



FAIRBANKS CITY COUNCIL  
AGENDA NO. 2013-10  
**REGULAR MEETING May 20, 2013**  
FAIRBANKS CITY COUNCIL CHAMBERS  
800 CUSHMAN STREET, FAIRBANKS, ALASKA

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REGULAR MEETING

I 7:00 P.M.

1. ROLL CALL

2. INVOCATION

3. FLAG SALUTATION

4. CITIZENS COMMENTS, oral communications to Council on any item not up for Public Hearing. Testimony is limited to five (5) minutes. Any person wishing to speak needs to complete the register located in the hallway. Normal standards of decorum and courtesy should be observed by all speakers. Remarks should be directed to the City Council as a body rather than to any particular Council Member or member of the staff. In consideration of others, kindly silence all cell phone, electronic and messaging devices.

5. APPROVAL OF AGENDA AND CONSENT AGENDA

(Approval of Consent Agenda passes all routine items indicated by an asterisk (\*). Consent Agenda items are not considered separately unless a Council Member so requests. In the event of such a request, the item is returned to the General Agenda).

6. APPROVAL OF PREVIOUS MINUTES

\* Regular Meeting Minutes of April 8, 2013

7. SPECIAL ORDERS

- a) The Fairbanks City Council, Sitting as a Committee of the Whole, will hear interested citizens concerned with the following Liquor License Application for Transfer of Location. Public Testimony will be taken and limited to five (5) minutes.

Type: Package Store  
DBA: Brown Jug - Fairbanks, License #4076  
Licensee: Liquor Stores USA North Inc.  
From: No Premises  
To: 559 Harold Bentley Avenue, Fairbanks

- b) The Fairbanks City Council, Sitting as a Committee of the Whole, will hear interested citizens concerned with the following Liquor License Request to Extend Alcohol Consumption Area. Public Testimony will be taken and limited to five (5) minutes.

Type: Beverage Dispensary License  
DBA: Rock N Rodeo, License #1377  
Applicant/Licensee: Scruff-N-Pork's Inc.  
Location: 600 Old Steese Hwy, Fairbanks

8. MAYOR'S COMMENTS AND REPORT

9. UNFINISHED BUSINESS

10. NEW BUSINESS

- \*a) Resolution No. 4575 – A Resolution Authorizing the City to Construct and Maintain Pedestrian Improvements at the Intersection of East Cowles Street and 17th Avenue. Introduced by Mayor Cleworth.
- \*b) Ordinance No. 5919 – An Ordinance Amending Fairbanks General Code Chapter 82 and Adopting Revised Wastewater Treatment Regulations. Introduced by Mayor Cleworth.

11. DISCUSSION ITEMS (INFORMATION AND REPORT)

Committee Reports

12. COMMUNICATIONS TO COUNCIL

13. COUNCIL MEMBERS' COMMENTS

14. CITY ATTORNEY'S REPORT

15. CITY CLERK'S REPORT

16. ADJOURNMENT



FAIRBANKS CITY COUNCIL  
REGULAR MEETING MINUTES, APRIL 8, 2013  
FAIRBANKS CITY COUNCIL CHAMBERS  
800 CUSHMAN STREET, FAIRBANKS, ALASKA

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The City Council convened at 7:00 p.m. on the above date, to conduct a Regular Meeting of the Fairbanks City Council at the City Council Chambers, 800 Cushman Street, Fairbanks, Alaska, with Mayor Jerry Cleworth presiding and with the following Council Members in attendance:

Council Members Present: Renee Staley, Seat A  
Perry Walley, Seat B  
Jim Matherly, Seat D  
Lloyd Hilling, Seat E  
John Eberhart, Seat F

Absent: Bernard Gatewood, Seat C (Excused)

Also Present: Pat Cole, Chief of Staff  
Warren Cummings, Fire Chief  
Ernie Misewicz, Assistant Fire Chief  
Paul Ewers, City Attorney  
Janey Hovenden, City Clerk

### **INVOCATION**

The Invocation was given by City Clerk Janey Hovenden.

### **FLAG SALUTATION**

Mayor Cleworth led the Flag Salutation.

### **CITIZEN'S COMMENTS**

Kaitlyn Morse, Executive Director of North Star Youth Court – Ms. Morse stated that the Youth Court is the only alternative juvenile justice program in the Fairbanks North Star Borough (FNSB). She expressed gratefulness to the Council for supporting the program for so many years. Ms. Morse stated that because the North Star Youth Court's (NSYC) rental lease is expiring soon and because the City wishes to use the space for storage, the youth court will soon be relocating to the Sadler's Building. Ms. Morse stated that NSYC serves more than 100 clients per year, including youth who have committed first-time, misdemeanor offenses within the FNSB. She introduced various members of the youth court system and spoke to how the criminal cases are handled.

Jazzanne Fretwell, NSYC Board of Directors Member – Ms. Fretwell stated her belief that the youth court has a positive impact on the youth in the Fairbanks area. She expressed hope that the City would continue to offer its support to NSYC in the future.

Jezzroy Gordon Wolfe, NSYC Prosecuting Attorney – Mr. Wolfe stated that the youth court allows youth like him to learn the law in a hands-on way. He expressed his intent to attend law school and eventually become a District Attorney.

Zach Mason, NSYC Defense Attorney – Mr. Mason stated that more than 2,000 hours of community work service (CWS) is performed by youth involved with NSYC every year. He stated that in 2012, the CWS efforts benefited more than 20 local non-profit organizations.

Charles Mason, Parent of Zach Mason – Mr. Mason pointed out that the NSYC saves the State of Alaska over \$1 million in costs. He spoke highly of the program, commenting on the difference it makes in kids' lives.

**Mr. Matherly** asked how it is determined that a case be sent to youth court and what types of penalties the youth court imposes that differ from the State Court System.

Ms. Morse stated that Alaska is a unique state in that it allows for true youth courts to exist. She explained that first offenders are typically sent to the Fairbanks Youth Facility to work with a probation officer, who then refers the youth to the NSYC. She stated that some cases are forwarded to the NSYC from the District Attorney's Office.

Mr. Zach Mason explained that sentencing typically requires a youth to complete a certain number of CWS hours, an essay, a poster, and/or participate in a youth mediation program.

Mr. Wolfe added that sentencing for alcohol-related offenses involves alcohol awareness class which educates youth on the harmful effects of alcohol consumption.

**Mr. Matherly** commented on the impact that the program must have because it involves youth helping their peers.

Julie Houten, Parent of Zach Mason – Ms. Houten testified that the NSYC program has had a tremendously positive effect on her son. She spoke highly of the organization and its operation.

Greg Allison, Morris Thompson Cultural & Visitor's Center – Mr. Allison provided an update of activities that the Fairbanks Convention and Visitor's Bureau (FCVB) Tourism Department has been involved in over the past couple months. He expressed excitement that Frontier Airlines will be offering direct flights from Denver, CO to Fairbanks in the summer of 2013. He shared that FCVB's Tourism Sales Manager will be attending workshops in Japan and South Korea to represent Fairbanks as a tourist destination. He reported other recent activities and efforts of FCVB staff and expressed excitement about the future of destination marketing in Fairbanks.

**Mr. Matherly** asked Mr. Allison what FCVB is doing to promote tourism during the 2014 Arctic Winter Games.

Mr. Allison stated that the 2014 Arctic Winter Games is a member partner with FCVB and that he and his team are promoting the event whenever possible.

Tim Sovde, 402 Bonnifield Street, Fairbanks – Mr. Sovde spoke in favor of Resolution No. 4569. He pointed out that the resolution and its addendum was published in the most recent issue of *The Woodshed*. He stated that proponents of the United Nations' Agenda 21 Program and the International Council for Local Environmental Initiatives (ICLEI) are present in our community and are working through the Planning and Zoning Department at FNSB. He expressed concern with the consequences of implementing Agenda 21 stating that it could create barriers to an individual's ability to have a clear title to land. He commended the Council for introducing Resolution No. 4569 and for serving the Fairbanks citizens in a responsible manner.

**Mr. Hilling** asked what Mr. Sovde referred to as “non-conforming” property in his testimony.

Mr. Sovde explained the definition of a “non-conforming” property as one that does not have the required setbacks for the type of zoning in which it lies. He stated that Agenda 21 supporters are gaining control of private property and its uses through the Planning and Zoning Department.

**Mr. Eberhart** asked how Agenda 21 would interfere with private property rights.

Mr. Sovde stated that in the major rezoning that occurred about ten years ago, the Borough changed the naming of certain types of properties and prescribed acceptable uses for those properties without any recourse. He provided another recent example of how Agenda 21 may interfere with private property rights.

**Mr. Eberhart** asked if there was some correlation between the rewrite of FNSB's Title 17 and Agenda 21.

Mr. Sovde stated that Agenda 21 isn't a document that stands alone. He explained that similar reports preceded Agenda 21 and that efforts to place restrictions on private property have been active since the 1970's.

**Mr. Matherly** admitted that until he saw Resolution No. 4569, he did not know much about Agenda 21. He asked what the Borough's response would be if they were asked about their support of or subscription to Agenda 21.

Mr. Sovde replied that he does not know what the Borough would say. He stated that the Planning Commission may hedge specific questions.

**Mr. Matherly** asked Mr. Sovde if he would agree that land use decisions are sometimes affected by outside influence and that the Borough may be “slipping” Agenda 21 in without calling it what it is.

Mr. Sovde shared an experience regarding conditional use when members were told to ignore covenants when determining land use permits. He stated that instances like that indicate that the powers that be are willing to ignore legally-binding contracts in the process of decision making.

Frank Turney, 201 7th Avenue, Fairbanks – Mr. Turney commended the Fairbanks Youth Court for their positive contribution to the youth in the community. He commented that he wishes the program had been around when he was a juvenile. He thanked Mr. Hilling for his work in

preparing and introducing Resolution No. 4569. He explained that the “21” in Agenda 21 refers to the 21st century and that it is the action plan implemented worldwide to inventory and control all land, property, water, materials, plants, animals, construction, means of production and education, information and human beings. He stated that it has also been said that Agenda 21 is a plan for a new world order through global governance. He commented that while the topic is a little foreign to him, it seems scary. Mr. Turney asked Mayor Cleworth if the City has received the medical examiner’s report regarding the death of Mr. Wallace who died some months back in the downtown post office. He suggested that there be a jury inquest to determine the cause of death in Mr. Wallace’s case.

Mr. Buberger, PO Box 58192, Fairbanks – Mr. Buberger reported that a Fairbanks police officer nearly rammed him on the roadway while talking on a cell phone. He suggested that police officers should not be permitted to talk on cell phones while operating a vehicle. He stated that overall, the Fairbanks police are doing a good job and encouraged them to keep up the good work. Mr. Buberger spoke to the poor condition of several streets in Fairbanks, stating that there are some major dips that need to be repaired.

David Lerman, 126 2nd Avenue, #15, Fairbanks – Mr. Lerman stated his candidacy for the 2013 Municipal Election. He spoke to the upcoming spring cleanup efforts and suggested that special attention be given to the vacant land between the Bentley Mall and Fred Meyer that contains a large amount of trash and debris. Mr. Lerman stated that although his apartment complex has been renovated, the owner will not open the laundry room in the basement for fear of vandalism. He indicated that this is a sign that a renaissance has not been reached in Fairbanks. He spoke in support of Marc Marlow’s intent to renovate the Polaris Building downtown and suggested that Mr. Marlow is in a jam. Mr. Lerman spoke to the need for a Renovation Task force and a waiving of building permit fees in order to spark interest in renovation throughout Fairbanks. He suggested that the City look into playing background music during Council Meetings.

**Mr. Eberhart** asked what “jam” Mr. Marlow is in.

Mr. Lerman commented that he was once told that “jam” means “just add money.” He explained that Mr. Marlow has good intentions, but that he does not have the financial means to follow through with his renovation plan. He suggested that if more like-minded individuals were involved, progress could be made.

**Mr. Eberhart** asked Mr. Lerman when he last spoke to Mr. Marlow and if they had discussed the March deadline.

Mr. Lerman replied that he spoke with Mr. Marlow about a month ago and that they did not discuss the deadline. He stated that Mr. Marlow informed him that he has partners and equity and that he intends to go before the City Council to present his case. Mr. Lerman referred to the potential renovation of the Polaris Building as a miracle and stated that he is impressed by Mr. Marlow’s intentions.

**Mr. Matherly** asked Mr. Lerman if he has spoken to the owner of the vacant land between the Bentley Mall and Fred Meyer about the garbage in the area. He stated that the City cannot force owners of private property to do anything. He suggested that Mr. Lerman also speak with the

owner of his apartment complex to make arrangements for tenants to use the laundry area. **Mr. Matherly** asked Mr. Lerman if he has done research on Mr. Marlow.

Mr. Lerman stated that he has not done any research on Mr. Marlow other than reading what has been in the newspaper.

Hearing no more requests for public comment, **Mayor Cleworth** declared Public Testimony closed.

### **APPROVAL OF AGENDA AND CONSENT AGENDA**

**Mr. Matherly**, seconded by **Mr. Eberhart**, moved to APPROVE the Agenda and Consent Agenda.

**Mr. Hilling** pulled Resolution No. 4569 from the Consent Agenda.

**Mayor Cleworth** pulled the Regular Meeting Minutes of February 25, 2013 from the Consent Agenda.

**Mayor Cleworth** called for objection and, hearing none, so ORDERED.

City Clerk Hovenden stated that there were no Consent Agenda items to read into the record.

### **APPROVAL OF PREVIOUS MINUTES**

a) Regular Meeting Minutes of February 25, 2013.

**Mr. Matherly**, seconded by **Mr. Eberhart**, moved to APPROVE the Regular Meeting Minutes of February 25, 2013.

**Mayor Cleworth** pointed out a technical error under Mayor's Comments and Report on page six of the meeting minutes. He stated that the legislation he was referring to should have been House Bill 74, not House Bill 4.

**Mayor Cleworth** called for objection on the APPROVAL the Regular Meeting Minutes of February 25, 2013, as Corrected and, hearing none, so ORDERED.

### **SPECIAL ORDERS**

a) The Fairbanks City Council, Sitting as a Committee of the Whole, heard interested citizens concerned with the following Liquor License Applications for renewal:

Lic #	Establishment Name	License Type	Premise Location	Owner Name
77	300 Club	Beverage Dispensary	940 Cowles Street	Karen A Meadows-Sours
145	Boatel Bar	Beverage Dispensary	Mile 2 Airport Road	AbieNeubauerInc



2512	2 Go Mart #114	Package Store	2110 Peger Road	Tesoro Northstore Company
4216	2 Go Mart #115	Package Store	99 College Rd	Tesoro Northstore Company
4488	R.J.'s Lounge & Grill	Beverage Dispensary	3450 Airport Rd	Roy J Stoltz
4565	2Go Tesoro	Package Store	3569 S Cushman	Tesoro Northstore Company
4858	Southern Wine and Spirits of Alaska	Wholesale General	- 1200 Wells Street - Bay 2	Southern-Odom Wine and Spirits of Alaska LLC
4862	Southern Wine and Spirits of Alaska	Wholesale General	- 3101 Peger Rd - Bay 2	Southern-Odom Wine and Spirits of Alaska LLC

**Mr. Matherly**, seconded by **Mr. Walley**, moved to WAIVE protest on the Liquor License Applications for renewal.

**Mayor Cleworth** called for Public Testimony and, hearing none, declared Public Testimony closed.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO WAIVE PROTEST ON THE LIQUOR LICENSE APPLICATIONS FOR RENEWAL AS FOLLOWS:

YEAS: Walley, Matherly, Hilling, Eberhart, Staley

NAYS: None

ABSENT: Gatewood

**Mayor Cleworth** declared the MOTION CARRIED.

### **MAYOR'S COMMENTS AND REPORT**

**Mayor Cleworth** asked if anyone would like to speak to future possibilities for the Polaris Building.

Robert Shields, Executive Director of Alliance for Reason and Knowledge – Mr. Shields gave a 20 minute PowerPoint presentation on the Fairbanks Agricultural Resiliency Market, an alternative renaissance project for the Polaris Building. He stated that the mission of the organization is to provide educational opportunities that are enriching to individuals and empowering to communities. He stated that there are already many individuals, businesses and organizations interested in the vertical farming program. Mr. Shields spoke to the historical significance of the Polaris Building and expressed his belief that the structure would be a vital part of the future in Downtown Fairbanks. He provided five reasons why the Polaris Building would be an ideal location for vertical farming: 1) the Polaris Building is the largest structure in the downtown area and its renovation would spark a renaissance throughout the City of Fairbanks; 2) the cost of demolishing and disposing of the building is staggering; 3) people fear change and the renovation of the Polaris Building would prove that a historical structure can be integrated into the future, thus uniting the community; 4) Fairbanks has a short growing season and drastic climate changes which make it difficult to maintain food security; and 5) the “Looking for Love” campaign demonstrated that there is a great community interest in the development of the property. Mr. Shields provided a brief history of vertical farming and spoke to his vision of what vertical farming would mean in Fairbanks.

**Mr. Matherly** expressed his appreciation for Mr. Shields' enthusiasm. He asked Mr. Shields what he would do if he and his organization could not meet the price and deadline requirements of the seller. He commented that the biggest economic issue in Fairbanks is fuel—not food—and indicated that the vertical garden concept may be a “tough sell.”

Mr. Shields stated that his organization just launched their campaign last week and that they have a goal to raise \$1 million. He stated his belief that many people are waiting to see the organization's business plan before pledging their support.

**Mr. Matherly** stated that he believes the vertical gardening idea has some value, but questioned the choice of location because of its size.

Mr. Shields acknowledged Mr. Matherly's point. He stated that when the location issue has been brought up in the past, the proponents of the organization have still come back to the Polaris Building as their first choice for a location. He stated that he has been working on this program for fifteen years and that he has based his career on making Fairbanks a strong, resilient community. Mr. Shields indicated that if his team comes up short of the \$1 million dollar goal and are not able to make a deal with Mr. Marlow, they will invest the funds raised towards creating agriculture and infrastructure for the Interior.

**Mr. Eberhart** commented that vertical gardening is an interesting idea. He asked Mr. Shields to speak to his background and experience as it pertains to this type of project.

Mr. Shields stated that he graduated from Lathrop High School in 1994 and studied natural resource management in college. He stated that he has spent the last ten years in Portland, Oregon learning about sustainable development. He explained that he started a company dedicated to full-service sustainability and conservation of renewable energies. Mr. Shields stated that he also started a television show pertaining to sustainability that is broadcast throughout the state of Oregon. He spoke to his work with Beam Development and the Portland Development Commission to design a similar vertical gardening project in Downtown Portland.

**Mr. Eberhart** asked Mr. Shields if he has crunched the numbers to see if the energy and operation costs are affordable.

Mr. Shields stated that he completed the financial analysis based on the assumption that the organization could obtain a zero interest loan from the bank. He stated that he accounted for \$100,000 per year in operation costs and \$10,000 per year in property taxes.

**Mr. Eberhart** stated that he did not recall discussing a letter of support from the City. He asked Mayor Cleworth to address the letter in his comments.

**Mr. Walley** asked how much food could be produced by the operation and if it would supply local grocers.

Mr. Shields explained that even if the entire structure was dedicated to producing lettuce, it would not meet the demand for lettuce in Fairbanks. He stated his hopes that the tenants of the vertical garden would supply produce to downtown restaurants and businesses.

**Mr. Walley** asked Mr. Shields why he believes Fairbanks is the best place to start a vertical garden.

Mr. Shields stated that this particular concept has not been done anywhere in the U.S., but that it has been done in the U.K. and in China. He explained that he chose Fairbanks because it is so far removed from major food production and because of the food security issues in the area. He indicated that if the entire structure could be used for food production, it could increase Interior Alaska's total food production by 34% and create over 100 new jobs.

**Mr. Hilling** asked if the \$60-80 million figure in the PowerPoint presentation was the approximate cost of fully renovating the Polaris Building.

Mr. Shields replied in the negative. He clarified that total renovation costs to bring the structure up to fully operational standards would be roughly \$18-20 million. He stated that the \$60-80 million figure was an estimate the full renovation and the cost of constructing a new annex.

**Mr. Hilling** stated that he hasn't noticed poor food quality in local supermarkets. He asked Mr. Shields to speak to the food quality issue.

Mr. Shields spoke to the difference between visual appearance and nutritional quality. He explained that many foods lose nutritional value within the first 24-48 hours. He pointed out that foods are typically about a week old before they arrive in local grocery stores.

**Mr. Eberhart** asked Mr. Shields if there is asbestos in the Polaris Building.

Mr. Shields stated that the structural report of the building did not mention asbestos. He stated that the report found minimal levels of lead.

**Mr. Eberhart** asked if the presence of asbestos would pose a problem to the vertical garden project.

Mr. Shields stated that because most of the renovations will be cosmetic and because the best way to deal with asbestos is encapsulation, it may not necessarily be an issue. He spoke to Mr. Marlow's plan to renovate the structure into a residential apartment complex.

**Ms. Staley** asked what types of funding are available with zero interest.

Mr. Shields stated that he has already invested a year of work and \$25,000 in the project. He commented that the zero interest loan in the business plan was not based on any particular funding source, but was used to simplify the analysis. He stated that there are many USDA, Homeland Security, Department of Agriculture and Community Development grants available for this type of project. He indicated that phase one of the project is aimed at gathering community support.

**Mayor Cleworth** stated that Mr. Marlow called at the end of March and requested a Work Session with the City Council. He announced that the meeting has been scheduled for the first

week in May. **Mayor Cleworth** stated that Mr. Marlow has indicated that he has a partner in the Anchorage area and that if his current plan doesn't work, he intends to discontinue his efforts to renovate the Polaris Building. He spoke to the letter of support from the City to Mr. Shields for the vertical garden project. He stated that the letter was very generic and stated that the City was willing to work with anyone who could make good use of the property. **Mayor Cleworth** spoke to the City's legislative request, stating that the Senate has approved \$1 million in their capital budget appropriations for City road improvements and \$625,000 for heavy-duty apparatus. He clarified that the request must still go through the House. **Mayor Cleworth** commended Helen Renfrew, Director of Meetings & Conventions at FCVB, for her work in preparation of the Alaska Federation of Natives (AFN) Convention. He applauded those who spoke on behalf of Fairbanks as a location for the 2014 AFN Convention at the recent bid presentation. **Mayor Cleworth** stated that the City is still waiting for an autopsy report for the death of Mr. Wallace. He assured those concerned that the City will share the information as soon as the results are in.

## **NEW BUSINESS**

- a) Resolution No. 4569 – A Resolution of Nonparticipation with the United Nations Agenda 21 Program and with its Corollary International Council for Local Environmental Initiatives (ICLEI). Introduced by Council Member Hilling.

**Mr. Matherly**, seconded by **Ms. Staley**, moved to APPROVE Resolution No. 4569.

**Mr. Hilling** expressed hope that his fellow Council Members would come forward with any questions or concerns about Resolution No. 4569 and that he may be more prepared to answer questions about the resolution by the Next Regular Meeting. He spoke to the Agenda 21 document, indicating that it infringes upon the rights and sovereignty of a nation's citizens.

**Mayor Cleworth** clarified that Resolution No. 4569 is currently up for approval, not advancement.

**Mr. Hilling** spoke to the Borough's limited participation in ICLEI and stated that he was unclear as to exactly how that participation through land use might infringe on the freedoms of local citizens. He recommended that the City avoid involving itself with the ICLEI.

**Mayor Cleworth** commented that there are always winners and losers when it comes to an attempt to achieve socio-economic equity. He quoted the saying that "Capitalism is a horrible system, but it's the best one we've got." He stated that the one fault of socialism is that it fails to take human nature into account. He briefly spoke to some portions of Agenda 21 that were contrary to his beliefs.

**Mr. Eberhart** commented on the large amount of reading material that had just been handed out to the Council in regards to Agenda 21 and Resolution No. 4569. He stated he would like to have the time to review the material before making a decision. He asked if any other Council Members have had the time to read the addendum to Resolution No. 4569.

**Mr. Eberhart** moved to POSTPONE Resolution No. 4569.

**Mayor Cleworth** declared the motion died for lack of a second.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO APPROVE RESOLUTION NO. 4569 AS FOLLOWS:

YEAS: Staley, Matherly, Hilling, Eberhart, Walley

NAYS: None

ABSENT: Gatewood

**Mayor Cleworth** declared the MOTION CARRIED and Resolution No. 4569 APPROVED.

## **DISCUSSION ITEMS**

Committee Reports

## **COUNCIL MEMBERS' COMMENTS**

**Ms. Staley** stated that she would be meeting with the Fairbanks Parking Authority Board on Wednesday. She thanked Mr. Matherly for attending the Borough Assembly meeting in her absence.

**Mr. Walley** reminded everyone that he will be attending the next meeting telephonically.

**Mr. Matherly** expressed his sympathy in the passing of Frank Barnes, a World War II veteran and the father of a very close friend. He spoke to the Polaris Building discussion and to his personal inclination that the City should not waive permit fees for any owner of a deteriorated property. He offered hope to Mr. Shields' plan of a vertical garden, stating that it seems much more viable than a \$60-80 million overhaul, but still suggested that the Polaris Building may be the wrong location for such a program. **Mr. Matherly** spoke to the AFN event at the Morris Thompson Cultural & Visitor's Center and boasted that Fairbanks is a very hospitable, visitor-friendly place.

**Mayor Cleworth** added that General Garrett, from Joint Base Elmendorf/Richardson, also made comments that Fairbanks was unique in its hospitality.

**Mr. Hilling** stated that he did not second Mr. Eberhart's motion to postpone Resolution No. 4569 because he was anxious to see it approved. He commented that his primary opposition to Agenda 21 pertains to the property rights of individuals. He spoke to the zoning and covenant powers of municipalities. **Mr. Hilling** spoke to the upcoming Council vote on Ordinance No. 5917 pertaining to garbage service fees and to his belief that businesses should somewhat subsidize the rate for residences because they use more City services. He stated that while he has been in favor of placing the service fees into the City's mill rate, he may have changed his mind. He explained that he recently had a conversation with Donna Gilbert who challenged him to prove that her business uses more City services than a local residence. He indicated that his position on the issue is not clear at this time.

**Mayor Cleworth** stated that the City's Dispatch Center logs 9-1-1 calls but cannot differentiate between commercial and residential calls. He stated that he is looking for a way to get some "loose" numbers for Mr. Hilling without having to hire a firm to complete an in-depth study.

**Mr. Eberhart** stated his interest in knowing the savings to residential garbage customers and the increase to commercial properties if the garbage service fees were to be placed into the City's mill rate. He commented on the recent crash of Helo-1 that killed two Alaska State Troopers and a passenger and expressed his respect to the men and women in law enforcement who risk their lives every day to protect our country's citizens. **Mr. Eberhart** spoke to military cutbacks and to how those reductions are beginning to show through the cancellation of events and programs. He stated that the Housing First Project will be undergoing its first six-month evaluation by the state and commented on the success of the program thus far. **Mr. Eberhart** announced that the next Public Safety Commission will be on April 15, 2013 in the City Council Chambers at 11:30 A.M. He summarized the agenda for the upcoming meeting and stated that there will be a presentation by Pat Cole and Chief Zager on the public safety officer concept.

**Mayor Cleworth** explained that the public safety officer concept varies widely from municipality to municipality. He stated that it can be a fully integrated system where there is only one public safety department, or it can be implemented in a way that requires only certain staff to be cross-trained. He stated that Mr. Cole and Chief Zager will explain the concept and provide the pros and cons to both sides of the issue. **Mayor Cleworth** spoke to Ordinance No. 5917 which addresses garbage service fees. He stated that the best estimate to the effect on the mill rate for commercial properties would be .79% increase or a \$790 increase on a \$1 million property value. He stated that the average residential garbage customer is currently paying \$294 per year and that the new rate would be less than half of that on a \$200,000 home. **Mayor Cleworth** indicated that residential properties with a value of \$400,000 or less would see a savings in the rate. He stated that senior citizens who fall under the property exemption value cutoff would not pay a garbage service fee at all. He spoke to the pros and cons of placing the service fee under the property tax and to the current mill rate.

**Mr. Eberhart** asked what the total value of commercial property is within the City.

**Mayor Cleworth** replied that the City collects a total of about \$12 million in property taxes and that roughly 60–65% of that is commercial.

### **CITY ATTORNEY'S REPORT**

City Attorney Ewers stated that the Mayor's earlier comment about capitalism may have been paraphrasing the Winston Churchill quote about democracy.

### **ADJOURNMENT**

**Mr. Matherly** moved to ADJOURN the meeting.

**Mayor Cleworth** called for objection and, hearing none, so ORDERED.

**Mayor Cleworth** declared the Meeting adjourned at 9:25 P.M.

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JERRY CLEWORTH, MAYOR

ATTEST:

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JANEY HOVENDEN, CMC, CITY CLERK

Transcribed by: DS

DRAFT

# MEMORANDUM

City of Fairbanks Clerk's Office

Janey Hovenden, City Clerk

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TO: Mayor Jerry Cleworth  
City Council Members

FROM: Janey Hovenden, CMC, City Clerk

SUBJECT: Liquor License Transfer

DATE: May 16, 2013

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An application has been received by the State Alcohol Beverage Control Board for transfer of location for the following liquor license::

Type: Package Store  
DBA: **Brown Jug - Fairbanks, License #4076**  
Licensee/Applicant: Liquor Stores USA North Inc.

Location

From: No Premises  
To: 559 Harold Bentley Avenue, Fairbanks

Pursuant to FCG Sec. 14-178 the Council must determine whether or not to protest the liquor license action after holding a public hearing.

Please note that the new location falls within Section 14.168 which addresses new or transferred licenses to a location which there does not then exist a license, requiring resident notifications and advertisement. Attached is the list of residents that were notified and the ad placed in the local section of the newspaper.

Please also note that the Building and Fire Departments recommend protesting the transfer contingent upon final inspection and issuance of a Certificate of Occupancy. There are no other Departmental protests for this transfer.



BENTLEY BROTHERS, LOT: 04  
GCI Communication Corp  
2550 Denali St Ste 1000  
Anchorage, AK 99503

1S 1W, SEC: 02, TAXLOT: 233  
Hd Development Of Maryland Inc  
PO BOX 105842  
Atlanta, GA 30348

NORTHSIDE BUSINE, LOT: 01  
Holiday Alaska Inc  
4567 American Blvd W  
Minneapolis, MN 55437

NORTHSIDE BUSIN1, LOT: 02  
Liquor Stores Usa North Inc  
300 10508-82 Ave  
Edmonton, T6E CANADA

NORTHSIDE BUSIN2, LOT: D-1  
North Side Investors Limited Partnership  
1080 Woodview Dr  
Fairbanks, AK 99712

BENTLEY BROTHERS, LOT: 05  
Wal-mart Real Estate Business Trust  
702 SW 8th St  
Bentonville, AR 72716

**CITY OF FAIRBANKS  
PUBLIC NOTICE**

Application has been made for a TRANSFER of Package Store Liquor License to a new Location:

D.B.A.:	<b>Brown Jug – Fairbanks, License #4076</b>
Licensee/Applicant:	Liquor Stores USA North Inc.
From:	No Premises
To Physical Location:	559 Harold Bentley Ave, Fairbanks, AK

The Fairbanks City Council will hear interested citizens concerned with the above-referenced Liquor License transfer, speaking for or against said application, at the regular meeting of the Fairbanks City Council on Monday, May 20, 2013, beginning at 7:00 PM, in the City Council Chambers, 800 Cushman Street, Fairbanks, Alaska. If you have any questions please call the Office of the City Clerk at 459-6774.

Janey Hovenden, CMC  
City Clerk

State of Alaska  
**Alcoholic Beverage Control Board**

Date of Notice: April 24, 2013

Application Type: NEW \_\_\_\_\_

X **TRANSFER**  
 \_\_\_\_\_ Ownership  
X Location  
 \_\_\_\_\_ Name Change

Governing Body: City of Fairbanks  
 Community Councils: N/A

License #: 4076  
 License Type: Package Store  
 D.B.A.\*: Brown Jug - Fairbanks  
 Licensee/Applicant: Liquor Stores USA North Inc.  
 Physical Location: 559 Harold Bentley Ave., Fairbanks  
 Mail Address: c/o Dorsey & Whitney LLP, Attn: Michele Droegge, 1031 W 4<sup>th</sup> Ave., Ste. 600,  
 Anchorage, AK 99501-5907  
 Telephone #: 907-276-4557  
 EIN: 26-3068940

Corp/LLC Agent:	Address	Phone	Date and State of Incorporation	Good standing?
Richard M. Rosston, P.C.	1031 W 4 <sup>th</sup> Ave., Ste 600 Anchorage, AK 99501	907-276-4557	2/26/08	Yes

*Please note: the Members/Officers/Directors/Shareholders (principals) listed below are the principal members. There may be additional members that we are not aware of because they are not primary members. We have listed all principal members and those who hold at least 10% shares.*

Member/Officer/Director:	DOB**	Address	Phone	Title/Shares (%)
Patrick de Grace	3/22/52	7606 – 118 Street Edmonton, Alberta T6G 1S9 Canada	780-637-3673	0%
Scott Morrow	11/14/71	10 Coloniale Close Beaumont, Alberta T4X 1M2 Canada	780-944-9994	0%
Liquor Stores USA Holdings Inc. – Nevada Corporation		10508 82nd Ave. Edmonton, Alberta T6E 2A4 Canada	780-944-9994	100%

If transfer application, current license information:

License #: Same as above  
 Current D.B.A.: Same as above  
 Current Licensee: Same as above  
 Current Location: No Premises

A local governing body as defined under AS 04.21.080(11) may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the board **and** the applicant with a clear and concise written statement of reasons in support of a protest within 60 days of receipt of this notice. If a protest is filed, the board will not approve the application unless it finds that the protest is "arbitrary, capricious and unreasonable". Instead, in accordance with AS 04.11.510(b), the board will notify the applicant that the application is denied for reasons stated in the protest. The applicant is entitled to an informal conference with either the director or the board and, if not satisfied by the informal conference, is entitled to a formal hearing in accordance with AS 44.62.330-44.62-630. **IF THE APPLICANT REQUESTS A HEARING, THE LOCAL GOVERNING BODY MUST ASSIST IN OR UNDERTAKE THE DEFENSE OF ITS PROTEST.**

Under AS 04.11.420(a), the board may not issue a license or permit for premises in a municipality where a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages, unless a variance of the regulation or ordinance has been approved. Under AS 04.11.420(b) municipalities must inform the board of zoning regulations or ordinances which prohibit the sale or consumption of alcoholic beverages. If a municipal zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages at the proposed premises and no variance of the regulation or ordinance has been approved, please notify us and provide a certified copy of the regulation or ordinance if you have not previously done so.

Protest under AS 04.11.480 and the prohibition of sale or consumption of alcoholic beverages as required by zoning regulation or ordinance under AS 04.11.420(a) are two separate and distinct subjects. Please bear that in mind in responding to this notice.

AS 04.21.010(d), if applicable, requires the municipality to provide written notice to the appropriate community council(s).

If you wish to protest the application referenced above, please do so in the prescribed manner and within the prescribed time. Please show proof of service upon the applicant. For additional information please refer to 15 AAC 104.145, Local Governing Body Protest.

**Note:** Applications applied for under AS 04.11.400(g), 15 AAC 104.335(a)(3), AS 04.11.090(e), and 15 AAC 104.660(e) must be approved by the governing body.

Sincerely,

Christine C. Lambert  
Records & Licensing Supervisor  
Christine.lambert@alaska.gov  
(907) 263-5923



# City of Fairbanks

Office of the City Clerk

800 Cushman Street

Fairbanks, AK 99701

(907)459-6715  
Fax (907)459-6710

## ALCOHOL BEVERAGE CONTROL BOARD LIQUOR LICENSE RESPONSE FORM

- TO:  FINANCE DEPT.  
 FIRE DEPARTMENT  
 FAIRBANKS POLICE DEPT.  
 BUILDING DEPARTMENT

DATE: 04-26-2013

FROM: CITY CLERK'S OFFICE

RE: LIQUOR LICENSE ACTION-TRANSFER OF LOCATION

DATE NOTICE RECEIVED AT CLERKS OFFICE: 04/24/2013 - 60 DAY DUE DATE 06/23/2013

DATE RESPONSE DUE: 05/24/2013 for City Council Meeting of 05/20/2013

License #: 4076  
License Type: Package Store  
D.B.A.: Brown Jug - Fairbanks  
Licensee/Applicant: Liquor Stores USA North Inc  
Physical Location: 559 Harold Bentley Ave, Fairbanks  
Mail Address: c/o Dorsey & Whitney LLP, Attn: Michele Droege, 1031 W 4<sup>th</sup> Ave, Ste 600,  
Anchorage, AK 99501-5907  
Telephone #: 907-276-4557

Corp/LLC Agent:	Address	Phone	Date/State of Incorporation	Good standing?
Richard M. Rosston, PC	1031 W 4 <sup>th</sup> Ave., Ste 600, Anchorage, AK 99501	907-276-4557	02/26/08	Yes

*Please note: the Members/Officers/Directors/Shareholders (principals) listed below are the principal members. There may be additional members that we are not aware of because they are not primary members. We have listed all principal members and those who hold at least 10% shares.*

Member/Officer/Director:	DOB	Address	Phone	Title/Shares (%)
Patrick de Grace	03/22/1952	7606 - 118 Street, Edmonton, Alberta T6G IS9 Canada	780-637-3673	0%
Scott Morrow	11/14/1971	10 Coloniale Close, Beaumont, Alberta T4X 1M2 Canada	780-944-9994	0%
Liquor Stores USA 10508 82nd Ave. Holdings Inc. -Nevada Corp		10508 82 <sup>nd</sup> Ave, Edmonton, Alberta T6E 2A4 Canada	780-944-9944	100%

If transfer application, current license information:

License #: Same  
Current D.B.A.: Same  
Current Licensee: Same  
Current Location: No Premises

NO PROTEST:  
COMMENTS

PROTEST LACK OF CERTIFICATE OF  
REASONS: OCCUPANCY

DEPARTMENT

SIGNEE:

(Signature)

WARREN B. CUMMING

(Printed Name)



# City of Fairbanks

Office of the City Clerk

Cushman Street

Fairbanks, AK99701

(907)459-6715

Fax (907)459-6710

## ALCOHOL BEVERAGE CONTROL BOARD LIQUOR LICENSE RESPONSE FORM

TO:  FINANCE DEPT.  
 FIRE DEPARTMENT  
 FAIRBANKS POLICE DEPT.  
 BUILDING DEPARTMENT

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Scott Morrow	11/14/1971	10 Coloniale Close, Beaumont, Alberta T4X 1M2Canada	780-944-9994	0%
Liquor Stores USA 10508 82nd Ave. Holdings Inc. -Nevada Corp		10508 82 <sup>nd</sup> Ave, Edmonton, Alberta T6E 2A4Canada	780-944-9944	100%

If transfer application, current license information:

License #: Same  
Current D.B.A.: Same  
Current Licensee: Same  
Current Location: No Premises

NO PROTEST:  
COMMENTS

PROTEST CONTINGENT UPON REASONS: ISSUANCE OF A CERTIFICATE OF OCCUPANCY

DEPARTMENT

SIGNEE:

(Signature)

CLEMENTS M. CLOOTEN

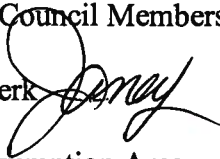
(Printed Name)

# MEMORANDUM

City of Fairbanks  
Office of the City Clerk

Janey Hovenden, CMC  
City Clerk

---

TO: Mayor Jerry Cleworth and City Council Members  
FROM: Janey Hovenden, CMC, City Clerk   
SUBJECT: Request to Extend Alcohol Consumption Area  
DATE: May 16, 2013

---

I received a notice from the Alcoholic Beverage Control Board of a request to extend alcohol consumption area by the owner of The Rock N Rodeo Bar & Grill located at 600 Old Steese Highway.

I have attached the request from the licensee along with the included proposed extended area diagrams.

This is an opportunity to object and more importantly, they require approval by the local fire department. I notified both the Fire and Police Departments and requested responses for inclusion in the May 20, 2013 Agenda Packet.

Responses from the Police, Fire and Building Departments are attached.

# THE ROCK N RODEO

## Scruff N Pork's Inc.

P.O. Box 80912, Fairbanks, Alaska, 99708 \* 907-452-6294 \* luckyman@acsalaska.net

April 5<sup>th</sup>, 2013

Attn: ABC Board/Christine Lambert

From: Curtis Hatcher

Ref; Extended Alcohol Consumption Area

Scruff N Pork's Inc, DBA The Rock n Rodeo, located at 600 Old Steese Hwy. Fairbanks Ak. 99701 with liquor license #1377, is applying to extend the designated alcohol consumption area to include a fenced-in outdoor area.

Enclosed is;

- Pg. 2, Map of existing licensed indoor area as filed with the ABC Board.
- Pg. 3, The Proposed Outside Fenced-in area.
- Pg. 4, Arial Shot of Proposed Outside Fenced-in area.

The proposed enclosed outside area will be attached to the back side of the Rock n Rodeo building as outlined in red on page 3, with access only through the existing licensed premise.

The proposed new consumption area, as outlined in red on page 3&4, will consist of a 6' ft. fence topped with an 18" safety barrier for a total height of 7' 6". One-way emergency exits will be installed as per Fairbanks City Building codes.

The proposed outside area will provide an outdoor smoking area, 1 volleyball court, 2 horse shoe pits, and a barbeque pit area to enjoy our beautiful Fairbanks summertime weather.

Thank You, Sincerely,

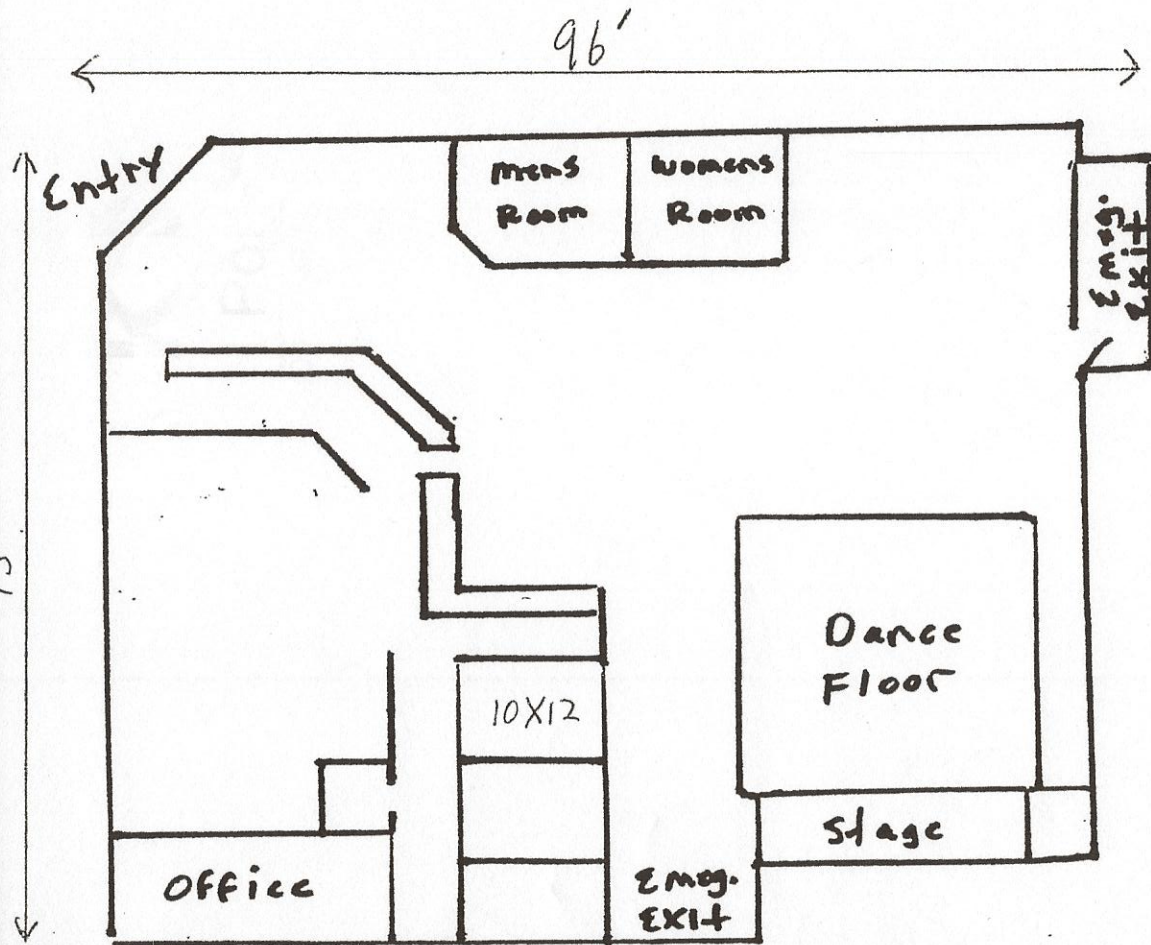
*Curtis L. Hatcher*



Curtis Hatcher, President, CEO, The Rock n Rodeo, Scruff N Pork's Inc.



# Rock n Rodeo - Existing Licensed (Indoor) Area

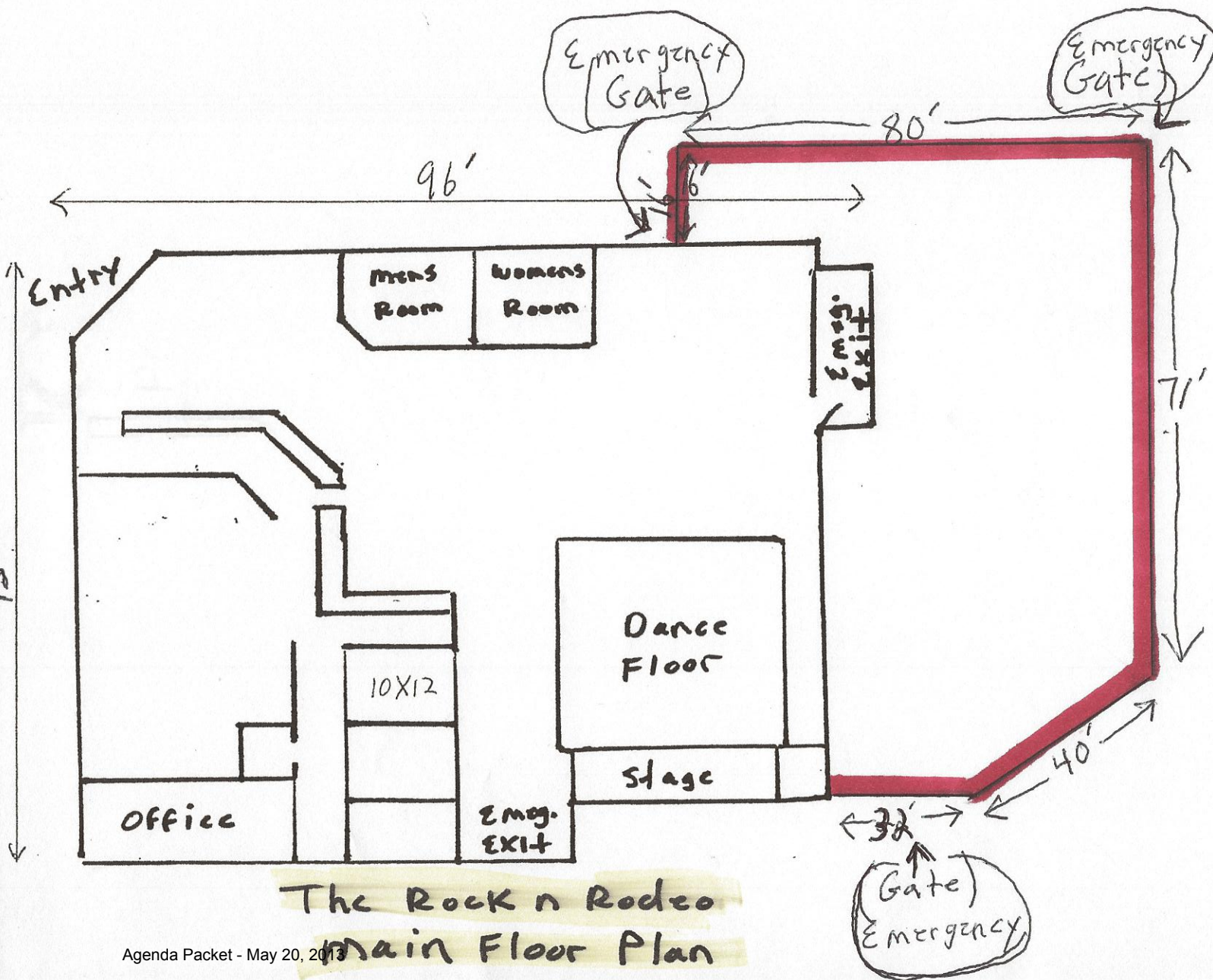


The Rock n Rodeo  
Main Floor Plan

(m)

(3)

# Rock n Rodeo - Proposed Outside-Fenced IN Area



4

4



Arial shot of Rock n Rodeo with Proposed Outside Fenced-in Area

## Danyielle Snider

---

**From:** Laren J. Zager  
**Sent:** Wednesday, May 15, 2013 12:17 PM  
**To:** Danyielle Snider  
**Subject:** RE: Outdoor Expansion of Rock n Rodeo

Dani,

Sorry about the delay. Between this being a serious topic and the interruptions of such things as Police Memorial Day, it's been hard polling our thoughts. But, I think we are far enough along to offer these considerations:

1. Although Curtis Hatcher has been one of the more diligent licensees in responding to issues, those issues continue to arise over time. In short, it's crowd control. This particular request calls for expanding capacity, which seems dangerously counter-intuitive to us. To see if this rises to the level of officially protesting the application, we would have to have Mr. Hatcher present us with his plan/program/methods of controlling this enlarged crowd.
2. We also notice that this expansion is at the expense of parking. If my memory serves me correctly, this is adjacent to where the new, proposed Walgreens is to be built. I have this mental picture of parking complaints from them (they can be 24-hours) from them as overflow goes into their lot.

Balancing this is our having allowed a similar seasonal expansion of the Big I. Further, much of Mr. Hatcher's expansion includes sports areas, not lounge expansion.

In short, I feel the Council should proceed with caution, not necessarily give it full protest. Perhaps have Mr. Hatcher satisfy them, not FPD, that he is willing and able to control this larger crowd. And, I think the Council should closely consider the wisdom of allowing expanded "premises" for anyone in the future.

I hope this information and its delivery (via email) is satisfactory. Please let me know if there is anything else I can do.

Laren J Zager

---

**From:** Danyielle Snider  
**Sent:** Wednesday, May 15, 2013 12:07 PM  
**To:** Laren J. Zager  
**Subject:** Outdoor Expansion of Rock n Rodeo

Chief,

I am finalizing the agenda for Monday's meeting this afternoon. If you have any comments to include on the Rock n Rodeo expansion, please forward them to me so they can be included in the Council's packet for consideration.

Thank you!

Dani

## Danyielle Snider

---

**From:** Janey J. Hovenden  
**Sent:** Thursday, May 16, 2013 10:23 AM  
**To:** Danyielle Snider  
**Subject:** FW: Rock n Rodeo Premises Extension Request Lic #1377  
**Attachments:** 2013-05-14 Prelim Walgreen Project.pdf

Did you get this one???? ☹

---

**From:** Clemens M. Clooten  
**Sent:** Wednesday, May 15, 2013 8:03 AM  
**To:** Janey J. Hovenden  
**Subject:** FW: Rock n Rodeo Premises Extension Request Lic #1377

Janey,  
The Building Department will protest the license because we have not received any plans for this alteration.  
Clem

---

**From:** Warren B. Cummings  
**Sent:** Tuesday, May 14, 2013 5:28 PM  
**To:** Janey J. Hovenden  
**Cc:** Danyielle Snider; Clemens M. Clooten; Patrick Cole; Mayor Cleworth-COF; Ernie Misewicz-FFD; Michael J. Schmetzer  
**Subject:** FW: Rock n Rodeo Premises Extension Request Lic #1377

Janey , based on Ernie's comments the Fire Dept.is protesting this request for lack of sufficient information, Ernie will be available Monday night at the City Council meeting to answer questions, Warren.

Warren B Cummings, Fire Chief  
Fairbanks Fire Department  
1101 Cushman Street  
Fairbanks, AK 99701  
907-450-6604 (direct line)

---

**From:** Ernie D. Misewicz  
**Sent:** Tuesday, May 14, 2013 5:15 PM  
**To:** Warren B. Cummings  
**Subject:** RE: Rock n Rodeo Premises Extension Request Lic #1377

Chief...I would recommend we **protest this expansion** of premises based on the following....

- 1) Currently the area west of the Rock & Rodeo (where Rock & Rodeo wants the fenced area) is undeveloped / dirt field. A preliminary site plan submitted for the Walgreens store project shows a developed parking lot in the same area as the request for extension of premises. (see highlighted area on attached drawing).

Even with concerns about location with reference to the Walgreens Project, there are other concerns that need to be addressed.

- 2) No plans have been submitted for this project....so several unanswered questions...
- 3) With reference to the fence area, not details submitted on how the exits will be installed. Further no details on actual exiting (type, hardware, etc). Plan calls for a 32" gate...minimum size would be at least 36".

- 4) Concern about occupant load for fence area...plus exiting occupant load from the facility itself. The fence area encloses an exit that serves both the first and second floor. It is possible a third exit may be required. Rough calculations of the fence area is over 5600 sq ft. Based on seating (15 sq ft / person) calculation...potential occupant load would be over 300. Plus occupants from the building...significant increase.
- 5) Also plan indicates a fire or bar-b-q pit...no details provided.

As a side note...It is possible Mr. Hatcher is not aware of this Walgreen project.

Also we need to pass this information onto Building Official and City Engineer.

Any questions...please advise...I will also be available for Council Mtg is questions arise.

Thanks...Ernie

---

**From:** Janey J. Hovenden  
**Sent:** Wednesday, May 01, 2013 2:48 PM  
**To:** Warren B. Cummings; Laren J. Zager  
**Cc:** Paul J. Ewers ([pjewers@ci.fairbanks.ak.us](mailto:pjewers@ci.fairbanks.ak.us)); Pat Cole  
**Subject:** Rock n Rodeo Premises Extension Request Lic #1377

Warren / Laren,

The ABC Board is allowing us an objection option on whether to grant premises extension to Rock N Rodeo. Their plan is to expand to outside in a fenced in area. See their memo and their proposed layout sketch.

They will allow us some time, however, I would like to put this before the City Council at the next meeting (May 20). If you will need more time than that, let me know.

There isn't a form to fill out; I would just like your comments back by May 14.

Thanks,

Janey

---

**From:** Lambert, Christine C (CED) [<mailto:christine.lambert@alaska.gov>]  
**Sent:** Wednesday, April 10, 2013 2:37 PM  
**To:** Janey J. Hovenden; Peggy Phillips ([PPhillips@fnsb.us](mailto:PPhillips@fnsb.us))  
**Subject:** Rock n Rodeo Premises Extension Request Lic #1377

Janey & Peggy,

I have attached a request from a licensee to extend their premises. In your review and approval can you please note that the local fire department has approved the extension (if it is approved)? If you need additional information please feel free to contact myself or the licensee. Thank you, Chris

*Christine C. Lambert*

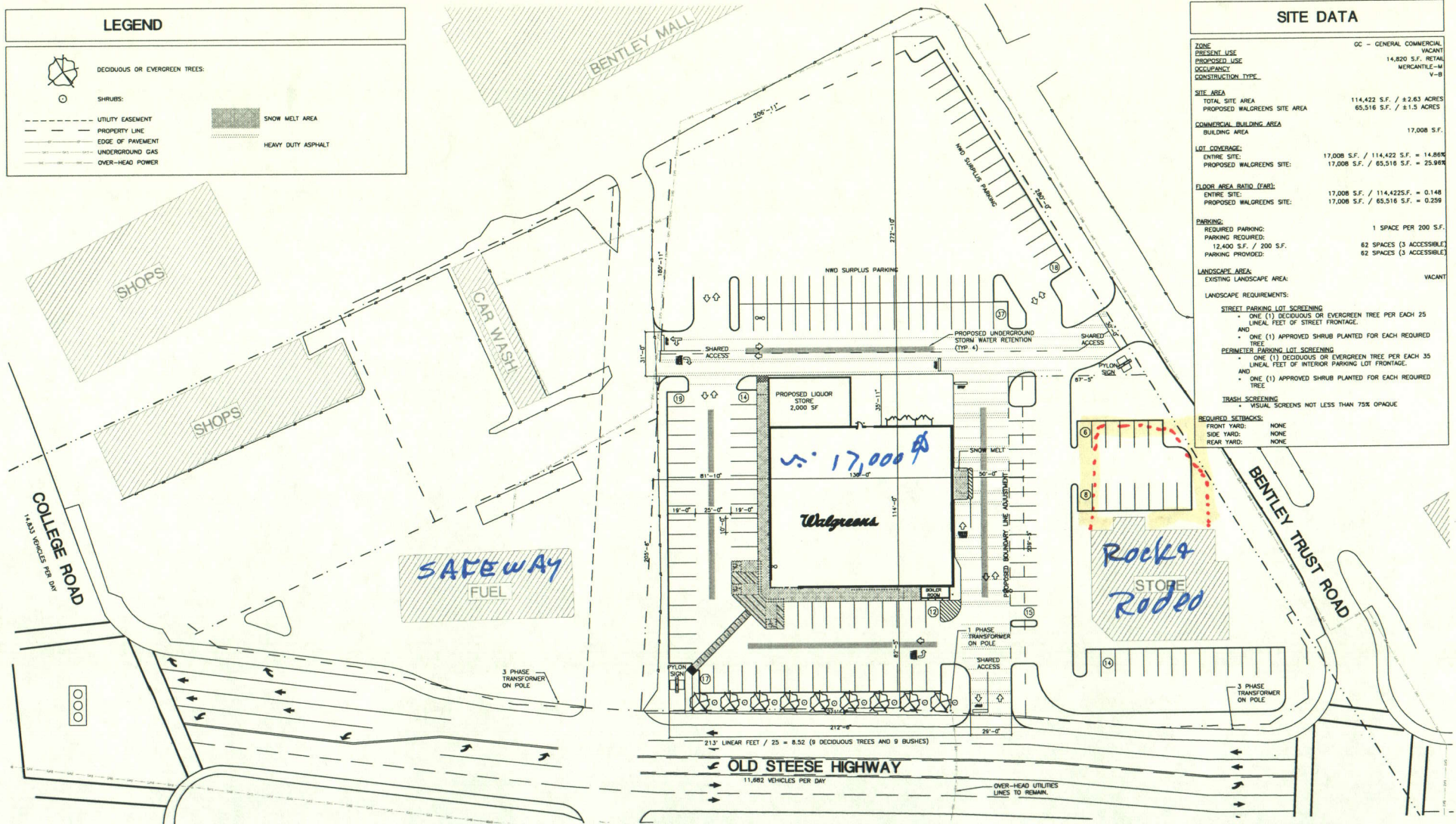
*Records & Licensing Supervisor*

*Alcoholic Beverage Control Board*

*2400 Viking Drive, Anchorage, AK 99501*

*263-5923 phone | 263-5930 fax | [Christine.lambert@alaska.gov](mailto:Christine.lambert@alaska.gov)*

LEGEND	
	DECIDUOUS OR EVERGREEN TREES:
	SHRUBS:
	UTILITY EASEMENT
	PROPERTY LINE
	EDGE OF PAVEMENT
	UNDERGROUND GAS
	OVER-HEAD POWER
	SNOW MELT AREA
	HEAVY DUTY ASPHALT



SITE DATA	
ZONE	GC - GENERAL COMMERCIAL
PRESENT USE	VACANT
PROPOSED USE	14,820 S.F. RETAIL
OCCUPANCY	MERCANTILE-M
CONSTRUCTION TYPE	V-B
<b>SITE AREA</b>	
TOTAL SITE AREA	114,422 S.F. / 2.63 ACRES
PROPOSED WALGREENS SITE AREA	65,316 S.F. / 1.5 ACRES
<b>COMMERCIAL BUILDING AREA</b>	
BUILDING AREA	17,008 S.F.
<b>LOT COVERAGE</b>	
ENTIRE SITE:	17,008 S.F. / 114,422 S.F. = 14.86%
PROPOSED WALGREENS SITE:	17,008 S.F. / 65,316 S.F. = 25.98%
<b>FLOOR AREA RATIO (FAR)</b>	
ENTIRE SITE:	17,008 S.F. / 114,422 S.F. = 0.148
PROPOSED WALGREENS SITE:	17,008 S.F. / 65,316 S.F. = 0.259
<b>PARKING</b>	
REQUIRED PARKING:	1 SPACE PER 200 S.F.
PARKING REQUIRED:	12,400 S.F. / 200 S.F. = 62 SPACES (3 ACCESSIBLE)
PARKING PROVIDED:	62 SPACES (3 ACCESSIBLE)
<b>LANDSCAPE AREA</b>	
EXISTING LANDSCAPE AREA:	VACANT
<b>LANDSCAPE REQUIREMENTS:</b>	
<b>STREET PARKING LOT SCREENING</b>	
• ONE (1) DECIDUOUS OR EVERGREEN TREE PER EACH 25 LINEAL FEET OF STREET FRONTAGE.	
AND	
• ONE (1) APPROVED SHRUB PLANTED FOR EACH REQUIRED TREE	
<b>PERMEABLE PARKING LOT SCREENING</b>	
• ONE (1) DECIDUOUS OR EVERGREEN TREE PER EACH 35 LINEAL FEET OF INTERIOR PARKING LOT FRONTAGE.	
AND	
• ONE (1) APPROVED SHRUB PLANTED FOR EACH REQUIRED TREE	
<b>TRASH SCREENING</b>	
• VISUAL SCREENS NOT LESS THAN 75% OPAQUE	
<b>REQUIRED SETBACKS:</b>	
FRONT YARD:	NONE
SIDE YARD:	NONE
REAR YARD:	NONE

1 CONCEPTUAL SITE PLAN  
SCALE: 1" = 30'  
SCALE IN FEET

DETAILED DUE DILIGENCE SITE PLAN

**CSHQQA**  
C.W. MOORE PLAZA  
250 S. 5TH ST. - BOISE, ID 83702  
(208) 343-4635 - FAX (208) 343-1856  
http://www.cshqqa.com

**WALGREENS**  
530 OLD STEESE HIGHWAY  
FAIRBANKS, AK 99701

**S.E. GRAINGER DEVELOPMENT GROUP, LLC**

*Proposed Fence Area*  
*Proposed Parking Lot - Walgreen*

**RESOLUTION NO 4575**

**A RESOLUTION AUTHORIZING THE CITY TO CONSTRUCT AND MAINTAIN  
PEDESTRIAN IMPROVEMENTS AT THE INTERSECTION OF EAST COWLES  
STREET AND 17TH AVENUE**

**WHEREAS**, Fairbanks General Code Section 70-134 provides that the City will not assume “the maintenance or improvement obligation of any new street” without City Council Approval by Resolution; and

**WHEREAS**, the Greater Fairbanks Community Hospital Foundation (“Foundation”) is providing funds to design and install a Rectangular Rapid Flashing Beacon (“RRFB”) at the pedestrian crossing of East Cowles Street at 17th Avenue; and

**WHEREAS**, the intersection of East Cowles and 17th Avenue is not signalized and this RRFB will improve the safety for hospital employees crossing between the hospital and the employee parking lot, as well as all other pedestrians utilizing the crossing; and

**WHEREAS**, the Foundation has agreed to pay for the electricity to operate the RRFB, provide construction easements and right-of-way without charge, and fund major maintenance of the facility, such as severe damage by vehicle collision, vandalism, etc.; and

**WHEREAS**, the City has agreed to provide minor maintenance of the RRFB and crossing, such as bulb replacement, service of electrical components, traffic signage and striping, and the City currently maintains East Cowles Street and 17th Avenue; and

**WHEREAS**, given the extreme winter conditions such as extended darkness, extreme cold, icy driving surfaces and relatively high volume of traffic, this RRFB will benefit pedestrians as well as drivers by improving the safety of the crossing,

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor is authorized to enter into an agreement regarding the 17th Avenue RRFB in accord with the terms stated herein.

**PASSED and APPROVED This 20th Day of May 2013.**

\_\_\_\_\_  
**JERRY C. CLEWORTH, MAYOR**

AYES:  
NAYS:  
APPROVED:

ATTEST:

APPROVED AS TO FORM

\_\_\_\_\_  
Janey Hovenden, CMC, City Clerk

\_\_\_\_\_  
Paul Ewers, City Attorney



**ORDINANCE NO. 5919**

**AN ORDINANCE AMENDING FAIRBANKS GENERAL CODE  
CHAPTER 82 AND ADOPTING REVISED WASTEWATER TREATMENT  
REGULATIONS**

**WHEREAS**, the City owns the wastewater treatment plant, which was leased to Golden Heart Utilities, Inc. (“GHU”) as part of the sale of the Fairbanks Municipal Utilities System under the terms of the 1997 lease agreement; and

**WHEREAS**, the United States Environmental Protection Agency (“EPA”) regulates the plant and periodically requires amendments to City Ordinances relating to the operation of the plant; GHU is responsible for implementation of the treatment regulations; and

**WHEREAS**, the EPA has requested further amendments to City Ordinances relating to the operation of the plant; and

**WHEREAS**, the City incurs costs to maintain the printed and online versions of its code, and changes to lengthy sections of the code can cost the City as much as \$1,500; and

**WHEREAS**, in other instances where the City has adopted lengthy code provisions, such as the various buildings codes, the Council has enacted ordinances that adopt a code “by reference” and make copies of the code available in print at City Hall and online at the City’s website; and

**WHEREAS**, because the proposed amendments to the wastewater treatment regulations cover sixty pages and because they are updated on a regular basis, they are best adopted and modified in the same manner as the various building codes; and

**WHEREAS**, more than 30 days’ notice of public hearing has been allowed for this ordinance,

**NOW, THEREFORE, BE IT ENACTED by the City Council of the City of Fairbanks as follows:**

Section 1. The City hereby adopts the Wastewater Treatment Regulations contained in Attachment “A” to this ordinance and by this reference incorporates those regulations as part of the Fairbanks General Code.

Section 2. New FGC Section 82-30 is enacted as follows, to appear in Chapter 82, under Article II, as Division 1, with Divisions 2 through 9 reserved:

**Article II. Wastewater Treatment Regulations.**

Division 1. Adoption

**Sec. 82-30. Adoption.**

(a) The 2013 version of the Wastewater Treatment Regulations (Attachment "A" to Ordinance No. 5919) is adopted by the City of Fairbanks.

(b) Copies of the Wastewater Treatment Regulations will be made available at the City Clerk's Office and made accessible online at the City's website.

Divisions 2 – 9 Reserved.

Section 3. FGC Sections 82-31 through 82-299, are hereby repealed. For ease of reference and continuity, those sections numbers may be used in the current or future versions of the Wastewater Treatment Regulations adopted by the City.

Section 4. That the effective date of this Ordinance is June \_\_\_\_\_, 2013.

\_\_\_\_\_  
**Jerry Cleworth, City Mayor**

AYES:  
ADOPTED:

ATTEST:

APPROVED AS TO FORM

\_\_\_\_\_  
Janey Hovenden, CMC, City Clerk

\_\_\_\_\_  
Paul J. Ewers, City Attorney

## **City of Fairbanks**

### **Attachment “A” to Ordinance 5919**

#### **2013 Wastewater Treatment Regulations**

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## ARTICLE II. WASTEWATER TREATMENT REGULATIONS

### DIVISION 1. GENERALLY

#### Sec. 82-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Act or the act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

*Applicable pretreatment standards* means, for any specified pollutant, the city's prohibitive standards, the city's specific pretreatment standards (local limits), state pretreatment standards, or EPA's Categorical Pretreatment Standards (when effective), whichever standard is appropriate or most stringent.

*Approval authority* means the regional administrator of the U.S. Environmental Protection Agency Region 10, **and/or the State of Alaska Department of Environmental Conservation (ADEC) Division of Water, Northern Region.**

*Authorized representative of the user* means:

(1) If the user is a corporation:

- a. The president, secretary, treasurer or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- b. The manager of one or more manufacturing, production or operation facility, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.

- (3) If the user is a federal, state or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his designee.

The individuals described in subsections (1) through (3) of this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to GHU.

*Best Management Practices (BMP)* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 82-206 of this chapter. BMP also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

*Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (milligrams per liter (mg/l)).

*Categorical pretreatment standard or categorical standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR chapter I, subchapter N, parts 405 through 471.

**Categorical Industrial User or Categorical user** means a user covered by one of EPA's categorical pretreatment standards.

*Color* means the optical density at the visual wave length of maximum absorption, relative to distilled water. A transmittance of 100 percent is equivalent to zero optical density.

*Composite sample* means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

*Cooling water/noncontact cooling water* means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product. Cooling water can be discharged only at the option of Golden Heart Utilities, Inc. from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.

*Domestic user (residential user)* means any person who contributes, causes or allows the contribution of wastewater into the POTW that is of a similar volume and/or chemical makeup as that of a residential dwelling unit. Dischargers from a residential

dwelling unit typically include up to 100 gallons per capita per day, 0.2 pound of BOD per capita per day, and 0.17 pound of TSS per capita per day.

*Environmental Protection Agency (EPA)* means the U.S. Environmental Protection Agency or, where appropriate, the director of the region 10 office of water, or other duly authorized official of that agency.

*Existing source* means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the act.

*Existing user* means any non-categorical user which was discharging wastewater prior to the effective date of this article.

*General manager* means the general manager and chief executive officer of Golden Heart Utilities, Inc.

~~*GHU* means Golden Heart Utilities, Inc., leaseholder and operator of the Fairbanks Regional Wastewater Treatment Plant.~~

*Golden Heart Utilities, Inc. (GHU)* means the leaseholder and operator of the Fairbanks Regional Wastewater Treatment Plant.

*Grab sample* means a sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and **in as short a period of time as feasible** ~~without consideration of time.~~

*Indirect discharge or discharge* means the introduction of pollutants into the POTW from any nondomestic source regulated under section 307(b), (c), or (d) of the act. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all appurtenant constructed devices and appliances.

*Industrial user* means an industrial or commercial establishment which discharges wastewaters having the characteristics of industrial wastes.

*Interference* means a discharge which alone or in conjunction with a discharge or discharges from other sources, does one of the following:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations;
- (2) Inhibits or disrupts its sludge processes, use or disposal; or
- (3) Is a cause of a violation of its **current** NPDES/**APDES** permit or of the prevention of sewage sludge use or disposal in compliance with any of the



following statutory/regulatory provisions or permits issued under such provisions (or more stringent state or local regulations):

- a. Section 405 of the Clean Water Act;
- b. The Solid Waste Disposal Act (SWDA), including title II commonly referred to as the Resource Conservation and Recovery Act (RCRA);
- c. Any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA;
- d. The Clean Air Act;
- e. The Toxic Substances Control Act; and
- f. The Marine Protection, Research and Sanctuaries Act.

*Liquid waste hauler* means any person that collects, pumps, transports and/or disposes of liquid wastes.

*Liquid waste hauler permit* means a permit issued by GHU pertinent to section 82-145 ~~141~~ **141** which authorizes a liquid waste hauler to discharge permitted wastes into the designated disposal facilities of the POTW.

*Liquid wastes* means those materials, including but not limited to sand trap pumpings, septic tank pumpings, portable toilet pumpings, food service or petroleum service grease trap pumpings, sludges generated from domestic wastewater treatment plants and lagoons, waste or used oils and lubricants, chemical wastes, wastes from industrial or commercial wastewater treatment systems, hazardous wastes, storm drain sludges or dredgings and other wastes as defined by GHU. Liquid wastes are not considered permitted wastes for legal discharge into the city's designated disposal facilities.

*Maximum allowable discharge limit* means the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

*Medical wastes* means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, **expired or unusable medication**, potentially contaminated laboratory wastes, and dialysis wastes.

*New source* means:

- (1) Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided that:
  - a. The building, structure, facility, or installation is constructed at a site at which no other source is located;
  - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)b. or c. of this definition but otherwise alters, replaces or adds to existing process or production equipment.
- (3) Construction of a new source has commenced if the owner or operator has:
  - a. Begun or caused to begin as part of a continuous onsite construction program:
    1. Any placement, assembly, or installation of facilities or equipment;
    2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

*New user* means a user that applies to the city for a new building permit or any person who occupies an existing building and plans to discharge wastewater to the POTW after the effective date of this chapter implementing this definition, or August 1, 1992, whichever is the later date. A new user **could also be considered** ~~is not~~ a new source. Any person who buys an existing facility that is discharging nondomestic wastewater will be considered an existing user if no significant changes are made in the manufacturing operation.

**Non-Significant Categorical Industrial User (NSCIU) as defined in 40 CFR 403.3 (v)(2) means an Industrial user subject to Categorical Pretreatment Standards under 40 CFR 403.6 who never discharges more than 100 gpd of total Categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater) and submits the certification statement listed in 40 CFR 403.12(q), as well as any supporting documentation, annually and never discharges any untreated concentrated wastewater.**

*Pass through* means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City of Fairbanks and Golden Heart Utilities, Inc. NPDES/APDES permit (including an increase in the magnitude or duration of a violation).

*Permitted wastes (permitted liquid wastes)* means those liquid wastes which are authorized by GHU in a liquid waste hauler permit to be disposed at the designated disposal facilities. Permitted wastes are limited to septic tank pumpings and portable toilet pumpings from domestic origins. Blended or combined wastes from an industrial process or nondomestic source do not qualify as permitted wastes.

*Permittee* means a person or user issued a wastewater discharge permit.

*Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.

*pH* means a measure of the acidity or alkalinity of a substance expressed in standard units.

*Pollutant* means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e. **e.g.**, pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity, or odor, **and so forth**).

*Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(3).

*Pretreatment requirements* means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

*Pretreatment standards or standards* means prohibited discharge standards, categorical pretreatment standards, and local limits, and best management practices ("BMP's") as established by the City.

*Prohibited discharge standards or prohibited discharges* means absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 82-206.

*Publicly owned treatment works (POTW)* means a treatment works, as defined by section 212 of the act (33 USC 1292) which is owned by the city and leased to Golden Heart Utilities, Inc. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means GHU.

*Residential user* means the same as "domestic user."

*Septic tank waste* means any sewage from holding tanks such as trains, airplanes, buses, chemical toilets, campers, trailers and residential septic tanks.

*Sewage* means human excrement and gray water (household showers, dishwashing operations, and so forth).

*Sewer* means any pipe, conduit, ditch or other device used to collect and transport sewage from the generating source.

*Significant industrial user (SIU)* means:

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:

- a. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or
  - b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - c. Is designated as such by GHU on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon a finding that a user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, GHU may, at any time, on its own initiative or in response to a petition received from a user (and in accordance with procedures in 40 CFR 403.3(v)(2)-8(f)(6)) determine that such user should not be considered a significant industrial user.

*Slug load* means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in sections 82-206 through 82-216 or any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

*Standard industrial classification (SIC) code* means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

*Stormwater* means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

*Superintendent* means the person designated by GHU to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter, or such person's duly authorized representative.

*Total suspended solids (TSS)* means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid, and which is removable by laboratory filtering.

*Toxic pollutant* means one of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under section 307 of the act (33 USC 1317).

*Treatment plant effluent* means the discharge from the POTW into waters of the United States.

*Utility superintendent/wastewater* means the superintendent and manager of the wastewater utility of GHU. See definition of "superintendent."

*Wastewater* means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

*Wastewater discharge permit (industrial wastewater discharge permit, discharge permit)* means an authorization or equivalent control document issued by GHU to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this chapter.

*Wastewater treatment plant or treatment plant* means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

## **Sec. 82-32. Abbreviations.**

The following abbreviations shall have the designated meanings:

AAC--Alaska Administrative Code

ADEC--Alaska Department of Environmental Conservation

**APDES – Alaska Pollutant Discharge Elimination System**

ASPP--Accidental spill prevention plan

BOD--Biochemical oxygen demand

CFR--Code of Federal Regulations

COD--Chemical oxygen demand

EPA--U.S. Environmental Protection Agency

**ERP – Enforcement Response Plan or Enforcement Guide**

GHU--Golden Heart Utilities, Inc.

gpd--gallons per day

l--liter

mg--milligrams

mg/l--milligrams per liter

NPDES--National Pollutant Discharge Elimination System

**NSCIU---Non-Significant Categorical Industrial User**

O&M--Operation and maintenance  
POTW--Publicly owned treatment works  
RCRA--Resource Conservation and Recovery Act  
SIC--Standard industrial classifications  
SIU--Significant industrial user  
SWDA--Solid Waste Disposal Act (42 USC 6901, et seq.)  
TSS--Total suspended solids  
UPC--Uniform Plumbing Code  
USC--United States Code

**Sec. 82-33. Purpose and policy.**

(a) This article sets forth uniform requirements for users of the privately operated wastewater treatment works in the city and requires the operator of the POTW to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR part 403). The objectives of these rules and regulations are to:

- (1) Prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- (2) Prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- (3) Ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- (4) Protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public; and
- (5) Improve the opportunity to recycle and reclaim wastewater and sludge from the POTW.

(b) These rules and regulations shall apply to all users of the POTW. This article:

- (1) Authorizes the issuance of wastewater discharge permits;
- (2) Authorizes the issuance of liquid waste hauler permits;

- (3) Authorizes monitoring, compliance and enforcement activities **outlined in the Enforcement Response Plan (ERP)**;
- (4) Establishes administrative review procedures;
- (5) Requires user reporting; and
- (6) Provides for the setting of fees for the equitable distribution of costs resulting from the program established in this article. These rules and regulations also provide for the recovery of operations, maintenance or replacement cost of the POTW.

#### **Sec. 82-34. Wastewater utility established.**

There is established within the city a wastewater utility which shall include a secondary sewage treatment plant, all trunks, laterals and interceptor sewers, other facilities useful in transporting and disposal of sewage; and all appurtenances, including all extensions and improvements.

#### **Sec. 82-35. Establishing industrial cost recovery system.**

At such time as industrial wastes, as defined under section 35.905-8, of the Construction Grant Regulations, 40 CFR part 35, are discharged to the facilities constructed under EPA Grant No. C1020039, the city and the private operator shall develop and adopt an industrial cost recovery system acceptable to the United States Environmental Protection Agency. This cost recovery system shall comply with the requirements of PL 92-500 and all pertinent regulations and guidelines.

#### **Sec. 82-36. Administration.**

Except as otherwise provided in this chapter, the president of Golden Heart Utilities, Inc., is responsible for the operation, repair and management of the wastewater utility and shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the president may be delegated by the president to other Golden Heart Utilities, Inc., personnel.

#### **Sec. 82-37. Adoption and amendment of rules and regulations; resolution of conflicts.**

These rules and regulations have been adopted by the city council, a municipal corporation of the state, and are in compliance with the laws of the state. No individual employee of the city or the private operator has the authority to waive, alter or amend



these rules and regulations, notwithstanding the authority of the mayor to resolve any conflict between this article and other provisions of this Code.

**Sec. 82-38. Use of public sewer required.**

(a) It shall be unlawful for any person to place, deposit or permit to be placed or deposited in an unsanitary manner upon public or private property within the city or in any area under the jurisdiction of the city any human or animal excretion, garbage or other objectionable waste which is normally introduced into a sanitary sewer.

(b) It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any sanitary sewage, industrial waste or other polluted water, except where suitable treatment has been provided in accordance with the provisions of this chapter.

(c) Except as otherwise provided in subsection (e), it shall be unlawful to construct or maintain any privy, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(d) The owner of all houses, buildings or structures used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, easement or right-of-way in which there is located a public sanitary or combined sewer of the city is required at his expense to install suitable toilet facilities in such places, and to connect such facilities directly with the proper sewer in accordance with the provisions of this chapter, within two years after date of official notice to do so, provided the sewer is within 250 feet of the above-described structures.

(e) Chemical toilets or porta potties may be used:

- (1) In conjunction with an active construction project for which a building permit has been issued.
- (2) In conjunction with special events.
- (3) For outdoor recreational and sporting events.
- (4) For temporary buildings which are occupied pending construction of a new building which is under construction.
- (5) In cases of natural disasters and emergencies.
- (6) As approved by the mayor.

All chemical toilets or porta potties shall be:

- (1) Registered with the building department and validated with a permit which shall be affixed to the facilities. No permits shall be required in the case of natural disasters or for construction project sites which have building permits.

(2) When the operator of a food establishment provides seating for its patrons no permit shall be issued except upon proof that the applicant has received approval ~~from~~ **from** the Alaska Department of Environmental Conservation that the use of chemical toilets and porta potties meets the requirements of 18 AAC 31.520 (toilet facilities).

(3) Maintained as required by the Alaska Department of Environmental Conservation and the conditions, if any, set forth in the permits, including any durational of or use limitations.

(4) May be required to be screened from public view as set forth and described in the permit.

(5) In compliance with all accessibility requirements as set forth in the Code of Ordinances.

#### **Sec. 82-39. Vandalism.**

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in this chapter.

#### **Sec. 82-40. Compliance of plans and specifications with standards.**

(a) No sewer collection system shall be constructed and no substantial change in any sewer collection system shall be made until plans and specifications, conforming with the requirements of the state department of environmental conservation and the standards prescribed by GHU are submitted to and approved by GHU.

(b) After such plans and specifications have been approved, no substantial changes shall be made without first submitting a detailed statement of such proposed changes to GHU and receiving the approval from GHU.

#### **Sec. 82-41. Review of plans and specifications.**

GHU shall consider, in reviewing the engineering report, plans and specifications submitted for approval, the adequacy of the project to meet the present and future needs of the area served, the functional and sanitary features of the design of the project, the economics of the project as compared with possible alternatives, the availability of existing sewer facilities, and the suitability of the project with respect to present or future uses and enjoyment of the area affected.

**Sec. 82-42. Time limitation for completion and acceptance of construction.**

Construction of a project for which plans and specifications have been approved must be completed and accepted within two years following the approval date or such approval will be void. Extensions shall only be granted for periods of delay caused by circumstances beyond the control of the property owners. A bond may be required for the uncompleted portion of the work.

**Secs. 82-43--82-65. Reserved.**

**DIVISION 2. ADMINISTRATION AND ENFORCEMENT**

**Sec. 82-66. Notification of violation.**

(a) When the superintendent finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, the superintendent may serve upon that user a written notice of violation via certified letter.

(b) Within 15 days of the receipt of this notice, an explanation of the violation and a plan for its satisfactory correction and prevention, to include specific required actions, shall be submitted by the user to the superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

(c) Nothing in this section shall limit the authority of GHU to take any action, including emergency actions or any other enforcement action outlined in the ERP, without first issuing a notice of violation.

**Sec. 82-67. Consent orders.**

The superintendent may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to sections 82-69 and 82-70 and shall be judicially enforceable. Use of a consent order shall not be a bar against or a prerequisite for taking any action outlined in the ERP against the user.

**Sec. 82-68. Show cause hearing.**

(a) The superintendent may order, via a certified letter, a user which has violated or continues to violate, any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, to appear before the superintendent and show cause why the proposed enforcement action should not be taken.

(b) Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken.

(c) The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 20 days prior to the hearing. Such notice may be served on any authorized representative of the user.

(d) A show cause hearing shall not be a bar against or a prerequisite for taking any other action **outlined in the ERP** against the user.

**Sec. 82-69. Compliance orders.**

(a) When the superintendent finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, the superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a time specified in the order. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated.

(b) Compliance orders may also contain other requirements to address the noncompliance, including additional self monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer.

(c) A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement; nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against or a prerequisite for taking any other action **outlined in the ERP** against the user.

**Sec. 82-70. Cease and desist orders.**

(a) When the superintendent finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(b) Issuance of a cease and desist order shall not be a bar against or a prerequisite for taking any other action **outlined in the ERP** against the user.

**Sec. 82-71. Administrative fines.**

(a) When the superintendent finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, the superintendent may fine such user in an amount not to exceed \$1,000.00. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Unpaid charges, fines and penalties shall, after 30 calendar days, be assessed an additional penalty of ten percent of the unpaid balance; and interest shall accrue thereafter at a rate of 10.5 percent per month. A lien against the user's property will be sought for unpaid charges, fines, penalties and interest.

(c) Users desiring to dispute such fines must file a written request for the superintendent to reconsider the fine along with full payment of the fine amount within 20 days of being notified of the fine. Where a request has merit, the superintendent shall convene a hearing on the matter within 30 days of receiving the request from the user. If the user's appeal is successful, the payment, together with any accruing interest, shall be returned to the user. The costs of preparing administrative enforcement actions, such as notices and orders, may be added to the fine.

(d) Issuance of an administrative fine shall not be a bar against or a prerequisite for taking any other action **outlined in the ERP** against the user.

## **Sec. 82-72. Emergency suspensions.**

(a) The superintendent may immediately suspend a user's discharge after informal notice to the user whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The superintendent may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(b) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The superintendent shall allow the user to recommence its discharge when the user demonstrated to the satisfaction of GHU that the period of endangerment has passed, unless the termination proceedings in section 82-73 are initiated against the user.

(c) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the superintendent prior to the date of any show cause or termination hearing under sections 82-68 and 82-73.

## **Sec. 82-73. Termination of discharge.**

- (a) In addition to the provisions of section 82-178, any user that violates the following conditions is subject to discharge termination:
- (1) Violation of wastewater discharge permit conditions.
  - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge.
  - (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
  - (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
  - (5) Violation of the pretreatment standards in section 82-207.

- (b) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 82-68 why the proposed action should not be taken. Exercise of this option by GHU shall not be a bar to against or a prerequisite for taking any other action outlined in the ERP against the user.

#### **Sec. 82-74. Availability of records.**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from GHU inspection and sampling activities, shall be available to the public without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of GHU that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES/APDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

#### **Sec. 82-75. List of noncompliant users.**

(a) GHU shall publish annually, in the largest daily newspaper published in the city where the POTW is located a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements.

(b) For the purpose of this chapter, a Significant Industrial User (or any Industrial User which violates subsections (3), (4), or (8) of this section) is in "significant noncompliance" if its violation meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l), defined as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements taken for each pollutant

parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

- (3) Any other violations of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily **maximum**, minimum, longer-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of pollutant that has caused imminent endangerment to human health, welfare or to the environment, or has resulted in the city's or GHU's exercise of its emergency authority under section 82.66 **through 72** of this chapter to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance;
- (6) Failure to provide within 45 days after the due date, required reports, such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

### **Sec. 82-76. Water supply severance.**

Whenever a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after the user has satisfactorily demonstrated its ability to comply.



### **Sec. 82-77. Contractor listing.**

Users who have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the city and GHU. Existing contracts for the sale of goods or services to the city and GHU held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the city and GHU.

### **Sec. 82-78. Injunctive relief.**

When the superintendent finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued under this article, or any other pretreatment standard or requirement, the superintendent may petition the superior court of the Fourth Judicial District for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by this article on activities of the user. GHU may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action **outlined in the ERP** against a user.

### **Sec. 82-79 Civil Penalties.**

(a) A user which has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of \$1,000.00 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) To the fullest extent permitted by state law, the Superintendent may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of any actual damages incurred by the city.

(c) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action **outlined in the ERP** against a user.

**Sec. 82-79.1 Criminal prosecution.**

(a) A user which has willfully or negligently violated any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 per violation per day, or imprisonment for not more than six (6) months, or both.

(b) A user which has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1,000.00 per violation per day, or imprisonment for six (6) months, or both such fine and imprisonment. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user which knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than six (6) months, or both.

**Sec. 82-80. Affirmative defense; upset.**

(a) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with any applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable pretreatment standards if the requirements of subsection (c) of this section are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the user can identify the cause of the upset;
- (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

- (3) The user has submitted the following information to the POTW and treatment plant operator within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
- a. A description of the indirect discharge and cause of noncompliance;
  - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
  - d. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
  - e. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with applicable pretreatment standards.
  - f. Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**Sec. 82-81. Affirmative defense; prohibited discharge standards.**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in section 82-206(a) and (b)(3) through (7) if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to and during the pass through or interference no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when GHU was regularly in compliance with its NPDES/APDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

**Sec. 82-82. Affirmative defense; bypass.**

(a) For the purposes of this section:

*Bypass* means the intentional diversion of wastestreams from any portion of a user's treatment facility.

*Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (c) through (f) of this section.

(c) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW at least ten days before the date of the bypass, if possible.

(d) A user shall submit oral notice to GHU of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent recurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(e) Bypass is prohibited, and the POTW may take an enforcement action against a user for a bypass, unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
- (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime; this condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (3) The user submitted notices as required under subsections (c) and (d) of this section.

(f) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in subsection (e) of this section.

**Secs. 82-83--82-105. Reserved.**

### **DIVISION 3. SERVICE CONNECTIONS**

**Sec. 82-106. Permit required.**

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance without first obtaining a written sewer connection permit from the superintendent or designated representative.

(b) Where construction, repair, maintenance and excavation in public streets are involved, section 70-246 et seq. shall apply.

**Sec. 82-107. Responsibility for damage.**

The owner shall be responsible to the city and/or GHU for any loss or damage that may directly or indirectly be occasioned by the installation of the service connection.

**Sec. 82-108. Investigation of permit applications.**

(a) All requested permit applications shall be screened and evaluated by the superintendent or his designated representative to determine the following:

- (1) The quantity and characteristics of the sewage to be introduced.
- (2) The availability of a public sewer.
- (3) The sufficiency of the public sewer capacity.
- (4) The commitment of the owner to comply with all provisions of this Code.

(b) The unacceptability of any item in subsection (a) of this section shall be sufficient grounds for denying an application.

**Sec. 82-109. Plumbing requirements.**

(a) Every service line shall contain cleanouts outside the building as required by the Uniform Plumbing Code.

(b) All structures shall contain a check valve to prevent sewer backup inside the confines of the structure as required by section 409 of the Uniform Plumbing Code.

**Sec. 82-110. Individual sewer service.**

Independent and separate sewer services shall be provided on each lot for all buildings within the city or that are to be ultimately connected to the municipal sewerage system. Common sewer services are expressly prohibited in zero lot line and townhouse developments. Condominiums or planned unit developments with specific association agreements subject to city and GHU review, and satisfaction may be allowed as exceptions.

**Sec. 82-111. Maintenance and repair.**

Users shall be responsible for all maintenance and repair of their service line, connection cleanouts and check valves, and shall further be responsible for the removal of soft plugs or debris which accumulate in their service line or connection as well as frozen service line and connections. Users shall ensure that all-weather access is available to sewerage system personnel for cleanouts, valves, control manholes and pretreatment facilities located on user property.

**Sec. 82-112. Disclaimer of warranty.**

Any approval by the city of a type, kind or capacity of an installation shall not relieve a person of the responsibility of revamping, enlarging or otherwise modifying such installation to accomplish an intended purpose. Nor shall any written or oral agreements as to limits of constituents of volume of waters or wastes be considered as final approval for continuing operation. These limits will be subject to constant study and change as considered necessary to serve their intended purpose. The utility expressly disclaims warranty of facilities installed by users or by user's representatives.

**Secs. 82-113--82-135. Reserved.**

## **DIVISION 4. LIQUID WASTE HAULER PERMIT**

### **Sec. 82-136. Required.**

Liquid waste haulers are subject to this article, excepting for sections as otherwise noted in this article. Persons disposing of permitted wastes at the designated disposal facility of the city shall obtain a liquid waste hauler permit in the manner specified in this division.

### **Sec. 82-137. Application.**

Persons seeking a permit to use the designated disposal facilities of GHU shall complete and file with the superintendent or his designee an application on the form prescribed by the superintendent. In support of the application, the user shall be required, at a minimum, to submit the following information:

- (1) Name and address of the hauler.
- (2) Number, capacity and type of all vehicles that are operated by the hauler for purposes of hauling liquid wastes.
- (3) Types of materials pumped by the hauler and the specific disposal methods and locations for those materials.
- (4) Other items as the superintendent deems appropriate to assure compliance with this article.

### **Sec. 82-138. Disposal charge.**

(a) The disposal charge for all permitted liquid waste shall be the current rate as established in the state public utilities commission approved tariff for GHU. Such charge shall be payable on a monthly basis and shall be collected by GHU.

(b) Accounting and billing of each such load discharged will be accomplished by use of an electronic card reading and printing device located at the disposal station or by other means deemed appropriate by the superintendent.

(c) Each vehicle using the designated disposal facilities of GHU must have an authorization document issued by GHU, which document shall identify the company, permit number, identification of vehicles and other items as appropriate or otherwise indicated in the liquid waste hauler permit.

(d) GHU shall establish a charge per card for replacement of lost or damaged electronic pass cards.

**Sec. 82-139. Conformity with article.**

Permits to use the designated disposal facilities of the GHU are subject to all the provisions of this article unless otherwise indicated in this section and the issued permit, and all other regulations, charges and fees deemed applicable by the superintendent.

**Sec. 82-140. Sampling authorized.**

(a) Liquid wastes disposed of at the designated disposal facilities of GHU shall be subject to sampling to determine compliance with all applicable provisions of this article. GHU may collect samples of each hauled load to ensure compliance with applicable standards. GHU may require the hauler to provide a waste analysis of any load prior to discharge. Liquid waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, sources of waste, and volume and characteristics of waste.

(b) Limitations and prohibitions governing these pumpings are contained in section 82-145, except the following limitations and prohibitions shall also apply:

Total petroleum hydrocarbon, mg/l.....	25
Closed cup flashpoint test, degrees Fahrenheit.....	Greater than 140

**Sec. 82-141. Liquid waste hauler permit conditions.**

(a) Liquid waste hauler permits shall be issued for no longer than three years. All terms and conditions of the permit may be subject to modification and change by the superintendent at any time during the life of the permit.

(b) A liquid waste hauler permit may not be transferred, reassigned or sold.

(c) Liquid waste hauler permit renewal must be applied for and an updated permit application submitted to the superintendent at least 30 days prior to the expiration date contained in the permit.

(d) Conditions and information contained in the liquid waste hauler permit may include but are not limited to the following:

- (1) Firm name, address, phone number.
- (2) Authorized representative information and signature.



- (3) Certification of permit condition acceptance.
- (4) Restrictions of hours of operation if applicable.
- (5) Conditions upon which permit revocation may occur.
- (6) Limitation on fats, oils, greases, hydrocarbons or other pollutants.
- (7) Permit number, card number.
- (8) Recordkeeping and reporting requirements.
- (9) Compliance with rules and regulations of GHU regarding proper cleanliness and sanitary conditions.
- (10) Requirements to immediately notify the superintendent of any unusual circumstances observed during liquid waste pumping operations.
- (11) Other conditions, limitations or prohibitions deemed appropriate by the superintendent.

(e) Liquid waste hauler truck contents shall be subject to sampling and analysis by GHU wastewater utility employees at any time.

(f) All reports and records required to be retained by this article shall be retained for a minimum of three years and shall be made available immediately upon request by the superintendent.

**Sec. 82-142. Use of electronic cards.**

(a) Electronic cards shall be issued for each truck utilizing the designated disposal facilities of GHU.

(b) Properly issued cards shall be designated in the liquid waste hauler permit identifying specific truck issued to, card number, and date issued.

(c) The authorization document issued by GHU in accordance with this Code shall accompany each vehicle and be made available upon request of any GHU wastewater utility employee.

**Sec. 82-143. Discontinuance of discharges authorized.**

Any GHU wastewater utility employee shall have the authority to order the immediate discontinuance of the discharge from any liquid waste hauler truck into the designated disposal facilities of GHU. Such order shall be based on the employee's best professional judgment that the discharge may be in violation of any applicable condition of this article, or may otherwise be deleterious to the operation of the wastewater treatment plant, the POTW, or the safety of GHU employees.

**Sec. 82-144. Denial of permit.**

(a) The superintendent may deny the issuance of a liquid waste hauler permit on the following grounds:

- (1) The applicant knowingly falsified information on his application;
- (2) The applicant's previous liquid waste hauler permit is under suspension or probation or has been otherwise revoked and the condition upon which such action was taken still exists;
- (3) The applicant is not current on all disposal and permit related reports and charges;
- (4) Discharge to the POTW of unpermitted or otherwise prohibited wastes; or
- (5) Other items as the superintendent considers significant.

(b) If an application for a liquid waste hauler permit is denied, the superintendent shall notify the applicant in writing of such denial. Such notification shall state the grounds for such denial with the degree of specificity which will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.

(c) Upon receipt of notification of denial of a permit application, the applicant may request and shall be granted a hearing to be held by the superintendent or his designated representative. At such hearing the applicant shall have the burden of establishing that the conditions set out in this article have been met and that the permit should be issued.

(d) The superintendent may conduct the hearing and take the evidence or may designate a representative to:

- (1) Issue in the name of the superintendent notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to the matter involved in such hearings;

- (2) Take the evidence; and
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, to the superintendent, together with recommendations for action thereon.

**Sec. 82-145. Revocation, suspensions, probation.**

(a) All liquid waste hauler permits issued to any person may be revoked, suspended or entered into a probationary period upon a finding by the superintendent that any of the following conditions exist:

- (1) Such person has failed to pay disposal charges in accordance with the state public utilities commission tariff of GHU;
- (2) Such person or his representative has improperly used and/or maintained the designated disposal facilities of GHU in violation of requirements established by the superintendent;
- (3) Such person or his representative failed to display the authorized document upon request by a representative or employee of GHU;
- (4) Such person or his representative has changed, altered or otherwise modified the face of a permit or authorization document without the permission of the superintendent;
- (5) Such person or his representative has violated any condition of the permit;
- (6) Such person or his representative has falsified any application, records, reports or monitoring results required to be maintained, or has failed to immediately make available such items to the superintendent upon his request; or
- (7) Such person or his representative failed to immediately halt the discharge from his truck into the designated disposal facilities of GHU upon the order of a GHU wastewater utility employee.

(b) Any liquid waste hauler permit which has been revoked, suspended or entered into probation pursuant to this section may be reinstated upon a finding by the superintendent that the condition which resulted in such revocation no longer exists.

(c) Upon determination of a Code or liquid waste hauler permit violation, any permittee shall be subject to the enforcement actions outlined in division 2 of this article,

or as is otherwise contained in the liquid waste hauler permit as necessary to protect the wastewater treatment plant or environment.

(d) Suspensions and periods of probation may be effected by the superintendent for any length of time up to one year.

**Sec. 82-146. Private wastewater disposal.**

(a) Where a public sewer is not available under the provisions of the Uniform Plumbing Code (UPC), as adopted and amended in sections 10-66 and 10-67, the building sewer shall be connected to a private wastewater disposal system complying with the same provisions and applicable city, state and federal requirements.

(b) Upon completion of construction of a sewer system extension in an area, GHU shall publish a notice that the sewer service is available to serve the property owners of that area. The owner of property served by a private wastewater disposal system shall have installed or cause to be installed, at his expense, a connection to the public sewer within one year from the date such sewer service is declared available, provided the sewer is within 250 feet of the property line. The connection shall be of a type and installed in a manner consistent with this article.

(c) No statement contained in this section shall be construed to interfere with any additional requirement that may be imposed under chapter 10, articles III and VIII, and chapter 34, articles II and IV, of this Code or by the city sanitarian.

**Sec. 82-147. Building sewers.**

All building sewers shall be installed in complete accordance with provisions of the Uniform Plumbing Code, as adopted and amended in sections 10-66 and 10-67 and the requirements of the state public utilities commission approved tariffs of GHU.

**Secs. 82-148--82-170. Reserved.**

**DIVISION 5. WASTEWATER DISCHARGE PERMIT**

**Sec. 82-171. Required for significant industrial users.**

(a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the superintendent. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subject the wastewater discharge permittee to the sanctions set out in this article. Obtaining a wastewater discharge permit does not

relieve a permittee of the obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

(b) The superintendent may require other users, including liquid waste haulers, to obtain wastewater discharge permits (as necessary) to carry out the purposes of this division.

### **Sec. 82-172. Existing significant industrial user (SIU).**

Any significant industrial user (SIU) that was discharging wastewater into the POTW prior to the effective date of the ordinance implementing this section and that wishes to continue such discharges in the future shall within 60 days after notification by the superintendent submit a permit application to GHU in accordance with section 82-175.

### **Sec. 82-173. New sources and new users.**

(a) At least 90 days prior to the anticipated start-up, new sources, sources that become industrial users subsequent to the promulgation of an applicable categorical pretreatment standard, and new users considered by GHU to fit the definition of significant industrial user (SIU) shall apply for a wastewater discharge permit and will be required to submit to GHU at least the information listed in section 82-175. A new source (new user) cannot discharge without first receiving a wastewater discharge permit from GHU.

(b) New sources and new users shall also be required to include in their application information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources and new users shall give estimates of the information requested in section 82-175(4) **and** (5).

### **Sec. 82-174. Extrajurisdictional users.**

Any existing user located beyond the city limits required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application as outlined in section 82-175. New sources and new users located beyond the city limits required to obtain a wastewater discharge permit shall comply with section ~~82-172~~ **82-173**.

### **Sec. 82-175. Wastewater discharge permit application contents.**

(a) **Reporting requirements for Industrial Users upon effective date of Categorical Pretreatment Standard—Baseline Monitoring Report (Initial Compliance Report). Within 180 days after the effective date of a Categorical Pretreatment Standard, or 180 days after the final administrative decision made**

**upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing Industrial Users subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the Control Authority a report which contains the information listed in the paragraphs (b)(1)-(8) of this section. 90 day Compliance Report (Periodic Compliance Report) –At least 90 days prior to commencement of discharge, New Sources, and sources that become Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall be required to submit to the Control Authority a report which contains the information listed in paragraphs (b)(1)-(5) of this section. New Sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable Pretreatment Standards. New Sources shall give estimates of the information requested in paragraphs (b) (4) and (5) of this section.**

**(b)** All users required to obtain a wastewater discharge permit must submit, at a minimum, the information in this section. The superintendent shall approve a form to be used as a permit application. Categorical users submitting the following information shall have complied with 40 CFR 403.12(b):

- (1) *Identifying information.* The user shall submit the name and address of the facility, including the name of the operator and owners.
- (2) *Permits.* The user shall submit a list of any environmental control permits held by or for the facility.
- (3) *Description of operations.* The user shall submit a brief description of:
  - a. The nature, average rate of production, and standard industrial classification of the operations carried out by such industrial user, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
  - b. Number and type of employees, hours of operation;
  - c. Each product produced by type, amount, process and rate of production;
  - d. Type and amount of raw materials processed (average and maximum per day); and
  - e. The time and duration of discharges;

This description should also include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes. Disclosure of site plans, floor plans, mechanical

and plumbing plans and details shall show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

(4) *Flow measurement.*

a. *Categorical user.* A categorical user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

1. Regulated or manufacturing process streams; and
2. Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

b. *Non-categorical user.* A non-categorical user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW as required by the superintendent from each of the following:

1. Total process flow;
2. Wastewater treatment plant flow;
3. Total plant flow; and
4. Individual manufacturing process flow.

c. *Verification.* GHU may verify the estimates of these flows where justified by cost or feasibility considerations.

(5) *Measurements of pollutants.*

a. *Categorical user.*

1. A categorical user shall identify the applicable pretreatment standards for each regulated or manufacturing process.
2. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass) where required by the categorical pretreatment standard or as required by GHU of regulated pollutants (including standards contained in sections 82-206 through 82-209, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform

to sampling and analytical procedures outlined in section 82-271 **and 82-272.**

3. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.
4. **Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the Pretreatment Standards.**

**(5)** Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) for a categorical user covered by a categorical pretreatment standard, this adjusted limit along with supporting data shall be submitted as part of the application.

b. *Non-categorical user.*

1. A non-categorical user shall identify the applicable pretreatment standards for its wastewater discharge.
2. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by GHU) of regulated pollutants contained in sections 82-206 through 82-209, as appropriate, in the discharge. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in section 82-271 **and 82-272.**
3. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.
4. Where the superintendent developed alternate concentration or mass limits because of dilution, this adjusted limit along with supporting data shall be submitted as part of the application.



**c. Non-Significant Categorical Industrial User (NSCIU).**

**A Non-Significant Categorical Industrial User (NSCIU) shall follow 5(a)(1)-(5) with the exception that a signed annual certification statement, an example of which can be found at 40 CFR 403.12(q), and any supporting documentation and/or alternative report be turned into the Control Authority.**

- (6) *Certification.* A statement, reviewed by an authorized representative of the user and certified by a qualified professional as outlined in section 82-176, indicating whether the applicable pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet the applicable pretreatment standards and requirements.
- (7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the applicable pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The user's schedule shall conform with the requirements of section 82-243. The completion date in this schedule shall not be later than the compliance date established pursuant to section ~~82-213~~ **82-214**.
- a. Where the user's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the user submits the report required by this subsection, the information required by subsection (**b**)(6) and this subsection (**b a**)(7) shall pertain to the modified limits.
- b. If the categorical pretreatment standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) after the user submits the report required by subsection (**b e**)(6) and this subsection shall be submitted by the user within 60 days after the modified limit is approved.
- (8) *Other information.* The user shall submit any other information as may be deemed necessary by the superintendent to evaluate the wastewater discharge permit application.

**(c. b)** Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

## Sec. 82-176. Signatory and certification requirement.

All wastewater discharge permit applications and user reports must be signed by a responsible officer or manager, or sole proprietor or general partner as applicable, or duly authorized representative.

(1) For the purpose of this section, a responsible officer or manager means:

a. A president, vice-president, secretary, or treasurer of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

b. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. This authorization must be made in writing by the principal executive officer or ranking elected official and submitted to the approval authority prior to or together with the report being submitted of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(2) A duly authorized representative is an individual designated by the responsible officer, manager, sole proprietor or general partner in writing. The written authorization must be submitted to the city and also specifies either an individual or a position having the responsibility of the overall operation of the facility from ~~with~~ **which** the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent ~~responsibility~~ **responsibility**, or having overall responsibility for environmental matters for the company. If an authorization in this section is no longer accurate because a different individual or position has ~~responsibility~~ **responsibility** for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying

the requirements of this section must be submitted to the city prior to or together with any reports to be signed by an authorized representative.

**Sec. 82-177. Wastewater discharge permit decisions.**

The superintendent will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the superintendent will determine whether or not to issue a wastewater discharge permit. Upon a determination to issue, the permit shall be issued within 30 days of full evaluation and acceptance of the data furnished. The superintendent may deny any application for a wastewater discharge permit.

**Sec. 82-178. Wastewater discharge permit contents.**

(a) Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(b) Wastewater discharge permits must contain the following conditions and information:

(1) A statement that indicates the wastewater discharge permit duration, which in no event shall exceed five years.

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from GHU, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(3) Applicable pretreatment standards and requirements, including any special state requirements.

(4) Self-monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law.

(5) Requirement for immediate notification to GHU where self-monitoring results indicate noncompliance.

(6) Requirement to report a bypass or upset of a pretreatment facility.

(7) Requirement for the significant industrial user (SIU) who reports noncompliance to repeat the sampling and analysis and submit results to GHU within 30 days after becoming aware of the violation.

(8) A statement of applicable civil, criminal and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.

(c) Wastewater discharge permits may contain but need not be limited to the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works.

(3) Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated or routine discharges.

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.

(5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.

(8) Any special agreements the superintendent chooses to continue or develop between GHU and the user.

(9) Other conditions as deemed appropriate by the superintendent to ensure compliance with this article, and state and federal laws, rules and regulations.

### **Sec. 82-179. Wastewater discharge permit appeals.**

(a) Any person, including the user, may petition GHU to reconsider the terms of a wastewater discharge permit within 30 days of its issuance.

(b) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(c) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(d) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(e) If GHU fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(f) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing an appeal with the Superior Court for the Fourth Judicial District of the State of Alaska within the time provided in Alaska Rules of Court, Rules of Appellate Procedure, Rule 602.

### **Sec. 82-180. Wastewater discharge permit duration.**

Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire.

### **Sec. 82-181. Wastewater discharge permit modification.**

The superintendent may modify the wastewater discharge permit for good cause, including but not limited to the following:

(1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;

- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the POTW, GHU personnel or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the wastewater discharge permit;  
or
- (9) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

**Sec. 82-182. Wastewater discharge permit transfer.**

(a) Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 60 days' advance notice to the superintendent and the superintendent approves the wastewater discharge permit transfer.

(b) The notice to the superintendent must include a written certification by the new owner and/or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

(c) Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable as of the date of facility transfer.

**Sec. 82-183. Wastewater discharge permit revocation.**

(a) Wastewater discharge permits may be revoked for but not limited to the following reasons:

- (1) Failure to notify GHU of significant changes to the wastewater prior to the changed discharge.
- (2) Failure to provide prior notification to GHU of changed conditions.
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- (4) Falsifying self-monitoring reports.
- (5) Tampering with monitoring equipment.
- (6) Refusing to allow GHU timely access to the facility premises and records.
- (7) Failure to meet discharge limitations.
- (8) Failure to pay fines.
- (9) Failure to pay sewer charges.
- (10) Failure to meet compliance schedules.
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application.
- (12) Failure to provide advance notice of the transfer of a permitted facility.
- (13) Invocation by GHU of its emergency provision as cited in section 82-72.
- (14) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

(b) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

**Sec. 82-184. Wastewater discharge permit reissuance.**

(a) A user who is required to have a wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, in accordance with section ~~82-174~~ **82-175**, a minimum of ~~60~~ **90** days prior to the expiration of the user's existing wastewater discharge permit.

(b) A user whose existing wastewater discharge permit has expired and has submitted its reapplication in the time period specified in this section shall be deemed to have an effective wastewater discharge permit until GHU issues the new wastewater discharge permit.

(c) A user whose existing wastewater discharge permit has expired and who failed to submit its reapplication in the time period specified in this section will be deemed not to have a wastewater discharge permit.

**Secs. 82-185--82-205. Reserved.**

**DIVISION 6. GENERAL REQUIREMENTS**

**Sec. 82-206. Prohibited discharge standards.**

(a) *General prohibitions.* No user shall introduce or cause to be introduced into the GHU wastewater collection system or into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the GHU wastewater collection system or into the POTW the following pollutants, substances, or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the GHU wastewater collection system and/or the POTW, including but not limited to waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21;
- (2) Wastewater having a pH less than 5.0 or more than 10.0, or otherwise causing corrosive structural damage to the POTW or equipment;
- (3) Solid or viscous substances in amounts which will cause obstruction of the flow to and within the POTW resulting in interference;



- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- (5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius) unless the approval authority, upon the request of the POTW, approves alternate temperature limits;
- (6) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants, except at discharge points designated and approved by GHU;
- (9) Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating NPDES/APDES permit of the city and GHU; color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent from the seasonably established norm for aquatic life;
- (11) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the superintendent in compliance with applicable state or federal regulations;
- (12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater unless specifically authorized by the superintendent;
- (13) Sludges, screenings or other residues from the pretreatment of industrial wastes;

- (14) Medical wastes, except as specifically authorized by the superintendent in a wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (17) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW; at no time shall two successive readings on an explosion meter, at the point of discharge into the system or at any point in the system be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter;
- (18) Grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes;
- (19) Any substance which will cause the POTW to violate its NPDES/APDES and/or other disposal system permits;
- (20) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage or other wastewater unless the person has first obtained testing and approval as may be generally required by GHU and paid all fees assessed for the privilege of the discharge;
- (21) Any hazardous wastes as defined in rules published by the state or in EPA rules, 40 CFR 261; or
- (22) Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA).

Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

**Sec. 82-207. Federal Categorical Pretreatment Standards.**

The national categorical pretreatment standards found in 40 CFR parts 405 through 471 are incorporated by reference.

**Sec. 82-208. State requirements.**

State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this article or other applicable code.

**Sec. 82-209. Local limits.**

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following parameters & maximum daily concentrations in mg/L:

Concentration (mg/l)	Parameter
4.35	Arsenic
0.33	Cadmium
1.23	Chromium
3.38	Copper
1.20	Cyanide
0.69	Lead
0.19	Mercury
4.74	Nickel
25.0	Oil and grease (petroleum or mineral oil products)
100.0	Oil and grease (animal and vegetable based)
0.0*	PCB
0.0*	Pesticides (all)
0.5	Phenol
0.43	Silver
1.00	Sulfide
5.0	Tin
2.61	Zinc

**\*No Detectable Amount**

These limits apply at the point where the wastewater is discharged to the wastewater collection system. All concentrations for metallic substances are for total

metal unless indicated otherwise. The superintendent may impose mass limitations in addition to or in place of the concentration-based limitations above. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit shall apply.

POTW's may develop Best Management Practices ("BMP's") to implement paragraphs as listed in 40 CFR 403.5 (c) (1) and (2). Such BMP's shall be considered local limits and Pretreatment Standards for the purpose of this chapter and section 307(d) of the Act.

#### **Sec. 82-210. Right of revision.**

GHU reserves the right to establish, by its tariff through the Regulatory Commission of Alaska and by ordinance through the city council or in its wastewater discharge permits, more stringent standards or requirements on discharges to the POTW than are established in this article.

#### **Sec. 82-211. Special agreement.**

The city reserves the right for GHU to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the approval authority in accordance with 40 CFR 403.13.

#### **Sec. 82-212. Dilution.**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

#### **Sec. 82-213. Pretreatment facilities.**

Users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all applicable pretreatment standards and requirements set out in this article within the time limitations specified by the EPA, the

state or the superintendent, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to GHU shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to GHU for review, and shall be acceptable to GHU before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to GHU under the provisions of this article.

**Sec. 82-214. Deadline for compliance with applicable pretreatment requirements.**

(a) Compliance by existing users (categorical users) covered by categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate standard. GHU shall establish a final compliance deadline date for any existing significant industrial user (SIU) not covered by categorical pretreatment standards or for any categorical user when the local limits for that user are more restrictive than EPA's categorical pretreatment standards.

(b) New source dischargers and new users that fit the definition of SIU are required to comply with applicable pretreatment standards within the shortest feasible time (not to exceed 90 days from the beginning of discharge). New sources and new users shall install and have in operating condition, and shall start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

(c) Any wastewater discharge permit issued to a categorical user shall not contain a compliance date beyond any deadline date established in EPA's categorical pretreatment standards. Any other existing SIU which is in noncompliance with any local limits shall be provided a compliance schedule placed in an order or other similar enforcement document as outlined in this article.

**Sec. 82-215. Additional pretreatment measures.**

(a) Whenever deemed necessary, the superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article.

(b) Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be

required for residential users. All interception units shall be of type and capacity approved by the superintendent and the city's building department and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at his expense.

(c) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

### **Sec. 82-216. Accidental discharge/slug control plans.**

(a) The superintendent may require any user to develop and implement an accidental discharge/slug control plan. Where deemed necessary by GHU, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense. An accidental spill prevention plan/slug control plan showing facilities and operating procedures to provide this protection shall be submitted to GHU for review and approval before implementation. The GHU shall determine which user is required to develop a plan and require the plan to be submitted within 30 days after notification by GHU. Each user shall implement its accidental spill prevention plan (ASPP) as submitted or as modified after such plan has been reviewed and approved by GHU. Review and approval of such plans and operating procedures by GHU shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of section 82-213.

(b) Any user required to develop and implement an accidental discharge ~~control~~ slug **control** plan shall submit a plan which addresses, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the POTW of any accidental or slug discharge, which notification must also be given for any discharge which would violate any of the prohibited discharges in sections 82-206 through ~~82-208~~ **82-209**; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include but are not limited to:
  - a. Inspection and maintenance of storage areas;
  - b. Handling and transfer of materials;
  - c. Loading and unloading operations;

- d. Control of plant site runoff;
- e. Worker training;
- f. Building of containment structures or equipment;
- g. Measures for containing toxic organic pollutants (including solvents); and/or
- h. Measures and equipment for emergency response.

(c) Users shall notify the GHU wastewater treatment plant immediately upon the occurrence of a slug or accidental discharge of substances prohibited by this article. The notification shall include location of discharge, date and time of the discharge, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss or damage to the POTW in addition to the amount of any fines imposed on GHU and/or the city on account of the discharge under state or federal law.

(d) Within five days following an accidental discharge, the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to persons or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

(e) Signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

**Secs. 82-217--82-240. Reserved.**

## **DIVISION 7. REPORTING REQUIREMENTS**

### **Sec. 82-241. ~~Final compliance~~ Baseline Monitoring Report (Initial Compliance Report).**

(a) Within 90 days following the date for final compliance by the significant industrial user (SIU) with applicable pretreatment standards and requirements set forth in this article, in a wastewater discharge permit, or within 30 days following commencement of the introduction of wastewater into the POTW by a new source or new users considered by GHU to fit the definition of SIU, the affected discharger shall

submit to GHU a report containing the information outlined in subsections ~~(d)~~ **(b)(1)** through ~~(f)~~ **(6)** of section 82-175.

(b) For users subject to equivalent mass or concentration limits established by GHU in accordance with procedures established in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

**Sec. 82-242. 90 Day Compliance Report (Periodic Compliance Report).**

(a) Any user that is required to have an industrial waste discharge permit and performs self-monitoring shall submit to GHU during the months of June and December, unless required on other dates or more frequently by GHU, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial waste discharge permit. At a minimum, users shall sample their discharge at least twice per year.

(b) The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any additional information required by this article or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a user sampled more frequently than what was required by GHU or by this article, it must submit all results of sampling and analysis of the discharge during the reporting period.

(c) Any user subject to equivalent mass or concentration limits established by GHU or by unit production limits specified in the applicable categorical standards shall report production data as outlined in section ~~82-243~~ **82-242**.

(d) If GHU calculated limits to factor out dilution flows or non-regulated flows, the discharger will be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.

(e) Flows shall be reported on the basis of actual measurement; however, GHU may accept reports of average and maximum flows estimated by verifiable techniques if GHU determines that an actual measurement is not feasible.

(f) Sampling shall be representative of the user's daily operations and shall be taken in accordance with the requirements specified in section 82-271.



(g) GHU may require reporting by users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent, or determine any other factor which is related to the operation and maintenance of the sewerage system.

(h) GHU may require self-monitoring by the user or, if requested by the discharger, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If GHU agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by GHU for the sampling and analysis. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills. GHU is under no obligation to perform periodic compliance monitoring for a user.

**Sec. 82-243. Compliance schedules for meeting applicable pretreatment standards.**

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(b) No increment referred to in subsection (a) of this section shall exceed nine months.

(c) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to GHU, including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports.

**Sec. 82-244. Notification of significant production changes.**

Any user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify GHU within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit.

**Sec. 82-245. Hazardous waste notification.**

(a) Existing users that are discharging more than 15 kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) are required to provide a one-time notification in writing to GHU, director of the EPA region 10 office of air, waste and toxic chemicals and the northern region of the department of environmental conservation. Any existing user exempt from this notification shall comply with the requirements contained in this section within 30 days of becoming aware of a discharge of 15 kilograms of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the GHU sewerage system. Such notification shall include:

- (1) The name of the hazardous waste as set forth in 40 CFR part 261;
- (2) The EPA hazardous waste number; and
- (3) The type of discharge (continuous, batch, or other).

(b) If an industrial user discharges more than 100 kilograms of such waste per calendar month to the sewerage system, the notification shall also contain the following information to the extent it is known or readily available to the industrial user:

- (1) An identification of the hazardous constituents contained in the wastes;
- (2) An estimation of the mass and concentration of such constituents in the wastestreams discharged during that calendar month; and
- (3) An estimation of the mass of constituents in the wastestreams expected to be discharged during the following 12 months.

(c) These notification requirements do not apply to pollutants already reported under the self-monitoring requirements.

(d) Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify GHU of the discharge of such a substance within 90 days of the effective date of such regulations.

(e) In the case of any notification made under this section, an industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

**Sec. 82-246. Notice of potential problems, including accidental spills and slug loadings.**

Any user shall notify GHU immediately of all discharges that could cause problems to the POTW, including any slug loadings. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a slug of pollutants shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the city and/or GHU under state or federal law.

**Sec. 82-247. Noncompliance reporting.**

If sampling performed by a user indicates a violation, the user shall notify GHU within 24 hours of becoming aware of the violation. The user shall also repeat the sampling within five days and submit the results of the repeat analysis to GHU within 30 days after becoming aware of the violation, except the user is not required to resample if:

- (1) GHU performs sampling at the user at a frequency of at least once per month; or
- (2) GHU performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

**Sec. 82-248. Notification of changed discharge.**

All users shall promptly notify GHU in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, **changes that could affect the potential for slug discharge**, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12(p).

**Sec. 82-249. Reports from unpermitted users.**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to GHU as the superintendent may require.

**Sec. 82-250. Recordkeeping.**

(a) Users subject to the reporting requirements of this article shall retain and make available for inspection and copying all records or information obtained pursuant to any monitoring activities required by this article and any additional records or information obtained pursuant to monitoring activities undertaken by the user

independent of such requirements, including documentation associated with Best Management Practices

(b) Records shall include the date, exact place, method, and time of sampling and the name of the person taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.

(c) These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the user has been specifically notified of a longer retention period by the superintendent.

**Secs. 82-251--82-270. Reserved.**

## **DIVISION 8. SAMPLING AND ANALYTICAL REQUIREMENTS**

### **Sec. 82-271. Sampling requirements for users.**

- A. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. The samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during the 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory. Composite samples for other parameters unaffected by compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.
- B. For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum. For the reports required by 40 CFR 403.12 (e) and (h), the control authority shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

### **Sec. 82-272. Analytical requirements.**

All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR part 136 unless otherwise

specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

**Sec. 82-273. GHU monitoring of user's wastewater.**

When GHU has occasion to monitor a user's wastewater, GHU shall follow the procedures for monitoring outlined in sections 82-271 and 82-272.

**Secs. 82-274--82-295. Reserved.**

**DIVISION 9. INSPECTION**

**Sec. 82-296. Authorized.**

(a) GHU shall have the right to enter the facilities of any user to ascertain whether the purposes of this article and any wastewater discharge permit or order issued under this article are being met and whether the user is complying with all requirements of this article.

(b) Users shall allow the superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

**Sec. 82-297. Superintendent's access.**

(a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The superintendent shall have the right to set up on the user's property or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.

(c) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.

(d) Unreasonable delays in allowing the superintendent access to the user's premises shall be a violation of this article.

**Sec. 82-298. Monitoring facilities.**

(a) Each user shall provide and operate at its own expense a monitoring facility to allow inspection, sampling and flow measurements of each sewer discharge to the GHU wastewater utility collection system. Each monitoring facility shall be situated on the user's premises. The superintendent, whenever applicable, may require the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line or wastewater treatment system).

(b) There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(c) All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

(d) The superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

**Sec. 82-299. Search warrants.**

If the superintendent has been refused access to a building, structure or property, or any part of a building, structure or property, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect as part of a routine inspection program of GHU designed to verify compliance with this article or any wastewater discharge permit or order issued hereunder this article, or to protect the overall public health, safety and welfare of the city, the superintendent shall seek issuance of a search and/or seizure warrant from the Superior Court of the Fourth Judicial District of the State of Alaska. Such warrant shall be served at reasonable hours by the superintendent in the company of a uniformed peace officer.

**Sec. 82-300 – 82-309 - Reserved**