

**NORTHWEST ARCTIC BOROUGH ASSEMBLY
ORDINANCE 13-09**

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

WHEREAS: Chapter 6.20 of the Borough Code establishes guidelines for the Borough's long-term investments; and

WHEREAS: as the Borough's Investment Adviser, Alaska Permanent Capital Management, has recommended revisions to Chapter 6.20 in order to provide a more structured investment regime for the Borough's long-term investments; and

WHEREAS: the Borough wishes to establish an asset allocation plan for the Borough's long-term investments and provide for performance benchmarks to annually evaluate the Investment Adviser in Chapter 6.20; and

WHEREAS: the Assembly has determined that it is in the Borough's best interest to update its investment guidelines to provide more flexible and effective standards while setting performance review standards.

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

Section 1: Chapter 6.20 of the Borough Code is amended as follows with additions indicated by underlining in bold and deletions by ~~strikethrough~~ in bold:

6.20.010 Investment policy and objectives.

A. Scope. This chapter applies to the investment of all borough moneys, unless expressly provided otherwise by ordinance.

B. Standards. All persons having responsibility for making decisions regarding the investments of borough moneys shall utilize the same judgment and care, under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment considering the probable safety of capital as well as the probable income to be derived in accordance with the objectives established in subsection (C) of this section.

C. Objectives. The borough investment portfolio shall be managed so that the portfolio, as a whole, meets the following objectives, which are listed in order of relative importance:

1. Maintaining safety of principal;
2. Achieving reasonable market rate of return; and
3. Maintaining sufficient liquidity to meet the borough's cash flow requirements.

No investment shall be made of borough moneys which violates any provision of this chapter or the administrative procedures established under this chapter. (Ord. 10-08 § 1, 2010)

6.20.020 Persons authorized to invest borough funds.

A. Designation of Investment Authority. The mayor is authorized to invest borough moneys in accordance with this chapter, and shall ensure that no person invests borough moneys other than in accordance with this chapter. The mayor may delegate daily management authority over the borough investment program, in writing, only to the treasurer or an investment adviser approved by assembly resolution. The mayor may establish written administrative procedures for the operation of the borough investment program, pursuant to Section 3.08 of the Borough Charter. Whenever this chapter assigns responsibility or gives authority to the mayor, such responsibility or authority may be exercised by the treasurer if the mayor has so delegated the responsibility or authority, unless otherwise provided in this chapter. (Ord. 10-08 § 1, 2010; Ord. 13-08, 2013);

B. Periodic Review of Investment Adviser. The mayor and assembly shall annually review performance of the borough's long-term investments under this chapter. No less than every four years, the mayor, in coordination with the budget, audit and finance committee, shall review the performance of the borough's investment adviser and solicit comparable investment advisory services under the procurement guidelines in Chapter 6.16. The assembly, by resolution, may waive the requirement to solicit comparable services if it determines, in consultation with a third-party investment adviser, that the borough's portfolio performance is adequate to meet the borough's investment policy and objectives established under NABC 6.20.010. (Ord. 13-08, 2013)

6.20.030 Authorized investments.

A. Subject also to the requirements of subsection (B) of this section, borough moneys shall be invested only in the following instruments:

1. Obligations of or obligations insured or guaranteed by the United States; and United States Agency obligations.

2. Certificates of deposit and other deposits at banks and savings and loan associations collateralized as provided in NABC 6.20.040;
3. Federally insured deposits at banks and savings and loan associations;
4. Bonds and notes which are issued by any state or political subdivision thereof, or pursuant to the Tribal Tax Status Act, 26 USC Section 7871, and which are rated **AAA** or higher by a nationally recognized rating service;
5. TIPS – Treasury Inflation-Protected Security. Issued by the U.S. Treasury;
6. Banker’s acceptances drawn on and accepted by: (a) a bank, all of whose debt issues are rated at least AA or its equivalent by a nationally recognized rating service; or (b) if the bank is a subsidiary of one bank holding company, all of whose commercially held paper has the highest rating given by a nationally recognized rating service or whose debt issues meet the requirements in subsection (A)(6)(a) of this section;
7. Money market mutual funds whose portfolios consist entirely of instruments, maturity date not applicable, which are U.S. government or U.S. government guaranteed obligations, which have a constant net asset value. It is understood that the money market funds will not use leverage or use derivatives;
8. Repurchase agreements, the securities underlying the agreement being any of the items listed in subsections (A)(1) and (6) of this section which meet a margin requirement of 102 percent;
9. Corporate bonds which are rated **AABB** or higher, investment grade, by a nationally recognized rating service. ~~The borough through its normal due diligence will assess the issuer’s ability to retire the principal portion of the debt. Two limitations~~Limitations include a 10-year maximum maturity on any bond series, and not more than five percent of assets invested in a single company; If after purchase, these obligations are downgraded below investment grade, the obligations shall be sold in an orderly manner within 90 days of downgrading.
10. ~~Role of Asset Classes. The borough will utilize an asset allocation policy of 50 percent stocks: 50 percent bonds plus or minus 10 percent. NWAB will utilize the following portfolio components to fulfill the asset allocation targets and total fund performance goals. —~~Mortgage-backed securities (MBS), Asset-backed securities (ABS), and Commercial mortgaged-backed securities (CMBS) rated A or higher by a nationally recognized rating organization.
 - a. ~~Equities. It is generally recognized that, over the long run, total returns to equities will be higher than the returns to fixed income securities.~~
 - i. ~~Core Stocks. This segment of the portfolio provides broad exposure to the U.S. stock market, e.g., the large capitalization companies that make up the S&P 500 Index or the Russell 1,000 Index.~~
 - ii. ~~Large Cap Value Stocks. As a more defensive portion of the equity portfolio, value stocks are those securities in the large cap universe (defined generally as securities in excess of \$10.0 billion in market capitalization) that have below average price/book ratios. Value stocks are expected to outperform the broad market during periods of flat or declining trends but may underperform during~~

rising markets. Value stocks typically exhibit higher dividend yields, lower price/earnings ratios, and lower price/book ratios than both the overall market and growth stocks. Value stocks tend to be in more mature industries.

iii. — **Large Cap Growth Stocks.** Large cap growth stocks typically have total market capitalization above \$10.0 billion, lower yields, higher price/book ratios and higher price/earnings ratios than the securities in the broad U.S. large cap market. Growth stocks tend to be more volatile than value stocks, and generally outperform during rising markets and trail the market in flat or declining periods.

iv. — **Small Cap Stocks.** The principal characteristic of the U.S. small stock component is its emphasis on stocks with market capitalization below \$2.0 billion. Although more volatile than larger capitalization stocks, small stocks are generally characterized by faster growth and higher long term returns, and provide diversification for NWAB's U.S. stock holdings.

v. — **International Stocks.** This portfolio provides access to major equity markets outside the U.S. and consequently plays a significant role in diversifying NWAB's domestic equity portfolio. This segment will provide NWAB with exposure to developed non-U.S. markets which are a significant source of economic growth, and whose economic growth is less synchronized with that of the U.S.

vi. — **Emerging Markets.** This component is made up of equity positions in companies located in emerging, rapidly growing countries around the world, including China, Mexico, Argentina, Brazil, Korea, Taiwan, Thailand, the Philippines, etc. These countries are typically in earlier development stages of economic growth, so their expected returns are higher yet more volatile on a year-to-year basis than those of developed markets. An active and intensive research process can produce very attractive returns in this asset class. While in themselves quite volatile (due to lack of liquidity, currency risk, political risk, and thin markets), emerging markets can reduce overall portfolio volatility due to their low correlation with U.S. capital markets.

11. **Equity Objectives and Guidelines.** Domestic equities, which taken as a whole, attempt to mirror the characteristics or replicate the Standard and Poor's 500 Index or another index of similar characteristics, including both mutual funds and exchange traded funds (ETFs).

a. — Equity investment managers retained by NWAB will follow specific investment styles and will be evaluated against specific market indices that represent their investment style, and that are specified in their written investment guidelines. In addition, in the case of active managers, investment results may also be compared to a peer group of returns from other managers investing in a similar style.

b. — General equity guidelines for active managers include the following:

i. — Managers shall not purchase a company's securities if the holding amounts to more than five percent of the market value of NWAB's assets under a manager's

~~supervision, nor shall NWAB's investment constitute more than five percent of the outstanding voting stock.~~

~~ii. American depository receipts (ADRs) listed on a major stock exchange or on the NASDAQ are permitted.~~

~~iii. Exchange traded fund (ETF) listed on a major stock exchange or on NASDAQ.~~

~~iv. Convertible securities may be held in equity portfolios and shall be considered equity holdings, but shall be subject to limits in manager guidelines.~~

~~v. Securities must be traded on a major stock exchange or NASDAQ.~~

~~12. Fixed Income Objectives and Guidelines. Domestic equities, which taken as a whole, attempt to mirror the characteristics or replicate the Standard and Poor's 400 Mid-Cap Index or another index of similar characteristics, including both mutual funds and exchange traded funds (ETFs).~~

~~a. Fixed income investment managers retained by NWAB will follow specific investment styles and will be evaluated against specific market indices that represent their investment style. In addition, investment results may also be compared to a peer group of returns from other managers investing in a similar style.~~

~~b. General fixed income guidelines for active managers include the following:~~

~~ii. Permissible securities include cash equivalents, forward foreign exchange contracts, currency futures, financial futures, government and government agency bonds, Eurobonds, mortgage bonds, asset backed bonds and corporate bonds. Derivatives may not be used in the NWAB investment portfolio.~~

~~e. Any exemption from the general fixed income guidelines requires prior written approval from the borough treasurer.~~

~~13. Domestic equities, which taken as a whole, attempt to mirror the characteristics or replicate the Standard and Poor's 600 Small-Cap Index or another index of similar characteristics, including both mutual funds and exchange traded funds (ETFs).~~

~~14. International equities, which taken as a whole, attempt to mirror the characteristics or replicate the Financial Times Stock Exchange Developed ex North America Index or another index of similar characteristics including both mutual funds and exchange traded funds (ETFs).~~

~~15. Emerging market equities, which taken as a whole, attempt to mirror the characteristics or replicate the Financial Times Stock Exchange Emerging Index or another index of similar characteristics including both mutual funds and exchange traded funds ETFs.~~

~~16. Equities, which taken as a whole, attempt to mirror the characteristics or replicate the universe of domestic real estate investment trusts as represented by the Standard & Poor's REIT composite index or another index of similar characteristics, including both mutual funds and exchange traded funds (ETFs).~~

~~17. Bond funds, which taken as a whole, attempt to mirror the characteristics or replicate the Barclays Intermediate Government/Credit Index or another~~

index of similar characteristics, including both mutual funds and exchange traded funds (ETFs).

18. Bond funds, which taken as a whole, attempt to mirror the characteristics or replicate the US Treasury Inflation Protected Securities universe or portion thereof, including both mutual funds and exchange traded funds (ETFs).

19. Bond funds, which taken as a whole, attempt to replicate the Barclays Capital Global Treasury ex-US Capped Bond Index or another index of similar characteristics, including both mutual funds and exchange traded funds (ETFs).

B. One hundred percent of moneys in the working capital reserve account, established and maintained under NABC 6.12.225, shall be invested only in one or more of the investments described in subsections (A)(1) through (8) of this section. Moneys in the undesignated fund balance may be invested in any of the instruments described in subsections (A)(1) through ~~(10)~~ of this section. Moneys in the financial contingency reserve account, established and maintained under NABC 6.12.230, and monies in the sustainability fund (Ordinance No. 10-03) may be invested in any of the instruments described in subsections (A)(1) through ~~(10) of this section but may be primarily invested in the instruments described in subsections (A)(9) and (10) of this section; provided, that no more than 50 percent plus or minus 10 percent of either the undesignated fund balance or the financial contingency reserve account may be invested in bonds and no more than 50 percent plus or minus 10 percent may be invested in equities. Allocations between the two forms of investment~~ 19) of this section. Allocations shall be adjusted ~~reviewed~~ at least annually and set by assembly resolution ~~and otherwise as necessary to maintain the overall goal of a 50-50 allocation.~~

C. While maintaining compliance with provisions of the borough's code and investment policies, the prudent investor rule shall be applied by the borough's investment adviser in the management and investment of borough money. The prudent investor rule as applied to borough investments means that in making investments the adviser shall exercise the judgment and care under the circumstances then prevailing that an institutional investor of ordinary prudence, discretion and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income.

D. No person shall invest any borough moneys in any instrument which is not listed in subsection (A) of this section. ~~In the event an instrument acquired by the borough no longer qualifies as an investment pursuant to subsection (A) of this section, the mayor shall dispose of such investment within one business day. In making a decision as to the timing of the disposition of the investment, the mayor shall take into account the reason for the change in the qualification of the investment and any penalties which might be applicable to a change in the~~

~~investment. The mayor shall also advise the BAF committee of such actions taken.~~

E. So long as the bank in which the borough operating funds are deposited is on the qualified bidders' list, the mayor may enter into a repurchase agreement, certificate of deposit, or other authorized investment of 180 days or less with the bank in which the borough's daily operating moneys are deposited for the purpose of investing any excess operating moneys, which will be needed to fund borough operations during the next 180 days. This short-term investment shall be governed by the provisions of NABC 6.20.040. (Ord. 10-08 § 1, 2010)

F. Prohibited transactions for ~~equity investment~~ advisers include:

- a. The use of borrowed funds;
 - b. Short sales or margin sales;
 - c. Purchase of letter stock;
 - d. Futures, options, currency forwards and futures, and other derivatives securities.
- Any exemption from the general equity guidelines requires prior written approval from the borough treasurer.

G. No securities from an individual issuer shall comprise more than five percent of any portfolio; securities issued or guaranteed directly by the U.S. government are exempt from this limit. (Ord. 13-08, 2013)

6.20.040 Collateralization.

A. Payment of principal and interest due upon maturity of certificates of deposit, repurchase agreements or other deposits in a bank or savings and loan association in excess of federal insurance must be collateralized by any combination of the following, unless otherwise provided:

1. Obligations of or obligations insured or guaranteed by the United States; and
2. Obligations of the state of Alaska or its political subdivisions which are secured by the full faith, credit and taxing power thereof, and which are rated at least AA or its equivalent by a nationally recognized rating service.

No security pledged as collateral for a borough investment shall mature longer than three years after the date of the borough's investment transaction.

B. At all times during the term of the borough's investment in a certificate of deposit, repurchase agreement or other deposit, the bank or savings and loan association with which borough moneys are so invested shall pledge and maintain collateral in excess of federal insurance. The mayor after consultation with the Northwest Arctic Borough budget, audit and finance committee may require higher margins if the mayor

determines that such action is reasonably necessary to protect the security of borough investments.

Collateral Type U.S. Treasury Securities	Margin Requirement
Maturity date one year or less from the date of borough's investment transaction.	102%
Maturity date between one and three years from the date of borough's investment transaction.	105%
Obligations of the state of Alaska and its political subdivision secured by the full faith, credit and taxing power thereof:	
Maturity date one year or less from the date of borough's investment transaction.	102%
Maturity date between one and three years from the date of borough's investment transaction.	107%

(Ord. 10-08 § 1, 2010)

6.20.050 Portfolio diversification.

A. Borough investments shall be reasonably diversified to minimize the risk of loss resulting from overconcentration of investments in a specific maturity, a specific issuer, a specific class of security or a specific financial institution.

B. The total amount of principal and accumulated interest, which will be paid to the borough at maturity, of all certificates of deposit, other deposits and/or repurchase agreements invested with any one financial institution shall not at any time exceed 20 percent of the total net worth of the financial institution, as shown on such financial institution's most current quarterly financial statement. (Ord. 10-08 § 1, 2010)

6.20.060 Safekeeping and custody of securities.

The mayor shall enter into agreements with one or more financial institutions to provide custodial and safekeeping services for borough investments. Except as provided otherwise in this section, all investments purchased by the borough, or all securities pledged to the borough as collateral, shall be held by a custodial financial institution as agent for the borough, or as agent for a group of depositors of which the borough is also a member. At no time shall a financial institution with whom the borough is investing funds, or from whom the borough is purchasing securities, hold both the borough's money and the securities purchased or pledged as collateral. A custodial and safekeeping financial institution may hold both the borough's money and the securities purchased or pledged, for the time necessary to accomplish delivery

of either or both. Investments or securities pledged as collateral in excess of amounts insured directly or indirectly by the United States government or the appropriate agency of the United States government, or in excess of amounts insured by a statutorily created organization such as the Securities Investor Protection Corporation or its successor, shall be held by a custodial bank as agent for the borough or as agent for a group of depositors of which the borough is also a member. (Ord. 10-08 § 1, 2010)

6.20.070 Internal controls.

By administrative procedure, the mayor shall adopt a system of written internal controls to minimize the risk of loss of public funds resulting from fraud, employee error, misrepresentation by third parties, anticipated changes in financial markets or imprudent actions by borough officials and employees. The borough external auditors shall review and evaluate, at least annually, the system of internal controls to ensure that they are adequate for accomplishing the purposes in this section. (Ord. 10-08 § 1, 2010)

6.20.080 Investment reporting.

The mayor shall cause to be prepared and delivered to the assembly, and the Northwest Arctic Borough budget, audit and finance committee within 45 days following the close of each calendar quarter, quarterly reports containing the following information about each investment in which borough moneys were invested at any time during the quarter:

- A. The type of investment;
- B. The financial institution;
- C. The face amount;
- D. The interest rate;
- E. The maturity date;
- F. The purchase date;
- G. The purchase price;
- H. The yield to the borough;
- I. The current Standard and Poor's or equivalent rating of the investment;
- J. The location of the investment and collateral being provided for each investment;
- L. The market value as of the end of the quarter;
- M. The information required by subsections (A) through (I) of this section for each instrument pledged as collateral for a borough investment;
- N. Identify and describe the status of the borough's compliance or noncompliance with the portfolio diversification requirements of NABC 6.20.050. (Ord. 10-08 § 1, 2010)

~~**6.20.090 Qualifications of financial institutions and investment advisers.**~~

~~A. The mayor shall maintain a list of financial institutions or investment advisers qualified to bid on borough investments, called the "qualified bidders' list." If the investment is a repurchase agreement, certificate of deposit or other deposit, the financial institution in which moneys are invested must be on the qualified bidders' list. If the investment is a direct purchase of a security (other than a repurchase agreement, certificate of deposit or other deposit) either directly from the issuer or through an intermediary financial institution or investment adviser, the institution issuing the security need not be on the qualified bidders' list, but any intermediary institution or investment adviser must be on the qualified bidders' list. If the investment is a certificate of deposit, bids shall be required only for certificates of deposit in excess of the governmental guaranteed portion of such deposit.~~

~~B. Financial institutions or investment advisers interested in becoming included on the qualified bidders' list may apply for inclusion. The mayor may adopt procedures restricting the times at which application will be received, but must provide at least two opportunities to apply for inclusion per year. The mayor in his/her discretion may add financial institutions or investment advisers, which meet the criteria established under subsection (C) of this section, to the qualified bidders' list at any time.~~

~~C. Any financial institutions or investment advisers desiring inclusion or retention on the qualified bidders' list shall, in the mayor's discretion, be required to provide quarterly and annual financial statements, records of violations of securities laws, reports and such other information as the mayor in each case shall require to evaluate the financial institution's or investment adviser's ability to meet the objectives of the borough's investment program. Each financial institution or investment adviser applying for inclusion on the qualified bidders' list shall be subject to an analysis of its credit characteristics, capitalization, management policies, information concerning credit worthiness and, in the case of intermediary institutions, price competitiveness. All institutions or investment advisers desiring to remain on the qualified bidders' list shall provide the borough unaudited quarterly and audited annual financial statements at the time such statements are supplied to other governmental agencies or to shareholders, whichever is earlier. The mayor may adopt administrative procedures to implement the provisions of this section. (Ord. 98-04 § 1, 1998; Ord. 89-15am § 2, 1991; Code 1986 § 6.10.090)~~

~~6.20.100 — Removal from qualified bidders' list.~~

~~Upon notice the mayor may remove a financial institution or investment adviser from the qualified bidders' list if the financial institution or investment adviser fails to provide the required reports, records and information, or~~

~~otherwise fails to meet the qualifications for inclusion on such list; if the institution or investment adviser breaches or defaults on any bid or other obligation owed to the borough; if the mayor determines that the objectives of the borough investment program will not be met by investments placed with or through such financial institution or investment adviser; or if the bidder has not submitted responsive bids for the type of security being placed in each of the prior two solicitations of that type of security. (Ord. 98-04 § 1, 1998; Ord. 89-15am § 2, 1991; Code 1986 § 6.10.100)~~

~~6.20.110 — Placement of borough investments.~~

~~A. Because of rapid fluctuations in interest rates, and the brief period of availability of some securities, bids may be solicited, received and accepted, either by facsimile or other electronic means or in writing. Solicitation, receipt and acceptance of bids over the telephone is authorized only from bidders already listed on the qualified bidders' list. In order for a bid to be responsive, it must meet all of the specifications and requirements of the bid solicitation, and must be received by the mayor at or before the date and time specified in the bid solicitation. The mayor shall not consider nonresponsive bids. The mayor may withdraw a bid solicitation or reject all bids for any reason or without reason. Such withdrawal or rejection shall be binding on all parties and shall not be subject to appeal pursuant to NABC 6.20.120(A) or any other borough ordinance.~~

~~B. Bids are required to be solicited only from local financial institutions or investment advisers on the qualified bidders' list. No other financial institutions or investment advisers shall have a right to receive notices to bid, even if listed on the bidders' list.~~

~~C. The mayor shall award a bid to the financial institution or investment advisers whose bid, in the mayor's discretion best fulfills the investment objectives contained in NABC 6.20.010; meets the bid specifications; and complies with all other restrictions and limitations contained in this chapter and the administrative procedures adopted under this chapter.~~

~~D. It is the public policy of the borough that investment of borough funds with or through financial institutions or investment advisers which maintain an office in the borough on a regular and permanent basis furthers the public interest; provided, that no investment shall be placed with or through such local institution or investment adviser if the placement would result in any decrease in or impairment of the borough's ability to meet the objectives set forth in NABC 6.20.010 or elsewhere in this chapter; and provided further, the policy expressed in this subsection shall not be grounds for an appeal.~~

~~E. All securities transferred to or from the borough, except securities pledged as collateral, shall be transferred to the custodial bank before payment is made by the purchaser (using the delivery versus paying method). All securities pledged to the borough as collateral shall be received by the custodial bank designated by the mayor, before borough funds are transferred to the financial institution with which the borough is investing. The mayor may require financial institutions to deliver collateral to a custodial bank prior to bidding on borough investments.~~

~~F. The mayor shall maintain records of the specifications of all bid solicitations, and the contents of all responses thereto, including the date and time each such response was received. The mayor also shall prepare a record of the financial decision made with respect to each solicitation for bids, together with a brief explanation of the reasons for such decision. The mayor shall prepare such written records not later than one business day following the day on which the mayor takes final action with respect to each bid transaction. (Ord. 98-04 § 1, 1998; Ord. 89-15am § 2, 1991; Code 1986 § 6.10.110)~~

~~6.20.120 — Appeals.~~

~~A. A financial institution or investment adviser may appeal an action of the mayor taken under NABC 6.20.090 through 6.20.110 except NABC 6.10.110(B) to the budget, audit and finance committee only by filing a written notice of appeal, stating the reasons therefor, with the mayor not more than 10 days following the date of the action appealed. The committee shall review the matters presented to it in writing by the financial institution or investment adviser, borough records of the transaction and other information which it deems applicable, and may, at its option, hold a hearing on the matter. If the committee finds by a majority of the members considering the matter that the financial institution or investment adviser has established by clear and convincing evidence that the action appealed violated the procedural requirements of this chapter or the administrative procedures adopted hereunder, the committee shall grant the appeal. Otherwise the committee shall deny the appeal. The decision of the committee is final. The mayor may adopt administrative procedures to implement this section.~~

~~B. The mayor may suspend action with respect to any financial institution or investment adviser, or any borough investment, including the investment which is the subject matter of an appeal, during the pendency of the appeal.~~

~~C. If a financial institution or investment adviser appeal of a decision not to add it, to remove it, or to add another institution or investment adviser to the qualified bidders' list, is granted, its sole remedy shall be its inclusion on the~~

~~qualified bidders' list, or the removal of another financial institution from the list, as applicable. If an appeal regarding failure to consider its bid or failure to award the bid is granted, the appellant's sole remedy shall be payment by the borough of the costs actually incurred in preparing its bid. (Ord. 98-04 § 1, 1998; Ord. 89-15am § 2, 1991; Code 1986 § 6.10.120)~~

6.30.130 Budget, audit, and finance committee

A. The budget, audit and finance committee shall review the quarterly investment reports and make recommendations and suggestions to the mayor and the assembly for the conduct and improvement of the borough investment program. The committee shall as necessary report in writing to the assembly at least annually within 120 days of the close of the borough's fiscal year on the status of the borough's investment program, its compliance with this chapter and the outlook for future investments. The committee shall also consult with the mayor concerning the adoption of administrative procedures and internal controls to implement this chapter. The committee shall hear and decide appeals filed under NABC 6.20.120.

B. The duties of the budget, audit and finance committee under this chapter are in addition to those described by the provisions of NABC 2.04.080. (Ord. 10-08 § 1, 2010)

6.20.140 Procurement code not applicable.

The provisions of this code of ordinances relating to the procurement or purchase of goods and services by the borough, including but not limited to the provisions of Chapter 6.16 NABC, shall not apply to this chapter unless otherwise stated. (Ord. 10-08 § 1, 2010; Ord. 13-08, 2013)

6.20.150 Emergency Powers.

Notwithstanding any other provision of this chapter or this code of ordinances, if the mayor and the budget, audit and finance committee determine that a reasonable possibility exists that the principal and interest of a borough investment are not adequately secured for any reason, the mayor with the approval of the BAF committee may take any or all of the following actions in order to protect the principal and interest of such borough investment:

- A. Rescind or otherwise terminate the investment without regard to loss of interest or other penalties which may arise because of such action;
- B. Demand additional or substitute collateral;
- C. Demand additional or substitute safekeeping measures;

D. Notify state or federal regulatory agencies of the nature and reasons for such insecurity and seek assistance in remedying the insecurity; or

E. Take judicial action. (Ord. 10-08 § 1, 2010)

6.20.160 Conflict of interest.

A. No elected official, agent or employee of the borough shall:

1. Take any action, make any decisions, or exercise any official judgment or discretion with respect to a borough investment with the intent to confer a benefit upon or provide a material advantage to such person, to a member of such person's immediate family, or to any financial institution or investment adviser in connection with the investment of borough moneys;

2. Accept any gift, gratuity or other inducement which is given or offered directly or indirectly in connection with the investment of borough moneys. Prohibited gifts and gratuities include, but are not limited to: payment of money, gift of real or personal property, reduced commission for investment for the person's own account, reduced interest rate, waiver of penalties and forgiveness of delinquency or default on a loan or other consideration of value;

3. Participate in a decision regarding the investment of borough money, if the decision concerns or relates to the investment or potential investment of money in, or the purchase or potential purchase of, a security from or offered by any financial institution or investment adviser or other entity of which the person, or a member of the person's immediate family, is an officer, director or employee, or in which the person or family member has a financial interest; or

4. Perform any other act or omission which would constitute a violation of the public trust imposed upon persons handling public moneys, or which would otherwise impair the public confidence in the integrity of the borough's financial affairs.

B. Violation of subsection (A) of this section shall constitute cause for terminating employment with the borough or subject an elected official to sanctions for violation of the public trust pursuant to Borough Charter Section 2.05(2)(J).

C. Any institution or adviser whose officers, directors, employees or agents offer a benefit or other inducement to a person identified in subsection (A) of this section, in addition to any other penalty provided by state, federal or borough law, shall be disqualified from being listed on the qualified bidders' list, from receiving borough funds and from acting as a custodial representative for a period of five years. (Ord. 10-08 § 1, 2010)

6.20.170 Records retention.

The mayor shall maintain all borough records required by this chapter for a minimum of three years, unless otherwise required by state and federal law. (Ord. 10-08 § 1, 2010)

6.20.180 Interpretation and construction.

The enumeration in this chapter of instruments which are authorized for borough investment shall not be construed as requiring investment in all or any particular instrument contained in such list at any given time. (Ord. 10-08 § 1, 2010)

6.20.190 Definitions.

As used in this chapter:

“Actively traded” means securities which are regularly bought and sold on the secondary market on a daily basis and for which price formation is available on a regular basis in the Wall Street Journal.

“Agency or instrumentality of the United States” or “U.S. government agency or instrumentality” means entities whose obligations are guaranteed by the full faith and credit of the United States government.

“Bank” means an institution which is chartered or otherwise authorized to conduct business as a bank by, and regulated by, an agency of the United States government or of any state of the United States, having insurance of accounts through the appropriate insuring agency of the United States and which maintains a main or branch office within the United States on a regular and permanent basis.

“Banker’s acceptance” means an order to pay a certain amount of money on a certain date and bearing an unconditional promise of a bank to pay the draft at maturity.

“Delivery versus payment” means a situation where the purchased securities or the securities used as collateral are delivered to a custodial bank before payment is made by the purchase.

“Financial institution” means a bank, savings and loan association, or securities dealer.

“Immediate family” of a person means the person’s wife or husband, son or daughter, mother or father, brother or sister, aunt or uncle, niece or nephew, grandmother, grandfather or grandchild, and anyone residing in the person’s household on a regular basis.

“Investment adviser” or “adviser” means a firm that is paid a fee for the management of investments based on a percentage of the value of the investments under its management, with experience in managing investment portfolios for corporations,

retirement plans, foundations, governments or other institutions and which will act as the borough's agent as authorized by resolution of the assembly.

"Money market mutual fund" means a mutual fund which maintains a constant share price regardless of market fluctuations and which has an average maturity of its entire portfolio of 60 days or less.

"Northwest Arctic Borough budget, audit and finance committee" means the permanent committee established under NABC 2.04.080.

"Repurchase agreement" means a short-term transaction consisting of the purchase of a security with the promise to return it at a later date.

"Savings and loan association" means an institution chartered or otherwise authorized to do business as a savings and loan association by, and regulated by, an agency of the United States government or of any state of the United States, having insurance of accounts through the appropriate insuring agency of the United States and which maintains a main or branch office within the United States on a regular and permanent basis.

"Securities dealer" means a person, partnership, corporation or other entity licensed by the Securities and Exchange Commission to deal in secondary financial markets, which is a member of the New York Stock Exchange, and which maintains a main or branch office within the United States on a regular and permanent basis.

"Treasurer" means the officer appointed by the mayor and confirmed by the assembly pursuant to NABC 2.20.010 and defined in NABC 1.04.040.

"U.S. Treasury securities" means bills, notes and bonds issued directly by the United States Treasury through the Federal Reserve System and guaranteed by the full faith and credit of the United States government. (Ord. 10-08 § 1, 2010)

Section 2: This Code Ordinance shall be effective immediately.

PASSED AND ADOPTED THIS 3rd DAY OF December 2013.


Walter G. Sampson, Assembly President

PASSED AND APPROVED THIS 3rd DAY OF December 2013.

Reggie Joule
Reggie Joule, Mayor

SIGNED AND ATTESTED TO THIS 3rd DAY OF December 2013.

Stella Atoruk
Stella Atoruk, Acting Borough Clerk

ATTEST:

First Reading: October 29, 2013
Second Reading: December, 3 2013

