



FAIRBANKS CITY COUNCIL  
AGENDA NO. 2011-02  
**REGULAR MEETING January 24, 2011**  
FAIRBANKS CITY COUNCIL CHAMBERS  
800 CUSHMAN STREET, FAIRBANKS, ALASKA

---

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. 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

7. SPECIAL ORDERS

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

Transfer of Ownership and Name Change:

Type: Beverage Dispensary  
 License: **Drop Inn Lounge, # 328**  
 Licensee/Applicant: N & P Enterprises, LLC  
 Physical Location 1420 Cushman Street  
 Current DBA: Drop In/EI Sombrero, #328  
 Licensee: Foxx Inc/  
 Location: 1420 Cushman Street

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

Lic #	Establishment Name	License Type	Premise Location	Owner Name
725	Midnite Mine	Beverage Dispensary	308 Wendell Ave	Borealis Investments Inc
1047	Silver Spur	Beverage Dispensary	285 Romans Way	Jacobson Brothers Inc
3282	Sam's Club #6603	Package Store	48 College Road	Sam's West Inc
3687	Thai House Restaurant	Restaurant Eating Place	412 Fifth Ave.	Chalermpon Boonprasert
4464	Fred Meyer #224	Package Store	930 Old Steese Hwy	Fred Meyer Stores Inc
4547	Chili's Grill & Bar	Beverage Dispensary	506 Merhar Ave.	Duke Investments LLC
4763	Bobby's Downtown	Beverage Dispensary	609 Second Ave	Delta Epsilon Inc
2982	Carlson Community Center	Recreational Site	2010 Second Ave	SMG of Alaska Inc
336	Eagles F.O.E #1037	Club	2001 First Ave.	Fraternal Order of Eagles #1037
4507	Miguel's Restaurant	Beverage Dispensary	1235 Airport Way Ste 1	Miguel's LLC
3020	American Legion Post 57	Club	1634 Cushman Street	American Legion Post #57
2512	2 Go Mart #114	Package Store	2110 Peger Road	Tesoro Northstore Company
4216	2 Go Mart #115	Package Store	99 College Road	Tesoro Northstore Company
4565	2 Go Tesoro	Package Store	3569 S Cushman	Tesoro Northstore Company

8. MAYOR'S COMMENTS AND REPORT

9. UNFINISHED BUSINESS

- a) Ordinance No. 5827 – An Ordinance Ratifying a Labor Agreement Between the City of Fairbanks and the International Brotherhood of Electrical Workers Local 1547, and Setting an Effective Date. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

10. NEW BUSINESS

- \*a) Resolution No. 4454 – A Resolution Expressing Concerns about FNSB Ordinance 2010-56 and Amendments to Title 18 of the Borough Code of Ordinances. Introduced by Mayor Cleworth.
- \*b) Resolution No. 4455 – A Resolution Authorizing the City of Fairbanks to Request Funds from the Department of Homeland Security U.S. Fire Administration Assistance to Firefighters Grant Program for the 2010 Fire Prevention and Safety Grant in an Amount of \$60,000. Introduced by Mayor Cleworth.
- \*c) Ordinance No. 5828 – An Ordinance to Amend FGC Section 46-5 Disposal of Firearms Held as Evidence. Introduced by Mayor Cleworth.
- \*d) Ordinance No. 5829 – An Ordinance to Amend FGC Sections 10-276 and 10-277, Adopting the 2011 National Electrical Code with Local Amendments, and Setting an Effective Date. Introduced by Mayor Cleworth.
- \*e) Ordinance No. 5830 – An Ordinance to Amend FGC Sections 10-136 and 10-137, Adopting the 2009 Uniform Plumbing Code with Amendments, and Setting an Effective Date. Introduced by Mayor Cleworth.

11. DISCUSSION ITEMS (INFORMATION AND REPORT)

- a) Committee Reports

12. COMMUNICATIONS TO COUNCIL

- a) Presentation by City Engineer on Signature Street Concept and Street Repairs for 2011.

13. COUNCIL MEMBERS' COMMENTS

14. CITY ATTORNEY'S REPORT

15. CITY CLERK'S REPORT

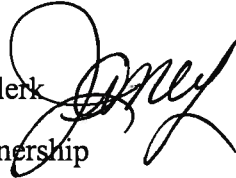
16. ADJOURNMENT

# MEMORANDUM

City of Fairbanks Clerk's Office

Janey Hovenden, City Clerk

TO: Mayor Jerry Cleworth  
City Council Members

FROM: Janey Hovenden, CMC, City Clerk 

SUBJECT: Transfer of Liquor License Ownership

DATE: January 19, 2011

Attached you will find a copy of the notification of application for transfer of ownership and name change for the following liquor license:

License #: 328  
License Type: Beverage Dispensary  
D.B.A.\*: **Drop Inn Lounge**  
Licensee/Applicant: N & P Enterprises LLC  
Physical Location: 1420 Cushman St

Corp/LLC Agent:	Address	Phone	Date and State of Limited Partner/Corp	Good standing?
Joseph K Nyquist	1225 Airport Way #12 Fairbanks AK 99701	907-451-6377	November 11, 2010	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 (%)
Joseph K Nyquist	2/18/41	1255 Airport Way #12 Fairbanks AK 99701	907-451-6377	Member 50%
Wilbert George Pearson Jr	7/1/47	2827 Chief William Dr #15 Fairbanks AK 99709	907-322-0207	Member 50%

If **transfer** application, current license information:

License #: 328  
Current D.B.A.: Drop In/El Sombrero  
Current Licensee: Foxx Inc  
Current Location: 1420 Cushman St

Additional comments: None.

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

There are no Departmental objections to this transfer.

State of Alaska  
**Alcoholic Beverage Control Board**

Date of Notice: January 10, 2011

\*Correction

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

TRANSFER  
 Ownership  
 Location  
 Name Change

Governing Body: **City of Fairbanks**

Community Councils: None

License #: **328**  
 License Type: **Beverage Dispensary**  
 D.B.A.\*: Drop Inn Lounge  
 Licensee/Applicant: **N & P Enterprises LLC**  
 Physical Location: 1420 Cushman St

Mail Address: 1225 Airport Way #12 Fairbanks AK 99701  
 Telephone #: 907-322-0207 907-451-6322 Fax  
 EIN: 92-0156027

Corp/LLC Agent:	Address	Phone	Date and State of Limited Partnership/Corporation	Good standing?
Joseph K Nyquist	1225 Airport Way #12 Fairbanks AK 99701	907-451-6377	November 11, 2010	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.*

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If **transfer** application, current license information:

License #: 328  
 Current D.B.A.: Drop In/El Sombrero  
 Current Licensee: Foxx Inc  
 Current Location: 1420 Cushman St

Additional comments: None.

**\*\*Date of Birth**

**\* Doing Business As**

Cc: Fairbanks North Star Borough

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,

*/s/ Reeda Jaramillo*  
Reeda Jaramillo  
Lead Business Registration Examiner



# 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.  
 BUILDING DEPT.  
 FAIRBANKS POLICE DEPT.

DATE: 01-12-2011

FROM: CITY CLERK'S OFFICE

RE: LIQUOR LICENSE ACTION-TRANSFER OF OWNERSHIP AND NAME CHANGE

DATE NOTICE RECEIVED AT CLERKS OFFICE: 01/10/2011 - 60 DAY DUE DATE 03/11/2011

DATE RESPONSE DUE: **02/08/2011** for City Council Meeting of 02/14/2011

License #: 328  
License Type: Beverage Dispensary  
D.B.A.\*: Drop Inn Lounge  
Licensee/Applicant: N & P Enterprises LLC  
Physical Location: 1420 Cushman St

Mail Address: 1225 Airport Way #12 Fairbanks AK 99701  
Telephone #: 907-322-0207 907-451-6322 Fax  
EIN: 92-0156027

Corp/LLC Agent:	Address	Phone	Date and State of Limited Partner/Corp	Good standing?
Joseph K Nyquist	1225 Airport Way #12 Fairbanks AK 99701	907-451-6377	November 11, 2010	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.*

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If transfer application, current license information:

License #: 328  
Current D.B.A.: Drop In/El Sombrero  
Current Licensee: Foxx Inc  
Current Location: 1420 Cushman St

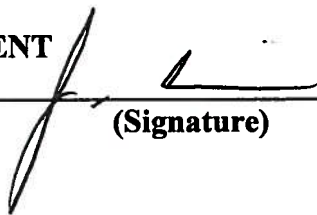
Additional comments: None.

**Drop Inn Lounge / N & P Enterprises LLC  
Transfer Ownership Application  
January 2011  
Page 2**

**NO PROTEST:  
COMMENTS**

**PROTEST  
REASONS:**

**DEPARTMENT  
SIGNEE:**



**(Signature)**

1 1/12/11

**(Printed Name)**

**NOTE: THIS COMPLETED FORM MUST BE RETURNED TO THE CITY CLERK'S OFFICE BY THE DATE  
INDICATED ABOVE. YOU MAY E-MAIL OR FAX (459-6710) THE FORM.  
ANY QUESTIONS CALL OUR OFFICE AT 459-6774. THANK YOU.**





# 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

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EIN: 92-0156027

Corp/LLC Agent:	Address	Phone	Date and State of Limited Partner/Corp	Good standing?
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Current Location: 1420 Cushman St

Additional comments: None.

Drop Inn Lounge / N & P Enterprises LLC  
Transfer Ownership Application  
January 2011  
Page 2

**NO PROTEST:  
COMMENTS**

**PROTEST  
REASONS:**

DEPARTMENT  
SIGNEE:

  
(Signature)

  
(Printed Name)

**NOTE: THIS COMPLETED FORM MUST BE RETURNED TO THE CITY CLERK'S OFFICE BY THE DATE INDICATED ABOVE. YOU MAY E-MAIL OR FAX (459-6710) THE FORM. ANY QUESTIONS CALL OUR OFFICE AT 459-6774. THANK YOU.**



# City of Fairbanks

Office of the City Clerk

800 Cushman Street

Fairbanks, AK 99701

(907)459-6715  
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## ALCOHOL BEVERAGE CONTROL BOARD LIQUOR LICENSE RESPONSE FORM

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 FAIRBANKS POLICE DEPT.

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If transfer application, current license information:

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Current D.B.A.: Drop In/El Sombrero  
Current Licensee: Foxx Inc  
Current Location: 1420 Cushman St

Additional comments: None.

**Drop Inn Lounge / N & P Enterprises LLC  
Transfer Ownership Application  
January 2011  
Page 2**

**NO PROTEST:  
COMMENTS**

**PROTEST  
REASONS:**

**DEPARTMENT  
SIGNEE:**

  
(Signature)

1. KAREN J. ZAGER  
(Printed Name)

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ANY QUESTIONS CALL OUR OFFICE AT 459-6774. THANK YOU.**



# City of Fairbanks

Office of the City Clerk

800 Cushman Street

Fairbanks, AK 99701

(907)459-6715

Fax (907)459-6710

## MEMORANDUM

TO: Mayor Jerry Cleworth  
City Council Members

FROM: Janey Hovenden, CMC, City Clerk

SUBJECT: Renewal of Liquor Licenses (14)

DATE: January 19, 2011

Attached you will find the State of Alaska ABC Board notification of applications for renewal of 14 liquor licenses and the responses received from the Building Department, Finance Department and Police Department:

Lic #	Establishment Name	License Type	Premise Location	Owner Name
725	Midnite Mine	Beverage Dispensary	308 Wendell Ave	Borealis Investments Inc
<b>*1047</b>	<b>Silver Spur</b>	<b>Beverage Dispensary</b>	<b>285 Romans Way</b>	<b>Jacobson Brothers Inc</b>
3282	Sam's Club #6603	Package Store	48 College Road	Sam's West Inc
3687	Thai House Restaurant	Restaurant Eating Place	412 Fifth Ave.	Chalermpon Boonprasert
4464	Fred Meyer #224	Package Store	930 Old Steese Hwy	Fred Meyer Stores Inc
4547	Chili's Grill & Bar	Beverage Dispensary	506 Merhar Ave.	Duke Investments LLC
4763	Bobby's Downtown	Beverage Dispensary	609 Second Ave	Delta Epsilon Inc
2982	Carlson Com. Center	Recreational Site	2010 Second Ave	SMG of Alaska Inc
<b>*336</b>	<b>Eagles F.O.E #1037</b>	<b>Club</b>	<b>2001 First Ave.</b>	<b>Frat. Order of Eagles #1037</b>
4507	Miguel's Restaurant	Beverage Dispensary	1235 Airport Way Ste 1	Miguel's LLC
3020	American Legion 57	Club	1634 Cushman Street	American Legion Post #57
2512	2 Go Mart #114	Package Store	2110 Peger Road	Tesoro Northstore Company
4216	2 Go Mart #115	Package Store	99 College Road	Tesoro Northstore Company
4565	2 Go Tesoro	Package Store	3569 S Cushman	Tesoro Northstore Company

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

**\*The Finance Department recommends protest for the Silver Spur and the Eagles for outstanding sales tax, penalties and/or interest. There are no other departmental protests.**

Please contact me if you need any further information.



**State of Alaska**  
 Department of Public Safety  
**Alcoholic Beverage Control Board**

Sean Parnell, Governor  
 Joseph A. Masters, Commissioner

December 27, 2010

**Renewal Application Notice**

City of Fairbanks & Fairbanks North Star Borough

Attn: City & Borough Clerks

VIA EMAIL: [jjhovenden@ci.fairbanks.ak.us](mailto:jjhovenden@ci.fairbanks.ak.us); [ddosterby@ci.fairbanks.ak.us](mailto:ddosterby@ci.fairbanks.ak.us); [pPhillips@co.fairbanks.ak.us](mailto:pPhillips@co.fairbanks.ak.us)

DBA	Lic Type	Lic #	Owner	Premise Address
Midnite Mine	Beverage Dispensary	725	Borealis Investments Inc	308 Wendell Ave
Silver Spur	Beverage Dispensary	1047	Jacobson Brothers Inc	285 Romans Way
Sam's Club #6603	Package Store	3282	Sam's West Inc	48 College Road
Thai House Restaurant	Restaurant Eating Place	3687	Chalermpon Boonprasert	412 Fifth Ave.
Fred Meyer #224	Package Store	4464	Fred Meyer Stores Inc	930 Old Steese Hwy
Chili's Grill & Bar	Beverage Dispensary	4547	Duke Investments LLC	506 Merhar Ave.
Bobby's Downtown	Beverage Dispensary	4763	Delta Epsilon Inc	609 Second Ave
Carlson Community Center	Recreational Site	2982	SMG of Alaska Inc	2010 Second Ave
F.O.E #1037	Club	336	FOE #1037	2001 First Ave.

We have received a renewal application for the above listed licenses (see attached applications) within your jurisdiction. This is the notice as required under AS 04.11.520. Additional information concerning filing a "protest" by a local governing body under AS 04.11.480 is included in this letter.

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.**

**Alcoholic Beverage Control Board**  
 5848 E Tudor Rd - Anchorage, AK 99507 - Voice (907) 269-0350 - Fax (907) 272-9412

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 13 AAC 104.145, Local Governing Body Protest.

**Note:** Applications applied for under AS 04.11.400(g), 13 AAC 104.335(a)(3), AS 04.11.090(e), and 13 AAC 104.660(e) must be approved by the governing body.

Sincerely,

SHIRLEY A. GIFFORD  
Director

*/s/ Christine C. Lambert*  
Christine C. Lambert  
Records & Licensing Supervisor  
269-0359  
Christine.lambert@alaska.gov

**Alcoholic Beverage Control Board**  
5848 E Tudor Rd - Anchorage, AK 99507 - Voice (907) 269-0350 - Fax (907) 272-9412



# City of Fairbanks

Office of the City Clerk

800 Cushman Street

Fairbanks, AK 99701

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

## LIQUOR LICENSE RESPONSE FORM

TO:  FINANCE DEPT.

DATE: December 27, 2010

BUILDING DEPT.

FAIRBANKS POLICE DEPT.

FROM: CITY CLERK'S OFFICE

RE: LIQUOR LICENSE ACTION - RENEWALS

DATE NOTICE RECEIVED AT CLERKS OFFICE: 12/27/2010 (60 DAY DUE DATE 02/25/11)

DATE RESPONSE DUE: 01/18/2011 for City Council Meeting of 01/24/2011

Lic #	Establishment Name	License Type	Premise Location	Owner Name	Phone
725	Midnite Mine	Beverage Dispensary	308 Wendell Ave	Borealis Investments Inc	(907)456-5348
1047	Silver Spur	Beverage Dispensary	285 Romans Way	Jacobson Brothers Inc	(907)456-6300
3282	Sam's Club #6603	Package Store	48 College Road	Sam's West Inc	(907)451-4800
3687	Thai House Restaurant	Restaurant Eating Place	412 Fifth Ave.	Chalermpon Boonprasert	(907)456-6123
4464	Fred Meyer #224	Package Store	930 Old Steese Hwy	Fred Meyer Stores Inc	(503)232-8844
4547	Chili's Grill & Bar 2nd Acct	Beverage Dispensary	506 Merhar Ave.	Duke Investments LLC	(907)677-0513
4763	Bobby's Downtown	Beverage Dispensary	609 Second Ave	Delta Epsilon Inc	(907)456-3222
2982	Carlson Community Center	Recreational Site	2010 Second Ave	SMG of Alaska Inc	(907)279-0618
336	Eagles F.O.E #1037	Club	2001 First Ave.	Fraternal Order of Eagles #1037	(907)452-4665

*Handwritten initials and date: CJ 12/28/10*

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*Handwritten note: credit bal.*

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(Form Continued on Next Page)

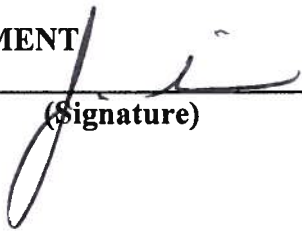
NOTE: THIS COMPLETED FORM MUST BE RETURNED TO THE CITY CLERK'S OFFICE BY THE DATE INDICATED ABOVE. YOU MAY E-MAIL OR FAX (459-6710) THE FORM. ANY QUESTIONS CALL OUR OFFICE AT 459-6774. THANK YOU.



**NO PROTEST:**  
**COMMENTS**

**PROTEST**  
**REASONS:** Balance Due Silver Spur/Eagles

**DEPARTMENT**  
**SIGNEE:**

  
(Signature)

James N. Soileau  
(Printed Name)



# City of Fairbanks

Office of the City Clerk

800 Cushman Street

Fairbanks, AK 99701

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

## LIQUOR LICENSE RESPONSE FORM

TO:  FINANCE DEPT.

DATE: December 27, 2010

BUILDING DEPT.

FAIRBANKS POLICE DEPT.

FROM: CITY CLERK'S OFFICE

RE: LIQUOR LICENSE ACTION - RENEWALS

DATE NOTICE RECEIVED AT CLERKS OFFICE: 12/27/2010 (60 DAY DUE DATE 02/25/11)

DATE RESPONSE DUE: **01/18/2011** for City Council Meeting of 01/24/2011

Lic #	Establishment Name	License Type	Premise Location	Owner Name	Phone
725	Midnite Mine	Beverage Dispensary	308 Wendell Ave	Borealis Investments Inc	(907)456-5348
1047	Silver Spur	Beverage Dispensary	285 Romans Way	Jacobson Brothers Inc	(907)456-6300
3282	Sam's Club #6603	Package Store	48 College Road	Sam's West Inc	(907)451-4800
3687	Thai House Restaurant	Restaurant Eating Place	412 Fifth Ave.	Chalermpon Boonprasert	(907) <sup>452</sup> <del>456</del> -6123
4464	Fred Meyer #224	Package Store	930 Old Steese Hwy	Fred Meyer Stores Inc	(503)232-8844
4547	Chili's Grill & Bar	Beverage Dispensary	506 Merhar Ave.	Duke Investments LLC	(907)677-0513
4763	Bobby's Downtown	Beverage Dispensary	609 Second Ave	Delta Epsilon Inc	(907)456-3222
2982	Carlson Community Center	Recreational Site	2010 Second Ave	SMG of Alaska Inc	(907)279-0618
336	Eagles F.O.E #1037	Club	2001 First Ave.	Fraternal Order of Eagles #1037	(907)452-4665

(Form Continued on Next Page)

**NOTE: THIS COMPLETED FORM MUST BE RETURNED TO THE CITY CLERK'S OFFICE BY THE DATE INDICATED ABOVE. YOU MAY E-MAIL OR FAX (459-6710) THE FORM. ANY QUESTIONS CALL OUR OFFICE AT 459-6774. THANK YOU.**

**NO PROTEST:  
COMMENTS**

**PROTEST  
REASONS:**

**DEPARTMENT  
SIGNEE:**

*[Signature]* / Steve Skulthorpe  
(Signature) (Printed Name)

*Silver Spur - Not open for  
Business*

*Eagles - Not open for  
Business*

*[Signature]*



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**NO PROTEST:  
COMMENTS**

**PROTEST  
REASONS:**

**DEPARTMENT  
SIGNEE:**  LAREN J. ZAGER  
(Signature) (Printed Name)



# State of Alaska

## Department of Public Safety

# Alcoholic Beverage Control Board

Sean Parnell, Governor  
Joseph A. Masters, Commissioner

December 8, 2010

### Renewal Application Notice

City of Fairbanks & Fairbanks North Star Borough

Attn: City & Borough Clerks

VIA EMAIL: [jjhovenden@ci.fairbanks.ak.us](mailto:jjhovenden@ci.fairbanks.ak.us); [ddosterby@ci.fairbanks.ak.us](mailto:ddosterby@ci.fairbanks.ak.us); [pPhillips@co.fairbanks.ak.us](mailto:pPhillips@co.fairbanks.ak.us)

DBA	Lic Type	Lic #	Owner	Premise Address
Miguel's Restaurant	Beverage Dispensary	4507	Miguel's LLC	1235 Airport Way Ste 1
American Legion Post 57	Club	3020	American Legion Post #57	1634 Cushman Street
2 Go Mart #114	Package Store	2512	Tesoro Northstore Company	2110 Peger Road
2 Go Mart #115	Package Store	4216	Tesoro Northstore Company	99 College Road
2 Go Tesoro	Package Store	4565	Tesoro Northstore Company	3569 S Cushman

We have received a renewal application for the above listed licenses (see attached applications) within your jurisdiction. This is the notice as required under AS 04.11.520. Additional information concerning filing a "protest" by a local governing body under AS 04.11.480 is included in this letter.

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.

**Alcoholic Beverage Control Board**  
5848 E Tudor Rd - Anchorage, AK 99507 - Voice (907) 269-0350 - Fax (907) 272-9412

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 13 AAC 104.145, Local Governing Body Protest.

**Note:** Applications applied for under AS 04.11.400(g), 13 AAC 104.335(a)(3), AS 04.11.090(e), and 13 AAC 104.660(e) must be approved by the governing body.

Sincerely,

SHIRLEY A. GIFFORD  
Director

*/s/ Christine C. Lambert*  
Christine C. Lambert  
Records & Licensing Supervisor  
269-0359  
Christine.lambert@alaska.gov

**Alcoholic Beverage Control Board**  
**5848 E Tudor Rd - Anchorage, AK 99507 - Voice (907) 269-0350 - Fax (907) 272-9412**



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DATE: December 8, 2010

BUILDING DEPT.

FAIRBANKS POLICE DEPT.

FROM: CITY CLERK'S OFFICE

RE: LIQUOR LICENSE ACTION - RENEWALS

DATE NOTICE RECEIVED AT CLERKS OFFICE: 12/08/2010 (60 DAY DUE DATE 02/06/11)

DATE RESPONSE DUE: 01/17/2011 for City Council Meeting of 01/24/2011

Lic #	Establishment Name	License Type	Premise Location	Owner Name	Phone
4507	Miguel's Restaurant	Beverage Dispensary	1235 Airport Way Ste 1	Miguel's LLC 003800	(907)479-770
3020	American Legion Post 57	Club	1634 Cushman Street	American Legion Post #57 005300	(907)452-5757
2512	2 Go Mart #114	Package Store	2110 Peger Road	Tesoro Northstore Company 000558	(907)474-0881
4216	2 Go Mart #115	Package Store	99 College Road	Tesoro Northstore Company 005400	(907)456-5482
4565	2 Go Tesoro	Package Store	3569 S Cushman	Tesoro Northstore Company 005500	

NO PROTEST:  
COMMENTS

12.10.10

PROTEST  
REASONS:

DEPARTMENT  
SIGNEE:

(Signature)

(Printed Name)

James R. So. Leo

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COMMENTS

PROTEST REASONS:

DEPARTMENT  
SIGNEE:

(Signature)

(Printed Name)

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NO PROTEST:  
COMMENTS

PROTEST  
REASONS:

DEPARTMENT  
SIGNEE: \_\_\_\_\_

(Signature)

1/19/11  
\_\_\_\_\_  
(Printed Name)

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**ORDINANCE NO 5827**

**AN ORDINANCE RATIFYING A LABOR AGREEMENT  
BETWEEN THE CITY OF FAIRBANKS AND THE  
INTERNATIONAL BROTHERHOOD OF ELECTRICAL  
WORKERS LOCAL 1547, AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, the Collective Bargaining Agreement between the City and the IBEW Administrative, Professional, Executive & Supervisory bargaining unit expired on December 31, 2010; and

**WHEREAS**, the IBEW and City Administration have reached a tentative agreement for a new three year agreement which incorporates the labor goals of the City Council, is consistent with the terms of other recently adopted labor contracts, and has been approved by the membership of the bargaining unit.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:**

Section 1. That the attached three year collective bargaining agreement is hereby ratified.

Section 2. That the effective date of this ordinance shall be the 29th day of January, 2011; the collective bargaining agreement for three years effective January 1, 2011

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

AYES:  
NAYS:  
ABSTAIN:  
ABSENT:  
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

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

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

*City Of Fairbanks*



MEMORANDUM

To: City Council Members  
From: Jerry Cleworth, City Mayor  
Subj: Ordinance 5827 - IBEW Labor Agreement  
Date: December 20, 2010

J.C.

---

I recommend your approval of this Ordinance for the following reasons:

1. This agreement removes Alaska Day as a fixed holiday, allowing City Hall to be open to serve the public on a day which most of our town is at work.
2. Although there is virtually no overtime for these unit, section 10.1(c) of the agreement limits overtime by providing that it would only be paid after 40 hours actually worked per week, not simply over 8 hours a day. (Thus, if an employee works one hour late on a Monday before taking an hour of annual leave during the week, overtime would not be paid). This change establishes an important precedent for other bargaining units.
3. In light of the fiscal uncertainties the City faces after calendar year 2011, a year in which revenues exceed expenditures, this agreement contains a single 2.5% increase and a "one-time" \$0.15/hour increase. The past contract provided annual CPI increases, with a 2.5% minimum payment and 3.5% maximum increase.
4. We have agreed to reopen the issue of wages/benefits for 2012 and 2013.<sup>1</sup>
5. The agreement replaces the "one size fits all" single pay rate for each position, instead allowing the Mayor (subject to Council Funding) to set compensation either below or above the benchmark rate depending on education and experience. It makes no sense for a highly trained employee with 30 years of experience to be paid the same as a new hire who is still in learning mode.
6. Removed the "me-too" wording on health care, under which any health care increase in other City contracts applied to this unit.
7. Clarifies that certain employees are confidential.

---

<sup>1</sup> Note that we have also agreed to reopen Section 10.1(c).

**WORKING AGREEMENT**

**BETWEEN**

**THE CITY OF FAIRBANKS**

**AND**

**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS  
LOCAL 1547**

**SUPERVISORY, ADMINISTRATIVE, PROFESSIONAL AND EXECUTIVE EMPLOYEES**

**January 1, 2011 – December 31, 2013**

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# WORKING AGREEMENT

## BETWEEN

**THE CITY OF FAIRBANKS  
FAIRBANKS, ALASKA  
("EMPLOYER" OR "CITY")**

**LOCAL UNION #1547 OF  
THE INTERNATIONAL  
BROTHERHOOD OF ELECTRICAL  
WORKERS, AFL-CIO  
("UNION")**

For the purpose of maintaining cordial relations between the City and the Union, as more fully set forth in Article One (1) below, the parties hereto do enter into, establish, and agree to the following:

### **ARTICLE 1 POLICY, PURPOSE AND EFFECT OF THIS AGREEMENT**

It is the policy of the City and the Union to continue harmonious and cooperative relationships between the City employees and the City to insure orderly and uninterrupted operations of government.

The welfare of the City and its employees is dependent largely upon the service which the City renders the public. Improvements in this service and economy in operating and maintaining expenses are promoted by willing cooperation between the City and each employee to render honest, efficient and economical service.

The purposes of this Agreement are:

- A. To promote the settlement of labor disagreements by conference, to prevent strikes and lockouts, to prevent avoidable delays and expense, and generally to encourage a spirit of helpful cooperation between the City and its employees to their mutual advantage.
- B. To recognize the legitimate interest of the employees of the City to participate through collective bargaining in the determination of terms and conditions of their employment.
- C. To promote fair, safe and healthful working conditions and to encourage the growth and development of the City employees.
- D. To promote individual efficiency, the highest degree of professionalism, management skill, and service in an atmosphere of mutual respect between the City and its employees.
- E. To avoid interruption or interference with the efficient operation of the City.

- F. To provide a basis for the adjustment of matters of mutual interest and concern by means of amicable discussion.
- G. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. This Agreement may only be amended during its term by the parties' mutual agreement in writing.
- H. The City of Fairbanks Personnel Ordinance is superseded by this Agreement and unless specifically referenced herein has no applicability to any Union member.

## **ARTICLE 2 RECOGNITION**

### **2.1 - Exclusive Bargaining Agent**

The City recognizes the Union as the exclusive bargaining agent for the purpose of collective bargaining with respect to wages, hours, and other terms and conditions of employment for all members of the bargaining unit, consisting of the individuals employed in the job classifications set forth hereafter.

### **2.2 - Job Classifications and Descriptions**

The parties recognize the City's bargaining unit job classifications as listed and contained in this Agreement, attached Appendix "A", the job descriptions for such classifications, and that such classifications are in existence at the signing of this Agreement.

- A. Additional classifications or reclassifications shall be included within the bargaining unit or exempt therefrom on the basis of the Alaska Labor Relations Agency criteria.
- B. The City agrees to submit material changes in job descriptions for review and comment by the Union prior to implementing such changes. New job classifications created or existing job classifications changed during the life of this Agreement shall be submitted to the Union for review and comment prior to implementation.

Union comments are due within five (5) business days of submission to the Union unless agreed otherwise by the parties. The City shall make a good faith effort to take Union comments into consideration. The City reserves the right to make the final decision regarding such classifications and reclassifications. Only the most recently dated and initialed version is effective.

- C. Should unresolvable differences as to inclusion or exclusion of additional classifications or reclassifications to the bargaining unit occur, either party may request that the jurisdiction be determined by the Alaska Labor Relations Agency, or its successor for resolution.
- D. Any jurisdictional disputes involving another union that may arise as a result of the action of the parties regarding such classifications or reclassifications shall be submitted to the Alaska Labor Relations Agency, or its successor for resolution.

**ARTICLE 3  
HIRING PREFERENCES**

**3.1 - Non-Discrimination**

The Employer agrees that it will not discriminate in the hiring or treatment of employees because of race, color, national origin, sex, age, religion, marital status or changes in marital status, parenthood, physical handicap, or union affiliation or activity, or Association or political party affiliation; and agrees to comply with all applicable Federal and State Statutes and regulations prohibiting discrimination.

**3.2 - Local Hire Clause**

To the extent permitted by law the City and the Union agree to utilize the standard referral procedures of the IBEW and to give priority of hire to residents of the Fairbanks, Alaska area, when such residents possess the requisite skills and abilities, and are available for hiring.

**3.3 - Nepotism**

A person may not be employed when that person is related to by blood or marriage to an employee within and including the second degree kinship if a direct supervisory or direct working relationship would exist.

**ARTICLE 4  
UNION SECURITY**

**4.1 - Agency Shop**

- A. All employees shall, as a condition of continued employment, either become a member of the Union and pay Union dues or pay an agency fee to the Union equal to the amount of Union dues assessed uniformly against all Union members in this bargaining unit. To be eligible for the agency fee provision, an employee shall meet the "religious objection" criteria. Payment of Union dues or agency fee shall commence within thirty (30) days after the date of hire.
- B. Upon the written request by the Union to the City, a unit member employed for more than thirty (30) days who is not complying with the membership or agency shop provisions of the Agreement shall be terminated in accordance with the Union's written instructions. Where such dismissal action is taken by the City in accordance with the Union's written request, the Union will hold the City harmless.

- C. Persons hired in a bargaining unit position shall be informed at the time of the employment offer of the Union membership obligation under this Agreement. The employee shall report to the Union office for membership discussion within five (5) working days after reporting to work.

#### 4.2 - Exclusive Negotiations with Union

The Employer shall not negotiate with any organization other than the Union and its representatives with reference to the terms and conditions of employment of employees covered by this Agreement, except as otherwise provided in this Agreement.

#### 4.3 - Check Off and Payroll Deductions

The Employer agrees to deduct from the wages of each employee covered under this Agreement, as may be authorized by the employee by written assignment. Such deduction shall be transmitted to the Union within fifteen (15) days following the end of each calendar month.

The Union shall notify the Mayor in writing of a decrease or increase in authorized dues or fees deducted. The City shall then make the appropriate changes in payroll deductions. The City shall remit the employee's authorized Union deductions to the duly authorized representative of Union, together with a list of the names and addresses of the employees from whose pay deductions are made.

The Union, or its designee, shall have right to receipts from deductions of dues, initiation fees or agency fees, Union-sponsored insurance premiums and Union-sponsored employee benefits as previously authorized or as may be authorized by the bargaining unit member.

#### 4.4 - List of Bargaining Unit Members

The Employer agrees to furnish the Union with a roster of all employees working under the jurisdiction of this Agreement upon request.

#### 4.5 - Professional Representation

Union shall have representatives who are not employees of the Employer who shall be authorized to speak for the Union in all matters covered by this Agreement, and shall be permitted to visit any work area at any reasonable time, consistent with operational requirements, and with advance notice to the Mayor.

#### 4.6 - Employee Representatives

The Union shall have the right to designate a representative or shop steward, and an alternate. The Union shall notify the City in writing as to the identity of the designated representative prior to their assumption of duties as representative. In addition to their work as an employee, the representative or his alternate shall have the right to receive complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. The representative shall, in addition to their work, be permitted to perform during working hours such normal Union duties as cannot be performed at other times. The City will not discriminate against the representative with regard to the proper performance of their Union duties provided that such duties are

conducted in a timely manner. The representative(s) shall notify their appropriate supervisor where they can be reached before the assumption of such Union duties. The Union shall notify the City within twenty-four (24) hours as to the appointment or official status change of any Union representative. The designated Union official (representative) shall be consulted by the City prior to the representative's termination.

#### 4.7 - Negotiating Team

The Union and City negotiating teams shall consist of no more than three (3) persons per side. Employees who are members of, or advisors to a Union negotiating team may attend negotiating sessions held during the employees' duty hours without loss of pay, provided that no more than two (2) on-duty employees may attend any session without loss of pay. This section shall not be construed to limit the number of off-duty employees who may attend negotiating session, and who make their own arrangements to be away from their duties. This section only limits the obligation of the City to pay on-duty employees for attendance.

### **ARTICLE 5 MANAGEMENT'S RIGHTS**

#### 5.1 - General

The City, under this Agreement, has and will retain the right to represent and manage the City, and direct its working forces, including the right to hire, to promote and demote, to discharge personnel for good and just reason in the interest of the City, provided such actions do not conflict with the provisions of this Agreement. Nothing in this Agreement is intended, nor is it to be construed in any way, as to interfere with the prerogative of the City to manage and control the business.

#### 5.2 - Subcontracting

The City reserves the right to subcontract any work falling within the scope of this Agreement. An employee whose position is eliminated as a result of subcontracting shall be offered reasonably comparable work within the City at his regular rate of pay and level of benefits. If no such position is available, the affected employee shall be given at least six (6) months notice prior to lay-off or severance pay equal to six (6) months pay and benefits minus the amount of notice actually given. The employee may opt, however, to take three (3) months severance pay in lieu of three (3) months of the notice period. Any employee suffering a loss of hours shall be made whole by an amount of pay and benefits equal to his reduction in hours for a six (6) month period.

An employee laid off as a result of the City's exercise of its rights under this section shall have the first right of refusal to his former or any equivalent position, in the event either becomes available within the next thirty-six (36) month period. Disputes as to the comparability or equivalence of any position shall be resolved in accordance with expedited arbitration. Notification of vacancy pursuant to this section shall be to the Union's Fairbanks' business office. The employee's time to respond to such notice shall be as set forth in Article 23, Section 2(B).

## ARTICLE 6 HOLIDAYS

### 6.1 - Listing

The following days shall be considered holidays with no deductions in pay:

New Years Day	- January 1st
Presidents' Day	- 3rd Monday in February
Memorial Day	- Last Monday in May
Independence Day	- July 4th
Labor Day	- 1st Monday in September
Veteran's Day	- November 11th
Thanksgiving Day	- 4th Thursday in November
Christmas Day	- December 25th

**Two (2)** personal floating holidays and such other days as the City Council may fix as additional holidays for all employees.

### 6.2 - Observance of Holidays

A designated holiday will normally be observed on the calendar day on which it falls, except that employees who are regularly scheduled to work on Monday through Friday will observe the preceding Friday when the holiday falls on Saturday, and will observe the following Monday when the holiday falls on Sunday. Normally only those employees designated in advance by appropriate supervision will be required to work on a designated holiday.

### 6.3 - Working on Holidays

If a non-exempt employee is required to work on a holiday, the City will pay 8 hours straight time pay for the holiday, plus time and a half for hours actually worked. If a holiday falls during an employee's vacation, the employee shall receive holiday pay for the holiday and shall not be charged leave time for that day.

Employees shall not be paid for holidays occurring while they are on unpaid but approved leave of absence.

In order to receive pay for an observed holiday an employee must not have been absent without authorized leave on the work day before or after the holiday.

## ARTICLE 7 GRIEVANCE/ARBITRATION PROCEDURE

It is the mutual desire of the City and the Union to provide for the prompt adjustment of grievances in a fair and reasonable manner, with a minimum amount of interruption of the work schedules. Every reasonable effort shall be made by both the City and the Union to effect the resolution of grievances at the earliest step possible. In the furtherance of this objective, the City and the Union have adopted the following procedure as the exclusive means of resolving differences and disputes under this Agreement.

A grievance is defined as any dispute involving the interpretation, application or alleged

violation of any provision of this Agreement. However, any dispute involving the commencement date or termination date of this Agreement shall not be considered a grievance and shall not be submitted to the grievance/arbitration procedure set forth herein. Any dispute concerning commencement or termination of this Agreement shall be specifically reserved for judicial review. Grievances may be initiated by the Union or the City as hereafter specified. Where a matter requires resolution on an accelerated basis, expedited arbitration shall also be available.

#### 7.1 - Regular Arbitration

##### STEP ONE -

When an employee has a grievance, the employee, accompanied by a Union Representative if the employee chooses, shall verbally discuss the matter with the relevant immediate supervisor and attempt to resolve the problem. The grievance must be brought to the attention of the immediate supervisor within ten (10) working days of the employee having through the exercise of reasonable diligence, gained knowledge that a grievance exists. If the grievance cannot be resolved through verbal discussion, the grievance shall be reduced to writing, signed by the employee, and presented within three (3) working days to the immediate supervisor by a Union Representative. The grievance shall state the Article and section number of this Agreement allegedly violated, the manner in which the employee believes that section has been violated, and the precise remedy sought. The immediate supervisor shall investigate the grievance and shall indicate thereon, in writing, his or her response to the grievance within five (5) working days following the day on which the written grievance was presented. The written grievance containing the response of the immediate supervisor shall then be delivered to the Union, with a copy to the aggrieved employee(s), within five (5) working days for further handling at the next step of this procedure.

##### STEP TWO -

- A. If the grievance is not settled, the written grievance and the responses thereto of the immediate supervisor shall be submitted to the Mayor or his/her designee, by the Union with a written statement as to why the response at Step One was not acceptable.
- B. A grievance initiated solely by the Union and not on behalf of a particular employee shall begin at this step and shall, within ten (10) working days of receipt of the response of the immediate supervisor, be submitted to the Mayor or his/her designee in writing. A grievance initiated by the City shall commence at this step and shall be submitted to the Union in writing. The union shall have fifteen (15) working days to meet with all involved parties in conciliation, investigate and consider the grievance and deliver a written response to the Mayor. If the Union rejects the City's grievance remedy, the reason(s) shall be stated in the response. Grievances initiated by the Union or the City shall state the Article and section number of this Agreement alleged to have been violated and the manner in which it has been violated. Grievances for which expedited arbitration is sought shall also be initiated at this step.
- C. The Mayor shall have fifteen (15) working days to meet with all involved parties in conciliation, investigate and consider the grievance and deliver a written



response to the Business Agent. If the Mayor rejects the grievance remedy, the reason(s) shall be stated in the response.

- D. At the parties' meeting all pertinent facts and information will be reviewed in an effort to resolve the matter through conciliation. Where such conciliation efforts are unsuccessful, the grievance may be advanced to arbitration as follows.

#### 7.2 - Expedited Arbitration

Where expedited arbitration is provided for under this Agreement, or mutually desired by the parties, the grievance at issue shall be initiated at Step Two and advanced from there to the selection of an arbitrator under Section 4, Expedited Arbitration/Arbitrator Selection.

#### 7.3 - Regular Arbitration/Arbitrator Selection

- A. The moving party shall make demand in writing upon the other party for binding arbitration within ten (10) working days from the date of delivery of the final response of the Mayor or of the Union, as the case may be. Time for delivery of such demand shall not be extended on account of unfinished conciliation efforts, unless a written consent to extension is executed by both parties.

The parties agree to request the Federal Mediation and Conciliation Service or the American Arbitration Association to submit a list of seven (7) names of persons who are available for services as labor arbitrators.

- B. Within five (5) working days, from the date of receipt of the list, the Employer and the Union Representative shall meet and alternately strike one (1) name from the list until one name remains. The side to strike the first name shall be chosen by the flip of a coin.
- C. If either party fails, or refuses, to jointly request a list of arbitrators or fails or refuses to choose an arbitrator from such list as provided above, then either party may make a demand or submission to the American Arbitration Association and the neutral arbitrator shall be appointed in accordance with Rule 12 of the American Arbitration Association Voluntary Labor Arbitration Rules as are in effect at the time of demand.

#### 7.4 - Expedited Arbitration/Arbitrator Selection

- A. The parties may meet and adopt a list of arbitrators suitable to both parties for use as arbitrators and/or mediators pursuant to this section. The party proposing a name for the list shall submit biographical information or a resume for that person for the other party's consideration. For selected issues the parties recognize that a local arbitrator may have a better knowledge of local conditions and problems and there could be cost and time savings by the selection of a local arbitrator. Consequently, the parties shall endeavor to include the names of at least three (3) local persons on the list. The arbitrators on the expedited arbitration list shall not be required to be members of the Federal Mediation and Conciliation Service or of the American Arbitration Association.

- B. Where expedited arbitration or mediation is required by this Agreement, or mutually desired by the parties, within ten (10) working days of receipt of the demand for arbitration or mediation or another mutually agreeable time, the parties shall meet and select a name from the pre-determined list based upon the following factors in order of priority; 1) the arbitrator's early availability, 2) the background and experience of the arbitrator in the issues to be determined, 3) the aggregate of the travel and per diem expense of the arbitrator, and 4) such other factors as are deemed important by the parties at the time of selection. When the parties cannot mutually agree upon a name that is on the list based upon the above criteria, then they shall alternately strike one (1) name from the list until one name remains. The side to strike the first name shall be chosen by the flip of a coin. In no event shall the arbitration hearing be held more than sixty (60) days after a request for expedited arbitration has been made. However, if none of the arbitrators are available within that time, the mutually agreed to arbitrator with the earliest availability dates shall be selected.

#### 7.5 - Rules Common to Regular and Expedited Arbitration

- A. The arbitrator shall consider and decide only the specific issue or issues submitted in writing and shall have no authority to decide issues not so submitted. The authority of the Arbitrator shall be limited to the application and interpretation of this Agreement. They shall have no authority to amend, alter, modify or otherwise change the terms or scope of this Agreement. The arbitrator shall be empowered to conduct a formal hearing governed by the procedural rules of the American Arbitration Association, take evidence, issue subpoenas to compel testimony or the production of physical evidence, and to issue a written opinion and award.
- B. The decision of the Arbitrator shall be final and binding upon the parties to the dispute. The final decision of the Arbitrator shall be implemented as soon as possible, but not later than thirty (30) days after the final decision is rendered.
- C. The City and the Union mutually agree to have more than one grievance or dispute submitted to the same arbitrator. Each grievance or dispute may by mutual agreement be submitted to separately convened arbitration proceedings.
- D. The expenses of the neutral Arbitrator shall be borne by the losing party. If, in the opinion of the Arbitrator, the positions of both parties were reasonable and neither party can be fairly considered the losing party, then such expenses shall be borne equally by the parties.

#### 7.6 - Employee Witnesses

The City and the Union shall bear the expense of their respective representatives and witnesses. Any City employee called as a witness by either side will continue to receive his or her regular rate of pay while attending a hearing during normal working hours for the witness. Should a hearing be scheduled outside of regular working hours or extended beyond regular working hours, no compensation shall be paid by the City for the time outside regular working hours nor shall any employee witness be entitled to overtime or

premium pay for attendance at an arbitration hearing. The shop steward may attend the hearing during normal working hours and continue to receive his/her regular rate of pay. The parties will in good faith schedule and conduct arbitrations so as to try to minimize overtime costs and disruption of work schedules or lost productivity.

#### 7.7 - Retroactive Pay

No Arbitrator appointed hereunder shall have any authority whatsoever to award any grievant any retroactive pay for any period of time prior to fifteen (15) calendar days of the employee having, through the exercise of reasonable diligence, gained knowledge that a grievance exists in accordance with Article 7, Section 1 above. To the extent this provision may conflict with applicable State or Federal law regarding employee wage or benefit claims, such applicable law will prevail.

#### 7.8 - Discharge

In cases where it is determined an employee has been discharged unjustly and without cause, the Arbitrator may order the Employer to return the employee to his position without loss of pay and benefits. When the employee is reinstated to his position, he shall be reinstated with no loss of seniority. An employee has the affirmative duty of mitigation of damages. All unemployment compensation and all such amounts of money received or available by mitigation of damages will be deducted from any award granted by the Arbitrator.

#### 7.9 - Default

Notwithstanding Sections 3 and 4 above, in the event either party to a grievance fails to properly answer, respond or act within the time specified at any step of the grievance procedure, the grievance shall be deemed settled against the party which failed to timely answer, respond, act, or appeal. Any of the time limits set forth in the grievance procedure may be extended by written Agreement. Grievances resolved by default may not be the basis of establishing precedent on the merits for the resolution of any other grievances.

### **ARTICLE 8 DISCHARGE AND NOTICE**

#### 8.1 - Timely City Notice To Employee

Except for discharges or suspensions for just cause, all permanent employees who have fulfilled probationary requirements shall be given thirty (30) days notice of separation, or four (4) weeks pay, computed at the regular hourly rate, in lieu of such notice. Such notice, or pay in lieu of notice, shall not be required in the case of terminations or suspensions for just cause.

#### 8.2 - Timely Employee Notice To City

All permanent employees who have fulfilled probationary requirements shall give the Employer two (2) weeks notice before leaving their employment unless mutually agreed beforehand between the Employer and the employee. Notation of failure to give proper notice will be placed in the employee's personnel file and may result in the employee being classified as "Ineligible for Rehire".

### 8.3 - Manner of Delivery of Notices

Notices required or allowed by this Agreement to be given to the Mayor shall be deemed given when actually delivered to the Mayor, or when delivered to the secretary of the person in charge of the office of the Mayor. Notices required or allowed to be given to the Union shall be deemed given when actually delivered to the Union's business agent, or when delivered to the secretary or person in charge of Union's Fairbanks' business office. Notices to an immediate supervisor shall be personally delivered. Notices to an employee shall be personally delivered, or, if an employee is absent from the work place, shall be deemed delivered when placed in the United States mail, postage fully prepaid, certified mail, addressed to the employee at his or her mailing address as shown on the records of the City.

### 8.4 - Termination For Cause

An employee terminated for just cause shall not be entitled to severance pay. A written statement of the reasons for termination for cause shall be given to the affected employee and his or her Union Representative. The term "severance pay" does not include accrued leave or other earned benefits.

## **ARTICLE 9 HEALTH AND WELFARE**

### 9.1 - Health and Welfare

- A. The City agrees to pay each month for coverage of employees working under the terms of this agreement in the Alaska Electrical Health and Welfare Plan. All new employees shall be covered on the first (1st) of the month following the date of employment.

**The City's contribution shall be as provided in Schedule "A".**

### 9.2 - Retirement/Pension and Social Security

- A. The City agrees to pay the Alaska Electrical Pension Trust Fund (AEPTF) as described in the Trust Fund Plan document, dated October 1987, and as amended from time to time, **as provided in Schedule "A"**.

**The Union may allocate the package rate to wages, pension and health and welfare as it sees fit.**

- B. In the event federal legislation is passed which appears to require public employees participating in a private pension plan to also participate in Social Security, the parties shall meet and by mutual agreement, determine how such legislation shall impact this Agreement.
- C. Employees may voluntarily contribute to the Alaska Electrical Worker's Money Purchase Pension Plan. The Employer agrees to withhold and forward voluntary contributions authorized by the employee.

### 9.3 - Deferred Compensation

- A. Employees covered by this Agreement shall continue to be eligible to participate in any City deferred compensation program. **The Union will be consulted prior to any change in deferred compensation plans by the City.**

### 9.4 - Physical Examinations

A yearly physical examination at the expense of the Employer is offered to employees at their election beginning during their second year of employment. The results of these tests shall be confidential between the employee and the examining physicians. The expense of any physical that is required by the City or by law of employees shall be paid by the City **after the charges are processed by the employee's insurance plan(s). The City will not reimburse for charges for services that are not reasonable and customary.**

### 9.5 - Fitness to Perform Duties

When in the opinion of the City there arise documented incidents, which raise specific questions as to the physical and/or mental ability of an employee to perform his or her normal work assignment or fitness for duty, an appropriate examination of the employee may be ordered by the City. If such examination demonstrates, in the opinion of the examining physician or specialist, that the employee is physically and/or mentally incapable of performing his or her normal work assignment or is not fit for duty, the employee shall be allowed to seek a second opinion from a local licensed physician or specialist (whichever the case may demand) of his or her choice at his or her own expense. If there is no other physician or specialist within the Fairbanks area from which the employee may acquire a second opinion, the City will share equally the costs of the employee's second opinion, including related travel costs, so long as the employee goes to a physician or specialist within the Anchorage, Alaska area.

If the results of these two examinations are not in agreement, then a third opinion shall be solicited from a physician or specialist (whichever the case may demand) mutually agreeable to the Employer and employee. The results of this third examination shall be final and binding, subject only to the grievance (appeal) and arbitration procedures described elsewhere in this Agreement. The Employer shall pay for the first physical and/or mental examination. If the third physician agrees with the first physician, then the employee will be responsible for the cost of the third examination. Otherwise, the Employer shall pay for the cost of the third examination.

### 9.6 - Drug Testing

The parties agree to be covered by a random drug test policy in the same manner as federal CDL holders are subject to, at the expense of the City.

### 9.7 - Unemployment Compensation

The employees covered by this Agreement shall be entitled to coverage of the Unemployment Compensation Act of the State of Alaska, as amended from time to time.

**9.8 – Add \$.73 per hour to package rate before application of 2011 pay scale increase.**

### 9.9 - Section 125 Plan

The City agrees to maintain a Section 125 "Flexible Benefits Plan" as a means for employees to pay insurance premiums on a pre-taxed basis, and for the purpose of setting aside monies to pay uncovered costs of medical insurance and dependent care as allowed under federal law.

## ARTICLE 10 WORKING CONDITIONS

### 10.1 - Work Week

- A. Members of this bargaining unit are professional, executive and/or administrative employees, and as such are required to work a sufficient number of hours to perform their job duties, **some of whom are exempt from receiving overtime.**
- B. **Flexible work week and work day schedules will be fully considered and used with the mutual consent of the city and employee, including work beyond eight hours on one day and work on more than five days.**
- C. **Non-exempt shall receive overtime for all actual work hours that exceed forty (40) hours per week, including comp time taken but not personal leave.**
- D. **Employees called back to work by their Department Head after leaving work will be credited with a minimum of two hours of work to be credited towards the forty (40) hours of work for that week.**
- E. **Employees will not be required to take personal leave by the City nor will they be furloughed by the city to avoid liability for overtime earned under the terms of this section.**
- F. **An employee called into work outside of their regular shift will be allowed to work all hours of the regular shift on the day called in.**

**The parties agree to re-open negotiations on this section in 2011 and 2012 as part of re-opening negotiations on economic terms.**

### 10.2 - Pay Periods

Pay days shall be established covering payroll periods from the first (1st) to the fifteenth (15th) day of the month, **paid no later than the end of that month** inclusive and from the sixteenth (16th) day of the month to the last day of the month **paid no later than the 15<sup>th</sup> of the following month** inclusive, ~~and shall not be later than the sixth (6th) and twenty-first (21st) days of each month~~ except when pay day falls on Saturday, **Sunday** or holidays. If pay day falls on Saturday **or Sunday** unless Saturday is preceded by a recognized holiday, pay day shall be on Friday. If pay day falls on Sunday ~~or on a Saturday~~ following a recognized holiday, pay day may be on the day prior to the Holiday ~~following Monday, unless the~~ , if Monday is a recognized holiday, in which event pay day

~~will be~~ may fall on the **Friday prior**. ~~Tuesday~~. The City reserves the right to establish a 26 pay period/year pay period. Each check shall have a stub, or duplicate, itemizing all legal and authorized deductions, hours worked, rate of pay for straight time and, if applicable, overtime hours worked. If an employee is not paid on the established payday, he shall receive eight (8) hours pay at the straight time rate for each twenty-four (24) hour period until he receives his paycheck.

#### 10.3 - Revocation of Driver's License

Certain jobs within this bargaining unit require a valid driver's license in the performance of their job duties. Loss of this license may result in termination or suspension during the period they do not possess a valid license. The Employer, however, shall make reasonable efforts to accommodate the employee's loss of driving privileges. No employee may be deprived of pay or seniority based upon the revocation of his or her driver's license for a violation or violations of the law which result from the direct orders of his or her superior to specifically commit such violation or violations.

#### 10.4 - Work Environment

The City will make every reasonable effort to provide adequate ventilation, temperature controls, sanitary facilities, and privacy. In the event these standards are not maintained, the employees affected shall not be penalized for any loss of productivity arising out of these conditions.

#### 10.5 - Bulletin Boards

The City shall furnish bulletin boards in each work area. Such bulletin board to be used for notices to employees given by the City, the Union, the Department of Labor, and other governmental agencies. Neither the City nor the Union shall post or allow the posting of materials which are inflammatory in nature, insulting or in poor taste. Existing boards may be used instead of installing new ones.

#### 10.6 – Indemnification

In the event any action or claims are made by a person, entity, or persons against any employee, or his/her estate, for actions done while in the scope of City employment, the claim shall be defended by the City and any liability which is incurred by the employee or estate as a result shall be paid by the City, provided that, any actions or claims, defense of liability resulting therefrom shall not be paid by the City if the action or claim(s) are based upon acts or omissions of the employee resulting from recklessness, gross negligence, or intentional misconduct. In the event that the City Council may by ordinance enact indemnification provisions that provide added protections to employees, such shall apply to this bargaining unit.

In the event the City resolves an action or claim involving an employee for purely pragmatic reasons not involving any misbehavior by the employee, the City will issue a letter to the employee stating the reasons for the settlement, with a copy to be placed in the employee's personnel file.

## **ARTICLE 11 PROBATION**

### **11.1 - Object**

The probationary or working test period is an integral part of the hiring and employment process. It shall be utilized to secure the most effective adjustment of a new or promoted employee to his position, to allow the Employer and the employees the opportunity to consider their ability to make a long term commitment, and for the Employer to reject any employee whose performance does not meet required work standards.

### **11.2 - Duration**

The probationary period shall be six months for all employees covered hereunder. A promotion or transfer shall not trigger any additional formal probation; however, for a ninety (90) day period following any transfer or promotion, the employee may elect, without penalty, to return to his former position, even if this requires the layoff of the person holding the position. Likewise, the Employer may elect to return the employee to his former position during the same time period without cause, but without penalty to the employee. But for this one exception, a transferred or promoted employee retains all rights and entitlements.

### **11.3 - Dismissal**

During the probationary period the Mayor may remove an employee who is unable or unwilling to perform the duties of the position satisfactorily or whose habits and dependability do not merit his continuance in the service. Any employee removed during the probationary period does not have the right to appeal to arbitration. Likewise, a probationary employee may elect to sever the employment relationship during this period without any penalty or adverse reflection on his record.

## **ARTICLE 12 EMPLOYEE RECORDS**

### **12.1 - Examination of Records**

Every employee covered by this Agreement shall have the right to examine all records pertaining to him on reasonable demand, subject to the availability of the personnel administrator or other employee(s) authorized to produce such files. In no event shall an employee be caused to wait more than eight (8) working hours. The Employer shall make available original or copies of the original records for examination by an authorized Union Representative having written authorization of the affected employee(s) upon twenty-four (24) hours notice from the Union, weekends excluded. The City, the Union, and the affected employee agree to periodically meet to review documents that relate to "stale" matters when the employee has successfully resolved the problem.

The City agrees to make available to the Union business agent, or his appointed representative, individual payroll records when requested of employees covered by this Agreement upon receipt of written authorization from affected employees.

### **12.2 - Time Cards**

Time cards of employees shall not be changed without consulting with the employee involved, except where time is of the essence. In such cases where the Employer must



change a time card, consultation with the employee shall occur at the first reasonable opportunity. Copies of the employee's time cards shall be made available by the Employer for inspection by the employee or Union Representative upon eight (8) hours notice by the Union or affected employee. In the event the employee disagrees with the Employer's change, even after consultation, the disagreement may be submitted as a grievance for resolution in accordance with Article 7.

## **ARTICLE 13 EQUIPMENT AND CLOTHING**

### **13.1 - Clothing**

The City agrees to provide work gloves, rubber boots, coveralls and such other protective clothing to be determined by the Mayor, and as required by State and Federal Safety regulations, for use by members as duties require.

### **13.2 - Employer Issued**

Employees who are issued equipment for City use shall have that equipment receipted to them and shall be responsible for its proper use. When the equipment issued becomes damaged, broken, unsafe or unserviceable, it shall be turned in to the City to be repaired or replaced. Employees shall use all reasonable means to protect and secure all City property, equipment and supplies.

### **13.3 - Personal Property**

In the event the Mayor approves in writing the use of the employee's personal property during such employee's normal duties, the Employer shall reimburse the employee for the repair or replacement of said personal property. The employee, however, shall not be reimbursed for the consequences of his own gross negligence or willful misconduct.

### **13.4 - Improved Equipment**

The City shall make an effort to provide employees with equipment that will allow the employee to work efficiently and improve productivity; i.e., computers, word processors, vehicles, and all other equipment and instruments necessary to perform the work. In the event such necessary equipment is not provided, the employees affected shall not be penalized for any loss of efficiency or productivity that may result.

### **13.5 - City Property**

Upon termination of employment, each employee shall return to the City any property of any kind belonging to it, no later than the time at which the employee is paid all wages and other sums due under the provision of this Agreement.

## **ARTICLE 14 SAFETY**

All work should be executed in a safe and proper manner. The Alaska Occupational Safety and Health Standards will serve as minimum standards.

The Employer shall furnish and provide adequate training in the use of such safety equipment as is necessary for the safety of the member. Safety devices and first aid

equipment as may be needed for safety and proper emergency medical treatment shall be provided and be available for employees working under adverse conditions.

## ARTICLE 15 EDUCATION, TRAINING AND TUITION

### 15.1 - Employer Provided

The Employer shall provide education and training necessary for an employee to maintain professional licenses or certifications required by law. Employer required education and training shall also be provided at the Employer's expense. The actual and necessary expenses incurred by bargaining unit members for official travel outside the City of Fairbanks because of such education and training shall be paid pursuant to Article 19, TRAVEL AND PER DIEM. The provisions of Section 15.2 will not apply if the employee is required by the Mayor, or designee, to attend training or education. The parties agree to modify travel documents so that reimbursement responsibility is made clear prior to education and training.

### 15.2 - Employee Requested

An employee may wish to obtain education or training in addition to that provided by the Employer under Section 1 of this Article. In order to obtain a tuition refund or reimbursement for any other conference or seminar ("tuition"), education or training costs and fees, including travel and accommodations, employees must first obtain prior written consent of the Mayor. Where such consent has been provided and upon proof of successful completion of the education or training, the City shall give the employee administrative leave for travel to and from, as well as attendance at, the conference or seminar and shall refund 100% of tuition paid for such education or training. The City shall also reimburse the employee for any pre-approved reasonable costs, fees or travel expenses paid by the employee in connection with such education or training. Reasonable costs, fees and travel expenses reimbursed for travel outside the City of Fairbanks shall be as described in Article 19, TRAVEL AND PER DIEM.

The employee whose educational or training request has been granted shall sign an agreement providing that any refund or reimbursement will be returned to the City on a prorated basis in the event of voluntary termination within 360 calendar days. Involuntary terminations or separations involving medical reasons will not require refunds to be returned.

## ARTICLE 16 WAGES

### 16.1 - Wage Classification and Salaries

The wage rate, **which is the package rate minus allocations for benefits**, for the classifications is shown in Appendix "A." The City is not precluded from paying a higher wage rate or annual bonus, as it finds necessary for superior performance to any of the employees covered by this Agreement. **(See text accompanying Appendix "A," Section 3).**

- A. **The package rate will be adjusted by an increase of two and one-half percent (2.5%) for 2011. Either party may request a wage re-opener for 2012 and 2013 by giving notice in the 9<sup>th</sup> and 21<sup>st</sup> months. Any increase for each year will be calculated on the package rate. The Union may allocate the package rate to wages, pension and health and welfare as it sees fit.**
- B. **Newly created classifications**, temporary and Intern employees wage structures will be mutually established by the City and Union assessed by the knowledge, skills and abilities of the individuals.
- C. The parties recognize that computing a full package rate, in which actual wages, health care and pension costs are computed on the basis of annual compensable hours, is a more accurate method of reflecting the actual cost to the City. In the past, the parties did not consistently use a package rate approach. Effective January 1, 2008, the parties **converted** the past methods of accounting for wages and benefits into a package rate upon which all future wage changes will be based.

16.2 - Pay For Additional Work In the Same or Higher Classification

Under ordinary circumstances, the Employer agrees to utilize employees exclusively within their own classification. However, it is understood that the temporary assignment of additional work or the making of acting appointments may be necessary as follows:

- A. **Temporary Assignments.** Temporary assignments shall cover those situations where an employee is required to assume the duties of a vacant position in addition to his own. Temporary assignments are not intended to cover the assignments of incidental or minor additional duties or mergers of duties of two positions when the work load for the merged position remains reasonable.
  - 1. An employee given a temporary assignment of the duties of a position lower or equal to his in pay shall receive a pay differential as follows: four percent (4%) for temporary assignments in excess of sixty (60) days.
  - 2. An employee given a temporary assignment of the duties of a position compensated at a rate higher than his shall receive the higher rate of pay plus the differentials set forth in paragraph 1 above.
  - 3. If less than all or a substantial portion of the other employee's duties are assigned, the pay differentials described in paragraphs (A)(1) and (2) above shall be prorated accordingly by agreement of the parties.
- B. **Acting Appointments.** Acting appointments shall cover those situations where an employee temporarily vacates his regular position and is officially promoted to or asked to fill a position other than his own on an acting basis.
  - 1. An employee asked to accept an acting appointment shall be paid the

rate of pay applicable to his or the position to which he has been appointed or asked to fill, whichever is higher.

2. An employee given an acting appointment shall accrue benefits at the higher rate of pay, as set forth in paragraph (B)(1) above.
3. In no case shall an acting assignment exceed a three (3) month period except by agreement of the parties. Any employee serving in such acting capacity shall be given preference where he is among those applicants seeking to fill the position on a permanent basis.

#### 16.3 - Compensatory Time

- A. Exempt Employees. Compensatory time is time off made available to an employee who has worked in excess of 40 hours per work week as a result of his attendance at such things as mandatory meetings, actual call-outs, evening work on special projects the completion of which is not feasible during the ordinary work day or workweek or other similar functions. The accrual and use of compensatory time shall be pre-authorized and administered in the manner set forth by the Mayor, as amended from time to time.
- B. Non-Exempt Employees. Except for public safety employees, non-exempt employees who work beyond 40 hours per week may elect to accrue compensatory time at the rate of 1.5 hours for each hour worked. No balance beyond 240 hours may be accrued. Public Safety employees may by law accrue up to 480 hours.

#### 16.4 - Court Appearance

Employees required for court, as a result of actions performed for the City in the line of duty, shall suffer no loss in regular earnings, but shall be compensated during their service at the employee's rate of pay if on duty. Any witness fees shall be turned over to the City. If members are off-duty they shall receive pay or compensatory time at the appropriate rate with a two (2) hour minimum being paid or credited.

### **ARTICLE 17 PERFORMANCE EVALUATIONS**

Employees in the Bargaining Unit, on probationary status, shall receive written performance evaluations midway through and at the completion of the probationary period. Regular employees may be evaluated as the need arises or as requested by the employee. Bargaining unit members shall be given at least ten (10) working days prior to finalization of any evaluation to make a written rebuttal to it which shall become a part of the employee's official personnel record.

### **ARTICLE 18 FILLING OF VACANCIES**

#### 18.1 - Promotional Opportunities

The parties understand and agree that hiring and promotional decisions shall be made on

the basis of merit and fitness. Where merit and fitness are equal, the greater seniority of one applicant over another shall be considered an additional qualification. Preference may be given to the acting appointee for the vacant position pursuant to Article 16, Section 2(B)(3) of this Agreement.

#### 18.2 - Vacancy Promotions

When a vacancy occurs or a new position is created pursuant to this Agreement, the Mayor or the personnel office, through him, shall post vacancy announcements which shall include a job description, salary information and a complete list of all factors or criteria including but not limited to education, training and experience that will be considered in making the job award. The announcement will also state whether a formal written application is necessary and where and when such application can be obtained.

Vacancy announcements shall also specify the position's opening date, a job description and title, and any other pertinent information including any tests or examinations that will be required and together with the closing time and date of the application period. Copies of all such notices will also be provided to the Union's Fairbanks' business office.

#### 18.3 - Application Procedure

Where applications are to be made for any vacant or newly created position within the bargaining unit, application forms will be made available from the personnel office.

#### 18.4 - Rights

Employees offered and who accept a promotion or transfer into a vacant or newly created position will be placed at the appropriate level or step given their current level of service and compensation. For all transferred or promoted employees, length of service will remain unbroken and all accrued benefits shall remain unchanged.

#### 18.5 - Promotions/Transfers

Any employee may refuse a permanent, non-disciplinary transfer to a lower or comparable rank or classification or a promotion to a higher rank or classification. Such refusal shall not be the basis for discipline or any other adverse action including but not limited to: leave, training or reimbursement request denials, an otherwise unwarranted demotion or transfer, changes in work assignments, work location, or support personnel.

## **ARTICLE 19 TRAVEL AND PER DIEM**

#### 19.1 - Official Travel Outside City of Fairbanks

It is the intent of this section to provide (a) reimbursement for actual and necessary expenses incurred by bargaining unit members because of travel on the City or Departmental business and (b) a daily per diem payment for meals and other expenses. Employees' time spent at official conferences, meetings or training sessions is compensable; if the employee is unable to return to the normal work place, a full 8 hours of compensable time is earned. Should the actual training or meetings exceed 8 hours, all time spent is compensable.

The City will fully reimburse the employee for travel, lodging, parking, and other

required expenses. In addition, forty dollars (\$40.00) a day will be paid for meals and optional items and shall be adjusted upward by the same amount as any increases in the City Code.

#### 19.2 - Use of Personal Vehicles

Employees are not authorized to use their privately owned vehicles for City business. However, when members are authorized by the City in writing to so use their private vehicles for official business reimbursement for such use shall be at the rate allowed by the Internal Revenue Service as proper. In the event the employee is required to respond to a problem or emergency after regular work hours, he may utilize his personal vehicle to go directly to and return from the site of the problem or emergency and be reimbursed at the rate allowed by the Internal Revenue Service as proper.

### ARTICLE 20 PERSONAL LEAVE

#### 20.1 - Personal Leave

- A. Effective February 7, 2005, newly hired employees shall accrue leave according to the following schedule:
  - 1). One to Two Years: 160 hours per calendar year;
  - 2). Two to Five Years: 200 hours per calendar year;
  - 3). Over Five Years: 240 hours per calendar year.
  
- B. Persons hired prior to February 7, 2005 shall receive 240 hours of leave per year.

#### 20.2 - Leave Requests

Scheduled personal leave may be taken in conjunction with approved travel on City business so long as any additional expenses to the City are reimbursed by the employee. When Personal Leave is used for illness or bereavement, the employee shall notify the supervisor as soon as possible.

#### 20.3 - Termination Cash-out

Upon termination of any employee covered by this Agreement, ~~the full value of all accrued personal leave in accord with the cash-out values of Section 20.5~~, shall be paid, ~~except that in the case of involuntary termination or the death of an employee the full value of all hours will be paid at the employee's then-current rate of pay.~~

#### 20.4 - Draw Down of Personal Leave

Subject to the "cap" provision set forth below, any employee covered by this Agreement may cash out his/her personal leave in accordance with the following schedule. Member "cash-out" requests must be submitted to the Mayor. The cashed out hours will be paid on a separate check due at the same time as the employee's next regular paycheck. ~~Draw downs in excess of three hundred hours per year are not considered compensable hours for pension benefit payments.~~ Cashouts will be subject to union dues and the City will make pension contributions on all leave cash-outs.

The City will pay pension contributions on personal leave cashed out by IBEW members, under this section.

LEAVE USAGE. All Personal Leave hours have full leave usage and leave usage is not reduced at any time regardless of the total number of hours accrued.

Total Personal Leave Hours for Draw Down:

0 - 200 hours: Cannot cash-out, **except in cases of financial hardship**  
Over 200 - 100% cash-out value.

#### 20.5 - Personal Leave Donations

The parties recognize that it is desirable from time to time to have a means for employees to assist other City employees in time of need. The following shall be the vehicle for that purpose.

- A. Each employee wishing to donate personal leave will fill out, date and sign a leave slip showing the amount of leave the employee wishes to donate in increments of not less than four (4) hours and deliver said leave slip to the Finance Department.
- B. Each leave slip will have written or typed along the bottom: "Leave donated to (employee name)." **The employee receiving the leave donation will have the amount of leave converted to his/her pay rate.**
- C. Once personal leave is donated, it is irretrievable by the donor.
- D. It is the understanding of the City that the Internal Revenue Service at this time treats donated leave as income to the recipient, and not a taxable event to the donor. However, the City has no control over the tax treatment of such donated leave.

#### 20.6 - Expiration of Accrued Personal Leave

A sick or disabled employee who exhausts accumulated personal leave may request leave without pay, which may be granted at the discretion of the Mayor in accordance with Article 21, Section 6 of this Agreement. In exercising such discretion, the Mayor may require a report from the employee's attending physician which specifically describes the nature of the illness or disability and includes the physician's opinion as to the member's expected time to return to work. The employee may also be required to submit to his supervisor a monthly report from the attending physician affirming the continued illness or disability.

#### 20.7 - Seniority Rights During Illness or Disability

Seniority rights accrued by an employee up to the date of commencement of a sickness or disability which requires absence from work shall not be lost during any period of approved absence due to sickness or disability. Additional seniority rights shall not accrue during any period of leave without pay attributable to a non-work related sickness or disability, except as provided for under the parental leave provisions of this Agreement.

#### 20.8 - Job-Incurred Injury or Illness

In the event of a job-incurred injury or illness within the coverage of the Alaska Workers' Compensation Act in effect at the time of injury, the employee's position shall be held for such employee until it has been established that the employee will be unable to return to work, or one year whichever is sooner. An award to the employee of Workers' Compensation Permanent Disability shall be deemed to establish that the employee will be unable to return to work unless the employee, by actually returning to work, or by the report of a competent physician establishes that a permanent partial disability will not preclude his or her return to the job in question. The City will comply with all requirements of the Alaska Worker's Compensation Act. The employee shall be required to submit to his or her supervisor a monthly report from the attending physician. An employee may choose to use personal leave to supplement income during times of Workers' Compensation leave, provided that total net compensation is equal to or less than the employee's regular compensation.

#### 20.9 - Light or Limited Duty

In the event of an injury precluding the employee from returning to full duty status, the Employer and the Union shall mutually establish the scope of the employee's adjusted duties and adjusted rate of pay, with the employee's physician's approval of the adjusted duties. The employee's regular rate of pay shall be reinstated by the City upon receipt of a doctor's full work release.

### **ARTICLE 21 OTHER APPROVED ABSENCES**

#### 21.1 - Family/Medical Leave

The parties shall comply with the Alaska Family Leave Act (AS 23.10.500-.550; AS 39.20.305) and the Federal Family and Medical Leave Act (Public Law 103 - 3).

#### 21.2 - Elections

Any employee shall be given the necessary time off, without loss of pay, for the purpose of voting when the polls are not open at least two (2) hours before or after the employee's scheduled hours of work.

#### 21.3 - Jury Duty

Employees required to serve on jury duty will suffer no loss in regular earnings, but shall be compensated during their service while serving such jury duty, provided, however, that any jury duty pay received is turned over to the Employer by the employee. It is agreed that an employee reporting for jury duty who is then released for the day shall return to work for the rest of the work shift.

#### 21.4 - Funeral Leave

Any employee may use personal leave to attend a funeral.

#### 21.5 - Military Service Leave

Military leave means training and service performed by an inductee, enlistee or reservist, or any entrant into a temporary component of the Armed Forces of the United States and the time spent reporting for and returning from such training in service, or, if a rejection



occurs, from the place of reporting for service. It also includes active duty training as a reservist in the Armed Forces of the United States or as a member of the National Guard of the United States where the call is for mandatory training only. A copy of the employee's Orders must be provided to Payroll.

- A. Eligibility. Any permanent employee who leaves the City service for compulsory military duty shall be placed on military leave to extend through a period of ninety (90) days after his or her release from the service. Also, a permanent employee shall be granted a leave of absence for the purposes of being inducted or otherwise entering military service. If not accepted for duty, the employee shall be reinstated in his or her position without loss of status or reduction in pay.
- B. Restoration. An employee returning from military leave shall be entitled to restoration to his or her former position, provided he or she makes application within ninety (90) days after his or her release from duty and is physically and mentally capable of performing the duties of the position involved. In the event that the position the employee vacated no longer exists at the time he or she is qualified to return to work, such person shall be entitled to be reemployed in another existing position of the same class without reduction in pay or loss of status. Disputes as to the employee's fitness shall be resolved through expedited arbitration. In accordance with applicable State and Federal laws and regardless of any language or provision of this Agreement to the contrary, there shall be no adjustment of an affected employee's anniversary date for seniority or longevity purposes.
- C. Disposition of Vacation and Sick Leave. An employee who leaves the City service for such military leave without pay may elect to be paid for any accrued leave he or she may be entitled to as if he/she were actually separating from the City service. The employee's decision shall be noted on the personnel action form affecting the leave. If the employee elects not to be paid for such leave, the accrued leave credits shall be reinstated upon return of the employee to the City service.
- D. Military Reserve Training or Emergency National Guard Service. Any employee who has completed his or her probationary period and who is a member of any reserve component of the United States Armed Forces will be allowed leave of absence for required training or duty for a period not exceeding 120 work hours during any one calendar year. Such military leave shall be with pay if all military pay the employee receives for the duties performed on such leave is paid to the City. The Mayor may authorize additional periods of military leave in the event of employee hardship in the event of prolonged involuntary military service.

#### 21.6 - Leave Without Pay

Regular employees in good standing may be granted leave without pay for a period up to one hundred twenty (120) calendar days. An employee is in good standing if his job performance has been satisfactory for a period of twelve (12) months preceding his request.

Requests for leave without pay shall be made in writing to the Mayor. Approval of such leave requests shall be made on an individual basis. Where service requirements permit and where the employee has demonstrated a serious and legitimate need, approval shall not be unreasonably withheld. Cost of such request shall be a factor in such determination.

While on leave without pay, seniority and personal leave will not accrue. Longevity credits for the purpose of completing probation and pay anniversary date shall also be suspended during any period of leave without pay.

Where leave without pay is granted, the employee shall not first be required to use his accumulated personal leave.

During an approved leave of absence, an employee's position may be filled by limited term appointments, temporary promotion, or temporary reassignment. At the expiration of any period of leave without pay, the employee has the right to and shall be reinstated to the position he vacated.

#### 21.7 - Union Leave.

A regular employee elected or appointed to a position as a full-time union official shall be entitled to a maximum of ninety (90) days leave of absence from the City to fill his union position. During such leave of absence, such employee shall have the right to elect, without penalty, to return to his former position with the City. In the event such election is made, the employee's anniversary date shall be adjusted for any period of leave without pay in accordance with Article 21, Section 6. In the event the employee does not elect to return to his former position by the end of this ninety (90) day period, the employee shall forfeit his seniority with the City. Upon termination of his position with the Union at any time after expiration of this ninety (90) day period, said employee shall be given the first option, for a period of three (3) years, in filling a vacancy which may occur in the department or classification in which he was formerly employed or for which he is otherwise qualified. The Union shall notify the City when the employee has terminated his union position. Notification of vacancy pursuant to this section shall be to the Union's Fairbanks' business office. The employee's time to respond to such notice shall be as set forth in Article 23, Section 2(B) - Notice of Recall.

## **ARTICLE 22 SENIORITY**

### 22.1 - Definition of Seniority

There are two (2) types of seniority for members of this bargaining unit:

- A. Seniority is total length of service the member of this bargaining unit has worked for the City of Fairbanks without separation, without regard to prior bargaining unit(s), subject to adjustment as set forth in this Agreement.

- B. Classification seniority is the length of service of the employee in the job classification with the Employer, subject to adjustment as set forth in this Agreement.

## 22.2 - Termination of Seniority

- A. Seniority shall be terminated upon:
  - 1. Discharge.
  - 2. Resignation.
  - 3. Layoff for a period of two years or more (or nine (9) months in the case of medical incapacity due to non-job related injury or illness), or inability to return to work from a job-incurred injury or illness of two years or more as provided for in Article 20, Section 8.
  - 4. Failure to respond in a timely and/or prescribed fashion to notice of recall.
  - 5. Failure to return from an approved leave of absence on the stipulated date of expiration, or any unapproved absence from work without advance Employer approval in the absence of a legitimate and verifiable explanation.
  
- B. Seniority shall not be interrupted by:
  - 1. Periods of approved leave, except as set forth in Article 21, Section 6 - Leave Without Pay.
  - 2. Workers' Compensation Leave, up to one year.
  - 3. Military Leave.
  - 4. Family/Medical Leave as set forth in Article 21, Section 1.
  - 5. Active military duty when recall for such duty is beyond the control of the employee.

## **ARTICLE 23 LAYOFF**

### 23.1 - General Provisions

- A. Layoff(s) shall be made by classification, starting with the least senior member in the classification. A layoff of not less than twelve (12) months, during which the employee returns to work at the first opportunity, shall not be considered a separation. Seniority credits for purposes of completing probation, pay anniversary date and the accumulation of leave benefits shall be suspended during the period of layoff.

- B. An employee receiving a layoff notice (the "noticed employee") has five working days to notify the City Mayor in writing of the employee's intent to displace ("bump") another employee in this bargaining unit with less seniority in the same or lower classification within the City. The Mayor will approve the displacement if (a) the Mayor finds that the noticed employee has the qualifications, skills, training, and experience to perform the work duties of the other employee, and (b) if the noticed employee has worked continuously for the City, regardless of bargaining unit status, longer than the other employee. If the Mayor approves the displacement, the noticed employee will be transferred to the other employee's classification, at the pay rate of the other employee. The displaced employee shall then be given notice of layoff and may invoke the displacement process if eligible.

### 23.2 - Recall

- A. Procedure. Upon layoff, the laid off employee shall be placed on the layoff list for that classification group from which the employee was laid off, and for the bargaining unit. Recall rights exist for one year from the effective date of layoff.
1. The classification layoff list shall be ranked in inverse order of layoff. The recalled position shall be offered to the first employee on the classification layoff list.
  2. If the classification layoff list is exhausted and/or eligible employee(s) decline appointment or are not available, then the position shall be offered to the employee with the most seniority of those employees on the bargaining unit's layoff list that possess the required skills and abilities.
  3. If the bargaining unit's layoff list is exhausted and eligible employee(s) decline appointment or are not available, then the position shall be offered to the employee with the most City seniority of those employees on the bargaining unit's layoff list. In order to receive recall notice from the bargaining unit's layoff list the employee shall provide written notice to the City at the time of layoff of interest and possession of skills and abilities to perform the available jobs. The City shall exhaust the bargaining unit's layoff list.
  4. The laid off employee must have the skills and abilities to perform the position for which he is recalled. Vacant positions which are to be filled may be filled through promotion provided no employee is on layoff from the classification. However, the vacated position may subsequently be filled only in accordance with this Article.
  5. If an employee is recalled to a position in which he or she has attained regular status, the recalled employee shall be appointed to that position as a permanent employee. If an employee is recalled to a position in which he or she has not attained regular status, the recalled employee shall be appointed to that position as a probationary employee.
- B. Notice of Recall. Notice of recall shall be sent to all laid off employees at their last known address by restricted delivery certified mail and by certified mail to

the Union's Fairbanks' business office. The employees on the recall list shall within ten (10) working days after receipt of the recall notice notify the City in writing as to his or her decision regarding the recall offer. The employee at the top of the recall list shall have the first opportunity to accept the position provided he possesses the qualifications for the position being recalled. If the City does not receive notice as required above from the employee first eligible for recall within the ten (10) working day period of when the recall notice was postmarked, then that employee goes to the bottom of the recall list, and the next individual on the list who responded to the notice of recall and who possesses the qualifications for the position will be offered the position. If none of the individuals on the list who respond possess the required skills and abilities, the City may implement a recruiting process pursuant to Article 18, Filling of Vacancies.

### 23.3 - Notification

In every case of layoff of any regular or probationary employee, the City shall give the employee at least thirty (30) days written notice in advance of the effective date as provided for in Article 8, Section 1.

## **ARTICLE 24 NO STRIKE OR LOCKOUT**

### 24.1 - No Strikes

The Union agrees that during the life of this Agreement it will not sanction, authorize, initiate, aid or encourage any work stoppage, slowdown, "sick-out", refusal to work or strike against the Employer.

### 24.2 - No Lockouts

The Employer agrees that during the term of this Agreement there will be no lockouts.

### 24.3 - Violations

Any alleged violation of this Article, whether by the Union or the Employer, shall be submitted to the Alaska Labor Relations Agency as soon as possible.

## **ARTICLE 25 SEVERABILITY**

In the event any term or provision of this Agreement is found to be in violation of law or not to comply with administrative regulations or requirements, or is otherwise unenforceable, the remainder of this Agreement shall continue in full force and effect and shall be interpreted in a manner consistent with the spirit and purpose of this Agreement.

In the event a provision is found to be contrary to law or to not comply with administrative regulations or requirements or is otherwise unenforceable, either the City or the Union may demand renegotiation of such unlawful or non-complying provision in a manner which will be lawful or compliant. Any such demand must be made within sixty (60) days from the date on which the provision was held to be contrary to law or non-complying or unenforceable.

## ARTICLE 26 DURATION OF AGREEMENT

### 26.1 - Term of Agreement

**Except for re-openers for economics and Section 10.1(c), this agreement shall be effective from January 1, 2011 through December 31, 2013.** Any provision within this Agreement which has a retroactive effect shall only apply to those employees covered by this Agreement and actually employed by the City on the date that this Agreement is approved and signed by both the City and the Union. This Agreement may only be amended in the form of Letters of Understanding, executed upon the mutual agreement of both parties.

### 26.2 - Negotiations

Negotiations for a successor contract shall commence no later than **October 1, 2013**.

- A. In the event the expiration date of this agreement is reached during the course of or prior to the completion of negotiations for a new or modified agreement, this Agreement shall be continued in full force and effect until a new agreement is reached, ratified and executed by the parties.
- B. Should negotiations not result in an agreement after negotiations have been in progress for ninety (90) calendar days, the no strike, no lockout provision of the Agreement shall become null and void, unless extended by mutual agreement.

### 26.3 - Successor Clause

This Agreement shall be binding upon the successors and assigns of the parties hereto, and no provisions, terms or obligations herein contained shall be affected, modified, altered, or changed in any respect whatsoever by the consolidation, merger, sale, transfer or assignment by either party hereto, including any change in ownership or management of either party and any change in the place of location of business of either party.

### 26.4 - Dispute Resolution

Any dispute involving the commencement date or termination date of this Agreement shall be considered a grievance and submitted to the expedited grievance-arbitration procedure set forth herein, unless the parties mutually agree to submit the issue for judicial review.

### 26.5 - Printing

Upon final consummation and approval of this Agreement, it shall be printed in booklet form. The Union agrees to pay the cost of the printing and furnish a reasonable number of copies to the City.

### 26.6 - New Provisions/Ratification

It is mutually agreed that ratification of the provisions of this Agreement shall be discussed in a joint meeting with the City and Union Representatives as soon as practicable after the Agreement has been finalized by both parties.

**ARTICLE 27**  
**DEFINITION OF TERMS**

27.1 - Tense, Number and Gender As used in this Agreement:

- A. Words in the present tense include the past and future tenses, and words in the future tense include the present tense.
- B. Words in the singular number include plural, and words in the plural number include the singular.
- C. Words of any gender include masculine, feminine and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

27.2 - Definitions

For purposes of this Agreement, terms shall be defined to mean:

- A. "Administrative Leave" shall mean authorized absence from an employee's regular work duties for purposes such as training, education, or other reasons.
- B. "Base rate" shall mean the specific dollar amount paid the employee.
- C. "Anniversary date of hire" shall mean the date at which an employee has completed a service year of fifty-two (52) weeks of paid service.
- D. "Promotion" shall be the assignment of an employee from one position/classification to another which will provide an increase in salary and which has a higher base rate of pay.
- E. A "regular appointment" shall be an appointment without time limitation, or special restrictions as to continued employment.
- F. A "regular employee" is an individual receiving a regular appointment.
- G. A "permanent employee" is one who has successfully completed probation.
- H. "Member" and "employee" mean a member of the bargaining unit covered by this Agreement, unless the context indicates otherwise.
- I. "Position" is the office or employment whether occupied or vacant, full-time or part-time, consisting of duties and responsibilities assigned to one individual by competent authority.
- J. "Compensatory time" is defined in Article 16, Section 4.
- K. "Seniority" is defined in Article 22, Section 1.

RATIFIED by the City Council by Ordinance No. \_\_\_\_\_, on \_\_\_\_\_,  
2011, and by the membership of the bargaining unit on \_\_\_\_\_, 2011

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and  
year hereinabove first written.

FOR THE CITY OF FAIRBANKS:

FOR THE UNION:

\_\_\_\_\_  
JERRY CLEWORTH                      Date  
Mayor

\_\_\_\_\_  
KNUTE ANDERSON                      Date  
President

\_\_\_\_\_  
JANEY HOVENDEN                      Date  
City Clerk

\_\_\_\_\_  
LARRY BELL                              Date  
Business Manager/Financial Secretary

\_\_\_\_\_  
PATRICK COLE                              Date  
Chief of Staff

\_\_\_\_\_  
KARM SINGH                              Date  
Business Representative

\_\_\_\_\_  
DENISE KENDRICK                      Date  
Shop Steward

\_\_\_\_\_  
STEPHEN ANDERSON                      Date  
Alternate Shop Steward



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**APPENDIX "A"**

**Section 1**

<b>Position Classification</b>	<b>2011 Package Rate</b>	<b>Pension</b>	<b>H&amp;W</b>	<b>Benchmark Wage Rate Range "C"</b>
Property & Development Manager				
Administrative Assistant				
Legal Secretary#				
Deputy City Clerk#				
Clerk/Cashier				
Engineer I				
Engineer II				
Engineer III				
Environmental Manager				
Engineer IV				
Engineering Technician Supervisor				
QC Compliance/Impound Coord.				
Facilities Manager				
Public Works Director*				
Code Compliance Inspector				
Bldg. Permit Tech				
Assistant Building Official				
Sr. Structural Plan Check Engineer				
Building Official*				
Combination Building Inspector				
Police Chief*				
Fire Chief*				
Assistant Fire Chief*				
Revenue Manager/GL Acct.				
Accounting Specialist				
GL Accountant/Grant Mgr				
Senior Accountant				
Controller*#				
Chief Financial Officer#*				
Information Technology Manager*#				
Help Desk Coordinator				
Network Administrator II				
Programmer Analyst/System Adm				
System/Network Administrator				
FMATS Coordinator*				
FMATS Planner				
Dispatch Manager*				

**Section 2.**

In the event that the City Council, in 2010 or 2011, voluntarily ratifies a Collective Bargaining Agreement with any other union which provides for multi-year pay scale increases beyond 2011, the pay scale for this agreement ("Appendix A") shall be increased by the same method, PROVIDED THAT, (a) that this section does not apply to a ruling of an arbitrator, (b) this section does not apply to agreements made in 2011 for single year pay scale increases for 2012 and, (c) this section does not apply to the voluntary negotiation of one-time retroactive payments, payment of an individual merit bonus or merit pay increase.

**Section 3.**

After the package rate is set effective January 1, 2011, 2012 and 2013 as provided in Section 16.1(A) and after the Union designates allocation to Pension and H&W, employee will be paid at the benchmark Range C, unless, based upon merit evaluation of employee experience, knowledge & skills, dedication and performance, the Mayor finds that individual wages be adjusted to the following ranges.

Range A	Range B	Benchmark Range C	Range D	Range E
90%	95%	100%	105%	110%

Range A is meant to be the starting wage for employees whose knowledge, experience or skills are still developing. It is also meant to apply to employees whose knowledge, skills or performance have declined to the minimally acceptable level.

Range B is meant to apply to employees whose knowledge, skills and experience are progressing but have not yet reached the average. It is also meant to apply to employees whose knowledge, skills and performance have slipped below average.

Range D is meant to apply to employees whose knowledge, skills and experience are above average and for employees whose performance is above average.

Range E is meant to apply to employees with extensive knowledge, skills and ability whose performance is superior.

While initial range placement and subsequent range advances to a higher range are at the discretion of the Mayor, employee(s) may not be moved from a higher to a lower Range without just cause subject to the following:

- a. In the event the Mayor has concerns about the adequacy of an employee's work performance which may trigger a decision of a reduction in pay range, the performance issue will first be orally discussed by the employee, the Department Head and the Mayor.
- b. After said meeting, a written "performance improvement plan" identifying the areas needed for improvement will be provided to the employee. Follow up meetings will be held at the request of the employee
- c. Six calendar months or more shall be allowed to elapse after the issuance of the performance improvement plan before any decision to reduce pay range is made.
- d. Prior to the Mayor's decision to reduce pay, a pre-disciplinary meeting shall be held with the employee, the Department Head, the Mayor and any other persons the employee wishes to attend so that the issues can be discussed.
- e. Prior to the Mayor's decision to reduce pay, the Mayor will inform the Union Business Agent of the decision and provide 30 days notice before the reduction is made.
- f. Should the employee elect to grieve the matter, he/she shall remain at the prior pay range until the grievance is resolved under the terms of this collective bargaining agreement.

If an employee is involuntarily moved to a lower pay range, that demotion shall not last longer than one calendar year. If the City Mayor wishes to again reduce the pay range, the above procedure shall be followed.

#### **Section 4.**

**Classifications marked with # will routinely be entrusted with confidential information placing them in a potential conflict of interest between their roles as City officials and bargaining unit members. In such situations, the employees duty as a public official will prevent any disclosure of information subject to the provisions of law.**

*City Of Fairbanks*



**MEMORANDUM**

To: City Council Members

From: Jerry Cleworth, City Mayor

A handwritten signature in black ink, appearing to be "JC", is written over the name "Jerry Cleworth".

Subj: Resolution 4454 Regarding Borough Ordinance 2010-56

Date: January 24, 2011

---

Attached to this resolution are the following associated documents:

- Memo to FNSB Assembly from Natalie Howard regarding Ordinance No. 2010-55 dated 1/6/11.
- Memo to FNSB Assembly from Bernardo Hernandez regarding Ordinance 2010-55 and Ordinance No. 2010-56 dated 1/13/11.
- Revised FNSB Ordinance No. 2010-55.
- Revised FNSB Ordinance No. 2010-56.
- City Attorney Paul Ewers' "Summary of Proposed Changes to Chapter 18.56 of the Borough Code."

Thank you.

Introduced By: Mayor Cleworth  
Date: January 24, 2011

**RESOLUTION NO. 4454**

**A RESOLUTION EXPRESSING CONCERNS ABOUT FNSB  
ORDINANCE 2010-56 AND AMENDMENTS TO TITLE 18 OF THE  
BOROUGH CODE OF ORDINANCES**

**WHEREAS**, the Borough Assembly is currently considering two ordinances that propose amendments to Title 18 of the Fairbanks North Star Borough Code of Ordinances relating to nonconforming (grandfathered) buildings, structures, uses and lots; and

**WHEREAS**, under FNSB Code Section 18.52.030, the Fairbanks City Council sits as the Board of Adjustment for decisions regarding land within the City of Fairbanks and hears and decides appeals of planning commission determinations on requests for conditional uses and variances, and of decisions or determinations made by the department of community planning in the enforcement of Title 18; and

**WHEREAS**, Ordinance No. 2010-56 provides that an appeal of a nonconforming status determination would be made to the planning commission and that the decision of the planning commission could be appealed to the superior court; and

**WHEREAS**, the council believes that such appeals should be made to the Boards of Adjustment, whether that be the Borough Assembly, the North Pole City Council, or this council; and

**WHEREAS**, Ordinance No. 2010-56 would limit to twelve months the grace period wherein an otherwise legal non-conforming use would be considered abandoned, with extensions for extenuating circumstances left to the discretion of the planning director; and

**WHEREAS**, the council believes that the twelve month period is too short, especially in the case of a serious incident such as fire damage to a building; and

**WHEREAS**, Ordinance No. 2010-56 would only allow enlargement or alteration to a grandfathered structure if the owner received a change permit, a requirement the council believes is overly restrictive.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS**, that the council has serious concerns about parts of Ordinance 2010-56 and would urge the Borough Assembly to take these concerns into consideration.



**PASSED and APPROVED this 24th Day of January, 2011**

\_\_\_\_\_  
**JERRY CLEWORTH, MAYOR**

**AYES:  
NAYS:  
ABSENT:  
APPROVED:**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Janey Hovenden, CMC, CITY CLERK**

\_\_\_\_\_  
**Paul J. Ewers, CITY ATTORNEY**

**Resolution No. 4454  
Page 2 of 2**



# Fairbanks North Star Borough

ASSEMBLY

809 Pioneer Road \* PO Box 71267 \* Fairbanks, Alaska 99707-1267 \*(907) 459-1401 FAX 459-1224

## MEMORANDUM

TO: Fairbanks North Star Borough Assembly  
FROM: Natalie Howard, Assembly Member  
DATE: January 6, 2011  
SUBJECT: Ordinance No 2010-55

In 2007, during an appeal of a grandfather rights determination made by the planning department, a Hearing Officer suggested the Fairbanks North Star Borough (FNSB) develop an administrative process for grandfather rights determinations.

In 2009 the Administration proposed an ordinance to the Assembly to include an administrative process for grandfather rights determinations in the FNSB Title 18 Zoning Ordinance. In addition to the administrative process, the proposed ordinance included several changes to the grandfather rights chapter of FNSB Title 18 that went beyond the Hearing Officer recommendation. The additional changes were inconsistent with the goals of the FNSB Comprehensive Land Use Plan, the purpose of FNSB Title 18, and drew considerable public opposition. As a result, the Assembly remanded the Administration's proposed ordinance to the planning department for public hearing.

The planning department held eight public hearings. Testimony and written comments were overwhelmingly against the administration's proposed changes. The public made it clear that they wanted:

- Relaxed restrictions on their ability to continue established uses of their property in the event of a rezone.
- An increase in the amount of time that can lapse before forfeiting grandfather rights.
- An administrative appeals process to the Board of Adjustment (Assembly and respective City Councils).
- Assurance that grandfather rights/property complaints are only initiated by neighbors that bears the burden of proof for an allegation.

The planning department indicated that the public could expect a revised ordinance in May or June of 2010. When no revision was produced, Assembly Member Howard introduced Ordinance NO 2010-55 which was referred to the planning commission. Modifications were made to the ordinance as a result of work sessions with the planning commission and public testimony which was consistent with testimony received from the original 8 public hearings.

Ordinance NO 2010-55 includes the administrative process suggested by the Hearing Officer and responds to the 4 clear recommendations from the public. This ordinance is comprehensible. Ordinance NO 2010-55 is consistent with the goals of the FNSB Comprehensive Land Use Plan, purpose of Title 18, and the stated desires of public.

1 **REVISED FOR INTRODUCTION**

By: Natalie Howard  
Introduced: January 13, 2011

2  
3  
4 **FAIRBANKS NORTH STAR BOROUGH**

5  
6 **ORDINANCE NO. 2010-55**

7  
8  
9 **AN ORDINANCE AMENDING CHAPTER 18.56 OF THE FAIRBANKS NORTH STAR**  
10 **BOROUGH CODE OF ORDINANCES AS IT RELATES TO NONCONFORMING AND**  
11 **GRANDFATHERED BUILDINGS STRUCTURES, USES AND LOTS AND ADDING A**  
12 **SECTION TO CHAPTER 18.58 CONCERNING THE INITIATION OF TITLE 18**  
13 **COMPLAINTS**  
14

15 WHEREAS Chapter 18.56 of the FNSB zoning ordinance contains provisions for  
16 recognizing that a property owner maintains existing uses of their property in the event  
17 that buildings, structures, and/or uses become nonconforming as a result of zoning  
18 ordinance changes and;

19  
20 WHEREAS the purpose of Title 18 is to implement the Fairbanks North Star  
21 Borough Comprehensive Plan; and

22  
23 WHEREAS the first goal of the FNSB Comprehensive Land Use Plan is: "To  
24 recognize that the foremost aspect of land use involving private property is the retention  
25 and maintenance of private property rights"; and

26  
27 WHEREAS strategy 1 of the FNSB Comprehensive Land Use Plan is to: "Work  
28 for decision by commissioners and the assembly that protects individual private property  
29 rights to the maximum extent possible"; and

30  
31 WHEREAS strategy 2 of the FNSB Comprehensive Land Use Plan is to: "Work  
32 for community end goals with a minimum impact and disruption of individual private  
33 property rights"; and

**AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT**  
Text to be added is **underlined & bold**  
Text to be deleted is **[BRACKETED, CAPITALIZED & BOLD]**

34 WHEREAS The Purpose of The FNSB Title 18 Zoning Ordinance  
35 (Section 18.04.020) states: "This title is intended to protect private property rights, to  
36 promote the public health, safety and general welfare of the residents of the borough,  
37 and safety from fire and to promote the efficient distribution of water, sewage, schools,  
38 parks; to promote economic development and the growth of private enterprise; and  
39

40 WHEREAS Application of the FNSB Title 18 Zoning Ordinance (Section  
41 18.04.030) in pertinent part states: "Structures and land use that becomes  
42 nonconforming as a result of implementation of this chapter shall have grandfather  
43 rights"; and  
44

45 WHEREAS Implementation of the FNSB Title 18 Zoning Ordinance (Section  
46 18.04.070 Implementation) states in pertinent part: "Grandfathering of all land uses shall  
47 take precedent when a conflict arises"; and  
48

49 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North  
50 Star Borough:  
51

52 Section 1. Classification. This ordinance is of a general and permanent  
53 nature and shall be codified.  
54

55 Section 2. Chapter 18.56 of the Fairbanks North Star Borough Code of  
56 Ordinances is hereby amended as follows:  
57

58 NONCONFORMING (GRANDFATHERED) USES AND LOTS  
59 18.56.010 Purpose.

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT  
Text to be added is underlined & bold  
Text to be deleted is [BRACKETED, CAPITALIZED & BOLD]

60 The purpose of this chapter is to provide for the regulation of nonconforming  
61 buildings, structures, uses and lots, and to specify those circumstances and conditions  
62 under which they shall be allowed to continue as legal nonconforming uses and lots.

63

64 **18.56.020 Authority to Continue.**

65 Any nonconforming building, structure, use or lot which existed lawfully prior to  
66 the effective date of the ordinance codified in this title or any lawful building, structure,  
67 use or lot which has become nonconforming upon the adoption of the ordinance  
68 codified in this title or any subsequent amendment thereto may be continued, subject to  
69 the restrictions in this chapter. Any change in ownership of such a building, structure,  
70 use or lot does not void grandfather rights.

71

72 **18.56.025 Affirmative Recognition of Grandfather Rights.**

73 **A. An applicant may seek an affirmative recognition of their grandfather rights**  
74 **by submitting an application and affidavit to the department of community planning**  
75 **director or his designee describing the nonconforming building(s), structure(s), use(s) or**  
76 **lot(s) that existed prior to the date of the zoning change that caused the**  
77 **nonconformance. The applicant shall be the owner of the property described in the**  
78 **application, the contract purchaser of said property, the holder of an option to purchase**  
79 **said property, or such persons that possess a substantial proprietary interest in the**  
80 **property being considered. The written consent of the owner, or an authorized**  
81 **representative having power of attorney, shall accompany all applications. The**  
82 **application must contain a written positive assertion that said building(s), structure(s),**  
83 **use(s) or lot(s) existed prior to the date of the zoning change. This application may be**  
84 **made at any time. The application may be accompanied by pictures, statements of**  
85 **support, and other evidence.**

86 **B. Within 15 days after the filing of the owner affidavit, the Department shall**  
87 **schedule an administrative hearing. Notice of the application and the hearing shall be**

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT  
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Text to be deleted is **[BRACKETED, CAPITALIZED & BOLD]**

88 provided using the procedures set forth in FNSBC 18.54.010 B. 1 and 2. Lot size  
89 determinations are exempt from the requirements of this subsection.

90 C. Within 15 days of the hearing the Department shall issue an administrative  
91 determination of the grandfather rights. That determination may be appealed to the  
92 Board of Adjustment (as designated by FNSBC 18.52.030) within 15 days of the date of  
93 the determination. Appeals shall be heard de novo. The Board of Adjustment shall  
94 uphold or reverse the determination and adopt specific findings of fact after considering  
95 the oral and written statements of the applicant, the public, and the department of  
96 community planning. This decision is appealable to the superior court in accordance  
97 with the civil rules.

98

99 18.56.030 Restrictions.

100 Except for agricultural buildings, structures, and livestock, and any other  
101 agricultural activities, any nonconforming building, structure, use or lot which does not  
102 conform with the regulations of the zoning district in which it is located shall be subject  
103 to the following restrictions which shall be interpreted to the extent allowable by law in a  
104 manner that ensures that property owners are not deprived of reasonable use of their  
105 property:

106 A. Nonconforming Buildings and Structures.

107 1. A nonconforming building or structure may be enlarged or altered  
108 as long as the enlargement or alteration [IS IN CONFORMANCE WITH THIS TITLE  
109 AND] does not [INCREASE THE EXISTING NONCONFORMITY OR RESULT IN]  
110 create a new [OR ADDITIONAL] nonconformity of this code except that expansion is  
111 permitted within the standards that were in place when the zone changed.

112 B. Nonconforming Uses.

113 1. Except as otherwise provided in this subsection, a building,  
114 structure or premises devoted to or designed for, in whole or in part, a nonconforming  
115 use, may [NOT] be enlarged or altered as long as the use reflects the nature and

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT  
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Text to be deleted is [BRACKETED, CAPITALIZED & BOLD]

116 purpose of the use prevailing when the zoning took effect and there is no difference in  
117 the quality or character of the use.

118 2. Junkyards. A junkyard shall be allowed to continue or expand only  
119 within the boundaries of the fence required by FNSB 18.50.130(B) in place at the time it  
120 became nonconforming.

121 3. Natural Resource Extraction and Outside Storage. Natural  
122 resource extraction and outside storage uses shall be allowed to expand to the  
123 boundaries of the lot on which they are located at the time they became nonconforming.

124 4. In the event that a nonconforming use of a building, structure or  
125 premises, or part thereof, is discontinued for any reason for a period of [12 MONTHS]  
126 36 months, the subsequent use of the same building, structure, or premises, or part  
127 thereof, shall thereafter be in conformance with the zoning district in which it is located.  
128 The director of community planning, with the concurrence of the borough assembly,  
129 may extend this [12 MONTH] 36 month period to allow relief from emergencies or other  
130 extenuating circumstances which are outside the control of the landowner.

131 C. Nonconforming Lots.

132 1. In any zoning district, a lot, which was lawfully subdivided and  
133 recorded prior to the adoption of the ordinance codified in this title or any subsequent  
134 amendment thereto, and that because of said adoption or amendment fails to meet the  
135 minimum lot size requirements of the zoning district in which it is located, shall be  
136 considered as a usable lot.

137 2. If a structure on a nonconforming lot encroaches onto an adjoining  
138 lot under common ownership, the two lots shall thereafter be considered a single lot for  
139 purposes of this title.

140

141 Section 3. Chapter 18.58 is amended to add the following section:

142

143 18.58. Initiation of Complaints.

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Any complaints brought under this Title must meet the following conditions:

A. To initiate a complaint the alleged violation must personally and adversely affect a matter in which a person has a specific interest or property right in a way different than that of the general public.

B. The complainant bears the burden of proving the adverse effect the alleged violation has on their own property.

C. The complaint shall:

1. Be in writing.

2. State in ordinary and precise language the provisions of Title 18 alleged to have been violated and the facts alleged to constitute the violation.

3. Include statements of support and/or other evidence supporting the allegations.

D. The Department unit may investigate a complaint provided that the above conditions have been met.

Section 4. Effective Date. This ordinance shall be effective at 5:00 p.m. of the first Borough business day following its adoption.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

\_\_\_\_\_  
Joseph Blanchard II  
Presiding Officer

ATTEST:

APPROVED:

\_\_\_\_\_  
Mona Lisa Drexler, MMC  
Borough Municipal Clerk

\_\_\_\_\_  
A. René Broker  
Borough Attorney

AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT.  
Text to be added is underlined & bold  
Text to be deleted is [BRACKETED, CAPITALIZED & BOLD]





# Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1000

www.co.fairbanks.ak.us

## MEMORANDUM

TO: Fairbanks North Star Borough Assembly

THROUGH: Luke T. Hopkins, Mayor *L. Hopkins*

FROM: Bernardo Hernandez, Director  
Department of Community Planning *Bernardo*

DATE: January 13, 2011

SUBJECT: **Ordinance NO 2010-55** An Ordinance Amending Title 18.56 Of The Fairbanks North Star Borough Code Of Ordinances As It Relates To Nonconforming and Grandfathered Buildings, Structures, Uses And Lots And Amending Chapter 18.54 To Add A Complaint Process.

**Ordinance NO 2010-56** An Ordinance Amending Title 18 Of The Fairbanks North Star Borough Code Of Ordinances As It Relates To Nonconforming (Grandfathered) Buildings, Structures, Uses And Lots And Adding Procedures For Nonconforming Status Determinations And Appeals.

Ordinance NO 2010-55 and Ordinance NO 2010-56 were referred by the Borough Assembly to the Planning Commission for review and recommendation. Both of these Ordinances deal with the administration of legal non-conforming buildings, structures, uses and lots. Ordinance NO 2010-55 was prepared by Assembly person Howard and Ordinance NO 2010-56 was prepared by Mayor Hopkins. These ordinances, although treating the same issue, take divergent approaches. It was the Planning Commission's task to review both ordinances and recommend to the Assembly one of the ordinances for approval and the other for denial, or perhaps recommend both for denial and recommend a substitute ordinance that takes ideas from both.

Because of the uniqueness of this situation of competing ordinances, the Planning Commission made special efforts to take citizen comment and to carefully review all of the information. In completing this effort the Planning Commission worked 22 hours, meeting on seven different days. The Planning Commission held work-sessions on October 19<sup>th</sup>, 26<sup>th</sup> and November 9<sup>th</sup>, taking public testimony on October 19<sup>th</sup>. The Planning Commission held a public hearing on these items on November 16<sup>th</sup> and because of time issues, had to recess and reconvene on November 30<sup>th</sup> and December 7<sup>th</sup> to complete its deliberations. On December 28<sup>th</sup>, the Planning Commission met once more to address and correct a legal issue on a substitute ordinance.

On December 7, 2010 the Planning Commission voted five (5) in favor and one (1) opposed to make the following recommendations:

The Planning Commission recommended denial of Ordinance NO 2010-55.

The Planning Commission recommended denial of Ordinance NO 2010-56.

On December 28, 2010, the Planning Commission voted six (6) in favor and one (1) opposed to recommend a substitute ordinance, incorporating ideas from both ordinances, and is based on Ordinance NO.2010-56.

I urge the adoption of the substitute ordinance.

1 **REVISED FOR INTRODUCTION**  
2 By Luke T. Hopkins, Mayor

By: Luke T. Hopkins, Mayor  
Introduced: January 13, 2011

3  
4  
5  
6  
7 **FAIRBANKS NORTH STAR BOROUGH**

8  
9 **ORDINANCE NO. 2010-56**

10  
11 **AN ORDINANCE AMENDING TITLE 18 OF THE FAIRBANKS NORTH STAR**  
12 **BOROUGH CODE OF ORDINANCES AS IT RELATES TO NONCONFORMING**  
13 **(GRANDFATHERED) BUILDINGS, STRUCTURES, USES AND LOTS AND ADDING**  
14 **PROCEDURES FOR NONCONFORMING STATUS DETERMINATIONS,**  
15 **CHANGE PERMITS AND APPEALS**

16  
17 **WHEREAS, Chapter 18.56 of the zoning code contains provisions for non-**  
18 **conformities regarding use of land, structures and lots; and**

19  
20 **WHEREAS, it is necessary to clarify the requirements for establishing**  
21 **nonconforming rights and nonconforming status determinations, including notice and**  
22 **appeal procedures; and**

23  
24 **WHEREAS, codifying existing practices of the planning department will**  
25 **ensure the public is aware of the requirements to establish nonconforming rights for**  
26 **their property, and adding set procedures will provide for fair and consistent**  
27 **determinations after appropriate notice and input from interested parties; and**

28  
29 **WHEREAS, in some cases the expansion of legal nonconforming**  
30 **buildings, structures and uses will not significantly increase any adverse impacts on**  
31 **neighboring properties and can be approved through a nonconforming change permit**  
32 **procedure.**

33  
**CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT**  
**Text to be added is underlined**  
**Text to be deleted is [BRACKETED AND CAPITALIZED]**

34 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks  
35 North Star Borough:

36  
37 Section 1. Classification. This ordinance is of a general and permanent  
38 nature and shall be codified.

39  
40 Section 2. FNSBC 18.52.020(C) is hereby added as follows:  
41 18.52.020 Planning Commission.

42 The planning commission shall:

43 A. Make determinations on requests for conditional uses and variances in the  
44 manner prescribed herein.

45 B. Make recommendations on requests for rezonings and amendments to  
46 this title in the manner prescribed herein and transmit same to the borough assembly.

47 C. Hear appeals from platting board decisions and nonconforming status  
48 determinations.

49  
50 Section 3. Chapter 18.56 is amended as follows:

51 Chapter 18.56

52 NONCONFORMING (GRANDFATHERED) BUILDINGS, STRUCTURES, USES AND  
53 LOTS

54 18.56.010 Purpose and Intent.

55 The purpose of this chapter is to provide for the regulation of nonconforming  
56 buildings, structures, uses and lots, and to specify those circumstances and conditions  
57 under which they [SHALL BE ALLOWED TO CONTINUE AS LEGAL  
58 NONCONFORMING USES AND LOTS] are recognized as legal nonconforming  
59 buildings, structures, uses and lots. It is the intent of this chapter to permit these  
60 nonconformities to continue unless they are abandoned or replaced by conforming

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT

Text to be added is underlined

Text to be deleted is [BRACKETED AND CAPITALIZED]

61 buildings, structures, uses or lots, but not to encourage any adverse impacts that may  
62 result from the perpetuation of these rights.

63

64 18.56.020 Authority to continue.

65 Any nonconforming building, structure, use or lot which existed lawfully prior to  
66 the effective date of the ordinance codified in this title or any lawful building, structure,  
67 use or lot which has become nonconforming upon the adoption of the ordinance  
68 codified in this title or any subsequent amendment thereto may be continued, subject to  
69 the [RESTRICTIONS] provisions in this chapter. Any change in ownership of such a  
70 building, structure, use or lot does not void grandfather rights. Nonconforming  
71 buildings, structures, uses and lots shall have legal nonconforming status when a  
72 determination has been made in accordance with the requirements of this title.

73

74 18.56.030 [RESTRICTIONS.] Provisions.

75 Except for agricultural buildings, structures and livestock, and any other  
76 agricultural activities, any nonconforming building, structure, use or lot which does not  
77 conform with the regulations of the zoning district in which it is located shall be subject  
78 to the following [RESTRICTIONS] provisions:

79 A. Nonconforming Buildings and Structures.

80 [A NONCONFORMING BUILDING OR STRUCTURE MAY BE ENLARGED OR  
81 ALTERED AS LONG AS THE ENLARGEMENT OR ALTERATION IS IN  
82 CONFORMANCE WITH THIS TITLE AND DOES NOT INCREASE THE EXISTING  
83 NONCONFORMITY OR RESULT IN A NEW OR ADDITIONAL NONCONFORMITY OF  
84 THIS CODE.]

85 Nonconforming structures are subject to the following provisions:

- 86 1. Except as otherwise provided in this subsection, a nonconforming  
87 structure may be enlarged or altered in a way which does not increase its nonconformity  
88 or create a new nonconformity;

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT  
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89           2. A nonconforming structure may be enlarged or altered in a way that  
90 increases its existing nonconformity if a change permit is obtained in accordance with  
91 the nonconforming use and building change permit procedure outlined in FNSBC  
92 18.56.040;

93           3. Any structure or portion thereof may be altered to decrease its  
94 nonconformity;

95           4. Should such structure be moved for any reason for any distance  
96 whatsoever, it shall thereafter conform to the standards of the zoning district in which it  
97 is located.

98           B. Nonconforming Uses.

99           [1. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A  
100 BUILDING, STRUCTURE OR PREMISES DEVOTED TO OR DESIGNED FOR, IN  
101 WHOLE OR IN PART, A NONCONFORMING USE, MAY NOT BE ENLARGED OR  
102 ALTERED.

103           2. JUNKYARDS. A JUNKYARD SHALL BE ALLOWED TO  
104 CONTINUE OR EXPAND ONLY WITHIN THE BOUNDARIES OF THE FENCE  
105 REQUIRED BY FNSBC 18.50.130(B) IN PLACE AT THE TIME IT BECAME  
106 NONCONFORMING.

107           3. NATURAL RESOURCE EXTRACTION AND OUTSIDE STORAGE.  
108 NATURAL RESOURCE EXTRACTION AND OUTSIDE STORAGE USES SHALL BE  
109 ALLOWED TO EXPAND TO THE BOUNDARIES OF THE LOT ON WHICH THEY ARE  
110 LOCATED AT THE TIME THEY BECOME NONCONFORMING.

111           4. IN THE EVENT THAT A NONCONFORMING USE OF A  
112 BUILDING, STRUCTURE OR PREMISES, OR PART THEREOF, IS DISCONTINUED  
113 FOR ANY REASON FOR A PERIOD OF 12 MONTHS, THE SUBSEQUENT USE OF  
114 THE SAME BUILDING, STRUCTURE OR PREMISES, OR PART THEREOF, SHALL  
115 THEREAFTER BE IN CONFORMANCE WITH THE ZONING DISTRICT IN WHICH IT  
116 IS LOCATED. THE DIRECTOR OF THE DEPARTMENT OF COMMUNITY

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117 PLANNING, WITH THE CONCURRENCE OF THE BOROUGH ASSEMBLY, MAY  
118 EXTEND THIS 12-MONTH PERIOD TO ALLOW RELIEF FROM EMERGENCIES OR  
119 OTHER EXTENUATING CIRCUMSTANCES WHICH ARE OUTSIDE THE CONTROL  
120 OF THE LANDOWNER.]

121 A nonconforming use lawfully existing at the time of the enactment of this title or  
122 any amendment thereto may be continued subject to the following provisions:

123 1. Except as otherwise provided in this subsection, a nonconforming  
124 use, including any infrastructure devoted to or designed for, in whole or in part, the  
125 nonconforming use, may be enlarged, altered or relocated to any portion of the lot or  
126 parcel if a change permit is obtained in accordance with the nonconforming use and  
127 building change permit procedure outlined in FNSBC 18.56.040.

128 2. A junkyard shall be allowed to continue or expand only within the  
129 boundaries of the fence required by FNSBC 18.50.130(b) in place at the time it became  
130 nonconforming.

131 3. Natural resource extraction and outside storage uses shall be  
132 allowed to expand to the boundaries of the lot on which they are located at the time they  
133 become nonconforming.

134 C. Nonconforming Lots.

135 1. In any zoning district, a lot, which was lawfully subdivided and  
136 recorded prior to the adoption of the ordinance codified in this title or any subsequent  
137 amendment thereto, and that because of said adoption or amendment fails to meet the  
138 minimum lot size requirements of the zoning district in which it is located, shall be  
139 considered as a usable lot.

140 2. If a structure on a nonconforming lot encroaches onto an adjoining  
141 lot under common ownership, the two lots shall thereafter be considered a single lot for  
142 purposes of this title.

143 3. Structures and accessory buildings erected on nonconforming lots  
144 must meet all applicable provisions of the zoning district in which they are located.

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145 4. Alteration of lot lines shall be allowed for a legal nonconforming lot  
146 only if such alteration does not result in an increase in the nonconformity.

147 D. Abandonment.

148 1. A nonconforming use of a building or premises which has been  
149 abandoned shall not thereafter be returned to such nonconforming use. A  
150 nonconforming use shall be considered abandoned:

151 a. when it has been replaced by a conforming use; or

152 b. where the use is discontinued or deserted for a period of  
153 more than 12 months.

154 2. The planning director may grant extensions of time for a maximum  
155 of three years for a nonconforming use of a building or premises which would otherwise  
156 be considered abandoned under this section if the abandonment was directly caused by  
157 an act of God or other emergency situation outside of the control of the property owner.

158 3. In the event a more specific abandonment, discontinuance or  
159 amortization provision is stated elsewhere in borough code for a specific nonconforming  
160 structure, land use, or land area, the more specific provision shall apply.

161

162 Section 4. FNSBC Chapter 18.56 is amended by adding a new section  
163 as follows:

164 18.56.040. Nonconforming Use and Building Change Permits

165 A. Application for a change permit to a legal nonconforming building,  
166 structure or use pursuant to FNSBC 18.56.030(A)(2) or (B)(1) must follow the general  
167 application and notice procedures set forth in FNSB 18.54.010

168 B. The planning commission shall review, hear and decide whether or not to  
169 approve a request for a change permit to a legal nonconforming building, structure or  
170 use. In its deliberations, the planning commission shall consider all oral and written  
171 statements from the applicant, the public and the department of community planning.

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172 C. The planning commission shall determine whether the following standards  
173 are met and adopt findings on each:

174 1. The proposed change conforms to the intent and purpose of this  
175 title and of other ordinances and state statutes:

176 2. The proposed change will protect the public health, safety and  
177 welfare.

178 3. The proposed change complies with the standards, restrictions, or  
179 uses of the zoning in place just prior to the time the building, structure or use became  
180 nonconforming;

181 4. The proposed change does not significantly increase any adverse  
182 impact on neighboring properties in accordance with the standards of the current zone.

183 D. The planning commission may approve or deny a change permit request  
184 or may approve a change permit with conditions to ensure the protection of the public  
185 health, safety and welfare.

186 E. A decision of the Planning Commission on a change permit may be  
187 appealed pursuant to FNSB 18.54.070 by the applicant for the change permit, any  
188 governmental agency, or any person aggrieved by the change permit determination as  
189 defined in FNSB 18.54.070(A)(3).

190  
191 Section 5. FNSBC 18.54.047 is hereby added as follows:

192 18.54.047 Procedures for nonconforming status determinations.

193 A. Determinations of Nonconforming (Grandfathered) status of properties  
194 shall be made by the planning director or his designee.

195 1. An applicant for nonconforming status shall complete and submit  
196 the approved application form in accordance with the procedures set forth herein. The  
197 applicant shall be the owner of the property described in the application, the contract  
198 purchaser of said property, the holder of an option to purchase said property, or such  
199 persons that possess a substantial proprietary interest in the property being considered.

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200 The written consent of the owner, or an authorized representative having power of  
201 attorney, shall accompany all applications. Any applicable fees shall be waived if the  
202 request for nonconforming status is brought within 90 days of a rezone or amendment  
203 to Title 18 creating the nonconformity.

204 2. Notice shall be provided of the pending determination using the  
205 procedures set forth in FNSBC 18.54.010.B. Lot size determinations are exempt from  
206 this requirement.

207 3. It is the responsibility of the applicant to provide or obtain proof of  
208 nonconforming status of the property. For nonconforming use determinations, this  
209 includes providing evidence that there has been continuous and actual use of the  
210 premises which meets the standards set forth in Chapter 18.56. Actual use means  
211 activity is actually conducted on a lot or in a structure, and for which the lot or structure  
212 is actually occupied and maintained, regardless of intent. Actual use includes uses not  
213 actively exercised on the date of zoning but which were exercised prior to the date of  
214 zoning and not abandoned pursuant to section 18.56.030(D).

215 4. The planning director or designee shall consider all evidence  
216 presented. If the preponderance of evidence demonstrates that a property has legal  
217 nonconforming status under this title, the application shall be granted. The planning  
218 director or designee shall issue a written administrative determination of legal  
219 nonconforming status. This determination is subject to the provisions in Chapter 18.56.

220 B. Appeals. An appeal of a nonconforming status determination shall be  
221 made to the planning commission within 15 days of the date of the decision. Appeals  
222 shall be heard *de novo*. The planning commission shall uphold or reverse the decision  
223 of the planning director and adopt specific findings of fact after considering the oral and  
224 written statements of the applicant, the public, and the department of community  
225 planning. This decision is appealable to the superior court in accordance with the civil  
226 rules.

227

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Section 6. Effective date. This ordinance shall be effective at 5:00 p.m.  
on the first borough business day following its adoption.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011

\_\_\_\_\_  
Joseph C. Blanchard II  
Presiding Officer

ATTEST:


APPROVED:

\_\_\_\_\_  
Mona Lisa Drexler, MMC  
Borough Municipal Clerk

\_\_\_\_\_  
A. René Broker  
Borough Attorney

CODE AMENDMENTS ARE SHOWN IN LEGISLATIVE FORMAT  
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Text to be deleted is [BRACKETED AND CAPITALIZED]

## MEMORANDUM

TO: Mayor and Council Members  
FROM: Paul Ewers, City Attorney   
SUBJECT: Summary of Proposed Changes to Chapter 18.56 of the Borough Code -  
Nonconforming (Grandfathered) Uses and Lots  
DATE: January 17, 2011

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Two ordinances proposing changes to Chapter 18.56 of the Borough Code are currently before the Borough Assembly. That chapter is entitled: "Nonconforming (Grandfathered) Uses and Lots." Ordinance No. 2010-55 is sponsored by Assembly Member Natalie Howard. Ordinance No. 2010-56 is sponsored by the administration. Both ordinances also propose changes to other code sections related to "grandfathered" structures and uses.

The following is a summary of the major changes contained in the two ordinances. I have attached copies of both ordinances along with the sponsor's memos to the Assembly.

### Ordinance 2010-55 (Assembly Member Howard's)

ADDS a new section 18.56.025 Affirmative Recognition of Grandfather Rights.

This new section allows an owner (or person with substantial proprietary interest) to apply at any time for an affirmative recognition of their grandfather rights. A hearing on the application must be held within 15 days, and a decision on the application must be issued in 15 days. The applicant may appeal to the Board of Adjustment and then to the superior court.

AMENDS section 18.56.030 Restrictions

This section adds language that states that restrictions are to be interpreted "in a manner that ensures that property owners are not deprived of reasonable use of their property."

Changes the language on restrictions so that a non-conforming building or structure may be enlarged or altered if the enlargement or alteration does not create a new nonconformity, but allows expansion within the standards that were in place before the zoning changed.

Changes the restrictions on non-conforming uses to allow enlargement or alteration of the use “as long as the use reflects the nature and purpose of the use prevailing when the zoning took effect and there is no difference in the quality or character of the use.”

Extends the “abandonment” period from 12 months to 36 months.

ADDS a new section in 18.58. Initiation of Complaints.

Only a person who is “personally and adversely” affected may initiate a complaint alleging a violation. The complainant must also have a specific interest or property right in a matter different from that of the general public.

**Ordinance 2010-56** (Administration’s)

AMENDS section 18.56.010 Purpose

Would add the words “and Intent” to the title and intent language: “it is the intent of this chapter to permit these nonconformities unless they are abandoned or replaced by conforming buildings, structures, uses or lots, but not to encourage any adverse impacts that may result from the perpetuation of these rights.”

AMENDS section 18.56.020 Authority to continue

Adds language to specify that nonconforming structures and uses have “legal nonconforming status” when a determination has been made by the borough.

AMENDS section 18.56.030 Restrictions

Would change the word “Restrictions” to “Provisions”

Prohibits an enlargement or alteration of a nonconformity if it would increase the nonconformity or create a new nonconformity (the current law), but would provide for a “change permit” and adds a new section 18.56.040 Nonconforming Use and Building Change Permits which sets out how and when change permits are issued.

Provides that if a structure is moved for any reason for any distance, it must thereafter conform to the current zoning standards.

Modifies subpart B Nonconforming Uses and subpart C Nonconforming Lots and adds a new subpart D Abandonment.

The 12 month abandonment limit is maintained, but the planning director may grant extensions of time up to a maximum of three years if the cause of the abandonment was outside the control of the property owner.

ADDS a new section 18.56.040 Nonconforming Use and Building Change Permits

Provides regulations and set standards for applications for change permits, to be reviewed and decided by the planning commission. Provides for appeals to the Board of Adjustment.

AMENDS section 18.52.020 Planning Commission

Adds a new section (c) which gives the planning commission the authority to hear appeals from platting board decisions and nonconforming status determinations.

ADDS a new section 18.54.047 Procedures for nonconforming status determinations

Provides that grandfather determinations will be made by the planning director

Provides for the application process

Provides that appeals of the planning director's decision would be made to the planning commission and then to the superior court. This would eliminate the right to appeal to the Board of Adjustment (Assembly/Council).

Introduced By: Mayor Jerry Cleworth  
Finance Committee Review: January 18, 2011  
Date: January 24, 2011

**RESOLUTION NO. 4455**

**A RESOLUTION AUTHORIZING THE CITY OF FAIRBANKS TO REQUEST FUNDS FROM THE DEPARTMENT OF HOMELAND SECURITY U. S. FIRE ADMINISTRATION ASSISTANCE TO FIRE FIGHTERS GRANT PROGRAM FOR THE 2010 FIRE PREVENTION AND SAFETY GRANT IN AN AMOUNT OF \$50,000.**

**WHEREAS**, the Fairbanks City Council wishes to continue and enhance the public education programs of the Fairbanks Fire Department; and

**WHEREAS**, the City wishes to request a grant in the amount of \$45,000 from the U. S. Fire Administration Assistance to Fire Fighters Grant program: and

**WHEREAS**, this program does require a match by the City of Fairbanks of \$5,000.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS**, that Mayor Cleworth is hereby to execute documents required for requesting funds on behalf of this organization.

**BE IT FURTHER RESOLVED** that Mayor Cleworth is also authorized to execute subsequent amendments to said grant request to provide for adjustments to the project within the scope of services or tasks, based upon the needs of the project.

PASSED and APPROVED this 24<sup>th</sup> Day of January, 2011.

\_\_\_\_\_  
**JERRY CLEWORTH, MAYOR**

AYES:  
NAYS:  
APPROVED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Janey Hovenden CMC, CITY CLERK

\_\_\_\_\_  
Paul J. Ewers, CITY ATTORNEY

**ORDINANCE NO. 5828**

**AN ORDINANCE TO AMEND FGC SECTION 46-5 DISPOSAL OF  
FIREARMS HELD AS EVIDENCE**

**WHEREAS**, the current language of FGC Section 45-5 conflicts with the requirements of Article II of Title 62 regarding the disposal of firearms forfeited to the City; and

**WHEREAS**, the provisions of Article II of Title 62 control the disposal of firearms forfeited to the City and provide that firearms will be sold at public auction; and

**WHEREAS**, amendment of FGC Section 45-5(a) is necessary to clarify the current conflict between the two code sections.

**BE IT THEREFORE ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:**

Section 1. That FGC Sec. 46-5 be and hereby is, amended as follows [new text in **underlined bold** font, deleted text in ~~strikeout~~ font]:

**Sec. 46-5. Disposition of firearms held as evidence.**

(a) After the conviction of any person for any offense involving the use, possession or transfer of a firearm has become final, any firearm held by the city police or district court and used, possessed or transferred in the commission of such offense shall be forfeited to the city police and ~~destroyed or otherwise~~ disposed of as ~~the director of public safety deems appropriate~~ **provided in Article II of Chapter 62**, unless the district court affirmatively finds upon evidence presented that the firearm was neither owned nor possessed with the permission of the owner by the person convicted of such offense.

\* \* \* \* \*

Section 2. That the effective date of this ordinance shall be the \_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
**JERRY CLEWORTH, MAYOR**

AYES:  
NAYS:  
ABSTAIN:  
ABSENT:  
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

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

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

Introduced by: Mayor Cleworth  
Date: January 24, 2011

**ORDINANCE NO. 5829**

**AN ORDINANCE TO AMEND FGC SECTIONS 10-276 AND 10-277 ADOPTING THE 2011 NATIONAL ELECTRICAL CODE WITH LOCAL AMENDMENTS, AND SETTING AN EFFECTIVE DATE**

**WHEREAS**, the Building Code Review and Appeals Commission has reviewed the 2011 edition of the National Electrical Code, and the amendments thereto, and has recommended adoption of the 2011 National Electrical Code with local amendments; and

**WHEREAS**, the City Council desires to accept the recommendations of the Building Code Review and Appeals Commission,

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, AS FOLLOWS:**

**Section 1.** Fairbanks General Code Sections 10-276 and 10-277 are hereby repealed and re-enacted as follows:

**Sec. 10-276. Adoption.**

The National Electrical Code, **2011** Edition as published by the National Fire Protection Association, is hereby adopted by the City of Fairbanks, effective.

**Sec. 10-277. Amendments.**

The National Electrical Code, **2011** Edition, is hereby amended as follows:

*Article 210.8 Ground-Fault Circuit-Interrupter Protection for Personnel.* Add subsection (D) to read as follows:

(D) Day Care Facilities.

In all day care facilities as defined by the current building codes adopted by the City of Fairbanks all 125-volt, single phase, 15- and 20- ampere receptacles installed where accessible to children shall have ground-fault circuit-interrupter (GFCI) protection.



*Article 210.52 Dwelling Unit Receptacle Outlets.* Add subsection (I) to read as follows:

**(J) Parking spaces.**

For each dwelling unit and mobile home, there shall be at least one exterior weather proof duplex **receptacle** on a separate 20- ampere G.F.C.I. circuit adjacent to on-site parking locations.

*Article 220.52 Small Appliance, Laundry and Car Head bolt Heater Loads - Dwelling Unit.* Add subsections (C) and (D) to read as follows:

**(C) Car Head bolt Heater Loads.**

A feeder load of not less than 1500 volt-amperes shall be included for each individual 20 ampere branch circuit required by Article 210.52(e). This requirement also applies to Article 220.30, 220.31, 220.32, 220.33.

**(D) Commercial Parking Areas.**

The minimum calculated load for car head bolt heater receptacles is 1200 volt amperes. If the service, feeder and branch circuit overcurrent protective devices are located outside then 1200 volt amperes for the first 30 spaces, 1000 volt amperes for the next 30 spaces and 800 volt amperes for each space over 60 will be allowed.

*Article 230.9(A) Clearances.* Amend as follows:

Service conductors installed as open conductors or multi-conductor cable without an overall outer jacket shall have a clearance of not less than 900 mm (3 ft) from windows that are designed to be opened, doors, porches, balconies, ladders, stairs, fire escapes, building attic gable vents, or similar locations.

*Article 230.11 Service Detail Requirements.* Add a new section as follows:

Service installations shall comply with the details of Exhibit #1 Residential Service.

*Article 230.12 Temporary Power Service.* Add a new section as follows:

Temporary Services shall comply with the details of Exhibit #2 Temporary Service.

*Article 230.24(B) Vertical Clearance for Service-Drop Conductors.* Amend as follows:

(1) 3.81 m (12.5 ft) - at the electric service entrance to buildings, also at the lowest point of the drip loop of the building electric entrance, and above areas or sidewalks accessible only to pedestrians, measured from final grade or other accessible surface only for service-drop cables supported on and cabled together with a grounded bare messenger where the voltage does not exceed 150 volts to ground.

(2) 3.81 m (12.5 ft) - over residential property and driveways, and those commercial areas not subject to truck traffic where the voltage does not exceed 300 volts to ground.

*Article 230.26 Point of Attachment.* Amend as follows:

In no case shall this point of attachment be less than 3.81 m (12.5 ft) above finished grade.

*Article 230.28 Service Masts as Supports.* Add subsections (A), (B), (C), (D) to read as follows:

(A) General.

When the overhead service is installed on the eave side of a structure with a pitched roof, the service mast conduit shall extend through the roof.

(B) Conduit Size.

The conduit size shall be a minimum of two inches rigid metal or intermediate metal conduit and must extend at least three feet above the roof surface. If couplings are used in the installation, they must be located below the roof overhang.

(C) Guyed Support.

The service mast conduit when installed through the roof shall be guyed to the roof with a minimum 5/8 inches galvanized closed eyebolt using a minimum of 1/8 inches

stranded stainless steel wire aircraft cable with four approved clamps. If the service mast conduit extends above the roof over four feet in length, then a double V-guy installation is required.

(D) Protection of Meter.

When the eave overhang is less than eighteen inches, additional protection shall be required to protect the meter from snow and ice damage by a minimum of an 18 gauge galvanized metal hood or equivalent extending over the meter.

*Article 230.41 Insulation of Service Entrance Conductors.* Add the following:

Individual ungrounded service entrance conductors shall be XHHW, RHW, or R-Type insulation approved for exterior use. No other insulation is acceptable.

*Article 230.54(F) Drip Loops.* Add the following:

For 100 ampere service, leave 18 inches of conductors, for 200 ampere and larger, leave 24 inches of conductors extending out of the weather head.

*Article 230.70(A)(1) Location.* Add the following:

If installed inside, a means to disconnect all conductors in the building from the service entrance conductors shall be provided on the building exterior

*Article 230.70(A)(3) Remote Control.* Add the following subsections:

- (a) The remote control device shall be a key switch approved by the Fire Department.
- (b) The key switch shall shut down the electrical power for the entire building.
- (c) If a facility is equipped with a generator, a key switch shall be installed to shut down the generator in the event of an emergency. This switch shall be located adjacent to the electrical service remote control key switch or the electrical service disconnect.
- (d) Key switch locations shall be marked with a visible sign indicating "Fire Department Use Only" and "Generator Disconnect".

Article 230.70(A)(4) Add subsection (4):

(4) Natural and Liquid Petroleum Gas. Electrical equipment (i.e.: service disconnect, electrical meters, receptacles, etc.) shall be installed not less than 5 feet from any LPG tank installation and related regulators, etc. or NG meter and regulators. If the gas equipment is installed less than 5 feet to the electrical equipment, then the electrical equipment shall meet the requirements of Article 500 and 501 of the National Electrical Code.

*Article 230.70(B) Marking.* Add the following:

When there is more than one meter on any single service, they shall be permanently identified with numbers painted on the meter base at least one inch in height or identified by other approved means that corresponds to the number on the unit served.

Article 250.66(B) Connections to Concrete Encased Electrodes. Amend the following:

Where the grounding electrode conductor is connected to a concrete encased electrode as permitted in 250.52(A)(3) a #4 AWG bare copper conductor consisting of at least 6.0 m (20 ft) in length shall be installed in the footing for a 100-200 ampere service. A #2 AWG bare copper conductor shall be installed in the footing for 225-300 ampere service. A 1/0 AWG bare copper conductor is required for a 350-400 ampere service. A 2/0 AWG bare conductor is required for a 450-500 ampere service and 3/0 AWG bare conductor is required for services greater than 500 amperes.

*Article 410.36(B) Suspended Ceilings.* Add the following exception:

Exception: When the light fixtures are supported seismically in accordance with the current building codes adopted by the City of Fairbanks the above supports are not required.

*Article 700.12(B) Generator Set.* Add subsection (7):

(7) The generator shall have an exterior disconnect located adjacent to service disconnect to prevent the generator from starting when the normal power is turned off in case of an emergency or fire. A weatherproof sign shall be installed

adjacent to the service disconnect that reads: Emergency  
Generator Disconnect Switch.

**Section 2.** That the effective date of this Ordinance shall be the \_\_\_\_ day of  
February 2011.

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**Jerry Cleworth, Mayor**

AYES:  
NAYS:  
ABSTAIN:  
ABSENT:

ATTEST:

APPROVED AS TO FORM:

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Janey Hovenden, CMC, City Clerk

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Paul Ewers, City Attorney

Introduced by: Mayor Cleworth  
Date: January 24, 2011

**ORDINANCE NO. 5830**

**AN ORDINANCE TO AMEND FGC SECTIONS 10-136 AND 10-137 ADOPTING THE 2009 UNIFORM PLUMBING CODE WITH AMENDMENTS, AND SETTING AN EFFECTIVE DATE**

WHEREAS, the Building Code Review and Appeals Commission has reviewed the 2009 Uniform Plumbing Code, and the amendments thereto, and has recommended adoption with local amendments; and

WHEREAS, the City Council desires to accept the recommendations of the Building Code Review and Appeals Commission,

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, AS FOLLOWS:

Section 1. Fairbanks General Code Sections 10-136 and 10-137 are hereby repealed and re-enacted as follows, [**Substantive changes are shown in bold font**]:

Sec. 10-136. Adoption.

The Uniform Plumbing Code **2009** Edition, to include Appendix A, B, D, E, F, I, K, and L, as published by the International Association of Plumbing and Mechanical Officials, is hereby adopted by the City of Fairbanks.

Sec. 10-137. Amendments.

**CHAPTER 1 ADMINISTRATION**

Section 101.2 Purpose. Add subsections to read as follows:

101.2.1 Referenced Codes. The technical codes as referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each reference. References to *NFPA 54* and the *Uniform Mechanical Code* shall be replaced with adopted codes specified in sections 101.2.1.1 and 101.2.1.2.

101.2.1.1 Gas. The provisions of the *International Fuel Gas Code* shall apply to the installation of fuel gas piping from the point of delivery, gas appliances and related accessories as covered in this code. These requirements apply to gas piping systems extending

from the point of delivery to the inlet connections of appliances and installation and operation of residential and commercial gas appliances and related accessories.

101.2.1.2 Mechanical. The provisions of the *International Mechanical Code* shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

101.2.1.3 Administrative. The provisions of the Administrative Code for the City of Fairbanks Building Department shall apply to the administration and enforcement of this code. Where provisions of the Administrative Code and this code conflict, the more restrictive test shall apply.

**101.2.1.4 Building. The provisions of the *International Building Code* shall apply where reference is made to the Building Code in this document.**

Section 101.4.1.4 Conflicts Between Codes. Delete this section in its entirety and replace with the following:

When conflicts occur between this code and other technical codes, those provisions providing the greater safety to life shall govern. In other conflicts, between this code and other codes or laws, where sanitation, life safety or fire safety are not involved, the most restrictive provisions shall govern.

Where in a specific case different sections of these codes specify different materials, methods of construction or other requirements, the most restrictive shall govern. When there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

**Section 102.3.2 Penalties. Delete this section in its entirety and replace with the following.**

**Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters, or repairs any plumbing in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provision of this code or other codes adopted by this jurisdiction shall be subject to penalties prescribed by law.**

**Section 103.1.1 Permits required. Add the following subsection.**

**Section 103.1.1.1 Emergency Repairs. Where equipment or piping system replacement must be performed in an emergency situation, the permit application shall be submitted to the building official within 72 hours of such emergency. All required inspections shall be conducted.**

**Section 103.2 Application for Permit. Add the following subsection.**

**Section 103.2.4 Deferred Submittals. For the purposes of this section, deferred submittals are defined as those portions of the design which are not submitted at the time of the application and which are to be submitted to the building official within a specified period. Deferral of any submittal items shall have prior approval of the building official. The architect or engineer of record shall list the deferred submittals on the plans and shall submit the deferred submittal documents for review by the building official. Submittal documents for deferred submittal items shall be submitted to the architect or engineer of record who shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The deferred submittal items shall not be installed until their design and submittal documents have been approved by the building official.**

**Section 103.3.1 (Permit) Issuance. Delete the second paragraph of this section and replace with the following.**

**When the building official issues a permit, the construction documents shall be approved by separate letter or plan review stating, or the plans shall be stamped as, “Reviewed and Approved for Code Compliance”. Work shall be installed in accordance with the approved construction documents. Changes to the approved set of construction documents that affect code compliance are prohibited unless amended documents are resubmitted by the appropriate design professional for review and approval before such modification is constructed in the field.**

**Section 103.4.1 Permit Fees. Delete Section 103.4.1 in its entirety and refer to Table 3-D of the City of Fairbanks Administrative Code.**

**103.4.2 Plan Review Fees. Delete Section 103.4.2 in its entirety and replace with the following.**



**When submittal documents are required by Section 103.2.2, a plan review fee shall be paid. The plan review fee shall be paid when the review has been completed. The plan review fee shall be paid in conjunction with the plumbing permit fee. The plan review fee is not required to be paid at the time of plan or application submittal. The plan review fee shall be 75 percent of the plumbing permit fee as shown in Table 3-D. The plan review fee for projects where plan are not received prior to commencement of construction will be charged a fast track rate equal to one hundred percent (100%) of the plumbing permit fee. When submittal documents are incomplete or changes so as to require additional plan review or when the project involves deferred submittal items as defined in Section 103.2.4, an additional plan review fee shall be charged at the rate shown in Table 3-D.**

**103.4.2.1 Plan Check Fee Identical Building Construction. Create a new subsection and title as follows.**

**Section 103.4.2.1 Plan Check Fee Identical Building Construction. The plan check fee for identical buildings with the same building construction shall be reduced by 75% of the initial plan check fee when the following conditions are met;**

- a. The structural framing and floor plan are identical**
- b. Construction is simultaneous or in immediate sequence.**

**Section 103.4.4.2 (Investigation Fees: Work Without a Permit.) Delete this subsection and substitute the following.**

**A penalty fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt an applicant from compliance with all other provisions of either this or other adopted codes of the Authority Having Jurisdiction, nor from the penalty prescribed by law. The penalty fee for performing work without the required permit is \$750.**

**Section 103.4.5 Fee Refunds. Delete Subsection 103.4.5.2 and substitute the following.**

**Section 103.4.5.2 The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.**

**Section 103.5.2 Operation of Plumbing Equipment.** Delete this section in its entirety and substitute the following.

The requirements of this section shall not be considered to prohibit the operation of any plumbing installed to replace existing equipment or fixtures serving an occupied portion of the building in the event a request for inspection of such equipment or fixture has been filed with the Authority Having Jurisdiction not more than 48 hours after such replacement work is complete, and before any portion of such plumbing systems is concealed by any permanent portion of the building.

**Section 103.5.6.1 Corrections.** Delete the second paragraph of this section and substitute the following.

Refusal, failure, or neglect to comply with any such notice or order within (180) days of receipt thereof, or other time limit as set forth in the notice or order, shall be considered a violation of this code and shall be subject to the penalties set forth elsewhere in this code for violations.

**Section 103.5.6.3 Approval.** Delete this section in its entirety and substitute the following.

Upon the satisfactory completion and final test of the plumbing system, an approval for use shall be issued by the Authority Having Jurisdiction to the permittee.

**204.0 Building Thermal Envelope – Add the following definition to this section.**

**Building Thermal Envelope – For purposes of the plumbing code: the basement walls, exterior walls, floors, roofs, and any other building elements that enclose conditioned spaces, and frost-protected foundations. For frost-protected foundations with required horizontal insulation, the thermal envelope shall be considered to extend from the warm-in-winter side, to the projection of the vertical insulation, cold-in-winter exterior surface. For thermal envelope assemblies enclosing conditioned spaces, the thermal envelope assembly includes any vapor retarders.**

**205.0 Conditioned Space – Add the following Definition to this section.**

**Conditioned Space -- For purposes of the plumbing code, space within a building that is provided with heating equipment or systems capable of maintaining, through design or heat loss, 50 degrees F**

during the heating season, or communicates directly with a conditioned space .

**210.0 Hot Water - Delete this definition and substitute the following.**

**Hot Water – Water at a temperature exceeding or equal to 110 degrees F.**

**303.0 Disposal of Liquid Waste.** Add the following sentence to this section.

**Pit privies (outhouses), as defined by Alaska D.E.C. 18 AAC 72.030 & 7 AAC 10.9990(46)(B), are prohibited.**

**Section 313.6 (Pipe Freezing Protection) Delete 313.6 in its entirety and substitute the following.**

**All water, soil, waste, vent, or roof drainage piping shall be installed on the warm-in-winter side of the Building Thermal Envelope assembly, including any vapor retarders.**

**Exception 1. Vent piping above the roof.**

**Exception 2. Vent piping, other than wet vents, may be installed within exterior walls or above the roof/ceiling assembly where enclosed within at least R-8.8 insulation. This insulation must be continuous from the piping penetration of the warm-in-winter surface of the thermal envelope to the underside of the piping's roof sheathing penetration. The insulation of the Building Thermal Envelope assembly may be used to meet this requirement.**

**Exception 3. Underground Building Drain or Water Distribution piping outside the Building Thermal Envelope installed according to the circulation and insulation provisions of the latest revised standards of the local Public Water & Sewer Utility for water & sewer services.**

**Exception 4. A system of frost protection that, is designed & sealed by a currently registered engineer or architect, including but not limited to heat trace installed according to Sections 301.1.1 & 310.4; and provided it is accessible for repair or replacement without excavation or removal of elements of construction.**

**Section 313.9 (Protection of Piping) Delete 313.9 and its Exception in their entirety and substitute the following.**

**In concealed locations where piping, other than cast-iron or steel, is installed through holes or notches in studs, joists, rafters or similar members less than 1½ inches from the nearest edge of the member, the pipe shall be protected by shield plates having a minimum thickness of 0.0575 inch (No. 16 gage) shall cover the area of the pipe where the member is notched or bored, and shall extend a minimum of 2 inches above sole plates and below top plates.**

Section 313.12.4 (Rat proofing) Delete 313.12.4 in its entirety.

**Section 407.5 Setting. Delete the Exception and substitute the following.**

**Exception: The installation of paper dispensers, sanitary napkin receptacles, or accessibility grab bars shall not be considered obstructions if located such that a minimum of 7 inches clearance is maintained in any direction from the outside surface of the usable portion of the fixture.**

Section 408.2.2 (Water Closet Seats) Delete Subsection 408.2.2 and substitute the following:

**Water closet seats for public use shall be of the elongated and open-front type.**

Section **412.0 Minimum** Number of Required Fixtures. Delete this section in its entirety and refer to Chapter 29 and **Table 2902.1 as amended of the 2009 IBC.**

Section **413.0** Fixtures and Fixture Fittings for Persons with Disabilities. Delete this section in its entirety and refer to Chapter 11 of the **2009 IBC** and ICC/ANSI A117.1-2003.

Table 4-I Minimum Plumbing Facilities. Delete this Table in its entirety and **refer to table 2902.1 as amended of the 2009 IBC.**

Section 501.0 General. Delete this section and substitute the following.

The regulations of this chapter shall govern the construction, location, and installation of fuel-burning and other water heaters heating potable water. All fuel and combustion air systems, chimneys, vents, and their connectors shall be regulated by the

respective sections of the locally amended **2009** International Mechanical Code and the **2009** International Fuel Gas Code. The minimum capacity for water heaters shall be in accordance with the first hour rating listed in Table 5-1. All design, construction, and workmanship shall be in conformity with accepted engineering practices, manufacturer's installation instructions, and applicable standards and shall be of such character as to secure the results sought to be obtained by the respective Codes.

**Section 503.0 Permits.** Add the following exception.

**Exception:** Replacement of an existing, approved, non-fuel-fired electric water heater with one of like size, type and rating in a manner that maintains its approval shall not require a permit.

**Section 504.0 Inspection.** Delete this section and substitute the following.

A final water heater inspection shall be made after all work requiring a permit has been installed in addition to inspections required for other work regulated by the mechanical code and fuel gas code.

**Section 506.4.2 (Indirect-Fired Water Heaters)** Delete part (3) (b) of this subsection and substitute the following.

**(b) The pressure of the heat-transfer medium must be limited to a maximum of \_(labeled by installer and equal to the system safety or relief valve rating)\_ psig by an approved safety or relief valve and the potable water system must be maintained at a normal minimum operating pressure of at least \_(labeled by installer & 5 psig greater than the heat-transfer medium safety or relief valve rating).**

**Section 603.4.10 (Potable Water Makeup Connections)** Add the following exception.

**Exception:** Potable water makeup connections to boilers containing only heat-transfer mediums of water or other nontoxic fluid having a toxic rating or Class of 1 as listed in Clinical Toxicology of Commercial Products, 5<sup>th</sup> edition shall be permitted to be provided with a listed Backflow Preventer with Intermediate Atmospheric Vent.

**603.4.18 (Chemical Dispenser Backflow Protection)** Add the following to this subsection.

**Chemical Dispensers otherwise approved for connection to the potable water piping system shall not be connected to an Atmospheric Vacuum breaker hose thread in such a way that the Atmospheric Vacuum breaker is able to be pressurized, e.g. with a valve in the discharge piping.**

Section 609.4 Testing. Delete the third sentence and substitute the following.

A one hundred (100) pound per square inch air pressure test may be substituted for the water test.

Section 712.1 Media. Delete the first sentence and replace with the following.

The piping of the plumbing, drainage, and venting systems shall be tested with water or air.

Section 719.1 Cleanouts. Delete the first paragraph in its entirety and replace with the following:

Cleanouts shall be placed at the connection of the building sewer and building drain outside the building and extend to grade.

Section 719.2 Delete this section in its entirety.

**Section 807.4 (Domestic Dishwasher Airgap) Add the following subsection.**

**Section 807.4.1 When a compartment or space for a domestic dishwasher is provided, an approved dishwasher airgap fitting shall be installed.**

812.1 Elevator Pits. Add this new Subsection.

812.1 Elevator Pits. Where drains are not provided to prevent the accumulation of water in elevator pits, sumps are required. Drains connected directly to the sanitary system shall not be installed in elevator pits. Sumps in elevator pits, where provided, shall be covered and the cover shall be level with the pit floor. The pump shall be of sufficient capacity to prevent the accumulation of water in the pit. If the building is fire-sprinklered, the pump shall be sized of at least the capacity of one energized sprinkler head.

Section 906.7 Frost or Snow Closure. Replace the first sentence with the following.

Vent terminals shall be a minimum of 3 inches in diameter, but in no event smaller than the required vent pipe.

**1001.2 (Central Trap Location for multiple fixtures) Revise this section as follows.**

**One (1) trap shall be permitted to serve a set of not more than three (3) single compartment sinks or laundry tubs of the same depth or three (3) lavatories immediately adjacent to each other and in the same room if the waste outlets are not more than thirty inches apart.**

**1002.2 (Trap sizes and Trap Arm lengths) Add the following exception to this section.**

**Exception: The developed length of a trap arm from a two-inch outlet private floor drain in a garage bay serving a single dwelling unit shall be permitted to exceed the distances given in Table 10-1 if the floor drain trap and trap arm are increased to three-inch nominal size. When installed according to this exception the trap arm is required without any offsets or changes in direction and the vent shall be connected below, and extend vertically into or adjacent to the first garage wall under which the trap arm passes.**

Section 1101.5.1 Subsoil Drains. Delete 1101.5.1

Section 1101.11.1 Primary Roof Drainage. Delete the last sentence of this section and replace with the following.

Unless otherwise required by the Authority Having Jurisdiction, roof drains, gutters, vertical conductors or leaders, and horizontal storm drains for primary drainage shall be sized based on a maximum rainfall of one (1) inch per hour per square foot of roof area.

Section 1101.11.2.2.2 Combined System. Delete the second sentence in this subsection and replace with the following:

When the combined secondary and primary roof drain system connects to a building storm drain that connects to an underground storm sewer, a relief drain shall be installed to ensure positive common roof drain flow. **The connection of this relief drain to the common drain shall not divert or obstruct the primary drain.**

Section 1109.2 **Methods of Testing Storm Drainage Systems.** Delete the first sentence of this section and substitute the following.

**The piping of storm drain systems shall be tested upon completion of the rough piping installation by water or air and proved tight.**

Chapter 12 Fuel Piping. Delete this chapter in its entirety and refer to the *2006 International Fuel Gas Code* as amended.

Chapter 15 Firestop Protection. Delete this Chapter in its entirety and refer to the *International Building Code* as amended.

Appendix K Private Sewage Disposal System. Delete this section in its entirety and replace with the following:

Private Sewage Disposal Systems shall be designed and installed in accordance with the current standards as published by the State of Alaska Department of Environmental Conservation (D.E.C.). Written verification from D.E.C. or a State of Alaska-certified Septic System Installer of the D.E.C.'s approved installation shall be submitted to the Building Department. A Certificate of Occupancy shall not be issued until this written verification is submitted to the Building Department.

Appendix L.

**Section L 1.3 (required descriptive details) Add the following to this section.**

**For the plumbing systems in Appendix L, other than those of L2.0, L3.0, & L7.0, the design by a registered professional engineer is required where the work is not exempted by AS 08.48.331. A riser diagram or isometric indicating the provisions of Appendix L intended to be installed shall be submitted for review and approval by the Building Department prior to the work being commenced. The riser diagram or isometric is in addition to the other details or data that may be required by the Building Official.**

**Section L3.2 Single-wall heat exchangers. Delete part (3) of this subsection and substitute the following.**

**(3) The equipment is permanently labeled according to Section 506.4.2 (3) (b) as amended.**

Section L 8.1 Circuit Venting. Delete the 1<sup>st</sup> sentence of this subsection.



**Section L9.1 Single-Stack Vent System. Delete the 1<sup>st</sup> sentence of this subsection.**

**Section 2.** That the effective date of this Ordinance shall be the \_\_\_\_ day of February 2011.

\_\_\_\_\_  
Jerry Cleworth, Mayor

AYES:  
NAYS:  
ABSTAIN:  
ABSENT:

ATTEST:

APPROVED AS TO FORM:

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

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