Title 2

ADMINISTRATION

Chapters:

2.04 Borough Assembly

2.08 Assembly Meetings

2.12 Assembly Procedures

2.16 Mayor

2.20 Borough Offices and Officers

2.24 Borough Manager

2.28 Borough Clerk - Finance Director

2.32 Borough Attorney

2.36 Assessor

2.45 Public Safety

2.48 Public Works

2.52 Parks and Recreation

2.56 Solid Waste Board

2.58 Yakutat Power

2.60 Schools

2.64 Conditions of Board and Commission Appointments

2.68 Bonds

2.72 Responsibility of Officers and Employees

2.76 Documents, Reports and Records

2.80 Civil Defense

Chapter 2.04

BOROUGH ASSEMBLY

Sections:

2.04.010 Borough Assembly -- Composition.
2.04.020 Qualifications of Assemblymen.
2.04.030 Election of Assemblymen -- Terms.
2.04.040 Filling a Vacancy.
2.04.050 Election to Fill Vacancy.
2.04.060 Indemnification.

2.04.010 Borough Assembly -- Composition. The Assembly shall consist of seven members, one of whom shall be the Mayor, elected by the voters at large.

2.04.020 Qualifications of Assemblymen.

A. A Borough voter is eligible to be a member of the Assembly, provided that he or she is a resident of the Borough for a period of not less than one year immediately preceding the date of election or appointment to the Assembly.

B. An Assembly member who ceases to be eligible to be a Borough voter immediately forfeits his office.

C. It is not permissible for an Assembly member of the Borough to be employed by the Borough or contract with the Borough for the sale or purchase of goods and/or services. Nothing herein amends or effects the requirements of CCBY 2.20.080.

2.04.030 Election of Assemblymen -- Terms.

A. An election is held annually on the third Tuesday of October. An assemblyman is elected for a two-year term and until a successor qualifies. The regular term of office begins on the first Monday following certification of the election.

B. The Assembly may provide by ordinance for different terms not to exceed four years, except that the current term of incumbent assemblymen may not be altered.

2.04.040 Filling a Vacancy.

A. If a vacancy occurs in the Assembly, the remaining Assembly members, by majority vote, shall within thirty days

appoint a qualified person to fill the vacancy. If less than thirty days remain in a term, a vacancy may not be filled.

B. Notwithstanding (A) of this section, if the Assembly membership is reduced to fewer than the number required to constitute a quorum, the remaining members shall, within seven days, appoint a number of qualified persons to constitute a quorum.

C. A person appointed under this section serves until the next regular election, when a successor shall be elected to serve the balance of the term.

2.04.050 Election to Fill Vacancy. A candidate for the unexpired term of an Assembly vacancy shall be required to file for a specific vacancy. The ballot for the remaining unexpired term of a specific Assembly vacancy shall specify that the vote is cast to fill the specific vacancy.

2.04.060 Indemnification. The Borough will indemnify and hold harmless the Mayor and all Assembly members from and against all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting from the performance of Mayor or Assembly duties, as assigned or set forth in Alaska Statutes, in the Borough Charter, in the Borough Code, or by the Borough Assembly; provided that any such claims, damages, losses or expenses are not caused in whole or in part by any willful or fraudulent act or omission by the Mayor or Assembly Member.

Chapter 2.08

BOROUGH MEETINGS

Sections:

2.08.010 Regular Meetings.
2.08.020 Special Meetings.
2.08.025 Emergency Meetings.
2.08.030 Meetings -- Location Change.
2.08.040 Executive Session.
2.08.050 Absences.

2.08.010 Regular Meetings.

A. All regular meetings of the Assembly shall be held on the first and third Thursday of each month. All regular meetings shall begin at 7:00 p.m. and adjourn no later than 11:00 p.m., unless extended beyond 11:00 p.m. by vote of the Assembly.

B. The usual place of Assembly meetings shall be at the Borough office, Yakutat, Alaska; provided, however, that in the event of any condition which renders the meeting place unfit to conduct any regular meeting of the Assembly, the meeting may be moved to an appropriate allocated facility. When the Assembly intends to hold a regular meeting at a public location other than the usual place of the Assembly meeting, the Clerk shall give notice of the Assembly meeting. Such notice shall set forth with particularity the location of the meeting. The notice shall be published at least three days prior to the scheduled meeting.

C. All regular meetings of the Assembly shall be public meetings and the public shall have reasonable opportunity to be heard.

2.08.020 Special Meetings.

A. Special meetings of the Assembly are those meetings which are called by the Borough Clerk on request of the Mayor or any two members of the Assembly, for a time different than that fixed for the regular Assembly meetings. The location of all special meetings shall be the same as that authorized for regular meetings.

B. Advance oral or written notice of at least twenty-four hours preceding a special meeting must be given to a majority of the Assembly members, and reasonable efforts must be made to notify all members. A special meeting may be conducted with less than 24 hours notice if all members are present or if a quorum is present and absent members have waived in writing the required notice. Waiver of notice can be made before or after

the special meeting is held. Waivers shall be made a part of the record of the special meeting.

C. Reasonable public notice shall be given. Public will be heard during each special meeting but only in the context of the subject matter of that special meeting.

2.08.025 Emergency Meetings. An emergency meeting of the Assembly or school board may be held after such public notice as is reasonable under the circumstances without regard to the publication requirements in Section 2.20.040, upon the affirmative vote of all members present, or the affirmative vote of three-quarters of those elected, that a public emergency affecting life, health, welfare or property exists and that reasonable public notice of the meeting has been given.

2.08.030 Meetings -- Location Change. Notwithstanding the provisions of Sections 2.08.010 or 2.08.020, if after having been lawfully assembled in a location properly designated, the Assembly determines that a condition exists which renders such location unsuitable, it may recess the meeting and reconvene at a different location suitable to the needs of the Assembly. The location to which the meeting shall be reconvened shall be made known publicly prior to recess and notices thereof shall be posted at the place originally designated by the Clerk.

2.08.040 Executive Session. Under the terms provided in 2.20.020, the Assembly may go into a closed or executive session from which the general public may be excluded by majority vote taken at a public meeting, at which session only those subjects shall be considered as are mentioned in the motion for the executive session and no ordinance, resolution or order shall be passed or voted upon or claim allowed at such session.

2.08.050 Absences. No member shall absent himself from any meeting of the Assembly unless on official City and Borough of Yakutat business.

Chapter 2.12

ASSEMBLY PROCEDURES

Sections:

2.12.010 Mayor the Presiding Officer at Assembly Meetings.
2.12.020 Meetings -- Order of Business.
2.12.030 Agenda.
2.12.040 Minutes.
2.12.050 Assembly rules -- Amendment -- Suspension -- Violation.
2.12.060 Assembly rules -- Speaking -- Rules of Conduct.
2.12.070 Parliamentary Inquiries of Presiding Officer.
2.12.080 Points of Order.
2.12.090 Motions -- Second Required.
2.12.100 Motions -- Disposition -- Withdrawal.
2.12.110 Motions -- Questions Under Debate -- Motions Received.
2.12.120 Motions -- Division of Question.
2.12.130 Motions -- Putting Questions in Order Moved.
2.12.140 Motions -- Ordering Previous Question.
2.12.150 Motions -- Reduced to Writing.
2.12.160 Motions -- Amending Amendments.
2.12.170 Motions to Reconsider.
2.12.180 Motions -- Rescinding Vote.
2.12.190 Voting.
2.12.200 Quorum -- Voting.
2.12.210 Mayor's Vote.
2.12.220 Veto
2.12.230 Duties of the Clerk at Assembly meetings.

2.12.010 Mayor the Presiding Officer at Assembly Meetings.

A. The Mayor shall preside at all meetings of the Assembly. He shall preserve order and decorum among the Assembly members, and is responsible for conduct of all meetings in compliance with the rules of the Assembly. He may at any time make such rules as he deems proper to preserve order among the spectators in the Borough Assembly chamber during sessions of the Assembly.

The Mayor may speak to points of order in preference to other members, and shall decide all points of order, subject to appeal to the Assembly by motion duly seconded as herein provided. He may at any time call any member to the chair during any meeting, such substitution to discontinue when he

elects to resume the chair, and in no event beyond adjournment of the meeting at which substitution is made.

B. In the temporary absence or disability of the Mayor, the Mayor pro tempore as provided for in 2.16.060, or in his absence, any member of the Borough Assembly, may call the Assembly to order at any duly called meeting and, if necessary, elect a president pro tempore from among its number. The Mayor pro tempore or president pro tempore shall exercise all the powers of chairman during such temporary absence or disability of the Mayor and may also vote.

2.12.020 Meetings -- Order of Business. At every regular meeting of the Borough Assembly the order of business shall be as follows:

1. Call to order;
2. Roll call;
3. Adoption of the agenda;
4. Minutes of previous meeting;
5. Manager's Report;
6. Communications and appearance requests;
7. Audience Participation;
8. Hearings, ordinances and resolutions;
9. Old business;
10. New business;
11. Audience participation;
12. Assembly comments;
13. Adjournment.

2.12.030 Agenda.

A. Regular Assembly meetings. All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the Assembly shall, at least seventy-two hours prior to each Assembly meeting, be delivered to the Borough Clerk, whereupon the Mayor shall arrange a list of such matters according to the order of business and the Clerk shall furnish each member of the Assembly, including the Mayor, and the Borough Manager with a copy of the same in packet form forty-eight hours in advance of the Assembly meeting, excluding Saturdays, Sundays and holidays.

B. Special Assembly meetings. All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the Assembly shall, at least seventy-two hours prior to each Assembly meeting, be delivered to the Borough Clerk, whereupon the Mayor shall arrange a list of such matters according to the order of business and the Clerk

may furnish each member of the Assembly, including the Mayor, and the Borough Manager with a copy of the same in packet form forty-eight hours in advance of the Assembly meeting, excluding Saturdays, Sundays and holidays. These time restrictions do not apply to those special meetings held on 24 or less hours notice. In that case, all such reports, communications, ordinances, resolutions, contract documents or other matters shall be delivered to the Clerk as is reasonably practicable after notice is received.

C. Work sessions. Any matter to be considered by the Assembly in work sessions shall be listed in agenda form by the Clerk and be given to the Assembly at least three days prior to said work session. Any written material for said work session shall be furnished by the Clerk to the Assembly members, including the Mayor, and the Borough Manager three days in advance of the scheduled date for said work session. Reasonable public notice for work sessions of the Assembly shall be required.

2.12.040 Minutes.

A. Minutes of all regular and special meetings shall be taken. All minutes of regular and special meetings shall be kept in the journal of the proceedings of the Assembly. One copy of the minutes shall be given free of charge to any person appearing in person and requesting same, with extra copies in person or by mail available at the Borough's current rate per page, and subscriptions available by mail at the rate of ten dollars per year.

B. Unless a reading of the minutes of an Assembly meeting, regular or special, is requested by a member of the Assembly, such minutes may be approved without a reading if the Clerk has previously furnished each member with a synopsis thereof.

C. An Assembly member may request, through the Mayor, the privilege of having a verbatim record of his statement, on any subject matter under consideration by the Assembly at a regular or special meeting, entered in the minutes. Unless a majority of the Assembly members present object to any such request, such statement shall be entered in the minutes.

2.12.050 Assembly Rules -- Amendment -- Suspension -- Violation.

A. A proposed amendment to, or repeal of, any rule of the Assembly shall be submitted in writing, be laid on the table at the meeting to which it is submitted, or shall become the first item of unfinished business at the next regular meeting.

B. In all matters of parliamentary procedure not covered in these rules, Robert's Rules of Order shall be applicable and govern.

C. The Borough Assembly rules and order of business shall be observed in all cases, unless suspended temporarily for a special purpose of an emergency nature by a vote of the majority of the Assembly members present. Any member may move at any time for the temporary suspension of any rule, and such motion must be seconded to entitle it to consideration.

D. If any member, in speaking or otherwise, transgresses the rules of the Assembly, the presiding officer shall, or any member can, call him to order; in which case the member so called to order shall immediately cease discussion unless permitted by the presiding officer to explain; and the Assembly, if appealed to, shall decide the question. If the decision be in favor of the member so called to order, he shall be at liberty to proceed; if otherwise, he shall not proceed without leave of the Assembly to proceed in order.

2.12.060 Assembly Rules -- Speaking -- Rules of Conduct.

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

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

C. Unless a member who has the floor yields for that purpose, no member shall interrupt another while speaking, except to propound a parliamentary inquiry or make a point of order.

D. No member shall speak more than twice or for more than ten minutes continuously to any one question, except that one or more additional periods of ten minutes may be granted by unanimous consent. The reading of papers desired by any member shall be read by himself or by the Clerk within the member's time limitation unless permission for the Clerk to read such paper outside the time limitation is unanimously granted.

E. No appeal from any decision of the presiding officer shall be entertained unless it is seconded, and no other business shall be in order until the question on appeal has been decided. The question on appeal shall be put as follows: "Shall the decision of the chair stand as the judgment of the

Assembly?" It shall be deemed to be decided in the affirmative unless a majority of votes given are to the contrary.

2.12.070 Parliamentary Inquiries of Presiding Officer. Any member may make a parliamentary inquiry of the presiding officer at any time during the meeting.

2.12.080 Point of Order. Any member may make a point of order without a second at any time. The presiding officer may speak to points of order in preference to other members, and shall decide all such questions, subject to appeal to the Assembly by motion duly seconded; and no other business shall be in order until the question of appeal has been decided.

2.12.090 Motion -- Second Required. All motions shall require a second, unless otherwise provided by special rule.

2.12.100 Motions -- Disposition -- Withdrawal. After a motion is stated or read by the presiding officer, it shall be deemed to be in the possession of the Assembly and shall be disposed of by vote, but the mover may withdraw it at any time before decision or amendment, by consent of the second.

2.12.110 Motions -- Questions Under Debate -- Motions Received.

A. When a question is under debate, the presiding officer shall receive any of the following motions but no other:

1. To adjourn;
2. To recess;
3. To raise a question of privilege;
4. To call for the order of the day, or the regular order;
5. To lay on the table;
6. For the previous question;
7. To limit or extend limits of debate;
8. To postpone to a certain time;
9. To refer;
10. To amend;
11. To postpone indefinitely.

B. When one of the above motions has been made, none of the others inferior to it in the order in which they stand above shall be made, and in proceeding to vote, motions pending shall be put in the order of their rank as above arranged. A motion to postpone indefinitely may be amended; the previous question

may be demanded before an amendment, which motion shall be decided without debate. A motion to adjourn shall always be in order, provided that business of a nature to be recorded in the journal has been transacted since any previous motion to adjourn has been defeated. No motion or proposition of a subject different to that under consideration shall be admitted under color of an amendment.

C. When a matter has been especially assigned to be taken up at a fixed time, or at a certain stage of proceedings, such matter shall, at the appointed time or at any time subsequent thereto, be in order upon the call of any member, and take precedence over all other business.

2.12.120 Motions -- Division of Question. Any member may require the division of a question, when the sense of it will admit.

2.12.130 Motions -- Putting Questions in Order Moved. The presiding officer shall put all questions in the order in which they are moved unless a subsequent motion shall be previous in its nature, except that when naming sums and fixing times the largest sum and the longest time shall be put first.

2.12.140 Motions -- Ordering Previous Question. When the previous question is moved by any member, all debate on the main question shall be suspended immediately and the presiding officer shall put the question in the following form: "The previous question is moved on [specifying the motion on which the previous question is demanded]. As many as are in favor of ordering the previous question will so indicate." If the majority assent, the affirmative has it, the previous question is ordered, and the chair will proceed immediately to put to a vote the question on which the previous question was ordered. If less than the majority so indicates, the negative has it, the motion is lost, and the question reverts to the immediately pending question which is again open to debate and amendment as if the previous question had not been demanded.

2.12.150 Motions -- Reduction to Writing. Any motion must be reduced to writing if the presiding officer so requires or any member so demands, and no other motion shall be entertained until reasonable time (not over ten minutes) is afforded for compliance with this rule.

2.12.160 Motions -- Amending Amendments. A motion to amend an amendment shall be in order; but a motion to amend an amendment to an amendment shall not be entertained.

2.12.170 Motion to Reconsider. When a vote has been taken either passing or defeating any proposition or legislation, any Assembly member who voted on the prevailing side may move for reconsideration at the same meeting or at the next succeeding meeting whenever motions are in order, provided that the subject matter has not passed out of the control of the Assembly. The term "prevailing side" includes the negative side which has prevailed because the affirmative side has failed to muster the requisite number of votes required for passage of the measure. A motion to reconsider requires a majority of affirmative votes and, if it prevails, the subject shall be open to debate and amendment in the same manner as the original question. Debates on motions to reconsider shall be limited to twenty-five minutes and no member shall speak for more than five minutes. No measure shall be reconsidered more than once.

2.12.180 Motions -- Rescinding Vote. Any previous vote may be rescinded by vote of the majority of the Assembly at any time, provided the subject has not passed out of the control of the Assembly.

2.12.190 Voting.

A. The presiding officer shall declare all votes; but if any member doubts a vote, the presiding officer, without further debate upon the question, shall request the members voting in the affirmative and negative respectively to so indicate, and he shall declare the result.

B. The vote upon all matters considered by the Assembly shall be taken by "yes" or "no" votes which shall be entered upon the record, except that when the vote is unanimous it shall be necessary only to so state.

C. Every member who shall be present when a question is put, where he is not disqualified by personal interest, shall vote, unless the Assembly for special reason excuses him. Applications to be so excused must be made before the vote, and shall be decided without debate.

D. Anything to the contrary in these rules notwithstanding, in all cases where an extraordinary majority is not required, and when no motion is before the Assembly, the presiding officer may, in lieu of calling for or awaiting a motion to be made, put the question in the following form: "Without objection, it will be so ordered." If no objection is

heard, he shall announce: "It is so ordered," which will have the same effect as if a motion to that effect had been made and voted upon favorably. If a single objection is reasonably expressed when the question is put, the presiding officer shall not proceed further under this rule, but instead shall call for a motion, which motion shall be handled in the regular manner.

2.12.200 Quorum -- Voting.

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

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

2.12.210 Mayor's Vote. The Mayor may vote only in the case of a tie.

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

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

Chapter 2.16

MAYOR

Sections:

2.16.010 Mayor as Executive.
2.16.020 Mayor's Additional Duties.
2.16.030 Qualifications for the Office of Mayor.
2.16.040 Election and Term of Mayor.
2.16.050 Vacancy in the Office of Mayor.
2.16.060 Mayor *pro tempore*.
2.16.070 Succession to Office of Mayor and Mayor *pro tempore*.

2.16.010 Mayor as Executive. The Mayor shall preside at Assembly meetings, act as ceremonial head of the Borough, execute and/or sign documents on the Borough's behalf on authorization of the Assembly, and is responsible for those additional duties and powers prescribed in Section 2.16.020 and any others which shall from time to time be authorized by the Borough Assembly.

2.16.020 Mayor's Additional Duties. The Mayor shall, in addition to the powers and duties conferred on his office by Section 2.16.010:

A. Act as ex-officio chairman of the board of adjustment for matters of building and zoning regulations of the Borough; and

B. Act as ex-officio chairman of the board of equalization for matters of taxation and special assessments.

2.16.030 Qualifications for the Office of Mayor.

A. A voter of the Borough is eligible to hold the office of Mayor, provided that he has been a resident of the City and Borough of Yakutat for no less than one year prior to the subject election.

2.16.040 Election and Term of Mayor.

A. The Mayor is elected at large for a term of two years and until a successor is elected and has qualified.

B. The Mayor's regular term begins on the first Monday following his election, which is held on the third Tuesday of October.

2.16.050 Vacancy in the Office of Mayor. A vacancy in the office of Mayor occurring within six months before a regular election shall be filled by the Assembly. The person designated shall serve until the next regular election and until a successor is elected and qualified to serve the balance of the term. If an Assembly member is chosen, he shall resign his Assembly seat. If a vacancy occurs more than six months before a regular election, the Assembly shall call a special election to fill the unexpired term.

2.16.060 Mayor pro tempore. The Assembly shall annually appoint a Mayor pro tempore from among its members. Should the office of the Mayor become vacant, or if the existing Mayor is disabled or unable to act, the Mayor pro tempore shall serve until the Mayor resumes his official duties or until a new Mayor is qualified. During any such service, the attendance of the Mayor pro tempore at an Assembly meeting shall be counted for purposes of a quorum, and he may vote in the meeting as he normally would as a member of the Assembly.

2.16.070 Succession to office of Mayor and Mayor pro tempore. Should both the Mayor and Mayor pro tempore be absent or unable to perform the duties of the office of Mayor, the order of interim succession shall be determined as follows:

A. The Assembly member with the longest total period of tenure in office shall assume the office of Mayor pro tempore.

B. Should more than one Assembly member have the same total period of tenure in office, that Assembly member who received the largest plurality at the last election at which such Assembly members were elected shall assume the office of Mayor pro tempore.

Chapter 2.20

BOROUGH OFFICES AND OFFICERS

Sections:

2.20.010 Meetings Public.
2.20.020 Private Meetings (Executive Sessions).
2.20.030 Public Notice of Meetings
2.20.040 Publication.
2.20.050 Oath of Office.
2.20.060 Salaries of Elected Officers Not to be Varied.
2.20.070 Prohibitions.
2.20.080 Conflicts of Interest.
2.20.090 Vacancies and Forfeiture of Office.

2.20.010 Meetings Public.

A. Meetings of all Borough bodies shall be public as provided in AS 44.62.310. The Assembly shall provide reasonable opportunity for the public to be heard at regular and special meetings.

B. Except when voice votes are authorized, a vote shall be conducted in such a manner so that the public may know the vote of each person entitled to vote. This section does not apply to any votes required to be taken to organize a public body described in Subsection (A).

2.20.020 Executive Sessions.

A. All meetings of the Assembly, subcommittees of the Assembly, boards, administrative agencies and commissions created by this Code or by the Assembly shall be open to the public; provided, however, that the following excepted subjects may be discussed in executive session:

1. Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit;

2. Subjects that tend to prejudice the reputation and character of any person, except when the person expressly requests a public discussion; and

3. Matters which by law, Borough charter or ordinance are required to be confidential.

B. The following shall be discussed in executive session when the best interests of the Borough so require:

1. Negotiations which labor organizations representing Borough employees; and

2. Discussions of pending or threatened lawsuits in which the Borough has an interest.

C. If excepted subjects are to be discussed at a meeting, that meeting must first be convened as a public meeting, and the question of holding an executive session to discuss matters that come within the exceptions contained in subsections (A) and (B) of this section shall be determined by a majority vote of the body. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session, unless auxiliary to the main question. No action may be taken at the executive session.

2.20.030 Public Notice of Meetings. Reasonable public notice shall be given of all meetings of an administrative body, board, commission, committee, subcommittee, authority, agency or other organization, including subordinate units of the above groups of the Borough, and including but not limited to the Assembly, school board, platting board, departments, commissions or organizations advisory to or otherwise of the Borough.

2.20.040 Publication. For the purpose of giving notice of meetings, reasonable public notice is given if a statement containing the date, time and place of the meeting is published not less than twenty-four hours before the time of the meeting in a newspaper of general circulation published within the Borough or, not less than twenty-four hours before the time of the meeting by posting such statement in three public places within the Borough or by announcement of such meeting twenty-four hours before the time of the meeting on radio or television stations within the Borough. If the meeting is a special meeting, then the above statement shall also contain the expected subjects of discussion, but the failure to list a subject shall not invalidate any action taken in respect thereto. To the extent that this provision conflicts with Chapter 2.08 regarding Borough Assembly meetings, Chapter 2.08 shall govern as to the necessary notice for Assembly meetings.

2.20.050 Oath of Office.

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

> "I . . . . . do solemnly swear (or affirm) that I will support the Constitution of the United States and

the State of Alaska and the laws and ordinances of the City and Borough of Yakutat, State of Alaska, and that I will honestly, faithfully, and impartially perform the duties of the office of . . . . . ., So help me God."

B. The oath is filed with the Borough Clerk.

2.20.060 Salaries of Elected Officers. The Assembly may fix by ordinance the salaries of elected officers before said officer is elected. Salaries may not be changed during a term of office. An elected officer may not receive any other compensation for service to the Borough. Per diem payments or reimbursements for expenses are not compensation under this section.

2.20.070 Prohibitions.

A. No person may be appointed to or removed from Borough office, or in any way favored or discriminated against with respect to a Borough position, because of his race, color, sex, creed, national origin or, unless otherwise contrary to law, because of his political opinions or affiliations.

B. No state employee or school district employee may be denied the right to serve as an elected Borough official because of his employment by the state or a school district unless specifically prohibited by charter or ordinance of a Borough, adopted at a special or general election. However, no school district employee may serve on a school district board in the school district where he is employed. Provisions of this section do not apply to a term of office in effect on August 24, 1976.

C. For purposes of this section, a school district employee is not a Borough employee.

2.20.080 Conflicts of Interest.

A. A member of the Assembly or a member of any board or commission of the Borough shall declare a substantial financial interest the member has in an official action and ask to be excused from a vote on the matter. The presiding officer shall rule on a request by a member of the Assembly to be excused from a vote, however, the decision of the presiding officer on said request may be overridden by the majority vote of the Assembly.

B. A Borough employee or official, other than a member of the Assembly, shall not participate in an official action in which the employee or official has a substantial financial interest of and shall make that interest known.

C. Violation of this section with the knowledge, express or implied, of any person contracting with or making a sale to the Borough shall render the contract or sale voidable by the Mayor.

2.20.090 Vacancies and Forfeiture of Office.

A. The school board shall declare an elective school board office vacant, and the Assembly shall declare an elective Borough office vacant, under the following conditions and upon the declaration of vacancy by the school board or Assembly, as appropriate. An office shall become vacant upon death, resignation, removal from office in a manner authorized by law or by this Charter, or by forfeiture of his or her office.

B. The Assembly or school board shall declare that a member has forfeited his or her office by declaration of forfeiture. The member affected shall not vote upon the declaration.

C. The grounds for forfeiture are:

1. failure to comply with all qualifications prescribed by the Borough Charter for a school board or Assembly member;

2. knowing and willful violation of any express prohibition of the Borough Charter;

3. failure to qualify and take office within 30 days after his or her election or appointment;

4. physical absence from the Borough for a 90 day period, unless excused;

5. failure to attend three consecutive regular meetings of the Assembly or school board, as appropriate, unless excused;

6. resignation and acceptance of that resignation;

7. physical or mental inability to perform the duties of office, as determined by a two thirds vote of the Assembly or school board, as appropriate;

8. removal from office;

9. conviction of a felony, or conviction of an offence involving a violation of the oath of office; or

10. death.

Chapter 2.24

BOROUGH MANAGER

Sections:

2.24.010 Borough Manager -- Appointment -- Compensation.
2.24.020 Term of Borough Manager.
2.24.030 Qualifications of Borough Manager.
2.24.040 Borough Manager -- Powers and Duties.
2.24.050 Further Powers and Duties.
2.24.060 Assembly Meetings.
2.24.070 Interference with Borough Manager -- Appointments.
2.24.080 Regulation of Personnel.
2.24.090 Acting Manager.

2.24.010 Borough Manager -- Appointment -- Compensation. There shall be a manager of the Borough. The Assembly shall appoint him. The manager shall receive such compensation as the Assembly may determine.

2.24.020 Term of Borough Manager. The Borough Manager serves at the pleasure of the Assembly.

2.24.030 Qualifications of Borough Manager.

A. The Borough Manager shall be appointed solely on the basis of his executive and administrative qualifications, with particular reference to his education, training, and experience as a professional municipal administrator. By ordinance, the Assembly may set forth specific qualifications.

B. No member of the Assembly may be appointed manager unless at least two years have intervened since the expiration of his last term on the Assembly and the date of appointment.

2.24.040 Borough Manager -- Powers and Duties. The Borough Manager is the chief administrative officer. The Manager shall:

A. Appoint Borough employees and administrative officers, except as provided otherwise in this Code and in AS 14.14.065; he may hire necessary administrative assistants and may authorize an appointive administrative officer to appoint, suspend, or remove subordinates in his department;

B. Suspend or remove by written order Borough employees and administrative officers, except as provided otherwise in AS 14.14.065;

C. Supervise enforcement of Borough law;

D. Prepare the annual budget and capital improvement program for the consideration of the Assembly;

E. Execute the budget and capital program as adopted;

F. Make monthly financial reports to the Assembly on Borough finances and operations;

G. Report to the Assembly at the end of each fiscal year on the finances and administrative activities of the Borough;

H. Prepare and make available for public distribution an annual report on Borough affairs;

I. Serve as Borough personnel officer unless the Assembly authorizes him to appoint a personnel officer; and

J. Perform other powers and duties specified in AS Title 29 or lawfully prescribed by the Assembly or by Borough Charter.

2.24.050 Further Powers and Duties. The Manager shall do the following:

A. Direct the care and custody of all Borough property;

B. Direct and supervise the construction, maintenance, and operation of Borough public works;

C. Make such recommendations to the Assembly as he may deem expedient or necessary;

D. Administer and manage the water utility and such other Borough services, by means of such officers and employees as he shall appoint; and

E. Subject to Assembly approval, may assign additional functions or duties to offices, departments or agencies established by ordinance and may likewise transfer functions or duties from one such office, department or agency to another. The work of departments may be distributed among such divisions thereof as may be established by the Borough Manager.

2.24.060 Assembly Meetings. The Manager shall have the right to take part in the discussion of all matters coming before the Assembly.

2.24.070 Interference with Borough Manager -- Appointments. Except for the purposes of inquiry, the Assembly and its members, including the Mayor, or any other official of the Borough shall deal with the Borough's administrative service solely through the Borough Manager, and neither the Assembly nor any member thereof, including the Mayor, nor other Borough official shall give orders to any subordinate of the Borough

Manager, either publicly or privately. Neither the Borough Assembly nor any of its members, including the Mayor, shall dictate the appointment of any person to office or employment by the Borough Manager, except as permitted by state law or ordinance of the Borough, or in any manner interfere with the Borough Manager or prevent him from exercising his own judgment in the selection of officers and employees in the administrative service.

2.24.080 Regulation of Personnel. The Borough Manager, subject to Assembly approval, shall have the power to make rules and regulations relating to the hiring and firing, retirement program, working conditions, hours and terms of employment, leave, classification, salaries, and the like of all of the employees of the Borough. These rules and regulations shall be published from time to time as the Assembly may direct, and shall be on file in the office of the Borough Clerk.

2.24.090 Acting Manager. If the Manager is absent from the Borough or is unable to perform his duties, or if the Assembly suspends the Manager or there is a vacancy in the office of Manager, the Assembly may appoint an Acting Manager to serve until the Manager returns, or until his disability or suspension ceases, or until another manager is appointed. The Assembly shall replace the Acting Manager with a permanent Manager within a reasonable time, and, in no case, may anyone serve as Acting Manager for more than one year. Despite the terms of §2.24.030(B), an Assembly member may serve as Acting Manager but first must resign from the Assembly.

Chapter 2.28

BOROUGH CLERK - FINANCE DIRECTOR

Sections:

2.28.010 Borough Clerk -- Appointment.
2.28.020 Borough Clerk.
2.28.030 Additional Duties of the Clerk.
2.28.040 Acting Clerk.
2.28.050 Finance Director.
2.28.060 Additional Duties of the Finance Director.
2.28.070 Finance Department.

2.28.010 Borough Clerk -- Appointment. There shall be a Borough Clerk who shall be appointed by the Borough Manager, subject to the approval of the Borough Assembly.

2.28.020 Borough Clerk.

A. The Borough Clerk shall:

1. Attend meetings of the Assembly and its boards and committees as required and keep the journal;

2. Assure that notice and other requirements for public meetings are complied with and assure that public records are available for public inspection as required by law;

3. Act as the parliamentary advisor to the Assembly;

4. Take oaths, affirmations, and acknowledgements as necessary;

5. Maintain an indexed file of all permanent Borough records, provide for codification of ordinances and authenticate or certify records as necessary;

6. Administer all Borough elections;

7. Have custody of the official Borough seal;

8. Manage Borough records and develop retention schedules and procedures for inventory, storage, and destruction of records as necessary, subject to the provisions of Section 2.76.030 of this Code;

9. Prepare agendas and agenda packets as required by the Assembly;

10. Assure that the Borough complies with 42 U.S.C. 1971-1974 (Voting Rights Act of 1965, as amended); and

11. Perform other duties required by law, the Borough Manager or the Assembly.

B. The Assembly may combine the office of Clerk with that of Finance Director. If the offices are combined, the Clerk-Finance Director shall, as required of the Finance Director, give bond to the Borough for the faithful performance of his duties as Clerk-Finance Director.

2.28.030 Additional Duties of the Borough Clerk.

A. The Clerk shall furnish each member of the Assembly, including the Mayor, with a copy of the meeting agenda in a packet form and will post the agenda list in at least three public places forty-eight hours in advance of the Assembly meeting, excluding Saturdays, Sundays and holidays.

B. The Clerk shall record and certify all actions of the Assembly.

C. The Clerk shall give to the proper officials ample notice of the expiration or termination of any term of office and, when necessary, the conditions or requirements of all bonds, franchises, contracts or agreements.

D. The Clerk shall be the registrar of the Borough and shall be responsible for the calling and supervision of all Borough elections, unless otherwise provided by law.

2.28.040 Acting Clerk. In the case of the temporary absence or disability of the Borough Clerk, the Borough Manager may appoint an assistant Borough Clerk, with all the powers and obligations of the Borough Clerk. The assistant Borough Clerk shall be duly qualified.

The assistant Borough Clerk shall, in all cases, sign all documents in the name of the Borough Clerk, subscribing his personal signature as assistant Borough Clerk.

2.28.050 Finance Director.

A. There shall be a Borough Finance Director who shall be appointed by the Borough Manager, subject to confirmation by the Assembly.

B. The Finance Director is the custodian of all Borough funds. He shall keep an itemized account of money received and disbursed. He shall pay money on vouchers drawn against appropriations.

C. The Finance Director shall give bond to the Borough in a sum which the Assembly directs.

2.28.060 Additional Duties of the Finance Director. The Finance Director shall:

A. Be responsible for all matters pertaining to the maintenance of all fund accounts of the Borough, and the maintenance and care of all property used for finance;

B. compile the annual budget of the Borough based upon detailed department estimates and work programs and control the budget under the direction of the Borough Manager;

C. certify all appropriation encumbrances as to availability of appropriation balances and funds;

D. prepare and submit to the Borough Manager such financial reports and other data as may be required;

E. prescribe and control such procedures as necessary to protect Borough funds and property; and

F. Perform such other duties as the Borough Manager may require.

2.28.070 Finance Department. There shall be a finance department, the head of which shall be the Finance Director. The Finance Director may create divisions in the finance department, with approval of the Borough Manager. The number of employees shall be determined, and each such employee appointed, by the Borough Manager, except as he may delegate such power to the Finance Director.

Chapter 2.32

BOROUGH ATTORNEY

Sections:

2.32.010 Borough Attorney.
2.32.020 Borough School Attorney.

2.32.010 Borough Attorney. There shall be a Borough attorney, who shall be appointed by the Mayor subject to Assembly confirmation, to provide such services to the Borough as deemed necessary. Whenever the words "Borough attorney" appear in this Code, they shall be construed and be performed by the attorney appointed under this Chapter.

2.32.020 Borough School Attorney. As specified under Section 2.60.080, the school board has the right to hire independent counsel when, in its judgment, independent counsel is needed.

Chapter 2.36

ASSESSOR

Sections:

2.36.010 Assessor.

2.36.010 Assessor.

A. There shall be an assessor of the Borough, who shall be appointed by the Assembly no later than December 31.

B. The assessor shall provide for the assessment of the taxes levied by the Borough.

Chapter 2.45

PUBLIC SAFETY

Sections:

2.45.010 Public Safety Department.
2.45.015 Police Department-Police Chief.
2.45.020 Powers of the Department.
2.45.025 Qualifications of the Police Chief.
2.45.030 Powers and Duties of the Police Chief.
2.45.035 Salary of the Police Chief.
2.45.040 Appointment of Police Officers.
2.45.045 Outside Business Activities.
2.45.050 Application of State Law to Police Training.
2.45.055 Department to Receive Unclaimed Property.
2.45.060 Property in Departmental Possession to be Disposed of.
2.45.065 Notice of Disposition.
2.45.070 Disposition.
2.45.075 Auction Sale.
2.45.080 Sale to Vest Title.
2.45.085 Publication and Sale Cost-Reimbursement.
2.45.090 Dangerous or Perishable Property.
2.45.095 Applicability of Certain Sections.
2.45.110 Establishment of Volunteer Departments.
2.45.115 Fire Department, Qualifications, Appointment Powers and Duties of the Fire Chief.
2.45.120 Emergency Medical Services (EMS) Department, Qualifications, Appointment, Powers and Duties of the EMS Chief.
2.45.125 Mutual Aid Agreement.
2.45.130 Expenditure of Borough Funds.

2.45.010 Public Safety Department. There shall be a Public Safety Department and the Director of Public Safety shall be the Manager of the Yakutat Borough.

2.45.015 Police Department - Police Chief. There shall be a Department of Police, the head of which shall be the Police Chief. The Police Chief shall be appointed by the Borough Manager, subject to confirmation by the Borough Assembly. The Police Chief reports to the Borough Manager.

2.45.020 Powers of the Department. The Department may:

A. assist in the extinguishment of fires, rescue persons endangered by fire or otherwise in jeopardy of danger to human life and preserve the loss of human life and property in the event of a catastrophe, whether man-made or natural;

B. administer basic life support treatment to victims of illness or injury as a first responder;

C. apprehend, arrest and bring to justice all violators of ordinances of the Borough; serve all warrants, writs, executions and other processes properly directed and delivered to them; apprehend and arrest persons violating federal, state and local laws, as provided for by law, and turn them over to the proper authorities; and in all respects, generally keep the peace.

2.45.025 Qualifications of Police Chief.

A. Minimum Qualifications. The Police Chief shall:

1. Be 21 years of age or older;
2. be a U.S. citizen, or possess a legal right to accept employment in the United States;
3. be a high school graduate or equivalent; and
4. be of sound moral character.

B. The Police Chief shall be technically qualified through training and experience, shall have the ability to command people, and shall possess the following minimum certifications;

1. Basic Life Support provider and Emergency First Aid, which meets or exceeds the State requirements; and,
2. Meet or exceed the minimum standards set forth by the Alaska Police Standards Council in order to be certified as a Borough Police Officer.

2.45.030 Powers and Duties of the Police Chief.

A. The Police Chief shall submit annually to the Borough Manager a tentative budget for the Police Department;

B. The Police Chief shall report quarterly in writing or orally to the Borough Assembly, and at such other times as directed, the names of all officers and members of the Department, the condition of the apparatus and equipment of the Department; all repairs or improvements needed or necessary; the number and places of all police related calls attended to by the Department; and in general covering any matter to the information of the council;

C. The Police Chief shall identify priority needs, and perform professional research and analysis in order to upgrade existing or non-existing services;

D. The Police Chief shall be the chief executive officer of the Department, and shall provide leadership and support to other Department members;

E. The Police Chief shall conform to all requirements set forth related to the offices of Police Chief;

F. The Police Chief shall have knowledge and understanding of all rules, regulations and standard operating guidelines utilized by the police department;

G. The Police Chief shall have the knowledge and capability to perform basic life support treatment, structural firefighting techniques, and may assist Fire and EMS in emergency situations within the jurisdiction of the Department;

H. The Police Chief shall maintain all relevant training and certifications required to maintain status of all applicable requirements of section 2.45.025 of this chapter;

I. The Police Chief shall possess knowledge and understanding of all applicable borough, state and federal laws;

J. The Police Chief or his designee shall, at least twice per month, provide for suitable drills or training covering the operation and handling of any department apparatus or equipment essential for efficient operation. In addition, he shall provide for sessions of instruction to include such subjects related to fire suppression or emergency medical services;

K. The Police Chief shall maintain and enforce an up-to-date comprehensive set of rules and regulations governing the discipline, training and operation of the Department. Such rules, regulations, and amendments thereto, shall be effective when approved by the Borough Assembly. The Police Chief shall have authority to carry out the enforcement of these rules and regulations;

L. The Police Chief shall be duly sworn upon oath to enforce the laws of the Borough of Yakutat, State of Alaska and the United States of America, as provided by law;

M. The Police Chief shall be responsible for the enforcement of law and order;

N. The Police Chief shall direct police training and police work of the City;

O. The Police Chief shall arrange, at his discretion, for the attendance of one or more police officers at fires within the Borough;

P. The Police Chief shall receive and deliver all notices and papers to members of the Borough Assembly, including the

Mayor, or officers appointed thereby, when requested to do so by the Borough Clerk, and make due return thereof;

Q. The Police Chief shall be responsible for the care and maintenance of all department equipment;

R. The Police Chief shall investigate or cause to be investigated, the cause and circumstances of any accident or incident occurring for which the Borough may be liable. Also instruct all police officers to report to him such accidents or incidents, and notify the Borough Manager of such promptly or as quickly as practicable; it shall be the duty of all police officers or village public safety officer to communicate all facts and information to the chief officer;

S. The Police Chief shall be the "local supervisor" of the village public safety officer (VPSO);

T. The Police Chief shall daily, except weekends and holidays, turn over to the Borough Clerk all bail deposits, fines, impound and towage fees, other fees, and all moneys received by the Department, subject to such rules as may be prescribed by the Assembly;

U. Coordinate and communicate with the Fire Chief, the EMS Chief and other emergency departments or agencies as to the Police training schedules, programs and plans that may be helpful to other departments or agencies;

V. The Police Chief shall perform such other duties as shall be required by the Borough Manager.

2.45.035 Salary of the Police Chief.

A. The Police Chief shall be a regular, salaried employee of the Borough.

B. Salary for this position shall be based upon experience and qualifications, at an annual rate set by the Borough Assembly.

2.45.040 Appointment of Police Officers.

A. The number of regular and special police officers shall be determined and approved by the Borough Assembly, appointment of which shall be by the Borough Manager, or by delegated authority to the Police Chief.

B. Special police officers shall have the same powers as vested in regular policed officers of the Borough. Such special police officers shall, however, serve on a temporary basis, and only when and as specifically required by the Police Chief, and shall function only under the supervision of the Police Chief.

C. Such special police officers shall assist the Police Chief whenever called upon and whenever so called, shall be

compensated for services rendered as the Borough Assembly may determine.

D. No regular or special police officer, at any time or place, shall be paid for police services directly or indirectly by any person, persons, or entity other than the appropriate Borough officials.

2.45.045 Outside Business Activities.

A. Regular members of the Police Department shall devote their entire time and attention to departmental business, and shall not engage in any other business or calling, except when authorized to do so by the Police Chief, and only in the following circumstances:

1. When separate approval is granted to work for an outside employer in connection with police activities, such as traffic, special surveillance assignments, drug enforcement or any police related duties; or

2. When specific approval is granted to work for an employer outside duty hours in pursuits that will not adversely affect the quality of departmental work, or cast discredit upon or create embarrassment for the Borough;

B. All such approvals must be obtained in advance of employment in each case.

2.45.050 Application of State Law on Police Training.

A. The provisions of AS 18.65.130 - 18.65.290, which establish standards for police training and examination, shall apply to the police officers of the Department.

B. No special police officer of the Borough shall be subject to the training and examination, procedures established by the Alaska Police Standards Council pursuant to AS 18.65.240.

2.45.055 Department to Receive Unclaimed Property. When lost or stolen, abandoned or otherwise unclaimed property or money,(excluding impounded vehicles under the purview of Title 11), comes into possession of the Police Department, the Police Department shall hold and store such property in a safe place or with some responsible person until it is claimed, and all just and reasonable charges for storage thereof have been paid. The Borough Manager shall establish rules and regulations for the storage of such property in a safe place or with some responsible person until it is claimed, and all just and reasonable charges for storage thereof have been paid. The Borough Manager shall establish rules and regulations for the storage of such unclaimed property and shall establish charges and fees for storage of the same.

2.45.060 Property in Departmental Possession to be Disposed of. The following property in possession of the Police Department may be disposed of as provided for in this chapter:

A. Property abandoned and not claimed by the owner within ninety days after the date of which the Borough or Department obtained possession of the property;

B. Property stolen and not claimed by the owner within ninety days after the final disposition of the criminal case of the person who allegedly stole the property;

C. Property found or delivered to the Police Department and not claimed by the owner within ninety days after the Department obtained possession of the property;

D. This section does not apply to a vehicle which has been impounded under the provisions of Title 11.

2.45.065 Notice of Disposition. The Police Chief or his designee shall post in the usual locations of postings in the Borough, for a period of four consecutive weeks, a notice of intent to dispose of the stolen, abandoned or found property. At approximately the same time as the initial posting, the Police Chief or his designee shall send copies of the notice to the last known address, if any, of the owner, if known, and copies to the last known address, if any, of the finder, if known. The notice shall include the following:

A. A general description of the property;

B. The date on which the Department obtained possession of the property;

C. The provision that the property is to be sold at public auction at the time, date and place stated in the notice, and proceeds will be forfeited to the general fund of the Borough if the owner or finder does not claim the property;

D. The provision that the property, if money, will be paid into the Borough treasury for deposit to the general fund if the owner or finder does not claim the money;

E. The provision that the property must be claimed by the owner within thirty days following the initial date of posting the notice.

2.45.070 Disposition. If the property is unclaimed by the owner after the expiration of the time period specified in 2.45.065(E), the property shall be disposed of as follows:

A. Found property, including money, shall be returned to the finder if he has timely requested such return as provided in 2.45.065;

B. All other property, and found property which is not claimed or returned to the finder, shall be sold by the Police Chief or his designee at a public auction sale. The proceeds of the sale and all property which is money shall be forfeited to the general fund of the Borough, along with all money reimbursed pursuant to 2.45.085.

2.45.075 Auction Sale. The Police Chief or his designee shall sell the property to be disposed of to the highest bidder at a public auction sale, for cash or upon such terms as the auctioneer shall announce. The auction sale may be continued by the auctioneer to another time or times. The Police Chief or his designee shall execute the bill of sale to the property sold. Upon acceptance of the highest bid, the sale shall be final and the property not subject to redemption. Property unsold, either because no bid was offered for the property, the highest bid did not meet or exceed the expense of storage and sale, or payment of the price bid was not tendered, shall become the property of the Borough and may be disposed of by the Borough in any manner without notice.

2.45.080 Sale to Vest Title. Upon payment of the price bid for the property sold, delivery of the property sold with a bill of sale signed by the Police Chief shall vest title in the purchaser.

2.45.085 Publication and Sale Cost - Reimbursement. Before returning property to the finder or owner, and before delivering money to the Borough treasury, the Police Chief shall require reimbursement, by the person receiving the property or money, for the costs of storage and sale attributable to the property or money delivered.

2.45.090 Dangerous or Perishable Property. Property in the possession of the Department and determined by the Police Chief to be perishable or to constitute an immediate danger to the public may be disposed of immediately by the Police Chief in any manner without notice.

2.45.095 Applicability of Certain Sections. The provisions of sections 2.45.055 through 2.45.090 of this chapter shall not be deemed to apply to property or money subject to confiscation under the laws of the State of Alaska or the United States of America, and shall apply to property or money held as evidence only when the same is unclaimed by any person and no other provisions of law are applicable concerning its disposition.

2.45.110 Establishment of Volunteer Departments.

A. Organization: Volunteer members of the Departments organized into voluntary departments, with the election of their own constitution and by-laws.

B. Titles of Departments:

1. The volunteer fire department shall be called the Yakutat Volunteer Fire Department; and

2. The volunteer emergency medical services department shall be called the Yakutat Volunteer EMS Rescue Department.

C. Appointments: The head of the Yakutat Volunteer Fire Department shall appoint all volunteer fire department members, subject to confirmation by the membership, in accordance with that departments by-laws. The head of the Yakutat Volunteer EMS Rescue Department shall appoint all volunteer EMS members, subject to confirmation by the membership, in accordance with that departments by-laws.

D. Funding by the Borough: From time to time, in such amounts as the Borough Assembly deems advisable, payments may be made to the volunteer associations for the purposes of giving those associations funds with which to reimburse members for clothing or other personal property damaged while attending official departmental activities or for such other purposes in keeping with their functions.

E. Expense allowances: Members of the volunteer departments may be paid an expense allowance for departmental work as provided by the Borough Assembly.

F. All property purchased by Borough, for the departments, is and remains property of the Borough.

G. Injuries to regular members of the volunteer departments while engaged in training sessions, work sessions for the departments, or fire and/or rescue calls, will be compensated by the Borough Workman's Compensation Insurance. New members added to the rolls and members that are deleted from the rolls shall be reported in writing by the department Chief to the Borough Manager within 48 hours following the roll change.

2.45.115 Fire Department, Qualifications, Appointment and Powers and Duties of the Fire Chief.

A. Fire Department: There shall be a Fire Department, the head of which shall be the Fire Chief. The Fire Chief reports to the Borough Manager.

B. Qualifications: The Fire Chief shall be technically qualified through training and experience, and shall

be a full member of the volunteer department and possess the ability to command people.

C. Selection: The Fire Chief shall be selected by majority vote of that association's members according to the department by-laws, and confirmed by the Borough Manager.

D. Description of power and duties. The Fire Chief shall:

1. Select all volunteer members of that department, subject to confirmation by the membership in accordance with the by-laws, and shall implement personnel actions, including recruiting, suspending and terminating volunteer members of that department, according to the by-laws;

2. The Fire Chief shall have the ability and capability to perform structural firefighting techniques, and carry out all duties and requirements related to emergency situations within the jurisdiction of the Department; and to extinguish fires, rescue persons endangered by fire or otherwise in jeopardy of danger to human life; promote public fire prevention awareness; and preserve the loss of human life and property in the event of a catastrophe, whether man-made or natural;

3. The Fire Chief or his/her designee shall, at least twice per month, provide for suitable drills or training covering the operation and handling of any department apparatus or equipment essential for efficient operation. In addition, he/she shall provide for sessions of instruction to include such subjects related to fire suppression or emergency medical services, and shall see that complete records are kept of all apparatus, equipment, personnel, training, fires, and other department activities, current records and comprehensive data for previous years, recommendations for improving the effectiveness of the Department, recommendations for major improvements, and other data so as to maintain a complete record of activities of the Fire Department.

4. Report quarterly in writing or orally to the Borough Manager , and at other times as requested by the Borough Manager, the condition of all fire apparatus and equipment; repairs and improvements needed or necessary, and in general, covering any material to the information of the Borough Manager; and

5. Submit annually to the Borough Manager a tentative budget for the Fire Department;

6. Coordinate and communicate with the Police Chief, the EMS Chief and other emergency departments or agencies as to the Fire Department training schedules, programs and plans that may be helpful to other departments or agencies;

7. Perform such other duties as shall be requested by the Borough Manager.

2.45.120 Emergency Medical Services (EMS) Squad, Qualifications, Appointment, Powers and Duties of the EMS Captain.

A. Emergency Medical Services Department: There shall be an Emergency Medical Rescue Squad, the head of which shall be the Fire Chief who may approve the choice of the volunteer firemen or in the absence of their choice, designate an EMS Rescue Captain. The EMS Rescue reports to the Fire Chief.

B. Qualifications: The EMS captain shall be technically qualified through training and experience, and shall be a full member of the volunteer fire department and possess the ability to command people.

C. Description of powers and duties. The EMS captain shall:

1. Be the chief training officer of the EMS division, and shall determine the minimum qualifications, training and certifications required in order to be a full member of that association or division;

2. Administer basic life support treatment to victims of illness or injury; and provide the community with resources available, training and education in specialized fields of care, including, but not limited to, Emergency Medical Technician (EMT1), Emergency Trauma Technician (ETT), Disaster Preparedness, First Aid and Cardio Pulmonary Resuscitation (CPR) courses. The EMS Chief or his designee shall, at least twice per month, provide for suitable drills or training covering the operation and handling of any department apparatus or equipment essential for efficient operation. In addition, he shall provide for sessions of instruction to include such subjects related to fire and disaster awareness and emergency medical services, and shall see that complete records are kept of all apparatus, equipment, personnel, training, and other department activities, current records and comprehensive data for previous years, recommendations for improving the effectiveness of the Department, recommendations for major improvements, and other data so as to maintain a complete record of activities of the EMS Department.

3. Report quarterly in writing or orally to the Fire Chief, and at other times as requested by the Fire Chief, the condition of all EMS apparatus and equipment, repairs and improvements needed or necessary, and in general, covering any material to the information of the Police Chief;

4. Submit annually to the Fire Chief a tentative budget for the EMS Department; and

5. Perform such other duties as shall be requested by the Fire Chief.

D. Whenever the Emergency Medical Service Department shall respond to a call for assistance, the recipient of such assistance, or the parents or guardians of the recipient if the recipient is a minor child, and any person ordering or requesting the assistance, shall be charged the total sum of $500.00, which sum shall be payable by any of the aforementioned individuals and also by any insurer or other agency, governmental or private, that is authorized or empowered to pay for such services.

2.45.125 Mutual Aid Agreement. The Borough may enter into such agreements with other fire departments or related agencies as may be necessary to ensure cooperation and the best utilization of equipment and manpower. Such agreements shall be designed to ensure promptness of response and safety for emergency response personnel.

2.45.130 Expenditure of Borough Funds.

A. At no time shall any departmental member, regular or volunteer, expend or cause to be expanded, any Borough funds without first submitting to the Borough Manager or his designee on an authorized purchase order form, a description of the item or items requested, an itemized cost of each item, and the name and full address of the company or business the purchase is to be made from.

B. All such purchase orders (PO's) shall be subject to authorization and final approval of the Borough Manager or his designee.

Chapter 2.48

PUBLIC WORKS

Sections:

2.48.010 Public Works Department.
2.48.020 Powers and Duties of the Department.
2.48.030 Director of Public Works -- Duties.
2.48.040 Sanitation Division.

2.48.010 Public Works Department. The Borough Manager shall be the director of public works. The director may appoint and/or delegate any or all of the powers and duties set forth in this chapter.

2.48.020 Powers and Duties of the Department. The public works department, insofar as these functions are performed by Borough personnel, shall:

A. Design, construct, reconstruct, repair and maintain all Borough buildings, bridges, viaducts, cemeteries, waterways, sewers, drains, levees, harbor facilities, off-street parking facilities, and parks and other recreational facilities and structures; and including alterations, replacements, addition and appurtenances thereto;

B. Grade, maintain and improve all streets, alleys, other public highways, sidewalks and sidewalk areas not otherwise maintained by the state or federal government and located within the Service Area defined in Chapter 1.16 of this Code, subject to the proviso found in Section 8.32.040(B) of this Code; and construct, reconstruct, repair and maintain all pavements, curbs, gutters and sidewalks located within the Service Area defined in Chapter 1.16 of this Code;

C. Be responsible for granting permits to excavate or disturb any street or public grounds, or to make any special use thereof;

D. Administer all Borough owned cemeteries; and

E. Effect such other functions as the Mayor may prescribe, consistent with the ordinances of the Borough, relating to the maintenance, repair, improvement and operation

of the physical facilities owned or used by the Borough government.

2.48.030 Director of Public Works -- Duties. The director of public works shall:

A. Be responsible for all matters pertaining to construction, management, maintenance and operation of the physical properties of the Borough;

B. Be responsible for all planning in connection with such changes or improvements to the physical properties as are essential or desirable for the future growth of the Borough;

C. See that no encroachments are made by fences, buildings or otherwise upon any street, public landing, place, square, land or ground of the Borough;

D. Make, file in his office and carefully preserve for future reference, accurate plans of the location and construction of all sewers in the Borough and make such rules concerning the removal of said plans from his office as he may deem necessary to insure their safety and return;

E. Furnish all applicants, so far as the files and records of his office and other conditions reasonably permit, any information they may desire as to the lines and grades of streets on which their estates are situated, or upon which they may intend to build;

F. Prepare or cause to be prepared all contracts and specifications that may be required for public works. All such contracts and specifications shall be subject to clearance by the Borough Attorney as to legality; and

G. Operate and maintain the Borough sewer and water systems, public lands, grounds and buildings under his jurisdiction.

2.48.040 Sanitation Division. Within the Department of Public Works, there may be a sanitation division. The sanitation division may, if established, collect and dispose of garbage and other refuse. The director may oversee the operation of a private firm which may be designated to perform this function.

Chapter 2.52

PARKS AND RECREATION

Sections:

2.52.010 Director of Parks and Recreation.
2.52.020 Parks and Recreation Board.
2.52.030 Powers and Duties of Parks and Recreation Board.

2.52.010 Director of Parks and Recreation. The Borough Manager may be the Director of Parks and Recreation.

2.52.020 Parks and Recreation Board.

A. The Assembly may establish a Parks and Recreation Board. If established, the board shall consist of three residents of the Yakutat Borough.

B. Appointments made to fill board vacancies shall be for the unexpired term only.

C. The Parks and Recreation Board shall meet on the last Wednesday of each month.

D. The Parks and Recreation Board shall meet at the call of the chairperson, or any three board members, on an as-needed basis.

E. Except as otherwise provided herein, the board is governed by each of the provisions of Chapter 2.64 of this Code.

2.52.030 Powers and Duties of Parks and Recreation Board. The Parks and Recreation Board shall have the duties and be empowered to:

A. Act in an advisory capacity to the Director of Parks and Recreation, the Mayor and the Assembly in matters of parks and recreation policies regarding:

1. Development of parks and open space areas;
2. Recreation Programs; and
2. Budgetary and other fiscal matters;

B. Investigate, study and advise the Parks and Recreation Director, the Mayor and the Assembly as to feasible projects that would further the development of parks and open space and the program of recreational activities. Such studies shall be made for the purpose of determining the public requirements and the financial capacity of the Borough to support such projects;

C. Act in an advisory capacity to the Director of Parks and Recreation in the coordination of plans in connection with

new park and open space areas and the program of recreational activities; and

D. Investigate, study and advise the Parks and Recreation Director, the Mayor and the Assembly on suitable locations for statues, monuments, historical markers and other objects of an historical nature which may be placed in public squares, parks or parkways in the Borough.

Chapter 2.56

SOLID WASTE BOARD

Sections:

2.56.010 Solid Waste Board.
2.56.020 Powers and Duties of the Solid Waste Board.

2.56.010 Solid Waste Board.

A. There shall be a Solid Waste Board. The board shall consist of five residents of the Yakutat Borough, appointed by the Mayor and confirmed by the Assembly.

B. Members of the board shall serve a term of three years. In the case of initial appointments to the board, two members shall serve a three-year term, two shall serve a two-year term, and one shall serve a one-year term, the terms being determined by lot. Appointments made to fill board vacancies shall be for the unexpired term only.

C. Members of the board shall receive no compensation for their services.

D. Except as otherwise provided herein, the board is governed by each of the provisions of Chapter 2.64 of this Code.

2.56.020 Powers and Duties of the Solid Waste Board. The Solid Waste Board shall have the duties and be empowered to:

A. Act in an advisory capacity to the Borough Manager, the Mayor and the Assembly in matters of landfill policies regarding:

1. Development of hazardous waste collection and disposal;
2. General landfill operations and practices; and
3. Fee schedules and budget.

B. Investigate, study and advise the Borough Manager, the Mayor and the Assembly as to feasible projects that would further the goal of maintaining a permitted, self sustainable landfill. Such studies shall be made for the purpose of determining the public requirements and the financial capacity of the Borough to support such projects.

Chapter 2.58

YAKUTAT POWER

Sections:

2.58.010 Yakutat Utility Board (YUB)
2.58.020 Powers of the YUB
2.58.030 Yakutat Power
2.58.040 Lien for nonpayment of electrical, water, and sewage billing

2.58.010 Yakutat Utility Board. The Assembly may establish the Yakutat Utility Board.

A. Membership. If established, the YUB shall consist of three members who shall be appointed by the Mayor and confirmed by the Assembly. The members must be residents of the Borough of Yakutat.

B. Term. Members of the YUB shall serve a term of two years.

C. Vacancies. In the event of a vacancy on the YUB, the Mayor shall appoint a member to fill said vacancy, said appointment being subject to confirmation by the Assembly. The person so appointed shall serve until the expiration of the term.

D. Compensation. Members of the YUB shall receive no compensation for their services.

E. A quorum requires three members to be present.

2.58.020 Powers of the YUB.

A. The YUB shall serve as an advisory board to the Assembly on all matters relating to the ownership or operation of the electric, water and sewage utilities, and shall perform such specific functions as the Assembly, by resolution, may direct.

B. Three members of the YUB shall constitute a quorum for the conduct of business. The YUB may adopt rules and regulations governing its procedure, which shall become effective upon ratification by the Assembly.

C. The utility board shall select, from its membership, a chairperson and a secretary who shall serve in such capacities at the Pleasure of a majority of the membership.

D. The YUB shall enforce the general rules and policies adopted by the Assembly, for the utilities it advises.

E. The YUB shall recommend to the Assembly the rates, conditions of service, and other provisions to be incorporated in any agreements with electric, water, and sewage customers, subject to enactment by the Assembly pursuant to resolution.

F. The YUB shall submit to the Borough Manager proposed operation budgets for the electrical utility, and the water and sewage utilities, for the upcoming year, no later than April 1.

2.58.030 Yakutat Power.

A. The Assembly will exercise all rights that the Borough of Yakutat has in its capacity as owner of the outstanding stock of Yakutat Power, Inc., including the power to vote said shares for the election of a Board of Directors, or otherwise. The Assembly shall vote all shares in accordance with a majority vote of a quorum of its own membership at a duly called meeting.

B. The Assembly shall appoint the Power Company Manager. The Power Company Manager will report directly to the Borough Manager. The Power Company Manager is responsible for hiring the necessary employees to operate the utility, provided that all conditions and terms of employment, including salary, shall be subject to Assembly ratification and appropriation in accordance with law.

C. The Borough Manager shall annually submit to the Alaska Public Utilities Commission all documents and other material necessary to determine the electric utility's entitlement under the Alaska Power Cost Equalization program. These documents and other material will be the responsibility of the Power Company Manager to provide to the Borough Manager.

2.58.040 Lien for nonpayment of electrical, water, and sewage billing.

A. In the event that charges for electricity, water, or sewage, services provided by the Borough are not paid within sixty days after rendition of billing, such charges shall be deemed to be delinquent, and shall, together with any interest or penalty imposed upon such delinquency, constitute a lien upon the real estate to which the service was provided.

B. Recordation and foreclosure of the lien provided for herein shall be in addition to all other remedies and methods of collection available, including a personal action against the consumer.

Chapter 2.60

SCHOOLS

Sections:

2.60.010 School Board -- Election.
2.60.020 Organization of School Board.
2.60.030 Membership of Board.
2.60.040 Vacancies.
2.60.050 Qualification of Members.
2.60.060 Oath.
2.60.070 Powers and Duties of the School Board.
2.60.075 Accounting System and Treasury.
2.60.080 Counsel for School Board.

2.60.010 School Board -- Election.

A. The Borough constitutes the Yakutat Borough School District, of which the governing body is the Yakutat School Board.

B. Members of the school board are elected at the regular election held annually on the third Tuesday of October, for three-year terms and until their successors take office. All board members are elected at large.

2.60.020 Organization of School Board. Within seven days after the certification of the results of an election at which school board members are elected under 2.60.010 specifically excluding elections at which only a school board vacancy or vacancies are filled under 2.60.040, the school board shall meet and elect one of its members as president, one as clerk, and, if necessary, one as treasurer.

2.60.030 Membership of Board. The school board shall be composed of five members, except that the Assembly may, by ordinance concurred in by a majority of the school board, provide for a school board of seven members.

2.60.040 Vacancies. If a vacancy occurs on the school board, the remaining members shall, within thirty days, fill the vacancy. The person selected shall serve until the next general election, when a successor shall be elected to serve the balance of the term.

2.60.050 Qualification of Members. To be eligible to be a member of the school board, a person must have the same qualifications as are necessary to be a Borough voter in the school district. The qualifications set forth in Chapter 4.12.010 for candidates of elective office do not apply to members of the school board.

2.60.060 Oath. School board members, before taking office, shall take and sign the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska and that I will honestly, faithfully, and impartially discharge my duties as a school board member to the best of my ability."

2.60.070 Powers and Duties of the School Board. The school board shall be responsible for:

A. Operating the public school system for the Borough, subject to state statute:

B. Supervising the maintenance of all school buildings in the Borough; and

C. Instituting and maintaining an accounting system and treasury as specified under 2.60.075.

2.60.075 Accounting System and Treasury.

A. The school board shall be responsible for instituting and maintaining an accounting system and treasury for the public school system.

B. All checks drawn on the treasury of the public school system shall be signed by two members of the school board, or by one school board member and the district superintendent. All checks shall be supported by a purchase order prior to issuance.

C. A copy of the annual audit of the accounting system and treasury, and any other audit of the public school system, shall be furnished to the Assembly at the first Assembly meeting following issuance of the audit.

2.60.080 Counsel for School Board. The Borough Attorney is the legal advisor of the Assembly, the school board and the other officers of the Borough and represents the Borough as attorney in civil and criminal proceedings. The school board has the right to hire independent counsel when, in its judgment, independent counsel is needed.

Chapter 2.64

CONDITIONS OF BOARD AND COMMISSION APPOINTMENTS

Sections:

2.64.010 Board and Commission Members Subject to this Chapter.
2.64.020 Powers and Duties.
2.64.030 Appointments.
2.64.035 Qualifications.
2.64.040 Terms.
2.64.050 Compensation.
2.64.055 Indemnification.
2.64.060 Vacancy -- Unexcused Absence.
2.64.070 Officers.
2.64.080 Quorum.
2.64.090 Meetings.
2.64.100 Executive Session.
2.64.110 Conflict of Interest.
2.64.120 Procedure.
2.64.130 Reports and Minutes.
2.64.140 Ex Officio Members and Staff.

2.64.010 Board and Commission Members Subject to this Chapter. Unless otherwise provided, a board or commission of the City and Borough of Yakutat is governed by each of the provisions set forth in this Chapter.

2.64.020 Powers and Duties.

A. The Assembly, by ordinance, may provide for advisory, regulatory, appellate or quasi-judicial boards or commissions. The ordinance shall prescribe the duties and qualifications of members.

B. The Assembly, by ordinance, may create or designate itself to be a board of review, adjustment, or equalization. The ordinance shall prescribe the rules of procedure, including quorum and voting requirements.

2.64.030 Appointments. The Mayor appoints the members of boards and commissions, unless otherwise specifically provided by ordinance. Appointments are subject to confirmation by the Assembly.

2.64.035 Qualifications. In addition to any other qualifications required by this Code, a board or commission member:

A. Shall, if legally eligible, be a qualified voter of the Borough; and

B. Shall remain a resident of the Borough while in office.

2.64.040 Terms. The term of each member of a board or commission is three (3) years. The terms of initial appointments to a board or commission shall be staggered so that as nearly as possible a pro rata number of members shall be appointed for each year during the regular term of office established for the members of the board or commission. The regular term of a member of a board or commission shall, unless otherwise specified by ordinance, commence on December 1st of the year of appointment and shall expire on November 30th of the year his term expires.

2.64.050 Compensation. Voting members of advisory boards or commissions shall not receive compensation for attendance at each regular or special meeting of the board or commission.

2.64.055 Indemnification. The Borough will indemnify and hold harmless all board and commission members, as well as other appointed task force or working group members from and against all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting from the performance of said appointees' duties, as assigned or set forth in Alaska Statutes, in the Borough Charter, in the Borough Code, or by the Borough Assembly; provided that any such claims, damages, losses or expenses are not caused in whole or in part by any willful or fraudulent act or omission by the board or commission member or task force or working group member.

2.64.060 Vacancy -- Unexcused Absences. The office of a member of a board or commission, other than the school board or Assembly, shall become vacant in the manner prescribed in §2.72.020. A member intending to be absent at a regular meeting shall request to be excused in advance of the meeting from which he will be absent.

2.64.070 Officers. A board or commission shall annually elect a chairman and a vice-chairman. The vice-chairman shall

act in the absence of the chairman or in the inability of the chairman to act.

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

2.64.090 Meetings. A board or commission shall hold regular meetings at such time and place as may from time to time be designated by the board or commission, or as designated by the Assembly, but meetings need not be held if no business is pending. The chairman of a board or commission, or the Borough employee who is designated as an ex officio member of the board or commission pursuant to Section 2.64.140, or a majority of the board or commission may call a special meeting of the board or commission. Meetings of all boards and commissions shall be open to the public, except for an executive session, from which the public may be excluded.

2.64.100 Executive Session. A board or commission may at any time go into an executive session from which the general public may be excluded by a vote of a majority of the members taken at a public meeting, at which session only those subjects shall be considered as are mentioned in the motion for the executive session, and no matter shall be voted upon during an executive session.

The following subjects may be discussed in an executive session.

A. Matters, the immediate knowledge of which would adversely affect the finances of the government unit;

B. Subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion; and

C. Matters which by law, Borough charter, or ordinance are required to be confidential.

2.64.110 Conflict of Interest. Pursuant to §2.20.080, no member of a board or commission may vote on any question upon which he or a member of his household has a direct or substantial indirect financial interest. No member shall represent any person before the board or commission of which he is a member.

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

2.64.130 Reports and Minutes. The board or commission shall keep minutes of the board or commission proceedings, and such minutes shall record the vote of each member upon every question formally presented to the board or commission for its consideration. The minutes shall be filed in the office of the Clerk and shall be a public record, open to inspection by any person.

2.64.140 Ex Officio Members and Staff. The Borough Manager may appoint an employee of the municipality who shall be an ex officio member of a board of commission for the purpose of acting as secretary to the board or commission or to furnish the board or commission with technical advice and information if not so provided in the specific provisions pertaining to the board or commission. An ex officio member is not entitled to vote on any question to be determined by the board or commission, nor is an ex officio member a member for the purpose of establishing a quorum of any board or commission. An ex officio member is not entitled to any compensation for his ex officio duties or services on any board or commission. Unless otherwise provided in the section establishing the board or commission, the Borough Manager shall provide or designate any required staff for the board or commission.

Chapter 2.68

BONDS

Sections:

2.68.010 Official Bonds.
2.68.020 Approval and Payment of Official Bonds.

2.68.010 Official Bonds.

A. Borough Clerk. The Borough Clerk shall, before entering upon the duties of his office, give a corporate surety bond to the Borough in the sum of twenty-five thousand dollars.

B. Borough Finance Director. The Borough Finance Director shall, before entering upon the duties of his employment, give a corporate surety bond to the Borough in an amount not less than twice the amount of the public money that may come into his hands as finance director during the term of his employment, but in no case shall the amount of the finance director's bond exceed one hundred thousand dollars. The bond shall be conditioned that he will faithfully and honestly collect, keep and disburse all the monies belonging to the Borough. The bond shall be filed with and kept by the Borough Clerk.

C. Other officers and employees. Every Borough Officer and Employee who collects, has custody of or disburses any public monies or who has custody of and issues materials, supplies and equipment must prior thereto, at the expense of the Borough, furnish to the Borough, and maintain in full force and effect, a corporate surety bond in such amount as the Borough Assembly may determine.

2.68.020 Approval and Payment of Official Bonds.

A. The premiums on all official bonds shall be paid by the Borough.

B. All official bonds must be approved by the Borough Attorney as to form and financial sufficiency, and thereafter delivered to the Borough Clerk for acceptance, filing and safekeeping.

C. Until and unless bonded as required herein, no officer or employee of the Borough shall handle any public monies, materials, supplies and equipment at any time, except that employees of bonded officers may do so under said officers specific direction and control. A single bond covering all employees required to be bonded may be procured.

Chapter 2.72

RESPONSIBILITY OF OFFICERS AND EMPLOYEES

Sections:

2.72.010 Conduct in Office -- Investigations -- Oath -- Records -- Reports.
2.72.020 Failure to Perform Duties of Office -- Removal.
2.72.030 Voting on Certain Questions Prohibited.
2.72.040 Suspension and Forfeiture of Office or Employment.
2.72.050 Transactions Between the Borough and Borough Officials or Employees.
2.72.060 Borough Employees -- Indemnification Against Claims.
2.72.070 Penalty for Violations.

2.72.010 Conduct in Office -- Investigations -- Oath -- Records -- Reports.

A. The Assembly, including the Mayor, or any person or committee authorized by either of them shall have power to inquire into the conduct of any office, department, agency or officer of the Borough and to make investigations as to Borough affairs and, for that purpose, may order the appearance of witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such orders or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute grounds for the immediate discharge of any officer, agent or employee of the Borough.

B. All records and accounts of every office, department and agency of the Borough shall be open to inspection by the public at all reasonable times and under reasonable regulations established by the Mayor, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish and except such records as are required by state law or Borough charter or ordinance to be kept confidential. Each department head shall be held responsible for the preservation of all public records under his jurisdiction and shall provide a system for filing and indexing the same. No public records, reports, correspondence or other data relative to the business of any department shall be

destroyed or removed permanently from the files without the knowledge and approval of the Borough Manager.

2.72.020 Failure to Perform Duties of Office -- Removal. Every elective office, except Assembly or school board, and membership on boards and commissions appointed by the Mayor and confirmed by the Assembly, shall be declared vacant by resolution of the Assembly if the incumbent fails to perform the duties of the position. The following constitutes failure to perform the duties of a position:

A. Absence from more than one-half of the regularly scheduled meetings in the period of one year;

B. Absence from more than three consecutive meetings without notice to and consent of the body, which consent shall not be unreasonably withheld. The notice shall be given to the body as a whole or to the designated or acting presiding officer and shall include the reason for the absence;

C. Election or appointment to state or federal office, provided that appointment to or service in military units of the state or federal government, election or appointment to the governing body of a different borough, or appointment or election to boards or commissions for which no payment is received other than reimbursement for expenses, shall not constitute election or appointment within the meaning of this subsection; and provided further that the Mayor and members of the Assembly may serve in state elective or appointive offices during the same time they hold Borough elective offices, but shall receive no pay or expenses from the Borough whatsoever during sessions of the state body to which elected or appointed.

2.72.030 Voting on Certain Questions Prohibited.

A. Pursuant to §2.20.080, no Assembly member or member of any board or commission shall vote on any question on which he has a substantial financial interest.

B. The following do not constitute a vote on a question on which an Assembly member or board or commission member has a substantial financial interest:

1. A vote to adopt or approve a variance request, a conditional use request or an amendment to a zoning text or map, unless the Assembly member or board or commission member is directly or indirectly the applicant initiating the request;

2. A vote on a question of recommending, approving or directing a condemnation proceeding; and

3. A vote on a question of granting or modifying a franchise or a vote on a question of setting the rates charged or chargeable by a corporation, firm or partnership whether

under franchise or not and whether authorized by law, ordinance or contract to set or alter such rates, provided that the Assembly member or board or commission member has an interest in such franchise or rate setting solely by reason of employment as an officer or employee of such corporation, firm or partnership and the remuneration of such employment will not be affected as a result of such franchise grant or modification or such rate setting, and the duties of such employment do not directly or indirectly involve the negotiation or setting of the terms of the franchise or rates; or provided that he has an interest solely by reason of the ownership of stock in the corporation if it is listed on the New York or American Stock Exchanges, or ownership, direct or indirect, of less than five percent of the outstanding stock or shares in the subject corporation.

2.72.040 Suspension and Forfeiture of Office or Employment.

A. In addition to the penalty provided in Section 2.72.070, any Borough officer or employee who knowingly conceals any financial interest in violation of this chapter or who willfully violates the requirements of this chapter is guilty of malfeasance and shall be subject to discharge or suspension from his office or employment.

B. The Assembly shall be the body to hear and decide all matters concerning suspension or removal of any Borough officer or employee on the grounds of a violation of this chapter.

2.72.050 Transactions Between the Borough and Borough Officials or Employees.

A. Should any officer or employee of the Borough desire or intend to have business dealings with the Borough whereby he may derive income and benefits other than those provided as remuneration for his official duties or duties of his employment, he shall file with the Borough Clerk, and in such form as the clerk may prescribe, a statement which shall include the nature of the proposed transaction and the extent of the interest, direct or indirect, which the officer or employee has in the transaction.

B. Unless the Mayor disallows such transaction within one week of the filing of the statement, the transaction may be allowed. Any such disallowance may be appealed to the Borough Assembly.

C. Claims arising in tort or under applicable workers' compensation statutes shall not, for purposes of this section, be construed as business dealings with the Borough.

2.72.060 Borough Employees -- Indemnification Against Claims.

A. An employee of the Borough, against whom a claim is made or a proceeding is threatened or brought by reason of his being or having been an employee of the Borough, may be indemnified against:

1. Reasonable expenses incurred by him, including legal fees; and

2. Liabilities imposed upon him, including any amount paid in settlement in order to satisfy a judgment or order.

B. No employee of the Borough may be indemnified unless an independent determination shows:

1. He acted in a matter which is related to his employment and in which the Borough had an interest;

2. He acted in discharge of a duty imposed authorized by law; or

3. He acted in good faith and, additionally in the case of a criminal action, had no reasonable cause to believe that his conduct was unlawful.

C. The independent determination shall be made by the Borough Attorney or by independent legal counsel selected by the Borough Assembly, except that any court finding concerning any of the above three required determinations shall be conclusive when the employee shall be a party to the court proceeding.

D. Indemnification for reasonable expenses incurred in a successful defense is a matter of right.

E. No indemnification shall be permitted:

1. For liability imposed where any Borough insurance policy provides for payment or indemnification of any liability imposed against the employee, unless the employee prevails in such matters.

2. Where the Borough makes the claim or brings the proceeding against the employee, unless the employee prevails in such matters.

F. Where a claim is brought against an employee and the employee requests the Borough to provide him with independent legal counsel pending the prosecution of the claim or proceeding, the Borough shall provide independent legal counsel if, in the judgment of the Borough Assembly, there may be a possible conflict of interest between the Borough's position and that of the employee, or the liability of the employee concerns claims or defenses not reasonably related to the defense or position of the Borough.

2.72.070 Penalty for Violations. Any violation of any provision of this Chapter shall be punished according to Chapter 1.24 of this Code.

Chapter 2.76

DOCUMENTS, REPORTS AND RECORDS

Sections:

2.76.010 Documents -- Assent -- Approval -- Attestation.
2.76.020 Documents to be Filed with the State.
2.76.030 Records Management Program.

2.76.010 Documents -- Assent -- Approval -- Attestation. All legal documents requiring the assent of the Borough shall be:

A. Approved by the Borough Assembly;
B. Signed by the Mayor on behalf of the Borough;
C. Attested to thereon by the Borough Clerk;
D. Approved thereon as to substance by the Mayor; and
E. Approved thereon as to form by the Borough Attorney, unless otherwise provided by state law or Borough ordinance.

2.76.020 Documents to be Filed with the State.

A. The Borough shall file with the State Department of Community and Regional Affairs:

1. Maps and descriptions of all annexed or excluded territory;
2. A copy of the annual audit; and
3. Tax assessment figures as requested.

2.76.030 Records Management Program.

A. Definitions:

(a) "Borough Clerk" means the clerk of the City and Borough of Yakutat, Alaska, or the clerk's designee.

(b) "Historical value" means records that will be useful at a later date in reconstructing a general history of the development and government of the Borough.

(c) "Inactive records" means those records no longer required in active office areas but which require further retention due to legal, operating or historical reasons.

(d) "Legal value" means a record that relates to current or possible legal action by or against the Borough, and records relating to land, construction, legislative and judicial actions of the Borough Assembly.

(e) "Maintenance of public records" means the creation, maintenance, protection, use and disposition of all

public records of the Borough, including the establishment and maintenance of a system of filing and indexing public records.

(f) "Public record" means all recorded information acquired or stored by the Borough for future use or preservation, including any document, paper, book, letter, photograph, microfilm, map, drawing, magnetic media, computer printout or electronically sent, transmitted or stored data, including email, developed or received under law or in connection with the transaction of official business and preserved or appropriate for preservation by the Borough, as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the Borough or because of their information value. Public records do not include:

(1) library and museum material developed or acquired and preserved solely for reference, historical or exhibition purposes, extra copies of documents preserved solely for convenience of reference, or stocks of publications and processed documents;

(2) records deemed by law to be confidential or which are prohibited from being inspected by the public by law;

(3) reference files; or

(4) transitory files.

(g) "Record series" is any group of identical or related records which are normally used and filed as a unit and which permit evaluation as a unit for retention scheduling purposes.

(h) "Reference files" means copies of notes and similar working papers accumulated in preparation of a communication, study or other writing or record.

(i) "Transitory file" means transmittal letters, suspense copies when a reply has been received, routine requests for information and publications, tracer letters, feeder reports and the like.

(j) "Vital records" means those records necessary to assure continuance of essential governmental operations and to protect the legal and financial operation of the Borough in the event of disaster or catastrophic loss of the Borough's records.

B. Ownership of Public Records.

(a) All public records shall be the property of the Borough unless otherwise provided by law and in this regard such records shall be delivered by outgoing officials and employees to their successors.

(b) The Borough clerk may initiate actions to recover records unlawfully removed from municipal possession.

C. Maintenance of Public Records. The records of the Borough shall be maintained as provided for herein and under the Borough's current record retention schedule. Borough clerk shall have the primary responsibility for the development, maintenance and operation of the Borough's records and its records management system.

D. Records Advisory Committee. A "Records Advisory Committee" is hereby established consisting of the Borough manager, Borough finance director, and Borough clerk, or their designee.

E. Disposal of Records and Other Materials.

(a) No public records may be destroyed until such time as the Borough Assembly approves a record retention schedule by resolution.

(b) Reference files, transitory files and records disposable upon the occurrence of an event may be disposed of by Borough departments at their discretion when they are no long required for the transaction of Borough business.

(c) The Borough clerk shall submit a list of documents scheduled for disposal, in accordance with the record retention schedule adopted by the Borough Assembly, to each member of the Records Advisory Committee.

(d) Upon approval of the Records Advisory Committee, the Borough clerk shall arrange for the destruction of the records in an appropriate manner. Records of a confidential nature should be disposed of by shredding.

(e) The Borough clerk shall inform the Borough Assembly after January 1 of all records destroyed during the preceding calendar year.

F. Copies of Public Records. Public records, not otherwise required by law to be preserved in original form, and records that are worn or damaged, may be copied by photographic, microfilm, scanning or other mechanical process which produces a clear, accurate and permanent copy. When such a copy is retained in accordance with this chapter, the original may be destroyed. The copy shall be considered as the original record for all purposes.

Chapter 2.80

CIVIL DEFENSE

Sections:

2.80.010 Civil Defense Organization.
2.80.020 Organization Composition.

2.80.010 Civil Defense Organization. There shall be a civil defense organization for the City and Borough of Yakutat as an agency of such government, to be composed of the Mayor and such other persons as he may appoint from time to time.

2.80.020 Organization Composition. All Borough officers and employees, together with those volunteer forces enrolled to aid them prior to or during a disaster, shall constitute the civil defense organization, as provided by law.