

**NORTHWEST ARCTIC BOROUGH ASSEMBLY  
ORDINANCE 13-10**

**AN ORDINANCE OF THE NORTHWEST ARCTIC BOROUGH ASSEMBLY AMENDING THE BOROUGH PERSONNEL CODE AND FOR RELATED PURPOSES.**

**WHEREAS:** Title 3 of the Borough Code establishes guidelines for the personnel; and

**WHEREAS:** the Assembly has determined that it is in the Borough's best interest to update its personnel code.

**NOW THEREFORE BE IT ENACTED BY THE NORTHWEST ARCTIC BOROUGH ASSEMBLY:**

**Section 1:** Title 3 of the Borough Code is amended as follows with additions indicated by underlining in blue, deletions by ~~strikethrough in red~~, and renumpers by underlining and strikethrough in green:

**Chapter 3.04          Personnel System Generally**

**3.04.010 Personnel system.**

~~It is the purpose of this title to establish a system of personnel administration that is based on the merit principle (AS 29.20.410).~~ The personnel system shall have the following objectives:

- A. Recruitment and retention of the best personnel obtainable for the borough service;
- B. Defining the terms for continued borough employment, subject to requirements for the work to be performed, availability of funds, and continued acceptable work performance and personal conduct of the employee;
- C. To provide definite duty assignments;
- D. To provide training, supervision and administrative direction;
- E. To promote opportunities in the borough service. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.04.010)

### **3.04.020 Applicability.**

Unless specifically excluded under NABC ~~3.12.020~~, 3.12.010, the borough personnel system shall apply to all employees of the borough. All employees funded by grants or other outside sources shall be covered by the borough personnel system except where the grant or other funding mechanism requires otherwise. In such cases, when accepted by the assembly, the requirements of the outside funding source shall supersede the borough personnel system requirements. (Ord. 13-10, 2013; Ord. 09-07 § 1, 2010; Ord. 91-04 § 2, 1991; Code 1986 § 3.04.020)

### **3.04.030 Personnel officer.**

The mayor shall be the personnel officer, ~~although he~~. The mayor may delegate certain ~~of these personnel~~ duties ~~in his discretion~~ to a department head or other official responsible ~~to him~~ for borough operations or internal administration. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.04.030)

### **3.04.040 Duties of personnel officer.**

The personnel officer shall administer the borough personnel system. ~~He~~ The personnel officer shall, subject to the mayor's direction:

- A. Promulgate and adopt rules and regulations; such rules and regulations and deletions, changes, or additions shall be effective when approved by the assembly;
- B. Provide for a committee of persons to undertake an annual review of the personnel system;
- C. Appoint, remove, suspend and discipline all employees of the borough subject to the policies set forth in this title and subject to state, federal and borough law;
- D. Act as the appointing authority for all borough employees;
- E. Perform such other duties and exercise such other powers and personnel administration as may be prescribed by law and this title. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.04.040)

### **3.04.050 Personnel records.**

A. Records of the work history of employees shall be maintained. Such records may include the employee's original applications, ~~report of medical examination~~, reports of the results of other employment, investigations and tests, annual reports of

performance, reports of progress and disciplinary actions affecting the employee, and such other records as may be significant in the employee's service to the borough.

B. Any medical records shall be collected and maintained in separate files.

C. The personnel officer shall prescribe such forms and records for departmental use as may be necessary. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.04.050)

### **3.04.060 Access and confidentiality of personnel records.**

A. Personnel records of ~~classified-service~~borough employees are confidential and are not open to public inspection, except as provided in this section.

B. The following information is available for public inspection, subject to reasonable regulation on the time and manner of inspection:

1. Names and positions of all borough employees;
2. Prior positions held with the borough by the employee;
3. ~~Classification of the~~Whether an employee is classified, exempt, or partially exempt;
4. Dates of appointment and separation from borough services;
5. Compensation authorized.

~~C. The employee or his authorized representative has the right to examine and copy the employee's personnel records in compliance with applicable law.~~Information obtained regarding the medical condition or history of an applicant or an employee shall be kept confidential and shall not be disclosed, reviewed, or used except as permitted by law. (Ord. 13-10, 2013; Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.04.060)

### **3.04.070 Personnel committee.**

A. There is established a personnel committee composed of the mayor and four assembly members appointed by the president to perform the duties specified in this code or as otherwise assigned by the president.

B. The mayor shall not be a member of the personnel committee when it conducts pre-disciplinary hearings under NABC 3.40.060. Instead, the remaining four members of the committee shall designate a fifth individual to serve on the committee for

purposes of the hearing. The individuals designated by the remaining members of the committee shall not be an employees of the borough. The mayor, as personnel officer, may participate in the presentation of the borough's position at the pre-disciplinary hearing. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.24.120)

## **Chapter 3.08 Hiring Policies**

### **3.08.010 Merit system.**

Hiring, promotion, demotion and other personnel actions affecting employees in the classified service shall be made solely on the basis of merit principle. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.08.010)

### **3.08.020 Promotion.**

When well qualified individuals are available, appointments to fill vacancies shall be made from within the borough services. (Ord. 91-04 § 2, 1991; Code 1986 § 3.08.020)

### **3.08.030 No discrimination.**

~~There shall be no discrimination in the employment procedure, including appointment, promotion, demotion, suspension or removal of borough employees. An employee or applicant who feels he or she is being subjected to sexual harassment and/or any other form of discrimination should feel free to object to the behavior and should report the behavior to an immediate supervisor, department head, or personnel officer. Any supervisor or department head receiving the complaint of sexual harassment and/or any other form of discrimination shall immediately report it to a personnel officer.~~

~~A. Alaska Statute 18.80.220 provides for the following unlawful employment practices. It is unlawful for:~~

- ~~1. An employer to refuse employment to a person, or to bar a person from employment, or to discriminate against a person in compensation or in a term, condition, or privilege of employment because the person's race, religion, color, or national origin, or because a person's age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical or mental disability, sex, marital status, changes in marital status, pregnancy or parenthood;~~
- ~~2. An employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication or to use a form of application for employment or to make an inquiry in connection with prospective employment, that expresses, directly or indirectly, a limitation, specification, or discrimination as to~~

~~sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, age, race, creed, color, or national origin, or an intent to make the limitation, unless based upon a bona fide occupational qualification;~~

~~3.—An employer to discharge, expel, or otherwise discriminate against a person because the person has opposed any practices forbidden under AS 18.80.200 through 18.80.280 or because the person has filed a complaint, testified, or assisted in a proceeding under this chapter;~~

~~4.—An employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character or work in the same operation, business, or type of work in the same locality.~~

~~B.—The employer shall maintain records on age, sex and race that are required to administer the civil rights laws and regulations. These records are confidential and available only to federal and state personnel legally charged with administering civil rights laws and regulations. However, statistical information compiled from records on age, sex, and race shall be made available to the general public.~~

~~C.—Nothing in this section shall prohibit implementation of any legally permissible employment or other preference.~~

~~D.—Notwithstanding the prohibition against employment discrimination on the basis of marital status or parenthood under subsection (A) of this section, an employer may, without violating this chapter, provide greater health and retirement benefits to employees who have a spouse or dependent children than are provided to other employees; in this section, "dependent child" means an unmarried child, including an adopted child, who is dependent upon a parent for support and who is either:~~

~~1.—Less than 19 years old;~~

~~2.—Less than 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education and Early Development; or~~

~~3.—Of any age and totally and permanently disabled. (Ord. 09-07 § 1, 2010; Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.08.030)~~

Consistent with AS 18.80.220, there shall be no employment discrimination in the appointment, promotion, demotion, suspension or removal of borough employees. (Ord. 13-10, 2013; Ord. 09-07 § 1, 2010; Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.08.030)

### **3.08.040 Tests.**

Subject to the provisions of this chapter, before appointment to a position, each applicant shall take such tests and examinations of ~~his~~their qualifications as the personnel officer may consider appropriate, or as required by state law. (Ord. 13-10, 2013; Ord. 09-07 § 1, 2010; Ord. 91-04 § 2, 1991; Code 1986 § 3.08.040)

### **3.08.050 Minimum age.**

Minimum age for borough employment shall be in accordance with state law. (Ord. 91-04 § 2, 1991; Code 1986 § 3.08.050)

### **3.08.060 United States citizen.**

~~A person filling~~ The borough may require that a position can be required to be filled by a U.S. citizen ~~where such qualification is required because of a specific~~ to comply with a state or federal ~~law, or regulation or because the position to be filled is a policy~~ making or executing position. ~~(Ord. requirement, or where the personnel officer determines that it is in the borough's best interest. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.08.060)~~

### **3.08.070 Borough residents.**

Other qualifications being equal, preference in employment or promotion shall be given to residents of the borough. (Ord. 91-04 § 2, 1991; Code 1986 § 3.08.070)

### **3.08.080 Veterans preference for appointment and employment.**

A. In every department and upon all public works of the borough, veterans shall be preferred for appointment and employment. A person claiming such preference shall be required to show proof of such entitlement.

B. Veteran shall include the following:

1. Those persons who have served 181 days or more active service in the armed forces of the United States who have been honorably discharged;
2. Those persons who have served six years in the Alaska Territorial Guard or the Alaska National Guard and have received an honorable discharge; or
3. Those persons who are presently serving in the Alaska National Guard and have been credited with two years of service. (Ord. 91-04 § 2, 1991; Code 1986 § 3.08.080)

### **3.08.090 Inupiaq fluency.**

The first language of a majority of residents of the borough is Inupiaq. In order to facilitate communications with its citizens, the borough shall give preference in employment to persons who have such language fluency and may require such language fluency in selected positions. (Ord. 91-04 § 2, 1991; Code 1986 § 3.08.090)

### **3.08.100 Nepotism.**

A. Except as provided in this section no persons may be employed in a classified, exempt or partially exempt position supervised by a family member. If an employee is supervised by a family member in the same borough department, they shall elect which employee may continue with the department and which employee shall terminate employment or transfer to another department.

B. Except as provided in this section, no person may be employed in a classified, exempt, or partially exempt position if a family member holds a seat on the borough assembly. However, this limitation shall not apply to any such person who is employed by the borough prior to the election or appointment of a family member to the assembly.

C. "Family member" as used in this section means a supervisor or assembly member who is a spouse, parent, sibling or child in a full, half-~~or step~~, step or official state or tribal adoptive relationship to the employee and also includes a supervisor or assembly member who is a brother-in-law, sister-in-law, aunt, uncle, niece, or nephew of the employee.

D. Any of these restrictions may be waived upon review of the personnel officer and approval of the assembly. (Ord. 13-10, 2013; Ord. 99-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.08.100)

### **3.08.110 Job description.**

For each position of borough employment, a job description shall be prepared. Such description shall include a description of the duties to be performed, the qualifications required, the initial rate and pay range for the position, and whether ~~the position~~ is in the classified, exempt or partially exempt service. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.08.110)

### **3.08.120 Application for employment.**

Each applicant for employment shall complete a written or electronic application which shall be kept on file for a period not to exceed one year. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.08.120)

## **Chapter 3.12 Conditions of Borough Employment**

### **3.12.010 Definitions.**

~~The following words have the meanings prescribed:~~

~~"Matter of public concern" means:~~

- ~~1. A violation of state, federal or municipal law, regulation or ordinance;~~
  - ~~2. A danger to public health or safety;~~
  - ~~3. Gross mismanagement, a substantial waste of funds, or a clear abuse of authority;~~
- ~~or~~
- ~~4. A matter accepted for investigation by the office of the ombudsman under AS 24.55.100 or 24.55.320.~~

~~"Public body" means and includes an officer or agency of:~~

- ~~1. The federal government;~~
- ~~2. The state;~~
- ~~3. A political subdivision of the state including:
  - ~~a. A municipality;~~
  - ~~b. A school district; and~~~~
- ~~4. A public or quasi public corporation or authority established by state or municipal law. (Ord. 91-04 § 2 (3.12.290), 1991)~~

### **3.12.020 Classification of positions.**

There shall be the following three categories of borough service:

- A. **Classified Service.** The classified service consists of all positions in the borough service not included in the exempt service or in the partially exempt service.
- B. **Exempt Service.** Unless otherwise provided by law, the following positions in the borough service constitute the exempt service and are exempt from the provisions of this title and the rules adopted under it:
  1. Persons elected to public office by popular vote or appointed to fill vacancies in elected offices;
  2. Persons employed in a professional capacity to make a temporary and special inquiry, study or examination as authorized by the mayor, the assembly, or lawfully constituted commissions or boards; and
  3. Members of boards, commissions or authorities except as otherwise provided by law.
- C. **Partially Exempt Service.** Positions in the partially exempt service are subject to the provisions of this chapter in all respects, except that persons holding positions in the partially exempt service are not required to take an examination or to qualify for or earn a place on a register, and are not eligible for a hearing in case of dismissal, demotion or suspension. Partially exempt employees serve at the pleasure of the

mayor who may suspend or discharge such employees in ~~his~~the mayor's sole discretion when ~~he~~the mayor deems it necessary for the good of the service. The following positions in the borough service constitute the partially exempt service:

1. Department directors and deputy directors;
2. Special assistants and all other personal staff positions in the mayor's office;
3. The borough clerk.

D. All positions may be full- or part-time. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.12.010), 1991)

~~3.12.030~~3.12.020 **Extension of partially exempt and classified services.**

A. The personnel officer, upon written approval by the borough assembly, may extend the partially exempt service to include any position in the classified service which, in the judgment of the personnel officer:

1. Involves principal responsibility for the determination of policy;
2. Involves principal responsibility for the way in which policies are carried out; or
3. Involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

B. Positions may not be included in the partially exempt service under this section if the inclusion is inconsistent with federal requirements for local government agencies supported in whole or in part by federal funds.

C. The personnel officer, upon written approval of the assembly, may extend the classified service to include any position in the partially exempt service. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.12.015), 1991)

~~3.12.040~~3.12.030 **Temporary and part-time positions.**

A. A temporary employee is an employee hired as an interim replacement, or for temporary work, on a predetermined work schedule. ~~If an employee, hired on in a temporary position, is hired into a permanent position, he or she is entitled to personal leave accruals retroactive to the date of hire in the temporary position. (Ord. 91-04 § 2 (3.12.020)~~A temporary employee may not be retained in temporary employment status for longer than six consecutive months, at which time the employee shall be made permanent or terminated.

B. A part-time employee is a permanent employee who regularly works at least 15 hours per week, but less than 37.5 hours per week. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.12.015), 1991)

**~~3.12.050~~3.12.040 Probationary period.**

A. A probationary period only applies to an employee appointed to a permanent position, whether by original appointment or promotion.

B. The probationary period shall be for a period of three consecutive months from the date of appointment to the position.

C. During the probationary period, an employee may be separated from the service, demoted, suspended or returned to the position from which ~~he~~the employee was promoted or an equivalent one, all without cause, at the discretion of the appointing authority.

D. Fifteen calendar days prior to the expiration of an employee's probationary period, the department head shall notify the personnel officer in writing as to whether the services of the probationary employee should be retained. If the probationary employee is to be retained, the employee shall be given permanent status beginning the day after the end of the probationary period. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.030)

**~~3.12.060~~3.12.050 Regular workday and workweek.**

A. The regular workday shall consist of seven and one-half hours per day, except as provided for under subsection (C) of this section.

B. The regular workweek shall consist of five regular workdays, 37 1/2 hours.

C. Upon approval of the personnel officer, based upon the needs of the borough, individual employees may be permitted to work flex time of 9 1/4 hours, four days per week. Benefits shall accrue pro rata. (Ord. 13-10, 2013; Ord. 96-07 § 1, 1996; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.040)

**3.12.060 Compensation.**

A. Classified Service. The assembly shall, from time to time, adopt by resolution or by enactment of the annual borough operating budget, a pay and benefits plan wherein

each position in the classified service will be assigned a pay range, designated by a number and a salary schedule, wherein each pay range is established. The increments between each step within a range, if used, shall be nearly equal in value to every other step within the range.

B. Partially Exempt Service. The assembly shall from time to time adopt either through the approved annual borough operating budget or by resolution, a pay and benefits plan for partially exempt employees which may assign to each position a pay range as if that position were covered by this section, or the assembly may, upon recommendation of the mayor, assign a single monthly or annual salary to specific positions.

C. Exempt Service. Compensation for persons elected to public office or appointed to fill vacancies in elected offices, as well as members of boards, commissions or authorities, shall be as set forth in NABC Title 2. The assembly shall from time to time adopt, either through the approved annual borough operating budget or by resolution, rates of pay and benefits for other exempt employees. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.20.020), 1991)

~~3.12.080~~ 3.12.070 **Overtime.**

A. Work performed in excess of regular work hours, ~~37.5~~ **40** hours per week, shall be credited at the rate of one and one-half hours for each hour of overtime.

B. Employees who work overtime shall be given compensatory time off. All such compensatory time earned shall be taken once each calendar quarter.

~~C. The borough is required by federal law to pay overtime for any employee who has accrued more than 240 hours compensatory hours in any one year; this equates to no more than 160 hours of worked overtime. Upon termination, for any reason, an employee is entitled to be paid at the overtime rate for any compensatory time due.~~  
Except as may be otherwise approved by the personnel officer, exempt employees and partially exempt employees will not be paid for or given compensatory time for time worked in excess of the basic work week. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.060,-3.12.050)

~~3.12.080 Overtime—Exception.~~

~~3.12.090~~ 3.12.080 **Pay days.**

All employees will be paid every other Friday. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.070)

~~3.12.100~~3.12.090 **Payroll deductions.**

All deductions required by law will be withheld from each employee's paycheck. Other deductions may be provided for on a voluntary basis and such deductions must be authorized in writing, two weeks in advance. Discontinuance of deductions must be in writing, two weeks in advance. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.080)

~~3.12.110~~ **Recognized holidays.**

~~A. The following days shall be recognized as holidays with pay for all employees who are in pay status before and following such days:~~

- ~~1. New Year's Day—January 1st;~~
- ~~2. Martin Luther King, Jr. Day—third Monday in January;~~
- ~~3. President's Day—third Monday in February;~~
- ~~4. NANA Day—one day shall be taken the day meetings of NANA are designated each year;~~
- ~~5. Memorial Day—last Monday in May;~~
- ~~6. Fourth of July—July 4th;~~
- ~~7. Labor Day—first Monday in September;~~
- ~~8. Alaska Day—third Monday in October;~~
- ~~9. Veteran's Day—closest Monday to November 11th;~~
- ~~10. Thanksgiving Day—fourth Thursday in November;~~
- ~~11. Christmas Eve—December 24th;~~
- ~~12. Christmas Day—December 25th.~~

~~B. When a holiday falls on a Saturday, the preceding Friday shall be observed as that holiday. When a holiday falls on a Sunday the following Monday shall be observed. Holidays falling Tuesday through Thursday will be observed on those days that they fall. (Ord. 91-04 § 2, 1991; Code 1986 § 3.12.090)~~

~~3.12.120~~ **Holidays falling during personal leave.**

~~The following rule shall apply: when a holiday falls within an employee's personal leave period, it is not counted as part of leave time. The employee will be paid for that holiday. (Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.100)~~

~~3.12.130~~3.12.100 **Other employment.**

A. An employee who engages in any employment outside the normally scheduled hours of duty shall notify, in writing, the department head of the nature and extent of that outside employment. Such outside employment activity shall not be incompatible with employment by the borough or adversely affect the performance of borough duties.

B. Employees who perform services seven days a week, 24 hours a day, must have prior written approval from his/her department head prior to accepting such employment. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.110)

### ~~3.12.140~~3.12.110 Training.

A. Each department head shall develop and conduct such practical training programs as are suited to the special requirements of his department. The department heads shall institute and provide for the conducting of training programs which are needed for efficient management of two or more departments.

B. Each department head shall have authority to release an employee up to two hours a day with pay for work-related education. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.120)

### ~~3.12.150~~3.12.120 Performance evaluations.

A. Department heads shall be responsible for conducting an annual review of ~~task~~ accomplishments, training needs, and organizational support required for achieving objectives of each subordinate position. This annual review ~~or annual piece of paper (APOP)~~ shall be composed by the department head and employee jointly using such other resources as both agree to. The ~~APOP~~review shall be completed by the signature of department head and employee.

B. Written ~~APOPs~~reviews shall be part of the individual's personnel record and are required within 15 days prior to the employee's anniversary date. (Ord. 13-10, 2013; Ord. 96-07 § 2, 1996; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.130)

### ~~3.12.160~~ Gifts and gratuities.

~~An employee shall not accept a gift, gratuity, consideration or extraordinary favor from any person doing business or likely to do business with the borough and shall immediately report to his department head any offer, promise or suggestion that such a gift be made. In any event an offer is made to a department head, he shall report the same to the mayor. Any person either offering or receiving such a gift, gratuity, consideration or extraordinary favor from any person doing business or likely to do business with the borough shall immediately report to his department head any offer, promise or suggestion that such a gift be made. In the event an offer is made to a department head, he shall report same to the mayor. Any person either offering or receiving such a gift, gratuity, consideration or extraordinary favor is subject to criminal penalties prescribed in AS 11.56.100 and 11.56.110. This section does not apply to the giving of ceremonial gifts of nominal value, or gifts received from an~~

employee's family or ordinary circle of friends when not offered for a corrupt purpose. (Ord. 91-04 § 2, 1991; Code 1986 § 3.12.140)

### **3.12.170 Prohibited acts.**

A borough employee may not:

- A.— Engage in or accept employment, or render services for personal gain when the employment or service is incompatible with, is in conflict with, or appears to be in conflict with, the proper discharge of the employee's official duties;
- B.— Accept, negotiate for, or promise to accept employment or anything in excess of \$50.00 in value from any person, firm or company, if the employee's department is engaged in the transaction of business which may be affected by the employee's official action;
- C.— Invest or hold any investment, directly or indirectly in any financial, business, commercial or private transaction, which creates a conflict or the appearance of a conflict with the employee's official duties;
- D.— Use information peculiarly within the employee's knowledge or purview concerning the property, government, or affairs of the borough to advance the financial or other private interest of the employee or others;
- E.— Accept any form of gift, loan or gratuity in exchange for the performance of the employee's duties other than the compensation and benefits provided by the borough;
- F.— Be a party to the purchase of or influence the purchase of goods or services for the use of the borough from any person, company or business in which the employee has a substantial financial interest, unless the purchase is approved in advance in writing by the department head or the mayor, in the event the conflict is created by the department head;
- G.— Engage in any business or transaction, or own a financial or other private interest, direct or indirect, which is in conflict with or presents the appearance of a conflict with, the proper discharge of the employee's official duties;
- H.— Engage in any other employment during those hours the employee is scheduled to work for the borough;
- I.— Take an active part in the management of a political party above the precinct level;
- J.— Require an assessment, subscription, contribution or service for a political party from a borough employee;
- K.— Make a false statement, certificate, mark, rating or report with regard to a test, certification or appointment, or in any manner commit a fraud preventing the impartial execution of these policies; and
- L.— Serve as a borough assembly person while employed by the borough, exempting personnel employed by the borough school district. (Ord. 91-04 § 2, 1991; Code 1986 § 3.12.240)

### **3.12.180 3.12.130 Employee political rights.**

Employees have the right to:

- A. Be a member of a national, state or local political party;
- B. Take part in a political campaign;
- C. Express political opinions; however, while engaged on official business, a borough employee may not display or distribute partisan political material; any employee engaged in an active political campaign shall take leave status during such activity;
- D. Register party preference;
- E. Serve as a voting or nonvoting delegate to a party convention;
- F. Be appointed, nominated or elected to nonpartisan public office in a local government unit, subject to the requirements of NABC ~~3.12.170~~3.36.020(L); and
- G. Make contributions to a political party or a candidate for public office. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.250)

~~**3.12.190 Whistleblowers and other persons protected.**~~

~~A. The borough may not discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because:~~

- ~~1. The employee, or a person acting on behalf of the employee, reports to a public body or is about to report to a public body a matter of public concern; or~~
- ~~2. The employee participates in a court action, an investigation, a hearing or an inquiry held by a public concern.~~

~~B. The borough may not disqualify a public employee or other person who reports a matter of public concern or participates in a proceeding connected with a matter of public concern before a public body or court, because of the report or participation, from eligibility to:~~

- ~~1. Bid on contracts with the Northwest Arctic Borough;~~
- ~~2. Receive land under a law of the state or an ordinance of the municipality; or~~
- ~~3. Receive another right, privilege or benefit.~~

~~C. The provisions of this section and NABC ~~3.12.200 through 3.12.210~~ do not:~~

- ~~1. Require the borough to compensate an employee for participation in a court action or in any investigation, hearing or inquiry by a public body;~~
- ~~2. Prohibit the borough from compensating an employee for participation in a court action or in an investigation, hearing or inquiry by a public body;~~

~~3.— Authorize the disclosure of information that is legally required to be kept confidential;~~

~~4.— Diminish or impair the rights of an employee under a collective bargaining agreement.~~

~~D.— The borough shall use appropriate means to inform employees of their protections and obligations under this section and NABC 3.12.200 through 3.12.210. (Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.260)~~

### ~~3.12.200 Limitation of protections.~~

~~A.— A person is not entitled to the protections under this section and NABC 3.12.190 and 3.12.210 unless the person:~~

~~1.— Reasonably believes that the information reported is or is about to become a matter of public concern; and~~

~~2.— Reports the information in good faith.~~

~~B.— A person is entitled to the protection under this section and NABC 3.12.190 and 3.12.210 only if the matter is of public concern.~~

~~C.— The borough requires that, before an employee initiates a report on a matter of public concern under NABC 3.12.190, the employee shall submit a written report concerning the matter to the mayor.~~

~~1.— Within 30 days of such employee's report to the mayor, the personnel committee shall meet to consider the employee's report and the mayor's response; and~~

~~2.— The personnel committee shall acknowledge to both the employee and the assembly receipt of such report and a determination of what action if any is to be taken. (Ord. 91-04 § 2, 1991; Code 1986 § 3.12.270)~~

### ~~3.12.210 Relief and penalties.~~

~~A person who alleges a violation of NABC 3.12.190 has those remedies available by law. (Ord. 91-04 § 2, 1991; Code 1986 § 3.12.280)~~

## **Chapter 3.16 Travel and Other Pay Allowances**

### **3.16.010 Travel and per diem allowance.**

All borough employees, whether in the exempt, partially exempt or classified services, while traveling on official business and away from home or designated duty post, or when they incur approved out-of-pocket expenses in the conduct of official business, shall be reimbursed or paid in advance in accordance with the following guidelines:

A. Common Carrier. The common carrier fare, or the cost of charter or other special hire, if essential, or other similar fare as necessary for the efficient performance of

official duties; provided, that no reimbursement or payment shall be allowed for more than the lowest tourist class fare for the most direct route, unless:

1. Tourist class accommodations are not available;
2. Waiting for such accommodations would occasion a delay harmful to the borough;
3. The department head finds that travel by such accommodation is not in the best interests of the borough and authorizes other accommodations.

B. Per Diem. Except as provided for assembly members in NABC 2.04.040(B), a per diem allowance set according to federal rates will be allowed for travel within and out of the boundaries of the borough for travel funded through the borough general fund; provided, that such travel requires the employee to spend more than four and one-half hours away from home or designated duty post. Federal- and state-funded travel by borough staff shall comply with the funding agreement per diem requirements.

C. Private Vehicle. ~~Twenty-one cents per mile for occasional~~ Occasional use of privately owned vehicles will be compensated at the current federal mileage reimbursement rate, together with actual costs of ferry fare, bridge, road and tunnel tolls ~~shall be granted~~; provided, that the total of such shall not exceed the cost of equivalent coach air fare. Where two or more employees are traveling in the same direction, and it is possible to share a vehicle, the mileage permitted shall be allowed to only one employee.

D. Lodging Ground Transportation. Claims for reasonable lodging expenses and destination ground transportation shall be supported by and reimbursed in accordance with actual receipts, or may be paid in advance by the borough.

E. Host Reimbursement. Recognizing that it is in the best interest of the borough for its representatives to host appropriate officials at luncheons or dinners, the borough mayor may authorize reimbursement for reasonable hosting expenses incurred by borough employees or assembly persons.

F. Extenuating Circumstances. Actual expenses other than those identified above may be allowed by the personnel officer, if incurred as a result of circumstances beyond the control of the employee, and any such expenses shall be supported by and reimbursed in accordance with actual receipts. (Ord. 13-10, 2013; Ord. 13-02 § 1, 2013; Ord. 00-09 § 1, 2000; Ord. 91-04am2 § 2, 1991; Ord. 91-04 § 2, 1991; Code 1986 § 3.16.010)

### **3.16.020 Convention registration fees.**

Upon approval by the personnel ~~officers~~officer or the assembly, the actual registration fee and lodging (not including meals, entertainment or similar costs) charged any borough employee, whether in the exempt, partially exempt or classified services, for attending a convention or conference will be paid for by the borough, in addition to the per diem allowance. (Ord. 13-10, 2013; Ord. 91-04am2 § 2, 1991; Ord. 91-04 § 2, 1991; Code 1986 § 3.16.020)

### **3.16.030 Improper payments and reimbursement.**

- A. Borough employees who are determined by the personnel officer or the personnel committee to have received per diem or other payments improperly, shall be required to reimburse the borough.
- B. Improper payments include, but are not limited to, reimbursements for false receipts and per diem or travel payments for trips not taken or for trips on which the employee does not substantially perform their assigned duties without a proper reason.
- C. An employee who resigns prior to completing six months of service after receiving training reimbursement shall pay back to the borough the amount reimbursed unless the payback is waived in writing by the mayor. Payback shall be deducted from the employee's final pay or shall be paid directly to the borough if adequate funds are not available.
- D. Any employee may grieve the decision of the personnel officer or the personnel committee as provided in Chapter ~~3-403.48~~ NABC. (Ord. 13-10, 2013; Ord. 91-04am2 § 2, 1991; Code 1986 § 3.16.030)

## **Chapter 3.20 ~~Compensation~~ Leave Time**

### **3.20.010 ~~Objective.~~ Full-time employees.**

~~This plan is designed to:~~

- ~~A.— Establish the framework for equal pay for work similar in nature, responsibility or difficulty;~~
- ~~B.— Provide a means of rewarding borough employees;~~
- ~~C.— Provide administrative flexibility in recognizing differences among employees filling similar positions and in meeting conditions requiring salary adjustment;~~
- ~~D.— Provide a compensation structure which is comparable to the private sector in both rate and method of pay. (Ord. 91-04 § 2 (3.20.010), 1991)~~

### **3.20.020 Compensation.**

~~A.—Classified Service. The assembly shall, from time to time, adopt by resolution or by enactment of the annual borough operating budget, a pay and benefits plan wherein each position in the classified service will be assigned a pay range, designated by a number and a salary schedule, wherein each pay range is established. The increments between each step within a range, if used, shall be nearly equal in value to every other step within the range.~~

~~B.—Partially Exempt Service. The assembly shall from time to time adopt either through the approved annual borough operating budget or by resolution, a pay and benefits plan for partially exempt employees which may assign to each position a pay range as if that position were covered by this section, or the assembly may, upon recommendation of the mayor, assign a single monthly or annual salary to specific positions.~~

~~C.—Exempt Service. Compensation for persons elected to public office or appointed to fill vacancies in elected offices, as well as members of boards, commissions or authorities, shall be as set forth in NABC Title 2. The assembly shall from time to time adopt, either through the approved annual borough operating budget or by resolution, rates of pay and benefits for other exempt employees. (Ord. 91-04 § 2 (3.20.020), 1991)~~

## **Chapter 3.24 — Suspension, Demotion and Dismissal**

### **3.24.010 Scope.**

~~The protections of this chapter apply to those employees in the classified service that have completed their probationary period. (Ord. 91-04 § 2 (3.24.010), 1991)~~

### **3.24.020 General policy.**

~~A.—The personnel officer or his designee will advise and assist department heads in the handling of all disciplinary matters. The personnel officer or his designee shall approve all disciplinary actions concerning suspension, transfers, demotion or dismissal prior to the completion of the action, unless, in the judgment of the department head, immediate disciplinary action is required. The basis for taking immediate action shall be limited to reasons of just cause and immediate danger to health, safety and welfare of borough employees or the public. In such instance, the department head shall have the authority to suspend the employee without pay pending investigation and approval of the final determination by the personnel officer or his designee.~~

~~B.—Prior consultation with the personnel officer or his designee on all disciplinary actions is desirable and, time permitting, encouraged in order to provide for continuity~~

~~and consistency in the application of disciplinary matters. (Ord. 91-04 § 2 (3.24.020), 1991)~~

### **3.24.030 Forms of discipline.**

~~Progressive discipline shall be followed when practicable. When the severity of the inappropriate conduct warrants and it is in the best interest of the borough, the personnel officer may permit any of the following forms of discipline to be imposed at anytime so long as such discipline is supported by just cause:~~

~~A. Oral reprimand;~~

~~B. Written reprimand;~~

~~C. Extension of probationary period;~~

~~D. Suspension with pay;~~

~~E. Suspension without pay;~~

~~F. Demotion; or~~

~~G. Dismissal. (Ord. 91-04 § 2 (3.24.030), 1991)~~

### **3.24.040 Grounds for disciplinary action.**

~~Employees of the borough are expected to follow generally accepted rules of conduct, whether posted or not. Without limitation, proof of any one of the following shall constitute just cause for discipline: insubordination; incompetence; inefficiency; excessive absenteeism; violation of a written borough policy, procedure or regulation, which was known or reasonably should have been known to the employee; failure to perform assigned tasks to the best of his or her abilities; harassment of other employees or the public; violation of an oral directive which was known or reasonably should have been known to the employee; conviction of a crime involving moral turpitude; substance abuse on the job; failure to make satisfactory corrections for an act or omission for which previous disciplinary action has been taken; or any other conduct commonly recognized by reasonable persons as justification for serious discipline, including dismissal. (Ord. 91-04 § 2, 1991; Code 1986 § 3.24.040)~~

### **3.24.050 Record of disciplinary action.**

~~All forms of disciplinary action, except verbal admonishments, must be in writing, state the full circumstances surrounding the incident such as the nature of the incident, the date, time and location of the incident, identification and collection of witness statements, and a description of the precise discipline administered. Written records of verbal warnings shall be prepared by the employee's supervisor and a copy given to the employee as soon as practicable following the warning. The record shall also~~

contain a notation requesting the employee's comments. ~~A copy of the action shall be given to the employee and a copy placed in the employee's personnel file, after the individual has acknowledged receipt by signature, or refused receipt, which refusal shall be acknowledged by the personnel officer. (Ord. 91-04 § 2, 1991; Code 1986 § 3-24.050)~~

### **3.24.060 Pre-disciplinary hearing.**

~~Subject to NABC 3.24.020, a dismissal, demotion with reduction in pay, or suspension without pay of a classified employee, shall be accomplished and reviewed only in accordance with the procedures stated in this section.~~

~~A. — If immediate disciplinary action was taken pursuant to NABC 3.24.020, the employee shall be given written notice of the basis for the discipline within three working days of the date the disciplinary action was taken. The notice shall also contain the information required by subsection (B) of this section, and any final determination by the personnel officer or his designee shall be subject to the provisions of this section.~~

~~B. — Before an employee may be dismissed, demoted with a reduction in pay, or suspended without pay, the employee shall receive written notice of intent to discipline containing a reasonably specific statement of the basis for the intended discipline. The notice shall also contain an explanation of the employee's entitlement to ask for an interview with the personnel officer or a hearing before the assembly at which such intended discipline may be reviewed. If the employee is unavailable, the notice shall be given by mail.~~

~~C. — The employee may request an informal interview with the personnel officer for the purpose of reviewing the circumstances giving rise to the proposed action. At such interview the employee shall be given the information against him, and given an opportunity to respond if desired. At the conclusion of the interview, the personnel officer will advise the employee of his decision to rescind the proposed disciplinary action, to impose a lesser form of discipline, or to proceed with the disciplinary action as originally proposed. A written notation of this decision shall be made and a copy given to the employee.~~

~~D. — The employee may request a pre-disciplinary hearing before the assembly only by submitting a written request to his department head, no later than 5:00 p.m. on the tenth calendar day following the day on which he received the notice of intent to discipline, the date of mailing such notice, or the date of the interview with the personnel officer pursuant to this section, whichever is later. Failure of the employee to timely submit written notice shall constitute a waiver of the employee's right to a pre-disciplinary hearing.~~

~~E. — The assembly shall schedule a pre-disciplinary hearing no later than the fifteenth calendar day after receipt of a written request by the employee. The pre-disciplinary hearing shall be held only if the employee submits a timely written request as provided above.~~

~~F.—Existing pay status shall not be provided beyond the fifteenth day if the employee or his representative requests and is granted an extension of the hearing date for any reason. If the borough requests and is granted an extension of the hearing date for any reason, the employee shall be continued in pay status.~~

~~G.—The hearing before the assembly shall be recorded and such recording, together with any documentary evidence submitted to the assembly, shall form the record of the hearing.~~

~~H.—Both the affected employee and a representative of borough management may exercise the following rights at the hearing:~~

~~1.—To testify;~~

~~2.—To present witnesses and other evidence;~~

~~3.—To cross-examine witnesses;~~

~~4.—To be represented by a person of their choice at their own expense.~~

~~I.—The assembly may exercise independent judgment as to the weight of the evidence on legal issues raised by the parties. The employer shall prove the existence of just cause to discipline the employee by a preponderance of the evidence presented.~~

~~J.—The assembly shall issue a written decision no later than seven calendar days after the close of the hearing. The decision shall include a clear and precise statement of the reason for the decision.~~

~~K.—The assembly may affirm the disciplinary action, or impose a lesser disciplinary action, or prohibit the imposition of discipline against the employee for incidents examined at the hearing.~~

~~L.—The affected employee may appeal the assembly's predisciplinary decision by filing a written notice of appeal with the Alaska Superior Court for the Second Judicial District at Kotzebue in accordance with the Alaska Rules of Appellate Procedure. The Superior Court shall have no jurisdiction to hear the appeal unless the employee files the notice of appeal within 30 days after the employee's receipt of the assembly's decision. The Superior Court shall limit its review to whether or not substantial evidence in the record supports the decision and to legal issues necessarily decided by the assembly. (Ord. 91-04 § 2, 1991; Code 1986 § 3.24.060)~~

~~3.24.070 Longevity.~~

~~Employees having more than one year of continuous service with the borough shall, if laid off in good standing, maintain pay and leave privileges for the position from which terminated, if rehired within six months. Rehired employees shall be placed and perform work, without preferential treatment, as directed by department heads. (Ord. 91-04 § 2, 1991; Code 1986 § 3.24.070)~~

### ~~3.24.080 Layoffs—Reinstatement.~~

~~A.—When it is necessary to reduce the number of employees because of lack of work or funds, the department head concerned will make a thorough investigation of the problem. The analysis of the proposed layoffs will first be presented to the~~

~~administrator to consider~~ the types of activities to be curtailed and the ~~positions thereby affected, and consideration shall be given~~ to the employees' length of service to the borough, but such consideration does not constitute a promise or requirement that persons with seniority shall be given preference in retention. The advisability of demoting employees in higher positions to lower positions shall be also considered.

~~B.— A former employee may be reinstated, and shall be given preference when new appointments are made, providing:~~

~~1.— There exists a vacancy in the position the employee formerly held or in a position in a lower pay range; and~~

~~2.— The employee's work record was satisfactory and termination notices indicate "recommend for rehire"; and~~

~~3.— Not more than six months have elapsed since termination, and provided the applicant meets applicable physical and other standards of employment in effect at the time of the application for reinstatement. (Ord. 91-04 § 2, 1991; Code 1986 § 3.24.080)~~

### **3.24.090 Resignations.**

~~A.— An employee who desires to resign shall give at least two weeks' written notice to his immediate supervisor. The period of notice may be reduced or waived by the personnel officer upon recommendation of the department head. A notice of resignation shall become part of the personnel file.~~

~~B.— An employee may withdraw his resignation only prior to the effective date stated in the applicable notice of resignation with the written approval of the department head and the personnel officer.~~

~~C.— Failure to Give Adequate Notice.~~ Failure to give adequate notice shall be noted on the employee's separation documents and shall preclude preferential consideration for future employment.

~~D.— Effective Date of Termination.~~ The effective date of termination pursuant to a notice of resignation shall be the last day on which the employee works, or the date of notice of the employee's resignation if the employee fails to return from paid leave. (Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.24.090)

### **3.24.100 Final pay.**

An employee whose employment ~~terminates~~ for whatever reason shall be paid within three working days after the termination (AS 23.05.140). (Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.24.100)

### **3.24.110 Severance pay.**

When an employee in good standing is laid off due to reduction in forces, the employee is entitled to severance pay covering one week's time based on ~~his~~ basic pay

~~in addition to whatever wages are due. In the event of death, his heirs, assigns or estate shall be entitled to the severance pay. This provision also applies to the partially exempt service. (Ord. 91-04 § 2, 1991; Code 1986 § 3.24.110)~~

### ~~3.24.120 Personnel committee.~~

~~A.— There is established a personnel committee composed of the mayor and four assembly persons appointed by the president to perform the duties specified in this code or as otherwise assigned by the president.~~

~~B.— The mayor shall not be a member of the personnel committee when it conducts **predisciplinary hearings under NABC 3.24.060**. Instead, the remaining four members of the committee shall designate a fifth individual to serve on the committee for purposes of the hearing. The **individual** designated by the remaining members of the committee shall not be **an employee** of the borough. The mayor, as personnel officer, may participate in the presentation of the borough's position at the pre-disciplinary hearing. (Ord. 91-04 § 2, 1991; Code 1986 § 3.24.120)~~

### ~~3.24.130 Drug-free workplace.~~

~~A.— It is the policy of the borough that it shall provide a drug-free workplace for its employees and citizens.~~

~~1.— **Personnel** action shall be taken against employees engaged in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, or an alcoholic beverage, in a local option area, within the workplace.~~

~~a.— **Any personnel** action, except dismissal, taken pursuant to this section shall also require the affected employee to successfully complete a drug abuse assistance or rehabilitation program and shall be imposed with 30 days' notice of a violation of this policy.~~

~~b.— Subsection (A)(1)(a) of this section in no way limits the personnel officer's authority to dismiss an employee found to have violated the provisions of this subsection. Any employee dismissed pursuant to this section must show proof of successful completion of a drug abuse assistance or rehabilitation program prior to any rehire by the borough. Successful completion of any such program does not guarantee or afford a preference for rehire.~~

~~B.— Definitions. For the purposes of this section:~~

~~1.— **The term "drug-free workplace"** means a borough facility or leased facility where a borough employee works. It does not apply to the school district, which shall have its own policies.~~

~~2.— **The term "controlled substance"** means a controlled substance as defined in Schedules I through V of Section 202 of the Controlled Substance Act (21 USC 812) or those defined by AS Chapter 11.71.~~

3.—The term "conviction" means a finding of guilt (including a plea of nolo contendere) by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

4.—The term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use or possession of any controlled substance.

5.—The term "local option area" shall mean a municipality or established village which adopts a local option under the provisions of AS 4.11.491. (Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.24.130)

### **3.24.140 Establishment of drug and alcohol testing program for borough employees.**

A.—The mayor shall prescribe drug and alcohol testing rules and regulations that govern all borough employees regardless of position, classification or location of employment.

B.—The drug and alcohol testing rules and regulations shall:

1.—Become effective upon approval by the mayor and review and ratification by the assembly.

2.—Be comprehensive in nature and contain the following:

a.—An employee handbook incorporating the drug and alcohol policy statements, testing requirements and detailed penalties for violation of the drug and alcohol policy and testing rules or regulations;

b.—An assessment of local drug and alcohol rehabilitation programs and any existing borough policies relating to employee drug and alcohol assistance programs;

c.—Provide for professional contract(s) for drug and alcohol testing and analyses of specimens. Specific services to include:

i.—Confirmatory testing by gas chromatography/mass spectrometry when initial screenings are positive;

ii.—Documented procedures for chain of custody;

iii.—Timeliness of analyses of specimens and report of results;

iv.—Computer-based random number generator or similar system to ensure true random selection;

v.—Competitive price for services;

d.—Establish procedures for taking specimens;

e.—Develop a supervisor report form for drug and alcohol incidents;

f.—Establish a filing system for all drug and alcohol testing information and incident reports, confidential and separate from regular personnel files;

g.—Notify and train supervisors on the drug and alcohol policy and train supervisors in recognizing the symptoms of drug and alcohol abuse;

h.—Notify employees and prospective employees of the drug and alcohol testing policy of the borough;

~~i. Organize a drug and alcohol testing policy orientation for all employees to be held prior to implementation of the testing program, and thereafter as part of the orientation of new employees;~~

~~j. Notify all contractors and other service providers that compliance with the drug and alcohol testing policy will be a contractual condition for performing work for the borough.~~

~~C. Notwithstanding any provisions in this chapter or any personnel rule or regulation adopted under it, the rules and procedures prescribed and approved under this section shall apply to all borough employees and if in conflict with any existing provisions shall supersede it. (Ord. 00-09 § 1, 2000; Ord. 91-07 § 1, 1992; Code 1986 § 3.24.140)~~

### ~~3.24.150 Consumption of alcohol while on borough business or attending borough functions.~~

~~A. While actually conducting borough business, all borough employees, whether in the classified, exempt or partially exempt service, shall be sober and refrain from the consumption of alcoholic beverages.~~

~~B. Functions sponsored by any borough department, regardless of location, shall be alcohol free. Any social or civic function, regardless of sponsor, if held in a borough-owned or borough-maintained facility, shall be alcohol free. The prohibition in this subsection also applies to all Northwest Arctic Borough school district functions and facilities. (Ord. 91-07 § 1, 1992; Code 1986 § 3.24.150)~~

## ~~Chapter 3.28~~ 3.20 Leave Time

### ~~PERSONAL LEAVE TIME~~

#### ~~3.28.010 Full-time employees.~~

A. All full-time employees on ~~eight~~7.5-hour days five days a week, including employees in the partially exempt service shall accrue personal leave time at the following rates:

<b>Length of Service</b>	<b>Earned Monthly (work days)</b>	<b>Annual Total (work days)</b>
0 through 4th year	2-1/12	25
5th through 9th year	2-1/2	30
10th and on	2-11/12	35

B. All full-time employees on ~~109.375~~ 37.5-hour days four days a week, including employees in the partially exempt service shall accrue personal leave time at the following rates:

Length of Service (work days)	Earned Monthly (work days)	Annual Total
0 through 4th year	1-2/3	25
5th through 9th year	2	30
10th and on	2-2/3	35

(Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.28.010)

~~3.28.020~~ 3.20.020 **Part-time employees.**

Part-time employees, including employees in the partially exempt service shall accrue personal leave time on a ratio of the hours they work to a ~~40~~ 37.5-hour week, pursuant to NABC ~~3.28.010~~ 3.20.010. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.28.020)

~~3.28.030~~ 3.20.030 **Temporary employees.**

A. An employee appointed to a temporary position shall not accrue personal leave time.

B. A temporary employee is not entitled to holiday pay or subsistence leave.

C. If an employee, hired in a temporary position, is hired into a permanent position, he or she is entitled to personal leave accruals retroactive to the date of hire in the temporary position. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.28.030)

~~3.28.040~~ 3.20.040 **Leave-without-pay status.**

Personal leave time will not accrue while an employee is on leave-without-pay status. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.28.040)

~~3.28.050~~ 3.20.050 **Saturdays, Sundays and holidays.**

While on personal leave, Saturdays, Sundays ~~and~~, holidays, and other regular scheduled days off will not be considered as leave time. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.28.050)

~~3.28.060~~ **Pay during vacation.**

~~An employee shall be entitled to receive at the beginning of his personal leave the compensation due, if such leave will fall during a payday. (Ord. 91-04 § 2, 1991; Code 1986 § 3.28.060)~~

~~3.28.070~~3.20.060 **Authorized leave.**

A. Personal leave may be taken when authorized by the supervisor. Routine medical and dental appointments require prior approval.

B. Personal leave may be taken for medical reasons when an employee's supervisor is satisfied that the employee is absent for medical reasons. Whenever an employee is absent for more than three working days for medical reasons, a doctor's certification may be required. The following constitute medical reasons:

1. Medical disability of an employee or an emergency medical or dental appointment;
2. Medical disability or death of a member of the employee's extended family, if the disability is such that the attendance of the employee is required;
3. A medical condition of an employee which makes their presence at work a danger to the health of the employee or fellow employees;
4. Pregnancy and childbirth is a medical reason for a female employee to take personal leave. A female employee, otherwise qualified for a leave of absence, is entitled to take a maximum of 12 weeks' leave immediately preceding or following childbirth. If an employee's accrued personal leave is insufficient for this purpose, she is entitled to take leave without pay for the balance of the 12-week period. (Ord. 13-10, 2013; Ord. 00-09 § 1, 2000; Ord. 96-07 § 3, 1996; Ord. 91-04 § 2, 1991; Code 1986 § 3.28.070)

~~3.28.080~~3.20.070 **Subsistence leave.**

A. In addition to personal leave time that employees may accrue, employees will be allowed time off with pay from his/her respective job each year during the appropriate seasons for subsistence leave upon prior approval by his/her supervisor and approval of the mayor.

B. Subsistence leave shall not accrue from one year to another. It shall be granted on the employee's anniversary date and any unused portion from the previous year shall be terminated.

C. Full-time employees shall accrue subsistence leave at the following rates:

1. Zero through one year (less than one year) - ~~zero days~~one day;
2. One through four years (with one, but less than four years) - five days;
3. Four through seven years (with four, but less than seven years) - seven days;
4. Seven or more years - 10 days.

D. Permanent part-time employees who work 75 hours per pay period or more shall accrue subsistence leave at one-half the rate of full-time employees with the same time of service.

E. Temporary employees shall not be entitled to subsistence leave.

F. Upon termination of an employee no subsistence leave shall be paid as part of the employee's final pay.

G. Subsistence is defined as hunting and food gathering within ~~borough boundaries.~~ (Ord. the state, including related traditional and cultural activities. Traditional and cultural activities do not include attending trade fairs. (Ord. 13-10, 2013; Ord. 96-07 § 4, 1996; Ord. 91-04 § 2, 1991; Code 1986 § 3.28.080)

### ~~3.28.090~~3.20.080 Termination.

Upon termination for any reason, accrued and unpaid personal leave will be paid within three working days to employees, except that probationary employees who have not successfully completed their probationary period are not entitled to accrued personal leave time. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.28.090)

### ~~3.28.100~~ Mandatory time off.

~~It shall be mandatory for employees accruing personal leave time to take all accrued time off. (Ord. 91-04 § 2, 1991; Code 1986 § 3.28.100)~~

### ~~3.28.110~~3.20.090 Accumulation limit - Length of absence.

A. Unused personal leave time may be accumulated up to and including 30 working days.

B. It shall be mandatory for employees accruing personal leave time to take all accrued time off, except as described in subsection (C) of this section.

C. If accrued personal leave time exceeds ~~limits allowed any given year,~~ 30 working days in a year beginning July 1st and ending June 30th, the excess time shall be forfeited by the employee, unless the supervisor certifies in writing that the employee was denied use of accumulated leave time by the supervisor for reasons beyond the control of the employee. The supervisor may postpone requested leave without loss for up to three additional months.

BD. No employee shall use more than 16 consecutive working days of personal leave without the approval of the mayor. (Ord. 13-10, 2013; Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.28.110)

~~3.28.120~~ 3.20.100 **Pay in lieu of time off.**

There shall be no pay in lieu of earned personal leave except upon termination or death of the employee. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.28.120)

~~3.28.130~~ 3.20.110 **Accrual.**

Personal leave time may not be taken prior to three months of satisfactory service, but after three months, personal leave shall accrue retroactive to date of hire. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.28.130)

~~3.28.140~~ 3.20.120 **Mayor.**

The mayor shall be allowed 32 working days of personal leave. However, any leave in excess of four consecutive weeks shall have prior assembly approval. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.28.140)

3.20.130 **Recognized holidays.**

A. The following days shall be recognized as holidays with pay for all employees who are in pay status before and following such days:

1. New Year's Day - January 1st;
2. Martin Luther King, Jr. Day - third Monday in January;
3. President's Day - third Monday in February;
4. NANA Day - one day shall be taken the day meetings of NANA are designated each year;
5. Memorial Day - last Monday in May;

6. Fourth of July - July 4th;
7. Labor Day - first Monday in September;
8. Alaska Day - third Monday in October;
9. Veteran's Day - closest Monday to November 11th;
10. Thanksgiving Day - fourth Thursday in November;
11. Christmas Eve - December 24th;
12. Christmas Day - December 25th.

B. When a holiday falls on a Saturday, the preceding Friday shall be observed as that holiday. When a holiday falls on a Sunday the following Monday shall be observed. Holidays falling Tuesday through Thursday will be observed on those days that they fall.

C. When a holiday falls within an employee's personal leave period, it is not counted as part of leave time. The employee will be paid for that holiday. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.090)

### **Chapter ~~3.32~~ 3.24 Leaves of Absence**

#### **~~3.32.010~~ 3.24.010 Leaves of absence.**

A. Employees may be granted leave without pay if approved by the personnel officer underprovided the ~~following conditions:~~

- ~~1.—Borough Interest Not Unduly Affected. Such leave shall be only when it leave will not result in undue prejudice to the interest of negatively impact the borough beyond the benefits to be realized.~~
- ~~2.—For Travel or Study. An application for leave without pay for travel or study calculated to equip an employee for more effective service to the borough.~~
- ~~3.—Length of Leave. Leave without pay requests of 10 days for compelling personal reasons are presumed not to unduly affect the borough interest.~~

B. The personnel officer should consider the eventual compensating benefits of such leave to the borough in keeping the position open, or filling it temporarily, until return of the employee. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.32.010), 1991)

#### **~~3.32.020~~ 3.24.020 Active military duty.**

Probationary and other employees shall be entitled to military leave of absence without pay to serve in the armed forces of the United States and, when relieved from duty, shall be restored to the position the employee held when ordered to duty. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.32.020), 1991)

#### **~~3.32.030~~ 3.24.030 Reserve military duty.**

A. An employee of the borough who is a member of a reserve component of the United States armed forces or who is a member of the Alaska National Guard is entitled to a leave of absence when he or she is ordered to training duty, as distinguished from active duty, with troops or at field exercises for instruction, or when under direct military control in the performance of a search and rescue mission. The leave of absence may not exceed 16-1/2 working days in a 12-month period. Military leave for reserve training purposes shall be without loss of pay.

B. An employee that is called to active duty is entitled to five days leave of absence without loss of pay. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.32.030), 1991)

~~3.32.040~~3.24.040 **Witness and jury leave.**

A. An employee who is called to serve as a juror or subpoenaed as a witness shall be entitled to court leave. The request for such leave shall be supported by written documents such as a subpoena, marshal's statement of attendance, and request for compensation for services, per diem and travel.

B. The employee shall ~~turn over to the borough for deposit all monies received from the court as compensation for service, and in turn shall be paid his~~ be paid their current salary while on court leave. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.32.040), 1991)

~~3.32.050~~3.24.050 **Time off to vote.**

A qualified voter who does not have sufficient time outside working hours within which to vote at a state election may, without loss of pay, take off as much working time as will enable voting. The employee shall be considered to have sufficient time outside working hours within which to vote if there are two consecutive hours either between the opening of the polls and the beginning of the employee's regular working shift, or between the end of the regular working shift and the closing of the polls. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.32.060), 1991)

~~3.32.060~~3.24.060 **Temporary employees.**

This chapter does not apply to employees in temporary positions. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.32.050), 1991)

**Chapter ~~3.36~~ 3.28 Health Insurance, Disability and Retirement**

~~3.36.010~~3.28.010 **Health insurance.**

A. Employees are eligible for health insurance on the first day of the day of the month following enrollment. Employees may enroll in the health insurance program by completing the required forms. ~~The borough will pay the entire cost for the employee; however, the employee will be responsible for dependent coverage.~~

B. Employees are eligible for life insurance on the first day of the day of the month following enrollment. Employees may enroll in the life insurance program by completing the required forms. The borough will pay the costs for the base amount; however, the employee may purchase additional insurance at ~~his~~the employee's own cost.

C. Employees not interested in participating in either health or life insurance programs provided by the borough shall sign a waiver.

D. Employees in temporary classification are not covered by this provision.

E. Part-Time Employees. The borough will pay a proportional cost of insurance of part-time employees, based on a percentage worked of a full-time employee.

F. Assembly members are eligible for health and life insurance subject to the provisions in this section. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.36.010), 1991)

~~3.36.020~~3.28.020 **Accidents - Duty to report.**

It shall be the duty of each employee to immediately report any and all work-related accidents to his immediate supervisor. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.36.020)

~~3.36.030~~3.28.030 **Injury while on duty.**

A. An employee who is injured while on duty is covered by the Alaska Worker's Compensation Act. ~~This act provides coverage only for 65 percent of the employee's average earning after the first three days off duty; employees will be given the additional 35 percent for up to a maximum of 90 calendar days and will be paid for the three-day waiting period.~~

B. Employees in temporary or partially exempt positions shall only receive the amounts they are entitled to from worker's compensation. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.36.030)

~~3.36.040~~3.28.040 **State retirement system.**

The borough is a participant in the State of Alaska Public Employee's Retirement System ~~effective June 2, 1986.~~ Coverage is mandatory for all employees who qualify under the program. Retirement benefits and other details regarding the retirement system may be obtained from the ~~personnel officer~~ Alaska Division of Retirement and Benefits. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.36.040)

## Chapter 3.32. Employee separation.

### 3.32.010 Layoffs - Reinstatement.

A. Borough employees may be laid off due to lack of work, or a lack of funds including a lack of funds created from budgetary reductions or the conclusion of a grant.

B. When it is necessary to reduce the number of employees because of lack of work or funds, the department head of each affected department will develop an analysis of the proposed layoffs that addresses the types of activities to be curtailed and the affected positions. The analysis will be presented to the personnel officer and mayor who shall give consideration to the employees' length of service to the borough, but such consideration does not constitute a promise or requirement that persons with seniority shall be given preference in retention. The advisability of demoting employees in higher positions to lower positions shall be also considered.

C. A former employee may be reinstated, and shall be given preference when new appointments are made, providing:

1. There exists a vacancy in the position the employee formerly held or in a position in a lower pay range; and

2. The employee's work record was satisfactory and termination notices indicate "recommend for rehire"; and

3. Not more than six months have elapsed since termination; and

4. ~~Provided~~ the applicant meets applicable physical and other standards of employment in effect at the time of the application for reinstatement.

D. Employees having more than one year of continuous service with the borough shall, if laid off in good standing, maintain pay and leave privileges for the position from which terminated, if rehired within six months.

E. Rehired employees shall be placed and perform work, without preferential treatment, as directed by department heads. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.24.080)

### **3.32.020 Resignations.**

A. An employee who desires to resign shall give at least two weeks' written notice to the employee's immediate supervisor. The period of notice may be reduced or waived by the personnel officer upon recommendation of the department head. A notice of resignation shall become part of the personnel file.

B. An employee may withdraw their resignation only prior to the effective date stated in the applicable notice of resignation with the written approval of the department head and the personnel officer.

C. Failure to give adequate notice shall be noted on the employee's separation documents and shall preclude preferential consideration for future employment.

D. The effective date of termination pursuant to a notice of resignation shall be the last day on which the employee works, or the date of notice of the employee's resignation if the employee fails to return from paid leave. (Ord. 13-10, 2013; Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.24.090)

### **3.32.030 Final pay.**

An employee whose employment is terminated by the employer for whatever reason shall be paid within three working days after the termination. If employment is terminated by the employee, payment is due at the next regular pay day that is at least three days after the employer received notice of the employee's termination (AS 23.05.140). (Ord. 13-10, 2013; Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.24.100)

### **3.32.040 Severance pay.**

When an employee in good standing is laid off due to reduction in forces, the employee is entitled to severance pay covering one week's time based on the employee's basic pay in addition to whatever wages are due. In the event of death, the employee's heirs, assigns or estate shall be entitled to the severance pay. This provision also applies to the partially exempt service. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.24.110)

## **Chapter 3.36 Standards of Conduct**

### **3.36.010 Gifts and gratuities.**

A. A borough employee shall not accept a gift, gratuity, consideration or extraordinary favor from any person doing business or likely to do business with the borough and shall immediately report to the department head any offer, promise or suggestion that such a gift be made.

B. If an offer is made to a department head, the department head shall report the offer to the mayor.

C. Any person offering a gift, gratuity, consideration or extraordinary favor to a borough employee is subject to criminal penalties prescribed in AS 11.56.100.

D. A borough employee receiving a gift, gratuity, consideration or extraordinary favor is subject to criminal penalties prescribed in AS 11.56.110.

E. This section does not apply to the giving of ceremonial gifts of nominal value, or gifts received from an employee's family or ordinary circle of friends when not offered for an unlawful purpose. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.140)

### **3.36.020 Prohibited acts.**

A borough employee may not:

A. Engage in or accept employment, or render services for personal gain when the employment or service is incompatible with, is in conflict with, or appears to be in conflict with, the proper discharge of the employee's official duties;

B. Accept, negotiate for, or promise to accept employment or anything in excess of \$50.00 in value from any person, firm or company, if the employee's department is engaged in the transaction of business which may be affected by the employee's official action;

C. Invest or hold any investment, directly or indirectly in any financial, business, commercial or private transaction, which creates a conflict or the appearance of a conflict with the employee's official duties;

D. Use information peculiarly within the employee's knowledge or purview concerning the property, government, or affairs of the borough to advance the financial or other private interest of the employee or others;

E. Accept any form of gift, loan or gratuity in exchange for the performance of the employee's duties other than the compensation and benefits provided by the borough;

F. Be a party to the purchase of or influence the purchase of goods or services for the use of the borough from any person, company or business in which the employee has a substantial financial interest, unless the purchase is approved in advance in writing by the department head or the mayor, in the event the conflict is created by the department head;

G. Engage in any business or transaction, or own a financial or other private interest, direct or indirect, which is in conflict with or presents the appearance of a conflict with, the proper discharge of the employee's official duties;

H. Engage in any other employment during those hours the employee is scheduled to work for the borough;

I. Take an active part in the management of a political party above the precinct level;

J. Require an assessment, subscription, contribution or service for a political party from a borough employee;

K. Make a false statement, certificate, mark, rating or report with regard to a test, certification or appointment, or in any manner commit a fraud preventing the impartial execution of these policies; and

L. Serve as a borough assembly person while employed by the borough, exempting personnel employed by the borough school district. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.240)

**3.36.030 Consumption of alcohol and drugs while on borough business or attending borough functions.**

A. While actually conducting borough business, all borough employees, whether in the classified, exempt or partially exempt service, shall be sober and refrain from the consumption of alcoholic beverages and any mind-altering substance that impacts the ability to function unless lawfully prescribed by a doctor.

B. Functions sponsored by any borough department, regardless of location, shall be alcohol and drug-free. Any social or civic function, regardless of sponsor, if held in a borough-owned or borough-maintained facility, shall be alcohol-free and drug-free. The prohibition in this subsection also applies to all Northwest Arctic Borough school

district functions and facilities. (Ord. 13-10, 2013; Ord. 91-07 § 1, 1992; Code 1986 § 3.24.150)

**3.36.040 Drug and alcohol-free workplace.**

A. It is the policy of the borough that it shall provide a drug and alcohol-free workplace for its employees and citizens.

1. Disciplinary Personnel action shall be taken against employees engaged in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, or an alcoholic beverage, in a local option area, within the workplace.

a. Any disciplinary personnel action, except dismissal, taken pursuant to this section shall also require the affected employee to successfully complete a drug abuse assistance or rehabilitation program and shall be imposed with 30 days' notice of a violation of this policy.

b. Subsection (A)(1)(a) of this section in no way limits the personnel officer's authority to dismiss an employee found to have violated the provisions of this subsection. Any employee dismissed pursuant to this section must show proof of successful completion of a drug abuse assistance or rehabilitation program prior to any rehire by the borough. Successful completion of any such program does not guarantee or afford a preference for rehire.

B. Definitions. For the purposes of this section:

The term "drug and alcohol-free workplace" means a borough facility or leased facility where a borough employee works. It does not apply to the school district, which shall have its own policies.

2. The term "controlled substance" means a controlled substance as defined in Schedules I through V of Section 202 of the Controlled Substance Act (21 USC 812) or those defined by AS Chapter 11.71.

3. The term "conviction" means a finding of guilt (including a plea of nolo contendere) by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

4. The term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use or possession of any controlled substance.

5. The term "local option area" shall mean a municipality or established village which adopts a local option under the provisions of AS 04.22.491. (Ord. 13-10, 2013; Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.24.130)

**3.36.050 Establishment of drug and alcohol testing program for borough employees.**

A. The mayor may prescribe drug and alcohol testing rules and regulations.

B. The drug and alcohol testing rules and regulations, if any, shall

1. Become effective upon approval by the mayor and review and ratification by the assembly.

2. Apply to all borough employees regardless of position, classification or location of employment.

3. Be incorporated into the employee handbook.

C. Notwithstanding any provisions in this chapter or any personnel rule or regulation adopted under it, the rules and procedures prescribed and approved under this section shall apply to all borough employees and if in conflict with any existing provisions shall supersede it. (Ord. 13-10, 2013; Ord. 00-09 § 1, 2000; Ord. 91-07 § 1, 1992; Code 1986 § 3.24.140)

**Chapter 3.40 ~~Grievances~~Disciplinary Actions**

**3.40.010 Scope.**

The protections of this chapter apply to those employees in the classified service that have completed their probationary period. (Ord. 13-10, 2013; Ord. 1-04 § 2 (3.24.010), 1991)

**3.40.020 Forms of discipline.**

Progressive discipline shall be followed when practicable. When the severity of the inappropriate conduct warrants and it is in the best interest of the borough, the personnel officer may permit any of the following forms of discipline to be imposed at anytime so long as such discipline is supported by just cause:

A. Oral reprimand;

B. Written reprimand;

C. Extension of probationary period;

D. Suspension with pay;

E. Suspension without pay;

F. Demotion; or

G. Dismissal. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.24.030), 1991)

**3.40.030 Grounds for disciplinary action.**

A. Employees of the borough are expected to follow generally accepted rules of conduct, whether posted or not.

B. Without limitation, proof of any one of the following shall constitute just cause for discipline:

1. Insubordination;

2. Incompetence;

3. Inefficiency;

4. Absenteeism without notification to the employee's supervisor;

5. Violation of a written borough policy, procedure, standard of conduct or regulation, which was known or reasonably should have been known to the employee;

6. Failure to perform assigned tasks to the best of his or her abilities;

7. Harassment of other employees or the public;

8. Violation of an oral directive which was known or reasonably should have been known to the employee;

9. Conviction of a crime involving moral turpitude;

10. Intoxication or substance abuse on the job;

11. Failure to make satisfactory corrections for an act or omission for which previous disciplinary action has been taken; or

12. Any other conduct commonly recognized by reasonable persons as justification for serious discipline, including dismissal.

C. Subject to 3.24.050, the following conduct may be cause for an automatic termination:

1. Absenteeism of three or more days without notification to the employee's supervisor;

2. Intoxication or being under the influence of illegal substances on the job;

3. Violent or threatening behavior;

4. Actions that pose an immediate danger to the health, safety and welfare of borough employees or the public; or

5. Other actions deemed to be a serious and significant violation of borough code or policy. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.24.040)

#### **3.40.040. Approval of disciplinary actions.**

A. The personnel officer or ~~his~~ a designee will advise and assist department heads in the handling of all disciplinary matters.

B. The personnel officer or ~~his~~ a designee shall approve all disciplinary actions concerning suspension, transfers, demotion or dismissal prior to the completion of the action, unless, in the judgment of the department head, immediate disciplinary action is required. The basis for taking immediate action shall be limited to the reasons in 3.24.040(C). In such instance, the department head shall have the authority to suspend the employee without pay pending investigation and approval of the final determination by the personnel officer or his designee. (Ord. 13-10, 2013; Ord. 91-04 § 2 (3.24.020), 1991)

#### **3.40.050 Record and notice of disciplinary action.**

A. All forms of disciplinary action, except verbal admonishments, must

1. be in writing,

2. state the full circumstances surrounding the incident such as

a. the nature of the incident,

b. the date, time and location of the incident and

c. witness statements.

3. ~~a description of the precise discipline administered, and~~
4. ~~contain a notation requesting the employee's comments.~~

~~B. The record shall also contain a notation requesting the employee's comments~~  
Written records of verbal warnings shall be prepared by the employee's supervisor and a copy given to the employee as soon as practicable following the warning.

C. Before an employee may be dismissed, demoted with a reduction in pay, or suspended without pay, the employee shall be given written notice of the intent to discipline containing the information required by subsection (A) of this section. The notice shall also contain notice of the employee's right to request an interview with the personnel officer or a hearing before the personnel committee in accordance with 3.40.060. If the employee is unavailable, the notice shall be given by mail.

D. If immediate disciplinary action was taken pursuant to NABC 3.40.030(C), the employee shall be given written notice in accordance with subsection (A) of this section within three working days of the date the disciplinary action was taken.

E. A copy of the action shall be ~~given to the employee and a copy~~ placed in the employee's personnel file, after the individual has acknowledged receipt by signature, or refused receipt, which refusal shall be acknowledged by the personnel officer. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.24.050)

### 3.40.060 Pre-disciplinary interview and hearing.

A. An employee may request an informal interview with the personnel officer for the purpose of reviewing the circumstances giving rise to the proposed disciplinary action. At the interview the employee shall be given the information regarding the action, and given an opportunity to respond if desired. At the conclusion of the interview, the personnel officer will advise the employee of the decision to rescind the proposed disciplinary action, to impose a lesser form of discipline, or to proceed with the disciplinary action as originally proposed. A written notation of this decision shall be made and a copy given to the employee.

B. An employee may request a pre-disciplinary hearing before the personnel committee established under 3.04.070 only by submitting a written request to the employee's department head, no later than 5:00 p.m. on the tenth calendar day following the day on which the employee received the notice of intent to discipline, the date of mailing such notice, or the date of the interview with the personnel officer pursuant to this section, whichever is later. Failure of the employee to timely submit written notice shall constitute a waiver of the employee's right to a pre-disciplinary hearing.

C. The personnel committee shall schedule a pre-disciplinary hearing no later than the fifteenth calendar day after receipt of a written request by the employee. The pre-disciplinary hearing shall be held only if the employee submits a timely written request as provided above.

D. Existing pay status shall not be provided beyond the fifteenth day if the employee or the employee's representative requests and is granted an extension of the hearing date for any reason. If the borough requests and is granted an extension of the hearing date for any reason, the employee shall be continued in pay status.

E. The hearing before the personnel committee shall be recorded and such recording, together with any documentary evidence submitted to the personnel committee, shall form the record of the hearing.

F. Both the affected employee and a representative of borough management may exercise the following rights at the hearing:

1. To testify;

2. To present witnesses and other evidence;

3. To cross-examine witnesses;

4. To be represented by a person of their choice at their own expense.

G. The personnel committee may exercise independent judgment as to the weight of the evidence on legal issues raised by the parties. The employer shall prove the existence of just cause to discipline the employee by a preponderance of the evidence presented.

H. The personnel committee shall issue a written decision no later than seven calendar days after the close of the hearing. The decision shall include a clear and precise statement of the reason for the decision.

I. The personnel committee may affirm the disciplinary action, or impose a lesser disciplinary action, or prohibit the imposition of discipline against the employee for incidents examined at the hearing.

J. The affected employee may appeal the personnel committee pre-disciplinary decision by filing a written notice of appeal with the Alaska Superior Court in accordance with the Alaska Rules of Civil Procedure within 30 days after the employee's receipt of the personnel committee's decision. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.24.060)

## Chapter 3.44 Whistleblowers

### 3.44.010 Definitions.

The following words have the meanings prescribed:

"Matter of public concern" means:

1. A violation of state, federal or municipal law, regulation or ordinance;
2. A danger to public health or safety;
3. Gross mismanagement, a substantial waste of funds, or a clear abuse of authority;  
or
4. A matter accepted for investigation by the office of the ombudsman under AS 24.55.100 or 24.55.320.

"Public body" means and includes an officer or agency of:

1. The federal government;
2. The state;
3. A political subdivision of the state including:
  - a. A municipality,
  - b. A school district; and
4. A public or quasi-public corporation or authority established by state or municipal law. (Ord 13-10, 2013; Ord. 91-04 § 2 (3.12.290), 1991)

### 3.44.020 Whistleblowers and other persons protected.

A. The borough may not discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because:

1. The employee, or a person acting on behalf of the employee, reports to a public body or is about to report to a public body a matter of public concern; or

2. The employee participates in a court action, an investigation, a hearing or an inquiry held by a public concern.

B. The borough may not disqualify a public employee or other person who reports a matter of public concern or participates in a proceeding connected with a matter of public concern before a public body or court, because of the report or participation, from eligibility to:

1. Bid on contracts with the Northwest Arctic Borough;

2. Receive land under a law of the state or an ordinance of the municipality; or

3. Receive another right, privilege or benefit.

C. The provisions of this section and NABC 3.44.030 through 3.44.040 do not:

1. Require the borough to compensate an employee for participation in a court action or in any investigation, hearing or inquiry by a public body;

2. Prohibit the borough from compensating an employee for participation in a court action or in an investigation, hearing or inquiry by a public body;

3. Authorize the disclosure of information that is legally required to be kept confidential;

4. Diminish or impair the rights of an employee under a collective bargaining agreement.

D. The borough shall use appropriate means to inform employees of their protections and obligations under this section and NABC 3.44.030 through 3.44.040. (Ord. 13-10, 2013; Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.260)

### **3.44.030 Limitation of protections.**

A. A person or employee is not entitled to the protections under this section and NABC 3.44.020 and 3.44.040 unless the person or employee:

1. Reasonably believes that the information reported is or is about to become a matter of public concern; and

2. Reports the information in good faith.

B. A person or employee is entitled to the protection under this section and NABC 3.44.020 and 3.44.040 only if the matter is of public concern.

C. The borough requires that, before an employee initiates a report on a matter of public concern under NABC 3.44.020, the employee shall submit a written report concerning the matter to the mayor.

1. Within 30 days of such employee's report to the mayor, the personnel committee shall meet to consider the employee's report and the mayor's response; and

2. The personnel committee shall acknowledge to both the employee and the assembly receipt of such report and a determination of what action if any is to be taken. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.270)

#### 3.44.040 Relief and penalties.

A person or employee who alleges a violation of NABC 3.44.020 has those remedies available by law. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.12.280)

### Chapter 3.48 Grievances

#### ~~3.40.010~~3.48.010 **Grievance defined.**

A. "Grievance," as used in this chapter, shall not be interpreted to mean negotiations of wages, salaries or fringe benefits; nor shall it include matters of public concern which are the subject of NABC ~~3.12.190~~3.44.020 through ~~3.12.210~~3.44.040.

B. "Grievance," as used in this chapter, means any dispute involving the interpretation, application or alleged violation of personnel laws, rules or policies as established or interpreted, and with disciplinary action, excluding disputes which are subject to the predisciplinary hearing procedure set forth in NABC ~~3.24.060~~3.40.060. Employees having unresolved complaints of sexual harassment or other discrimination may use this policy. If a person who is the subject of the harassment or discrimination complaint would normally be involved in processing or deciding the grievance, the procedure will be modified to provide for objective and fair review of the complaint.

C. Probationary employees and employees in the partially exempt service may not use this chapter to challenge or otherwise seek review of disciplinary actions of any type. (Ord. 13-10, 2013; Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.40.010)

#### ~~3.40.020~~3.48.020 **General policy.**

It is the general policy of the borough and the duty of each supervisor and administrative officer to anticipate and correct, insofar as practicable, grievance-producing circumstances and thus prevent grievances from arising. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.40.020)

**3.40.0303.48.030 Steps for handling of grievance.**

The grievance of any employee shall be handled in the following manner, each step to be taken only if satisfactory adjustment cannot be obtained on the previous level. If the grievance is of a personal nature such that it would cause undue embarrassment or seem fruitless in the employee's efforts, the employee may skip that step. However, no more than one step may be skipped and the employee must state in writing the personal nature of the grievance to the next level supervisor. It is the employee's responsibility to appeal to the next step within five days of the decision on the previous step. The employee's failure to process a grievance within the time limits shall constitute a termination of the grievance.

A. Step 1: to the employee's immediate supervisor. The employee shall discuss the grievance with ~~his~~the employee's immediate supervisor. If the grievance cannot be resolved informally through discussion, it shall then be reduced to writing as a formal grievance, and the written grievance shall be submitted to the department head. The written grievance must be submitted within 15 calendar days of the date that the employee knows or has reason to know of the conduct or actions upon which the grievance is based. The written grievance must describe the actions or omissions that are alleged to constitute improper conduct by the borough and must indicate the rule or rules that have allegedly been misapplied, misinterpreted or violated by the borough.

B. Step 2: to the department head. The department head must meet with the parties and render a written decision to the grievant within 10 calendar days of receipt of the grievance. If the employee fails to appeal the department head's decision within five calendar days, such failure to respond will serve to declare the grievance as settled based upon the department head's decision.

C. Step 3: to the personnel officer. Within five calendar days of receipt of the decision in Step 2, the grievant may appeal to the personnel officer who shall meet with the parties and within 10 calendar days render a written decision to the grievant. The decision of the personnel officer shall be binding upon the parties.

D. Upon receipt of the personnel officer's decision, the employee shall have five calendar days in which to submit a written request for review by the personnel committee. If the employee fails to file a written request for review within the five calendar days, such failure will serve to declare the grievance as settled based upon the personnel officer's decision. The decision of the personnel committee shall be final and binding upon the parties. (Ord. 13-10, 2013; Ord. 91-04 § 2, 1991; Code 1986 § 3.40.030)

**3.40.0403.48.040 Representation of grievant.**

The grievant, at any or all steps of this procedure, may have a representative at the grievant's own expense. Time may be extended by mutual consent of all parties involved. (Ord. 13-10, 2013; Ord. 00-09 § 1, 2000; Ord. 91-04 § 2, 1991; Code 1986 § 3.40.040)

**Section 2:** This Code Ordinance shall be effective immediately.

**PASSED AND ADOPTED THIS 28<sup>th</sup> DAY OF JANUARY 2014.**

  
\_\_\_\_\_  
**Walter G. Sampson, Assembly President**

**PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF JANUARY 2014.**

  
\_\_\_\_\_  
**Reggie Joule, Mayor**

**SIGNED AND ATTESTED TO THIS 28<sup>th</sup> DAY OF JANUARY 2014.**

  
\_\_\_\_\_  
**Stella Atoruk, Acting Borough Clerk**

**ATTEST:**

**First Reading: December 3, 2013.  
Second Reading: January 28, 2014**

