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# TITLE 2

## ADMINISTRATION & PERSONNEL

THORNE BAY MUNICIPAL CODE

THORNE BAY CITY COUNCIL

Codified March 2026

# TITLE 2 - ADMINISTRATION AND PERSONNEL

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## CHAPTER 2.04 - CITY COUNCIL

### 2.04.010 COMPOSITION.

The council shall consist of seven members elected by the voters at large. (Prior code Ch. 4 § 1)

### 2.04.020 QUALIFICATIONS OF COUNCILMEMBER’S.

The councilmembers shall be qualified city voters.

- A. A councilmember who ceases to be eligible to be a city voter immediately forfeits his office.
- B. A member of city council must keep current on any accounts held with the City (i.e., utilities, lease payments, rents, sales tax, etc....). Any member whose account falls into delinquency for more than sixty (60) days may be removed from office by a majority vote of the council. City Council will consider financial or other hardships.
- C. Any person declaring candidacy for a committee, board or commission shall not be considered until the persons accounts are made current. City Council will consider financial or other hardships.
- D. An employee of the City cannot be appointed or elected to a seat on the city council. (Ordinance 06-02-21-01; Prior Code Ch. 4 § 2)

### 2.04.030 ELECTION OF COUNCILMEMBER’S-TERMS.

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

### 2.04.040 OATH OF OFFICE.

- A. All officers elected or appointed before entering upon the duties of office shall affirm in writing the following oath and affirmation:
- B. I . . . do solemnly swear that I will support the Constitution of the United States and State of Alaska and the laws and ordinances of the City of Thorne Bay, State of Alaska, and that I will honestly, faithfully and impartially perform the duties of the office of . . . . . So help me God.
- C. The oath is filed with the municipal clerk. (Prior code Ch. 4 § 4)

#### 2.04.050 COMPENSATION OF COUNCILMEMBERS.

Each member of the council shall receive compensation at the rate of fifty (\$50.00) dollars for each regular meeting of the council attended. No compensation shall be paid for attending special meetings of the council. (Ord 25-12-02-02 2025; Prior Ord. 05-09-06-02; Ord. 8201-02[A] (part), 1986: prior code Ch. 4 § 5)

#### 2.04.055 SUSPENSION OF THE RULES

The rules of order and the order of business shall be observed in all cases unless temporarily suspended for a special purpose by vote of the majority of the council present.

(Ordinance 21-04-06-05; Prior Ord. 92-08§ 5,1992)

#### 2.04.060 SALARIES OF ELECTED OFFICIALS.

The council may fix by ordinance the salaries of elected officials. An elected officer may not receive any compensation as a city employee unless otherwise provided for by ordinance.

The City of Thorne Bay has a non-accountable plan for per-diem allowances; therefore, it is treated as compensation to the employee. (Ord. 10-01-19-03, Prior Ord. 87-06, 1987: Ord. 8201-02[A] (part), 1986: prior code Ch. 4 § 6)

#### 2.04.065 INDEMNIFICATION.

The city will indemnify and hold harmless the city councilmember's and their appointees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of their duties, as assigned or set forth in this code; provided that any such claims, damages, losses or expenses are not caused in whole or in part by any willful or fraudulent act or omission by such councilmember's and their appointees. (Ord. 90-07 § 5, 1990)

#### 2.04.070 EMPLOYMENT FOR CITY WORK.

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

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

1. A councilmember shall be required to comply with the requirements of employment and shall be paid according to the wage scale established by the city for the work involved.
2. The employment application of a councilmember for city work must be approved by the mayor and by a duly constituted quorum of the city council.

(Ord. 88-55 § 4, 1988; Ord. 87-08 §§ 1, 2, 1987)

#### **2.04.075 CONTRACTUAL SERVICES BY COUNCILMEMBER’S.**

- A. A councilmember may provide contractual services to the city at an agreed rate of pay when in the best interests of the city.
- B. The contractual services of a councilmember for city work must be approved by the mayor and a duly constituted quorum of the city council. (Ord. 88-55 § 5, 1988)

#### **2.04.080 CONFLICTS OF INTEREST.**

A councilmember or employee of the city shall disqualify himself or herself from participating in any official action in which he or she has a substantial financial interest. For purposes of this section, "substantial financial interest" means a pecuniary or material benefit accruing to a councilmember or other officer or employee of the city, or family member of a councilmember or employee, as a result of a private, business or professional transaction with the city. "Family member" means spouse, father, mother, brother, sister, child, step-child, step-brother, step-sister or in-law. A councilmember or other officer, employee or family member shall be deemed to have a substantial financial interest in the affairs of:

1. A firm, partnership, association or governmental entity (other than the city) of which such councilmember, officer, employee or family member is a member or employee;
2. A corporation of which such officer, employee or family member is an officer, director or employee or in which he or she owns (either directly or beneficially) a controlling interest. The city council shall, by resolution, approve all transactions covered in this section. (Ord. 01-11-15-03 § 4(part), 2001; Ord. 90-08 § 5, 1990)

**2.04.090 PROHIBITIONS.**

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

**2.04.100 VACANCIES.**

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

- A. Fails to qualify or take office within thirty days after his election or appointment;
- B. Is physically absent from the city for a ninety-day period, unless excused by council;
- C. Resigns and his resignation is accepted;
- D. Is physically or mentally unable to perform the duties of his office;
- E. Is removed from office;
- F. Misses three unexcused regular or special meetings within a one-year period; or
- G. Is convicted of a felony or of an offense involving a violation of his oath of office.

**2.04.110 FILLING A VACANCY.**

If a vacancy occurs in the council, the council by vote of a majority of its remaining members shall, within 60 days, designate a person to fill the vacant seat. The person appointed serves until the next regular city election and until their successor qualifies. If a regular election is scheduled to occur within 60 days from the date a vacancy is declared, the vacancy may not be filled. (Ord. 23-08-15-01; Prior code Ch. 4 § 10)

**2.04.115 RULES OF ORDER**

The most recent edition of Robert’s Rules of Order Newly Revised is adopted and made part of these rules of procedure and governs the conduct of meetings of the Council except as otherwise provided by the Thorne Bay Municipal Code, these rules of procedure, or the Alaska Statutes.(Ordinance 21-4-06-05)

**2.04.120 MEETINGS-OPEN TO PUBLIC.**

All meetings of municipal bodies shall be open to the public, except as otherwise provided by this chapter. Attendance and participation at meetings by members of the public or by members of the municipal body may be by teleconferencing. Materials that are to be considered at the meeting shall be made available at teleconference locations if practicable.

Voting of a municipal body shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a municipal body, described in this subsection.

**A. This section does not apply to:**

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

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

1. The expense that may be incurred by the city, other municipal bodies, other governmental bodies, and individuals if the action is voided;
2. The disruption that may be caused to the affairs of the city, other municipal bodies, other governmental bodies, and individuals if the action is voided;
3. The degree to which the city, other municipal bodies, other governmental bodies, and individuals may be exposed to additional litigation if the action is voided;
4. The extent to which the municipal body, in meetings held in compliance with this section, has previously considered the subject;
5. The amount of time that has passed since the action was taken;

6. The degree to which the city, other municipal bodies, other governmental bodies, or individuals have come to rely on the action;
7. Whether and to what extent the municipal body has, before or after the lawsuit was filed to void the action, engaged in or attempted to engage in the public reconsideration of matters originally considered in violation of this section;
8. The degree to which violations of this section were willful, flagrant, or obvious; and
9. The degree to which the governing body failed to adhere to the policy set forth in AS 44.62.312(a).
10. Subsection c of this section does not apply to a municipal body that has only authority to advise or make recommendations to the municipal body and has no authority to establish policies or make decisions for the city.

**C. In this section:**

1. "Municipal body" means the city council, other councils, boards, commissions, committee, or other similar body of the city with the authority to establish policies or make decisions for the city or with the authority to advise or make recommendations to the city; "municipal body" includes the members of a subcommittee or other subordinate unit of the city if the subordinate unit consists of two or more members;
2. "meeting" means a gathering of members of a municipal body when: (a) more than three members or a majority of the members, whichever is less, are present, a matter upon which the municipal body is empowered to act is considered by the members collectively, and the municipal body has the authority to establish policies or make decisions for the city; or (b) the gathering is prearranged for the purpose of considering a matter upon which the municipal body is empowered to act and the municipal body has only authority to advise or make recommendations for the city but has no authority to establish policies or make decisions for the city. (Ord. 99-20 §6(part), 1999; ord. 86-06-24-01 §1, 1986)

**2.04.130 MEETINGS--REGULAR.**

- A. Regular council meetings shall be held on the first and third Tuesdays of each month. Either meeting may be rescheduled for cause, but two monthly meeting shall be held, unless one is cancelled by the majority vote of the City Council. (Ord 24-02-06-01 §4)
- B. Regular council meetings shall be held at City Hall unless that meeting place is unavailable in which case the meeting may be held at another location designated by the council presiding officer. (Ord 25-12-02-01 2025; Prior Ord. 04-06-17-01 §4, 2004; Ord. 90-24 §5(part), 1990)

#### 2.04.140 MEETINGS-SPECIAL.

- A. Special meetings of a municipal body are those meetings that are called for a time different than that fixed for the regular municipal body meetings. The location of all special meetings shall be the same as that authorized for regular meetings.
- B. If a majority of the members are given at least twenty-four hours oral or written notice and reasonable efforts are made to notify all members, a special meeting of the municipal body may be held on the call of the presiding officer or at least three members of the municipal body. A special meeting may be conducted with less than twenty-four hours' notice if all members are present or if absent members have waived in writing the required notice. Waiver of notice can be made before or after the special meeting is held. A waiver of notice shall be made a part of the journal of the meeting. (Ord. 99-20 § 6(part), 1999: Ord. 86-06-24-01 § 3, 1986)

#### 2.04.150 MEETINGS-NOTICE.

- A. Except as otherwise provided in this chapter, public notice containing the date, time and place of any municipal body meeting shall be posted at City Hall and in five other public places within the city at least five days before any meeting except a special meeting.
- B. Public notice of a special meeting shall be posted at City Hall and in five other public places within the city at least twenty-four hours before the meeting and shall list only subjects to be considered at the meeting. Less than a twenty-four-hour public notice may be given if the waiver of the municipal body members' twenty-four-hour notice is utilized as authorized in Section 2.04.140 (B).
- C. If the meeting is by teleconference, the public notice must contain the location of any teleconferencing facilities that will be used. (Ord. 99-20 § 6(part), 1999: Ord. 90-24 § 5(part), 1990)

#### 2.04.151 AGENDAS-POSTING.

- A. The for a regular meeting shall be posted in five public places within the city at least three days before the meeting. Agenda packets containing information pertinent to agenda items shall be delivered to each councilmember no later than on the Friday of the week preceding the meeting.
- B. Agenda items for any other council meetings shall be included in the publicly posted meeting notice. (Ord. 90-24§5(part),1990)

**2.04.160 EXECUTIVE SESSIONS.**

- A. The following subjects may be considered in an executive session:
1. Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the city;
  2. Subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
  3. Matters that by law, municipal charter, or ordinance are required to be confidential;
  4. Matters involving consideration of city records that by law are not subject to public disclosure.
- B. The following shall be discussed in executive session when the best interests of the city so require:
1. Negotiations with labor organizations representing city employees;
  2. Discussions of pending or threatened lawsuits in which the city has an interest.
- C. If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters listed in subsections A and B of this section shall be determined by majority vote of the municipal body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.
- D. Persons who are to be the subject of discussions set forth in subsection (A)(2) of this section shall be given a minimum of five days' written notice of the circumstance that they will be the subject of such a discussion, the time and place of the meeting and an advisement that they have the right to request that the discussion occur in public.
- E. Councilmembers must be present in order to participate in executive session, unless otherwise authorized by a majority vote of the city council. (Ordinance 21-07-20-02, adding § (E). (Ord. 99-20 § 6(part), 1999: Ord. 86-06-24-01 § 5, 1986)

**2.04.170 MEETINGS-MAYOR THE PRESIDING OFFICER.**

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

- B. In the temporary absence or disability of both the mayor and vice mayor, any member of the city council may call the council to order at any duly called meeting to elect a mayor pro tempore from among its number and the mayor pro tempore shall exercise all the powers of mayor during such temporary absence or disability of both the mayor and the vice mayor and may also vote. (Ord. 89-24 § 5(part), 1989; prior code Ch. 7 § 1)

#### 2.04.180 MEETINGS-ORDER OF BUSINESS.

At all regular meetings of the council, the order of business shall be:

- A. Call to order.

The mayor or presiding officer shall call the meeting to order and state the date and time of the meeting for the record.

If a workshop is scheduled preceding the regular council meeting, publication shall be made on the website and posted at city hall and the post office that the workshop will be held and state the date and time of the meeting.

- B. Pledge of allegiance.  
C. Ceremonial matters – oath of offices  
D. Roll call.  
E. Approval of the agenda.

- F. Administrative reports

Administrative reports are provided at each meeting of the city council. The council may ask clarification questions of the administrator but shall not enter into any debate.

- G. Department reports.

Department reports are provided at the second meeting of every month for each department of the city.

Department reports

- ◆ Harbor
- ◆ Water
- ◆ Solid waste
- ◆ VPSO reports
- ◆ EMS report
- ◆ Fire report

- H. Mayor and council comments.

This agenda item is reserved for the mayor and council to provide reports or comments and to introduce items not previously on the agenda which need to be brought to the attention of the entire council or the staff. Council members may hold limited discussion on these topics or ask the city administrator or the city clerk for clarifying information.

By majority consent of the council, the mayor or council may give direction to the city administrator or the city clerk to add an item for consideration for the next regular

council meeting. Other than as described in this subsection, no action may be taken by the council under this agenda item. The council shall respectively address the mayor when requesting to speak per the Thorne Bay Municipal Code 2.04.200.

I. **Public comments.**

This is the opportunity for the public to speak in reference to items on the agenda-if no one wants to speak in reference to items on the agenda then open to general comments.

The city council encourages public participation in the decision-making process and appreciates when residents bring issues of community concern to their attention.

Comments are limited to no more than 3 minutes per speaker, but that time limit may be reduced at the mayor’s discretion if there are numerous speakers on a particular item.

J. **Conflict of interest.** The purpose of this agenda item is to provide a time for any conflict-of-interest disclosures and determinations on such disclosures by the mayor, as may be necessary.

K. **Consent agenda.**

The consent agenda consists of matters that are routine in nature, such as minutes, budgeted agreements and resolutions. They are approved under one blanket motion, with the exception of items that are pulled off by council members for discussion. Those items are considered separately after the consent agenda is approved.

L. **Public hearing and public participation on agenda items.**

Public hearings are required on certain agenda items, including ordinances. An opportunity for public participation will be allowed on all other agenda items other than appeals. Persons wishing to be heard will be recognized by the Chair to speak following any administrative or committee discussion on the item. (Ordinance 26-03-03-01)

M. **Unfinished business.**

This agenda item includes unfinished matters transferred from previous meetings and other items of unfinished business.

N. **New business.**

This agenda item includes items not previously addressed by the council, and items moved from the consent agenda during a meeting.

O. **Executive session.** The procedure for executive session is set out in TBMC 2.04.160.

P. **Final public comments.**

Q. **Final council comments**

R. **Adjournment.** (Ordinance 21-04-06-05; Ord. 92-08§ 5, 1992)

**2.04.190 MEETINGS-MINUTES.**

Minutes of all regular and special meetings shall be taken. All minutes of regular and special meetings shall be kept in the journal of the proceedings of the council. The minutes are public record and are to be made available to anyone upon request. (Prior code Ch. 7 § 3)

#### **2.04.200 MEETINGS-COUNCIL RULES.**

- A. A council member about to speak shall respectfully address the mayor or presiding officer and shall not commence to speak until recognized by the mayor or presiding officer. When two or more members request to speak at the same time, the mayor or presiding officer shall determine which one is recognized.
- B. Every member while speaking shall confine himself to the subject under debate and shall not refer to any other member of the council except in a respectful manner. (Prior code Ch. 7 § 4)

#### **2.04.210 MEETINGS-MOTIONS-SECOND REQUIRED.**

Until a matter has been brought before the council in the form of a motion proposing a specific action, it cannot be debated. All motions shall require a second, unless otherwise provided by special rule. (Ordinance 21-04-06-05; Prior code Ch. 7 § 5)

#### **2.04.220 MEETINGS-MOTIONS-WITHDRAWAL.**

After a motion is seconded and stated or read by the mayor or presiding officer, it shall be considered to be in the possession of the council and shall be disposed of by vote, but the councilmember making the motion may withdraw it at any time before the vote, if the second agrees. (Prior code Ch. 7 § 6)

#### **2.04.230 MEETINGS-REDUCTION TO WRITING.**

Any motion must be reduced to writing if the mayor or presiding officer requires or if any councilmember demands. (Prior code Ch. 7 § 7)

#### **2.04.240 MEETINGS-RESCINDING VOTE.**

Any previous vote on a motion may be rescinded by vote of the majority of the council. (Prior code Ch. 7 § 8)

#### **2.04.250 VOTING-QUORUM.**

- A. Four council members constitute a quorum. Four affirmative votes are required for passage of an ordinance, resolution or motion.
- B. The final vote on each ordinance, resolution or substantive motion is a recorded roll call vote. All councilmember's present shall vote unless the council, for special reasons, permits a member to abstain.
- C. The mayor or presiding officer shall declare all votes; he shall declare the result.
- D. Every member who shall be present when a question is put, where he is not disqualified by personal interest, shall vote, unless the council for special reason excuses him. Applications to be so excused must be made before the vote and shall be decided without debate. (Prior code Ch. 7 §9)

#### **2.04.260 DUTIES OF THE CLERK AT COUNCIL MEETINGS.**

The city clerk shall give notice of city council meetings, shall attend all meetings of the council and keep the journal of its proceedings, shall authenticate by his signature and record in full in a book or file kept for that purpose all ordinances and resolutions duly indexed and open to public inspection. In case of the temporary absence of the city clerk, the city council may appoint a clerk pro tempore, with all the powers, duties and obligations of the city clerk. (Prior code Ch. 7 §10)

## CHAPTER 2.06 – CONFLICTS OF INTEREST

### 2.06.005 Declaration Policy

It is declared that high moral and ethical standards among municipal officers are essential to the conduct of free government; and that the council believes that a code of ethics for the guidance of municipal officers will encourage those officers to avoid acting upon substantial personal interests or substantial financial interests in the performance of their public responsibilities, will improve standards of public service, and will promote and strengthen the faith and confidence of the people of this municipality in their municipal officers. It is further declared that holding public office or employment is a public trust and that as one safeguard of that trust, the people require municipal officers to adhere to a code of ethics. (Ordinance 21-06-15-01)

### 2.06.008 Scope of code.

- A. The council affirms that each municipal officer holds office as a public trust, and any effort to benefit a substantial personal interest or a substantial financial interest through official action is a violation of that trust. The public trust and this chapter do not prohibit an officer from following independent pursuits, so long as those pursuits do not interfere with the full and faithful discharge of an officer's public duties. The council further recognizes that:
- 1) In a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be entirely without personal and financial interests in the decisions and policies of government;
  - 2) Citizens who serve as municipal officers retain their rights to interests of a personal or financial nature; and
  - 3) Standards of ethical conduct for municipal officers need to distinguish between those inconsequential conflicts which are unavoidable in a free society, and those which are substantial and material.
- B. There is no violation of this Code if, as to a specific matter, a municipal officer's:
- 1) Personal or financial interest in the matter is insignificant; or of a type that is possessed generally by the public or a large class of persons to which the municipal officer belongs;
  - 2) Action or influence would have an insignificant or conjectural effect on the matter; or
  - 3) Action consists of voting in favor of introduction of an ordinance.
- C. The City attorney, hearing officers, and hearing agencies shall be guided by this section when issuing opinions and reaching decisions. (Ordinance 21-06-15-01)

### 2.06.010 Misuse of Official Position

- A. A municipal officer may not use, or attempt to use, an official position in order to gain

a benefit, and may not intentionally secure for, or grant to, any person unwarranted benefits, treatment or advantage.

B. A municipal officer may not:

- 1) Seek other employment or contracts through the use or attempted use of the powers of official position;
- 2) Accept, receive, or solicit compensation for the performance of official duties or responsibilities from a person other than the municipality;
- 3) Use municipal time, property, equipment, or other facilities with intent to secure a benefit;
- 4) Take or withhold official action in order to affect a matter in which the municipal officer has a personal or financial interest;
- 5) Attempt to affect a personal or financial interest through coercion of a subordinate; or
- 6) Restrict, or threaten to restrict a contractor's eligibility or opportunity to contract with the city solely in order to secure an unwarranted advantage for the city or the officer.

C. A councilmember, or member of any board or commission may not deliberate or vote on any matter in which he or she has a substantial personal or financial interest.

D. State law reference(s)—Conflict of interest, AS 29.20.010; misuse of official position, AS 39.52.120. (Ordinance 21-06-15-01)

### 2.06.020 Gifts

A. No municipal officer shall, directly, or indirectly, solicit or accept any gift to the officer's benefit, whether in the form of money, service, loan, travel, entertainment, hospitality, promise, or otherwise under circumstances in which it could reasonably be inferred that the gift is intended to influence the officer in the performance of the officer's official duties or constitutes a reward for any official action by the officer.

B. Travel, even if intended to influence an officer, shall not be regarded as a gift to the officer's benefit if:

- 1) The benefits to the public resulting from the travel clearly outweigh the detriment caused by the absence of the officer;
- 2) The nature and extent of the transportation and hospitality provided to the officer are economical, businesslike and necessary;
- 3) The officer is not eligible to take personal leave during the travel; and
- 4) The officer submits a pre-travel request and post-travel report for approval by the body of which he or she is a member or, in the case of employees, the City administrator.

C. Any officer who accepts a gift having a value in excess of \$50.00 shall report such gift to the officer's supervisor if the officer may take or withhold action that affects the giver. The supervisor shall forward a copy of the report to the City attorney who shall maintain the

report in a public file. As used in this section, "gift" includes any series of gifts from the same donor within any 12-month period, other than meals reciprocated by the officer.

State law reference(s)—Alaska Executive Branch Ethics Act, AS 39.52.010 et seq. (Ordinance 21-06-15-01)

### **2.06.030 Improper use or Disclosure of Information.**

A municipal officer may not disclose or use information gained in the course of, or by reason of, the officer's official duties for the purpose of affecting a personal or financial interest of the officer or the officer's immediate family. This section does not apply to information concerning programs or services available to the public or to municipal employees generally. (Ordinance 21-06-15-01)

### **2.06.040 Improper Influence in Municipal Grants, Contracts, Leases or Loans.**

- A. A municipal officer, or an immediate family member, may not attempt to acquire, receive, apply for, be a party to, or have a substantial personal or financial interest in a municipal grant, contract, lease, or loan if the municipal officer or any person supervised by the municipal officer may take or withhold official action that affects the award, execution, or administration of the municipal grant, contract, lease, or loan.
- B. The prohibition in subsection (a) of this section does not apply to a municipal grant, contract, or lease which is competitively solicited, unless the officer:
  - 1) Is employed by the agency awarding the grant, contract, or lease, or is employed by the agency for which the grant, contract, or lease is let; or
  - 2) Takes official action with respect to the award, execution, or administration of the grant, contract, or lease.
- C. The prohibition in subsection (a) of this section does not apply to a municipal loan held by the officer or an immediate family member if:
  - 1) The municipal officer does not take or withhold official action that affects the award, execution, or administration of the loan;
  - 2) The loan is generally available to members of the public; and
  - 3) The loan is subject to fixed eligibility standards.
- D. Notwithstanding the provisions of subsection (b)(1) or (c)(1), a council member, or member of any board or commission may have a personal or financial interest in a municipal grant, contract, lease, or loan which is subject to action by the body on which the member serves, provided that the member does not take or attempt to influence official action with respect to the award, execution, or administration of the grant, contract, lease, or loan. As used in this section, "attempt to influence" does not include submission of a written bid or application conforming to standard requirements and available for public inspection and copying prior to award whether or not award is to the member.

- E. A municipal officer shall report in writing to the City attorney a personal or financial interest held by the officer in a municipal grant, contract, lease, or loan that is awarded, executed, or administered by the agency the officer serves. (Ordinance 21-06-15-01)

### 2.06.050 Improper Representation.

- A. A municipal officer may not represent, advise, or assist another person in any matter pending before the agency that the officer serves if the representation, advice, or assistance is:
- 1) For compensation, unless the representation, advice, assistance, and compensation are required by statute, regulation, or court rule; or
  - 2) Without compensation but rendered to affect a personal or financial interest of the municipal officer.
- B. This section does not prohibit activities related to collective bargaining. (Ordinance 21-06-15-01)

### 2.06.060 Prohibited Conduct.

- A. **Appearance of Conflict.** If it could appear to a reasonable person, having knowledge of the relevant circumstances, that the official's judgment is impaired because of either:
- 1) A personal or business relationship not covered under the foregoing subsection; or
  - 2) A transaction or activity engaged in by the official;
- The official shall disclose the facts giving rise to the appearance of a conflict before participating in the matter.
- B. **Misuse of Public Position or Resources.** Except for infrequent use at little or no cost to the City, officials shall not use public resources that are not available to the public in general, such as city staff time, equipment, supplies or facilities, for other than a city purpose.
- C. **Representation of Third Parties.** The members of the City Council shall not appear on behalf of the financial interest of third parties before the Council or any board, commission or proceeding of the City, or in interaction with staff.
- D. **Solicitations of Charitable Contributions.** No official may make direct personal solicitations for charitable contributions from city employees.
- E. **Gifts and Favors.** Officials shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They may not solicit or receive any thing of monetary value from any person or entity where the thing of monetary value has been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by the official in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law.

F. **Confidential Information.** Officials shall not disclose or use any confidential information gained by reason of their official position for other than a city purpose. "Confidential information" means:

- 1) Specific information, rather than generalized knowledge, that are not available to a person who files a public records request; and
- 2) Information made confidential by law;
- 3) Information provided to the council or staff or discussed in executive sessions of the council. (Ordinance 21-06-15-01)

### 2.06.085 Definitions.

A. For purposes of this section

**"Substantial financial interest"** means a pecuniary or material benefit accruing to a councilmember or other officer or employee of the city, or family member of a councilmember or employee, as a result of a private, business or professional transaction with the city.

**"Family member"** means spouse, father, mother, brother, sister, child, stepchild, stepbrother, stepsister or in-law. A councilmember or other officer, employee or family member shall be deemed to have a substantial financial interest in the affairs of:

- 1) A firm, partnership, association or governmental entity (other than the city) of which such councilmember, officer, employee or family member is a member or employee;
- 2) A corporation of which such officer, employee or family member is an officer, director or employee or in which he or she owns (either directly or beneficially) a controlling interest. The city council shall, by resolution, approve all transactions covered in this section. (Ordinance 21-06-15-01)

### 2.06.090 Disclosures of Conflicts by Municipal Employees.

- A. A councilmember or employee of the city shall disqualify himself or herself from
- B. participating in any official action in which he or she has a substantial financial interest.
- C. A municipal employee who is involved in a matter that may result or has resulted in a violation of sections 2.06.010—2.06.080 shall:
  - 1) Refrain from taking any official action relating to the matter until a determination is made under this section; and
  - 2) Immediately disclose the matter in writing to the Mayor or Vice Mayor. (Ordinance 21-06-15-01)

### 2.06.100 Disclosures of Conflicts by Municipal Officers other than Employees.

- A. A municipal officer other than an employee, who is involved in a matter that may result in a violation of sections 2.06.010—2.06.080 shall disclose the matter on the public record and ask to be excused from the discussion and official action on that matter.
- B. The presiding officer shall determine whether the member's involvement would violate sections 2.06.010—2.06.080.
- C. If the presiding officer determines that a violation would exist if the member continued to participate, the member shall refrain from voting, deliberating, or participating in the matter.
- D. The presiding officer's decision may be overridden by a majority vote of the body.
- E. A City Council member or a member of any board or commission shall, whenever practical, request guidance, which may include a written advisory opinion, from the City Attorney when determining whether a member is involved in a matter that may result in a violation of sections 2.06.010—2.06.080. (Ordinance 21-06-15-01)

### **2.06.110 Third Party Complaints of Violations and Potential Violations.**

Any person may file a complaint with the mayor, under oath and in writing, of a violation or potential violation of sections 2.06.010-2.06.080 by a municipal officer. In the case of the alleged violation being conducted by the mayor, the person may file the complaint with the Vice Mayor. The Mayor or Vice Mayor will provide a copy to the city attorney and to the municipal officer. (Ordinance 21-06-15-01)

### **2.06.120 City Attorney's Advisory Opinions.**

- A. Upon the written request of The Mayor, City Administrator, or City Clerk, the City Attorney shall issue an advisory opinion interpreting this chapter. The requester shall supply any additional information requested by the City Attorney in order to issue the opinion.
- B. The City Attorney may offer oral advice if delay would cause substantial inconvenience or detriment to the requester. Within two working days after providing the oral advice, the City Attorney shall provide a brief written statement summarizing its contents.
- C. The City Attorney may reconsider, revoke, or modify an advisory opinion at any time.
- D. A request for advice made under subsection (a) of this section is confidential to the extent permitted by law unless the subject of the opinion waives confidentiality and authorizes in writing the release of the request or the full text of the advisory opinion. (Ordinance 21-06-15-01)

## CHAPTER 2.07 - CODE OF ETHICS

### 2.07.010 Policy

- A. **Purpose.** The Thorne Bay City Council has adopted a Code of Ethics for members of the City Council to promote public confidence in the integrity of local government and its fair operation. This Code of Ethics will provide the basis for education and training for Council Members; both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed.
- B. **Intent.** The citizens and businesses of Thorne Bay are entitled to have fair, ethical and accountable local government that has earned the public's full confidence. The City Council is committed to upholding the City of Thorne Bay Core Values which state:
- 1) We will provide excellent public service and ensure the safety and wellbeing of our community and one another through the empowerment of each employee. We value integrity, inclusiveness, stewardship and communication.
    - a) Integrity: We hold ourselves to the highest standard of professionalism and ethical conduct.
    - b) Inclusiveness: We embrace and value different perspectives as we work together for the common good.
    - c) Stewardship: We ensure the public's resources are used responsibly to provide the greatest benefit.
    - d) Communication: We will listen and engage in an open, honest and timely exchange of information.
  - 2) We are accountable to our community for innovation and collaborative efforts that anticipate needs, leverage resources and deliver solutions.
- C. In keeping with the City of Thorne Bay's commitment to excellence, the effective functioning of democratic government therefore requires that:
- 1) Public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;
  - 2) Public officials be independent, impartial and fair in their judgment and actions;
  - 3) Public office be used for the public good, not for personal gain; and
  - 4) Public deliberations and processes be conducted openly, unless allowed to be confidential by statute or other law, , in an atmosphere where all persons conduct themselves with respect and civility. (Ordinance 21-06-15-01)

### 2.07.020 Ethical Standards

In addition to Section 2.07.010 of the Code of Ethics, which shall be administered by the Ethics' Committee, officials are also required to comply with the following standards:

- A. **Compliance with Other Laws.** Officials shall comply with federal, state and city laws in the performance of their public duties. These laws include, but are not limited to:
  - 1) the United States and Alaska Constitutions;
  - 2) laws pertaining to conflicts of interest,
  - 3) election campaigns,
  - 4) financial disclosures and open processes of government; and
  - 5) city ordinances and policies.
- B. No official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any city employee.
- C. No official may use or authorize the use of the facilities of the City for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.
- D. **Working for the Common Good.** Recognizing that stewardship of the public interest must be their primary concern, officials will work for the common good of the people of Thorne Bay and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims and transactions coming before the City Council. Officials need to be mindful that making special requests of staff - even when the response does not benefit the official personally - puts staff in an awkward position. Questions for city staff members shall be submitted to the Mayor or City Administrator who will then coordinate with staff to provide a response.
- E. **Respect for Process.** Officials shall perform their duties in accordance with the processes and rules of order established by the City Council governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by city staff.
- F. **Commitment to Transparency.** Transparency, openness, and accountability are fundamental values of the city and are also required by the laws of the state of Alaska. The public has a right to inspect public records unless exempt by law or privacy policies from disclosure. All materials relating to the conduct of city government that are prepared, possessed, used or retained by any official, including email, text messages and other electronic records, are subject to requirements for retention, protection, and disclosure. Officials may assume that all copies of materials received from city staff have already been archived and do not need to be retained. Officials shall not discard, damage, or destroy the original copy of any public record unless directed by the city public records officer (the city clerk), who has responsibility to ensure that the City complies with the record retention schedules. Officials shall promptly provide any records requested by the public records officer in response to a disclosure request

under the Public Records Act. It is the responsibility of the public records officer, together with the city attorney, to decide which records meet the definition of "public record" and whether or not they are exempt from disclosure; officials must not take it upon themselves to decide whether a record meets the definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record.

- G. **Conduct of Public Meetings.** Officials shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.
- H. **Decisions Based on Merit.** Officials shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.
- I. **Attendance.** Attendance at regular council meetings by Council Members is required absent being excused per 2.04.100. A Council Member shall forfeit his or her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council.
- J. **Advocacy.** When acting in an official capacity as a city official representing the City, officials shall represent the official policies or positions of the City Council, to the best of their ability when the City Council, has taken a position or given an instruction. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Thorne Bay, nor will they allow the inference that they do. Officials have the right to endorse candidates for all Council seats or other elected offices. Endorsements during council meetings, board/commission meetings, or other official city meetings are prohibited.
- K. **Policy Role of Officials.** Officials shall respect and adhere to the Strong Mayor structure of Thorne Bay city government. Except as provided by state law, officials shall not interfere with the administrative functions of the City or the professional duties of city staff; nor shall they impair the ability of staff to implement Council policy decisions. (Ordinance 21-06-15-01)

### 2.07.030 ETHICS COMMITTEE

- A. The City Council creates the office of the Ethics' Committee. The Ethics' Committee will be comprised of three qualified voters of Thorne Bay, appointed by the City Council.
- B. The Ethics' Committee will interpret and apply the council code of ethics to complaints submitted to the Officer. The Ethics Committee will be appointed solely with regard to their qualifications for the duties of the office which shall include, but not be limited to, appropriate educational and legal experience. The Ethics' Committee, in addition to other duties, may recommend changes or additions to this Council Code of Ethics to the City Council.

- C. The Mayor, City Administrator and, if necessary, City Attorney will interview applicants who respond to the City's Request for Appointment for the Ethics Committee. The Interviewing Committee will forward three candidates to the full City Council for review and appointment by a majority vote of the Council. (Ordinance 21-06-15-01)

**CHAPTER 2.08 - MAYOR SECTIONS:****2.08.010 POWERS--DUTIES.**

- A. The mayor shall be elected from the council by the voters. The term of the office of mayor shall be two years or the remainder of the term of the council seat, whichever is less, beginning on the first Monday following the certification of the general election and ending on the first Monday following certification of the general election, except when the mayor is in the first year of his/her two-year term. The mayor is the chief executive officer of the city. He shall preside at council meetings, act as ceremonial head of the city, and sign documents on the city's behalf upon council authorization or as otherwise authorized by municipal code.
- B. The mayor shall:
1. Appoint city employees and administrative officers, except as provided otherwise. He may hire necessary administrative assistants and may authorize an appointive administrative officer to appoint, suspend or remove subordinates in his department;
  2. Suspend or remove by written order city employees and administrative officers, except as provided otherwise;
  3. Supervise enforcement of city law;
  4. Prepare the annual budget and city construction program for the council;
  5. Execute the budget and construction program as adopted;
  6. Make monthly financial reports to the council on city finances and operations;
  7. Report to the council at the end of each fiscal year on the finances and administrative activities of the city;
  8. Prepare and make available for public distribution an annual report on city affairs;
  9. Serve as city personnel officer unless the council authorizes him to appoint a personnel officer;
  10. Execute other powers and duties specified in as title 29 or lawfully prescribed by the council.

(Ord. 03-05-15-01 §4, 2003; ord. 96-23 §3, 1996: ord. 89-24 §5(part), 1989; prior code Ch. 5 §1)

**2.08.020 VICE MAYOR.**

The council shall meet on the first Monday after certification of each mayoral election or general election on non-mayoral election years and shall elect a councilmember to serve as Vice Mayor. The term of the office of Vice Mayor shall be annual, beginning on the first Monday after certification of the general election. Should the mayor be temporarily absent, disabled or unable to act, the Vice Mayor shall preside at council meetings and sign documents on the city's behalf, upon council authorization or as otherwise authorized by municipal code, until the mayor resumes his official duties. (Ordinance 22-07-05-01; Prior Ord. 05-09-06-04; Ord. 96-23 §5(part), 1996)

**2.28.025 MAYORAL PRO-TEMPORE.**

On mayoral election years, the council shall meet on the first Monday after certification of the general election and shall appoint one councilmember to serve as mayor pro tempore. The mayor pro tempore takes office immediately and shall exercises the powers and duties of mayor until the permanent mayor takes office. (Ordinance 22-07-05-01)

**2.08.030 VACANCY IN OFFICE OF MAYOR, VICE MAYOR.**

- A. The council shall, by two-thirds concurring vote, declare the office of mayor vacant only when the person elected:
1. Fails to qualify or take office within thirty days after election or appointment;
  2. Unless excused by the governing body, is physically absent for ninety consecutive days;
  3. Resigns and the resignation is accepted;
  4. Is physically or mentally unable to perform the duties of office;
  5. Is convicted of a felony or of an offense involving a violation of the oath of office;
  6. Is convicted of a felony or misdemeanor described in as 15.56;
  7. Is convicted of a violation of as 15.13;
  8. No longer physically resides in the city;
  9. Misses three consecutive regular council meetings and is not excused.
- B. Should the office of mayor be declared vacant, the Vice Mayor shall be designated mayor, and shall serve until the next general election. The office of Vice Mayor shall then be vacant.
- C. The council shall otherwise declare the office of Vice Mayor vacant according to Section 2.04.100 of this code.
- D. Should the office of Vice Mayor be declared vacant; a new Vice Mayor shall be appointed by and from the council and shall serve the balance of the term to which appointed.

- E. Should both mayor and Vice Mayor be temporarily absent, disabled or unable to act, the council may appoint a member to preside at council meetings and sign documents on the city's behalf, upon council authorization or as otherwise authorized by municipal code, until either the mayor or Vice Mayor resumes his official duties. (Ord. 96-23 §5(part),1996; Ordinance 05-09-06-04)

#### **2.08.035 MAYORAL ELECTION TIME.**

The Mayoral Election shall be held on the Tuesday after the First Monday in November every two years. (Ordinance 19-12-17-01; Prior Ord. 13-12-03-01; ORD. 96-24 § 4(PART), 1996)

#### **2.08.040 COMPENSATION.**

The mayor of the city shall receive compensation at the rate of five hundred dollars (\$500.00) a month in addition to the rate of one hundred (\$100.00) dollars for each regular meeting of the council attended. No compensation shall be paid for attending special meetings of the council. (Ord. 89-24 §5(part), 1989) (Ordinance 05-09-06-02) (Ord 09-09-15-02)

## CHAPTER 2.12 - ORDINANCES, RESOLUTIONS AND TECHNICAL CODES

### 2.12.010 ACTS OF COUNCIL.

The council shall act only by ordinance, or resolution. Law of a general, uniform and permanent nature shall be reduced to ordinance. When the council expresses opinions, principles, facts or propositions, it shall be in the form of a resolution. (Prior code Ch. 3 § 1)

### 2.12.020 ACTS REQUIRED TO BE BY ORDINANCE.

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

- A. Establish, alter or abolish municipal departments;
- B. Amend or repeal an existing ordinance;
- C. Fix the compensation of members of the council;
- D. Provide for sale of city property valued at more than twenty-five thousand dollars;
- E. Provide for a fine or other penalty, or establish rules or regulations for violation of which a fine or other penalty is imposed;
- F. Provide for levying of taxes;
- G. Make appropriations and supplemental appropriations or transfer appropriations;
- H. Grant, renew or extend a franchise;
- I. Regulate the rate charged by a public utility;
- J. Approve the transfer of a power to a borough;
- K. Adopt, modify or repeal the comprehensive plan, zoning and subdivision ordinances, building and housing codes, and the official map. (Prior code Ch. 3 § 2)

### 2.12.030 ORDINANCE PROCEDURE.

- A. An ordinance is introduced in writing in the form required by the city council.
- B. The following procedure governs the enactment of all ordinances, except emergency ordinances:
  - 1. An ordinance may be introduced by a member or committee of the city council, or by the mayor;
  - 2. An ordinance shall be set by the council for a public hearing by the affirmative vote of a majority of the votes authorized on the question;

3. At least five days before the public hearing a summary of the ordinance shall be published together with a notice of the time and place for the hearing;
  4. Copies of the ordinance shall be available to all persons present at the hearing, or the ordinance shall be read in full;
  5. During the hearing the council shall hear all interested persons wishing to be heard;
  6. After the public hearing the council shall consider the ordinance, and may adopt it with or without amendment;
  7. The council shall print and make available copies of the ordinance that is adopted.
- C. An ordinance takes effect upon adoption or at a later date specified in the ordinance.
- D. As used in this section, the term "publish" means either placement in a newspaper of general circulation in the city or posting in three public places in the city, or both. (Ord. 88-24 § 5, 1988)

#### 2.12.40 ORDINANCE FORM AND CONTENT.

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

- A. The proposed ordinance shall have a heading and number;
- B. **Title.** A short summary of the ordinance's provisions shall be included in a title at the head of the ordinance. The title shall make reference to any penalties imposed by the ordinance.
- C. **Enacting Clause.** The enacting clause shall read: "BE IT ENACTED BY THE COUNCIL OF THE CITY OF THORNE BAY:".
- D. **Substantive Part of the Ordinance.** The provisions of the ordinance will follow the enacting clause.
- E. **Signatures.** Appropriate places shall be provided for the signatures of the mayor and the clerk.
- F. **Attestation.** The enactment and passage date of the ordinance shall be attested by the clerk.
- G. **Code Section Numbers.** Ordinances which amend, add to or repeal sections of the Thorne Bay Ordinance Code shall refer to the code sections by number. (Prior code Ch. 3 § 4)

#### 2.12.050 EMERGENCY ORDINANCES

- A. To meet a public emergency the council may adopt ordinances effective on adoption. Every emergency ordinance must contain a statement by the council of why an emergency exists and a statement of the facts about the emergency. The ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced.

The affirmative vote of all members present or the affirmative vote of three-fourths of the total membership, whichever is less, is required for adoption. The council must print and make available copies of adopted emergency ordinances.

- B. An emergency ordinance may not be used to levy taxes, to grant, renew or extend a franchise, or to regulate the rate charged by a public utility for its services.
- C. Emergency ordinances are effective for sixty days. (Prior code Ch. 3 § 5)

#### **2.12.060 SIGNATURE REQUIRED.**

Each ordinance shall be signed by the mayor at its adoption and attested by the clerk. (Prior code Ch. 3 § 6)

#### **2.12.070 ORDINANCES CONFINED TO SINGLE SUBJECT.**

Every ordinance shall be confined to one subject unless it is an appropriation ordinance or one codifying, revising, or rearranging existing ordinances. Ordinances for appropriations shall be confined to appropriations. The subject of each ordinance shall be expressed in the title. (Prior code Ch.3 § 7)

#### **2.12.080 ADOPTION OF TECHNICAL CODES.**

The council may in a single ordinance adopt or amend by reference provisions of a standard published code of regulations. The regular ordinance procedure applies except that neither the code of regulations nor its amendments need to be distributed to the public or read in full at the hearings. For a period of fifteen days before adoption of the regulations at least five copies of the code of regulations must be made available for public inspection at a time and place set out in the hearing notice. Only the adopting ordinance need be printed after adoption. The council may sell the adopted code to the public. (Prior code Ch. 3 § 9)

### 2.12.090 RESOLUTIONS-FORMAL ACTS.

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

**A resolution shall have:**

- A. The heading "City of Thorne Bay, Alaska";
    - 1. The space for a number to be assigned-"resolution, no. ";
    - 2. A short and concise title descriptive of its subject and purpose;
  - B. Short premises or whereas clauses descriptive of the reason for the resolution, if necessary;
    - 1. The resolving clause "BE IT RESOLVED:";
  - C. Provision for signature after the date, the designated lines for the signatures of the mayor and clerk; and
    - 1. An attestation.
- B. All resolutions adopted by the council whether at the request of a third party, or on the motion of the council, shall conform to the requirements set forth in subsection A of this section.
- C. Resolutions shall not be included in any municipal code of ordinances. (Prior code Ch. 3 § 10)

### 2.12.100 RESOLUTIONS-PROCEDURE.

- A. Every resolution shall be introduced in writing and shall be orally read if requested before any vote for passage is taken.
- B. On any vote to pass the resolution, all persons interested shall be given an opportunity to be heard. After such hearing, the council may finally pass such resolution with or without amendments.
- C. After adoption, every resolution shall be posted in full on the city bulletin board. Every resolution, unless it shall specify a later date, shall become effective following adoption. If the resolution is submitted at a city election when state law requires, then after a majority of favorable votes of the city voters has been certified by the council, the resolution may be adopted. (Prior code Ch. 3 § 11)

### 2.12.110 RULES AND REGULATIONS.

Any rule or regulation made by any administrative officer or board or commission shall be posted for ten days following its approval by the city council in three public places. (Prior code Ch. 3 § 12)

## CHAPTER 2.14 CITY ADMINISTRATOR:

### 2.14.010 APPOINTMENT.

The city administrator shall be appointed by the council. The council may enter into an employment contract with the city administrator not to exceed three years in length, setting compensation and other terms of employment. Contract may be renewed by the City Council in three-year increments.

(Ord. 01-11-15-02 § 5, 2001: Ord. 98-01 § 3(part), 1998) (Ord. 13-04-02-01)

### 2.14.020 QUALIFICATIONS.

The city administrator shall be appointed based on his or her executive and administrative qualifications, with particular reference to education, training, and experience as a municipal administrator. The council by ordinance may set forth specific qualifications.

(Ord. 98-01 § 3(part), 1998)

### 2.14.030 SUSPENSION AND REMOVAL.

The city administrator serves at the pleasure of the council. Subject to the terms of any employment contract with the city administrator, the council may suspend or remove the city administrator at any time for any reason the council deems appropriate.

(Ord. 01-11-15-02 § 6, 2001: Ord. 98-01 § 3(part), 1998)

### 2.14.040 ACTING ADMINISTRATOR.

If the city administrator is absent from the municipality (outside of excused absence) or is unable to perform his or her duties, if the council suspends the city administrator, or if there is a vacancy in the office of city administrator, the council may appoint an acting administrator to serve until the city administrator returns, until his or her disability or suspension ceases, or until another city administrator is appointed. The council shall replace the acting administrator with a city administrator within a reasonable time.

(Ord. 98-01 § 3(part), 1998)

**2.14.050 POWERS AND DUTIES.**

Acting through powers delegated by the mayor, the city administrator shall serve as the chief administrative officer of the municipality. He or she shall execute the provisions of this code and all other applicable laws. Without limiting the foregoing or excluding other or broader powers consistent therewith, and acting at all time under the delegation and supervision of the mayor, the city administrator shall:

- A. Hire, supervise, discipline, and evaluate all city employees, and volunteers, with the exception of the City Clerk and Finance Department, or further delegate this authority in a given case;
- B. Direct the care and custody of municipal property;
- C. Direct and supervise the construction, maintenance, and operation of municipal public works;
- D. Prepare and submit the annual budget and capital improvements program to the council;
- E. Keep the mayor and council fully advised concerning the financial condition and needs of the city;
- F. Apply for state, federal or other grants and, upon the mayor's approval of the project or the council's appropriation, therefore, execute and carry out the terms and condition of such grant agreements;
- G. Establish rates, fees, or charges for services, leases, and programs provided or administered by the city except where such rates, fees, or charges have been established by the mayor or the council or the authority to establish such rates, fees or charges has been delegated to a board or other body; and
- H. All other duties assigned by the mayor or council.

(Ordinance 20-04-21-01; Sec 2.14.050; § A(part), D(part)); (Ord. 98-01 § 3(part), 1998) (Ord. 13-04-02-01)

## CHAPTER 2.16 CITY CLERK/TREASURER SECTIONS:

### 2.16.010 APPOINTMENT-TERM.

The city clerk shall be hired by the council. He shall hold office at the pleasure of the council. (Prior code Ch. 8 § 1)

### 2.16.020 CITY CLERK-DUTIES.

- A. The city clerk shall:
1. Attend meetings of the governing body and its boards and committees as required and keep the journal;
  2. Have custody of the official municipal seal;
  3. Assure that notice and other requirements for public meetings are complied with and assure that public records are available for public inspection as required by law;
  4. Manage municipal records and develop retention schedules and procedures for inventory, storage and destruction of records as necessary;
  5. Maintain an indexed file of all permanent municipal records, provide for codification of ordinances, and authenticate or certify records as necessary;
  6. Prepare agendas and agenda packets as required by the governing body;
  7. Administer all municipal elections;
  8. Assure that the municipality complies with 42 U.S.C. 1971-1974 (Voting Rights Act of 1965, as amended);
  9. Take oaths, affirmations and acknowledgements as necessary;
  10. Act as the parliamentary advisor to the governing body;
  11. Perform other duties required by law, the governing body or the chief executive officer.
- B. The council may combine the office of clerk with that of treasurer.  
(Ord. 93-01 § 4(part), 1993: prior code Ch. 8 § 2)

### 2.16.030 CITY CLERK-ADDITIONAL DUTIES.

- A. The city clerk shall record and certify all actions of the council.
- B. The city clerk shall attest deeds and other documents.
- C. The city clerk shall give the proper officials ample notice of the expiration or termination of any term of office and, when necessary, the conditions or requirements of all bonds, franchises, contracts or agreements.
- D. The City Clerk shall assume the powers and duties of the City Administrator during his or her excused absence from the municipality. (Ord. #13-04-02-02 (Prior code Ord. 93-01 § 4(part), 1993: prior code Ch. 8 § 3)

#### **2.16.040 ACTING CLERK.**

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

#### **2.16.050 TREASURER-DUTIES.**

- A. There shall be a city treasurer who shall be hired by the council. The city treasurer shall hold office at the pleasure of the council.
- B. The treasurer is the custodian of all city funds. The treasurer shall keep an itemized account of money received and disbursed.
- C. The treasurer shall have bond to the municipality in an amount set by the council.
- D. The city clerk shall perform the duties of treasurer. (Ord. 98-01 § 3(part), 1998: prior code Ch. 8 § 5)

#### **2.16.060 TREASURER-ADDITIONAL DUTIES.**

The treasurer shall:

- A. Be responsible for all matters pertaining to the maintenance of all accounts of the city, and the maintenance and care of all property used by the city;
- B. Compile the annual budget of the city based upon detailed department estimates and work programs and control it under direction of the mayor;
- C. Prepare and submit to the mayor and council such financial reports and other data as may be required;
- D. Perform such other duties as the mayor or council may require. (Prior code Ch. 8 § 6)

#### **2.16.070 TREASURER.**

- A. The treasurer shall be responsible for the collection, custody and disbursement of all moneys from whatever source.
- B. Operating cash shall be kept in one financial institution to be designated by resolution.
- C. The treasurer shall invest city money upon directive of the council in any of the following types of investments:
  - 1. Bonds, notes or other obligations;
  - 2. Certificates of deposit or saving accounts of any bank;
  - 3. Equities: common or preferred, American depository receipts, or real estate investment trusts.

- D. The city council of the city may delegate investment, custodial, or depository authority on a discretionary or nondiscretionary basis to independent firms, banks, financial institutions, broker-dealers, investment advisors, or trust companies by designation through appointments, contracts, or letters of authority. (Ord. 99-11 § 4, 1999; Ord. 96-35 § 3, 1996: prior code Ch. 29 § 1)

#### **2.16.080 ACCOUNTING.**

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

## CHAPTER 2.20 CITY ATTORNEY SECTIONS:

### 2.20.010 APPOINTMENT.

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

(Prior code Ch. 9 § 1)

### 2.20.020 DUTIES.

The city attorney may:

- A. Be charged with the performance of all legal services of the city, including those of legal advisor to the council, the mayor and to all departments and offices of the city;
- B. Upon the request of the city council, take the necessary steps to arrange for the prosecution of violations of the city ordinances;
- C. Represent the city in all matters, civil and criminal, in which the city is interested;
- D. Draft any ordinance when required by the city council or mayor;
- E. Perform such other duties as may be required by the city council or the ordinances of the city;
- F. Attend meetings of the city council;
- G. Report to the city council promptly all suits brought against the city;
- H. Call to the attention of the city council and the mayor all matters of law affecting the city;
- I. Render all opinions in writing, as far as is practicable;
- J. Maintain a record of all of his opinions rendered and turn such record over to his successor in office. (Prior code Ch. 9 § 2)

## CHAPTER 2.24 OFFICERS AND EMPLOYEES

### 2.24.010 PURPOSE.

- A. The purpose of this policy is the establishment of uniform procedures to assist personnel administration in the city. The provisions of this chapter do not apply to officers or employees who serve at the pleasure of the council, except as specifically provided by ordinance or resolution.
- B. The city of Thorne Bay, hereinafter the city, shall maintain merit principles, so the employees shall be selected, appointed, and promoted from the most qualified, regardless of personal connections, political affiliations, race, religion, sex or age. The city further recognizes the following merit principles:
  - 1. Adequate training and instruction to assure high quality performance;
  - 2. Fair and just compensation comparable with earnings and benefits being received elsewhere in this area for similar kinds of work;
  - 3. Protection from political coercion from public officials attempting to affect the result of an election or nomination for office;
  - 4. Reasonable work rules ensuring discipline, suspension, demotion, or termination for just cause only;
  - 5. A pleasant work environment to control waste and inefficiency, ensure the quality of work, enhance morale, minimize turn-over and generate good will. (Ord. 01-11-15-02)

### 2.24.020 HIRING POLICY.

- A. Hiring. Hiring and evaluation of city employees shall be made on the basis of merit and fitness.
- B. Discrimination. There shall be no discrimination in the employment procedure, including appointment, promotion, demotion, suspension, or termination on the basis of race, color, religion, political affiliation, national origin, sex, age, handicap, familial status, or other non-merit reasons.
- C. Job Announcements.
  - 1. In order to attract qualified candidates for job vacancies in the city the mayor shall issue job announcements and post them in public places as well as advertising them in the most suitable newspaper, trade journals and publications. The job announcements shall include, but not be limited to, such information as a

statement of the job title, description of duties and responsibilities, salary range, job qualification requirements and the applicable procedure. Publicity for job vacancies shall be posted in a sufficient period of time to ensure reasonable opportunity for persons to apply and be considered for employment. In any event, job vacancies shall be formally announced at least thirty calendar days prior to the closing date for filing applications.

2. The requirements in subsection (C)(1) of this section are not mandatory whenever employees other than permanent employees are being sought.
- D. Application Forms. All applications for employment shall be made on forms prescribed by the city council. Such forms shall require background information to include training, experience and other pertinent information. All applications must be signed by the applicant. Failure to do so will nullify the application. Application forms shall not ask for any information prohibited by state or federal law.
- E. Rejection of Applications. The mayor may reject any application which indicates that the applicant does not have the minimum qualifications which have been established for the position. Applications may also be rejected if the applicant:
1. Has deliberately falsified any information on the application form;
  2. Is unable to meet the physical or other requirements which have been demonstrated as necessary to perform the position;
  3. Does not meet the legal age limit or other requirements as established by state or federal law;
  4. Has established an unsatisfactory employment record of such a nature to demonstrate unsuitability for the position.
- F. Nepotism. No person may be employed, either permanently or temporarily, in a position supervised by a family member. For the purposes of this section, "supervised" pertains to all department supervisors: the city clerk/treasurer and his/her subordinates; and the city administrator, manager, mayor and mayor pro-tem in the performance of their supervisory duties over all city employees. If an employee and his or her supervisor marry, they shall determine who will resign. "Family member" means spouse, father, mother, brother, sister, child, step-parents, step-children, step-brother, step-sister, or in-law. The city council, by resolution, may provide for exceptions on a case-by-case basis.
- G. Promotion. When well qualified individuals are available, appointments to fill vacancies shall be by promotion from within the municipal services.

- H. Minimum Age. Minimum age for municipal employment shall be in accordance with state law. (Ord. 01-11-15-03 § 4(part), 2001; Ord. 96-07 § 3(part), 1996; Ord. 94-11 § 5(part), 1994; Ord. 87-05, 1987; Ord. 8201-2 § 2, 1986; prior code Ch. 36 §§ 2, 4)

### 2.24.030 EMPLOYMENT.

- A. Permanent Employees. Permanent appointments are made to positions which are considered to be part of the regular complement work force needed to perform municipal services.
1. Full-time. Where the work week is forty hours on a regular basis;
  2. Part-time. Where the work is done during a portion of a workday, work week, or work year, and totals at least twenty hours but less than forty hours a week on a regular basis;
  3. Short-hours employee. Where the work is done on a predetermined schedule of less than fourteen (14) hours per week on a regular basis.
- B. Temporary Employees. Temporary employees are employees hired on an interim replacement basis, or for temporary work, on a predetermined work schedule with a termination date established upon hire. A temporary employee may be separated from city service demoted or suspended without cause in the full discretion of the mayor or the city administrator. If employees hired on a temporary basis become permanent employees, they are entitled to sick leave and annual leave accruals retroactive to their date of hire.
- C. Probationary Employees. A probationary employee is an employee that is considered a part of the complement needed for performing city services but without permanent status. All appointments and promotions to positions in the city, as well as former employees who are rehired, shall be on a probationary basis of six months. During the probationary period, an employee may be terminated, and a promoted employee returned to the previously held position from which he was promoted, or an equivalent one, at the discretion of the mayor. The employee may be dismissed or demoted during this period of probation at any time without right of appeal or hearing. Probationary employees shall not be entitled to benefits, including but not limited to annual leave, health insurance, life insurance, or the city's retirement program. Upon successful completion of probationary period (six months) full benefits will be available.
- D. Project Employees. Project employees are employees hired, appointed or who volunteer for a specific project or position which is not considered to be part of the regular complement work force needed to perform municipal services. Project employees shall be hired and operate pursuant to terms and conditions approved by

the mayor. Project employees may be separated from city service, demoted or suspended without cause in the full discretion of the mayor or the city administrator without right of appeal or hearing. The provisions of Section 2.24.080 do not apply to project employees. Project employees shall not be entitled to benefits, including but not limited to annual leave, sick leave, eectrs, health insurance, life insurance, or the city's retirement program. Project employees shall be entitled to benefits required by State or Federal law including Worker's Compensation, Unemployment Insurance, Medicaid and Social Security withholding. Project employees shall not be considered for hire, appointment or volunteer until the person's accounts with the city are made current. The City Council will consider financial or other hardships.

- E. Pay Period. Employees shall be paid every two weeks.
- F. Workday. The regular workday shall consist of eight working hours. An unpaid lunch break of one hour shall be allowed.
- G. Work Week. A regular work week shall consist of a total of forty hours.
- H. Exceptions. The nature of certain positions may dictate terms of hire which are exceptions to the general rules. The employee will be fully informed of these exceptions at the time of hire.
- I. Holidays. The following days shall be recognized as holidays with full pay for all permanent and probationary employees who are in pay status before and following said days:
  - New Year's Day January 1st
  - Martin Luther King Day Third Monday in January
  - President's Day, As observed nationally
  - Seward's Day, Last Monday in March
  - Memorial Day, Last Monday in May
  - Fourth of July, July 4th
  - Labor Day, First Monday in September
  - Alaska Day, As observed by the State of Alaska
  - Veteran's Day, November 11th
  - Thanksgiving Day, fourth Thursday in November
  - Half-day Christmas Eve, 12 p.m. of December 24th
  - Christmas Day, December 25th

Full pay for employees is defined for the purpose of this section as:

- Permanent and probationary employees
  - . Full time employees will receive 8 hours holiday pay
  - . Part-time will receive 4 hours of holiday pay.

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

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

- J. Outside Occupations or Activities. Occupations or outside activity which are incompatible with employment by the city, or adversely affect the performance of municipal duties is discouraged. The mayor may, after notice to the employee, and after unsatisfactory resolution of the matter, terminate the employee.
- K. Employee Performance Recognition. The mayor shall be responsible for counseling employees and informing them of unsatisfactory performance. Employees who are performing in a superior manner should also be informed of their job performance, in writing. Such reports of unsatisfactory, acceptable, or superior performance shall be documented by memorandum and initialed or signed by the mayor before being included in the employee's personnel file.
1. Gifts, Gratuities and Considerations.
  2. An employee shall not accept a gift, gratuity, consideration, or extraordinary favor from any person doing business or likely to do business, with the city and shall immediately report to the city council any offer, promise or suggestion that such a gift may be made.
  3. Any person either offering or receiving such gratuity consideration or extraordinary favor is subject to criminal penalties prescribed in AS 11.56.110 and 11.56.120. This section does not apply to the giving of gifts received from an employee's family or ordinary circle of friends when not offered for a corrupt purpose.
- L. Personal Hygiene. An employee shall report to work clean and well groomed.  
(Ord 17-12-05-01; § (a)(3); Prior Ordinance 11-11-15-01; Ord. 10-01-19-02, Prior Ord. 94-11 § 5(part), 1994; Ord. 89-07 § 4, 1989; Ord. 88-25 § 4, 1988; Ord. 8201-2 § 3, 1986) (Ordinance 17-12-05-01)

#### 2.24.040 TRAVEL AND PER DIEM ALLOWANCE

- A. Per Diem. While traveling on official business and away from home or designated posts of duty overnight, an employee shall receive a per diem allowance of an amount to be determined by the DOD per diem rates calculator for Alaska. The amount will be dependent upon the area to which the employee is traveling.
- B. Travel. In addition to the overnight per diem reimbursement for meals and lodging in connection with approved travel, there shall be allowed at the following rate:
1. By common carrier fare, or the cost of charter or other special hire, if essential, and other similar fares as necessary for the efficient performance of official duties. No reimbursement shall be allowed for more than the lowest tourist class fare for the most direct route unless the tourist class accommodations were not available; or

2. By private vehicle at a rate determined by the GSA / IRS Mileage Reimbursement Rates. The rate will be determined by the type of vehicle and availability of a government owned vehicle as set forth in the most recent schedule.
3. Reimbursement for rental vehicles shall be preapproved by the Mayor or City Administrator. (Ordinance 21-12-21-01; Prior Ord. 8201-2 § 4, 1986)

#### **2.24.050 SUSPENSION, DEMOTION AND TERMINATION.**

- A. Suspensions. Any employee may be suspended at any time for just cause. Suspension without pay may not exceed thirty days in any twelve-month period.
- B. Exoneration. If exonerated of the charge against him or her, the employee will be reinstated with pay from the time of suspension.
- C. Demotion and Termination. An employee may be demoted or terminated for incompetence, inefficiency, inability to perform duties for which the employee was hired, failure to keep current on any accounts held with the City (i.e., utilities, lease payments, rents, sales tax, phone, fees, etc.), or for similar just cause. An employee may be dismissed for insubordination, habitual tardiness, use of intoxicating liquor, narcotics or dangerous drugs on duty, or for similar just cause.
- D. Layoffs. When it is necessary to reduce the number of employees because of lack of work or funds, the mayor shall make a thorough investigation of the problem. The analysis of the proposed layoffs will be presented by the mayor to the city council. The mayor shall explain the types of activities to be curtailed and the positions affected. Consideration shall be given to the employee's length of service, but, more importantly, to the quality of service rendered to the city. Employees thus separated from city service, through no fault of their own, shall be given preference when new appointments are made, for the period of one year immediately following that employee's separation of service.
- E. Resignations. All resignations shall be in writing and must be filed with the city administrator. The administrator shall furnish a copy of the accepted resignation to the employee for his or her records.
- F. Final Pay. An employee who has resigned will be paid in full on the next regular pay day. An employee, who is being terminated, shall be paid in full on the day of employment termination.
- G. Progressive Discipline.

1. A municipal employee, under the Fair Labor Standard Act, may be disciplined in areas relating to defective work, job performance, safety, lateness, housekeeping, disobedience, or failure to adhere to rules, regulations and procedures.
  2. If in the opinion of the mayor, disciplinary action is necessary with respect to the above situations, the mayor or mayor's designee may begin disciplinary action in any of the steps listed below, depending on the seriousness of the offense committed.
    - a) **Verbal Warning.** A verbal warning is to be given explaining to the employee what he/she did wrong and what must be done as a corrective measure. The employee must also be advised that if there is a repetition, a written reprimand will be given.
    - b) **Written Reprimand.** A written reprimand is to be issued if there is repetition of the infraction within a six-month period for which the verbal warning was given. Written reprimand may also be issued for a more serious first-time infraction in the discretion of the mayor or mayor's designee. Receipt of a written notification for delinquent accounts constitutes a written reprimand.
    - c) **Suspension.** Repetition of infraction after a written reprimand within a further six-month period will result in suspension without pay. Suspension without pay may also be issued for a more serious first-time infraction in the discretion of the mayor or mayor's designee.
    - d) **Termination.** A further repetition of the infraction will result in termination from city service. Termination may also be issued for a more serious first-time infraction in the discretion of the mayor or the mayor's designee.
- H. **A Verbal Warning or Written Reprimand.** A verbal warning or a written reprimand may, at the mayor's discretion, be removed after a period of six months, providing there has not been a recurrence of the infraction.
- I. **Delegation of Disciplinary Authority.** The mayor, as chief administrator, may delegate his/her authority under this chapter to the city administrative office. However, the mayor shall be kept apprised of any disciplinary action taken against any employee. (Ord. 96-07 § 3(part), 1996: Ord. 94-11 § 5(part), 1994: Ord. 8201-2 § 5, 1986)

**2.24.060 ANNUAL LEAVE.**

- A. Permanent Full-time Employees. Permanent full-time employees shall accrue annual leave at the following rates: Four hours annual leave per pay period for the first three years of continuous city employment; five hours annual leave per pay period for the fourth and fifth years of continuous city employment; six hours annual leave per pay period for the sixth through ninth years of continuous city employment; eight hours annual leave per pay period for ten years or more of continuous city employment.
- B. Permanent Part-time Employees. Permanent part-time employees shall accrue annual leave at 50% of the rates established for full time employees.
- C. Permanent short-hours employees. Permanent short-hour employees shall accrue annual leave at 25% of the rates established for full time employees.
- D. Temporary Employees. An employee appointed for a position of a temporary nature shall not accrue annual leave credit.
- E. Leave-Without-Pay-Status. The mayor, or his/her designee, may grant leave-without-pay status to an employee at his/her request provided the mayor, or his/her designee determine the leave does not cause a hardship to the city. Such leave request must be made in writing and must be made at least four weeks in advance unless precluded by extenuating circumstances. An employee may not take leave without pay if the employee has accrued leave available for use. Leave without pay shall be classified in two categories:
  - 1. Short term up to 3 months that does not require the filling of that position. Under short term leave the employee may continue to receive benefits if granted as part of leave request.
  - 2. Long term leave over 3 months or requiring the filling of that position will be considered a termination which will include the termination of all benefits. An employee must exhaust all their earned vacation and sick leave before leave without pay is considered. Employees returning after long term leave will be given priority for any employment opportunities the city may have assuming the employee left in good standing.
- F. Saturdays, Sundays and Holidays. While on annual leave, Saturdays, Sundays and holidays will not be considered as time taken on annual leave, but only regular workdays will be counted.
- G. Pay During Annual Leave. If a payday falls during the annual leave of an employee, he/she shall be entitled to receive at the beginning of his/her annual leave the compensation due while on annual leave.
- H. Authorization. The mayor, or his/her designee, shall authorize, in writing, annual leave requested by an employee.

- I. Accumulation Limit. Up to two hundred and forty hours of annual leave time may be accrued. An employee shall forfeit any leave over two hundred forty hours.
- J. Termination. Accrued annual leave time up to two hundred forty hours will be paid to employees who terminate their employment with the city after six months of service. Payment will be based on salary on date of termination.
- K. Pay in lieu of time off. There shall be no pay in lieu of earned annual leave time except on termination of an employee. The mayor or mayor designee and city administrator may approve an exception to Payment in Lieu of Time off under extenuating circumstances not caused by employee.
- L. Probationary Period. Unless authorized by the mayor, annual leave time may not be taken prior to six months of continuous service. Annual leave shall accrue from the date of employment.
- M. Notice of Annual Leave. All employees shall serve at least two weeks' notice of anticipated annual leave to the mayor or his/her designee in writing and secure written permission for leaves.
  - 1. Any employee that is approved for a draw for any amount will not be deducted in full in the upcoming paycheck, the employee will guarantee this amount by maintaining the full number of vacation hours at the amount necessary to pay back the draw if their employment should end prior to fulfilling their debt unless authorized by the mayor.
  - 2. Any annual leave otherwise taken shall be deemed as unauthorized, and no vacation pay is permitted, and no other benefits shall accrue. Unauthorized annual leaves may be reason for termination.
- N. Transfer or Donation of Annual Leave. Only under extenuating circumstances, may an employee donate a portion of his/her accrued annual leave to another employee.
  - 1. Must be approved by the mayor or city administrator; and
  - 2. Shall not be more than 80 hours of leave;
  - 3. The annual leave rate shall be paid at the rate of that employee who is donating the time. (Ordinance 18-10-15-01; adding Subsection N; Prior Ord. 17-12-05-01; Prior Ord. 09-02-17-01 & Ord. 8201-2 § 6, 1986)

### 2.24.070 SICK LEAVE

- A. Policy. All permanent full-time and part-time employees shall accrue and may use as accrued, sick leave on the basis of:
  - 1. Permanent Full-time. Four hours per pay period;
  - 2. Permanent Part-time. At 50% of the rates established for full-time employees.
  - 3. Permanent Short-hours Employees. Permanent short-hour employees shall accrue sick leave at 25% of the rate established for full time employees.

- B. Notification to Superior. Any employee absent due to illness or injury shall immediately notify the city offices within one hour after the normal time for reporting for duty, or as soon as possible. Failure to keep superior informed of expected return date may result in termination of employment.
- C. Upon Separation. Upon his/her separation, the unused sick leave of the employee is automatically canceled without pay.
- D. Accumulation. Sick leave accrued, but not used, shall accumulate until termination of employment. Upon the death of any employee, any unused sick leave in his/her account will be paid in cash to his/her beneficiaries at the employee's rate of pay at the time of death.
- E. Availability of Sick Leave.
  - 1. Sick leave shall be granted only in the following instances, or as otherwise deemed allowable by the mayor or his/her designee:
    - a) Medical or Dental Appointments. An employee may be granted sick leave for medical or dental appointment for himself, herself, or immediate family.
    - b) Illness or Injury. An employee may be granted sick leave for personal illness or injury where his/her presence on the job could jeopardize his or her health or that of fellow employees. An employee may be granted sick leave to attend to the injury or illness of a member of his or her immediate family.
    - c) Death in the Family. An employee may be granted sick leave to attend the funeral of a member of his/her immediate or extended family.
  - 2. Sick leave may not be paid in addition to work performed and paid for in excess of 40 hours per week.
    - a) Example: Employee works Monday – Friday and logs 40 hours of work on his time sheet (Monday through Friday). He/she puts down 6 hours of sick leave for Saturday that same week. This employee will not be granted the use of 6 hours sick leave.
  - 3. Doctor's or Nurse's Certificate. More than five consecutive days sick leave used may require a signed medical certificate.
  - 4. Under certain circumstances, a permanent, non-probationary employee may be entitled to leave for family or medical matters under the Alaska Family Act and upon application for same.
- F. Transfer or Donation of Sick Leave.
  - C. Only under extenuating circumstances, may an employee donate a portion of his/her accrued sick leave to another employee. In order to donate sick leave, the leave must be:

1. Approved by the mayor or city administrator; and
2. Employee receiving leave must have exhausted all available sick and annual leave and be on FMLA
3. Shall not be more than 80 hours of leave;
4. The sick leave rate shall be paid at the lesser rate of that employee who is either donating or receiving the time.

(Ordinance 19-12-17-02 adding Section H § 1-4 ; Prior Ord. 18-10-15-01; adding Subsection D & (f)(2)(i); prior Ord. 17-05-02-01; Prior Ordinances: 17-12-05-01; Ord. 96-07 § 3(part), 1996: Ord. 8201-2 § 7, 1986)

### 2.24.075-JURY AND COURT LEAVE.

The city supports the judicial system of the State of Alaska and United States of America. Employees serving jury duty or under a subpoena as a witness shall be entitled to judicial leave for required period of jury duty service or testimony. Judicial leave shall be supported by written documents such as a subpoena or statement of attendance from the Court. Employees shall continue to receive regular rate of pay for hours employees would have worked had the employee not been on judicial leave. (Ordinance 08-08-19-01)

### 2.24.080 GRIEVANCES.

#### A. Definitions.

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

#### B. General Policy.

1. The purpose of this procedure is to attempt to secure equitable solutions to grievances. All parties agree that these proceedings will be kept confidential and that the grievant and immediate supervisor should attempt to resolve the grievance at the informal level.
2. The filing of a grievance shall in no way interfere with the right of the city to proceed in carrying out its management responsibilities subject to the final decision of the grievance.
3. The filing of a grievance shall not reflect unfavorably upon the grievant, or upon the immediate supervisor with whom it may be filed.
4. The employee and immediate supervisor shall have the right to include in grievance hearings such witnesses as they may deem necessary to develop facts pertinent to the grievance.

5. Once a grievance arising from a particular incident(s) or circumstance(s) has been resolved, another grievance based on that particular incident may not be filed.
  6. An employee who fails to comply with the time limits shall forfeit all rights to apply the grievance procedure for the alleged violations. A grievance shall be initiated within ten days of the incident or circumstance giving rise to that grievance.
- C. Steps for Handling Grievances. The grievance of any employee shall be handled in the following manner, each step to be taken only if a satisfactory resolution cannot be obtained at the previous level. Failure to follow the procedure and time limits outlined below will render the grievance invalid.
1. Informal Procedure Step One. Within ten days from the date of the incident or circumstance giving rise to the grievance, employee shall reduce the grievance into writing and submit the grievance to employee's immediate supervisor. Within five days from the supervisor's receipt of the written grievance, employee and the immediate supervisor shall meet to discuss the potential grievance and attempt to resolve it informally. The supervisor shall have five days from the date of the meeting to respond to the employee with a written decision.
  2. Informal Procedure Step Two. In the event the employee is not satisfied with the decision at the first step of the informal procedure, the employee shall within five days from the date of receipt of the immediate supervisor's written decision, meet with the mayor to discuss the potential grievance in an attempt to resolve it informally. The mayor shall have five days from the date of the meeting to respond to the employee with a written decision.
  3. Informal Procedure Step Three. In the event the employee is not satisfied with the decision at the second step of the informal procedure, the employee may request that the grievance be submitted to a mediator for voluntary grievance mediation. The employee shall have five days from the date of employee's receipt of the decision at the second step to request mediation. The procedure for the resolution of grievances through the voluntary grievance mediation process is as follows:
    - a) Within five days from city's receipt of employee's request for mediation, city shall obtain a list of three impartial, professional mediators from the Alaska Dispute Settlement Association, or the successor or equivalent of that organization.
    - b) Within five days after city's receipt of the list, employee and city shall meet and select one mediator from the list mutually acceptable to both. If no agreement can be reached, the parties shall select a mediator by lot. City shall place the mediator's names in a container and employee shall draw one name out of the container. The person whose name is drawn shall be the mediator. Mediation shall commence as soon as possible following the appointment of the mediator.

- c) The mediator shall conduct a caucus according to generally accepted standards and procedures for grievance mediation. The mediator may meet with the parties jointly or separately in order to help them reach a settlement. Each party agrees to negotiate in good faith to attempt to resolve the grievance through mediation.
  - d) Any agreement reached on settlement of a grievance utilizing the mediation process shall be final and binding on the parties.
4. Informal Procedure Step Four. In the event no agreement can be reached on settlement of a grievance utilizing the mediation process, the grievance shall be reviewed by the city council whose decision shall be final and binding unless there is judicial review of the case.
  5. Litigation. Litigation or other form of judicial review of a grievance shall occur only if the grievance cannot be resolved at the mandatory step one, step two, and step four informal procedure levels.
- D. Expenses of mediation shall be borne by city, except for attorney's fees. Each party shall bear their own costs for attorney's fees incurred during any step of the grievance process. (Ord. 97-02 § 3, 1997; Ord. 96-07 § 3(part), 1996; Ord. 8201-2 § 8, 1986)

## 2.24.090 COMPENSATION.

### A. Objective.

1. To establish the framework for equal pay for work similar in nature, degree of difficulty or level of responsibility;
2. To provide a means of rewarding city employees for continued good or outstanding service;
3. To establish salary rates which compare favorably with those of other public and private employers in the area, subject to availability of funds;
4. To provide administrative flexibility in recognizing differences among employees whose positions are the same but who differ in terms of quality and length of service rendered;
5. To allow within the annual budget planning to give consideration to possible revision and amendment to the pay schedule;
6. To allow employees completing the six-month probationary period to have their rate of pay reviewed.

### B. Benefits (At the Option of the Employee).

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

### C. Overtime.

1. Employees who work over forty hours per week shall be compensated at the rate of one and one-half their hourly rate.
2. Employees, except employees specifically hired to work on holidays, who are authorized to work on stated city holidays will be compensated at the rate of usual holiday pay plus regular pay for each hour they work up to eight hours then at regular overtime rates for time worked over eight hours.
3. Overtime must be pre-authorized in writing, by the city administrator or mayor.
4. Overtime should not be requested, nor will it be authorized, except in extenuating circumstances, such as weather emergencies, facility emergencies, or schedule deadline requirements.
5. Unauthorized overtime will be deemed insubordination, and no overtime pay will be permitted. Unauthorized overtime may be reason for immediate termination.

### D. Pay Increases. The mayor may adjust an employee's rate of pay according to the quality of service rendered, length of service, and funding availability, in accordance with the most recent pay schedule adopted by resolution of the City Council. (Ordinance 18-10-15-01; adding Subsection C (3-5); Prior Ord. 03-08-21-01 §4, 2003; Ord. 94-11 §5(part), 1994; Ord. 8201-2 §9,1986), Ord. 09-02-03-01)

**2.24.100 CONDUCT IN OFFICE--INVESTIGATIONS--OATH.**

- A. The council, the mayor, or any person or committee authorized by either of them, shall have the power to inquire into the conduct of any office, department, or officer of the city and to make investigations in municipal affairs and compel the production of books, papers and other evidence. Failure to obey such orders to produce books or evidence shall constitute grounds for the immediate discharge of any officer or employee of the city.
- B. All officers of the city, including mayor and councilmen, shall before entering upon the duties of his office, severally take an oath in writing to honestly, faithfully and impartially perform and discharge the duties of his office and trust, which oath shall be filed with the city clerk. (See Section 2.04.040).
- C. All records and accounts of every office and department of the city shall be open to inspection by any person. Except, that records and documents the disclosure of which would tend to defeat the lawful purpose for which they were intended, may be withheld from inspection. Such records as are required by state law or city ordinance to be kept confidential are not open to inspection. Each department head shall be held responsible for the preservation of all public records under his jurisdiction and shall provide a system of filing. No public records, reports, correspondence or other data relative to the business of any department shall be destroyed or removed permanently from the files without the knowledge and approval of the city clerk. (Prior code Ch. 10 § 1)

**2.24.110 INDEMNIFICATION.**

The city will indemnify and hold harmless the city officers and employees and their appointees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of their duties, as assigned or set forth in this code; provided, that any such claims, damages, losses or expenses are not caused in whole or in part by any willful or fraudulent act or omission by such city officers, employees and their appointees. (Ord. 90-06 § 5, 1990)

## CHAPTER 2.28 - ELECTIONS

### 2.28.010 ADMINISTRATION OF ELECTIONS.

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

(Ord. 96-24 § 4(part), 1996)

### 2.28.015 POLLING LOCATIONS

There shall be one polling place established within the municipal boundaries of Thorne Bay.

1. Thorne Bay City Hall

### 2.28.020 VOTER QUALIFICATION.

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

- A. Is qualified to vote in state elections under AS 15.05.010;
- B. Has been a resident of the city for thirty days immediately preceding the election;
- C. Is registered to vote in state elections at a residence within the city limits at least thirty days before the city election at which the person seeks to vote; and
- D. Is not disqualified under Article V. of the State Constitution. (Ord. 96-24 § 4(part), 1996)

### 2.28.030 GENERAL ELECTION-TIME.

On the first Tuesday of October of each year a general election will be held in the city, for the purpose of filling vacant city offices. The determination of other matters may be placed on the ballot. (Ord. 96-24 § 4(part), 1996)

### 2.28.035 MAYORAL ELECTION TIME.

The Mayoral Election shall be held on the Tuesday after the First Monday in November every two years. (Ordinance 19-12-17-01; Prior Ord. 13-12-03-01; ORD. 96-24 § 4(PART), 1996)

### 2.28.040 SPECIAL ELECTION-TIME.

The city council, by resolution, may order that a special election be held. (Ord. 96-24 § 4(part), 1996)

### 2.28.050 EXPENSES.

- A. The city shall pay all necessary election expenses, including those of securing places for polls and providing ballot boxes, ballots, voting booths, screens, national and state flags

and other supplies, and any wages due to judges. Salaries for the election judges shall be set by the council.

- B. When the results of an election are contested, the contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse a result of the election, or the difference between the winning and losing vote on the result contested is more than two percent.
- C. If an election is established by petition all costs and expenses incurred shall be the responsibility of those petitioning for a special election. If the subject or question brought by petition is placed on the ballot in a general election the cost to be paid by petitioner will be any additional ballot/judge/election expenses over and above the general election expenses. (Ord. 96-24 § 4(part), 1996) (Ord. 13-12-03-01)

#### **2.28.060 TIME OFF FOR VOTING.**

Any qualified voter who is an employee of the city who does not have time to vote at any city and borough, state or national election may, without loss of pay, take off working time that will enable him to vote. It is the policy of the city to encourage employers to make allowances for residents to exercise their voting rights without penalty of loss of pay, particularly where employment may conflict with normal voting hours. (Ord. 96-24 § 4(part), 1996)

#### **2.28.065 THE CANDIDATE WITH THE HIGHEST NUMBER OF VOTES CAST FOR THE SEAT DECLARED SHALL BE THE WINNER OF THAT COUNCIL SEAT.**

Write in votes (unless declared) shall not be considered in computations for determining the number of votes necessary to be elected as a declared candidate. In case of a tie vote refer to section 2.28.620 of this chapter.

#### **2.28.066 WRITE-IN CANDIDATES.**

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

#### **2.28.068 WRITE-IN VOTES NOT COUNTED.**

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

**2.28.080 ADMINISTRATION.**

The city clerk is the supervisor of elections and is responsible for the administration of city elections. The election duties of the city clerk include, among other duties, obtaining from the state of Alaska a list of voters registered in accordance with AS 15.07.040. The clerk may publish notices urging voter registration and may cooperate with the state of Alaska in encouraging city residents to register. (Ord. 96-24 § 4(part), 1996)

**2.28.090 ELECTION JUDGES.**

- A. Before each city election, the council shall appoint three judges for each city polling place to constitute the election board for the polling place. A judge shall be a registered voter of the City. If the council is unable to locate a registered voter in the city who is willing and able to serve on the election board, they may appoint a qualified individual registered to vote in the state. One judge in each polling place shall be designated chairman by the City Clerk and shall be responsible for the election in that polling place. The city clerk may appoint up to two additional election judges at any polling place when necessary to facilitate the orderly conduct of the election or to relieve the judges of undue hardship.
- B. Candidates for office and their immediate family members (parents, spouse, children, and siblings) shall not serve as judges. (Ord. 96-24 § 4(part), 1996)

**2.28.100 ELECTION BOARD-VACANCY FILLING.**

If an appointed judge fails to appear and subscribe to the oath on Election Day or becomes unable to work during the time of the election or canvass, the City Clerk shall appoint, a qualified voter to fill the vacancy. (Ord. 96-24 § 4(part), 1996)

**2.28.110 ELECTION OFFICIAL-OATH.**

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

"I do solemnly [swear or affirm] that I will honestly and faithfully perform the duties of election [judge or clerk] to the best of my ability." (Ord. 96-24 § 4(part), 1996)

**2.28.120 CANVASS COMMITTEE.**

- A. A canvass committee shall canvass all votes after the election judges have completed their tally of votes.
- B. The council shall serve as the canvass committee for special and general elections.
- C. Before each mayoral election the council shall appoint three registered voters from the general public to serve as the canvass committee for the mayoral and mayoral runoff-

elections. Members of the council and candidates' immediate family members (parents, spouse, children, and siblings) shall be disqualified from service. (Ordinance 19-12-17-01; added Subsection (c); Prior Ord. 13-12-03-01; Ord.96-24 § 4(PART), 1996)

### **2.28.130 QUALIFICATIONS-GENERAL ELECTION.**

No person shall hold any elective city office or be eligible to seek election to any elective office unless he is a qualified voter of the city. (Ord. 96-24 § 4(part), 1996)

### **2.28.135 QUALIFICATIONS-MAYORAL ELECTION.**

- A. No person shall hold the office of mayor or be eligible to seek election to mayor unless a member of the city council.
- B. To qualify for the office of mayor, a councilmember must have served on the Council for at least one year. (Ordinance 21-10-11-01; Prior Ord. 19-12-17-01, added Section 2.28.125; Prior Ord. 13-12-03-01; Ord. 96-24 § 4(PART), 1996)

### **2.28.140 DECLARATION OF CANDIDACY-FILING FOR GENERAL ELECTION.**

A person who wishes to become a candidate for an elected office shall complete and file a declaration of candidacy. The declaration shall be completed under oath before the city clerk and on a form provided by the city clerk. The declaration shall state definitely:

- A. The full name of the candidate and the manner it is to appear on the ballot;
- B. The full residence address of the candidate;
- C. The full mailing address of the candidate;
- D. The office for which the candidate declares;
- E. That the candidate is a qualified voter and resident of the city;
- F. That the candidate agrees to serve if elected to the office of councilmember for a term of three years or the remainder of the term of office elected.
  1. The City Clerk shall post a notice containing the date, time and place of filing a declaration of candidacy in at least three (3) locations within the City, in a newspaper of general circulation if there is one in the area, and may post a notice on the City's website, before a candidate may submit a declaration.
  2. A person seeking elective office shall file a Declaration of Candidacy form along with a Financial Disclosure Statement to the Office of the City Clerk.
  3. A declaration of candidacy filing period shall be filed with the City Clerk not earlier than 50 days and not later than 30 days before the election. No declaration of candidacy may be filed on weekends.

### **2.28.150 DECLARATION OF CANDIDACY-FILING FOR MAYORAL ELECTION.**

- A. A council member who wishes to become a candidate for mayor shall complete and file a declaration of candidacy.
- B. The declaration shall be completed under oath before the city clerk. The declaration shall state definitely:
  - 1. The full name of the candidate and the manner it is to appear on the ballot;
  - 2. The full residence address of the candidate;
  - 3. The full mailing address of the candidate;
  - 4. That the candidate agrees to serve if elected to the office of mayor for a term of two years.
- C. A declaration of candidacy for the office of mayor shall be filed with the city clerk not earlier than the certification of the general election nor later than four days after certification of the general or general runoff election.
- D. In the event that only one council member files a declaration of candidacy for the office of mayor, the council shall certify that candidate as winner of the mayoral election by default, and no mayoral election shall be held. (Ordinance 19-12-17-01; Prior Ord. 13-12-03-01; Ord. 96-24 § 4(PART), 1996)

#### **2.28.160 DECLARATION OF CANDIDACY-RECORD.**

The city clerk will maintain a record containing the name and address of every person who filed a declaration of candidacy and also the date and time of the filing. (Ord. 96-24 § 4(part), 1996)

#### **2.28.170 DECLARATION OF CANDIDACY-TIME FOR WITHDRAWING CANDIDACY.**

A candidate may withdraw his declaration of candidacy through the last day for filing declarations, by submitting a written notice of withdrawal with the city clerk. (Ord. 96-24 § 4(part), 1996)

#### **2.28.180 NOTICE OF ELECTION.**

The city clerk shall give at least twenty days' notice of each general, mayoral or special elections by posting notices in three locations within the city; If the city has two or more precincts or polling places within the city limits, the clerk shall post notices of elections in each voting precinct or polling place. (Ordinance 19-12-17-01; Prior Ord. 13-12-03-01; Ord. 96-24 § 4(part), 1996)

#### **2.28.190 ELECTION NOTICE CONTENTS.**

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

- A. The date of the election;
- B. The offices to be filled or the propositions to be voted upon;
- C. The time the polling places will open and close;

- D. The location of city polling places;
- E. A boundary description of the voting precinct or a reference to the Alaska Administrative Code sections establishing precinct boundaries;
- F. The procedure for declaring candidacy; and
- G. Whether the election is general, mayoral or special. (Ordinance 19-12-17-01; Prior Ord. 13-12-03-01; Ord. 96-24 § 4(part), 1996)

### **2.28.200 ELECTION BOOTHS.**

At each polling place the city clerk shall provide voting booths and enough supplies and materials to enable each voter to mark his ballot unobserved. At least three sides of each voting booth shall be within plain view of the judges, clerks, voters and other persons at the polling places. (Ord. 96-24 § 4(part), 1996)

### **2.28.210 FURNISHING INSTRUCTION CARDS.**

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

1. How to obtain ballots;
2. The manner for marking them;
3. The method for obtaining information; and
4. How to obtain a new ballot to replace any ballot destroyed or spoiled. (Ord. 96-24 § 4(part), 1996)

### **2.28.220 BALLOTS-PRINTING AND INSPECTION.**

In all city elections, the city clerk will be responsible for the printing of ballots. The ballots will be printed and in the possession of the city clerk, at least fifteen days before the general election. Ballots shall be available for inspection by the candidates or the public through a public records request. (Ord. 96-24 § 4(part), 1996)

### **2.28.230 BALLOTS-FORM.**

- A. A ballot shall show the list of candidates and issues to be decided at the election.
- B. Before the list of candidates for each office there will be placed the words "vote for not more than one,"
- C. The term "office" for the purposes of this chapter, refers to each city council seat individually. For example: "seat a" is referred to as one office, "seat b" is referred to as one office, "seat c" is referred to as one office.. Etc.
- D. Under the title of each office and below the printed names of the candidates, there will be printed the number of candidates to be elected to the office.
- E. Somewhere on the ballot, so as to be clearly visible, will be printed the words:

1. "OFFICIAL BALLOT";
  2. The date of the election; and
  3. The City Seal along with the signature of the clerk who had the ballots printed.
- F. The ballots will be printed on plain white paper and numbered in consecutive order. The names of the candidates will be printed the same size. On each line on which the name of a candidate is printed and on the line of each blank provided for write-in candidates, a square not less than one-quarter of an inch on each side will be printed.
- G. The names of candidates shall be printed as they appear upon the declarations of candidacy filed with the city clerk, in the order received, except that any honorary or assumed title or prefix shall be omitted.
- H. Following the names of the offices and candidates, there shall be placed on the ballot all propositions and questions to be voted upon. The words "yes" and "no" shall be placed below the statement of each proposition and question. (Ordinance 21-10-18-01, § C; prior Ord. 96-24 § 4(part), 1996)

#### **2.28.240 SAMPLE BALLOTS.**

The city clerk will have a number of sample ballots printed. The sample ballots will be printed on nonwhite paper and clearly labeled as a "sample ballot." Sample ballots will be delivered to the election board in each voting place. (Ord. 96-24 § 4(part), 1996)

#### **2.28.250 DIVISION OF ELECTIONS PRECINCT LISTS-DISTRIBUTION TO PRECINCT OFFICIALS.**

Prior to the opening of the polls, the city clerk shall deliver a division of elections precinct list to the election judges. The precinct list will provide enough space to allow voters to sign their name. The signing of the precinct list is a declaration by the voter that he is qualified to vote. A record shall be kept in a separate register of the names of persons who are required to vote a questioned ballot. (Ord. 96-24 § 4(part), 1996)

#### **2.28.260 TIME FOR OPENING AND CLOSING POLLS.**

- A. On the day of any election, each election board shall open the polls for voting at eight in the morning, for Regular Municipal Elections and seven in the morning during a presidential voting year, and shall close the polls for voting at eight in the evening, and shall keep the polls open during the time between these hours. The election board members shall report to the polling place at seven thirty in the morning of an election day. (Ordinance 21-02-02-01)
- B. Ten minutes before the closing of the polls, a judge or clerk shall announce to all persons present the time remaining before the polls close. When the polls are closed, no ballots

will be given out except to qualified voters present at the polls and waiting to vote when the polls are announced closed. (Ord. 96-24 § 4(part), 1996)

### **2.28.270 DISTRIBUTION OF BALLOTS.**

- A. The city clerk shall deliver the ballots to the election judges before the polls are opened on Election Day. The ballots shall be delivered in separate sealed packages, with the number of ballots enclosed in each package clearly marked on the outside of it. A receipt of each package shall be taken from the election judges to which it is delivered and saved by the city clerk. No ballots shall be taken from the polling place before the closing of the polls.
- B. The clerk shall keep the following records:
  - 1. The number of ballots delivered to the various polling places;
  - 2. The name of the persons to whom the ballots are delivered; and
  - 3. The time the ballots are delivered.
- C. When the ballots are returned, the clerk shall record the following:
  - 1. The number of the ballots returned;
  - 2. The time when the ballots are returned;
  - 3. The name of the person returning the ballots;
  - 4. The condition of the ballots. (Ord. 96-24 § 4(part), 1996)

### **2.28.280 PREPARATION OF BALLOT BOX.**

Before receiving any ballots, the election judges or City Clerk must, in the presence of all persons present at the polling place, open and exhibit the ballot box to be used at the polling place. After showing the box, the box will be sealed and not opened again until the polls are finally closed. At the close of the polls and after deposit into the ballot box of all ballots properly voted upon, the ballot box will be personally opened by the election judges or City Clerk in the presence of all persons present at the polling place. (Ord. 96-24 § 4(part), 1996)

**2.28.290 VOTING PROCEDURE.**

- A. A voter shall give the judges his/her name and sign his/her name adjacent to his printed name in the precinct list. If any judge present believes the person is not qualified to vote, he/she immediately shall question the voter.
- B. If the voter is not questioned, he/she shall be given one ballot with the ballot number torn off by the election judge and shall retire alone to a voting booth. There the voter without delay shall prepare his ballot by marking the boxes opposite the names of candidates of this choice, whether printed on the ballot or written in by him on the blank lines provided for the purpose. The voter also marks the boxes for questions and propositions. Before leaving the voting booth, the voter shall fold his ballot and deliver it to the ballot box.
- C. A voter who by accident or mistake spoils his ballot shall, upon returning the spoiled ballot to the judges, be given another ballot. The number of the spoiled ballot shall be recorded on the ballot accountability sheet by the judges and the spoiled ballot shall be destroyed in front of the voter. A voter who is blind or otherwise incapable of marking his ballot shall be assisted in doing so by a judge if he/she requests such assistance. (Ord. 96-24 § 4(part), 1996)

**2.28.300 MARKING OF BALLOTS BY VOTERS.**

- A. A voter may mark his ballot only by the use of cross marks, "X" marks, diagonal, horizontal or vertical marks, solid marks, stars, circles, asterisks, checks or plus signs that are clearly spaced in the square opposite the name of the candidate the voter desires to designate.
- B. A failure to properly mark a ballot as to one or more candidates does not itself invalidate the entire ballot.
- C. If a voter marks fewer names than there are persons to be elected to the office, a vote shall be counted for each candidate properly marked.
- D. If a voter marks more names than there are persons to be elected to the office, the votes for candidates for that office shall not be counted.
- E. The mark shall be counted only if it is mostly inside the square provided or touching the square so as to indicate clearly that the voter intended the particular square to be designated.
- F. Improper marks on the ballot shall not be counted and shall not invalidate marks for candidates made properly. No ballot shall be rejected if the election judges can determine the candidate for whom the voter intended to vote or proposition to be chosen.
- G. An erasure or correction invalidates only that section of the ballot in which it appears.
- H. Write-in votes are not invalidated by writing in the name of a candidate whose name is printed on the ballot.

- I. Write-in votes are invalidated if the voter fails to mark the square provided.
- J. Write-in candidates will not be counted towards determining the winning candidate unless the candidate has filed a declaration of intent with the city clerk not earlier than the last day of filing period for declaration of candidacy and not later than 12 pm on the Friday before the election. The declaration of intent shall state:
  1. The full name of the candidate;
  2. The full residence and mailing address of the candidate;
  3. The seat in which the candidate wishes to be written in on the ballot by the voter;
  4. The date of the election in which the candidate seeks election;
  5. A certification by the candidate that the candidate:
    - a) Is a qualified voter;
    - b) Is a resident of the City
    - c) Qualifies or shall qualify as of the date of election, for the office to which the candidate seeks election;
    - d) Shall serve if elected; and
    - e) Is not a candidate for any other office to be voted on at the election.

#### **2.28.320 QUESTIONING A VOTER'S BALLOT.**

If a voter's right to vote is questioned by an election judge, City Clerk or other qualified voter in the city, the voter shall be allowed to vote, and any election official shall consider the ballot a questioned ballot. (Ord. 96-24 § 4(part), 1996)

#### **2.28.330 QUESTIONED BALLOTS-DISPOSITION.**

Before voting a questioned ballot, the voter shall take an oath and sign an affidavit provided by the election judge or city clerk attesting to the fact the voter is a qualified voter. After the questioned voter has taken the oath and signed the affidavit, the voter may vote. After a questioned voter has cast his ballot, the questioned voter will insert the ballot into an envelope with the signed oath and affidavit taped or glued to the outside of the envelope. If the questioned person refuses to take the oath or sign the affidavit, the person may not vote. The election judges shall deliver the oath and affidavit envelope to the city clerk. The city clerk will present these materials to the canvass committee and assist the canvass committee in determining the validity of the question. (Ord. 96-24 § 4(part), 1996)

**2.28.340 BALLOTS-COUNTING AND TALLYING.**

- A. Immediately after the polls close and the last vote has been cast, the election judges will open the boxes containing the ballots. The ballots will be counted to determine whether the total number of ballots is equal to the total number of persons who voted as indicated in the precinct list and questioned ballot list. If the number of ballots drawn from the ballot box does not match the number of ballots indicated by the precinct list and questioned ballot list, the ballots shall be recounted until the election board finds that there is an unexplained error or that the number of ballots cast matches the number of ballots indicated by the precinct list and questioned ballots list. If a discrepancy is determined to exist between the number of votes cast and the precinct list and questioned ballot list, it shall be explained in detail on the tally paper or papers, and the explanation shall be signed by the election judges.
- B. The counting of the ballots shall be public. The opening of the ballot box at the close of the polls shall be done in full view of any person's present. The public may not be excluded from the area in which the ballots are counted. However, the election board chairman and/or the City Clerk shall not permit anyone present to interfere in any way or to distract the appointed officials from their duties, and no one other than appointed election officials may handle the ballots. The judges shall remove the ballots from the ballot box one by one and tally the number of votes for each candidate and for or against each issue. The ballots shall be inspected for disqualifying marks or defects. The election judges shall cause the vote tally to be continued without adjournment until the count is complete.
- C. Write-in votes shall be tallied but not used to determine percentage for the winning vote unless the person written in has filed a declaration of intent with the City Clerk as set forth in section 2.28.300 (j) of this chapter.

**2.28.350 DEFECTIVE AND UNUSED BALLOTS.**

If a voter shall mark more names than there are persons to be elected to any office, or if for any reason it is impossible to determine from his ballot any voter's choice for any office to be filled, the ballot shall not be counted as to that office or issue. A failure to properly mark a ballot as to one or more candidates or issues shall not invalidate the entire ballot. No ballot shall be rejected if the election judges can determine the person for whom the voter intended to vote. Ballots not counted shall be marked "Defective" on the back. An explanation of the defect shall be written on the back of the ballot and signed by the chairman. All such ballots shall be enclosed in an envelope marked on the outside with the label "defective ballots." All ballots not voted on shall be returned by the judges to the city clerk, who shall give a receipt for them and keep a record of the number and condition of

ballots returned to him, indicating when and by which judge each was returned. (Ord. 96-24 § 4(part), 1996)

#### **2.28.360 ELECTION CERTIFICATE.**

After the votes are announced and counted, a certificate will be drawn stating the number of votes each person has received and designating the office for which he has run. The poll lists and tallies will be attached to the certificate. The certificate will be signed by the election judges. The precinct list tallies or tally papers, oath of judges, oaths of voters, other papers, and the certificate will be delivered to the city clerk. (Ord. 96-24 § 4(part), 1996)

#### **2.28.370 MAJORITY DECISION OF ELECTION JUDGES.**

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

#### **2.28.380 PROHIBITIONS NEAR ELECTION POLLS.**

During the hours the polls are open, no person who is in the polling place or within two hundred feet of any entrance to the polling place, may attempt to persuade a person to vote for or against a candidate, proposition or question. (Ord. 96-24 § 4(part), 1996)

#### **2.28.390 CANVASS COMMITTEE-MEETING-POSTPONING CANVASS.**

The canvass committee will meet on the first Friday after any municipal election and canvass all absentee and questioned ballots executed in the election. The canvass may be postponed from day to day for cause but not exceeding three days in total.  
(Ord. 96-24 § 4(part), 1996)

#### **2.28.400 CANVASS TO BE MADE PUBLIC.**

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

- D. If the city clerk finds an unexplained error in the tally of paper ballots, he may count the ballots from the ballot box. (Ord. 96-24 § 4(part), 1996)

#### **2.28.410 INVESTIGATION OF QUESTIONED BALLOTS.**

The canvass committee may request the assistance of the city clerk to investigate the questioned ballots. Any city elector may appear to give testimony concerning the questioned ballots. The City Clerk will check with the Division of Elections to determine whether the questioned ballot voter was a registered voter of the City. The council may accept or reject a questioned ballot. If a questioned ballot is rejected, the ballot rejected will not be opened or counted, but will be saved as are other ballots. If a questioned ballot is accepted, the ballot accepted will be counted with the absentee ballots. The city clerk will notify a voter whose ballot is not counted that the ballot was rejected. (Ord. 96-24 § 4(part), 1996)

#### **2.28.420 QUESTIONED BALLOTS-SUBPOENAS.**

The council may order testimony of witnesses and issue subpoenas while investigating questioned ballots. The subpoenas may be enforced by the court upon certification as provided by the state of civil procedure concerning the enforcement of administrative and state agency subpoenas. (Ord. 96-24 § 4(part), 1996)

#### **2.28.430 CANVASS COMMITTEE-REPORT-CONTENTS.**

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

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

(Ord. 96-24 § 4(part), 1996)

#### **2.28.440 RESULTS OF ELECTION-PUBLIC DECLARATION.**

- A. If a contest is not begun under the provisions of Article VIII of this chapter, the results of the Regular or Mayoral election shall be publicly declared by the council and entered in the minutes of a special meeting of the council on the first Monday following the Regular or Mayoral municipal election.
- B. If a contest is declared and resolved, the result of the election shall be publicly declared by the council and entered in the minutes of a special meeting of the council within a week after the contest is resolved. (Ordinance 21-02-02-01; Ord. 96-24 § 4(part), 1996)

**2.28.450 CERTIFICATE OF ELECTION.**

The city council will authorize the city clerk to make and deliver a certificate of election to every person elected. The certificate of election will be signed by the mayor and clerk. It shall display the corporate seal of the city. (Ord. 96-24 § 4(part), 1996)

**2.28.460 ABSENTEE VOTING-ELIGIBLE PERSONS.**

Any qualified voter, who expects to be absent from the city or who will be unable to vote by reason of physical disability on the day of any election, may cast an absentee ballot. (Ord. 96-24 § 4(part), 1996)

**2.28.470 ABSENTEE BALLOT-APPLICATION-FILING.**

- A. A person who seeks to vote by absentee ballot may file either in person or by mailing his written application to the city clerk.
- B. An application made by mail must be received by the city clerk, no less than five days before a city election. An application made in person must be filed with the city clerk not earlier than 30 days before the city election date, and no later than the close of polls on election day.
- C. An application for an absentee ballot from a qualified voter requesting delivery of an absentee ballot to the applicant by electronic transmission must be received by the city clerk not later than 5:00 p.m. Alaska time on the day before the election for which the absentee ballot is sought.
- D. The application must be signed by the applicant and show his place of residence. (Ordinance 21-10-18-01 § C; Prior Ord. 21-02-02-01, § B)

**2.28.480 ABSENTEE BALLOT-DELIVERY.**

Upon receipt of an application for an absentee voter's ballot, the clerk will check the latest state registration listings to determine whether the applicant is a qualified voter.

- A. If the applicant is a qualified voter, the clerk will deliver to the applicant, an official ballot for the election, an identification envelope and a return envelope.
- B. Ballots may be delivered to a qualified voter by means of us postal service, electronic transmission or personally delivered by the city clerk.
- C. If the absentee voter's ballot is personally delivered, it shall be completed before the clerk at the time of delivery.
- D. If the absentee ballot is to be mailed, the clerk shall mail the ballot to the address given by the applicant.

- E. If the ballot is delivered by email, the clerk will email the ballot to the applicant with a read receipt requested. (Ordinance 21-10-18-01; Ord. 96-24 § 4(part))

**2.28.490 ABSENTEE BALLOT-NOTATION OF BALLOT NUMBER AND DATE OF APPLICATION.**

- A. Upon personal delivery, electronic transmission or the mailing of absent voter’s ballot, the clerk will enter on the space provided in the absentee voter register, the number of the ballot and the date the ballot was delivered, electronically transmitted or mailed.
- B. On election day, the clerk will give the election judges a list of voters who have voted absentee in the form of the ballot accountability register and it will clearly indicate who voted by mail or fax absentee and who voted in person absentee prior to polls being opened. (Ordinance 21-10-18-01; Prior Ord. 96-24 § 4(part), 1996)

**2.28.500 ABSENTEE BALLOT-COMPLETION-RETURN.**

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

"IDENTIFICATION ENVELOPE"

State of Alaska) ) SS: I \_\_\_\_\_, State that: I am a resident of and a voter in the city of \_\_\_\_\_, Alaska, and I hereby enclose my ballot. \_\_\_\_\_ VOTER, (SEAL) Residence address within the city \_\_\_\_\_ SUBSCRIBED AND SWORN before me, this day of , 20 \_\_\_\_\_, at m. (note time zone). I hereby certify in my presence this affiant enclosed a ballot and handed me this envelope sealed; that he signed this affidavit and I acknowledged his signature and affidavit, all in accordance with the law. Official’s Signature (SEAL) Title of Officer

NOTICE: After receiving the sealed envelope from the person taking your affidavit when voting outside the office of the city clerk of the City of \_\_\_\_\_, you must immediately return it by mail, postage prepaid, to the City Clerk, P.O. Box 19110, Thorne Bay, Alaska 99919

MARKED BALLOT ENCLOSED TO BE OPENED ONLY BY CANVASSING COMMITTEE -----

**2.28.510 ABSENTEE BALLOT-EXECUTION IN CITY.**

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

- A. The voter will first display the ballot to the clerk to show that the ballot has not been previously marked. He then will proceed to mark the ballot in the voting booth at the clerk’s office. The voter will place the ballot in the envelope provided to him in a manner that permits the clerk to see the number of the ballot. The voter will then hand the envelope to the clerk, who will examine it. If the clerk determines that the ballot is

numbered correctly, he will tear the printed number off and permit the voter to enclose the ballot in the identification envelope.

- B. The voter will then make out and swear to the affidavit printed on the face of the envelope. He will seal the envelope and deliver it to the clerk.
- C. The clerk will certify the affidavit printed on the identification envelope by writing or stamping his name across the seal. The clerk will deposit the envelope in a safe place in his office, to be kept by him and delivered to the canvassing committee.

If an absentee voter returns to the city on Election Day, he will not be allowed to vote unless he surrenders the absentee voter's ballot and any other supplies mailed to him. (Ord. 96-24 § 4(part), 1996)

#### **2.28.520 ABSENTEE BALLOT-EXECUTION OUTSIDE CITY.**

- A. After receiving an absentee voter's ballot, the voter may appear on any day prior to and including the day of the election, before a notary public, postmaster, clerk or officer of any city, state, territory or district within the United States. Before the officer he may complete his ballot as set out in Section 2.28.510 of this chapter.
- B. Absentee ballots executed outside of the City may be faxed to ensure receipt by the City Clerk prior to canvass. Ballot by fax must contain a disclaimer that the voter understands his/her vote cast will not be secret. (Ord. 96-24 § 4(part), 1996)

#### **2.28.530 ABSENTEE BALLOT-RECEIPT.**

To be counted an absentee voter's ballot must be executed before the polls close in the city and be received by the clerk prior to the time the ballots are canvassed by the canvassing committee. (Ord. 96-24 § 4(part), 1996)

**2.28.540 ABSENTEE BALLOT-VOTING SUPPLIES.**

All supplies necessary for the voter to cast and return his ballot will be furnished by the clerk. No city official may make any charge for services rendered to any voter under the provisions of this chapter. (Ord. 96-24 § 4(part), 1996)

**2.28.550 LIBERAL CONSTRUCTION.**

This article will be liberally interpreted, so as to accomplish the purposes set forth. (Ord. 96-4 § 4(part), 1996)

**2.28.560 CONTEST OF ELECTION.**

- A. Any candidate or any ten qualified voters may contest the election of any person and the approval or rejection of any question or proposition.
- B. A candidate or elector who believes that prohibited practices occurred at an election will appear before the council at the special council meeting held on the first Monday following the election. He will deliver a sworn written notice of contest, which will state with particularity the provisions of the law which he believes were violated and the specific acts he believes to be misconduct.

- C. A notice shall read:

"NOTICE OF ELECTION CONTEST"

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

The undersigned states that the following laws were violated:

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

Signature of Person Contesting

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

Notary Public in and for Alaska; My Commission Expires: (Ord. 96-24 § 4(part), 1996)

**2.28.570 RECOUNT EXPENSES-APPEAL.**

- A. The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election or the difference between the winning and a losing vote on the result contested is more than two percent.
- B. No person may appeal or seek judicial review of a city election for any cause or reason unless the person is qualified to vote in the city, has exhausted his administrative remedies before the city council and has commenced, within ten days after the council has finally declared the election results, an action in the superior court in the city's

judicial district. If no such action is commenced within the ten-day period, the election and election results shall be conclusive, final and valid in all respects. (Ord. 96-24 § 4(part), 1996)

#### **2.28.580 CONTEST OF ELECTION-INVESTIGATION.**

The city council will order an investigation to be made by the city clerk and/or the mayor, if a notice of contest is received. Investigation proceedings will be public. (Ord. 96-24 § 4(part), 1996)

#### **2.28.590 BALLOT RECOUNT.**

If only a recount of ballots is demanded, the election board where the error allegedly occurred shall recount the ballots. (Ord. 96-24 § 4(part), 1996)

#### **2.28.600 PROHIBITED PRACTICES ALLEGED.**

When the contestant alleges prohibited practices, the council will direct the city clerk to produce the original register books for the election. (Ord. 96-24 § 4(part), 1996)

#### **2.28.610 SUSTAINED CHARGES-RECOUNT.**

If the charges alleged by the contestant are upheld, the canvassing committee will make a recount and report immediately to the council. The council will then certify the correct election returns as provided in Section 2.28.440 of this chapter. (Ord. 96-24 §4(part), 1996)

#### **2.28.620 DETERMINATION OF TIE-VOTES.**

If after a recount and appeal two or more candidates tie in having the highest number of votes for the same office, the mayor shall notify the candidates who are tied. The mayor shall notify the candidates of a reasonably suitable time and place to determine the successful candidate by lot. After the determination has been made by lot, the mayor shall so certify. (Ord. 96-24 §4(part), 1996)

## CHAPTER 2.32 FIRE DEPARTMENT SECTIONS:

### 2.32.010 DEPARTMENT ESTABLISHED.

There shall be a fire department for the city. A fire chief shall be department head and administer the department. The Chief Administrator shall supervise the department

### 2.32.015 STIPEND.

The fire department chief shall receive a monthly stipend for department administrative tasks. The fire department chief shall receive a monthly stipend to be determined by the council.

### 2.32.020 FIRE CHIEF--APPOINTMENT--DISCHARGE.

- A. The Fire Chief shall be appointed by the Chief Administrator subject to approval by the council. His term of office is unlimited as long as his performance of duties and his conduct are satisfactory, as judged by the chief administrator. For just cause and upon recommendation of the chief administrator, the council may remove him from the position of fire chief or may discharge him from the department.
- B. Every effort shall be made to appoint a fire chief who is technically qualified through training and experience in fire suppression and administration and who possesses the ability to successfully command subordinates and enforce regulations.
- C. If the city is financially unable to hire a salaried fire chief, a volunteer may be appointed to carry out the provisions of this chapter.

(Ord. 91-18 §4(part), 1991; Ord. 89-27 §5(part), 1989)

### 2.32.030 DEPARTMENT STAFF.

- A. Staff members shall be recommended by the fire chief and approved by the chief administrator. For just cause any staff member may be discharged by the chief administrator. The fire chief shall be consulted prior to the discharge of any staff member.
- B. If the city is financially unable to staff the department with the necessary salaried employees, volunteers shall be utilized. Whether the department is composed of salaried employees, non-salaried volunteers or a combination of salaried employees and non-salaried volunteers, it shall be administered by the fire chief under the supervision of the chief administrator. All fire department salaried or volunteers shall be considered “project employees” pursuant to Chapter 2.24.030 “employment” of the municipal code.

- C. Within the department the fire chief may establish staff responsibilities and titles and make promotions but any such staff action that involves a salaried employee or regularly compensated volunteer shall require prior approval of the chief administrator.
- D. For just cause any staff member may be discharged by the chief administrator. The fire chief shall be consulted prior to the discharge of any staff member.
- E. If the fire chief position becomes vacant, the department staff may recommend a candidate for the position and the council shall give consideration to such recommendation. The department staff shall be given the opportunity to review all applications for the position of fire chief. (Ordinance 12-30-20-01; Prior Ord. 91-18 §4(part), 1991: Ord. 89-27 §5(part), 1989)

#### **2.32.040 VOLUNTEERS.**

- A. Volunteer department members may organize into a volunteer association, elect their own association officers and establish their own association by-laws. However, all association activities pertaining to city duties shall be administered by the fire chief and shall comply with the terms of this chapter.
- B. The volunteer association may purchase with its own fund items of personal property and the use of such property shall be controlled by the association but shall not conflict in use or purpose with department property of the city nor with any established regulation or procedure of the department.
- C. Upon the recommendation of the Chief Administrator the council may approve compensation to reimburse volunteers who, while on fire duty, training assignments or other required department activities, incur damage to personal items. If personal items are damaged in use, compensation may be allowed if the use was pre-approved by the fire chief. (Ord. 91-18 §4(part), 1991: Ord. 89-27 §5(part), 1989)(ord. 12-30-20-01)

#### **2.32.042 SERVICE FEES.**

Service fees to be charged for fire department services shall be as set forth in the most current fire department fee schedule adopted and approved by resolution of the city council and incorporated herein by reference. Fees may include any and all costs associated with responding to the individual incident. (Ord. 04-03-18-01 §4, 2004: Ord. 96-10 §4, 1996)(Ord. 12-3-20-01)

#### **2.32.050 DEPARTMENT RESPONSIBILITIES.**

- A. The department shall have broad responsibilities in the following areas:
  - 1. Fire Protection. Department personnel shall extinguish all fires, rescue persons endangered by fire, promote fire prevention and perform all duties pertaining to the fire department.

2. Rescue Operations. Department personnel shall respond and assist when such need arises.
  3. Miscellaneous City Emergencies. Department personnel may be requested to volunteer to respond and assist in coping with an emergency situation.
- B. Any additional responsibility to be assigned to the fire department shall be first discussed with the fire chief and then approved by the council.  
(Ord. 91-18 § 4(part), 1991: Ord. 89-27 § 5(part), 1989)

### **2.32.060 FIRE CHIEF RESPONSIBILITIES.**

- A. The fire chief is in charge of the department. His responsibilities shall include but are not limited to the following:
1. Determine the organization of the department;
  2. Appoint a staff member to serve as assistant fire chief. If the fire chief's position becomes vacant, the assistant fire chief shall be in charge of the department until a new fire chief is appointed;
  3. Determine the number and kind of companies, their composition and their order of response to alarms;
  4. Abide by and enforce rules and regulations established by ordinance, resolution or administrative publication.
  5. Establish, abide by, maintain and enforce standard operating procedures (SOP's) that are specifically for the effective and successful operation of the department:
    - i. SOP's may cover such items as training, drills, discipline, rules and regulations that are particularly characteristic of the fire department and its functions.
    - ii. SOP's shall not conflict with city ordinances and regulations. If a SOP conflicts with an administrative publication the subject matter shall be submitted to the council for solution of the conflict.
    - iii. iii. New SOP's and proposed changes to current SOP's shall be discussed by the fire chief with the department staff. After the discussion the fire chief shall make the final decision on the text of the new or changed SOP.
    - iv. SOP's shall be kept current. As part of the fire chief's regular monthly report to the council new SOP's or changes to existing SOP's shall be orally recited.
    - v. Copies of SOP's and all changes thereto shall be filed with the city administration. A file of SOP's shall be maintained in city hall for reference.
  6. Make a monthly oral report to the council at a regular monthly council meeting, presenting pertinent current information and a general review of the previous month's fire department activities;
  7. Administer the care and maintenance of department property and keep the required inventory record of such property;

8. Prepare and file required department reports and maintain required records.
  9. Maintain the communication arrangements and equipment for reporting emergency situations;
  10. Assist the law enforcement officer in investigating the cause of fires;
  11. Annually, when requested by the chief administrator, submit a proposed fire department budget for the next fiscal year. The fire chief shall be consulted about any changes to be made to his proposed budget before it is finalized by the chief administrator;
  12. Keep the Chief Administrator advised about the condition of all firefighting equipment and the need, if any, for additional equipment to maintain the department efficiency;
  13. Ensure that the fire department is registered with the State Fire Marshal's office as a formally constituted fire department.
- B. Any additional responsibility to be assigned to the fire chief shall be first discussed with the fire chief and then approved by the council. (Ord. 91-18 § 4(part), 1991: Ord. 89-27 § 5(part), 1989)

**CHAPTER 2.34 - POLICE DEPARTMENT SECTIONS:**

**2.34.010 DEPARTMENT GENERALLY--CHIEF.**

There shall be a police department, the head of which shall be the chief of police, appointed by the Chief Administrator for an indefinite term. The chief of police shall be an officer of the city and shall have supervision and control of the police department or law enforcement department. All police officers shall be officers of the city. (Ord. 03-05-15-02 §4(part), 2003)

**2.34.020 POWERS AND DUTIES.**

It shall be the duty of the police department to apprehend, arrest and bring to justice all violators of the ordinances of the city; to suppress all riots, affrays and unlawful assemblies which may come to their knowledge and generally keep the peace; to serve all warrants, writs, executions and other processes properly directed and delivered to them; to apprehend and arrest persons violating federal and state law as provided by law and to turn them over to the proper authorities; and in all respects to perform the duties pertaining to the offices of policemen. (Ord. 03-05-15-02 §4(part), 2003)

**CHAPTER 2.36 - LAW ENFORCEMENT DEPARTMENT:****2.36.010 DEPARTMENT ESTABLISHED.**

There shall be a law enforcement department for the city. The law enforcement officer shall be the department head and shall administer the department as provided in AS 29.20.400. (Ord. 91-17 § 4(part), 1991)

**2.36.020 VILLAGE PUBLIC SAFETY OFFICER.**

The village public safety officer (referred to in this chapter as "VPSO") shall be the department head, serving the city in accordance with the village public safety officer program letter of agreement (referred to in this chapter as "agreement") between the city of Thorne Bay and the Central Council of Tlingit and Haida Indian Tribes of Alaska (referred to in this chapter as "Central Council") as long as the agreement remains in effect.

- A. Subject to the approval of the Central Council, as provided in the agreement, the VPSO shall be appointed by the council.
- B. The Chief Administrator shall act as liaison between the VPSO and the city.
  1. In accordance with AS 29.20.500, the Chief Administrator shall supervise the department.
  2. The Chief Administrator shall exercise care and concern in the supervision of the VPSO, shall keep the council informed about the status of the city law enforcement and performance of the VPSO, and shall consult the council in evaluating the performance of the VPSO.
- C. For just cause and after approval by the council, the Chief Administrator may recommend to central council that the VPSO be removed from the position.
- D. In accordance with the agreement, the VPSO provides to his or her level of training a broad range of public safety services, including but not limited to enforcement of Municipal Law. With due regard for the VPSO's training and expertise, as well as the public's safety, the Chief Administrator, after approval of Central Council and the Alaska State Troopers and consideration of the VPSO's opinions and suggestions, shall assign reasonable and authorized public safety duties to the VPSO. Such duties shall be assigned within the limits of the VPSO's standard workday and standard workweek as established in the agreement.

1. Other public safety concerns or special VPSO duties may be assigned as authorized in the agreement.
- E. The VPSO shall make a monthly oral report at a regular council meeting, presenting pertinent current public safety information and a general review of the department's previous month's activities. These reports will assist the council in evaluating the VPSO'S response to the needs of the city within the VPSO'S area of responsibility, in accordance with the agreement, the VPSO
- F. The VPSO shall submit a proposed department budget for the next fiscal year annually upon request to assist the city in providing the VPSO normal office facilities in accordance with the agreement. The VPSO shall be consulted about any change to be made in the department's proposed budget before it is finalized by the Chief Administrator for approval of the council. (Ordinance 19-08-20-03; Prior Ord. 98-01§3 (part), 1998: Ord. 91-17 §4(part), 1991)

### 2.36.030 CODE ENFORCEMENT OFFICER

When the city is not party to an agreement covering the employment of a VPSO:

- A. The chief administrator upon the approval of the city council shall appoint a code enforcement officer.
- B. The Code Enforcement Officer shall be the department head and shall administer the department.
- C. By ordinance or resolution, the council shall establish the organization and functions of the department, after considering recommendations of the chief administrator. (Ordinance 19-08-20-03; Prior Ord. 98-01 §3(part), 1998: Ord. 91-17 §4(part), 1991)

## CHAPTER 2.38 - EMERGENCY MEDICAL SERVICES DEPARTMENT

### 2.38.010 DEPARTMENT ESTABLISHED.

There shall be an emergency medical services department (hereinafter EMS) for the city. An EMS Coordinator shall be department head and administer the EMS. The Chief Administrator shall supervise the department.

(Ordinance 20.06.02.02; Prior Ord. 91-19 §4(part), 1991; Ord. 90-02 §5(part), 1990)

### 2.38.015 EMS COORDINATOR APPOINTMENT AND ACCOUNTABILITY.

- A. The EMS coordinator shall be appointed by the mayor and subject to confirmation by the city council. The EMS coordinator shall be technically qualified by training and experience and shall have ability to command the squad and hold their respect and confidence. The coordinator is an at-will position and may be removed at any time by the council. The coordinator shall report to and take direction from the city administrator.
- B. The EMS coordinator shall be held accountable for the Thorne Bay EMS squad only and shall make written and verbal reports as the council may require. All EMS volunteers and or personnel shall be accountable to the EMS coordinator only, and subject to removal by the coordinator. (Ordinance 20-06-02-02 amended Ord. 04-02-05-03 §4, 2004 (Repealed and replaced by Ordinance 20-06-02-02))

### 2.38.020 DUTIES OF EMS COORDINATOR

- A. The EMS shall have broad responsibilities for emergency medical response.
- B. The responsibilities of the EMS Coordinator shall include, but are not limited to, the following:
  1. Determine the organization of the EMS AND BE RESPONSIBLE FOR:
    - i. Facilitating emergency services for the City of Thorne Bay,
    - ii. Recruit, and maintain readiness of emergency services personnel and equipment;
    - iii. Create and manage schedules for on-call emergency medical responders, ambulance drivers and dispatchers.
    - iv. Plan, develop, direct, and evaluate emergency services and emergency responses programs.
  2. Make monthly reports to the council at a regular council meeting the following:
    - i. The condition of the apparatus and equipment;
    - ii. The number of EMS calls during the month,

- iii. The number and purpose of all other runs made; and
  - iv. The number of members responding to each medical emergency or other run; and
  - v. Any changes in membership.
3. Establish, abide by, maintain and enforce standard operating procedures (SOPs) that are specifically for the effective and successful operation of the EMS:
  - i. SOPs may cover such items as training, drills, discipline, rules and regulations that are particularly characteristic of the EMS and its functions.
  - ii. SOPs shall not conflict with city ordinances and regulations. If a SOP conflicts with an administrative publication the subject matter shall be submitted to the council for solution of the conflict.
  - iii. New SOPs and proposed changes to current SOPs shall be discussed by the EMS Coordinator with the department staff. After the discussion the EMS Coordinator shall make the final decision on the text of the new or changed SOP.
  - iv. SOPs shall be kept current. As part of the EMS Coordinator's regular monthly report to the council new SOPs or changes to existing SOPs shall be orally recited.
  - v. Copies of SOPs and all changes to them shall be filed with the city administration. A file of SOPs shall be maintained in city hall for reference.
4. Perform, at least once a month:
  - i. Suitable drills or instruction in the operation and handling of:
    - a) Equipment,
    - b) First aid and rescue work, and
    - c) All other matters generally considered essential to good emergency services practices and safety of life and property.
5. Coordinate continuing education programs for public safety officials, including fire, emergency services, and summer seasonal personnel.
6. Prepare appropriate grant applications and administer grants for the emergency services department;
7. Administer the care and maintenance of EMS property and keep the required inventory record of such property.
8. Maintain emergency services department records, including personnel records, certifications, patient care reports, ambulance billing records, and equipment inventories.
9. Ensure that complete records are kept of all calls, inspections, apparatus and minor equipment, personnel, training, and other information about the work of the department. Records containing patient information shall be stored and secured in compliance with state and federal law.

10. Annually, when requested by the chief administrator, submit a proposed EMS budget for the next fiscal year. The EMS Coordinator shall be consulted about any changes to be made to his proposed budget before it is finalized by the chief administrator.

11. Ensure that the EMS meets all pertinent state and federal regulations and laws.

(Ordinance 20-06-02-02; Amending Prior Ord. 91-19 § 4(part), 1991: Ord. 90-02 § 5(part), 1990)

### **2.38.025 EMS MEMBERS--APPOINTMENT/DISCHARGE.**

A. Volunteers and/or staff members shall be recommended by the EMS Coordinator and approved by the chief administrator. For just cause, any Volunteer or Staff member may be discharged by the chief administrator. The EMS Coordinator shall be consulted prior to the discharge of any staff member.

B. If the city is financially unable to staff the EMS with the necessary salaried employees, volunteers shall be utilized. Whether the EMS is composed of salaried employees, non-salaried volunteers or a combination of salaried employees and non-salaried volunteers, it shall be administered by the EMS Coordinator under the supervision of the chief administrator.

C. Within the EMS the EMS Coordinator may establish volunteer or staff responsibilities and titles and make promotions but such actions that involve a salaried employee or regular compensated volunteer shall require prior approval of the chief administrator. All EMS salaried or volunteers shall be considered “project employees” pursuant to Chapter 2.24.030 of the Thorne Bay Municipal Code. (Ordinance 20-06-02-02; Amending Prior Ord. 91-19 §4(part), 1991: Ord. 90-02 §5(part), 1990)

### **2.38.030 VOLUNTEER ASSOCIATION.**

A. In the absence of an EMS Coordinator, there may be established a Volunteer Association of the EMS. Volunteer EMS staff members may organize into a volunteer association elect their own association officers and establish their own association by-laws. However, all association activities pertaining to city duties shall be administered by the EMS Coordinator or Chief Administrator and shall comply with the terms of this chapter.

B. The volunteer association may purchase with its own fund's items of personal property and the use of such property shall be controlled by the association but shall not conflict in use or purpose with EMS property of the city nor with any established regulations or procedures of the city. (Ordinance 20-06-02-02; Amending Prior Ord. 91-19 §4(part), 1991: Ord. 90-02 §5(part), 1990)

**2.38.040 SERVICE FEES.**

Service fees to be charged for emergency medical services and supplies, shall be as set forth in the most current EMS fee schedule adopted and approved by resolution of the city council and incorporated herein by reference. (Ordinance 20-06-02-02; Amending Ord. 96-09 § 4, 1996)

**2.38.050 COMPENSATION.**

Upon the recommendation of the Chief Administrator the council may approve compensation to reimburse volunteers who, while on emergency medical duty, training assignments or other required EMS activities, if personally purchased disposable medical supplies are damaged in use, compensation may be allowed if the use was pre-approved by the EMS Coordinator. (Ordinance 20-06-02-02; Amending Prior Ord. 91-19 § 4(part), 1991; Ord. 90-02 § 5 (part), 1990)

## CHAPTER 2.40 BOARD OF ADJUSTMENT

### 2.40.010 DESIGNATED.

- A. The Thorne Bay city council is the board of adjustment for the area within the city boundaries of Thorne Bay, Alaska. Meetings of the board are held at the call of the mayor. The presiding officer or mayor may administer oaths and compel attendance of witnesses. Meetings and hearings of the board shall be open to the public and the board shall keep minutes of its proceedings as a public record.
- B. The board of adjustment shall hear and decide:
  - 1. Appeals regarding alleged errors in enforcement of zoning ordinances and building codes;
  - 2. Appeals from the decisions of the planning commission on requests for conditional uses;
  - 3. Appeals from the decisions of the planning commission on requests for variances from the terms of the zoning ordinance which are not contrary to the public interest, when a literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the same district.
- C. A variance shall not be granted because of special conditions caused by actions of the persons seeking relief or for reasons of pecuniary hardship or inconvenience. A variance shall not be granted which will permit a land use in a district in which that use is prohibited. (Ord. 83-05-18-02 § 1, 1983)

### 2.40.020 ADJUSTMENT PROCEDURE.

An interested party, including but not limited to a city official, may file with the board of adjustment an appeal specifying his objections. Copies are filed with the administrative officer involved and with the city clerk within the time required by the zoning ordinance.

The officer shall provide the board with all pertinent records, including his written decision. An appeal to the board stays enforcement proceedings unless the board or a court issues an enforcement order based on a certificate of imminent peril to life or property made by the enforcement officer. (Ord. 83-05-18-02 § 2, 1983)

### 2.40.030 APPEALS.

Appeals from decisions of the board of adjustment shall be governed by AS 29.40.060. (Ord. 88-32 § 4, 1988; Ord. 83-05-18-02 § 3, 1983)

**CHAPTER 2.42 COMMITTEES, BOARDS AND COMMISSIONS****2.42.010 COMMITTEES, BOARDS AND COMMISSIONS-REGULATIONS.**

- A. Unless a specific provision provides otherwise in the ordinances of the city, a committee, board or commission of the city shall be governed by each of the following provisions set forth in this chapter.
- B. A committee, board or commission shall be established in the manner provided in this chapter.
- C. Committees, boards and commissions shall, unless otherwise provided, act in an advisory capacity to the mayor and council. (Ord. 98-05 § 3(part), 1998)

**2.42.020 MEMBERS-TERMS-OFFICERS.**

- A. The term for each member of a committee, board or commission shall be as set by the mayor or council in the committee's, board's, or commission's formation or as otherwise specified by ordinance.
- B. A member of a committee, board or commission shall be a resident of the city and a qualified city voter as defined in Section 2.28.020 of this code.
- C. A member of a committee, board or commission must keep current any accounts held with the city (i.e., utilities, lease payments, rents, sales tax, etc). Any member whose accounts fall into delinquency for more than sixty (60) days may be removed from office by a majority vote of the council. City Council will consider financial or other hardships.
- D. Any person declaring candidacy for a committee, board or commission shall not be considered until the persons accounts are made current. City Council will consider financial or other hardships.
- E. A committee, board or commission shall appoint one of its member's chairs, for a term to be fixed by the committee, board or commission. The committee, board or commission shall also appoint a vice chair to act in the absence of the chair, or if the chair is unable to act. (Ord. 98-05 § 3(part), 1998) (Ordinance 06-02-21-01)

**2.42.030 APPOINTMENT.**

Each member of a committee, board or commission shall be appointed by the mayor, subject to approval of the council. The term of appointment to an ad hoc committee, board or commission shall be set by the mayor subject to approval of the council. The terms of initial appointment to a standing committee, board or commission shall be staggered so that, as nearly as possible, a pro rata number of members shall be appointed for each year during the regular term of office established for the members of the committee, board or commission. A member shall serve until the expiration of the member's term. The regular term of a member of a committee, board or commission shall commence on November 15th of the year of appointment and shall expire on November 14th of the year the member's term expires or until filled by the members successor. (Ord. 98-05 § 3(part), 1998)

#### **2.42.040 COMPENSATION.**

Compensation and expenses of committees, boards or commissions are paid as directed by the city council. (Ord. 98-05 § 3(part), 1998)

#### **2.42.050 VACANCY.**

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

- A. To attend three consecutive regular and special meetings without excuse; or
- B. To attend a majority of regular and special meetings during any calendar year without excuse. A member intending to be absent at a regular or special meeting shall request to be excused in advance of the meeting from which the member will be absent. (Ord. 98-05 § 3(part), 1998)

#### **2.42.060 EX OFFICIO MEMBERS.**

The mayor shall be an ex officio member of any committee, board or commission. The mayor may appoint an employee of the city who shall be an ex officio member of a committee, board or commission for the purpose of acting as a secretary to the committee, board or commission or to furnish the committee, board or commission with technical advice and information. An ex officio member shall not be entitled to vote on any question to be determined by the committee, board or commission, nor shall such ex officio member be considered a member for the purpose of establishing a quorum of any committee, board or commission. (Ord. 98-05 § 3(part), 1998)

#### **2.42.070 MEETINGS.**

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

#### **2.42.080 PROCEDURE.**

A committee, board or commission shall establish its own rules and order of business. An appeal or quasi-judicial committee, board or commission shall establish reasonable rules and regulations governing proceedings before the committee, board or commission. In all matters of procedure not covered by rules adopted by the committee, board or commission, Robert's Rules of Order shall be applicable and govern. (Ord. 98-05 § 3(part), 1998)

#### **2.42.090 CONFLICT OF INTEREST.**

No member of a committee, board or commission may vote on any question upon which he has a substantial direct or indirect financial interest. No member shall represent any person before the committee, board or commission of which he/she is a member.

(Ord. 98-05 § 3(part), 1998)

#### **2.42.100 QUORUM.**

A majority of the voting members of a committee, board or commission shall be a quorum for the transaction of business. In the absence of a quorum for the transaction of business, any number less than a quorum may recess a meeting to a later time or date. (Ord. 98-05 § 3(part), 1998)

#### **2.42.110 EXECUTIVE SESSION.**

A committee, board, or commission may meet in executive session in the manner provided and for the reasons set forth in Alaska Statute 44.62.310. (Ord. 98-05 § 3(part), 1998)

#### **2.42.120 REPORTS AND MINUTES.**

The committee, board or commission shall keep minutes of the committee, board or commission proceedings and such minutes shall record the vote of each member upon every question. The minutes shall immediately be filed in the office of the city clerk and shall be a public record open to inspection by any person. Each committee, board and commission shall prepare an annual report to be submitted to the mayor and council prior to July 31st summarizing the activities and business of the committee, board or commission during the preceding twelve-month period ending June 30th. (Ord. 98-05 § 3(part), 1998)

#### **2.42.130 APPEAL.**

An action or decision of a committee, board or commission may be appealed to the council within ten days by filing with the mayor a written notice of appeal expressly setting forth the grounds of the appeal unless otherwise provided for by ordinance. The mayor shall place the appeal on the next council meeting agenda and the council may continue on the appeal hearing up to thirty days. After a hearing on the record, the council may, in whole or part, affirm, modify or deny any appeal. (Ord. 98-05 § 3(part), 1998)

**CHAPTER 2.44 - HEALTH AND SAFETY COUNCIL****2.44.010 ESTABLISHED-PURPOSE.**

There is established the health and safety council (referred to in this chapter as HASC) for the city to constitute a department of the city and to perform the city-wide functions of planning and coordinating health and safety issues, and to advise the chief executive officer and city council of them. (Ord. 91-16 § 4(part), 1991)

**2.44.020 MEMBERSHIP.**

HASC shall consist of five members: one volunteer fire department member, one member of emergency medical services department, and three qualified city voters from the community. Members shall be appointed by the chief executive officer, subject to confirmation by the city council, for a term of three years. Appointments to fill vacancies are for the unexpired term. The compensation and expenses of the HASC and its staff are paid as directed by the city council. In the event an HASC is not appointed or fails to serve, the city council shall sit as and shall perform the duties of the HASC. (Ord. 98-19 § 4(part), 1998; Ord. 97-29 § 3, 1997; Ord. 91-16 § 4(part), 1991)

**2.44.030 HASC OFFICERS.**

HASC shall elect a chairperson to conduct the affairs of the council, a vice chairperson/clerk to serve as chairperson in his absence and to prepare the journal of HASC meetings. (Ord. 98-19 § 4(part), 1998; Ord. 91-16 § 4(part), 1991)

**2.44.040 VACANCIES.**

- A. A vacancy shall be declared, and filled as provided in this chapter, under the following conditions:
1. If a person appointed and confirmed to membership fails to qualify and take office within thirty days following confirmation;
  2. If a member is absent from the city for a period of ninety or more days, unless excused by HASC, or moves his residence from the city's voting precinct for a period of ninety or more days;
  3. If a member resigns and the resignation is accepted by HASC;

4. If a member misses three or more consecutive regular meetings, unless excused by HASC.
  5. If the city council, by motion and vote, determines that a member's removal and replacement is necessary for the efficient or effective function of HASC.
- B. The clerk shall keep attendance records and notify the chairperson when vacancies occur. (Ord. 91-16 § 4(part), 1991)

#### **2.44.050 MEETINGS.**

- A. A regular meeting shall be held on the first Tuesday of each month. Special meetings and workshops shall be called by the HASC chairperson or may be called at the request of two HASC members, the chief executive officer or two city council members.
- B. The clerk shall keep the journal of HASC proceedings, which shall be public record. Minutes, resolutions, written recommendations and other written records shall be filed with the city clerk.
- C. Meetings shall be conducted under Robert's Rules of Order, or such modified or amended rules as may be adopted by HASC.
- D. A proposed agenda of all regular meetings shall be posted at City Hall, in a place that is available for reading by the general public, at least forty-eight hours before the regular meeting.
- E. Printed notices that announce workshops of HASC shall be posted at City Hall and in no less than five other prominent places within the city no less than twenty-four hours before the workshop is held. Proposed subjects to be discussed at the workshop shall be set forth in the notice. Other subjects not listed in the notice may be discussed at workshops. (Ord. 99-22 § 6, 1999; Ord. 98-19 § 4(part), 1998; Ord. 91-16 § 4(part), 1991)

#### **2.44.060 ORDER OF BUSINESS.**

- A. The order of business at regular meetings shall be:
  1. Call to order,
  2. Roll call,
  3. Approval of minute of previous meetings,
  4. Reading and disposition of all correspondence,
  5. Unfinished business,
  6. New business,
  7. Miscellaneous business.
- B. The order of business at special meetings shall be prescribed by the chairperson.

#### **2.44.070 VOTING-QUORUM.**

Three HASC members constitute a quorum. Three affirmative votes are required for passage of a resolution or motion. No official action may be taken by HASC unless a quorum is present in a legally convened meeting of HASC. (Ord. 98-19 § 4(part), 1998: Ord. 91-16 § 4(part), 1991)

#### **2.44.080 OFFICE AND STAFF.**

HASC shall be provided with office space by the city council which is adequate for its needs and adequate to file its correspondence and materials, all of which shall constitute public records of the city.(Ord. 91-16 § 4(part), 1991)

#### **2.44.090 WRITTEN RECOMMENDATIONS.**

Recommendations of the HASC shall be submitted in writing to the chief executive officer and/or city council (whichever is applicable) for consideration. If the chief executive officer and/or city council concur with the recommendation, the applicable party will prepare or cause to be prepared a resolution, ordinance or administrative directive or take other appropriate action necessary to implement the HASC recommendation. (Ord. 98-19 § 4(part), 1998: Ord. 91-16 § 4(part), 1991)

#### **2.44.100 FUNDS.**

All funds HASC receives as fees and charges or otherwise shall be deposited into the general fund account of the city as receipts of the activities of HASC. All costs of HASC shall be paid by the city and shall be an operating cost of the city and shall be included in each annual budget ordinance.

#### **2.44.110 HEALTH AND SAFETY FUNCTIONS.**

The HASC functions are as follows:

- A. To advise and assist the chief executive officer and city council in coordinating the services of the health clinic (when the clinic is operated and managed by the city), volunteer fire department, law enforcement department and emergency medical services department;
- B. To investigate and report to the chief executive officer or city council matters involving, but not limited to, health and safety training; health and safety equipment; communications systems; health and safety facilities; visiting health services; and national, state and local health and safety issues;

- C. To investigate and recommend to the chief executive officer or city council such ordinances or resolutions as the health and safety council deem necessary and proper to protect the health and safety of local citizens;
- D. To recommend to the chief executive officer, subject to confirmation by the city council, appointments to island, regional and state-wide health and safety related groups, i.e., community organized health options (COHO);
- E. To investigate and recommend to the chief executive officer or city council policies for the health clinic, volunteer fire department, law enforcement department and emergency medical services department;
- F. To act as an advisory council to the chief executive officer and city council regarding health clinic, volunteer fire department, law enforcement department and emergency medical services department matters; and
- G. To assist, when requested, the chief executive officer and city council with matters regarding general health and safety issues.

(Ord. 98-19 § 4(part), 1998: Ord. 91-16 § 4(part), 1991)

## CHAPTER 2.48 PLANNING COMMISSION

### 2.48.010 ESTABLISHED-PURPOSE.

There is established the planning commission for the city to constitute a department of the city and to perform the city-wide functions of planning, platting and zoning for the city, and to advise the chief executive officer and city council of them. The City Council may perform any one or all of the city-wide functions of planning, platting and/or zoning. The Chief executive officer or his delegate shall serve as the city planning official until such time as he appoints, and the City Council confirms another to perform that function. (Ord. 92-18 § 4(part), 1992: Ord. 85-02-14-01 § 10, 1985)(Ord. 12-04-03-01)

### 2.48.020 COMMISSION MEMBERSHIP.

- A. The planning commission shall consist no more than 11 and no less than five qualified city voters from the community.
- B. Members of the commission must keep current any accounts held with the city (i.e., utilities, lease payments, rents, sales tax, etc.) any member whose accounts fall into delinquency may be removed from the commission by the chief executive officer. City Council will consider financial or other hardship.
- C. Any person declaring candidacy for the planning commission shall not be considered until the persons accounts are made current. City Council will consider financial or other hardships.
- D. Members shall be appointed by the chief executive officer, subject to confirmation by the city council, for a term of three years. Appointments to fill vacancies are for the unexpired term. The compensation and expenses of the planning commission and its staff are paid as directed by the chief executive officer.

(Ord. 02-06-06-02 § 4 (part), 2002: Ord. 92-18 § 4(part), 1992: Ord. 88-33 § 4, 1988; Ord. 85-02-14-01 (part), 1986: Ord. 85-02-14-01 § 20, 1985) (Ord. 12-04-03-01)

### 2.48.025 COMPENSATION OF PLANNING COMMISSION OFFICIALS.

Each member of the planning commission shall receive a compensation at the rate of twenty-five (\$25.00) dollars for each regular meeting attended to consider applications per the City Municipal Code. No compensation shall be paid for attending special meetings unless prior approval by City Council.

### 2.48.030 COMMISSION OFFICIALS.

The commission shall elect a chairperson to conduct the affairs of the commission, a vice chairperson to serve as chairperson in his absence, a clerk to cause the preparation of the journal of the commission's proceedings, and an assistant clerk to serve as clerk in his absence. (Ord. 92-18 § 4(part), 1992; Ord. 85-02-14-01 § 30, 1985)

#### **2.48.040 VACANCIES.**

- A. A vacancy shall be declared, and filled as provided in this chapter, under the following conditions:
1. If a person nominated and confirmed to membership fails to qualify and take office within thirty days following confirmation;
  2. If a member is absent from the city for a period of ninety or more days, unless excused by the commission, or moves his residence from the city's voting precinct for a period of ninety or more days;
  3. If a member's resignation is submitted and accepted by the commission;
  4. If a member misses three or more consecutive regular meetings, unless excused by the commission;
  5. If, after written notice to the commission, the city council, by motion and vote, determines that a member's removal and replacement is necessary for the efficient or effective functioning of the commission.
- B. The clerk shall keep attendance records and notify the chairperson when vacancies occur. (Ord. 92-18 §4(part), 1992; Ord. 90-19 §5(part), 1990; Ord. 85-02-14-01 §40, 1985)

#### **2.48.050 MEETINGS.**

- A. A regular meeting shall be held to consider applications and scheduled per City Municipal Code. Special meetings and workshops may be called by the commission chairperson or at the request of two commission members, the chief executive officer or two city councilmembers.
- B. The clerk shall keep the journal of commission proceedings, which shall be public record. Minutes, resolutions, written recommendations and other written records shall be filed with the city clerk.
- C. Meetings shall be conducted under Robert's Rules of Order Newly Revised, or such modified or amended rules as may be adopted by the commission.

- D. A proposed agenda of all regular meetings shall be posted at City Hall, in a place that is available for reading by the general public, at least forty-eight hours before the regular meeting.
- E. Printed notices that announce workshops of the commission shall be posted at City Hall and in no less than five other prominent places within the city no less than twenty-four hours before the workshop is held. Proposed subjects to be discussed at the workshop shall be set forth in the notice. Other subjects not listed in the notice may be discussed at workshops. (Ord. 04-08-03-01 §4, 2004; Ord. 99-23 §6, 1999; Ord. 92-18 §4(part), 1992; Ord. 90-19 §§4(part), 5(part), 1990)

#### **2.48.055 VOTING--QUORUM.**

A majority of commission members constitutes a quorum. A majority of affirmative votes are required for passage of a resolution or motion. No official action may be taken by the commission unless a quorum is present in a legally convened meeting of the commission. (Ord. 02-06-06-02 §4(part), 2002; Ord. 92-18 §4(part), 1992; Ord. 90-19 §5(part), 1990)

#### **2.48.060 ORDER OF BUSINESS.**

- A. The order of business at regular meetings shall be as prescribed by the commission clerk and approved by the commission.
- B. The order of business at special meetings shall be prescribed by the chairperson.  
(Ord. 92-18 §4(part), 1992; Ord. 85-02-14-01 §60, 1985)

#### **2.48.070 OFFICE AND STAFF.**

- A. The commission shall be provided office space by the city council which is adequate for its needs and adequate to file its correspondence and materials, 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 journals and resolutions, and as required to prepare its correspondence under the direction of the commission chairman and clerk. (Ord. 92-18 § 4(part), 1992; Ord. 85-02-14-01 § 70, 1985)

#### **2.48.080 FORMAL COMMISSION ACTS.**

- A. All formal actions of the commission shall be by duly approved motion or resolution. Resolutions shall be in the following format:

1. The heading "City of Thorne Bay, Planning Commission";
  2. The space for the serial number to be assigned shall be headed by "Resolution No. ";
  3. A short and concise title descriptive of its subject and purposes;
  4. Short premises, or whereas clauses, descriptive of the reasons for the resolution, if necessary;
  5. The resolving clause "BE IT RESOLVED"; and
  6. Provision for signatures after the text, "ADOPTED (date)," and designated lines for the signatures of the commission chairperson and the commission 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 of this section. (Ord. 92-18 § 4(part), 1992: Ord. 85-02-14-01 § 80, 1985)

#### **2.48.090 FUNDS.**

All funds the commission receives as fees and charges or otherwise shall be deposited in the general fund of the city as receipts of the activities of the commission. All costs of the commission shall be paid by the city and shall be an operating cost of the city and shall be included in each annual budget ordinance. (Ord. 92-18 § 4(part), 1992: Ord. 85-02-14-01 § 90, 1985)

#### **2.48.100 PLANNING COMMISSION DUTIES.**

The planning commission shall:

- A. Subject to Title 17 of this code, prepare and submit to the city council a proposed comprehensive plan in accordance with AS 29.40.030 for the systematic and organized development of the city. Annually the commission shall review the comprehensive plan and shall recommend appropriate amendments, if any, to the city council.
- B. Prepare, review, recommend and administer measures necessary to implement the comprehensive plan, including measures provided under AS 29.40.040 and such other land use control measures as the planning commission deems necessary to supplement zoning regulations, land use permit requirements and measures to further the goals and objectives of the comprehensive plans.
- C. Prepare and recommend to the city council a subdivision ordinance and the official map of the city and any recommended modifications to these documents.

- D. Publish notice of and hold at least one public hearing before submitting the commission's recommendations under subsections A, and B of this section to the city council.
- E. Upon adequate notice which shall be provided by the chief executive officer, review annually the capital improvements program of the city and submit the commission's recommendations thereon to the chief executive officer on or before the due date specified in the notice.
- F. Investigate and prepare, upon city council or chief executive officer request, reports and recommendations on city land acquisitions, disposals and development. The report and recommendation shall be based upon the provisions of this chapter, the comprehensive plan and the capital improvements program.
- G. Subject to and in accordance with the provisions of Titles 15, 16 and 17 of this code, act as the platting board, act upon requests for variances and act upon requests for conditional uses. No platting request, variance or conditional use may be granted which violates the provisions of AS Section 29.40.040 or Sections 16.36.010 and 16.36.020 of this code.
- H. In the absence of a Streets and Roads Commission, the Planning Commission shall perform all of the duties of the Streets and Roads Commission as set forth in TBMC Chapter 12.09- Streets and Roads Commission. (Ordinance 19-07-16-02)
- I. Act as an advisory commission to the chief executive officer and city council regarding planning, platting and zoning. (Ordinance 19-08-20-01; Prior Ord. 92-18 § 4(part), 1992: Ord. 90-19 §§ 4(part), 5(part), 1990)

## CHAPTER 2.52 DOCUMENTS

### 2.52.010 DOCUMENTS-APPROVAL-ATTESTATION.

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

- A. Approved by the city council;
- B. Signed by the mayor on behalf of the city;
- C. Attested to thereon by the city clerk. (Ord. 98-06 § 3, 1998; prior code Ch. 11 § 1)

### 2.52.020 FILING WITH STATE.

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

- A. Maps and descriptions of all annexed or excluded territory;
- B. A copy of an audit or statement of annual income and expenditures;
- C. Tax assessment figures as requested. (Prior code Ch. 11 § 2)

### 2.52.030 PUBLIC RECORDS-RETENTION-DISPOSAL.

- A. Record Retention Program-Records Retention Schedule. 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. (Prior code Ch. 11 § 3)

**CHAPTER 2.56 - CITY PROPERTY SECTIONS:****ARTICLE I. REAL PROPERTY ACQUISITION****2.56.010 ACQUISITION AND OWNERSHIP-AUTHORITY.**

The city may acquire, own and hold real property within or outside the city boundaries by any lawful means or conveyance.(Ord. 85-06-13-02 § 1.01, 1985)

**2.56.020 REAL PROPERTY DEFINED.**

As used in this chapter, "real property" includes any estate in land, tideland, submerged land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture or any other right, title or interest in land or a building. (Ord. 98-15 §§ 3(part), 4(part), 1998: Ord. 85-06-13-02 § 1.02, 1985)

**2.56.030 ACQUISITION-FORM.**

- A. The city may acquire, own and hold real property by warranty or quitclaim deed, easement, grant, permit, license, deed of trust, mortgage, contract of sale of real property, plat dedication, lease, tax deed, will or any other lawful method or mode of conveyance or grant. Real property shall be held in the name of "The City of Thorne Bay, Alaska." Any instrument requiring execution by the city shall be signed by the mayor and attested by the city clerk.
- B. Only upon a specific resolution of the city council, may the mayor act on its behalf in the acquisition of real property or interest in real property when the property to be acquired is for a valuable consideration.
- C. Prior to approval, the mayor is to furnish the council with an abstract of title, an appraisal or other estimate of the property value of the real property, or a review of any problems in acquisition, but the failure to furnish the council with such material shall not affect the validity of any acquisition or purchase of real property by the city.
- D. Unless otherwise provided by council, the city shall purchase marketable title in the real property. Unless otherwise provided by ordinance or resolution, or upon council approval of a purchase, the mayor is authorized to obtain title insurance, to execute any instruments and to take all steps necessary to complete and close the purchase and acquisition of the real property. (Ord. 16-03-01-02)

**2.56.040 EMINENT DOMAIN-AUTHORITY.**

A municipality may, only within its boundaries, exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the municipality under the procedures set out in AS 09.55.250 through 09.55.460. In the case of a second-class city, the exercise of power of eminent domain or declaration of taking must be by ordinance that is submitted to the voters at the next general election or at a special election called for the purpose. A majority of the votes on the question is required for approval of the ordinance. (Ord. 88-34 § 5, 1988)

**2.56.050 EMINENT DOMAIN-ADVERSE POSSESSION.**

The city cannot be divested of title to real property by adverse possession. (Prior code Ch. 45 § 2)

**2.56.060 ACQUISITION AND OWNERSHIP-RIGHTS AND POWERS.**

The city shall have and may execute all rights and powers in the acquisition, ownership and holding of real property as if the city were a private person. (Ord. 85-06-13-02 § 1.04, 1985)

**2.56.070 ACQUISITION-DEDICATION OF PLAT.**

The city may not acquire any real property by means of a dedication by plat unless the dedication of the real property is accepted in writing and signed by the mayor. (Ord. 85-06-13-02 § 1.05, 1985)

**2.56.080 INDUSTRIAL SITES.**

The city may acquire, own and hold real property, either inside or outside the city boundaries, for sites available for new industries or expanding industries which will potentially enhance the revenues of the city and its residents. (Ord. 85-06-13-02 § 1.06, 1985; Ord. 16-03-01-02)

**2.56.090 FEDERAL AND STATE AID.**

The city may apply for, contract and do all things necessary to cooperate with the United States Government and the state of Alaska for the acquisition, holding, improvement or development of real property within and outside the city boundaries. (Ord. 85-06-13-02 § .07, 1985)

**2.56.100 REAL PROPERTY AS SECURITY.**

The city council may pledge, mortgage or otherwise secure city real property for the payment of city bonded or other indebtedness when required, as authorized by law. (Ord. 85-06-13-02 § 1.08, 1985)

## ARTICLE II. REAL PROPERTY SALES BY THE CITY

### 2.56.110 APPLICABILITY.

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

### 2.56.120 COMMENCEMENT.

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

### 2.56.130 WITHOUT WARRANTY.

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

### 2.56.140 APPRAISAL REQUIRED – MINIMUM PRICE.

Except as otherwise provided in this chapter, the mayor or the mayor's designee may sell, exchange or otherwise dispose of real property, or an interest therein, only after appraisal of the fair market value thereof by a qualified appraiser obtained by the city and conducted within thirty-six (36) months before the date of the sale, or the use of a comparable property appraisal or sale

within the last thirty-six (36) months may be used to determine the value of the property as determined by a vote of the city council. The price shall be as directed by the city council. If the Council determines that an appraisal is not feasible or will delay the acquisition of the property, and the council determines it otherwise has sufficient information to complete the transaction as in the best interests of the City, the Council may complete the transaction without an appraisal from a qualified appraiser.

### **2.56.150 DISPOSAL METHODS.**

- A. Methods. Land may be disposed of by sealed competitive bid, auction, over-the-counter offerings of unsold remnants of equal value, exchange, negotiated sale, or such other lawful methods as the council may approve by non-code ordinance for the specific disposal.
- B. Negotiated Sales and Exchanges. Upon authorization by the council by non-code ordinance, the Mayor or City Administrator may commence negotiations for the sale or exchange or another disposal of city land. The final terms of a negotiated disposal are subject to approval by the council unless the minimum essential terms and the authority of the mayor to execute the disposal are set forth in the ordinance authorizing negotiations. The negotiated disposal may not be executed until the effective date of the ordinance.
- C. Competitive bidding not required. The mayor or the mayor's designee, after council approval by non-code, non-emergency ordinance, may sell exchange or otherwise dispose of the following real property or an interest therein, without giving an opportunity for competitive bidding.
  - 1. Real property, or an interest therein, to be exchanged for other real property, or an interest therein, which is determined by an appraisal prepared by a qualified appraiser obtained by the city to be at least equal in value to the city owned property or the interest therein that is to be exchanged, or appraisal or sale of a comparable parcel within the last thirty-six (36) months and approved by the city council, or if the city's property is determined to be greater in value, if the difference is made up in cash or additional property of equivalent value. The equal-value requirement is not mandatory in transactions with other government entities. The person receiving the city owned property or interest to be exchanged shall pay the cost of the appraisal, plus survey, platting, recording and all other costs to the city attendant to the transaction; except where the exchange is with a governmental entity whose rules prohibit such payment.
  - 2. Sale, lease, donation, exchange or other transfer of real property, or an interest therein, to or with another municipality, a state, or the United States, when and under such terms and conditions as the council, in its sole judgment, deems advantageous to the city.

3. Parcels of real property that are adjacent to an existing parcel or that are substandard in size may be disposed of by sale or exchange to the legal owner of adjoining property, with such adjoining parcel to be then re-platted to incorporate therein such parcel sold or exchanged. That the sale price or exchange value shall be at least equal to the fair market value of the city-owned or interest therein transferred which may be determined by using the current assessed value of the property, or appraisal of a comparable parcel within the last thirty-six (36) months and approved by the city council.
4. Easements may be released to the legal owner of the servient property when and under such terms and conditions as the council, in its sole judgment, deems advantageous to and in the best interest of the city. (Ord. 16-03-01-02)

#### 2.56.160 DISPOSALS FOR PUBLIC USE.

- A. **Disposal to Governmental Agency.** The sale or disposal of land may be made to a state or federal agency for less than the appraised value, provided the council approves the terms and conditions of such disposal by ordinance.
- B. **Disposal to nongovernmental agency.** The sale, lease or disposal of city land may be made to a private, nonprofit corporation at less than fair market value, provided the disposal is approved by the council by ordinance adopted after fourteen days public notice and the land or interest in land is to be used solely for the purpose of providing a service to the public which is supplemental to a governmental service or is in lieu of a service, which could reasonably be provided by the state or the city. (Ord. 16-03-01-02)

#### 2.56.170 DISPOSAL PROCEDURES.

- A. **Conduct of Sale.** The mayor or his designee shall conduct sales in accordance with the ordinance approved by the council for a specific sale. The mayor or his designee shall prescribe the procedures for the conduct of the sale to the extent not provided by this chapter or otherwise prescribed by the council for a specific sale.
- B. **Advertisement for any parcels requiring competitive bidding.**
  1. The city shall publish notice in a newspaper of general circulation once per week for two weeks and the notice in at least three public places within the city at least thirty days prior to the sale date. The notice shall contain a general description of the types and locations of the parcels available, the terms and conditions of purchase, the last day upon which a person may register for the sale, the date, time and place of any sale

activities, and the name, address and telephone number of the person or office to contact for sale or registration forms and further information.

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

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

D. **Conditions of Sale.**

1. The buyer shall pay all closing costs, including fees for preparation of documents, escrow fees and recording fees.
2. The city reserves the right to require, in the event the buyer desires to remove or cause to be removed, merchantable timber, sand or gravel, or other materials, that prior to commencement of such activity, the entire remaining principal and accumulated interest, or any unpaid portion of the purchase price, be paid in full to the city and the buyer enter an agreement to defend and indemnify the City for any and all actions taken by the buyer.
3. The city council shall consider placing restrictive covenants, reversionary clauses, performance bond requirements, or other similar restrictions in the deeds, or require the submission of a development plan when deemed reasonably necessary to protect the public health and welfare or to uphold the city's ordinances, or other officially adopted land use plans.

E. **Subsequent Transfers.** Any subsequent transfer or sale of the property by the buyer prior to full payment therefore shall require the prior written approval of the city, followed by the transferee's personal guarantee for and assumption of any remaining balance on the original buyer's promissory note and the original buyer's deed of trust to the city. The city may withhold approval based on lack of credit worthiness of the proposed transferee or other commercially reasonable grounds, in which case the sale or transfer shall not be made unless the entire remaining balance due the city is paid in full either prior to or as part of the buyer's sale transaction. The city will not approve a transfer to an LLC without all the members of an LLC signing an agreement to personally guarantee the remaining balance on the promissory note to the City. (Ord. 16-03-01-02)

## ARTICLE III. LONG TERM LEASE OR SHORT-TERM LEASE OF CITY- OWNED REAL PROPERTY

**2.56.190 LANDS AVAILABLE FOR LEASING-CLASSIFICATION OF LANDS.**

- A. All lands and interest in land owned by the city, including tide and submerged lands, may be leased or rented as hereinafter provided. Thorne Bay RV Park, Thorne Bay Harbor Facilities, Parking and other service rented by the day, week, month or year are regulated in other sections of the Thorne Bay Municipal Code.
- B. Before accepting applications to lease lands, the city shall have zoned by ordinance or otherwise classified the lands in question for leasing and for particular land uses. No lease shall be granted except for the particular uses for which the tract is zoned or classified. The classification of a tract of leased land may be changed by ordinance after consideration by the city.
- C. No city-owned property shall be leased or otherwise developed prior to the assignment of a particular zone or the repeal of the reserved use classification.
- D. **Long Term Lease.** A long-term lease herein referred to as “Lease” may not exceed 30 years.
- E. **Short Term Lease.** A short-term lease herein referred to as “Rental Agreement” may not exceed 5 years. The City may in its discretion require amendments or revisions to the lease as a condition of approval for extension. Short term leases are subject to the specific short-term lease terms set forth in Article III.
- F. **Tideland Lease.** Tideland leases may not exceed 99 years. A Tideland Lease herein referred to as “Municipal Tideland Lease” may not exceed 99 years. Long term leases are subject to terms set forth in article iii. (Ordinance 20-10-12-01; Prior Ord. 16-03-01-02)

**2.56.200 LEVELS OF APPROVAL REQUIRED.**

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

**2.56.210 RENT.**

- A. **Rent for short term leases** and lands leased for public use, shall be derived through negotiations with the City based on the best interest of the city. All monthly or annual rents or

lease payments shall be reviewed and adjusted, at a minimum, every five (5) years unless provisions provide for automatic adjustments to the rent or lease payments.

- B. **Public Use.** City lands may be leased or rented to any state or federal agency or political subdivision of the state or to a nonprofit organization and for a consideration determined by the council to be in the best interest of the city.
- C. **Appraisal.** With the exception of the public uses described in paragraph B of this section, the City Council may determine it is in the best interest of the city, that prior to leasing of land, or renewal of a lease that the land be appraised according to Municipal Code, but the council is not required to obtain an appraisal.
- D. **Short Term Leases.** With the exception of the public uses described in paragraph B of this section, all lands leased through a short-term lease “rental agreement”, or a renewal lease issued therefore, shall be negotiated by the city and approved by the city council. (Ord. 16-03-01-02)

#### 2.56.220 TERM OF LEASES.

- A. Any Long-Term Lease will be negotiated between the applicant and the city and be for a term not to exceed 30 years with the option of renewal, in the sole discretion of the City, for a period not to exceed 30-year increments and with such revisions and amendments as deemed by the City in the best interest of the City. The applicant shall state in the application the term desired. In determining whether to grant a lease for the requested term, the council shall consider the nature, extent and cost of the improvements which the applicant agrees as a condition of the lease to construct and the value of the other relevant factors. The term of any given lease shall depend upon the desirability of the proposed use, the amount of investment and improvements proposed to be made by the lessee, and the nature of the improvements proposed with respect to the durability and time required to amortize the proposed investment.
- B. Any Short-Term Lease will be negotiated between the applicant and the city and be for a term not to exceed 5 years with the option of renewal in the sole discretion of the City, for periods not to exceed 5 years and with such revisions and amendments as deemed by the City in the best interests of the City. The applicant shall state in the application the term desired. In determining whether to grant an agreement for the requested term, the council shall consider the nature, extent and cost of the improvements which the applicant agrees as a condition of the rent to construct and the value of other relevant factors. The term of any given rental agreement shall depend upon the desirability of the proposed use, the amount of investment and improvements proposed to be made by the renter, and the nature of the improvements

proposed with respect to the durability and time required to amortize the proposed investment.

- C. Any Municipal Tideland Lease will be negotiated between the applicant and the city and be for a term not to exceed 99 years with the option of renewal, in the sole discretion of the city, for a period not to exceed 99-year increments and with such revisions and amendments as deemed by the city in the best interest of the city. The applicant shall state in the application the term desired. In determining whether to grant a lease for the requested term, the council shall consider the nature, extent and cost of the improvements which the applicant agrees as a condition of the lease to construct and the value of the other relevant factors. The term of any given lease shall depend upon the desirability of the proposed use, the amount of investment and improvements proposed to be made by the lessee, and the nature of the improvements proposed with respect to the durability and time required to amortize the proposed investment. (Ordinance 20-10-12-01; Prior Ord. 16-03-01-02)

#### 2.56.230 PUBLIC NOTICE.

Public Notice for competitive leasing shall be given as stated in Section 2.56.230 of the Thorne Bay Municipal Code. A Thirty-day notice shall be given by posting notice thereof in three public places and by publication in a newspaper of general circulation twice. The notice must contain the name of the applicant, a brief description of the land, its area and general location, proposed use, term, computed annual minimum rent, limitations if any, a declaration stating the particular method of disposal to be used and the time and place set for a hearing on the proposed lease. (Ord. 16-03-01-02)

#### 2.56.240 LEASING LAND - NEGOTIATED OR COMPETITIVE

- A. **Negotiated leasing** may be conducted with a single prospective lessee or renter through the use of resolution.
- B. **Competitive leasing** may be conducted if determined by the city, though a non-code ordinance and competitive bidding requirements. (Ord. 16-03-01-02)

**2.56.250 APPLICATIONS, FEES, TERMS, AND PAYMENTS FOR COMPETITIVE BIDDING.**

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

- A. **Qualifications of applicants or bidders.** An applicant or bidder for a lease is qualified if the applicant or bidder:
1. Is eighteen years of age or over;
  2. Is a group, association, partnership or corporation which is authorized to conduct business in the State of Alaska; or
  3. Is acting as an agent for another meeting one of the above criteria and has qualified by filing with the administrator or his designee, prior to the time set for the disposition, a power of attorney or a letter of authorization creating such agency. The agent shall represent only one principal, to the exclusion of himself.
- B. **Applications for lease.** All applications for lease of lands shall be filed with the City Clerk on forms provided by the city. Only forms completed in full and accompanied by a one hundred dollar (\$100.00) nonrefundable filing fee will be required for filing. Applications that qualify as a public use as defined in 2.56.210 (B) may be exempted from the filing fee. 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. Dates construction is estimated to commence and be completed; and
  5. Whether the intended use complies with the zoning and the Thorne Bay land use code.
- C. **Deposits for Cost.** All applications filed with the city clerk will be forwarded to the administrator to determine estimated costs required to handle the application, including, but not limited to one or more of the following: survey, appraisal, and advertising of the proposed lease of the area under application. Upon determination of the estimated costs, the administrator shall notify the applicant in writing of such costs, and a deposit must be made within thirty calendar days after the notice is mailed. Failure of the applicant to pay the deposit shall result in the application being cancelled. If the applicant does not accept a lease within thirty-calendar days after it is offered to the applicant, all deposit money spent or encumbered for survey, appraisal or advertising shall be forfeited, and the balance, if any, shall be returned to the applicant. If the land applied for is leased to another, the latter shall be required to pay actual costs of survey, appraisal and advertising, and the original deposit shall be returned to the depositor. The lessee shall be required to pay any excess of costs over deposits, and where the deposit exceeds actual costs, the excess shall be credited to present or future rents under the lease. All survey, appraisal and advertising shall be

performed only under the control of the city, and any such work done without such control will not be accepted by the city. Those applications defined as a public use in 2.56.210 may be exempted from the requirements of this subsection. (Ord. 16-03-01-02)

### 2.56.260 COMPETITIVE BIDDING -- APPEALS.

- A. **Where competitive bidding is used**, the city may either require written sealed bids stating the annual rental amount offered or hold an auction on the rent amount. Only applicants who have completed the application requirements to the city's satisfaction (including submittal of a development plan and the deposits for cost) shall be qualified to bid. The City may base its award of lease on a combination of factors (including the development plan and the extent to which the proposed project will meet community needs) rather than solely upon rental amount bid. The city reserves the right to reject all bids and return the deposits to the applicants.
- B. **Appeal.** In cases involving competitive bidding, an aggrieved bidder may appeal the determination of the winning bid to the council with five days (excluding Saturday and Sunday) following such determination. Such appeals must be in writing, signed and notarized and contain a complete statement of the grounds for appeal. The council shall within thirty days after receipt of a timely appeal review the asserted grounds for appeal and rule on the appeal. The council's decision shall be final.
- C. **Lease to Successful Bidder.** Following the appeal period or the council's ruling, the city administrator shall notify the successful bidder that the city is prepared to issue the lease. The bidder shall be given thirty calendar days from date of mailing the notice in which to remit to the city clerk any bid balance. Failure to do so shall result in forfeiture of any and all rights previously acquired in the proposed lease, and in addition, any monies paid or deposited with the city shall be forfeited.
- D. **Issuance of Lease.** After expiration of the appeal period, or after the ruling on the appeal to the council, the administrator shall cause a lease to be issued and executed containing such terms as the council shall have established. (Ord. 16-03-01-02)

### 2.56.270 NEGOTIATED LEASES.

The city administrator may commence negotiations with a single prospective lessee for the lease of city land. The final terms of a negotiated lease are subject to approval by the council through a resolution for short term lease and non-code ordinance for a long-term lease. The negotiated lease may not be executed until the effective date of the ordinance or resolution. (Ord. 16-03-01-02)

### 2.56.280 RIGHTS PRIOR TO LEASING.

- A. The filing of an application for a short or long-term lease shall give the applicant no right to a lease nor to the use of the land applied for.
- B. Any use of city-owned property not authorized by a short or long-term lease shall constitute a trespass against the city.

### 2.56.320 TERMS AND CONDITIONS OF LONG-TERM LEASES AND SHORT-TERM LEASES (RENTAL AGREEMENTS).

In addition to other applicable provisions of this code, the terms, conditions and covenants following as subsections

- A. (A) through (W) of this section shall govern all long term leases and may govern short term leases (rental agreements) made under the provisions of this chapter and shall be as a matter of law incorporated in all such leases of land made, or issued by the city unless the council by resolution provides otherwise as to a specific lease, and are incorporated as though set out in full in the lease. Each lease shall contain such additional provisions as the council deems necessary to protect the public interest. Violation by the lessee of any duty of lessee's contained in subsections A through V shall be grounds for the city's termination of the lease, if, following written notice to lessee of lessee's breach, lessee has not in thirty days entirely remedied the breach to the city's satisfaction. All long term and short-term leases shall be reviewed every five years throughout the life of all leases. Additions, modifications, adjustments or changes may be made to all leases at the time of review.
- B. **Lease Utilization.** Leased lands shall be utilized only for purposes within the scope of the applicable land use classification or zoning and the terms of the lease, and in conformity with the ordinances of the city, Federal and State Laws and Regulations. Utilization or development for other than the allowed uses shall constitute a violation of the lease and subject the lease to termination or cancellation by the city at any time.

- C. **Adjustment of Rent for long term or short-term leases.** The annual rent payable pursuant to any lease becomes subject to adjustment by the council on the fifth anniversary of the date of the lease and at each five-year interval thereafter unless specified otherwise in the lease. The process upon which rents may be adjusted by the City Council will be determined prior to finalizing any lease.
- D. **Subleasing.** The lessee may sublease lands, or any part thereof leased to him hereunder, provided that the lessee obtains the approval of the council to such sublease. Leases not having improvements thereon shall not be sublet. Subleases shall be in writing, and subject to the terms and conditions of the original lease and such further terms and conditions, as the council may deem proper including adjustments to rents and conditions. A copy of the sublease shall be filed with the city administrator.
- E. **Assignments.** The lessee shall not assign the lease without prior approval of the City Council, which may impose terms and conditions on the assignment. The assignee shall be subject to all of the provisions of the original lease, and the assignor shall not be relieved of his obligations there under. A copy of any assignment shall be filed with the city administrator. The City Council will not approve an assignment to an LLC unless all the members of the LLC sign a personal guarantee for performance of the lease terms and conditions.
- F. **Modification.** Any modification or amendment of a lease shall be in writing, signed by both the city and the lessee. Modification of any lease does not require authorization by ordinance or resolution where the lease was negotiated with a single prospective lessee.
- G. **Cancellation and Forfeiture.**
1. Leases in good standing may be cancelled in whole, or in part, at any time, upon mutual written agreement by lessee and the council. Any lease may, at the council's option, include a term providing that the lease may be terminated by the lessee upon ninety days' notice in writing to the city before the end of an annual rental period unless stated otherwise in the lease.
  2. If the lessee defaults in the performance or observance of any of the lease terms, covenants or stipulations, or any applicable term of this chapter, or any portion of the city code as applied to the property in question, the lessee is automatically in default on the lease by operation of law. Incurring debt with the City shall not constitute a default. If such default continues for thirty calendar days after service upon lessee of written notice of default by the city without remedy of lessee of the default, the council shall take such action as is necessary to protect the rights and best interests of the city, including the exercise of any or all rights after default permitted by the lease. Lessee shall not remove any improvements during the time the lessee is in default.

3. The city may terminate or cancel the lease if the land is used for any unlawful purpose.
4. Failure to make substantial use of the land, consistent with the proposed use, within one year shall with the approval of the council constitute grounds for termination or cancellation. This time period may be extended by the council by resolution or by council authorization to the administrator.

**H. Site contamination Prohibited-Environmental Compliance Required.**

1. Any violation, at the site of the leased land, by lessee, or by a third-party present upon the land with lessee's permission, of an environmental statute or regulation of the city, state or federal governments shall be grounds for immediate termination of the lease by the city, at the city's sole discretion. By entering into the lease, the lessee agrees not to make any claim for monetary damages against the city for lease termination or cancellation pursuant to this subsection.
2. The lessee shall at all times manage lessee's activities upon the leased lands, and the activities of third parties present with lessee's permission, so as to positively prevent any and all contamination of the site which would violate any Federal or State statute or regulation, which could subject the city to an enforcement action or any administrative proceeding by a state or federal agency, or which could subject the city to statutory or common law liability, diminish the value of the land, or cause city expenditures for response costs or remediation costs caused by a hazardous substances release, discharge, or spill. The City shall have the right to inspect or otherwise enter on to the leased premises during the term of the lease to assure lessee's compliance with federal and State Environmental Laws and Regulations.
3. By entering into the lease, the lessee agrees to defend and indemnify the city from and against any and all claims of any kind and any nature, including death, by third parties (including governmental entities and industry pollution-based claims) brought against city arising out of or relating to in any way the use of the leased premises by the lessee or anyone on the leased premises by invitation or authorization of the lessee. This obligation to defend and indemnify the City shall extend beyond the term of the lease to any claim or action occurring during the term of the lease.
4. By entering into the lease, the lessee agrees to reimburse the city for any and all expenses reasonably incurred by the city (including any response, remediation or site cleanup costs) because of activities on the land during the period of lessee's lease, including the City's attorney's fees.

- I. **Rights of Mortgagee or Lien holder.** In the event of cancellation or forfeiture of a lease for cause, the holder of a properly recorded mortgage of the improvements on the land shall be

given a duplicate copy of any notice of default in the same manner as notice is given the lessee, provided such mortgagee has given the city clerk notice of such mortgage and the mortgagee's address.

- J. **Payment of Annual Rentals.** Unless otherwise provided by the council by ordinance or resolution, all rent, and lease payments shall be due and payable on the first of the month. Payments not made by the 10th of the month shall be considered delinquent.
- K. **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,
  - 1. The city or its agent or representative may, immediately or any time thereafter, reenter and resume possession of such lands or such part thereof and remove all persons and property there from either by summary proceedings or by a suitable action or proceeding at law without being liable for any damages, therefore. No reentry by the city shall be deemed an acceptance of a surrender of the lease.
- L. **Re-Lease.** In the event that a lease is terminated, the city council may offer the lands for lease or other appropriate disposal pursuant to the provisions of this Chapter.
- M. **Forfeiture of Rental.** In the event that the lessee terminates the lease because of any breach, the rental payment last made by the lessee shall be forfeited and retained by the city.
- N. **Written Waiver.** The receipt of rent by the city with knowledge of any breach of the lease by the lessee, or of any default on the part of the lessee in observance or performance of any of the conditions or covenants of the lease, shall not be deemed to be a waiver of any provision of the lease. No failure on the part of the city to enforce any covenant or provision of the lease, nor any waiver of any right thereunder by the city unless in writing, shall discharge or invalidate such covenants or provisions or affect the right of the city to enforce the same in the event of any subsequent breach or default. The receipt by the city of any other sum of money after the termination in any manner, of the term demised, or after the giving by the city of any notice thereunder to effect such termination, shall not reinstate, continue or extend the resultant term therein demised, or destroy, or in any manner impair the efficiency of any such notice or termination as may have been given thereunder by the city to the lessee prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by the city administrator.
- O. **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.
- P. **Renewal of Lease.**

- i. 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:
- ii. The lessee or his assignee makes written application at least ninety days prior to such termination;
- iii. The lessee is not in default under the lease;
- iv. The use to which the land is to be put is compatible with the current use classification (or with such new classification as the council may adopt effective at the end of the current lease term) or with the applicable zoning provisions;
- v. The lessee's improvements on the leased land are in compliance with applicable building codes, fire and safety codes;
- vi. The lessee has complied with all requirements of the lease, particularly including the provisions of subsection G of this section, and there are no outstanding and unresolved environmental enforcement actions or proceedings or notice of violation pertaining to the leased premises;
- vii. The lessee is current in all monetary obligations to the city, including property taxes, sales taxes, utility bills, and rents for any other lands leased from the city; and
- viii. Mutually agreeable terms, consistent with the provisions of this chapter governing lease terms, are negotiated by the city and the prospective lessee.
  1. Such lease shall be for an annual rent equal to the value of the land which is then being charged for new leases or a consideration is determined by the council to be in the best interest of the city and shall be subject to adjustment on every fifth anniversary.
  2. Any renewal preference granted the lessee is a privilege and is neither a right nor bargained for consideration.

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

**R. Inspection.** The lessee shall allow an authorized representative of the city to enter the leased land at any reasonable time for the purposes of inspecting the land and improvements

thereon. Upon the city's request, the lessee shall permit an authorized representative of the Alaska Department of Environmental Conservation (ADEC) to make an environmental audit of the leased premises. Notwithstanding any confidentiality provisions in federal or state law, by entering into the lease, the lessee agrees that the results of any environmental audit of the premises made by or at the order of any state or federal agency shall be made available to the city as landowner.

- S. **Use of Material.** All coal, oil, gas and other minerals, and all deposits of stone, earth or gravel valuable for extraction or utilization, are reserved by the city and shall not be removed from the land except with written permission of the council. The lessee shall not sell or remove for use elsewhere any timber, stone, gravel, peat moss, topsoil, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the leasehold may be used, if its use is first approved by the council in writing.
- T. **Rights-of-way.** The lessor expressly reserves the right to grant easements or right-of-way across leased land if it is determined in the best interest of the city to do so. If the lessor grants an easement or right-of-way across any of the leased land, the lessee shall be entitled to damages for all lessee-owned improvements destroyed or damaged. Damages shall be limited to improvements only and loss shall be determined by fair market value. Annual rentals may be adjusted to compensate the lessee for the loss of uses.
- U. **Warranty.** The city does not warrant by its zoning, classification or leasing of land that the land is ideally suited for the use authorized under the zoning, classification or lease, and no guaranty is given or implied that it will be profitable to employ the land for any use.
- V. **Notice or Demand.** Any notice or demand, which under the terms of a lease or under any statute must be given or made by the parties shall be in writing and be given or made by registered or certified mail, addressed to the other party at the address of record. However, either party may designate in writing such new or other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed delivered when deposited in the U.S. mails enclosed in a registered or certified mail prepaid envelope addressed as herein provided. Email shall not constitute proper notice under this section.
- W. **Additional Lease Terms.** Any lease shall contain such additional limitations, reservations, requirements or special conditions as the council may determine to protect the city's interest, including (without limitation) requirements (a) for improvements of a specified kind and value to be constructed or located on the land by the lessee within a specified time period, (b) for the lessee to complete the improvements set forth in the development plan

submitted with the lease application within a specified time period, or (c) requirements that the lessee defend and indemnify the city against the third party claims for personal injury or property damage arising from lessee's occupancy of or use of the land, and provide liability insurance in an amount determined by the city and requiring that the city be named as an additional insured.

**ARTICLE IV. DISPOSITION OF CITY-OWNED PERSONAL PROPERTY****2.56.400 VALUE SCHEDULE FOR DISPOSAL OF PERSONAL PROPERTY.**

- A. Personal property, other than surplus stock, valued at less than five thousand dollars may be disposed of upon such notice and terms considered reasonable by the mayor, taking into consideration the value of the article, the reason for disposal, and the general preference for disposal by competitive bid. The mayor shall report disposals to the council.
- B. Personal property valued at more than five thousand dollars, but less than ten thousand dollars may be disposed of upon such notice and terms considered reasonable by the mayor and approved by the city council by resolution, taking into consideration the value of the article, the reason for disposal, and the general preference of disposal by competitive bid.
- C. Personal property valued at more than ten thousand dollars, but less than one hundred fifty thousand dollars shall be disposed of in the manner provided for land under one hundred fifty thousand dollars as required in subsection B of Section 2.56.160.
- D. Personal property valued at more than one hundred fifty thousand dollars shall be disposed of in the manner provided for land over one hundred fifty thousand dollars as required in subsection C of Section 2.56.160. (Ord. 98-15 §§ 3(part), 4(part), 1998: Ord. 85-06- 13-02 § 4.01, 1985)

**2.56.410 COMPETITIVE BIDDING NOT REQUIRED FOR SALE OF SURPLUS OR OBSOLETE GOODS.**

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

- A. Surplus Stock or obsolete supplies, materials or equipment whose total value does not exceed five thousand dollars in a single transaction.
- B. Supplies, materials or equipment when sold at a price at least as great as that paid by the city for the same. (Ord. 98-15 §§ 3(part), 4(part), 1998: Ord. 85-06-13-02 § 4.02, 1985)

**2.56.420 SURPLUS STOCK OR OBSOLETE SUPPLIES, MATERIALS OR EQUIPMENT.**

- A. All city departments shall submit to the mayor or the mayor's designee at such times and in such form as the mayor shall prescribe, reports showing stocks of all supplies, materials or equipment that are no longer used or that have become obsolete, worn out or scrapped.
- B. The mayor or the mayor's designee shall have the authority to transfer surplus stock from one city department to another and provide for proper fiscal transfer of such.

- C. The mayor or the mayor’s designee, with the approval of the city council by resolution shall have the authority to sell all surplus stock or obsolete supplies, materials or equipment valued at over five thousand dollars in a single transaction, that have become unsuitable for public use, or to exchange the same for or trade-in the same on any new stock, supplies, materials or equipment.
1. Sales of surplus stock or obsolete supplies, materials or equipment valued at over five thousand dollars under this section shall be made to the highest responsible bidder.
  2. The mayor or the mayor’s designee shall conduct the sale and issue the certificates of sale to the purchaser of surplus stock or obsolete supplies, materials or equipment. (Ord. 98-15 §§ 3(part), 4(part), 1998: Ord. 85-06-13-02 § 4.03, 1985)

#### **2.56.430 DECLARATION OF OBSOLESCENCE.**

No surplus stock or obsolete supplies, materials or equipment having a value of more than five thousand dollars may be sold until the city council by resolution shall have declared them obsolete or surplus. (Ord. 98-15 §§ 3(part), 4(part), 1998: Ord. 85-06-13-02 § 4.04, 1985)

## ARTICLE V. SALE OF NATURAL RESOURCES

### 2.56.500 POWER TO DISPOSE OF NATURAL RESOURCES.

Except as provided herein, the city may sell, convey, exchange, transfer, donate, dedicate, direct or assign to use, or otherwise dispose of city-owned natural resources by any lawful means of conveyance. (Ord. 98-15 § 4(part), 1998)

### 2.56.510 NATURAL RESOURCES DEFINED.

As used in this chapter, "natural resources" includes any timber, rock, minerals, water, or other materials created by natural causes. "Natural resources" also includes trees or plants planted by man. (Ord. 98-15 § 4(part), 1998)

### 2.56.520 SALE OR DISPOSAL-FORM.

The city may sell or dispose of natural resources by any lawful means. Any instrument requiring execution by the city shall be signed by the mayor or the mayor's designee and attested by the city clerk. (Ord. 98-15 § 4(part), 1998)

### 2.56.530 SALE OR DISPOSAL-RIGHTS AND POWERS.

Except as provided herein, the city shall have and may exercise all rights and powers in the sale and disposal of natural resources as if the city were a private person. The city may sell or dispose of any natural resource, including natural resources acquired or held for or devoted to a public use, when in the judgment of the city council it is no longer required for or devoted to a public use, when in the judgment of the city council it is no longer required for city purposes. (Ord. 98-15 § 4(part), 1998)

### 2.56.540 NATURAL RESOURCE EXCHANGES.

The city council by resolution may approve the conveyance and exchange of natural resources, exceeding five thousand dollars, for equivalent natural resources, or for goods and services subject to such conditions as the council may impose on the conveyance or exchange, whenever, in the judgment of the city council, it is advantageous to the city to make the natural resource exchange. (Ord. 98-15 § 4(part), 1998) (Ord. 16-03-01-02)

### **2.56.550 PUBLIC SALE-WHEN REQUIRED.**

Unless otherwise provided in this chapter, natural resources no longer used or useful for a public use or purpose, exceeding five thousand dollars, shall be sold to the highest responsible bidder at a public sale. (Ord. 98-15 § 4(part), 1998)

### **2.56.560 PUBLIC SALE PROCEDURES.**

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

- A. The city council shall make a determination that the natural resource exceeding five thousand dollars is no longer used or useful for a public use or purpose and shall recommend that the natural resource be sold.
- B. An estimated value of the natural resource shall be made using the best available information to determine current market value.
- C. After the estimated value of the natural resource has been determined, the city council may by resolution direct the sale of such natural resource under such terms and conditions as is required, including the minimum offered sales price.
- D. Notice of disposition and the manner in which the natural resource is to be disposed of shall be published in a newspaper of general circulation within the city once each week for two successive weeks not less than thirty days prior to the date set for the public sale.
- E. Notice shall also be posted in at least three public places within the city for at least thirty days prior to the date set for the public sale.
- F. The notice must contain a brief description of the natural resource, its location, terms and conditions of sale, minimum offered sales price, and the time and place set for auction or bid opening. (Ord. 98-15 § 4(part), 1998)

### **2.56.570 MINIMUM ACCEPTABLE OFFER.**

If there are no acceptable offers, the mayor, or the mayor's designee may negotiate for the sale of natural resources, but the city council must, by resolution, approve the terms, price, and conditions of any such negotiated sale, exceeding five thousand dollars, before such sale shall be binding upon the city. (Ord. 98-15 § 4(part), 1998) (Ord. 16-03-01-02)

## 2.56.580 CONDITIONS OF SALE.

The city council, in the resolution authorizing the sale of natural resources exceeding five thousand dollars, shall set forth the terms and conditions of the public sale. The council reserves the right to reject any and all bids received at the public sale, if the highest bid is below the minimum offered sales price plus the cost of sale or is not made by a responsible bidder. The resolution shall provide if the sale is for cash, or cash deposit and purchase agreement. The city council shall approve any purchase agreement prior to its execution by the city. The approval of any public sale by the council authorizes the mayor or the mayor designee to take all steps and execute all instruments to complete and close the sale. The mayor, or the mayor's designee, shall conduct the sale, and shall give to the buyer a receipt for all moneys received by the city. A purchaser at a public sale who fails to make such other cash payments within the times required by the resolution shall forfeit any cash deposit paid to the city. (Ord. 98-15 § 4(part), 1998) (Ord. 16-03-01-01)