps of Engineers roughly parallel to the existing line of mean low tide at such distance offshore therefrom that said Pierhead line shall encompass landward all stationary, man-made structures under the authority of Public Law 85-303 (48 USCA 455-455e).
- (cc) “State means the State of Alaska.
- (dd) “Submerged lands” means land covered by tidal waters between the line of mean low water and seaward to a distance of three geographic miles, in their natural state, without being affected by man-made structure, fill, and so forth.
- (ee) “Substantial permanent improvements” shall for the purposes of the ordinance have the same meaning as improvements as herein defined.
- (ff) “Tidelands” means lands periodically covered by tidal waters between the elevations of mean high and mean low tides, without regard to artificial interference with tidal flows caused by man-

made structures, breakwaters, fill, and the like. When used in this ordinance, it shall also include submerged lands conveyed by the state to the city.

- (gg) “Tidelands subdivision plat” is that certain plat officially designated as Tidelands Addition to the City of Kake, Subdivision of Alaska Tidelands Survey No. 277, prepared by Toner & Nordling, Registered Engineers of Juneau, Alaska, said plat consisting of two sheets and being approved and accepted by the City of Kake on July 11, 1966. (Ord. No. 65; adopted 7/22/77.)

**58.30.030. Approval and Acceptance of State Conveyance.**

The conveyance of Patent No. 260 from the state to the city, dated November 8, 1972, of tidelands and submerged lands lying seaward of the city is hereby approved and accepted. (Ord. No. 65, adopted 7/22/77.)

**58.30.031. Approval and Adoption of Subdivision Plat.**

The Tidelands Subdivision plat, hereinafter call plat, is hereby approved and adopted as the official Tidelands Subdivision Plat of tide and submerged lands conveyed by the state to the city. The plat purports to show all structures and improvements located upon or partially upon tidelands as of the date of plat approval. The subdivision survey was undertaken by registered engineers who assumed no responsibility for investigation into the earlier use, development, or occupancy of the structures and improvements, and accordingly the boundaries of the tideland lots designated T-1 through T-17 may or may not correspond with the scope of historical use and area occupied or developed on the respective lot or tract. The shape and size of the tideland tract to be awarded a tideland preference right applicant may be smaller, larger, or identical to the lot designations T-1 through T-17, and the boundaries of the tract to be awarded shall be historically concomitant to the area reasonably necessary in the opinion of the council for the use and enjoyment of the structures and improvements thereon by the owner or claimant, but shall not include any tide or submerged lands which if granted to such occupant would unjustly deprive any occupant of adjoining lands from his reasonable use and enjoyment thereof. (Ord. 65; adopted 7/22/77.)

**58.30.032. Time and Places of Posting Plat.**

Said plat shall be posted for a period of not less than ninety (90) days, commencing with the date following the date of final passage of this ordinance, in one public place in the city, namely (1) in the office of the clerk, municipal building. (Ord. No. 65; adopted 7/22/77.)

**58.30.033. Posting of Notice.**

The clerk shall cause to be posted in three (3) conspicuous places in the city, commencing the day after the date of final passage of this ordinance, a notice of said plat containing the following statements:

- (1) time a places of posting;
- (2) the date of final passage and the effective date of this ordinance, and that the plat is the official Tidelands Subdivision Plat of the tide and submerged lands conveyed by the state to the city on November 8, 1972;

- (3) that any and all persons having or claiming preference rights provided by law and as herein defined to any part or parts of the subdivided land embraced within the boundaries of said plat, who fail to apply to exercise such rights under the provisions of this ordinance with two (2) years from and after August 10, 1977, which is hereby declared to be the date upon which applications therefor will be first accepted by the city, shall forfeit their preference rights provided by law and this ordinance;
- (4) that this ordinance was enacted to protect occupants having preference rights, to afford due process of law, to provide procedures for applying for exercise of preference rights, for hearing and adjudicating adverse claims, and for conveying title to occupants holding preference rights defined by law and this ordinance; and
- (5) that copies of this ordinance and application forms are available at the office of the clerk of the city. (Ord. No. 65; adopted 7/22/77.)

**58.30.034. Period of Application Acceptance.**

Application forms, in substantially the form set forth in Sec. 58.30.047 will be accepted for filing on August 10, 1977 and for a period ending two calendar years thereafter at the close of business at 4:30pm on August 10, 1979 after which no application forms will be accepted for filing. Deeds may, however, be issued by the city prior to expiration of the application filing period. See Sec. 58.30.040. (Ord. No. 65; adopted 7/22/77.)

**58.30.035. Procedure for Filing Application.**

Applications shall be submitted, and will be received for filing, only for the purpose of claiming preference right herein defined to the tidelands conveyed by the state to the city.

- (a) Application forms will be provided by the clerk without charge at his office in the municipal building.
- (b) Applications must be submitted in triplicate.
- (c) Applications not clearly legible nor properly completed and certified by the applicant will not be accepted for filing. Since the facts alleged may be used in hearings of disputes, their truth must be certified. The facts alleged will also be the basis for the conveyance of valuable property. Willful and deliberate misstatements of fact will be equivalent to attempting to obtain property under false pretenses.
- (d) Applications may be delivered or mailed to the clerk, municipal building, Kake, Alaska, with the proper deposit computed according to the nature of the applications made. Applications properly completed accompanied with the proper deposit will be stamped with the time and date of filing and signed by the person accepting the deposit. The triplicate copy will then be delivered to the applicant or mailed to him.
- (e) Any application of a deed based on an asserted right other than a preference right shall be rejected.
- (f) No single application based on more than one class of preference right, except an application for a single subdivided lot the claim of right to which is based on more than one class of preference right, nor any single application claiming title to two or more lots which are not contiguous, shall

be accepted for filing. Such applications shall be rejected and delivered to the applicant, or mailed to him. (Ord. No. 65; adopted 7/22/77.)

**58.30.036. Cost Prerequisite to Filing.**

The application form will assist the applicant in determining the proper costs to advance, which will depend upon the nature of the right claimed. In all cases, a filing fee of \$25.00 will be required. Survey costs depend upon the area claimed at the rate of two cents (2¢) per square foot. If the area claimed is different from the lot as it appears on the plat, the applicant shall show the measurements of the additional or lesser area claimed and compute and pay the survey costs accordingly. Transfer costs will be the same in all cases, \$35.00. They cover the cost of time estimated to be required to examine, process, and approve the application, as well as to prepare and execute the deed, publish notice, give notice of additional costs, if any, and give notice to applicant. Transfer costs will be required to be deposited in all cases, but refunded if the application is rejected. In all cases of Class III preference rights, or where another asserted right is determined by the council to be a Class III right, appraisal costs will also be required. Appraisal costs will depend upon the area involved and the complexity of the appraisal sought. Where required as a deposit, the minimum appraisal amount is \$40.00, but additional amounts may be required prior to delivery of deed. (Ord. No. 65; adopted 7/22/77.)

**58.30.037. Additional Costs in Certain Cases.**

Aside from deposits required at the time of filing applications, additional costs will be required to be paid prior to hearings where disputes require hearings, and for cost of land under a Class III right as well as appraisal thereof when a preference right sought to be exercised is determined to be a Class III right, as follows:

- (a) When the evidence of occupancy or development does not manifestly conform to the area claimed, it is necessary to have a hearing to establish the validity of the right claimed. This requires notice to be given to adjacent occupants, if known, so that all parties in interest may be heard at the hearing.
- (b) When applications conflict with the same area or portions thereof, it shall be necessary to conduct a hearing to determine the facts and the issue in question. Conflicting claims will be carefully scrutinized and each disputing party will bear the burden of proving facts sufficient to establish the validity of his claim.
- (c) The party filing an application conflicting with a claim previously filed shall be required to deposit hearing costs in the amount of \$50.00. If the conflict is not known at the time of filing, the applicant shall be advised of the conflict as soon as it is known and of the need to deposit the hearing cost deposit.
- (d) The applicant who after hearing and determination by the council is determined to have claimed the land of another shall be the party to bear the cost of the hearing. If such party did not deposit such costs, no deed shall be delivered to him until the cost is paid. Where the depositor is the prevailing party, the hearing cost deposited shall be refunded to him by the city.
- (e) When title by Class III preference right is claimed, the applicant shall be required to deposit the appraised purchase price after appraisal has been made and the purchase price has been so determined. The same procedure will be applied when an application under another class of

right is sought but it is determined that the only available right to the applicant is a Class III right.

- (f) When a preference right is sought to be exercised other than a Class III right and such right is determined to be a Class III right, then the applicant shall be required to deposit the estimated cost of appraising the property claimed.
- (g) The applicant who receives a deed from the city shall at his own cost pay for the cost of recording the deed. (Ord. No. 65; adopted 7/22/77.)

**58.30.038. Processing Applications.**

The clerk shall cause the following procedures to be carried out:

- (a) All copies of applications accepted for filing shall be stamped with the time and date of filing and an application number in chronological order of filing.
- (b) All original applications shall be filed in a permanent register and the names of the applications entered in an alphabetical index which shall be a permanent part of such register.
- (c) The application register shall be available for public inspection during office hours of the clerk except when in actual use for filing and indexing.
- (d) Certified copies of all applications shall be prepared for all persons upon request upon their paying \$1.00 per page for copies of said applications and any attachments forming a part thereof.
- (e) Processing of duplicate applications. The third copy of the application will be returned to the applicant as his record and as receipt for deposit made, or mailed to the applicant. The second copy shall be the working file copy to be handled and processed as follows:
  - (1) Applications to exercise Class I preference right having waivers attached and which apply for lands which conform to a lot on the plat with respect to area and boundary locations and do not include any unoccupied and unimproved lot, or any lot occupied or improved by the city, shall be processed by the city clerk. Applications to exercise Class I preference rights which do not have waivers attached, irrespective of whether the lands applied for comply with the plat, shall be segregated for handling in the same manner as Class II preference right applications.
  - (2) Applications to exercise Class I preference rights having waivers attached and which claim lands which do not conform to a lot or lots on the plat with respect to area and boundary locations shall be transmitted to the hearing officer for processing as provided in Sec. 58.30.043(a).
  - (3) Applications to exercise Class III preference rights, and all applications determined in whole or in part to be a Class III, shall be transmitted to the assessor for appraisal as provided in Sec. 58.30.039. There will be a delay in further processing and posting pending retainer of an appraiser for fair market value determination purposes.
  - (4) No applications which combine Class I and Class III preference rights will be accepted for filing. Any such application presented for filing shall be returned to the applicant for

revision into two or more applications each of which will apply for land under one type of preference right. (Ord. No. 65; adopted 7/22/77.)

**58.30.039. Appraisal by Assessor.**

All applications for Class III preference rights shall be transmitted to the assessor for appraisal. The appraiser's report shall be prepared in four copies. One copy shall be mailed to the applicant, one copy kept by the appraiser, and the other two attached to the copies of the application on file with the city. The appraiser will then return the copy of the application to the city clerk for further processing. (Ord. No. 65; adopted 7/22/77.)

**58.30.040. Approved Applications.**

All applications which the clerk is authorized to process shall be processed by the clerk in the following manner. The clerk shall ascertain if the deposit made by the applicant is sufficient to pay all known and estimated costs of survey, appraisal, and transfer, (and purchase if of Class III) and if not, to advise the applicant that the remainder due must be deposited with the clerk before further processing. Accept the application only if complete; acceptance shall however always be subject to reserved right of city to require additional information from the applicant. If or when the deposit is sufficient to pay all such costs, the clerk shall cause to be posted for two weeks in three (3) conspicuous public places in the city, notice of the names of the applicant(s), the block and lot numbers or other description of the property claimed, according to plat designations, and if Class III, its appraised value, and that the city will issue to the applicant(s) its deed thirty (30) days after expiration of posting or as soon thereafter as the council shall meet for purposes of review and approval of said application provided that before said date no adverse application or claim has been filed with the city. No deed shall be issued without prior council determination that an applicant meets all the requirements of the ordinance. The city shall not issue its tidelands deed unless the applicant fully discharges his burden of proof demonstrating by a preponderance of credible evidence that the facts asserted are true. (Ord. No. 65; adopted 7/22/77.)

**58.30.041. Adverse Claims.**

At the end of said period of posting, the clerk shall note on the applications whether or not any adverse claims have been filed for the land described therein. If no adverse claim has been filed to an application, it shall be processed by the clerk as provided in Sec. 58.30.042. If an adverse claim has been filed to an application, it shall be processed for hearing. Objections and adverse claims to any application or claim must be filed in four copies or the clerk shall reject the same. One copy shall be returned to the person filing the objection or claim, with the time of filing endorsed thereon. One copy shall be mailed by the clerk to the applicant with notice that the hearing officer will set a date for a hearing thereon and notify the applicant and objector or adverse claimant of the time and date of such hearing. An application for a tideland tract already deeded under previous tidelands Ordinance Nos. 61 and 64 shall be deemed an adverse claim. (Ord. No. 65; adopted 7/22/77.)

**58.30.042. Deeds, Permanent Register.**

When all other processing has been completed, the clerk shall then cause a deed to be prepared conveying the land to the applicant(s) from the city and transmit the deed to the mayor for execution. Notice shall then be sent to the applicant to take delivery of said deed at the office of the clerk, who shall deliver the same to the applicant if all requirements have been met and all

costs including purchase price, if required, have been paid. Duplicate originals of all executed deeds shall be kept in the office of the clerk in a permanent register entitled "Kake Tidelands Deeds" with permanent alphabetical index of grantees. (Ord. No. 65; adopted 7/22/77.)

**58.30.043. Disputed Claims.**

- (a) There is hereby created, for the purpose of assisting the council in performing its duties of adjudicating disputes between claimants of preference rights to tidelands, the office of hearing officer. He shall be appointed by the council to serve with compensation as agreed by the council. His duty shall be to set disputes for hearing and hear the evidence under oath of the parties to the disputes. Proceedings shall be informally conducted and their object shall be to determine without delay the respective basis of the conflicting claims. Upon the submission of each dispute, the officer shall prepare a written report consisting of a short summary of the conflicting claims and the evidence submitted in support thereof, together with his findings of fact and conclusions of law. This report shall be transmitted to the council for consideration and adjudication. Copies thereof shall be mailed to all parties to the dispute.
- (b) Upon receipt of the working files in a disputed case and the report of the hearing officer, together with a copy of the notice of hearing serviced upon or mailed to all parties to the dispute, the council shall set the dispute for hearing and final determination, and cause notice of hearing to be served on all parties. Upon the council having heard the dispute it shall enter its decision thereon as quickly as possible, but not later than ten (10) days after the matter is submitted. Aggrieved persons shall have the right of appeal to the superior court within thirty (30) days after the ruling of the council is rendered.
- (c) Wherever it is possible to reach an agreement between the parties at a hearing before the hearing officer, a stipulation shall be prepared and agreed upon by the parties. Where this is done, the officer shall prepare his report, including his conclusions of law, and submit the report to the city council for a hearing if necessary, and decision as provided in Sec. 58.30.043(b). Should it be determined by the city council that the stipulation adversely affects the interest of the city or those of the third parties, the dispute shall be returned to the officer for further proceedings upon notice given. (Ord. No. 65; adopted 7/22/77.)

**58.30.044. Objections and Adverse Claims.**

No objection or adverse claim to the granting of an application shall be accepted by the clerk or filed unless filed by an applicant for lands described in such application. This filing date shall be endorsed on all copies and the third copy returned to the adverse claimant. (Ord. No. 65; adopted 7/22/77.)

**58.30.045. Handling of Deposit and Purchase Funds.**

All funds received as deposits with applications for costs or for the purchase price for tidelands shall be deposited by the clerk in the general fund. Such deposits will be credited by the clerk as follows:

- (a) Survey costs: as a credit to disbursements made by the city for costs of preparing the tidelands subdivision plat.
- (b) Transfer costs: to administrative costs as deeds are issued.

- (c) Appraisal costs: to administrative costs as earned, or as credit to appraisal costs incurred.
- (d) Hearing costs: to administrative costs, hearing officer.
- (e) Purchase costs of Class III lands shall be credited to a separate account in the general fund to pay for improvements in tidelands areas consisting of fill, streets, sidewalks, and sewer improvements. (Ord. No. 65; adopted 7/22/77.)

**58.30.046. Forfeiture of Preference Rights.**

Any occupant or owner or holder of preference rights as herein defined, who has not applied to the city for title thereto as herein provided, before one year after the date application to exercise preference rights will be accepted for filing by the city under this ordinance, by a properly completed application duly filed with the clerk and accompanied by the required deposit, shall have forfeited his right to assert his preference rights and acquire title to tidelands subject thereto from the city; and such tidelands and contiguous submerged lands subject to such unused preference rights shall thereafter be free and clear of all claims to preference rights and the city shall have no obligation to convey the same to any person or persons whomsoever, and said land shall then be and remain the property of the city and be subject to such disposition as this ordinance hereinafter provides in Chapter 40. (Ord. No. 65; adopted 7/22/77.)

**58.30.047. Forms.**

The clerk shall cause to be printed application forms and other forms for use in processing the same in substantially the following form:

- (a) 

APPLICATION FOR  
TIDELANDS PREFERENCE RIGHTS, NO. \_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Home Address: \_\_\_\_\_

Post Office Address: \_\_\_\_\_

Phone or Name of Local Contact: \_\_\_\_\_

- 1. Mark X to designate nature of Preference Right claimed:

Class I \_\_\_\_

Class III \_\_\_\_

- 2. If the Tidelands Subdivision Plat correctly shows the land applied for, describe as follows:

Lot \_\_\_\_\_

3. If the Tidelands Plat does not correctly show land applied for, describe it by metes and bounds and attach plat of land applied for.  
(Use attachment if more space is required.)
  
4. Were any of the improvements now on the land constructed or placed there:
  - (a) prior to September 7, 1957?                      Yes \_\_\_\_    No \_\_\_\_
  - (b) between September 7 1957 and  
January 3, 1959?    Yes \_\_\_\_    No \_\_\_\_
  - (c) after January 3, 1959?                                Yes \_\_\_\_    No \_\_\_\_
  
5. State the nature and extend of the improvements constructed or placed during each of said periods and the location and area occupied by each.
  
6. If any of said improvements were constructed as replacements for previously existing improvements, explain fully.
  
7. To what beneficial purpose was fill, if any, used prior to (a) September 7, 1957; (b) January 3, 1959? Describe.
  
8. Was the beneficial use continued through January 3, 1959? Describe.
  
9. The plat is based on apparent use and improvements existing on January 3, 1959 as recognized by the Alaska Land Act. State any reason known to you why your claim does not correspond with the plat. (Use attachment if more space is required.)
  
10. I offer cash \_\_\_\_ money order \_\_\_\_ cashier's check \_\_\_\_ in the amount of \$ \_\_\_\_\_ as deposit for the following costs:

(Used by clerk)

Filing fee	\$25.00	_____
Survey costs (at rate of 2¢ per parcel)	\$ _____	_____
Transfer costs (\$35.00 per parcel)	\$ _____	_____
Hearing costs (if claim adverse to prior application a deposit of \$50 for hearing and service of notice is required).	\$ _____	_____

Total deposit (Does not include purchase price of land in Class III applications) \$ \_\_\_\_\_

Deposit received by city by \_\_\_\_\_

Date of application: \_\_\_\_\_

Date application received by city: \_\_\_\_\_

Time filed: \_\_\_\_\_

Certification

I, \_\_\_\_\_, the above named applicant, or agent, hereby certify that all of the statements made in this application and attachments thereto, if any, are true and correct.

\_\_\_\_\_  
Print Name(s)

(b)

**WAIVER OF CLASS I PREFERNCE RIGHTS  
(TO BE ATTACHED TO EACH CLASS I APPLICATION)**

I, \_\_\_\_\_, the applicant in the application for Tideland Preference Rights, Application No. \_\_\_\_\_, to which this waiver is attached to hereby waive any and all preference rights of said applicant to acquire tide or submerged land laying seaward of the City of Kake, Alaska, to which \_\_\_\_\_ now or may hereafter become entitled by reason of the provisions of Public Law 85-303.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

(c)

**ASSESSOR'S APPRAISAL  
(TO BE COMPLETED BY ASSESSOR FOR CLASS III APPLICATION)**

The undersigned appraiser does hereby certify that he has duly appraised the tide and/or submerged land described in the attached Application No. \_\_\_\_\_ of \_\_\_\_\_, without including in the hereinafter state value any value for valuable improvements constructed or placed thereon prior to January 3, 1959, at its fair market value as follows:

Tideland \_\_\_\_\_ sq. ft. at \$ \_\_\_\_\_ per sq. ft.

\_\_\_\_\_

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signed

(d)

**DETERMINATION OF ADVERSE CLAIM OR OBJECTION**

Application No. \_\_\_\_\_

Adverse Claimants:

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

Description of land according to plat \_\_\_\_\_ block \_\_\_\_\_ lot \_\_\_\_\_:

Other description:

Date of hearing: \_\_\_\_\_ Notice given: \_\_\_\_\_

Persons appearing:

Adverse claim or objection:

Determination:

\_\_\_\_\_  
Mayor

A TEST: \_\_\_\_\_  
City Clerk

**58.40.010. Lands Available for Leasing.**

All tide and submerged lands within the limits of the city to which the city holds title and which the city council has classified for leasing may be leased as hereinafter provided, for surface use only. A tract of tide and submerged land shall not exceed the width of the upland real property adjoining the mean high tideline. Until six (6) months following expiration of time for filing Tidelands Preference Right applications as provided in Chapter 30, all tide and submerged lands are withdrawn from leasing classification. Notwithstanding the foregoing, a particular tract may be offered for lease by the city upon its own motion, or may be nominated for lease by an application which must demonstrate:

- (1) the strong likelihood that the nominated parcel is not subject to a valid tideland preference right claim being asserted;
- (2) the proposed use of the nominated tract is a beneficial use in terms of highest and best use; and
- (3) that it is in the city's interests to lease the nominated tract of tide or submerged lands.

**58.40.020. Applications.**

All applications for lease of tidelands shall be filed with the city clerk on forms provided by him and available at the municipal building. Only forms completed in full and accompanied by a \$25.00 filing fee will be accepted for filing. Filing fees are not refundable. With every application the applicant shall submit a development plan showing and stating:

- (1) the purpose of the proposed lease;
- (2) the use, value, and nature of the improvements to be constructed;
- (3) the type of construction;
- (4) the dates construction is estimated to commence and be completed; and
- (5) whether intended use complies with the zoning ordinance and comprehensive plan of the city.

**58.40.250. Application Procedure.**

- (a) The mayor may reject an application nominating a tidelands tract for lease based upon inadequate justification as required by Sec. 58.40.010 and for insufficient development plan as required by Sec. 58.40.020, in which case the application fee shall not be refunded.
- (b) An applicant may appeal the mayor's rejection of a lease application by presenting convincing evidence of compliance to the planning and zoning commission, or in the absence of same, directly to the council. The application shall be in substantially the same form as submitted to the city clerk. After hearing, which may be continued or suspended by the commission's own motion for purpose of gathering additional evidence or locating witnesses, the commission may

accept the application in which case the mayor may appeal the decision to the council. The commission may affirm the mayor's rejection of the application in whole or in part which shall constitute denial of the application

- (c) Either the mayor or an applicant may appeal the commission's decision to the council. At the public hearing with at least 15 days public notice thereof posted in advance, the council shall review the action taken by the commission and take whatever additional testimony and evidence it deems appropriate, and render a decision by motion. Denial is appealable to the courts by the applicant. Granting of applicant's application shall merely constitute initial acceptance; it shall not preclude subsequent imposition of additional terms and conditions by the mayor and council or amendment to the terms proposed.

**58.40.030. Deposits for Costs.**

All applications filed with the city clerk will be forwarded to the mayor or other designated official to determine his estimate of 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, said official shall notify the applicant in writing of such costs and deposit thereof must be made within 30 calendar days after said notice is mailed. Failure of applicant to pay the deposit shall result in the application being cancelled. If the applicant does not accept a lease within 30 calendar days after it is offered to the applicant, all deposit money spend 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 upon which deposit for costs is made 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.

**58.40.040. Rights Prior to Leasing.**

The filing of an application for a lease shall give the applicant no right to a lease or to the use of the land applied for. Any use not authorized by a lease shall constitute a trespass against the city.

**58.40.050. Classification Prior to Lease Required.**

Before accepting applications to lease tidelands, the area involved shall have first been classified for leasing and for particular land uses and a land use plan of the area prepared and publicly posted in the office of the city clerk for a period of not less than ten calendar days. The land use plan shall be prepared and approved by the council prior to posting. No lease shall be granted except for the particular use for which the tract is classified.

**58.40.060. Public Use.**

The lease of any city tidelands may be made to any state or federal agency or political subdivision of the state for less than the appraised value, and for a consideration to be determined by the council to be in the best interest of the city.

**58.40.070. Review.**

The classification of a tract of leased land may be changed only by the council on application of the lessee. No renewal lease may be issued until the proposed renewal has been reviewed and approved by the council.

**58.40.080. Term of Lease.**

Leases may be issued for a term of not less than five (5) nor more than fifty-five (55) years. The applicant shall state in his application the term desired. In determining whether to grant a lease of 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 thereon, the value of the applicant's proposed use to the economy of the city and other relevant factors. The council may amend the term of lease to a point in time longer or shorter than proposed by the applicant, who may decline to accept the lease, with the deposit to be treated and recited in Sec. 58.40.030.

**58.40.090. Appraisal.**

- (a) No tidelands shall be leased, or a renewal lease issued therefore, unless the same has been appraised within six months prior to the date fixed for beginning of the term of the lease or renewal lease. No land shall be leased for an annual rent less than six (6) per centum of the appraised value of the land and any improvements thereon owned by the city.
- (b) Upon initial acceptance of a nominating application for a lease of a parcel of classified tidelands and the deposit of the costs estimated by the mayor, the city assessor shall cause the tract, and any improvements thereon owned by the city, to be appraised at their fair market value. The appraisal shall be transmitted by the assessor to the council which shall review the same and determine the appraised value of the tract and improvements thereon owned by the city. Facilities for supplying utility services shall not be considered as such improvements. The council shall determine the annual rental at not less than six (6) per centum of the appraised value and shall determine any limitations, reservations, requirements, or special conditions to be included in the lease. Each lease shall contain a requirement that the lessee construct improvements suitable for the use for which the land is classified of a specified minimum value within one year from the effective date of the lease. The applicant shall be notified of the amount of the minimum annual rental and the value of the improvements required to be constructed thereon.

**58.40.100. Payment of Annual Rentals.**

Unless the lease specifies otherwise, annual rentals of \$250.00 and less shall be paid annually in advance, rentals of an amount between \$251.00 and \$500.00 shall be paid in two equal installments every six months, annual rentals of an amount between \$501.00 and \$1,000.00 shall be paid in advance every calendar quarter, and annual rentals exceeding \$1,000.00 shall be paid in advance each calendar month.

**58.40.110. Uplands Owners' Preference Rights.**

All uplands owners of tide and submerged lands for which lease application is submitted, whether submitted by the uplands owner or owners or a non-uplands owner, shall be entitled to a preference right in the form of the right to meet or exceed the highest bid or offer tendered by another person for the lease of tide and/or submerged lands. This preference right shall apply to

leases of land with an initial annual minimum rental of less than \$100.00 as well as to leases of land such value as to be offered at public auction.

**58.40.120. Leasing Procedures.**

All leases shall be offered at public auction. All public auctions of tidelands in the city shall be held in the council chambers, municipal building by the mayor or, in his absence, the city clerk. At the completion of the auction of each tract of land, said official shall indicate the apparent high bidder. The apparent high bidder shall thereupon deposit with said official the portion of the annual rental then due together with the unpaid costs of survey, appraisal, and advertising. All payments must be made in cash, money order, check or cashier's check, or any combination thereof within one hour.

**58.40.130. Public Notice.**

Public notice of lease of land is required to be given under the provisions of this ordinance. Thirty (30) days notice shall be given by publishing notice thereof in a newspaper of general circulation published in the city once a week for three weeks prior to final action of public auction. The notice must contain a brief description of the land, its area and general location, proposed use, term, computed annual minimum rental, limitations if any, and time and place set for the lease auction, together with the name or names of the record owner or owners of the adjacent upland.

**58.40.140. Receipt of Bid.**

Upon deposit of the required sum by high bidder, the official conducting the hearing shall thereupon cause to be issued to the successful bidder a receipt for the required sum.

**58.40.150. Appeal.**

An aggrieved bidder may appeal the determination of the apparent high bidder to the council, within five days (excluding Saturday and Sunday) following such determination. Such appeals must be in writing and contain a short statement of the grounds for appeal and rule thereon. The council's decision shall be final, but without prejudice to any other right or rights the aggrieved bidder may have.

**58.40.160. Completion of Bid Requirements.**

Following the appeal period or the council's ruling, the city clerk shall notify the successful bidder that the city is prepared to issue an appropriate lease. The bidder shall be given 30 calendar days from date of mailing the notice in which to remit the city treasurer 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.

**58.40.170. Issuance of Lease.**

All leases shall contain such limitations, reservations, requirements, or special conditions as the council has determined, including requirements for improvements of a specified value to be constructed or located on the land within one year from the date of the lease.

**58.40.180. Terms of Lease.**

**THIS SECTION IS MISSING IN THE ORIGINAL CODE DOCUMENTS!**  
**Find original KCO 45.40.180 for this new section number.**

**58.40.190. Responsibility to Properly Locate on Leased Premises.**

It shall be the responsibility of the lessee to properly locate his improvements on the leased land within such one year period. It shall be unlawful to encroach on other lands of the city or on lands owned or leased by another, and violation shall constitute a misdemeanor.

**58.40.200. Lease Utilization.**

Leased tidelands shall be utilized for purposes with the scope of the land use classification, the terms of the lease, and in conformity with the ordinances of the city, including any zoning ordinance. Utilization or development for other than the allowed uses shall constitute a violation of the lease and subject the lease to cancellation at any time. The terms of this ordinance are made a part of all leases and any violation thereof shall be grounds for cancellation of any leases.

**58.40.210. Adjustment of Rental.**

The annual rental payable pursuant to any lease issued under the provisions of this ordinance shall be subject to adjustment by the council on the fifth anniversary of the date of the lease and each anniversary shall be computed at eight per centum (8%) on the fair market value of the land and improvements owned by the city and leased thereunder. Such value shall be determined by an appraisal made by the city assessor and reviewed and determined by the council as provided in Sec. 58.40.090.

**58.40.220. Subleasing.**

Any lessee may sublease lands or any part thereof leased to him hereunder, provided, that the proposed lessee first obtains the approval of the city council such sublease. Subleases shall be in writing and be subject to the terms and conditions of the original lease. A copy of the sublease shall be filed with the city clerk.

**58.40.230. Assignments.**

Any lessee may assign the lease issued to him provided that the proposed assignment shall be first approved by the city council. The assignee shall be subject to all of the provisions of the lease and the assignor shall not be relieved of his obligations thereunder.

**58.40.240. Modification.**

No lease may be modified orally or in any manner other than by an agreement in writing signed by all parties in interest or their successor in interest pursuant to resolution of the council.

**58.40.250. Cancellation, Forfeiture.**

- (a) Leases in good standing may be cancelled in whole or in part at any time, upon mutual written agreement by the lessee and council.

- (b) Any lease of lands used for an unlawful purpose may be terminated by the council.
- (c) If the lessee shall default in the performance or observance of any of the lease terms, covenants, or stipulations, or the terms of this ordinance, or any of the ordinances of the city, and said default continues for 30 calendar days after service of written notice by the city on lessee without remedy by lessee of the default, the city 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. No improvements may be removed by lessee or any other person during any time the lessee is in default.

**58.40.260. Rights of Mortgagee or Lienholder.**

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 and every sublessee or assignee shall cause its mortgage, deed of trust, sublease, assignment, or other recorded instrument of encumbrance to be cancelled or otherwise satisfied and removed as an encumbrance of record. The city shall be required to give notice of the lessee's default to the mortgagee or lienholder only if the recorded instrument contains its mailing address, but shall in all events furnish notice of default to a sublessee or assignee who was approved by the council as provided in Sec. 58.40.220 and 58.40.230.

**58.40.270. 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 thereto, 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.

**58.40.280. 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 lessor its agents, servants, or representative, may immediately or at any time thereafter, re-enter and resume possessions of said lands or such part thereof, and remove all persons and property therefrom either by summary proceedings or by a suitable action or proceeding at law without being liable for any damages therefor. No re-entry by the lessor shall be deemed an acceptance of a surrender of the lease.

**58.40.290. Re-Lease.**

In the event that a lease is terminated, the city council may offer said lands for lease or other appropriate disposal pursuant to the provisions of this ordinance.

**58.40.300. Forfeiture of Rental.**

In the event that the lease should be terminated because of any breach by the lessee, as herein provided, the annual rental payment last made by the lessee shall be forfeited and retained by the lessor.

**58.40.310. Written Waiver.**

The receipt of rent by the lessor 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 lessor to enforce any covenant or provision therein contained, nor any waiver of any right thereunder by the lessor unless in writing, shall discharge or invalidate such covenants or provisions or affect the right of the lessor to enforce the same in the event of any subsequent breach or default. The receipt, by the lessor of any other sum of money after the termination, in any manner, of the term demised, or after the giving by the lessor of any term demised, or after the giving by the lessor 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 efficacy of any such notice or termination as a may have been given thereunder by the lessor to the lessee prior to the receipt of any such sum of money or other consideration, unless so agree to in writing and signed by the lessor.

**58.40.320. 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.

**58.40.330. Renewal of Lease.**

- (a) 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:
  - (1) the lessee or his assignee makes written application therefor at least 60 days prior to such termination;
  - (2) the lessee is not in default under the lease;
  - (3) the use to which the land is to be put is compatible with the current use classification and zoning per the city ordinances on that subject; and
  - (4) mutually agreeable terms are negotiated by the council and the prospective lessee.
- (b) Such lease shall be for an annual rental equal to the per centum of the appraised value of the land which is then being charged for new leases and shall be subject to adjustment on every fifth anniversary.

**58.40.340. Removal or Reversion of Improvements Upon Termination of Lease.**

- (a) Improvements owned by a lessee may within 60 calendar days after the termination of the lease be removed by him; provided that the city council may extend the time for removing such improvements in cases where hardship is proven. All periods of time granted the lessees to remove improvements are subject to said lessee's paying to the city pro rate lease rentals for said periods.

- (b) If any improvements and/or chattels are not removed within the time allowed, such improvements and/or chattels shall revert to, and absolute title shall vest in, the city.

**58.40.350. Sanitation.**

The lessee shall comply with all ordinances of the city which are promulgated for the promotion of sanitation. The premises of the lease shall be kept in a neat, clean, and sanitary condition and every effort shall be made to prevent the pollution of waters.

**58.40.360. Building and Zoning Codes.**

Leased lands shall be utilized only in accordance with the building and zoning ordinances and rules and regulations thereunder and as from time to time adopted and/or amended. Failure to do so shall constitute a violation of the lease.

**58.40.370. Fire Protection.**

The lessee will take all reasonable precautions to comply with all laws, regulations, and rules promulgated by the state and city for fire protection within the area wherein the lease premises are located.

**58.40.380. 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.

**58.40.390. Personal Use of Materials.**

All coal, oil, gas, and other minerals and all deposits of stone, earth, or gravel valuable for extraction or utilization, are reserved by lessor and shall not be removed from the land. 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, its use is first approved by the city council. Violation of this provision shall render the lease subject to immediate cancellation.

**58.40.400. Restrictions and Reservations.**

The lease shall contain such restrictions and reservations are necessary to protect the public interest.

**58.40.410. Permits for Five Years or Less.**

The council may authorize the city clerk to grant permits to applicants and to issue such applicants permits for the use of tide and/or submerged lands for a period to not exceed five years, without appraisal of the value of the land or public auction of the permit, for any purpose compatible with the land use classification of such lands and on such terms for such rental as the council shall determine. The provisions of Sec. 58.40.010 through 58.40.070, 58.40.180 through 58.40.200, 58.40.220 through 58.40.320, and 58.40.340 through 58.40.400 of this chapter pertaining to leases, shall, insofar as practical, apply and be a part of every such permit. Such permit may, however, be granted for the purpose of removing earth, stone, or gravel from such

lands, in which event the rental may be on a yardage basis, and if so, Sec. 58.40.390 of this chapter shall not apply. A permit shall not constitute a preference to lease any resulting reclaimed lands, nor shall the permit allow permanent development or occupancy.

# TITLE 59. REAL PROPERTY DISPOSALS.

## Chapter 20. Real Property Disposals.

### **59.20.010. Power to Dispose of Real Property.**

The city may sell, convey, exchange, transfer, donate, dedicate, direct, or assign to use, or otherwise dispose of city-owned real property, by any lawful means or conveyances.

### **59.20.020. Sale or Disposal.**

- (a) The city may sell or dispose of 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.
- (b) Any instrument requiring execution by the city shall be signed by the mayor and attested by the clerk. The form of any instrument shall be approved by the city attorney.

### **59.20.030. Rights and Powers.**

- (a) The city shall have any may exercise all rights and powers in the sale and disposal of real property as if the city were a private person.
- (b) The city may sell or dispose of any real property, including property acquired or held for or devoted to a public use when in the judgment of the council it is no longer required for municipal purposes and it is in the best interests of the city to dispose of said property.

### **59.20.040. Property Exchanges.**

After public notice, as for an ordinance, the council may approve the conveyance and exchange of a parcel of city property for an equivalent parcel of property owned by another person subject to such conditions as the council may impose on the exchange, whenever in the judgment of the council it is advantageous to the city to make the property exchange.

### **59.20.050. Grants for Federal and State Programs.**

The city may grant or devote real property no longer held for public purpose to the United States, the State of Alaska, a political subdivision, or an agency of any of these governments, for a consideration agreed upon between the city and the grantee without a public sale, if the grant or devotion is advantageous to the city. Any approval of a federal or state program providing for the participation or cooperation of the city by grant or devotion of the real property is a sale of that real property for the consideration stated in the program.

### **59.20.060. Beneficial New Industries.**

The city may sell, lease, or dispose of sites necessary for new industries benefiting the city, upon the terms and conditions as the council considers advantageous to the city, to a person who agrees to install, maintain, and operate a beneficial new industry.

**59.20.070. Change of Use.**

Real property acquired or purchased for one city purpose may be appropriated, transferred, assigned, or directed without public sale to another city purpose, whenever the council determines that the purpose for which the property was acquired or purchased no longer exists, or the property is no longer used or useful for the purpose. No formal conveyance is necessary to dispose of the real property to another city purpose, and the disposition may be made to another purpose with or without legal consideration for the disposition.

**59.20.080. Utilities.**

The city may sell, convey, or otherwise dispose of real property no longer used or useful in the operation of a city-owned utility. Real property no longer needed for the purpose for which the real property was acquired or purchased, or utility property no longer used or useful in the operation of the city-owned utility, is no longer property, owned, held for, or devoted to public use and thus may be sold or disposed of as provided in the Title if the council determines the real property is not useful to the city for any other purpose.

**59.20.090. Release of Easements.**

The mayor may at any time, subject to the provisions of Sec. 59.20.110 and 59.20.120 of this chapter convey, quitclaim, release, cancel, or otherwise relinquish any real property easement, right-of-way, permit, or license the city may have or hold for the purpose of installing, constructing, or maintaining a public improvement, whenever the interest is no longer used or useful for that purpose.

**59.20.100. Land Disposal Methods.**

- (a) Unless otherwise provided in this chapter, real property no longer used or useful for a public use or purpose may be disposed of by public sale. Public sale shall not be required where the real property of the city is subject to any term or condition restricting or limiting the ability of the city to obtain the fair market value of the property.
- (b) The sale may be outcry auction, sealed bid, lottery, or other method open to the public.

**59.20.110. Sale Procedures.**

Real property of the city, except as provided otherwise in this chapter, and except land acquired by tax foreclosure, shall be sold or otherwise permanently disposed of as provided below.

- (a) An estimated value of the property shall be made by a qualified appraiser or the city tax assessor.
- (b) The parcels of land to be sold shall be submitted for review to the city planning commission, as may be otherwise provided in this code, which shall make recommendations to the mayor concerning desirable uses of the property, including projected need, if any, of the land for present or future recreational or other public use. However, review and recommendation by the planning commission is not required if special circumstances warrant, as determined by the council, or if such planning commission review and recommendation has been made within six months prior to submission to the council.

- (c) After review of the planning commission's recommendation, if any, the mayor may, if it is in the best interest of the city to do so, recommend to the council that such parcels of land be sold. Such recommendation shall set out the development of the property, if the mayor determines such a plan to be necessary; the estimated value of the property as made by the city tax assessor or a qualified appraiser; the recommended terms and conditions of the sale; and the method of sale.
- (d) After receiving the recommendations, the council may direct the sale or lease by ordinance of such lands under such terms and conditions as it requires, but the land shall not be sold for less than its appraised or tax assessed value.
- (e) Notice shall be posted in at least three conspicuous public places within the city for at least 15 days prior to the disposal; or:
  - (1) notice of disposal and the manner in which the land is to be disposed of may be published in a newspaper of general circulation within the city once each week for two successive weeks not less than 15 days prior to the date of disposal; or
  - (2) notice may also be given by other means considered reasonable to the mayor.
- (f) The notice shall contain a brief description of the land, its area and general location, proposed use, term of sale, computed annual minimum rental or minimum offer, limitation, and type of disposal whether by seal bid, auction, lottery, or other method, if any, and the time and place set for the auction, lottery, or bid opening, if applicable.
- (g) The procedure for disposal shall be in a manner provided by resolution of the council.

**59.20.120. Leases.**

The city may, by ordinance, lease real property at competitive rates when it is deemed in the public interest. All proposed leases shall be submitted for review and recommendations by the planning commission prior to enactment of the ordinance approving the lease. An ordinance approving the lease shall contain the essential terms and set forth the authority of the mayor to sign the agreement. A lease may not be signed until after the effective date of the ordinance authorizing it.

**59.20.130. Preference Rights.**

- (a) Upon recommendation of the mayor, the council may authorize the granting of preference rights. Preference rights shall be granted only to claimants as that term is defined in this section. Preference rights gives a claimant a first right to purchase at appraised value or tax assessed value, at the option of the city.
- (b) A "claimant" as that term is used in this section must be a person who has used or occupied the land in a significant manner or whose parents have used the land in a significant manner; whose use predates October 31, 1976 or whose parent's use predates October 31, 1976; and who can demonstrate to the city a significant continuous use by himself or his parents predating October 31, 1976.
- (c) Use in a "significant manner," as defined for this section, includes regular seasonal gardening and improvements to the land from clearing it or the construction of permanent structures.

**59.20.140. Future Interests and After-Acquired Title.**

Upon recommendation of the mayor, the council may authorize the sale of after-acquired title or future interests in real property to which the city is or may in the future become entitled. In exercising this power, the ordinance must contain a specific disclaimer of any warranty of title.

**59.20.150. Minimum Acceptable Offer.**

The minimum acceptable offer for any land sold under the provision of Sec. 59.20.110 shall be the appraised value determined under Sec. 59.20.110(a). If there are no acceptable offers, the mayor may negotiate for the sale of the land, but the council must, by ordinance, approve the terms and price of any such negotiated sale before such sale shall be binding upon the city.

**59.20.160. Exceptions to Minimum Acceptable Offer.**

- (a) Exceptions to the requirement for a minimum acceptable offer of market value may be made as provided below:
  - (1) the council finds that a particular disposition will be in the public interest, as public interest is defined below in this section; or
  - (2) the real property was acquired under a tax foreclosure, in which case the council, by resolution, may reduce the minimum acceptable offer to an amount not less than the sum of all back taxes, penalties, and interest due or which would have been due if the property had remained in private ownership up to the date of the sale, plus all costs of foreclosure, sale, and development incurred by the city.
- (b) Public interest for the purposes of Subsection 59.20.160(a)(1) shall include a public or quasi-public purpose and use and shall also include exchanges of property to facilitate the solution of problems involving the boundary lines of public property. Public interest shall not include a purpose to return property to private ownership, or to return property to the tax rolls, or to make property available for a desirable private enterprise or development, or other similar purposes.
- (c) Upon a determination of a public interest, a negotiated bid may be accepted by the city, by ordinance, in place of public bidding.

**59.20.170. Conditions of Sale.**

- (a) The city shall set forth the terms and conditions of the public sale in the ordinance authorizing the sale of the real property. The city may reserve the right to reject any and all bids received at the public sale, if the highest bid is below the fair market value and cost of the sale or if it is not made by a responsible bidder. The ordinance shall provide whether if the sale is for cash, or by cash deposit, or by purchase agreement.
- (b) The mayor shall prescribe the form of the purchase agreement. The council shall approve all public sales of real property and shall approve any purchase agreement prior to its execution by the city. The approval of any public sale by the council authorizes the mayor to take all steps and execute all instruments to complete and close the sale. The mayor or his designee shall conduct the sale and shall give to the buyer a receipt of 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 ordinance shall forfeit any cash deposit paid to the city.

**59.20.180. Council Action.**

No action of the council to dispose of any city interest in real property dedicated to public use shall be final until the ordinance to do so has been on file in the office of the clerk for 30 days. Prior to any council action on the sale of real property, the mayor shall make recommendation to the council as to any change of use or merits of the sale or disposition of the real property.

**59.20.190. Purchase Agreement.**

A purchaser of real property from the city may purchase the real property by purchase agreement if provided in the ordinance for the sale. Unless otherwise provided in the ordinance for the sale, a purchase agreement shall be executed by the mayor and attested by the clerk, and shall be approved as to form by the city attorney.

**59.20.200. Employment of Broker.**

The city may employ a broker for the sale of real property and may pay the broker a commission for the sale. The employment shall be in the resolution for the sale of the real property and any contract of employment shall be first approved by the council, unless the council authorizes the mayor to execute the contract without the council's approval.

**59.20.210. Reservation of Easements and Right-of-Way.**

The city may reserve any easement and right-of-way to be used for public improvements and purposes before selling or disposing of city-owned real property. The council may make such restrictions, limitations, reservations, reversions, or other covenants the council may find advantageous to the city, even if the fair market value of the property is affected. The effect of these reservations may be considered in determining the fair market value of the property.

**59.20.220. Mayor Regulations.**

The mayor may provide by regulation for the procedures and forms as to applications, surveys, appraisals, auction, bidding, form of substance of purchase agreement, or any other matter involving the sale or disposition of city property not inconsistent with and to implement the intent and purpose of this Title. The absence of a regulation or an inconsistent resolution shall not invalidate any public sale procedure, or conveyance executed or to be executed by the city, where the requirements of this Title have been otherwise satisfied.

**59.20.230. Tax Foreclosure Land.**

Real property acquired by tax foreclosure may be disposed of in the same manner as other real property of the city except as provided in Sec. 59.20.240, 59.20.250, and 59.20.260 of this title.

**59.20.240. Public Use Requirement.**

Any real property acquired by tax foreclosure may be devoted to public use by the city after review and recommendation by the planning commission and approval of the council by a resolution declaring such real property devoted to public use or declaring that such real property is reserved for a projected city requirement, and stating such use or requirement.

**59.20.250. Termination of Repurchase Right.**

Where the property was acquired by tax foreclosure, the right of repurchase of the record owner at the time of foreclosure shall be terminated upon passage of a resolution in accordance with Sec. 59.20.240 except that such termination shall not be effective until notice and passage of the time specified in Sec. 59.20.260 has occurred. Sale, lease, or any other alienation of tax title property shall terminate the right of repurchase, provided that the requirements of Sec. 59.20.260 of this chapter have been met.

**59.20.260. Repurchase by Former Record Owners.**

The former record owner shall have such rights of repurchase as are provided by statute. Notice of intended sale, devotion to public use, reservation for a future city requirement, or other permanent disposition or lease shall be given to those who were record owners at the time of tax foreclosure by registered or certified mail sent to the address of the record owner as such address appeared on the tax roll at the time of foreclosure. Such notice shall be given not less than 20 days before the intended sale, contract of sale, devotion or reservation for public use, or other disposition or lease is made and shall advise the record owner of the right to repurchase as authorized by statute.

**59.20.270. Definitions.**

“Council,” as used in this chapter, means the city council for the City of Kake.

# TITLE 60. PUBLIC UTILITIES.

## Chapter 04. Water and Sewer.

### **60.04.010. Service Area.**

The service area is confined to the Kake city limits as defined in Sec. 01.40.020.

### **60.04.020. Definitions.**

The following words and phrases used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them as follows:

- (a) “ADEC” means the Alaska Department of Environmental Conservation.
- (b) “Applicant” means a person, persons, firm, or corporation requesting some service from the utility.
- (c) “Cross connection” means any physical connection through which a supply of potable water could be contaminated. It may include any actual or potential connection between a drinking water system and an unimproved water supply or other source of contamination.
- (d) “Customer” or “user” both mean an applicant who has been accepted and who receives utility services from the utility.
- (e) “Customer service line” means the part of the piping from the main line to the dwelling or point of use for water and sewer utilities.
- (f) “Delinquent” describes any past due amounts and associated finance and late charges that are not received by the utility within 40 days after the date the bill that is past due is rendered.
- (g) “Deposit” means the money paid to the utility by a customer and held by the utility for a certain time, then later returned to the customer if all the requirements for refund are met.
- (h) “Past due” describes a payment that has not been received by the utility within 25 days from the date the bill is rendered.
- (i) “Policy board” means the city council, which is the policy making body of the utility.
- (j) “Potable water” means water that meets current standards set by the Alaska Department of Environmental Conservation (ADEC) for public drinking water.
- (k) “Septic lagoon” mean an open containment cell or cells used for the disposal and treatment of septic waste.
- (l) “Septic waste” means waste material from a septic disposal system.
- (m) “Service connection” means the physically separated customer locations that are connected to the plant by a distribution or collection system.

- (n) “Solid waste” means garbage, rubbish, paper, and waste material including all animal and vegetable refuse from food or food preparation, as well as dead animals.

**60.04.030. Description of Service.**

The City of Kake Public Utility, hereinafter referred to as the “utility,” shall use its best efforts to provide the following services:

- (1) a water system that provides a continuous and sufficient supply of water that meets current ADEC drinking water standards;
- (2) a safe and fully operational sewer collection system to users. The sewer collection system shall be able to handle normal sanitary wastes discharged to it without plugging or otherwise affecting building drain lines under normal operating conditions; and
- (3) a septic disposal system which includes a septic lagoon for disposal and treatment of septic waste material.

**60.04.040. Service Irregularities and Limitation of Liability.**

- (a) Irregularity or failure of service. The utility will exercise reasonable diligence to furnish and deliver adequate sewer service and a continuous supply of potable water to the customer under constant pressure. However, the utility will not be liable for damage resulting from interruptions, shortages, irregularities, or failure due to accidents, interference by third parties, acts of nature, or other conditions beyond the control of the utility. Whenever possible and whenever time permits, all customers to be potentially affected by an interruption or irregularity in service will be notified prior to shutdown by direct notification, through local notice posted in the post office, by local radio transmission, or by another method commonly used in the community.
- (b) Interruptions for repairs or modifications. The utility reserves the right to temporarily suspend the delivery of service when necessary for the purpose of making repairs, modifications, inspections, or improvements to the system. The utility will make reasonable attempts to provide customer notice through the use of public media or by direct customer contact. Repair work will be completed expeditiously and, as far as possible, the work will be completed at a time of least inconvenience to the customer.
- (c) Priority service. In the event of an emergency water shortage, the utility will notify customers to curtail water usage. The utility will notify customers of the nature and duration of the required curtailment. The utility will place a priority on the availability of water for drinking and sanitation purposes. Priority customers are assigned at the discretion of the utility.

**60.04.050. Ownership of Utility Systems.**

All utility system components, including mains, valves, fittings, equipment, and other appurtenances, except customer service lines, are the property of the utility.

**60.04.060. Resale of Utility Services.**

Resale of a utility service by a customer is expressly prohibited, except through special contract between the utility and the customer as described in Sec. 60.04.070.

**60.04.070. Classification of Services.**

- (a) The classes of service shall be as follows:
  - (1) Residential service. Residential service shall consist of all services for domestic purposes supplied to a single family dwelling unit.
  - (2) School service. School service shall consist of services provided to the school, its administrative offices, and other facilities owned/operated by the school that are not classified under a different class of service.
  - (3) Commercial service. Commercial services shall consist of all office, commercial, or business establishments, multiple family dwelling units, tribal facilities, community facilities, and utility-owned buildings. If a customer is located in both a single family dwelling unit and a business establishment, the higher rate shall apply.
  - (4) Contract service. Contract service shall consist of those services for industrial or independent uses under contracts authorized by the utility.
- (b) Where the requirement for services is large or unusual, or necessitates special services, equipment, or capacity, the utility reserves the right to require a special contract, the provisions of which are different from and an exception to the regularly published utility rates and regulations. Special contracts will only be given to customers in unique circumstances. All similarly situated customers will be offered the same rates and provisions. All special contracts shall be in writing, signed by the applicants, and approved by the policy board.

**60.04.080. New Customers.**

A person or organization becomes a customer by first applying for service to the utility. Each applicant for service shall sign an application form provided by the utility giving the date of application, type of service requested, location of the premises to be served, the date the applicant desires services to begin, the purpose for which the service is to be used, and the address to which bills are to be sent. By signing the application, the customer agrees to abide by the rules and regulations of the utility and to pay the fees established by the utility for the service requested.

**60.04.082. Customers Receiving Service at the Time Ordinance Enacted.**

Customers receiving service at the time the provisions of this code section were enacted are not required to submit an application, but will be presumed to accept the rules and regulations of the utility, including the fees established for the service provided if they remain customers and have not contacted the utility requesting disconnection. Customers who have been disconnected from the system prior to the enactment of the provisions of this code must submit an application as required by Sec. 60.01.080 before service can be restored.

**60.04.084. Customers Desiring a Change in Service.**

Customers desiring a material change in the size, character, or extent of equipment or operation which would result in a material change in the service provided shall give the utility notice of such change prior to the change taking place. An amended application must be filed with the utility and any changes to the rate or deposit amount will occur prior to the change in service.

All customers desiring a change in the size, location, or the number of services shall fill out an amended application. The request for amended service may be denied if the applicant has an outstanding bill due to the utility.

**60.04.086. Customer Complaints.**

The utility shall seek to resolve customer complaints as quickly as possible. The utility will respond to the substance of each service complaint or other customer complaint within 10 working days of its receipt. If the utility does not resolve a complaint to the customer's satisfaction, the customer may refer the matter to the Regulatory Commission of Alaska.

**60.04.090. Main Extensions.**

- (a) Main extensions to areas or houses not currently being served shall be installed only after application to and authorization by the utility. Utility main extensions may require advance payment by the applicant or group of applicants of the cost of the extension before the utility can provide them.
- (b) The utility will determine the proper location of main extensions. Easements or permits secured for main extensions across property not owned by the utility shall be obtained in the name of the utility along with all rights and title to the main at the time of installation.

**60.04.100. Services.**

- (a) The customer shall own and maintain the customer service line.
- (b) Service installation charge. At the time the applicant files for service, where no service previously existed or for a change in service size or location, or if he applies for a reconnection of an existing service, the applicant shall submit a service connection fee with the application that is based on the actual cost of the installation. In the case of a new service, this fee will include all costs from the main to the dwelling, including the costs of materials needed to make the connection at the dwelling, if necessary. The service line may be installed by either the customer or the utility.
- (c) Service installation procedures. All connections to the utility water and sewer system shall be made at the expense of the customer. Cost of the connection and the terms of the work governing the installation, including the use of self-help and use of utility equipment, shall be established by the utility. All connections should be made by the city utility crew unless authorized by the policy board. The utility will not accept a service connection installed by a customer unless the connection meets the applicable installation codes. The utility may require proof of code compliance in either physical inspection by the utility or a written statement from a qualified inspector. The policy board reserves the right to bill the customer for additional work and inspections incurred by the utility to verify correct installation and to correct inappropriate, deficient, or inadequate connections.
- (d) Service installation codes. All individual water and sewer connections, repairs, and modifications shall be made only under the terms and conditions of the Uniform Plumbing Code currently in effect within the State of Alaska, as well as any further regulations the utility may require. Any electrical improvements shall be made in accordance with applicable electrical codes and regulations.

- (e) The customer's plumbing, which shall include the customer service line from the main to the house and all plumbing, piping, fixtures, and other appurtenances intended to carry water, sewage, waste water, and drainage, shall comply with the Uniform Plumbing code (UPC). Special attention shall be given to the elimination of any possible cross connections. All water users will be required to install and maintain a backflow prevention device between the water service connection and the first plumbing fixture or drain. The minimum requirement shall be a dual check valve assembly or as required by the UPC.
- (f) Customer freeze-ups, or other leaks that affect the efficiency of the utility system of the public health, are to be immediately repaired by the customer. The utility reserves the right to make the repairs and bill the customer for repairs and for any excess water unsafe that might have resulted from the situation, should the customer be unable to make repairs, or should the customer have abandoned the service location without proper notification to the utility, or should the customer be away from the service location temporarily. It is the responsibility of the customer to notify the utility immediately of any problem with the customer's plumbing that could have an adverse effect upon the utility's system.
- (g) It shall be a violation of these rules and regulations for customers to operate, cause, or permit unauthorized operations or appurtenances on the service connections.
- (h) It shall be a violation of these rules and regulations for any customer to make or remake a service connection without the prior knowledge and approval of the utility as detailed by this ordinance.
- (i) It shall be a violation of this ordinance for any individual to take bulk water from the utility without prior arrangements having been made.

**60.04.110. Water Meters.**

*(Reserved)*

**60.04.120. Utility Rates.**

Utility rates shall be adjusted by resolution of the City Council. On a periodic basis, Schedule B will be revised and approved by resolution of the policy board at a minimum at least annually by April.

**60.04.125. Wasteful Use.**

The utility will assess a flat rate at a minimum fine of \$100 for wasteful use of water. Sec. 60.08.010, Schedule A will list the rate for the wasteful water fee. The decision of the utility is appealable to the policy board.

**60.04.130. Notices.**

- (a) Notices to customers from the utility will normally be in writing and will be mailed or delivered to the customer at the address on file with the utility. Where conditions warrant and in an emergency, the utility may notify customers by telephone, messenger, or radio.
- (b) Notices from the customer to the utility may be given in writing or verbally by the customer or his authorized representative at the utility office. However, notices that result in a change in

service or in work being performed by the utility for the customer must be accompanied by the appropriate application required by Sec. 60.04.084 or signed repair order or work order.

**60.04.140. Billing and Payment.**

- (a) All bills will be mailed on or before the first week of each month. The bill will contain a statement of present charges due. All bills are due and payable upon receipt.
- (b) All bills sent to a customer will include the following statement:

“You should contact us first if you have a complaint about your water or wastewater service. If you are not satisfied after contacting us, you may then file a complaint with the Regulatory Commission of Alaska. The Regulatory Commission of Alaska may be contacted toll-free at 1-800-390-2782 or TDD 1-907-276-4533.”
- (c) All bills not paid within 30 days of the bill being rendered will be considered delinquent. The utility may charge a late payment penalty fee on delinquent sums due to the utility in accordance with Sec. 60.08.010, Schedule A.
- (d) A notice of delinquency shall be mailed to each delinquent account on the date the account becomes delinquent.
- (e) If a utility bill has not been paid a week after the delinquent notice is rendered, the utility will notify the customer of the utility’s intention to disconnect service. The notice of disconnection will be mailed at least 15 days before the scheduled date of disconnection. The notice shall be sent to the customer by certified or registered mail, return receipt requested. Not less than three working days prior to the date of disconnection, the utility will deliver a door hanger to the residence notifying the customer of the date and time of the impending disconnection. The utility may terminate the service at any time after the date and time indicated in the turn-off notice without further notification, unless deferred payment arrangements are made in accordance with Sec. 60.04.140(f).
- (f) If a residential customer demonstrates that economic hardship prevents payment in full of a delinquent bill that is not already covered by a deferred payment agreement, the utility will restore or continue service to the customer if the customer agrees to a deferred payment contract, signed by both the utility and customer. The contract will meet the following requirements.
  - (1) The customer shall agree to pay one-third (or less, at the utility’s option) of the outstanding bill at the time the deferred payment agreement is signed. The customer shall agree to negotiate deferred payments to bring the account current due to hardship.
  - (2) The customer shall agree to pay all future bills for utility service in accordance with the provisions of this section.
  - (3) The customer shall agree to pay the remaining outstanding balance in installments or assignment of permanent fund.

- (4) The utility shall offer comparable terms and conditions to customers with similar payment problems. In determining a reasonable deferred payment schedule, the utility will discuss with the customer and consider the following conditions:
  - (i) the size of the delinquent account;
  - (ii) the customer's ability to pay;
  - (iii) the customer's payment history;
  - (iv) the length of time the debt has been outstanding;
  - (v) the circumstances that resulted in the outstanding debt; and
  - (vi) any other relevant factors related to the circumstances of the customer.
- (g) If a customer fails to fulfill the terms of a deferred payment agreement, the utility is not required to provide the customer with all the notices described in Sec. 60.04.140(d) prior to disconnection. However, at least three working days before disconnection, the utility will attempt to give written or telephone notice of the disconnection to the customer.
- (h) In all cases where service has been disconnected due to delinquency, the customer must file a new application and again meet the first and last month requirements set forth in Sec. 60.04.100(b) before service will be reconnected.
- (i) In all cases, the person signing the utility application form is responsible for the utility bills, regardless of who owns the property served. However, in the case of multi-family housing or business complexes with more than one unit, the utility reserves the right to bill the owner of the facility for all of the services provided by the utility.

**60.04.150. Administration and Enforcement.**

- (a) The rules and regulations of this title shall be administered and enforced by the policy board or the person designated by the policy board to manage the utility. The policy board shall have the authority to establish and regulate rates for the water and sewer system for all customers.
- (b) The policy board may adopt such additional regulations, provisions, and procedures pertaining to water and sewer service as the board deems proper.

**60.04.160. Discontinuance or Termination of Service.**

- (a) Each customer who is about to vacate any premises supplied with water, sewer, or waste disposal services by the utility shall give at least one week written notice of his intentions and shall state the date the service is to be disconnected. Otherwise, a customer will be responsible for all services supplied to the premises until a written notice is received. Within one week of the date state in the notice to discontinue service, a total bill will be prepared and delivered which is due and payable immediately.
- (b) A customer's water, sewer, or waste disposal services may be discontinued if their bill is not paid in accordance with the procedures listed in Sec. 60.04.140.
- (c) The utility may discontinue services to any premises without prior notice where plumbing facilities, appliances, or equipment using water or discharging waste water are dangerous, unsafe, or not in conformance with standard plumbing practice.

- (d) A cross connection, as defined in Sec. 60.04.020(c), is unlawful. The utility will discontinue service to any persons or premises where a cross connection exists. Service will not be restored until the cross connection is eliminated.
- (e) Where water is wastefully or negligently used on a customer's premises seriously affecting the general service, the utility may discontinue service if such conditions are not corrected after notice by the utility. Allowing water to run continuously is considered "wasting water."
- (f) the utility may refuse to furnish service, restrict service, or immediately terminate service to any premises where excessive demands by a customer will result or have resulted in inadequate service to the other customers. The determination of excessive demand may vary depending on current utility water or sewer resources and system equipment conditions.
- (g) The utility will refuse or discontinue service to any customer or premises where it is deemed necessary to protect the utility from fraud or abuse of service. Discontinuance of service for one or both of these causes will be made immediately upon receipt of knowledge by the utility that such condition or conditions exist.
- (h) Where service has been discontinued for any reason and the service is turned on by the customer or another unauthorized person, the service may then be turned off at the main, without notice to the customer. The charges for shut-off at the main will be billed at the actual cost for labor and materials, plus 50 percent billed to the offending customer. The charges for use of service through such illegal connection will be at the regular rate for the period of time, as estimated by the policy board, that such illegal or unauthorized connection existed, plus an unauthorized usage fee, as defined in Sec. 60.08.010, Schedule A.
- (i) Unless otherwise specified by specific sections of this title's rules and regulations, a customer may have service discontinued for violation of any provision of this title's rules and regulations following 15 days notification of such impending termination of service. Proper notice is specified in Sec. 60.04.140(e) of these regulations.
- (j) The utility will not disconnect service to a customer in the following circumstances:
  - (1) for delinquency in payment for services to a prior customer at the premises where service is being provided;
  - (2) if the customer is unable to pay the full delinquent amount due and is in compliance with a signed, or is in the process of timely negotiating a, deferred payment agreement with the utility;
  - (3) for nonpayment of a bill related to another class of service at a different service location; or
  - (4) for failure to pay a disputed amount due on a delinquent account if the customer complies with the rules on customer bill disputes and the dispute remains under investigation by the utility or the Regulatory Commission of Alaska. However, the utility may proceed to disconnect service in accordance with the above provisions if a customer fails to pay any undisputed amounts.

**60.04.170. Restoration of Services.**

- (a) Restoration of service following discontinuance by customer order shall not require a reconnection fee if the voluntary discontinuation was for more than sixty days. Restoration of service for any other reason shall require a reconnection fee. Restoration of service following discontinuance for nonpayment of bills shall be made only after payment of current and past due charges and the reconnection fee, as herein provided.
- (b) Restoration following discontinuance because of unsafe facilities, water waste, fraud, abuse, or noncompliance with the rules and regulations of this title will be made only after:
  - (1) the irregularity has been corrected;
  - (2) any associated charges for disconnection or repairs undertaken by the utility have been paid;
  - (3) a new application for service has been received with the appropriate deposits; and
  - (4) the utility has received written assurance that the irregularity will not occur again.
- (c) The customer is responsible for insuring that services are in good condition prior to restoration of services. The customer shall pay any costs for cleaning or thawing of a service line prior to reconnection.

**60.04.180. Unusual Demands.**

Whenever an abnormally large quantity of water is desired for filling a storage tank or for any other purpose, arrangements must be made with the utility prior to taking the water. The policy board shall have the power to determine what constitutes an abnormally large quantity of water based on normal or average use. Permission to take water in large quantities will be given only if other customers are not unduly inconvenience and measures have been taken to minimize any such inconvenience. Purchases or large quantities of water, even if to an existing customer, may be billed under a separate category and for a separate amount from the customer's usual rate.

**60.04.190. Access to Property.**

- (a) All duly appointed employees or agents of the utility shall have free access at all reasonable hours of the day to exterior parts of a customer's building related to utility service for the purposes of reading meters, inspecting connections, piping, and fixtures, discontinuing service under the provisions of Sec. 60.04.160, and to determine the manner and extent to which the utility is being used. When it is necessary to enter a customer's building for the same purposes, the customer will be given notice in accordance with Sec. 60.04.130. the utility does not assume the duty of inspecting the customer's service line, plumbing, or equipment and shall not be responsible for these services.
- (b) In the event that a customer refuses to provide access to the utility in a reasonable period of time, the service may be discontinued for noncompliance with the regulations of this title in accordance with Sec. 60.04.160.

**60.04.200. Responsibility for Equipment.**

- (a) The utility shall not be liable for any loss or damage cause by any defect in the customer's service line, plumbing, or equipment, nor shall the utility be liable for loss or damage due to interruption of service or temporary changes in water pressure.

- (b) The customer shall be responsible for the condition of the plumbing system on his premises.
- (c) The customer shall be responsible for maintaining proper heat within his property to insure that pipes do not freeze up, causing harm or damage to the utility system. Electrical heat tape shall be energized as necessary to prevent utility lines from freezing. The customer shall pay for all costs associated with keeping service lines from freezing. The utility reserves the right to seek any lawful remedy to recover costs for damages and repairs to utility facilities.

**60.04.210. Fire Hydrants.**

- (a) No person or persons other than those designated and authorized by the utility shall attempt to draw water from a hydrant belonging to the utility or in any manner damage or tamper with the hydrant. Any violation of this regulation will be penalized according to the regulations of this title. In cases where temporary service has been granted from a fire hydrant, an auxiliary external valve will be used to control the flow of water.
- (b) Any person who damages a fire hydrant shall be responsible for the cost of its complete repair and return to service.

**60.04.220. Manholes and Main Lines.**

- (a) No person or persons other than those designated and authorized by the utility shall place any substance including, but not limited to, animal and fish carcasses, refuse or trash, rocks or gravel, or honeybucket wastes in any manhole or main line, or in any manner damage or tamper with the manhole or main line.
- (b) Any person who damages a manhole or main line or any of the attachments or appurtenances thereof shall be responsible for the cost of its complete repair and return to service.
- (c) Any person who damages a sewer main or interrupts sewer service through placing trash, refuse, animal carcasses, rocks or other matter not intended to be placed in a sewer will be responsible for all damages and repairs to the sewer lines and treatment works that are a consequence of his or her act.

**60.04.230. Suspension of Rules.**

No employee of the utility is authorized to suspend or alter any of the provisions herein without specific approval or direction of the policy board, except in cases of emergency involving loss of life or property or which put the water and sewer system operation in jeopardy.

**60.04.240. Constitutionality and Savings Clause.**

If any clause, sentence, section, or portion of these rules and regulations for any reason is judged to be invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of this document but shall be confined in its operation to the clause, sentence, paragraph, or portion of these rules and regulations directly involved in the controversy in which the judgment is rendered.

**60.08.010. Definitions.**

The meaning of terms used in this chapter shall be as follows:

- (a) “B.O.D.” (biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees Celsius, expressed in parts per million by weight.
- (b) “Combined sewer” means a sewer receiving both surface runoff and sewage.
- (c) “Engineer” means the director of public works.
- (d) “Garbage” means solid wastes from preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.
- (e) “Industrial wastes” means the liquid wastes from industrial processes, as distinct from sanitary sewage.
- (f) “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.
- (g) “Person” means any individual, firm, company, association, society, corporation, or group.
- (h) “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- (i) “Properly shredded garbage” means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half inch in any dimension.
- (j) “Public sewer” means a sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.
- (k) “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
- (l) “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
- (m) “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
- (n) “Sewage works” means all facilities for collecting, pumping, treating, and disposing of sewage.
- (o) “Sewer” means a pipe or conduit for carrying sewage.

- (p) “Shall” is mandatory; “may” is permissive.
- (q) “Storm sewer” or “storm drain” means a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.
- (r) “Suspended solids” means solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids and which are removable by laboratory filtering.

**60.08.020. Unlawful Sewage Disposal Methods Designated.**

- (a) It is unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excretion, garbage, or other objectionable waste.
- (b) It is unlawful to discharge into any natural outlet within the city, or in any area under the jurisdiction of the city, any sanitary sewage, industrial waste, or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
- (c) Except as provided in this chapter, it is unlawful to construct or maintain any privy, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

**60.08.030. When Connection to Public Sewer is Required.**

The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city, and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located in a sanitary storm sewer or combined sewer of the city, are required, at their expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper sewer in accordance with the provisions of this chapter within ninety days after date of official notice to do so; provided, that said sewer is within one hundred fifty feet of the property line.

**61.08.040. Private Sewage Disposal: Permit and Inspection Required.**

- (a) Where a public sanitary sewer or combined sewer is not available under the provisions of Sec. 61.08.030, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.
- (b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit from the engineer. The application for such permit shall be made in writing and supplemented by any plans, specifications, and other information as are deemed necessary by the city engineer.
- (c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the city engineer. The agent to the city shall be allowed to inspect the construction and now underground portions shall be covered until such inspection.

**60.08.050. Private Sewage Disposal: System Specifications.**

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the appropriate State of Alaska agency or department. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

**60.08.060. Private Sewage Disposal: Connection of System to Public Sewer Upon Availability.**

At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter. Any septic tanks, cesspools and similar private disposal facilities shall be abandoned and filled with suitable material.

**60.08.070. Private Sewage Disposal: Owner to Operate and Maintain.**

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

**60.08.080. Private Sewage Disposal: Health Officer May Impose Additional Requirements.**

No statement contained in Sec. 61.08.040 through 61.08.080 shall be construed to interfere with any additional requirements that may be imposed by the health officer.

**60.08.090. Building Sewer Connections: Permit and Inspection Required.**

- (a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city engineer.
- (b) The applicant for the sewer connection permit shall notify the engineer when the sewer is ready for inspection. The connection shall be made under the supervision of the engineer or his representative.

**60.08.100. Building Sewer Connections: Specifications.**

- (a) A separate sewer connection shall be provided for every building, except where one building stands at the rear of another on an interior lot.
- (b) Old sewers may be used in connection with new buildings only when they are found, on examination and test, to meet all requirements of this chapter.
- (c) The sewer connection pipe may be cast iron soil pipe, vitrified clay pipe, concrete sewer pipe, or other suitable material approved by the city engineer. Joints shall be tight and waterproof. Special protection may be required by the city engineer where the sewer is exposed to damage by tree roots.
- (d) The size and slope of the sewer connection shall be subject to the approval of the city engineer, but in no event shall the diameter be less than four inches and the slope less than one-eighth inch per foot.
- (e) The sewer connection shall be laid at uniform grade and in straight alignment, insofar as possible, and not closer than three feet from any bearing wall which might be weakened. Changes in direction shall be made only with properly curved pipe and/or fittings.
- (f) All excavations for sewer connections shall be open trench unless approved by the city engineer, and no backfill shall be placed until the work has been inspected.

- (g) Cast iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead and calked tight. All joints in vitrified clay pipe or concrete pipe shall be made with approved, hot-poured jointing material or cement mortar. The joints shall first be calked tight with jute, hemp, or similar approved material. Material for hot-poured joints shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of one hundred sixty degrees Fahrenheit. Cement mortar shall be composed of one part of portland cement and three parts mortar sand.
- (h) The sewer connection shall be made at the “Y” branch. If the designated “Y” is not used, the owner shall, at his expense, install a “Y” branch in the public sewer, if the sewer is less than twelve inches in diameter. If the public sewer is greater than twelve inches in diameter, a neat hole may be cut into the public sewer, with the spigot end cut so as not to extend past the inner surface of the public sewer. A smooth, neat joint shall be made and the connection made secure and watertight by encasement in concrete.
- (i) All excavations for sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

**60.08.110. Public Sewers Limited to Sewage, Exception.**

- (a) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, cooling water, or unpolluted industrial process water into any sanitary sewer.
- (b) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the engineer.

**60.08.120. Substances Prohibited in Sewers Designated.**

Except as provided in this chapter, no person shall discharge or cause to be discharged any of the following discharge waters or wastes to any public sewer:

- (1) any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit;
- (2) any water or waste which may contain more than one hundred parts per million, by weight, of fat, oil, or grease;
- (3) any gasoline, benzene, naphtha, fuel oil, or other flammable or other explosive liquid, solid, or gas;
- (4) any garbage that has not been properly shredded;
- (5) any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;

- (6) any water or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works;
- (7) any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, or constitute a hazard in the receiving waters of the sewage treatment plant;
- (8) any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;
- (9) any noxious or malodorous gas or substance capable of creating a public nuisance.

**60.08.130. Grease, Oil, and Sand Interceptors.**

- (a) Grease, oil, and sand interceptors shall be provided when, in the opinion of the engineer, they are necessary for the handling of such wastes; except that, such interceptors shall not be required for private living quarters.
- (b) All interceptors shall be of a type and capacity approved by the engineer and be located so as to be easily cleaned and inspected.
- (c) Where installed, all grease, oil, and sand interceptors shall be maintained by the owner at his expense in continuously efficient operation.

**60.08.140. Substances Restricted in Public Sewer Designated, Requirement of Preliminary Treatment Authorized.**

- (a) The admission into the public sewers of any of the following shall be subject to the review and approval of the engineer:
  - (1) waters or wastes having a five-day biochemical oxygen demand greater than three hundred parts per million by weight;
  - (2) waters or wastes containing more than three hundred fifty parts per million by weight of suspended solids;
  - (3) waters or wastes containing any quantity of substances having the characteristics described in Sec. 61.08.120(5); and
  - (4) waters or wastes having an average daily flow greater than two percent of the average daily sewage flow of the city.
- (b) Where necessary in the opinion of the engineer, the owner shall provide at his expense such preliminary treatment as may be necessary. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the engineer.

**60.08.150. Preliminary Treatment Facilities, Maintenance by Owner.**

Where preliminary treatment facilities are provided for any waters or waste, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**60.08.160. Control Points for Testing Industrial Waste.**

- (a) All measurements, tests, and analyses of the characteristics of waters and wastes referred to in Sec. 61.08.140 shall be determined by standard methods. In the event that no controlled manhole has been required, the nearest downstream manhole in the public sewer will be used for the tests.
- (b) When required by the engineer, the owner of any property served by a sewer connection carrying industrial waste shall install at his expense a control manhole and the same shall be maintained by him and accessible at all times.

**60.08.170. Provisions not to Preclude Special Arrangements.**

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or characteristic may be accepted by the city for treatment, subject to payment therefor from the industrial concern.

**60.08.180. Vandalizing Facilities Declared Disorderly Conduct.**

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

**60.08.140. Substances Restricted in Public Sewer Designated, Requirement of Preliminary Treatment Authorized.**

- (a) The admission into the public sewers of any of the following shall be subject to the review and approval of the engineer:

Chapter 08. Schedule A.

**60.08.010. Schedule A: Non-Recurring Fees.**

<u>Service</u>	<u>Charge</u>
(a) First and Last Month Fee	
(1) Residential Service	\$00.00 per connection
(2) School Service	\$00.00 per connection
(3) Commercial Service	\$00.00 per connection
(4) Contract Service	\$00.00 per connection

(b)	Disconnection	\$00.00
(c)	Reconnection	\$00.00
(d)	Late Payment Penalty	\$10.00 or 10 percent of past due amount
(e)	Unauthorized Usage Fee	\$00.00
(f)	Wasteful Usage	\$100.00
(g)	Returned checks/Failed Bank Draft	\$00.00

**60.12.010. Schedule B: Service Rates.**

	<u>Service</u>	<u>Charge</u>
(a)	Residential Service	\$36.00 per month
(b)	School Service	\$00.00 per month
(c)	Commercial Service	\$40.00 per month
(d)	Special Contracts	
(1)	Customer One	\$00.00 per month
(2)	Customer Two	\$00.00 per month
(3)	Customer Three	\$00.00 per month

# TITLE 64. BOAT HARBOR

## Chapter 04. Small Boat Harbor.

### **64.04.010. In General.**

This title shall constitute the small boat harbor code of the City of Kake, Alaska and may be cited as such. All rates under this code may be changed by the city council my means of resolution.

### **64.04.020. Purposes.**

The purposes of this code are to protect and preserve the lives, health, safety, and well being of any person who uses or works upon the Kake Small Boat Harbor Facilities, to protect the property of such persons by regulating the use of the facilities, and to make reasonable charges for the use of the facilities. The provisions of this code shall be liberally construed for the accomplishment of these purposes.

### **64.04.030. Jurisdiction.**

The Kake Small Boat Harbor Facilities shall be under the jurisdiction of the council of the City of Kake who shall have the authority to classify areas of the harbor, set fees for the use of facilities, make rules and regulations for the governance of the harbor, and appoint a harbormaster to implement this code.

### **64.04.040. Intent.**

It is the intent of this code to encourage the use of the facilities of the Kake Small Boat Harbor by commercial fisherman, government vessels, pleasure boats, and the general boating public. It is further the intent of this code to prevent and discourage the use of the facilities by unpowered vessels, scows, barges, rafts, and other cumbersome floating structures, or by boats which have or may become a charge or nuisance to the City of Kake. Individuals or firms shall not be permitted to conduct commercial enterprises on the facilities. Must procure a business license and charge sales tax.

### **64.04.050. Use of Revenue.**

The city council of the City of Kake shall establish and maintain a separate fund entitled “Kake Small Boat Harbor Fund.” All mooring and storage rentals, fees, fines, and other revenues arising out of the use, management, or operation of the harbor shall be deposited to this fund to be expended exclusively for the operation, maintenance, supervision, and improvement of the Kake Small Boat Harbor.

### **64.04.060. Implied Agreement.**

The moorage or use or presence of any boat within the Kake Small Boat Harbor shall constitute an agreement by the owner, operator, master, or managing agent to conform to the provisions of this code and any rule, regulation, or order made pursuant thereto.

**64.04.070. Harbormaster.**

- (a) Appointment. A harbormaster and required assistants will be appointed to supervise and manage the boat harbor facilities. They shall be appointed in the same manner as other city employees.
- (b) Powers. The harbormaster is hereby charged with the duty of enforcing all the provisions of this code and any rules and regulations duly adopted hereunder.
- (c) Assignment of facilities. The harbormaster shall supervise and manage the assignment of all mooring spaces, dry land storage, and all other facilities. He may, in the interest of safety, order, and convenience, require the owner or operator of a boat to change from one mooring or storage space to another and may himself move any boat in the absence of the owner. Prior to moving possible the harbormaster will attempt to provide the owner as much notice as possible.
- (d) Refusal of moorage or storage facilities. The harbormaster may, in his discretion, refuse moorage or storage to any boat which may become a menace to the safety or welfare of other boats or their occupants. He may refuse the use of any of the harbor facilities to boats that may cause damage to said facilities. He may, in his discretion, refuse berthing to excessively large boats, unpowered vessels, floats scows, log rafts, barges, and other cumbersome floating structures. Use of the harbor by floating boat shelters, floating storage buildings, or boathouses is prohibited. The harbormaster may refuse moorage or use of any of the harbor facilities to any boat or boat owner violating any provision of this code.
- (e) Posting and traffic control. The harbormaster shall have the duty and the exclusive power to post signs and to thereby designate the limit of harbor speeds, classification, and use of harbor moorage and storage areas, and such other signs and notices necessary to inform the public of authorized or prohibited uses of the harbor facilities. The harbormaster is authorized to direct all waterborne and vehicular traffic within the limits of the harbor boundaries including designated parking and storage areas.

**64.04.080. Classification of Harbor Areas Assignment of Moorage Space.**

- (a) Reserved moorage. Numbered stalls shall be set apart and designated for reserved mooring of privately owned boats on a yearly basis upon the owners having first made arrangements with the harbormaster and having paid the rent as hereinafter provided. Each shall be numbered in such a manner that its location can be readily determined. Assignments to use of designated and numbered space shall be made by the harbormaster who shall give the boat owner a duplicate of the stall rental agreement. Presentation of this duplicate shall be made to the city treasurer when making payment of the fee indicated thereon. Boat owners may retain space rented by them only so long as they continue to be boat owners and pay the prescribed fees. If a boat owner sells or disposes of his boat, he may retain the space until the end of the rent period and may not renew same unless he has acquired or given notice of intent to acquire another boat within a reasonable time. No property rights are created by this section or this title, the stall renter shall have only a license to use the space reserved to him as provided by this title. The right to the use of a moorage space, by payment of the annual rental as herein provided, may not be transferred, assigned, or sublet, except by the harbormaster. The harbormaster has the authority to utilize the

holder's reserved space for other boats during the absence of the holder's boat and to collect fees for the use thereof, or to move moored boats to other locations in the event of fire or other emergency requiring such action.

- (b) Open mooring. Float areas not otherwise posted for restricted use shall be designated for open mooring for transients and other such temporary uses as the harbormaster may order. No boat or boat owner shall have a preferential right to open mooring; it shall have no right to return to the same space if, upon return, it be found to be occupied by another boat.
- (c) Loading/unloading float. Float areas so designated may be used for loading and unloading equipment and passengers from boats using the harbor facilities. No boat shall be moored in such areas for any period of time longer than is necessary for such loading or unloading.
- (d) Dock. All designated areas of the dock are to be used only for the purpose of loading and unloading supplies, equipment, and stores. No boat shall be moored in such designated areas for any period longer than is required for such loading and unloading. Wharfage charges for revenue cargo moving across the dock shall be paid as hereinafter provided. "Revenue cargo" shall mean and include any and all vehicles, goods, materials, and commodities transported for hire or for use or resale in connection with a commercial enterprise.
- (e) Dry land storage. Marked areas shall be set apart and designated for the exclusive use of privately owned boats and equipment, including fishing gear upon the owners thereof having first made arrangements with the harbormaster and paid the rent as hereinafter provided. The provisions of trailers, skids, blocks, cradles, or other storage devices shall be the responsibility of the owners, but the harbormaster may refuse the sue of any devise that is or may create a hazard to the safety and welfare of the other boats, there owners or occupants.
- (f) Moorage Agreement

All vessel owners having permanent moorage in the harbor will be required to execute a moorage agreement with the harbormaster. The information collected on the moorage agreement will include, but is not limited to the following:

- a. vessel type, length, and type of power
- b. owner name, address, phone number
- c. secondary contact in case of emergency if owner cannot be reached
- d. acknowledgement of understanding of harbor policies & moorage rates
- e. acknowledgment of understanding or responsibility for damages caused by the vessel

**64.04.090. Rentals and Fees.**

- (a) Berthing and storage rentals and other fees for the use of facilities shall be paid in advance to the harbormaster. Failure to register or pay such rentals or fees shall be presumed to be an abandonment. For purposes of determining the annual rental for stall moorage, boat length shall be the distance measured in a straight line from "stem to stern."
  - (1) Stall moorage: \$7.00 per foot per year;
  - (2) Live aboards: \$15.00 per month, plus length of vessel, plus utilities;
  - (3) Gridiron: \$5.00 per one tide cycle or, if unattended, \$10.00 per tide cycle;

- (4) Dry land storage: (No charge at this time). (\$0.20 per 100 pounds);
- (5) Resecuring vessels: \$10.00 for harbormaster services;
- (6) Pumping vessels: \$25.00 for harbormaster services;
- (7) Replacing lines: \$25.00 for harbormaster services;
- (8) Other harbormaster services as required: \$20.00 per hour;
- (9) Transients moorage: \$0.50 per foot per day (1 to 24 hours);
- (10) Persons who pay a year in advance will receive a ten percent (10%) discount and senior citizens who pay a year in advance a thirty-five percent (35%) discount
- (11) Snow removal to prevent capsizing or sinking will be at \$25 per hour.
- (12) Used oil will be purchased by the harbormaster at a rate of \$1 per gallon during hours the harbormaster's office is open. The oil must contain oil must be free of contamination from antifreeze, water, gasoline, or other explosive material. Additionally a second receptacle will be provided for oil collection when the harbormaster's office is not open. No compensation will be provided for waste oil deposited into this receptacle.
- (13) Annual moorage rates will run concurrently with the city's fiscal year which is from July 1<sup>st</sup> through June 30<sup>th</sup> .
- (14) Harbor rates may be adjusted by resolution of the city council and will be effective

**64.04.100. Duties of Boat Owners and Uses.**

Every owner, master, operator, or managing agent of any boat using the harbor facilities shall take reasonable precautions to see that the boat in his charge is kept clean, well secured, free from fire hazards of all types, sufficiently pumped out to maintain the boat afloat and to otherwise attend to the requirements of the boat to avoid damage to other boats or to the harbor facilities. The harbormaster is hereby granted the power and authority, without any obligation or liability to do so, to replace defective mooring lines, pump out boats which are in danger of sinking, or move any boat which may be creating a hazard to other boats or the harbor facilities. The boat owner is hereby required to pay for these services in accordance with the fees hereinbefore described. To qualify or remain qualified for a moorage space, a boat must be seaworthy and must have sufficient motive power to permit the boat to be maneuvered and controlled safely both in and out of the harbor. Every boat must clear the harbor of its own power at least twice each year. Failure to comply shall raise a presumption that the boat is not qualified.

**64.04.110. Prohibited Acts.**

It shall be unlawful for any owner, master, operator, managing agent, or other person charged with the operation of a boat using the harbor facilities to:

- (1) operate or cause to be operated any boat within the limits of the harbor in excess of five miles per hour;
- (2) operate or cause to be operated any boat in a reckless or negligent manner likely to endanger the safety of persons or property within the limits of the harbor;
- (3) throw, pump, or otherwise cause to be deposited gasoline, oil, trash, garbage, bilge water, or other refuse onto any part of or into the waters of the harbor;
- (4) create or maintain any nuisance within the harbor facility;
- (5) deposit, place, or abandon cargo, merchandise, supplies, freight, or thing upon any float, ramp, approach, dock, or other public place within the harbor facility, except at places designated as loading and unloading areas by the harbormaster;
- (6) disregard, deface, remove, tamper with, or damage any sign or notice posted or installed by the harbormaster relating to use of the harbor;
- (7) permit a dog or other domestic animal to run at large upon or be tethered to any harbor facility. Only the dogs or animals of the owners of boats in the harbor shall be permitted on the floats and then only for such minimum time as is necessary to go between the boat and shore; provided, that each owner has a poop scoop
- (8) to install or secure to any float permanently any tire, fire hose, rope, or other material for the purpose of, or designed to act as a bumper. Staircases are permitted provided they are of light construction and capable of being lifted and moved by a single person. Satellite dishes are permitted provided they are fasted with strapping or banding. Drilling of holes into pilings or the use of nail, screws, or bolts directly into any piling is expressly prohibited.
- (9) moor unpowered vessels, scows, rafts, barges, piledrivers, boat shelters, or similar structures to the public float system unless they are seaworthy and must depart the harbor at least twice each calendar year with a minimum of 30 days between departures. Additionally, float-houses are permitted permanent moorage provided they meet the following conditions:
  - A. floatation is adequate to keep the float-house afloat at all times
  - B. they are registered with DMV and have an AK registration number
  - C. they are not more than two stories is height
  - D. they are removed from the harbor a minimum of twice each calendar year either under their own power or under tow.
  - E. if they are to be used for habitation a US Coast Guard approved Type-II or Type-III Marine Sanitation Device must be installed and functional. For the purpose of this requirement, a portable toilet in not acceptable as there are currently no facilities in the harbor to dispose of waste.

**64.04.120. Unpaid Rentals and Fees, Lien.**

The City of Kake shall have a lien for any unpaid rentals, fees, or services. Should any such rentals or fees be unpaid for a period of sixty consecutive days after due, any boat upon which such rental or fee has accrued shall be impounded and disposed of as provided in Sec. 64.01.150.

**64.04.130. Abandoned Boat Defined, Removal.**

Boats within the harbor which are derelicts are maintained in such manner as to make them liable to sinking are maintained in a manner to constitute a fire hazard to other boats or otherwise damage the harbor facilities; and sunken boats are hereby declared abandoned and are subject to removal from the harbor facility without liability for any damage done by virtue of the removal. Boats removed under the provisions of this section shall be disposed of as provided in Sec. 64.04.150.

**64.04.140. Abandoned Property, Removal.**

Any nets, gear, tanks, lines, or other personal property which is deposited, stored, or otherwise placed on any of the harbor facilities for a period of over twenty-four hours is declared to be abandoned and a public nuisance and may be impounded, removed, sold, or otherwise disposed of as provided in Sec. 64.04.150. Gear may be stored on finger float with approval of both parties, city and boat owner, as long as it does not become a nuisance or hazard.

**64.04.150. Abandoned Boats and Property, Disposition.**

Any boat or other personal property which is abandoned or declared to be a public nuisance may be impounded, removed, and disposed of as provided below.

- (a) Immediately upon determination that a boat is a derelict or public nuisance, the harbormaster shall notify the owner, master, or managing agent of the boat, at his known address, of the intent to impound, remove, sell, or otherwise dispose of the boat.
- (b) Any boat impounded or removed shall be held by the harbormaster for a period of not less than thirty days, after which time the harbormaster may destroy, sell, or otherwise dispose of the boat. Proceeds from sale of the boat shall be first applied to the costs of conducting the sale, impounding, removal, berthing, and service fees accrued and the balance held in trust for the owner of claim; and if not claimed within one year, the balance shall be deposited in the Kake Small Boat Harbor Fund.
- (c) Any nets, gear, tanks, lines, or other personal property abandoned on any harbor facility as defined in Sec. 64.04.140 may be disposed of in any manner at the discretion of the harbormaster without liability for said disposal.

**64.04.160. Wharfage Charges.**

- (a) Application. Transfer of freight may occur at the Kake Deepwater Port facility only by permission from the City of Kake harbormaster.

- (b) Inclusion. Wharfage fees include both inbound and outbound freight.
- (c) Payment. All warfage and demurrage (dockage, storage, labor, and miscellaneous fees) for use of the Kake City Port facilities shall be paid to the City of Kake on a monthly billing cycle based upon shipping manifests provided by the shipping company.
- (d) Prepayment. The harbormaster may require prepayment of the estimated fees due under this title prior to any freight transfer.
- (e) Refusal of freight. The harbormaster may refuse to permit the transfer of any freight whose volume, weight, hazardous nature, or other characteristics would present a risk to the safety of persons or property, private or public, at the port, or whose value is less than the fees due under this title.
- (f) Manifests. A complete copy of the manifest showing all the freight unloaded or discharged at the port may be required by the harbormaster. In lieu of a manifest, a freight bill containing all information as required in this section may be accepted.
- (g) Persons responsible for fees. Vessels, their owners, agents, masters, and shippers and/or consignees of freight transferred across the port shall be jointly and severally liable for all fees due for activities described in this section notwithstanding any contrary provisions, any bill of lading, charter part agreements, contracts, or other agreements.
- (h) Freight on which fees have become delinquent. Freight on which fees have become delinquent may be impounded by the City of Kake and sold to recover wharfage fees.
- (i) Liability and indemnity. All risk of loss from theft, fire, or other casualty to freight shall be assumed by the parties to the shipping agreement and not the City of Kake. The person making application for the transfer of freight across the dock shall defend, indemnify, and hold the City of Kake harmless from all claims arising from the transfer of freight across the dock.
- (j) Wharfage fees shall be reviewed annually by the Kake City Council and modified by resolution.

**64.04.170. Liability for Damages.**

Any person, firm, or corporation who damages, or causes to be damaged, any float, dock approach, piling, dolphin, navigation aid, buoy, breakwater, building, or related appurtenances within the harbor shall be held responsible for the cost of repair of such damages.

**64.04.180. Penalty.**

Any person found to be guilty of any of the provisions of this code shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not less than \$25.00 or more than \$250.00. Complaints of any violations of any provision of this code shall be made to any officer of the City of Kake or to the harbormaster.

**64.04.190. Definitions.**

When used in this code:

- (a) “Boat” means all vessels, ships, boats, skiffs, and watercraft of every kind and description. The essential element of a boat is that its purpose and use is navigation as a means of transportation upon the navigable waterways of the State of Alaska.
- (b) “Code” means the small boat harbor code of the City of Kake, Alaska.
- (c) “Derelict” means any boat moored or otherwise located within the boundaries of the Kake Small Boat Harbor which has been, or gives the appearance of being, forsaken, abandoned, deserted, or cast away, or which by any substantial evidence of neglect may be considered abandoned.
- (d) “Facilities” means all water, improvements, and appurtenances of the Kake Small Boat Harbor.
- (e) “Harbor” means the Kake Small Boat Harbor.
- (f) “Mooring” means securing or otherwise attaching a boat to any harbor facility.
- (g) “Kake Small Boat Harbor” means all publicly-owned tide and submerged lands, including adjoining uplands, and all improvements and appurtenances leased from the State of Alaska which are located at or near the City of Kake, Alaska. This section is expanded to include the former State of Alaska Float-plane dock near city hall commonly referred to as “the city dock”.

# TITLE 67. TAXATION

## Chapter 08. Sales Tax.

### **67.08.010. Sales Tax Levied.**

- (a) A consumer's sales tax is levied on all retail sales made, on all amounts paid as rent, and on all services performed within the city in the regular course of business, except such as are exempted in Sec. 67.08.040, to be collected and used for the purposes provided in Sec. 67.08.130.
- (b) The sales price of all items purchased or delivered at the same time shall be added together and the tax levied on the aggregate amount thereof.

### **67.08.020. Rate of Sales Tax Levied.**

Said tax is hereby levied in the amount of five percent (5%) of the sales price of all retail sales made, rents furnished, and services performed within the city.

### **67.08.030. Computing Reasonable Value.**

When sales, rentals of property, or services are made, paid, performed, or furnished for other than cash, the price shall be computed in dollars and cents on the reasonable value of the items sold, paid, performed, or delivered. The term "rent" as used herein includes rent of both real and personal property and the term "services" includes furnishing of labor and materials for accomplishing a specified result when the resulting object or product is not for resale by the purchaser in the ordinary course of business.

### **67.08.040. Exemptions.**

The following transactions are exempt from the tax levied in this chapter:

- (1) salaries and wages received by an employee;
- (2) sales made and services performed which are not in the regular course of business;
- (3) sales and services, when the amount paid to any person for such sales and services by all persons doing business with such person does not amount to one hundred dollars in any calendar month;
- (4) sales of insurance and bonds of guaranty and fidelity;
- (5) fees for legal, medical, dental, and hospital services;
- (6) remuneration for services and materials, including caskets, used or furnished for funerals;
- (7) wharfage charges and charges for freight handling and cargo handling on docks;
- (8) all sales of commodities made to a manufacturer, broker, wholesaler, or dealer and which are not consumed or destroyed by such purchaser, but which are resold in the same or an

altered form, or which are used to package, crate, or deliver the products of such purchaser;

- (9) all sales to a bona fide retailer when the same are purchased by him for resale in the ordinary course of business. In this connection a retailer is one who regularly stocks merchandise for resale, displays the same to the public, and holds himself out as regularly engaged in the business of selling such products, either during a regular season or throughout the year, direct to the consumer;
- (10) all sales for consumption outside the city, if delivered, by a common carrier by air or water, to the purchaser;
- (11) all drugs and medicines prescribed by a physician and dispensed by a registered pharmacist;
- (12) residents of Kake over the age of 65 who submit proof acceptable to the city clerk to obtain a sales tax exemption card from the city. Any vendor doing business with a resident of the city who possesses a sales tax exemption card shall not collect sales tax from the resident. No person who has received an exemption card may use it to obtain a tax exemption when the rents, retail purchases, and services, otherwise subject to sales taxes, are used or consumed by any person other than the person duly holding the exemption card. Any buyer or consumer who falsely states or in any way misrepresents the use to which merchandise or material is to be put for the purpose of securing tax exemption under the terms of this section is guilty of an unlawful act, and upon conviction thereof is subject to a fine not to exceed five hundred dollars (\$500.00);
- (13) the following services: water, sewer, and garbage services.

**67.08.060. Duty to Collect and Make Return.**

- (a) The tax levied under Sec. 67.08.010 is assessed and levied upon the purchaser or consumer, but it is the duty of the retailer or person furnishing such services to collect the tax from the purchaser or consumer and make return thereof to the city clerk as provided in Sec. 67.08.070 and 67.08.080.
- (b) The sellers and persons furnishing rents and services mentioned in this chapter shall add the tax imposed under Sec. 67.08.020 to the sales price or charge, and when so added such tax shall constitute a part of such price or charge, and shall constitute a debt from the purchaser or consumer to the seller or furnisher until paid, and shall be recoverable by law in the same manner as other debts. The sellers or furnishers of such services shall add and collect the tax strictly in accordance with Sec. 67.08.020.

**67.08.070. Payment to City Clerk.**

The city clerk shall provide appropriate forms for the use of taxpayers in making returns of the taxes payable under this chapter. Every person making such sales or supplying such services as are taxable hereunder or importing such goods, commodities or articles shall furnish the city clerk with a return containing such information as is necessary to fill in or complete the forms supplied by the city clerk, including the total sales price collected during each quarter for which the return is made, the amount of such sales and services as are exempt under this chapter, the

sale price of goods imported and sold outside the city, and the tax due and payable for such quarter.

**67.08.080. Remittance of Tax Collected.**

Sellers shall file returns and remit the tax collected to the city clerk in accordance with the following schedule.

- (a) Quarterly. Unless otherwise provided for in this section, sellers shall on or before the last day of the month following the end of each quarter year ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first, prepare and submit to the city clerk a return for the preceding quarter upon forms furnished by the city. In the event the last day of the month falls on a legal holiday, then the return may be filed on the first business day following. When sales or services are made on credit, for the purpose of making a return and paying the tax, such sales shall be considered made or services furnished during the month in which payment is received for such sales or services, unless the taxpayer elects to make his returns on an accrual basis. The importation and manufacture of goods later sold outside the city shall be considered to be imported or manufactured at the time of sale outside the city for the purposes of reporting and the payment of the tax. The taxes payable for sales, rents, services, and importations in each quarter shall be payable on or before the 10th day of the following month and shall be delinquent unless so paid. If a seller fails to file or is late in filing returns for two of the last four quarters, the mayor may require the seller to submit returns and payment each month. A seller may elect to file either monthly or quarterly returns. Sellers must elect in writing, between June first and June thirtieth of each year, whether they will file returns monthly or quarterly for the following fiscal year.
- (b) Monthly. If a seller chooses to file monthly returns, the taxes payable for sales, rents, services, and importations in each month shall be payable on or before the last day of the following month and shall be delinquent unless so paid.
- (c) Itinerant seller. A person doing business within the city and liable for an itinerant nonresident business license on less than an annual basis shall file a sales tax return and remit in full the tax shown as due within twenty-four hours following the expiration of his license, but in any event prior to leaving the city.
- (d) Sale of business to another person. A seller who sells his business to another person shall make a final sales tax return within fifteen days after the date of selling the business. The purchaser of the business shall withhold a portion of the purchase money sufficient to pay any sales tax, penalties, and interest that may be due until the seller displays a receipt from the city showing that all tax obligations imposed by this chapter have been paid. If any purchaser of a business fails to withhold this sum, he shall be personally liable for the taxes, penalties, and interest owed by the seller to the city.
- (e) Upon termination of business activities. If a seller terminates his business without the benefit of a purchaser, successor, successors, or assigns, he shall make a final return and settlement of tax obligations within fifteen days.
- (f) Filings to be continuous. A person who has filed a sales tax return will be presumed to be making sales in successive months unless he files a return showing termination or sale of his business.

**67.08.090. Procedures on Delinquencies.**

- (a) Penalty and Interest. In the event a return is not made or the tax is not paid for any calendar month within the following calendar month, a penalty of ten (10%) of the delinquent tax shall be added to the tax for the first month of delinquency or any fraction thereof, and an addition ten percent (10%) shall be added for each additional month of delinquency or fraction thereof, until a total penalty of 20% has accrued. Interest at the rate fifteen percent(15.%) annually from the date of delinquency until paid, shall accrue in the same manner. Such penalty and interest shall be collected in the same manner as the tax.
- (1) The lien created by this section shall be created and enforced as provided in this subsection. The sales tax inspector shall report to the city clerk any discrepancies determined in the course of an investigation conducted pursuant to Sec. 67.08.110, below. The city clerk shall compile a report of discrepancies received from the sales tax inspector together with amounts shown on returns by taxpayers but not paid as provided in Sec. 67.08.080, above, and prepare a written notice to each individual taxpayer who is delinquent in the payment of sales taxes. Said notice shall be mailed to the taxpayer at this or her last known address and recorded in the recorder's office for the Petersburg Recording District, First Judicial District, State of Alaska. On recording of said notice of lien, the lien for taxes becomes effective as provided in this section.
- (2) All taxes, penalties, and interest assess are a lien prior, paramount, and superior to all other liens or encumbrances upon all the real and personal property of the person, firm, or corporation liable therefor, and also upon all the real and personal property used with the permission of the owner thereof in prosecuting the various industries or lines of business involved. The special remedies for the recovery of this tax shall not be deemed exclusive of any other remedy, civil or criminal or both, not provided by law for the recovery of monies due and owing the city.
- (b) Written demand and additional procedures. If a seller fails to file the return or make the remittance as required in this chapter, the mayor or his designee shall make written demand upon the seller, mailed to his last known address, for submission of the return and/or remittance. In the event of noncompliance with the demand, the mayor or his designee may do any or all of the following things:
- (1) Criminal action. File a criminal complaint against the seller in the district court for violation of this chapter;
- (2) Civil action. Make a sales tax assessment against the seller, with the assessment based upon an estimate of the gross revenue received by the seller during the period and institute civil action to recover the amount of the tax. The estimate of gross revenue shall be derived from past returns of the seller, the general economic level of the business community and, if available, returns of comparable businesses.
- (3) Hearing Period. Notify seller in writing by certified mail that a hearing will be held to determine the sales tax liability of the seller at a specified time and place not less than fifteen days after the date of the notice. The seller shall present himself at the hearing and make available for inspection his books, papers, records, and other memoranda pertaining to gross revenues derived from his commercial transaction sufficient to enable the city to make a determination whether the return is required or tax due;

- (4) Publish and/or post names of delinquent persons and/or businesses. Publish in a newspaper of general circulation in the area, and/or post in three separate places in the city, the name of any persons and/or businesses that are delinquent in the remittance of the sales taxes required by this chapter; and
- (5) Publish and/or post names and amounts in case of conviction or judgment. Publish in a newspaper of general circulation in the area, and/or post in three separate places in the city, the name and amount of sales tax due, if any, of a person convicted of violating this chapter or a person against whom the city has recovered a judgment for unpaid sales tax.
- (6) In the event that the delinquent tax has not been paid in full, including penalty and interest, by the end of the second month of delinquency, the city clerk shall file suit in the appropriate court of law for collection of the tax in full, including penalty, interest, and court costs. Noting in this section shall bar the filing of any such action later than such time, nor shall anything in this section constitute a defense to any such suit filed after such time.

**67.08.100. Sales Tax Inspector: Designation.**

The city council shall from time to time designate one person at any one time to make investigations and inspections of the books and records of the persons, firms, and corporations who are liable for taxes under this chapter. Such person shall be the sales tax inspector of the city.

**67.08.110. Sales Tax Inspector: Powers.**

The sales tax inspector is authorized and empowered to make inspections from time to time of all the books and records pertaining to purchases, sales, services, importations, and rents made, furnished, paid, or performed by parties who are liable for the tax levied under this chapter. The sales tax inspector is granted the right to inspect all such books and records, including the records of purchases made by retailers from wholesalers or other retailers, the ledger accounts of customers of the taxpayers, the sales slips made by taxpayers and all other books and records kept by the taxpayers which would in any way tend to prove or reveal information concerning the tax liability of the taxpayer under this chapter.

**67.08.120. Inspector's Investigations, Dispute Settlement.**

- (a) It shall be the duty of every person engaged in retail business or in furnishing services to the public in the City of Kake to allow the sales tax inspector to examine such books and records during regular business hours at such times as the sales tax inspector shall require. If the sales tax inspector shall find discrepancies in favor of the city between the sales reported to the city clerk and the sales which appear to have been made by any taxpayer, it shall be the duty of the city clerk to demand that the taxpayer forthwith make an amend return showing the correct amount of tax payable for each month for which such discrepancy appears, and to pay the taxes due the city.
- (b) Unless a taxpayer upon whom such demand is made makes such returns and pays the taxes due the city within five days from the date of the demand by the city clerk, the city clerk shall report the facts in full to the council. The city clerk shall keep confidential all facts which he has learned as a result of such investigations, until such time as the same are reported to the council.

- (c) In the event of a dispute between the taxpayer and the city clerk as to the amount of tax due, the taxpayer may within five days of the demand made upon him for the filing of amended returns and the payment of such taxes, demand a hearing before the council on his tax liability. In such event, the council shall notify the taxpayer of the time and place at which such hearing will be held. The council shall, after receiving a report from the city clerk of delinquent taxes and after affording an opportunity for such hearing in case the taxpayer demands the same, take such legal action as is necessary to collect any taxes which the council finds to be delinquent, including penalties and interest.

**67.08.130. Use of Proceeds.**

- (a) The proceeds of the tax hereby levied shall be used as follows:
  - (1) to plan, design, and construct any permanent public works, and to pay incidental expenses in connection with such improvements; and
  - (2) to pay principal and interest on any general obligation bonds of the city.
- (b) Proceeds or revenue of the tax hereby or heretofore levied and hereafter levied and collected may be pledged in such amount or in such percentage, as may be fixed by ordinance of the city, to secure the payment of principal and interest on any general obligation bonds, including bonds issued for school purposes of the city.
  - (1) Twenty percent thereof shall be used only for the purpose of purchasing new water and sewer systems for the City of Kake and for paying any debt and interest thereon incurred for the purpose of purchasing or constructing such systems. After the same have both been completed and paid for, such twenty percent of said tax shall be used for general fund purposes.
  - (2) Twenty percent thereof shall be used for the purpose of operating, maintaining, improving, and extending the present water and sewer systems of the City of Kake to the extent deemed advisable by the city council of the City of Kake, and upon the replacement of said systems by new water and sewer systems, the same shall be used only for the purpose of paying any indebtedness and interest thereon which may be incurred in the construction or purchase of such new systems; and when such indebtedness is paid the same may be used for general purposes.
  - (3) Sixty percent of said tax shall be deposited in the general fund and used for any purpose.

**67.08.140. Inspection of State Business License Returns.**

By doing business within the city, a seller consents to the inspection of his State of Alaska business license return by the duly authorized representative of the city for purposes incidental to enforcement of this tax.

**67.08.150. Criminal Penalty.**

Any person, firm, or corporation violating any of the provisions of this ordinance or any duty imposed hereunder or who fails to file a return of taxes due as provided herein or to pay the tax herein provided, shall be guilty of a misdemeanor and upon conviction therefor shall be punished

by a fine not to exceed \$1,000.00 or by imprisonment in the city jail for a period not to exceed ninety (90) days or both.

# TITLE 72. SUBDISVISIONS.

## Chapter 04. General Provisions.

### **72.04.010. Purpose of Provisions.**

The purpose of this title is to promote and improve the health, safety, and general welfare of the citizens of the city. These regulations are designed to further the orderly layout and use of land; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to assure adequate open land space; and to facility the further subdivision of larger tracts into smaller parcels of land.

### **72.04.020. Platting: Required, Exceptions.**

- (a) Platting of subdivision required. Any division of land within the city which results in a subdivision as defined in Sec. 72.08.090 shall be surveyed and a plat thereof approved and recorded, pursuant to the provisions of this title and state statute as amended from time to time.
- (b) The provisions of this title shall not apply to the following:
  - (1) transfers of interest in land pursuant to court order;
  - (2) leases for a total terms not to exceed ten years, including possible renewal terms, mortgages, or easements;
  - (3) the sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this title or other applicable laws or ordinances.

## Chapter 08. Definitions.

### **72.08.010. Alley.**

“Alley” means a minor way, dedicated to public use, which is used primarily for vehicular access to the back or the side of properties otherwise abutting on a street.

### **72.08.020. Block.**

“Block” means a piece or parcel of land entirely surrounded by public highways, streets, streams, railroads, rights-of-way, or a combination thereof.

### **72.08.030. Cul-de-sac.**

“Cul-de-sac” means a street having one end open to traffic and terminated at the other end by a vehicle turnaround.

### **72.08.040. Easement.**

“Easement” means a grant by the property owner to the public of the use of a strip of land for specific purposes.

### **72.08.050. Lot.**

“Lot” means a portion of subdivision or other parcel of land intended as a unit for transfer of ownership.

### **72.08.060. Plat.**

“Plat” means the map prepared as required by Subsection (a) of Sec. 72.04.020 for the purpose of recording subdivisions of land as provided in this title.

### **72.08.070. Street.**

- (a) “Street” means a way for vehicular traffic, other than an alley, dedicated to public use.
- (b) Major streets and highways are those which serve as the principal arteries for through traffic movement or which collect traffic from minor streets.
- (c) Minor streets are those which are used primarily for access to the abutting properties.
- (d) Half streets are any streets less than the prescribed right-of-way widths found in this title or as established by the planning commission.

### **72.08.080. Subdivider.**

“Subdivider” means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and

includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or area being subdivided.

**72.08.090. Subdivision.**

“Subdivision” means the division of a tract or parcel of land into two or more lots, sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or area being subdivided.

**72.12.010. Required Prior to Final Plat.**

Before submitting a final plat for approval, for recording under state statute, as amended from time to time, the subdivider shall submit a preliminary plat to the planning commission in order that general agreement may be reached on layout and arrangement of streets and lots before a final plat is prepared.

**72.12.020. Planning Commission Action.**

- (a) If the preliminary plat is acceptable for processing, the commission may grant preliminary approval of the plat subject to and effective upon certification of no objection from agencies authorized to object.
- (b) Approval of the preliminary plat shall entitle the subdivider to approval of the final plat if it conforms substantially to the preliminary plat and any conditions of approval that have been made.
- (c) If the planning commission does not approve, disapprove, or return the plat to the applicant within thirty days, the preliminary plat is considered approved and the final plat may be submitted for approval.
- (d) The applicant for plat approval may consent to the extension of the period for action by the planning commission. The commission shall state on its record and in writing to the applicant its reason for disapproval of a plat.

**72.12.030. Information Required.**

The following information shall be provided to the planning commission by the subdivider at the time of the preliminary consultation:

- (1) information including data on existing covenants, land characteristics, and available community facilities and utilities, and information describing the subdivision proposal, such as number of residential lots, typical lot width and depth, business areas, playgrounds, park areas, and other public areas, tree planting, proposed protective covenants, and proposed utilities and street improvements;
- (2) a location map showing the relationship of the proposed subdivision to existing community facilities which serve or would be influenced by it, and including the development name and location, main traffic arteries, churches, title, scale, north arrow, and date;
- (3) a sketch plan showing in simple sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be a freehand pencil sketch made directly on a print of the topographic survey.

**72.12.040. Preliminary Plat: Preparation and Data.**

- (a) The preliminary plat shall be drawn with waterproof, non-fading black ink or legibly drawn with pencil on tracing cloth or tracing paper of good quality at scale of one hundred feet to an inch and shall show accurately on its face the following:
- (1) the date, scale, and northpoint;
  - (2) the proposed subdivision name, which shall not be so similar to the name of any plat previously recorded in the area as to cause confusion;
  - (3) the name and address of the owner, the subdivider, and the engineer, planner, or surveyor preparing the plat;
  - (4) the exact length and bearing of the exterior boundaries of the subdivision; the legal description and location to include latitude and longitude to the nearest minute at one corner of the survey; and the total acres;
  - (5) location and names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land;
  - (6) zoning on and adjacent to the subdivision;
  - (7) location, widths, and names of all existing and platted streets, alleys, or other public ways an easements; railroad and utility rights-of-way; parks, cemeteries, watercourses, drainage ditches, permanent buildings, bridges, and other pertinent data required by the planning commission;
  - (8) the water elevations and adjoining lakes or streams at the date of the survey and the approximate high and low water elevations of such lakes or streams;
  - (9) if the subdivision borders a lake or stream, the distances and bearing on a meander line established not less than twenty feet from the ordinary high water mark of the lake or stream;
  - (10) layout, width, and approximate grades of all new streets and rights-of-way, such as alleys, highways, easements for sewers, water mains, and other public utilities;
  - (11) direction and distance to nearest water and sewer mains;
  - (12) approximate dimensions and areas of lots;
  - (13) proposed building lines;
  - (14) approximate radii of all curves and length of tangents;
  - (15) contours at two-foot intervals or at more frequent intervals if required by the planning commission for land of unusual terrain characteristics; all pertinent elevations should be shown.

- (b) The area for which such data is to be shown shall extend beyond the boundaries of the actual property being platted a distance which will adequately relate the plat to its surroundings.

**72.16.010. Engineering Data.**

- (a) Following approval of the preliminary plat and prior to submittal of a final plat, the subdivider shall furnish to the planning commission the following engineering data pertaining to utilities and improvements in the preliminary plat:
  - (1) plan and profiles showing existing and established grades for all streets, alleys, and public rights-of-way;
  - (2) plan and profiles of all storm sewers, culverts, and surface water drainage facilities;
  - (3) plan and profiles of all sanitary sewers;
  - (4) plan and profiles of all water distribution lines;
  - (5) power and telephone poles;
  - (6) gas lines;
  - (7) easements.
- (b) All such engineering data shall be approved by the city council and superintendent of public works, as to conformance with all relevant ordinances, statutes, and regulations before the final plat shall be filed.

**72.16.020. Filing.**

- (a) The final plat and copies thereof required shall be submitted to the city clerk within six months of approval of the preliminary plat. However, if approval of the preliminary plat must be obtained from another governmental body after approval by the planning commission, the final plat shall be submitted within six months of such other approval. The planning commission may waive failure to comply with this requirement to avoid injustice or when waiver is in the public interest.
- (b) Upon official filing, the city clerk shall forthwith forward the plat to the planning commission.

**72.16.030. Acceptance or Rejection.**

The planning commission shall approve or reject the final plat within thirty (30) days of its submission unless the time is extended by agreement with the subdivider. Reasons for rejection shall be stated in the minutes of the meeting and a copy thereof or a written statement of such reasons shall be supplied the subdivider.

**72.16.040. Recording.**

Following approval of the final plat the certified survey map and a duplicate tracing shall be filed by the subdivider with the city.

**72.16.050. Submission of Copy in Lieu of Original.**

If the original of the final plat has been filed with another approving authority, the subdivider may file a true copy of such plat in lieu of the original. However, before approval by the city may be inscribed on the true copy of the final plat, the surveyor or the subdivider shall certify the respects in which the original of the final plat differs from the true copy, and all modifications must first be approved.

**72.16.060. Filing Fee.**

The processing fee for filing the final plat shall be twenty-five dollars (\$25.00) plus one dollar (\$1.00) each for the first ten (10) lots, plus fifty cents (\$0.50) for each lot thereafter, the maximum fee not to exceed fifty dollars (\$50.00).

**72.16.070. Compliance with Statutes.**

A final plat of subdivided land shall comply with the requirements and administrative regulations of Title 40 of state statute, as amended from time to time, which are incorporated by reference in this chapter.

**72.16.080. Certificate of Ownership and Affidavit of Surveyor.**

- (a) A certificate of ownership and the affidavit of the surveyor who surveyed and mapped the parcel shall be submitted with the final plat giving a clear and concise description of the land surveyed by bearings and distances, commencing with some corner marked and established in the United States public land survey or some corner providing reference to a corner marked and established in the United States public land survey. Such affidavit shall include the statement of the surveyor to the effect that he has fully complied with the requirements of this chapter.
- (b) The final plat must represent an actual survey made by a person who has been qualified by the State Board of Engineers and Architects Examiners to practice land surveying in the state.

**72.16.090. Final Plat: Preparation and Data.**

- (a) The final plat shall be drawn on drafting linen eighteen by twenty-four inches (18" x 24") in size. All lines and printing shall be made with non-fading ink at a scale of one hundred feet to an inch.
- (b) The final plat shall show accurately on its face the following:
  - (1) the date, scale, and northpoint;
  - (2) the final plat must represent an actual survey made by a person who has been qualified by the State Board of Engineers and Architects Examiners to practice land surveying in the state;
  - (3) the dimensions of all lots;
  - (4) the layout, width, and bearing of all streets and rights-of-way, such as alleys, highways, easements for sewers, water mains, and other public uses;

- (5) the length of all arcs, radii, internal angles, points of curvature, length, and bearing of tangents;
  - (6) an identification system for all lots and blocks and a legal description of all property being subdivided;
  - (7) a certificate of approval of the planning commission;
  - (8) the name of the subdivision and names and addresses of the subdivider;
  - (9) all easements as required by the State Division of Lands;
  - (10) a properly labeled legend showing monuments as found or established.
- (c) No name for a geographic feature shall be shown on the final plat unless the name has been approved by the U.S. Board of Geographic Names.

**72.16.100. Assessor's Plat for Successive Divisions.**

- (a) Where it is not practical to require that a final plat of a subdivision created by successive division be filed in accordance with this chapter, the city may in lieu thereof order an assessor's plat to be made and may assess the cost thereof to the subdivider.
- (b) Regardless of the type of plat filed, any such subdivision shall comply with all provisions of this chapter to the extent that they may be reasonably applied.

**72.20.010. Compliance with Other Provisions.**

The proposed subdivision shall conform to the following:

- (1) the provisions of Title 40 of state statute, as amended from time to time, and all other relevant laws and regulations;
- (2) all applicable ordinances of the city;
- (3) the master plan of the city;
- (4) the regulations of the Department of Health and Welfare relating to lot size and lot elevation if the subdivision is not served by a public sewer and provision for such service has not been made;
- (5) the regulations of the State Department of Highways relating to safety or access and the preservation of the public interest and investment in streets and highways if the subdivision or any lot contained therein abuts on a state highway or street.

**72.20.020. Dedications.**

All streets, alleys, and easements shown on the plat not previously dedicated to public use shall be so dedicated.

**72.20.030. Public Sites and Open Spaces.**

In order that adequate open spaces and sites for public uses may be properly located and preserved as the community develops, and in order that the cost of providing the public facilities necessary to serve the additional families brought into the community by subdivision development may be most equitably apportioned, the following provisions are established:

- (a) In the design of the plat, consideration shall be given to the adequate provision of and correlation with such public sites or open areas.
- (b) Where it is determined by the planning commission that a portion of the plat is required for such public sites or open spaces, the subdivider may be required to reserve such area for a period not to exceed three years, after which the city shall either acquire the property or release the reservation.

**72.24.010. Design Criteria Generally.**

The streets shall be designed and located in relation to the following:

- (1) existing and planned streets;
- (2) topographical conditions and natural terrain features such as streams and existing tree growth;
- (3) public convenience and safety; and
- (4) proposed uses of the land to be served by such streets.

**72.24.020. Construction Standards.**

Construction standards of all streets shall conform to the current standards as established by this title.

**72.24.030. Arrangement.**

- (a) Major streets shall be properly integrated with the existing and proposed system of major streets and highways.
- (b) Minor streets shall be laid out to conform as much as possible to topography, to permit efficient drainage and sewer systems, and to require the minimum amount of street necessary to provide convenient, safe access to property.

**72.24.040. Railroads.**

Where a subdivision borders on or contains a railroad right-of-way, the planning commission may require a street approximately parallel to such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts or for commercial or industrial purposes in other districts.

**72.24.050. Width.**

The right-of-way of all streets shall be at least the width specified below, unless prohibited by usual topographic, physical, or design features:

- (1) major streets and highways: 80 foot right-of-way;
- (2) minor streets: 60 foot right-of way.

**72.24.060. Grades.**

The grade of major streets shall not exceed six percent (6%), and the grade of other streets shall not exceed ten percent (10%), unless a steeper grade is necessitated by exceptional topography

and approved by the planning commission. The minimum grade of all streets shall be one-half percent (1/2%).

**72.24.070. Names.**

New street names shall not be so similar to the names of existing streets so as to cause confusion, but streets that are continuations of others already in existence and named shall bear the name of the existing streets.

**72.24.080. Cul-de-sac or Dead-End Streets.**

Streets designed to have one end permanently closed shall not exceed five hundred feet (500') in length and shall terminate with a turnaround having at least one hundred feet (100') in diameter or right-of-way and roadway at least seventy-five feet (75') in diameter.

**72.24.090. Half Streets.**

Where a half street is adjacent to the subdivision, the other half of the street within the proposed subdivision shall be dedicated by the subdivider.

**72.24.100. Intersections.**

- (a) Streets shall intersect as nearly as possible at right angles and not more than two streets shall intersect at one point.
- (b) Property lines at street intersections shall be rounded with a radius of fifteen feet.
- (c) Street jogs with centerline offsets of less than one hundred twenty-five feet shall be avoided. Where streets intersect major streets, their alignment shall be continuous.

**72.24.110. Alleys.**

- (a) Alleys shall be provided in all commercial and industrial districts. The planning commission may waive this requirement where other definite and assured provision is made for service access such as off-street loading and parking consistent with and adequate for the uses proposed.
- (b) Alleys shall not be approved in residential areas unless necessary because of topography or other exception circumstances.
- (c) The width of alleys shall be at least twenty feet (20').
- (d) Dead end alleys are prohibited.

**72.28.010. Easements, Utilities, Drainage.**

- (a) Easements across lots or centered on rear or side lot lines shall be provided for utilities and shall be at least ten feet wide.
- (b) Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, there shall be a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose.

**72.28.020. Blocks.**

The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated.

**72.28.030. Lots: Generally.**

The size, shape, and orientation of lots shall be such as are appropriate for the locality and the type of development and use contemplated.

**72.28.040. Lots: Dimensions.**

- (a) Lots dimensions shall comply with the zoning ordinance.
- (b) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
- (c) Residential lots abutting on major streets and highways shall be platted with sufficient depth to permit adequate separation between the buildings and such trafficways.
- (d) Lots should be assigned with a suitable proportion between width and depth. Normal depth should not exceed two and one-half times the width, nor less than one hundred feet.

**72.28.050. Lots: Additional Provisions.**

- (a) Corner lots. Corner lots should be designed to permit setback on both streets as required by the zoning ordinance.
- (b) Access to public streets. Every lot shall front or abut on a dedicated public right-of-way. Lots with an access only to private drives shall not be permitted unless a permanent easement has been granted and properly recorded.
- (c) Lots at right angles. Lots at right angles to each other should be avoided wherever possible, especially in residential areas.
- (d) Lot lines. Side lot lines shall be substantially at right angles or radial to street lines.

- (e) Large lots. Where lots are created of a size larger than normal for the area, the planning commission may require that the plat be so designed as to allow for the possible future re-subdivision of such lots into sizes normal for the area.
- (f) Municipal boundaries. Lots shall follow municipal boundary lines wherever practicable, rather than cross them.
- (g) Double frontage. Lots abutting a street at both front and rear shall be avoided except where necessary to provide separation of residential development from traffic or to overcome specific disadvantages of topography and orientation.

## Chapter 32. Required Improvements.

### **72.32.010. Water.**

The subdivider shall prove that connections to public water mains may be obtained. If no such connections are available, the subdivider shall show that a safe water source is readily available.

### **72.32.020. Sanitary Sewer.**

The subdivider shall prove that connections to public sanitary sewers may be obtained; or if any of the lots are not to be served by a sanitary sewer system, percolation tests shall be submitted showing that septic tanks may be used without endangering the health, safety, and general welfare of any persons or persons.

### **72.32.030. State Regulations Applicable.**

All regulations of the State Department of Health and Welfare pertaining to water and sewage disposal shall apply when no public or other sanitary sewer and water service is available.

### **72.32.040. Streets.**

- (a) The subdivider shall, at his own expense and along a dedicated street, grade and surface with gravel and oil, asphalt, or concrete, a roadway at least thirty-six (36) feet in width to provide access to any property he wishes to sell or otherwise convey to another person where the intent is to develop the property, before such property may be sold or otherwise conveyed.
- (b) Sufficient and adequate drainage shall be provided for all streets.

**72.36.010. Required.**

All exterior corners of the subdivision shall be marked by permanent monuments set in the ground.

**72.36.020. Specifications.**

Monuments shall consist of one and one-half inch (1 ½”) galvanized iron pipe, thirty or more inches long and shall have a four-inch flange across the bottom. Permanently fixed thereto shall be a minimum of two-inch brass or bronze cap. Each cap shall be marked in a professional manner and shall also show the registration number of the engineer and year of the survey.

**72.36.030. Bearing Objects.**

Three bearing objects or bearing trees shall be taken for all primary monuments set on the exterior angle points of the survey, and shown on the final plat.

**72.36.040. Concrete Slab or Rock Embedment.**

Where impracticable to set an iron pipe monument, a concrete slab not less than two feet by two feet by six inches thick and a brass or bronze cap marking the actual corner point may be used. In the case of bedrock, boulders, etc., a bronze cap may be grouted into the rock.

**72.36.050. Witness Corners.**

Should the point for a corner be in place which would be impracticable to monument, witness corners shall be set and referenced to the true point.

**72.36.060. Minimum Monuments, Line of Sight, Distances.**

- (a) Unless otherwise approved by the planning commission, every survey shall have at least four monuments, each fully described in the plat survey.
- (b) The line of sight between adjacent monuments shall be unobstructed.
- (c) The distance and bearing between monuments shall be shown. The distance between adjacent monuments shall not exceed one thousand three hundred twenty feet.

**72.36.070. Bearings.**

Bearings of all lines shall be referred to the true meridian. Bearings shall be obtained by deflection from existing official surveys of G.L.O., B.L.M. USC and GS, U.S.G.S., the Alaska Division of Lands, or monuments with proper identification which are delineated on recorded plats, unless otherwise specified in Sec. 72.36.080.

**72.36.080. Lack of Existing Monuments.**

If no such monuments or surveys exist within two miles of the project, the latitude and longitude may be scaled, as near as possible, from the best available maps of the area.

**72.36.090. Unit of Measure.**

All lengths of lines shall be shown as their true horizontal equivalents in the foot unit carried out to the nearest hundredth. If needed in order to secure true distance, a spring balance shall be used and temperature corrections applied.

**72.36.100. Field Notes.**

A true copy or original of all field notes shall be submitted with the plat of survey and shall remain with the platting authority as documented record.

**72.40.010. Generally.**

In the case of a lot of record on 23 January 1973 which does not conform to the zoning regulations of the city, and which adjoins along a side lot line property held in the same ownership, no such lot shall be conveyed to another owner nor shall a building permit be issued for a structure on such a lot except in conformity with this chapter.

**72.40.020. Petition for Determination of Status.**

- (a) The owner of such substandard lot may at any time prior to the proposed conveyance of such lot or request for building permit, petition the city for determination as the status of such lot.
- (b) Such petition shall be referenced to the planning commission for study to determine the practical possibility of a redivision of such ownership to provide lots which will be in conformity to the zoning regulations of the city and shall act within forty days to give the petitioner a determination.

**72.40.030. Determination of Status, Factors.**

The planning commission, in making its decision and determination, shall give consideration, among others, to the following factors:

- (1) the size, quality, and character of existing lots and building development in the immediate area with a view to maintaining compatibility and protecting existing values;
- (2) where public sewer is not available, a lot size necessary to insure safe sewage disposal;
- (3) the economic and engineering practicability of any possible redivision;
- (4) the degree of practical hardship which may be imposed upon the owner.

**72.40.040. Method of Redivision.**

Such redivision may be accomplished as is most appropriate by the following:

- (1) vacation and replatting of all or part of a recorded plat;
- (2) combining of lots or parts of lots;
- (3) redefining of lot lines by a plat.

**72.40.050. Determination of Ownership.**

For the purpose of this chapter, property shall be considered in the same ownership when owned by the following:

- (1) the same individual or corporation;

- (2) tenants in the entirety or tenants in common, and either of the tenants in the entirety or tenants in common owns other contiguous property individually or as tenants in common with another;
- (3) an individual; and when other contiguous property is owned by any relative by blood or marriage within the second degree of kindred;
- (4) an individual; and when other contiguous property is owned by a corporation of which he is a director, officer, or controlling stockholder.

**72.44.010. Compliance Required for Building Permit.**

No building permit shall be issued for a new building on a lot which did not exist as a described and recorded parcel prior to 23 January 1973 or was not created by recorded subdivision pursuant to state statute, or by a recorded plat pursuant to provisions of this title.

**72.44.020. Penalty for Violation, Actions in Violation Deemed Void.**

- (a) The owner or agent of the owner of land located within a subdivision who transfers, sells, or agrees or enters into a contract to sell land in a subdivision, before a plat of the subdivision has been prepared, approved, and recorded in compliance with this title is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than three hundred dollars (\$300.00) for each such violation.
- (b) In default of payment of such fines and penalties those convicted shall be imprisoned until payment thereof, but not exceeding thirty (30) days.
- (c) The city may enjoin a transfer by appropriate legal action.
- (d) The transfer, sale, assignment, or other conveyance of land located within a subdivision before a plat of the subdivision has been prepared, approved, and recorded in compliance with the provisions of this chapter is void.

# TITLE 90. ZONING.

## Chapter 04. Definitions.

### **90.04.010. Application.**

For the purpose of this title, the following terms or words used in this title shall be interpreted or defined as set out in this chapter.

### **90.04.020. Construction.**

When not inconsistent with the context:

- (1) words used in the present tense shall include the future;
- (2) the singular number includes the plural;
- (3) the word “person” includes a firm, partnership, or corporation as well as an individual;
- (4) the word “lot” includes the words “plot,” “piece,” and “parcel”;
- (5) the term “shall” is always mandatory; and
- (6) the words “used” or “occupied” shall be construed to include the words “intended, arranged, or designed to be used or occupied.”

### **90.04.030. Accessory Use or Building.**

“Accessory use or building” means a use or building customarily incidental and subordinate to, and located on the same lot with, the principal use or building.

### **90.04.040. Alley.**

“Alley” means a public space or thoroughfare, twenty feet or less in width and providing secondary means of access to abutting properties, that is officially plotted and dedicated to public use.

### **90.04.050. Apartment House.**

“Apartment house” means any building, or portion thereof, used as residence for three or more families living in separate, complete housekeeping units.

### **90.04.060. Building.**

“Building” means any structure built for the support, shelter, or enclosure of persons, animals, or property of any kind.

**90.04.070. Building Area.**

“Building area” means the maximum horizontal projected area of a building and its accessory building, excluding open steps and terraces, and excluding buttresses, cornices, and other minor or ornamental features projecting from the walls of the building, if not supported by the ground.

**90.04.080. Building Height.**

“Building height” means the vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of roof surface, if a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves for gable, hip, and gambrel roofs.

**90.04.090. Corner Lot.**

“Corner lot” means a lot abutting upon two or more streets at their intersection.

**90.04.100. Depth of Lot.**

“Depth of lot” means a mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lines.

**90.04.110. Dwelling.**

“Dwelling” means a building used exclusively for residential purposes.

**90.04.120. Family.**

“Family” means one or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a rooming house, club, fraternity, or hotel.

**90.04.130. Frontage.**

“Frontage” means the length of property abutting on one side of a street or place, measured along the dividing line between the property and the street or place.

**90.04.140. Front Building Line.**

“Front building line” means the line of that part of the building area nearest the front lot line (see Sec. 90.04.150), or the limits to which the front exterior face of a wall of a proposed building may be built.

**90.04.150. Front Yard.**

“Front yard” means an open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building. The depth of the front yard shall be measured between the front line of the building and the street lines. In the case of a corner lot (the front yard shall be on the same side as the front yards of the adjacent interior lots), the owner shall, of the purpose of this title, have the election of choosing which street line shall be his front lot line; provided, that it is so designated on the building plans.

**90.04.160. Home Occupation.**

“Home occupation” means a profession or use customarily conducted entirely within a dwelling by the owners, which use is clearly incidental and secondary to the use for dwelling purposes and does not change the character or appearance of the dwelling. A home occupation shall:

- (1) permit the employment of only one person who is not a resident in the subject home;
- (2) permit the posting of one flat an nonelectric sign of an area no more than one and one-half square feet; and
- (3) shall have not more than fifteen percent of the existing floor space in the structure to be used for the business or profession.

**90.04.170. Hotel.**

**-CANNOT READ FROM ORIGINAL BECAUSE POST-IT NOTE COVERING TEXT-**

**90.04.180. Interior Lot.**

**-CANNOT READ FROM ORIGINAL BECAUSE POST-IT NOTE COVERING TEXT-**

**90.04.190. Loading Area.**

**-CANNOT READ FROM ORIGINAL BECAUSE POST-IT NOTE COVERING TEXT-**

**90.04.200. Lot**

**-CANNOT READ FROM ORIGINAL BECAUSE POST-IT NOTE COVERING TEXT-**

**90.04.210. Lot Lines.**

“Lot lines” means the lines bounding a lot.

**90.04.220. Mobile Home or Trailer House.**

“Mobile home or trailer house” means a factory constructed and assembled dwelling unit.

**90.04.230. Multiple-Family Dwelling.**

“Multiple-family dwelling” means a building or portion of a building having suitable accommodations for three or more families living independently of each other, irrespective of joint use of halls, utilities, etc., including apartments, tenements, flats, apartment hotels, bachelor apartments, studio apartments, and kitchenette apartments.

**90.04.240. Nonconforming Use.**

“Nonconforming use” means a use of a lawfully occupied structure or land that does not conform to the regulations of the districts in which it is situated, as established by this title.

**90.04.250. One-Family Dwelling.**

“One-family dwelling” means a detached building used exclusively for residential purposes and having suitable accommodations for only one family, which may include but not exceed two lodgers or boarders.

**90.04.260. Other Uses Similar to Above.**

“Other uses similar to above” means uses which, in the judgment of the board of adjustment, evidenced by its written decision, are similar to and not more objectionable to the general health and welfare than the uses listed for that particular district in which the prospective or questioned use would be located. When a use has been declared by such decision to be lawful as within the term “other uses similar to the above,” such use shall be restricted to the district in question and shall not apply to any other district.

**90.04.270. Parking Space.**

“Parking space” means a suitable surfaced area on private property, either within or without a building, of a size sufficient to store a standard-size motor vehicle, but not less than one hundred eighty square feet in size.

**90.04.280. Place.**

“Place” means an open, unoccupied space dedicated to purposes of access for abutting property.

**90.04.290. Private Garage.**

“Private garage” means an accessory building used for the storage of privately owned motor vehicles, of which not more than one may be a commercial motor vehicle not to exceed one-ton capacity.

**90.04.300. Public Garage.**

“Public garage” means a building or portion thereof used for the storage or housing of three or more motor vehicles, other than a private garage, or where such vehicles are repaired or kept for hire or sale.

**90.04.310. Public Parking Lot.**

“Public parking lot” means any area, other than a street, alley, or place, used for the temporary parking of motor vehicles and open to public use, whether for free or for compensation.

**90.04.320. Rear Yard.**

“Rear year” means an open, unoccupied space on the same lot with a main building, which yard extends across the full width of the lot between the rear line of the main building and the rear line of the lot and that part of the building nearest to the rear lot line.

**90.04.330. Rooming House.**

“Rooming house” means a dwelling in which more than two persons are housed or lodged for hire, with or without meals. The term includes boardinghouse, lodging house, tenant or visitor home, or furnished rooming house, but does not include tourist court, motel, trailer court, camp, or similar structure.

**90.04.340. Service Station.**

“Service station” means any building or lot used solely or principally for the storing, dispensing, sale, or offering for sale at retail of any automotive fuels and lubricants and automobile accessories.

**90.04.350. Setback.**

“Setback” means the distance between the lot line and the front building line.

**90.04.360. Side Yard.**

“Side yard” means an open, unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot, and extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot.

**90.04.370. Story.**

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above; except, that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above it. If the finished floor directly above a basement or cellar is more than six feet above grade, measured from front entrance, then such basement or cellar shall be considered a story.

**90.04.380. Street.**

“Street” means a public thoroughfare more than twenty feet wide which provides the principal means of access to abutting property for persons, vehicles, and utilities.

**90.04.390. Structural Alteration.**

“Structural alteration” means any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or the moving from one location or position to another, or enlargement by extending one or more sides or increasing the height.

**90.04.400. Structure.**

“Structure” means a composition of two or more components of building material joined together in some definite manner, or so fabricated or assembled, that each adds to the strength and rigidity of the others in the final assembly. For the purpose of construing this title, it shall include, but not by way of limitation, buildings, towers, cages for transformer substations, billboards, trailer houses, steak ovens, and trash burners, and shall not include poles, outside standards for light fixtures, fences, and such minor incidental improvements.

**90.04.410. Tourist Court.**

“Tourist court” means one or more detached buildings containing sleeping or living units, with garage or parking space, designed for the temporary use of automobile tourists or transients, including auto courts, motels, or motor lodges.

**90.04.420. Trailer Court.**

“Trailer court” means any parcel of land used to accommodate two or more trailers, trailer coaches, or vehicles used for human habitation or for carrying persons or property.

**90.04.421. Trailer House.**

See Sec. 90.04.420.

**90.04.430. Two-Family Dwelling.**

“Two-family dwelling” means a detached building used exclusively for residential purposes and having suitable accommodations for two families living independently of each other, each of which may include but not exceed two lodgers or boarders.

**90.04.440. Yard.**

“Yard” means the space between the building and the adjoining lot lines.

**90.08.010. Designated.**

The city is divided into the following eight types of use districts:

- (1) R-1 district, low density resident;
- (2) R-2 district, medium density resident;
- (3) R-3 district, low density resident and mobile home;
- (4) P-1 district, public use;
- (5) B-1 district, neighborhood business;
- (6) B-2 district, central business;
- (7) C-1, commercial and light industry;
- (8) I-1, industrial;
- (9) U district, unrestricted zoning.

**90.08.020. Zoning Map.**

*(Reserved)*

**90.08.030. Zoning Map: Interpretation.**

Where uncertainty exists with respect to the boundaries of any of the districts designated in Sec. 90.08.010 and shown on the zoning map, the following rules shall apply:

- (a) Where district boundaries are indicated as approximately following the centerlines of streets or alleys, such centerlines shall be construed to be such boundaries.
- (b) Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.
- (c) Where district boundaries are shown dividing unsubdivided property, the location of such boundaries shall be determined by the use of the scale appearing on said map, unless otherwise determined by dimensions thereon.
- (d) Where district boundaries are indicated as approximately following the centerlines of projected streets or highways, the scale of said map shall determine such district boundaries until such time as such streets or highways are constructed, whereupon the centerlines thereof shall constitute said district boundaries.
- (e) Where a district boundary divides a lot which was in single ownership and of record at the time of the passing of this title, the use of and the district requirements applying to the least restricted

portion of such lot shall be considered as extending to the entire lot; provided, that the more restricted portion of such lot is entirely within twenty-five feet of said dividing district boundary. The use so extended shall be deemed to be conforming.

- (f) All areas within the corporate limits of the city which are tidelands or underwater lands and are not shown as included within any district shall be subject to regulation as if a part of the district which is immediately adjacent to such tidelands and underwater lands.
- (g) Whenever any street, alley, or public place is lawfully vacated, the zoning district adjoining each side of such street, alley, or public place shall be extended to the center of the area vacated, and all such areas shall thereafter be subject to all of the regulations of the so-extended districts.

**90.12.010. Use Permitted.**

The following uses are permitted in R-1 districts:

- (1) one-family and two-family dwellings;
- (2) schools, both public and private;
- (3) public parks and playgrounds, including public buildings accessory thereto, and other municipal recreational uses;
- (4) home occupations;
- (5) the raising of vegetables and berry and fruit crops, but not including any salesrooms or buildings used primarily for the sale thereof;
- (6) churches;
- (7) customary accessory uses and accessory buildings; provided, that such uses are clearly incidental to the principal use and do not include any use commonly conducted for gain.

**90.12.020. Height.**

Buildings in R-1 districts shall be limited to two and one-half stories, but not to exceed thirty feet in height.

**90.12.030. Lot Area.**

Each dwelling and other permitted uses in R-1 districts, except for Sec. 90.12.010(5), shall be located on a lot not less than seven thousand five hundred (7,500) square feet in area and with no less than fifty feet frontage.

**90.12.040. Lot Coverage.**

All buildings, including accessory buildings, shall not cover more than fifty percent of the lot in R-1 districts.

**90.12.050. Yards.**

Yards in R-1 districts shall be as follows:

- (a) The front yard shall not be less than twenty feet.
- (b) The side yard width shall be not less than five feet on each side of a building; provided, that where a side yard fronts on a side street, the width of that yard shall not be less than twenty feet; and provided further, that no part of any church or school shall be within twenty feet of any adjoining residential lot.

- (c) The rear yard depth shall not be less than fifteen feet.

**90.16.010. Uses Permitted.**

The following uses are permitted in R-2 districts:

- (1) all uses permitted in R-1 districts;
- (2) multiple-family dwellings.

**90.16.020. Height.**

Limitations on building height in R-2 districts are as follows:

- (1) one-family and two family dwellings, two and one-half stories, but not to exceed thirty feet in height;
- (2) multiple-family dwellings and other permitted uses, three stories, but not to exceed thirty-five feet in height.

**90.16.030. Lot Area.**

- (a) One-family and two-family dwellings, and other permitted uses. Each such building in R-2 districts shall be located on a lot not less than seven thousand five hundred square feet in area and not less than forty feet wide.
- (b) Multiple-family dwellings. Each such dwelling in R-2 districts shall be located on a lot of not less than four thousand five hundred square feet and of sufficient area to provide the following minimum area per dwelling, excluding units where no cooking facilities are provided, according to the number of stories in the building:

	<u>Number of Stories</u>	<u>Lot Area per Dwelling Unit</u>
(1)	1	875 square feet;
(2)	2	600 square feet;
(3)	3 to 6	500 square feet.

**90.16.040. Lot Coverage.**

All buildings, including accessory buildings, shall not cover more than sixty percent of the area of the lot in R-2 districts.

**90.16.050. Yards.**

Yards in R-2 districts shall be as follows:

- (a) Front yard depth shall be not less than fifteen feet.

- (b) Sid yard width shall be not less than five feet on each side of a building; provided, that where a side yard fronts on a side street, the width of that yard shall not be less than fifteen feet; provided further, that no part of any church or school shall be within twenty feet of any adjoining residential lot.
- (c) Rear yard depth shall be not less than ten feet.

**90.20.010. Uses Permitted.**

The following uses are permitted in R-3 districts:

- (1) one-family and two-family dwellings and mobile homes;
- (2) playgrounds;
- (3) home occupations;
- (4) the raising of vegetables, berry, and fruit crops but not including any salesrooms or buildings used primarily for the sale thereof;
- (5) customary accessory uses and accessory buildings; provided, that such uses are clearly incidental to the principal use and do not include any use commonly conducted for gain.

**90.20.020. Height.**

Buildings in R-3 districts shall be limited to two and one-half stories, but not to exceed thirty feet in height.

**90.20.030. Lot Area.**

Each dwelling and other permitted use in R-3 districts, except Sec. 90.20.010(5) above, shall be located on a lot not less than seven thousand five hundred square feet in area and with not less than fifty feet frontage.

**90.20.040. Lot Coverage.**

All buildings, including accessory buildings, shall not cover more than fifty percent of the lot in R-3 districts.

**90.20.050. Yards.**

Yards in R-3 districts shall be as follows:

- (a) The front yard depth shall be not less than twenty feet from the property line.
- (b) The side yard width shall not be less than five feet from the property line on each side of a building; provided, that where a side yard fronts on a side street, the width of that yard shall not be less than twenty feet, from the property lines.

**90.20.060. Foundations of Buildings.**

All buildings in an R-3 district must be placed on a permanent foundation and solidly connected to city utilities. A permanent foundation shall consist of a driven piling or concrete.

**90.20.070. Parcels Purchased from City.**

- (a) Any property purchased from the city for mobile homes must be occupied within one year from date of purchase.
- (b) It is unlawful to purchase more than one parcel of property from the city without first completing the requirements of this chapter.
- (c) It is unlawful for any person to own, operate, or maintain a permanent mobile home used as a dwelling at any place other than in an R-3 district or licensed trailer park.

**90.24.010. Uses Permitted.**

The following uses are permitted in P-1 districts:

- (1) all uses permitted in R-1 and R-2 districts, which uses shall be subject to the height, required lot are, building area, and yard regulations applicable to said uses in said districts;
- (2) government buildings and uses of the federal, state, borough, municipal, or other government or quasi-governmental subdivision, without restrictions to height, required lot area, building area, or yard regulations.

**90.28.010. Uses Permitted.**

The following uses are permitted in B-1 districts:

- (1) all uses permitted in R-2 districts;
- (2) retail stores and shops, limited to uses needed to serve a residential district;
- (3) personal service shops, including restaurants and cafes;
- (4) professional and business offices and banks;
- (5) taxicab stands may be allowed upon showing of need therefor to the board;
- (6) manufacture of goods, wares, and merchandise when such manufactures are sold at retail on the premises. For the purpose of this regulation, such manufacture shall be considered an accessory use.

**90.28.020. Height.**

Buildings in B-1 districts shall be limited to two stories, not to exceed thirty-five feet.

**90.28.030. Lot Area.**

- (a) Lots used in whole or in part for dwelling purposes in B-1 districts shall comply with lot area requirements in R-1 districts.
- (b) For other permitted uses, no building in B-1 districts shall be located on a lot less than four thousand five hundred square feet and less than fifty feet wide.

**90.28.040. Lot Coverage.**

No restrictions on maximum building area apply to B-1 districts, except those required to meet yard regulations, and off-street parking and loading space requirements.

**90.28.050. Yards.**

Yards in B-1 districts shall be as follows:

- (a) Front. Front yard depth shall not extend back from the street less than the line of existing buildings.
- (b) Side.
  - (1) No side yard will be required on lots not used for residential purposes; provided, however, that off-street loading space shall be provided in connection with any other use of the lot.

- (2) A side yard of not less than ten feet is required on any side abutting any lot in any residential district.
  
- (c) Rear. The rear yard depth shall not be less than ten feet; excepting, that when the rear yard of a lot abuts on a residential lot in a residential district, the rear yard depth shall not be less than fifteen feet.

**90.32.010. Uses Permitted: Anywhere in District.**

Uses permitted anywhere in B-2 districts are as follows:

- (1) all uses permitted in R-1, R-22, and B-1 districts;
- (2) stores and shops for the conducting of any retail or wholesale business;
- (3) theaters, bowling alleys, pool parlors, restaurants, cocktail bars, dancing establishments, and other places of amusement, recreation, or assembly;
- (4) hotels, private clubs, fire, and police stations;
- (5) private education institutions;
- (6) service stations, public garages, salesrooms, and shops for the repair of motor vehicles and boats, and their engines and appurtenances; provided, that repair of automobiles and boats be conducted wholly within the building;
- (7) newspaper and printing establishments;
- (8) cleaning and laundry establishments using non-explosive and noninflammable cleaning fluids;
- (9) custom work and making of articles to be sold at retail on the premises, including but not limited to watch repairing, novelties, leather goods, gunsmithing, and commercial and sports fishing equipment;
- (10) accessory buildings when located on the same lot;
- (11) other uses similar to the above as provided in Sec. 90.04.280.

**90.32.020. Uses Permitted: Away from Residential Districts.**

The following buildings or uses are permitted in B-2 districts, if located one hundred or more feet from an adjoining lot in any residential district:

- (1) plumbing and heating shops, upholstery shops, cabinet making, painting, and decorating shops, sheet metal and welding shops, and other similar uses; provided, that such uses, including storage of materials, are wholly within an enclosed building;
- (2) public parking lots, subject to the regulations contained in Sec. 90.52.050;
- (3) funeral and mortuary establishments, not including crematoriums;
- (4) blacksmith shops and machine shops not using the drop hammer or punch press, or other similar heavy machinery; provided, that such uses, including the storage of materials, be conducted wholly within a completely enclosed building;

- (5) stone, marble, and granite monument works;
- (6) retail lumber yards.

**90.32.030. Height.**

Buildings in B-2 districts are not to exceed eighty-five feet.

**90.32.040. Lot Area.**

No minimum lot area is required in B-2 districts; except, that buildings used in whole or in part for dwelling purposes shall comply with the lot area requirements for R-2 districts. Such requirements do not apply to hotels and roominghouses where no cooking facilities are provided in the rooms or apartments.

**90.32.050. Lot Coverage.**

No minimum requirements on lot coverage are imposed in B-2 districts, except those required to meet yard regulations, and off-street parking and loading space requirements.

**90.32.060. Yards.**

Yards in B-2 districts shall be as follows:

- (a) Front yard depth shall be not less than eight feet, but shall not extend back from the street less than the line of existing buildings.
- (b) No side yard is required; except, that a side yard of not less than ten feet in width shall be required on the side abutting any lot in a residential district, and a side yard of eight feet shall be required on any side fronting on a side street.
- (c) Rear yards are not required, except as necessary to meet lot area, parking, and loading requirements.

**90.36.010. Uses Permitted.**

The following uses are permitted in C-1 districts:

- (1) all uses permitted in any residential, public use, or business district;
- (2) public garages and service stations, salesrooms, and shops for the construction and repair of motor vehicles, and marine ways and shops for the construction and repair of boats and vessels, and their engines and appurtenances;
- (3) public docks;
- (4) warehouses;
- (5) transfer and storage establishments;
- (6) steam laundries and dry cleaning establishments;
- (7) auto-body shops;
- (8) plumbing and heating shops, upholstery shops, cabinetmaking, painting, and decorating shops, sheet-metal and welding shops, and other similar uses;
- (9) blacksmith shops and machine shops;
- (10) manufacturing, compounding, processing, and packaging of such products as bakery goods, candy, cosmetics, dairy products, drugs toiletries, food and beverage products, ceramics, electric and neon signs, leather goods, musical instruments, toys, novelties, rubber or metal stamps, electric and electronic appliances including radios and television sets, and depth-finding and other marine gear and equipment;
- (11) public parking areas;
- (12) tourist courts;
- (13) trailer courts, where sewer and water connections are furnished prior to use;
- (14) other uses similar to the above as provided in Sec. 90.04.280.

**90.36.020. Height.**

Buildings in C-1 districts shall be limited to three stories, not to exceed thirty-five feet.

**90.36.030. Lot Area.**

No minimum lot area requirements are imposed in C-1 districts, except as necessary to meet parking, loading, and yard requirements.

**90.36.040. Yards.**

Yards in C-1 districts shall be as follows:

- (a) Front. No depth requirement, but yard shall not extend back from the street less than the line of existing buildings.
- (b) Side. No side yard required; except, that a side yard of not less than ten feet in width shall be required on any side abutting any lot in a residential district and on any side abutting on a side street.
- (c) Rear. No requirement, except as necessary to meet parking and loading requirements.

**90.40.010. Uses Permitted.**

Uses permitted in I-1 districts are as follows:

- (1) all lawful uses, except as limited or prohibited in this chapter;
- (2) junkyards, salvage yards, or automobile wrecking yards; scrap iron, scrap paper, or rag storage, sorting or bailing; provided, that such use is conducted entirely enclosed within a solid fence at least eight feet high, which fence shall be maintained in a sound structural condition and of proper appearance at all times, and which fence shall be kept free of signs, posters, or any advertising matter other than signs designating the name and nature of the business.

**90.40.020. Uses Prohibited.**

All uses that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration, or similar substances or conditions are prohibited; provided, however, that any uses may be permitted, if approved by the board, subject to the securing of a permit therefore. The permit may be conditioned on meeting such restrictions, safeguards, and conditions as may be deemed necessary by the board for the purposes of protecting the health, safety, morals, or general welfare of the community.

**90.40.030. Height.**

Buildings in I-1 districts shall be limited to seventy-five feet in height.

**90.40.040. Lot Coverage.**

No lot coverage restrictions are imposed in I-1 districts.

**90.40.050. Lot Area.**

No minimum requirements for lot area are imposed in I-1 districts, except as necessary to meet parking, loading, and yard requirements.

**90.40.060. Yards.**

Yards in I-1 districts shall be as follows:

- (a) Front. Yard depth shall be not less than ten feet, but shall not extend back less than the line of existing buildings.
- (b) Side. No side yard is required; except, that a side yard of not less than ten feet in width shall be required on any side abutting a street side.
- (c) Rear. No requirements, except as necessary to meet parking and loading requirements.

**90.42.010. Purpose.**

- (a) U districts include suburban and rural area that, because of location in relationship to other development, topography, or soil conditions, are not developing and are not expected to develop in the immediate future along definitive land use lines. The permitted uses in these districts are intended to be as flexible and liberal as possible, consistent with protection from noxious, injurious, hazardous, or grossly incompatible uses.
- (b) As development patterns start to emerge within these areas and the sophistication of their protection becomes more critical to the general public interest, it is anticipated that such lands within U districts will be proposed for more restrictive zoning classifications.

**90.42.020. Uses Permitted: Principal.**

The permitted principal uses and structures in the U districts are residential business, commercial, industrial, public, or quasi-public uses, except those prohibited uses specified in Sec. 90.42.050 and those permitted only by special exception as specified in Sec. 90.42.040.

**90.42.030. Uses Permitted: Accessory.**

The permitted accessory uses and structures in U districts are those accessory uses and structures customarily incidental to any permitted principal use.

**90.42.040. Special Exceptions.**

Subject to the requirements of the special exception standards and procedures of this title, the following uses may be permitted in U districts:

- (1) mobile home parks;
- (2) junkyards, automobile wrecking yards, and salvage yards;
- (3) noxious, injurious, or hazardous uses, as defined in Sec. 90.42.050, are prohibited; provided, however, that the planning and zoning commission may grant a special exception for such uses when it finds that the public health, safety, welfare, and convenience will be adequately protected by location, topography, fencing, buffering, or by observation of protective performance standards that effectively remove the proposed use from classification as a nuisance;
- (4) natural resource extraction;
- (5) uses involving alcoholic beverage sales and dispensing.

**90.42.050. Prohibited Uses.**

- (a) Uses prohibited in U districts are as follows:

- (1) noxious, injurious, or hazardous uses, which are defined as any use that may be noxious, injurious, or hazardous to surrounding property or persons by reason of the production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration, or similar disturbances, or conditions or the production or storage of explosive materials;
- (2) any use or structure not of a character indicated under permitted uses and structures or permitted as a special exception;
- (3) any use or structure which is likely to be grossly incompatible with established permanent uses within the are to be affected by the proposed use or structure;
- (4) the building official shall review every application for a building permit for compliance with this section and submit a recommendation to a review committee consisting of two members of the planning and zoning commission for review and approval prior to issuance.

**90.42.060. Lot Size.**

The minimum lot requirement in U districts shall be ten thousand square feet.

**90.42.070. Yards.**

The minimum yard requirement in U districts shall be unrestricted as long as in connection with any permitted use.

**90.42.080. Lot Coverage.**

The maximum lot coverage in U districts shall be unrestricted as long as in connection with any permitted use.

**90.42.090. Height of Structures.**

The maximum height of structures in U districts shall be two and one-half stories or thirty feet.

**90.42.100. Parking.**

Parking in U districts shall be unrestricted as long as in connection with any permitted use.

**90.42.110. Loading.**

Loading in U districts shall be unrestricted as long as in connection with any permitted use.

## Chapter 44. Building Permits.

### **90.44.010. Required.**

- (a) No building or structure shall, after the enactment of this title, be erected, added to, or altered until a permit therefor has been issued by the building official.
- (b) All applications for such permits shall be in accordance with the requirements of this title and any and all applicable and ordained building codes.

### **90.44.020. Plan to Accompany Application.**

There shall be submitted with every application for a building permit one copy of a plat or plan, drawn to scale, showing the actual dimensions of the lot to be built upon, the exact size and location of the building and accessory buildings erected or to be erected thereon, with relation to the side lines of the lot and such other information as may be necessary to determine and provide for the enforcement of this title.

### **90.44.030. Records.**

The building official shall make and maintain a complete record of all applications for building permits and all such permits issued, and copies thereof shall be furnished upon request to any person having a proprietary interest or tenancy interest in the building or premises affected, upon such person first paying a fee to be commensurate with the cost of preparing and issuing such copies.

**90.48.010. Conformity with District Regulations: Required Generally.**

Unless otherwise provided for in this title, no building or land shall be used or occupied and no building or any part thereof shall be erected, moved, or structurally altered for any use unless such use is in conformity with the regulations specified in this title for the district in which such building or land is, or is intended to be, located.

**90.48.020. Conformity with District Regulations: Required Specifically.**

Unless otherwise provided for in this title, no building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families or lodgers, to occupy a greater percentage of lot area, or to have a smaller front, side, or rear yard than is specified in this title for the districts in which such building is located.

**90.48.030. Lots Limited to One Principal Building: Exception.**

Not more than one principal building shall be permitted on a lot except in cases where area is of sufficient size to allow the lot to be subdivided, in which case the owner shall file an official plat of the subdivision, said plat to be certified by registered engineer and approved by the board.

**90.48.040. Signs in R-1 and R-2 Districts.**

In R-1 and R-2 districts:

- (1) signs not exceeding two square feet, containing the name of the occupant and the name of the lawful home occupation, shall be permitted;
- (2) for-sale, for-rent, and for-lease signs shall be temporarily permitted, but are not to exceed eight square feet in area, if located back of the setback or building line;
- (3) signs of not more than twenty square feet shall be permitted to identify multiple-family dwellings, hotels, clubs, lodges, hospitals, and public and similar uses, if mounted against the building or more than fifteen feet back of the front lot line;
- (4) churches and public and charitable institutions may, for their own use, maintain an announcement sign or bulletin board not exceeding twenty square feet in area, if located five or more feet back of the front lot line.

**90.48.050. Signs in B-1 Districts.**

No sign of the flashing or animated variety shall be permitted in B-1 districts. Signs for permitted premises shall not exceed, in B-1 districts, twenty square feet in area and shall be mounted flat against the building or back of the building line.

**90.48.060. Loading Facilities Required.**

Every building erected, enlarged, or converted for commercial purposes after the enactment of this title shall provide reasonable facilities for loading and unloading of goods, in compliance with all of the regulations established by this title according to the use of such building.

**90.48.070. Public Garages and Service Stations: Submission of Plans.**

Plans for any public or private garage for more than five cars in any district, and plans for any service station vending gasoline, shall be first submitted to the board for approval. The board may require changes in such plans in the interest of safety and traffic flow, and to safeguard adjacent properties.

**90.48.080. Parking or Garage Space Required.**

Every building erected, enlarged, or converted to a use which requires off-street parking after the enactment of this title shall include garage space or parking space in compliance with all of the regulations established by this title for the district in which the building is located.

**90.48.090. Accessory Uses.**

- (a) Garages. In residence districts, the number of motor vehicles for which space may be provided as accessory to an authorized use shall not exceed the following:
  - (1) in an R-1 district, two vehicles. For each two thousand five hundred square feet by which the lot exceeds seven thousand five hundred square feet, garage space for one additional vehicle may be provided.
  - (2) in an R-2 district, two motor vehicles for a one-family or two-family dwelling. For multiple-family dwellings, garage space may be provided for each dwelling unit.
  - (3) A garage accessory to a multiple-family dwelling or hotel may employ one or more attendants who may service and make minor repairs to motor vehicles; provided, that such work is done entirely within the building and no noise or nuisance-causing machinery or equipment is used.
- (b) Motor Vehicle Repair Shops. No motor vehicle repair shall be permitted as an accessory use in any district, except in B-2, C-1, and I-1 districts.

**90.48.100. Fences.**

Fences or walls not more than six feet high may be erected in any residence district; but no fence, wall, or shrubbery shall be maintained within twenty-five feet of any street intersection so as to interfere with traffic visibility, excepting a fence, wall, or shrubbery not to exceed three feet in height, measuring from the level of the street, or a tree less than one foot in diameter, if trimmed to a height of seven feet.

**90.48.110. Exceptions to Height Restrictions.**

- (a) The height limitations of this title shall not apply to church spires, belfries, cupolas, and domes, if not used for human occupancy, nor to chimneys, ventilators, weather vanes, skylights, water

tanks, bulkheads, monuments, flag poles, television and radio antennas, and other similar features, and necessary mechanical appurtenances usually carried above roof level.

- (b) The provisions of this title shall not apply to prevent the erection, above the building height limit, of parapet walls or cornices, if without windows and not exceeding five feet in height.

**90.48.120. Minimum Lot Area.**

No lot shall be so reduced in area that any required yard or other open space shall be smaller than prescribed in the regulations for the district in which said lot is located. Whenever such reduction in lot area occurs, any building located on such lot shall thereafter not be used until such building is altered.

**90.48.130. Dwellings on Small Lots.**

- (a) Notwithstanding the limitations imposed by any provisions of this title, the board may permit the construction of single-family dwellings on any lot legally subdivided and separately owned, or under contract of sale, and containing, at the time of the passage of the title, an area or a width smaller than required for a one-family dwelling.
- (b) Notwithstanding the limitations imposed by any provisions of this title, the board may permit the alteration of one-family and two-family dwellings situated on an area or width smaller than required for such dwellings; provided, however, that such alterations are designated to increase the safety and sightlines of the building or to furnish off-street parking; provided further, that the building was in existence at the time of the passage of this title, the area of the lot had not subsequently been reduced, and that such alteration does not increase the building-area measurement, nor reduce the existing yard space.

**90.48.140. Yards, Open Spaces Applicable to One Building or Lot.**

No yard or other open space required about any building in this title shall be considered as providing a yard or open space for any other building, and no yard or open space on one lot shall be considered as providing a yard or open space on any other lot.

**90.48.150. Terraces as Part of Yards, Porches as Part of Buildings.**

- (a) Terraces. A surfaced terrace may be included in computing yard sizes; provided that such terrace is not roofed and is not enclosed. It may have an open guard rail.
- (b) Porches. An unenclosed one-story porch, regardless of roof, may project into any yard six feet without being included in computing building area; provided, however, such porch shall not be closer than five feet to a lot line, and no building shall have such porch projecting into more than one required yard. Any two-story or enclosed porch shall be considered a part of the building in determining yard size and building area. Any enclosed porch of less than fifty square feet shall not be considered in such determination.

**90.52.010. Parking Areas: Requirements According to Use.**

The following off-street parking and loading spaces shall be provided and satisfactorily maintained by the owner of the property for each building which, after the date this title becomes effective, is erected, enlarged, or altered for use in connection with any of the following purposes:

- (1) one-family and two-family dwellings, at least one parking space for each dwelling unit;
- (2) multiple-family dwellings, two parking spaces plus one parking space for each three dwelling units exceeding three. Where such dwelling units do not provide cooking facilities, the number of parking spaces to be provided shall be two, plus one additional parking space for each five units exceeding five;
- (3) hotels, roominghouses, lodges, and clubs with guest rooms, at least one parking space for every five guest rooms;
- (4) churches, lodges and clubs, exhibition halls, places of public assembly, dancehalls, nightclubs, skating rinks, bowling alleys, theaters, and other commercial recreation places, one free parking space for each ten seats, based on maximum seating capacity;
- (5) hospitals, sanitariums, nursing and rest homes, charitable institutions, and similar uses, at least one free parking space for each ten beds, based on maximum capacity;
- (6) food stores, markets, and shopping centers, at least one free parking space for each five hundred square feet of building floor area;
- (7) other retail establishments, clinics, professional and other offices, and similar enterprises, at least one free parking space for each two hundred fifty square feet of building floor area;
- (8) wholesale stores, warehouses, and storage buildings, at least one free parking space for every three employees, but not less than two parking spaces;
- (9) industrial and manufacturing establishments in which there are more than five officers and employees, at least one free parking space for every five employees;
- (10) motor vehicle maintenance and repair shops, including public garages, at least one free parking space for each employee; provided that all vehicle in the custody of the operator of the business for service, repair, storage, sale, or other purposes shall be stored on the premises, or on a separate vehicle parking lot, and shall not be parked on a public right-of-way;
- (11) for uses not specifically mentioned in this section, the same as for the use listed in this section which, in the opinion of the board, is deemed most similar;

- (12) for mixed uses, the total requirement shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use shall be considered as providing required facilities for any other use.

**90.52.020. Parking Areas: Owners Must Determine and Meet Changing Needs.**

- (a) Whenever, after the effective date of this title, there is a change in the number of employees or in the lawful use of the premises or in any other unit or measurement specified in this chapter, and whenever such change creates a need for an increase or decrease of more than thirty-three and one-third percent of the number of off-street automobile parking spaces as determined by the requirements of Sec. 90.52.010.
- (b) In case of unusual hardship arising out of the requirements of this section, recourse may be sought from the board in the manner provided in this title.

**90.52.030. Parking Areas: Not to be Reduced Below Requirements.**

No parking space or spaces which existed at the time this title became effective or which were subsequently thereto provided for the purpose of complying with this title shall thereafter be relinquished or reduced in any manner below the requirements established in Sec. 90.52.010.

**90.52.040. Parking Areas: Location.**

All parking space provided pursuant to this chapter shall be on the same lot, except that the board may permit the parking spaces to be on any lot within five hundred feet of the building, if it determines it is impractical to provide parking on the same lot with the building.

**90.52.050. Parking Areas: Conditions for Using Residence-District Land.**

The board may, in its discretion, permit the temporary or permanent use of land in any resident district for parking, where such land is within two hundred feet of a district other than a residence district; provided, that:

- (1) the area is not to be used for the sale, service or repair of motor vehicles;
- (2) entrances and exits shall be located to cause the least hardship to residence districts and adjacent residents;
- (3) if the area abuts a lot used for residential purposes, the owner of the area shall be required to construct and maintain a slightly fence, hedge or other barrier at least six feet in height along the side lines of said lot, within the side yard lines required for the district in which located.

**90.52.060. Parking Areas: Parking Space Specifications.**

- (a) For one-family and two-family dwellings, the parking spaces shall be not less than eight feet wide and twenty feet long, but shall be sufficient in size to allow vehicles to be parked completely free from street, alley, thoroughfare, or walking spaces.
- (b) For other uses, the parking spaces shall be not less than two hundred square feet per vehicle, exclusive of access and turning areas required to utilize such space.

**90.52.070. Parking Areas: Access.**

All off-street automobile parking facilities shall be designated with appropriate means of vehicular access to street or alley and adequate maneuvering areas. No driveway or curb cuts in any district shall exceed twenty-five feet in width, and detailed plans for all curb cuts shall be submitted to the city engineer for approval before a permit shall be issued therefor.

**90.52.080. Parking Areas: Lighting.**

Lighting for all parking spaces and parking areas, both public and private, shall be arranged to reflect away from adjacent residential areas and all public streets and highways.

**90.52.090. Loading Areas: When Required.**

- (a) Off-street areas for loading or unloading of vehicles shall be provided in connection with every building or premises used or designed to be used for any institutional, commercial, or industrial uses, where substantial amounts of goods are received or shipped at regular intervals.
- (b) This section shall not be construed to require private loading areas for oil, laundry, milk, bakery, or other similar commercial deliveries, unless such goods and commodities are so delivered for resale or processing or manufacturing.

**90.52.100. Parking Areas: Specifications.**

Loading areas shall be of sufficient size to permit loading and unloading without interference with or projection into any public right-of-way, street, or sidewalk.

**90.52.110. Parking Areas: Access.**

Loading areas shall be provided with access to an alley or, if no alley adjoins the lot, with access to a street. Any required front or rear yard may be used for such purpose.

**90.56.010. Continuance: Permitted.**

The unlawful use of a building existing at the time of the effective date of this title may be continued although such use does not conform to the provisions of this title.

**90.56.020. Continuance: Construction Approved Before Title.**

Nothing in this title shall require any change in plans, construction, alteration, or designation use of a building for which a building permit has been issued before the date of enactment of this title, and the construction of which has been actually begun and diligently prosecuted within one month of the date of issuance of the permit, and which entire building or structure is completed according to such plans as filed with the application for such permit within one year from date thereof.

**90.56.030. Board of Adjustment May Authorize Nonconforming Public Buildings.**

The board of adjustment may, after public hearing with ten days notice, by special permit and subject to such protective restrictions as it may deem necessary, authorize the location in any district within the city of any public building erected for and used by any department of the city, state, or federal government, or any building or other structure erected and used by any public utility operated under a franchise granted by the city.

**90.56.040. Changes in Use.**

A nonconforming use may be changed to another nonconforming use of the same or higher restriction; otherwise, no change in use shall be permitted, unless for the purpose of conforming to the regulations of the use district in which such building is located.

**90.56.050. Maintenance and Repair Permitted.**

No structural alteration may be done on a building for a nonconforming use, enlargement of the building containing such use, nor to change the general character of the building; provided, however, that ordinary maintenance and repair may be done on such nonconforming building, and such structural alterations may be made which are necessary to maintain the building in good and safe condition.

**90.56.060. Alteration Restricted.**

A building lawfully used for a nonconforming use at the time of the enactment of this title may not be reconstructed or structurally altered to any extent exceeding, in aggregate cost, fifty percent of its assessed value, in any ten-year period, unless the use of such building is changed to a conforming use.

**90.56.070. Destruction by Fire.**

- (a) Any building destroyed by fire or by other calamity to the extent of fifty percent or less of its assessed value may be renewed for the purpose of the use in such building at the time of the fire or calamity, even though such use is nonconforming.

- (b) Any building destroyed by fire or other calamity to the extent of more than fifty percent of its assessed value may be renewed and reconstructed only in conformity with the provisions of this title. When restoration to a nonconforming use is permitted under this section, such reconstruction shall be completed within one year from the date of partial destruction.

**90.56.080. Permanence of Discontinuance.**

When a nonconforming use has been discontinued, abandoned, or its normal operation is not used for a period of one year, the use of the same shall thereafter conform to the provisions of this title.

**90.60.010. City Council Power, Procedure.**

The city council may, upon petition or upon its own motion, after a public hearing thereon and referral to and report from the city building official, amend, supplement, or change by ordinance the boundaries of districts established on the zoning map of the city and any of the regulations set forth in this title.

**90.60.020. Notice of Hearing.**

At least fifteen days' notice of the time and place of the public hearing required in Sec. 90.60.010 shall be published in a newspaper of general circulation in the city.

**90.60.030. Vote Required to Overcome Property Owner Protest.**

In case of a protest against such change, signed by the owners of fifty-one percent or more of the area of the lots included in such proposed change, or separated therefrom only by an alley or street, such amendment shall not become effective, except by the affirmative vote of four members of the city council.

**90.64.010. City Council Designated.**

The city council shall constitute a board of adjustment, designated in this chapter as the board.

**90.64.020. Duty to Effect Title.**

The board shall adopt rules in accordance with the provisions of this title for the purpose of effecting its purposes and intent.

**90.64.030. Chairman Designated, Power.**

The mayor shall be the ex officio chairman of the board. Such chairman or, in his absence, the acting chairman, may administer oaths and compel attendance of witnesses.

**90.64.040. Meetings.**

- (a) Meetings of the board shall be held at the call of the chairman of such board.
- (b) All meetings of the board shall be open to the public.

**90.64.050. Records.**

The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city clerk and shall be a public record.

**90.64.060. Means of Exercising Powers.**

In exercising its powers, the board may, in conformity with the provisions of this chapter, reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination appealed from, and may make such order, requirement, decisions, or determination required, and to that end shall have all the powers of the officer from whom the appeal is taken.

**90.64.070. Four-Vote Majority Required.**

The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this title, or any regulation promulgated under this title.

**90.64.080. Power to Hear Appeals.**

The board shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the regulations established by this title.

**90.64.090. Power to Make Exceptions.**

When in its judgment the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be injured thereby, the board may, in a specific case, subject to appropriate conditions and safeguards, determine and vary the applications and safeguards, and determine and vary the applications of the regulations of this title in harmony with their general purposes and intent by permitting special exceptions as follows:

- (1) granting a permit, upon first consulting the city building official and after due notice and public hearing, whenever it is provided in this title that the approval of the board is required;
- (2) permitting, upon first consulting with the city building official, the public utility or public service uses or public buildings uses in any district when found to be necessary for the public health, safety, or the general welfare;
- (3) permitting the temporary use of a building or premises for a purpose that does not conform to the regulations prescribed by this title; provided, that such structure or use is of a true and temporary nature and is promotive or incidental to the construction, establishment, or development of a use that conforms to the regulations of the district in which it is located. Such permit shall be granted in the form of a temporary and revocable permit for not more than a twelve-month period.

**90.64.100. Power to Grant Variances.**

The board may, upon appeal in specific cases, authorize such variances from the terms of this title as will not be contrary to the public interest where, owing to special conditions, a literal application of the provision of the title would result in unnecessary hardship, and so that the spirit of the title is observed and substantial justice done.

**90.64.110. Requests for Exceptions and Appeals: Who May File.**

Request for exceptions and appeals may be filed by any aggrieved person, or by any taxpayer, or by any officer, board, bureau, or department of the city.

**90.64.120. Requests for Exceptions and Appeals: Filing.**

- (a) Requests for exceptions and appeals shall be perfected by filing with the building official, within thirty days after the action appealed from is taken, in the case of appeals, a written notice specifying the grounds thereof. If the appeal is not perfected within the time specified in this section, the right to appeal is forfeited.
- (b) Requests for exceptions and appeals must be filed on or before the first day of any month in order to be heard by the board in such month.

**90.64.130. Requests for Exceptions and Appeals: Fee.**

Requests for exceptions and appeals shall be accompanied by a receipt of the city clerk showing that the person, firm, or corporation filing the request or appeal has paid the clerk the sum of twenty-five dollars, which sum and like sums shall be used to defray the costs of the procedures specified in this chapter; provided, that such costs shall not be required of any government

agency. No such request or appeal shall be accepted for filing without such receipt being attached, except as provided in this section, nor shall the said fee be returned, regardless of the action taken on the matter under consideration.

**90.64.140. Requests for Exceptions and Appeals: Hearing by Board.**

When a request for exception or appeal has been properly filed, the building official shall transmit to the board all plans, specifications, and papers pertaining to such request or appeal. The board shall consider and decide the request or appeal within a reasonable time.

**90.64.150. Requests for Exceptions and Appeals: Public Hearings and Notice.**

- (a) The board shall fix a reasonable time for the hearing of any appeal or request for exceptions in cases where a public hearing is required.
- (b) The board shall give public notice of hearings either by publishing notice thereof or by posting notices thereof in at least three public places in the city, one being on the bulletin board in the municipal building and at least two being in public and conspicuous places in the area affected by the hearing. In addition thereto, the notice shall be delivered to the interested parties and to such other persons or property owners as the board may consider proper under the circumstances.

**90.64.160. Requests for Exceptions and Appeals: Stay of Proceedings.**

An appeal from the decision of any administrative officer under this title to the board stays all proceedings in furtherance of the action appealed from, unless the building official, or other officer from whose decision the appeal is taken, certifies to the board after notice of appeal is filed that, by reason of facts stated in such certificate, a stay would, in his opinion, cause imminent peril to life or property.

**90.64.170. Appeal to Superior Court: Notice to City Required.**

- (a) An appeal from an action, decision, ruling, judgment, or order of the board may be taken in the Superior Court of the State of Alaska by any person or persons jointly or severally aggrieved, or any taxpayer, or any officer, department, board, or bureau of the city, by filing with the city clerk an action in said court, and by filing, within thirty days from the date of the decision or order appealed from, a notice of appeal, which notice shall specify the ground of such appeal. Failure to file said action and notice of appeal in the manner and in the time provided in this section shall forfeit any right to appeal.
- (b) Notice of all decisions and orders shall be given to all parties having a right of appeal within five days of the date of the decisions' order.

**90.64.180. Appeal to Superior Court: Transmission of Case Record.**

Upon filing of the notice of appeal as provided in Sec. 90.64.170, the board shall forthwith transmit to the clerk of the Superior Court of the judicial division in which the controversy arises the original or certified copies of all the documents and recordings constituting the record in the case, together with the order, decision, or ruling of the board.

**90.64.190. Appeals to Superior Court: Stay of Proceedings.**

An appeal to the Superior Court from the board stays all proceedings in furtherance of the action appealed from, unless the chairman of the board from which the appeal is taken certifies to the clerk of the court, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property.

**90.64.010. Building Official to Enforce.**

This title shall be enforced by the building inspector and by his successors in office in charge of issuing building permits and inspecting buildings. No building permit shall be issued by him except where the provisions of this title have been complied with.

**90.64.020. Higher Standards to Govern in Case of Conflicts.**

In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, and general welfare. Wherever the requirements of this title are at variance with the regulation or title, the most restrictive, or those imposing the higher standards, shall govern.

**90.64.030. Penalty for Violation.**

- (a) Any person, firm, or corporation who shall violate, neglect, or refuse to comply with any provision of this title, or who shall maintain, use or construct any building or premises in violation of the provisions of this title, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding three-hundred dollars, or by imprisonment in the city jail for a term not exceeding thirty days, or by both such fine and imprisonment. Each day that a violation is committed, caused, or continued to exist shall constitute a separate offense.
- (b) In addition to the above penalties, such actions at law or suits in equity may be maintained by the city, or any interested persons, as may be authorized by law.

# TITLE 93. PLANNING COMMISSION

## Chapter 04. Planning Commission.

### **93.04.010. Established.**

There is established the planning commission for the city to perform the functions of planning, platting, and zoning for the city.

### **93.04.020. Planning and Zoning Duties.**

It shall be the duty of the commission to hold public hearings where necessary and make recommendations to the council on matters concerning or relating to planning and zoning, the enforcement of appropriate regulations and amendments to ordinances, or other matters within the scope of the planning and zoning power.

### **93.04.030. Platting Duties.**

The function of platting shall be performed from time to time by the commission, convened as the platting authority for the city and completed upon it having approved or rejected proposed plats, replats, and vacations of public ways according to law.

### **93.04.040. Membership.**

The voting members of the planning commission shall be five (5) citizens who are residents of the city. The mayor shall be an ex officio member but may not vote.

### **93.04.050. Appointment.**

Members shall be appointed by the mayor and confirmed by the council. Appointments to fill vacancies shall be for the unexpired term only.

### **93.04.060. Term of Office.**

Members shall be appointed for a term of three years, except of those first appointed two shall be appointed for three years, two for two years, and one for one year. Such members first appointed shall draw lots for the foregoing terms.

### **93.04.070. Officers.**

The commission shall designate a member as its presiding officer to conduct the affairs of the commission, a deputy presiding officer to serve in the absence of the presiding officer, and a clerk. The commission clerk shall prepare the journal of the commission's proceedings.

### **93.04.080. Vacancies.**

- (a) A vacancy shall be declared, and filled as above provided, when a member:

- (1) fails to qualify and take this office within thirty days after his confirmation by the council;
  - (2) departs from the city with the intent to remain away for a period of ninety or more days or is physically absent from the area he was appointed to represent for a period of ninety or more days;
  - (3) submits his resignation and the resignation is accepted by the mayor;
  - (4) is physically or mentally unable to attend commission meetings for a period of more than ninety days;
  - (5) misses three or more consecutive regular meetings, unless excused by the commission;
  - (6) is convicted of a felony or of an offense involving or in violation of his oath of office.
- (b) The clerk of the planning commission shall keep attendance records and notify the mayor when vacancies occur.

**93.04.090. Quorum.**

A majority of voting membership constitutes a quorum except as provided in Sec. 93.12.080(b). Any act of the commission requires a majority affirmative vote of those voting members present.

**93.04.100. Meetings.**

Regular meetings shall be held on Thursday of the fourth week of each month at 7:30pm in council chambers. Special meetings may be called by the presiding officer or shall be called by him at the request of three members, including non-voting members.

**93.04.110. Record of Meetings.**

Meetings shall be public and minutes shall be kept. Minutes and records shall be filed with the city clerk and retained as public records.

**93.04.120. Rules of Proceedings.**

Meetings shall be conducted under Robert's Rules of Order and such modified or amended rules as may be adopted by the commission.

**93.04.130. Order of Business.**

- (a) The order of business at regular meetings shall be:
- (1) approval of minutes of previous meetings, as amended or corrected;
  - (2) reading and disposition of correspondence;
  - (3) unfinished business;

- (4) new business;
- (5) miscellaneous business.

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

**93.04.140. Office and Staff.**

- (a) The commission shall be provided office space suitable for its needs and adequate to file its journals, resolutions, records, reference materials, correspondence, and maps, plats, and charts, all of which shall constitute public records of the city.
- (b) The commission shall be furnished secretarial assistance at each meeting to assist in preparing its minutes, journals, and resolutions, and as required to prepare its correspondence under the direction of the commission presiding officer and commission clerk.

**93.04.150. Resolutions.**

- (a) All formal of the commission shall be by resolution bearing:
  - (1) the heading, “City of Kake Planning Commission”;
  - (2) the space for the serial number to be assigned, “Resolution, Serial No. \_\_\_\_”;
  - (3) a short and concise title descriptive of its subject and purpose;
  - (4) a short premise or whereas clause descriptive of the reasons for the resolution, if necessary;
  - (5) the resolving clause, “Be it Resolved”; and
  - (6) provision for signature after the text, “Adopted (*date*)” and designated lines for the signatures of the commission presiding officer and the city clerk.
- (b) All resolutions adopted by the commission, whether at the instance of and presented by third parties, or on the motion of and instance of the commission, shall conform to that set forth in subsection (a) above and shall be on white eight and one-half by eleven paper with one and one-half inch left margin suitable for permanent filing.

**93.04.160. Funds.**

All funds of the commission received as fees and charges or otherwise shall be deposited in the general fund of the city as receipts of the activities of the commission.

**93.04.170. Compensation.**

Members shall serve with compensation, established by the council at twenty-five dollars per regular meeting and five dollars per special meeting. Expenses of the planning commission and its staff are paid as directed by the council.

**93.04.180. Planning Functions.**

- (a) The planning commission shall prepare and recommend to the council:
  - (1) a comprehensive plan consisting of maps and related texts for the systematic development of the community;
  - (2) a zoning ordinance to implement the comprehensive plan;
  - (3) a subdivision ordinance;
  - (4) the official map of the city. Said map shall include reference to zoning and other applicable restrictions prescribed by the commission; and
  - (5) modifications to the documents specified in (1) through (4) of this subsection.
- (b) The commission shall publish notice of, and hold at least one public hearing before submitting its recommendations under Subsection (a) to the council. Notice shall be published in the same manner as in the case of ordinances.
- (c) The planning commission shall:
  - (1) act as the platting board;
  - (2) act upon requests for variances; and
  - (3) act upon requests for conditional uses.
- (d) Subject to any ordinance adopted pursuant to AS 29.33.245, no platting request, variance, or conditional use may be granted except upon an affirmative vote of a majority of the voting members of the commission.

**93.04.190. Comprehensive Plan: Composition, Review.**

- (a) The comprehensive plan provided for in Subsection (a)(1) of Sec. 93.04.180 shall be a compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public, of the city; and the plan may include, but is not limited to, the following: statements of policies, goals, standards, and land use plan, a community facilities plan, a transportation plan, and recommendations for plan implementation.
- (b) The planning commission shall undertake an overall review of the plan at least once every two years and shall present recommendations based on the review to the council.

**93.08.010. Purpose of Zoning Regulations.**

- (a) In accordance with the comprehensive plan, the council shall regulate and restrict the use of land and improvements by districts. Regulations shall be uniform for each class or kind of building, structure, land, or water area within each district but the regulations may differ among districts and exceptions may be made in order to provide for the preservation, maintenance, and protection of historic sites, buildings, and monuments.
- (b) Zoning regulations adopted under Subsection (a) of this section may include, but are not limited to, restrictions of the following:
  - (1) land use;
  - (2) building location and use;
  - (3) the height and size of structures;
  - (4) the number of stories in buildings;
  - (5) the percentage of lot which may be covered;
  - (6) the size of open spaces; and
  - (7) population density and distribution.
- (c) Zoning regulations are designated to do the following:
  - (1) provide for orderly development;
  - (2) lessen street congestion;
  - (3) promote fire safety and public order;
  - (4) protect the public health and general welfare;
  - (5) prevent overcrowding; and
  - (6) stimulate systematic development of transportation, water, sewer, school, park, and other public facilities.

**93.08.020. Board Designated and Duties.**

- (a) The council is the board of adjustment. Meetings of the board are held at the call of the mayor. The mayor may administer oaths and compel attendance of witnesses. Meetings and hearings of the board shall be open to the public. The city clerk shall keep minutes of the proceedings of the board of adjustment 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; and
  - (3) appeals from the decisions of the planning commission on requests for variances from the terms of the zoning ordinances 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 person 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.

**93.08.030. Appeal Procedure.**

- (a) An interested party, including but not limited to a city official, may file with the board of adjustment an appeal specifying in writing his objections and his address. Copies are filed with the administrative officer involved in the decision or enforcement and with the clerk within thirty days from the date of the decision or enforcement involved. The officer shall provide the board with all pertinent records including his written decision. Such material shall become part of the reading of the appeal. An appeal to the board stays enforcement order based on a certificate of imminent peril to life or property made by the enforcement officer.
- (b) The mayor shall act as the presiding officer of the board of adjustment and shall exercise such control over the board's proceedings as is reasonable and necessary. In addition to his other duties, he shall rule upon the admissibility of evidence before the board and may limit presentations before the board to a reasonable period of time.
- (c) A quorum of the board of adjustment shall consist of a majority of its voting members. Decisions by the board may be made and rendered by a majority of a quorum. Only those members of the board of adjustment who have been present throughout the hearing on an appeal may vote on that appeal.
- (d) The following procedure shall be followed at any hearing on an appeal before the board of adjustment:
  - (1) the appeal number and the name of the party appealing shall be read into the record;
  - (2) the mayor shall then determine if the appellant or his agent is present. If no such person is present, the board will proceed with the hearing in such person's absence, unless the presiding officer rules that there were extenuating circumstances which prevented the appellant or his agent from appearing;
  - (3) the presiding officer shall require the appellant to give his presentation first;
  - (4) after the conclusion of the appellant's presentation, the official involved shall then make a presentation. That official shall answer any questions by any member of the board concerning his comments or appellant's comments;

- (5) the appellant shall then have the right to respond to the official's presentation;
- (6) all comments made by the official of the appellant shall be directed to the mayor. All questions directed toward the appellant or official shall be only a member of the board of adjustment; and
- (7) all testimony before the board shall be under oath, to be administered by the city clerk.
- (e) An appellant may in lieu of a personal appearance before the board of adjustment present his appeal in writing supported by any affidavits appellant considers necessary. Such affidavits shall be filed by appellant at the time of filing the notice of appeal.
- (f) Appellant, other interested persons, and any official may be represented by legal council at the board of adjustment.
- (g) The burden of proof is upon the appellant to prove his case by a preponderance of the evidence.
- (h) The formal rules of evidence applicable to an action at law do not apply to hearings before the board of adjustment. Evidence and testimony shall be relevant to the appeal.
- (i) The decision of the board of adjustment on an appeal shall be an affirmative motion.

**93.08.040. Judicial Review.**

The council shall provide for appeals from the board of adjustment to the Superior Court as specified in AS 29.33.130.

**93.12.010. Platting Board Jurisdiction.**

The planning commission acting as the platting board has jurisdiction over platting and shall adopt and publish rules and regulations to implement this power. Jurisdiction includes, but is not limited to, the control of:

- (1) form, size, and other aspects of subdivisions, dedications, and vacations of land;
- (2) dimensions of lots or tracts;
- (3) street width, arrangement, and right-of-way, including allowance for access to lots and installation of street paving, curbs, gutters, sidewalks, sewers, water lines, drainage, and other public utility improvements.

**93.12.020. Approval or Disapproval.**

- (a) The platting board shall within sixty days of filing approve or disapprove the plat or shall return it to the applicant for modification or correction. If the board fails to act, the plat is considered by the board on demand. The applicant for plat approval may consent to the extension of the period for action by the board. The board shall state on its record and in writing to the applicant its reasons for disapproval of a plat.
- (b) The platting board shall submit an approval plat to the district recorder in compliance with AS 40.15.010 through 40.15.020.
- (c) The platting board shall approve or disapprove the plat of subdivision or dedication within sixty days after it is filed or shall return the plat to the applicant for modification or correction within sixty days from the date of filing. If the platting board does not approve, disapprove, or return the plat to the applicant, the plat is considered approved and a certificate of approval shall be issued by the platting board on demand. The applicant for plat approval may consent to the extension of the period for action by the platting board. The reason for disapproval of a plat shall be stated upon the records of the platting board.

**93.12.030. Waiver in Certain Cases.**

- (a) The platting board shall, in individual cases, waive the preparation, submission for approval, and recording of a plat upon satisfactory evidence that:
  - (1) each tract or parcel of land will have adequate access to a public highway or street;
  - (2) each parcel created is five acres in size or larger and that the land is divided into four or fewer parcels;
  - (3) the conveyance is not made for the purpose of, or in connection with, a present or projected subdivision development; and
  - (4) no dedication of a street, alley, thoroughfare, or other public area is involved or required.

- (b) In other cases the platting board may waive the preparation, submission for approval, and recording of a plat if the transaction involved does not fall within the general intent of AS 29.33.150 through 29.33.240 and AS 40.15 if it is not made for the purpose of, or in connection with, a present or projected subdivision development and no dedication of a street, alley, thoroughfare, park, or other public area is involved or required.

**93.12.040. Contents.**

A plat shall show initial point of survey, original or re-established corners and their descriptions, and actual traverse showing area of closure and all distances, angles, and calculations required to determine initial point, corners, and distances of the plat, as well as other information which may be required by ordinance.

**93.12.050. Penalty for Selling or Recording Without Approval.**

- (a) The owner or agent of the owner of land located within a subdivision who transfers, sells, or enters into a contract to sell land in a subdivision before a plat of the subdivision to sell land in a subdivision before a plat of the subdivision has been prepared, approved, and recorded is guilty of a misdemeanor and upon conviction is subject to punishment as provided in the Kake Code of Ordinances. The platting board may enjoin a transfer, sale, or contract to sell, and may recover the penalty by appropriate legal action.
- (b) No person may record a plat or seek to have a plat recorded unless it bears the approval of the platting board. A person who knowingly violates this requirement is subject to punishment as provided in the Kake Code of Ordinances.

**93.12.060. Alteration or Replat.**

No recorded plat may be altered or replatted except upon petition of the owners of a majority of the land affected by the alteration or replat or by the platting board. No platted street may be vacated, except upon petition of the municipality or owners of the majority of the front feet of the land fronting the part of the street sought to be vacated. The petition shall be filed with the platting board. It shall be accompanied by a copy of the existing plat showing the proposed alteration or replat.

**93.12.070. Notice of Replat Hearing.**

The platting board shall fix a time for a hearing on the petition which shall not be more than sixty days after the filing. The board shall publish a notice stating when and by whom the petition was filed, its purpose, and the time and place of the hearing. The notice shall generally describe the alteration or replat sought. The notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area. The board shall also mail a copy of the notice to each affected property owner not signing the petition.

**93.12.080. Replat Determination.**

- (a) At the hearing, the platting board shall consider the alteration or replat and make its decision on the merits of the proposal. No vacation of a city street may be made without the consent of the council.

- (b) A quorum of the platting board shall consist of a majority of its voting members. The board may act only upon a majority vote of its entire voting membership. Only those members of the platting board who have been present at the hearing may vote upon the question presented.
- (c) The council shall have thirty days from the decision in which to veto the board decision. If no veto is received by the board within the thirty-day period, the consent of the city shall be considered to have been given to the vacation.

**93.12.090. Recording Replat.**

If the alteration or replat is approved, the revised plat must be recorded by the platting board and is thereafter the lawful plat.

**93.12.100. Title to Vacated Area.**

- (a) The title to the street or other public area vacated on a plat attaches to the lot or lands bordering on the area in equal proportion, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area which lies on one side of the boundary line shall attach to the abutting property on that side, and the street area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in the city if it lies within the city. If the property vacated is a lot or tract, title vests in the rightful owner.
- (b) If the city acquired the street or other public area vacated for legal consideration or by express dedication to and acceptance by the city other than required subdivision platting, before the final act of vacation the fair market value of the street or public area shall be deposited with the platting authority to be paid over to the city on final vacation.

**93.16.010. Record of Approval.**

Before the lots or tracts of any subdivision or dedication may be sold or offered for sale, the subdivision or dedication shall be submitted for approval to the authority having jurisdiction. The regular approval of the authority shall be shown on it or attached to it and the subdivision or dedication shall be filed for record in the office of the recorder.

**93.16.020. Deed Acknowledgment and Taxes Paid.**

Every plat shall be acknowledged before an officer authorized to take acknowledgment of deeds. A certificate of acknowledgment shall be endorsed on or annexed to the plat and recorded with it. A person filing a plat, map, subdivision, or replat of property, or vacating the whole or any portion of an existing plat, map, subdivision, or replat shall, at the time of filing it for record or filing the petition to vacate, file with it a certificate from the tax-collecting official or officials of the area in which the land is located that all taxes levied against the property at the date are paid.

**93.16.030. Dedication of Public Use Areas.**

When an area is subdivided and a plat of the subdivision is approved and recorded all streets, alleys, thoroughfares, parks, and other public areas shown on the plat are deemed to have been dedicated to public use.

**93.16.040. Plat Copy Evidences Original.**

A copy of a plat certified by the recorder of the recording district in which it is recorded as a true and complete copy of the original on file in his office is admissible in evidence in all courts in the state with the same effect as the original.

**93.16.050. Recorded Plates Legalized.**

All plats recorded before February 1, 1979, whether executed and acknowledged in accordance with AS 40.15.050 or not, are validated and all streets, alleys, or public thoroughfares shown on these plats are considered as having been dedicated to public use. This section does not prohibit the abandonment of a plat recorded before February 1, 1979, if a subsequent plat is filed indicating abandonment. The last plat of the area of record on February 1, 1979, is the official plat of the area, and the streets, alleys, or thoroughfares shown on it are deemed to be the streets, alleys, or thoroughfares dedicated to public use. The streets, alleys, or thoroughfares shown on an earlier plat of the same area or any part of it which is in conflict with those shown on the official plat is deemed to have been abandoned and vacated.

**93.16.060. Missing Plats.**

Where a recorded plat is missing and no present record is available except by reference to the missing plat, a counterpart copy, approved by the platting authority, may be recorded as of the original date of the missing plat and after recordation has the same legal effect and notice as the original missing plat.