

CHAPTER 4 - PUBLIC HEALTH AND SAFETY

ARTICLE 1 - PUBLIC SAFETY AND FIRE/EMS DEPARTMENTS

[Reviser's Note - Authority to regulate public health and safety derives from Nenana Chapter Section 3.010 and AS 29.35.200(b) and other sections of Title 29. Limits on the Municipality's authority are at AS 29.35.020 and other sections. Other limits are imposed by various provisions of State and Federal law. This is re-codification of previous Chapter 4 adopted in June 1979. Section 1 of Chapter 4 was amended by adoption of Ordinance 85-05 on 7/11/85. This ordinance replaced a Fire Department and a Police Department with a Public Safety Department. All references to either Police or Fire Department elsewhere in the Code shall apply to the Public Safety Department.]

Section 4.105 Definitions

(Reserved)

Section 4.110 Police Services

The Public Safety Department shall provide police services within the city limits of the Municipality. Except as is expressly provided in these ordinances, the Public Safety Department shall not provide police service outside of city limits of the Municipality except at the request of another law enforcement agency or when in hot pursuit of a person who has committed an offense within the city limits of the Municipality. "Police services" shall include enforcement of these laws and enforcement of applicable State law.

Section 4.115 Fire Services

The Fire/EMS Department shall provide fire services within the city limits of the Municipality. Pursuant to mutual aid agreements between the Municipality and other groups or entities, the Fire/EMS Department shall provide fire services upon request outside of the city limits within the service areas specified in the mutual aid agreements, when the Fire/EMS Chief determines in his discretion that to do so will not jeopardize the safety and well-being of residents of the Municipality.

Section 4.120 Emergency Medical Services

The Fire/EMS Department shall provide emergency medical service within the city limits of the Municipality. The Fire/EMS Department shall provide emergency medical service upon request outside of the city limits when the Fire/EMS Chief determines in his discretion that to do so will not jeopardize the safety and well being of residents of the Municipality.

Section 4.125 Fees for Fire Protection and Emergency Medical Services

- (a) Persons residing outside of the Municipality may subscribe for fire protection and emergency medical services, provided the properties to be served by the Municipality are located in the service area of the Nenana Volunteer Fire/EMS Department as defined in the by-laws of the Fire/EMS Department. Persons who do subscribe shall receive fire protection and emergency medical service at the same rates and according to the same terms and conditions as residents of the Municipality.
- (b) The Municipality may, at its option, provide fire protection and emergency medical services. However, those services shall be provided only where they do not otherwise jeopardize the safety and well-being of residents of the Municipality and subscribers to those services. Fire protection and emergency medical services shall be provided to non-residents of the Municipality and subscribers to those services. Fire protection and emergency medical services shall be provided to non-resident, non-subscribers to the estimated true cost of those services to the Municipality.
- (c) The Assembly shall establish the subscription rate of non-residents by ordinance at the date the budget for the next fiscal year is established, or as soon thereafter as may be practical. The Assembly shall determine the estimated true cost of providing fire protection and emergency medical services at the date the budget is established for the next fiscal year, or as soon thereafter as may be adjusted upwards or downwards during the course of the fiscal year by ordinance.

Section 4.130 Traffic Signs and Devices

The Public Safety Department, in addition to other duties, shall have responsibility for placing and maintaining traffic control devices in accordance with the instructions of the Assembly, the Mayor and State law.

[Reviser's Note – Section 4.135 was added with the adoption of Ordinance 89-04 on 2/8/89. Section 4.1345 was further amended by adoption of Ordinances 98-14 and 99-02 on November 12, 1998 and February 18, 1999 respectively. These ordinances clarify paragraph (a)]

Section 4.135 Cost of Emergency Response

- (a) Any person who is under the influence of an alcoholic beverage or any drug or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a motor vehicle, boat, vessel or aircraft cause by that influence proximately causes an incident resulting in an emergency response, and any person whose negligence or intentionally wrongful conduct or any persons whose

continual wrongful conduct causes emergency response consistently to the same residence proximately causes any incident resulting in an emergency response, is liable for the expense of the emergency response by the municipal police, fire and emergency medical services personnel and equipment. Further classification lists persons responsible under this section as any person causing response to provide for Title 47 Protective Custody Service

- (b) For the purpose of this section a person is under the influence of an alcoholic beverage and any drug, or the combined influence of an alcoholic beverage and any drug, or the combined influence of an alcoholic beverage and any drug when as a result of drinking an alcoholic beverage or using a drug, or both, his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle, boat, vessel or aircraft with the caution characteristic of a sober person or ordinary prudence under the same or similar circumstances.
- (c) For purposes of this section a person shall be presumed to be operation a motor vehicle, boat, vessel , or aircraft while under the influence of an alcoholic beverage, if the person operates or drives a motor vehicle, boat, vessel, or aircraft when, as determined by a chemical test taken within four hours after the incident occurred, there is 1.10 percent or more by weight of alcohol in the person's blood, or 100 milligrams or more of alcohol per 100 milliliters of blood, or 0.10 grams or more of alcohol per 210 liters of the person's breath, and the person has been charged with driving while intoxicated by the district attorney's office
- (d) The expense of an emergency response shall be a charge against the person liable for expenses under this section. The charge constitutes a debt of that person and is collect by the Municipality in the same manner as in the case of an obligation under a contract, express or implied, except that liability for the expenses provided for in this section shall not be insurable and no insurance policy shall provide or pay of the expenses. Upon the filing of charge or driving while intoxicated by the District Attorney's office, or within a reasonable time after an incident not involving driving while intoxicated, the city administrator shall cause to be mailed to the person liable for expenses under this section, a letter setting forth the expenses incurred by the Municipality in responding to the incident for which the person is liable. The person liable for expenses under this section shall pay to the Municipality the expenses as stated in the letter, not more than thirty (30) days following the date of the letter. If the person fails to pay the expenses within said time period; the city administrator shall take action, including the filing of a civil lawsuit, to collect the unpaid expenses. Expense not timely paid as provided herein, shall bear interest at the statutory rate from the date of the incident. The Assembly shall establish a schedule for charge, which

fairly reflects the expenses that the Municipality incurs in making an emergency response. This schedule shall be used in calculating the expense charge by the Municipality for each incident.

[Reviser's Note – Section 4.135 was amended by adoption of Ordinance 98-14 on November 12, 1998. This ordinance adds (e) list of charges for emergency services and rennumbers old paragraph (e) to (f)]

- (e) The charges for emergency services as detailed in (a), (b), (c) and (d) of this section are as follows:
 - (1) The cost for prisoner transport shall be \$100.00.
 - (2) The cost of responding to the same residence a third time and every subsequent time thereafter within a twelve-month period will be \$100.00.
 - (3) The cost of a chemical test to determine intoxication shall be \$5.00.
 - (4) Fire/EMS response cost will be in accordance with their current fee schedule.
- (f) In no event shall a person's liability under this section for the expense of an emergency response exceed one thousand dollars (\$1,000) for a particular incident.
 - (1) an "emergency response" is a response which causes police, fire, or emergency medical services personnel to use a vehicle's emergency lights of sirens.
 - (2) "Expense of an emergency response" means the reasonable cost incurred by the Municipality in reasonable making an emergency response to the incident. These expense include, but are not limited to, the hourly cost of police, fire of emergency medical service personnel and equipment which respond to the incident, the cost of providing police and fire fighting services at the scene of the incident, the coast of providing emergency medical services to any person at scene of the incident, the coat of transporting any person from the scene to any detention facility of medical treatment facility, the cost of emergency medical services to any person during transportation, and the cost of chemical testes to determined intoxication. The expenses shall only include those costs direst arising because of the response to the particular incident.
 - (3) "Intentionally wrongful conduct" means conduct intended to injure another person or property, or a conscious act to violate the law.

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ARTICLE 2 - PUBLIC SAFETY

Section 4.205 Definitions

- (a) "Alcoholic Beverage" is a beverage containing more than one-half of one percent (0.5%) ethyl alcohol by volume;
- (b) "City limit" shall mean the boundary of the Municipality as defined by law;
- (c) The "downtown area of the city" means that area bounded on the north by the northernmost limit of Front Street, from the Park Highway to D Street; bounded on the east by the easternmost limit of D Street, and Front Street to 6th Street; bounded on the south by the southernmost limits of 6th street and the access road from the Parks Highway to A Street, from D Street to the Parks Highway; a bounded on the west by the Parks Highway, from the access road to A Street to the Front Street underpass;
- (d) "Unguarded pit or excavation" means any excavation in the Municipality which, in the judgment of municipal official, endangers or threatens people or property or constitutes an unnecessary hazard.

Section 4.210 Unguarded Pits and Excavations

- (a) No person shall create or maintain any open or unguarded pit or excavation with endangers the public.
- (b) To protect the public, the Municipality may place a protective barrier around any pit or excavation which endangers the public, or if a barrier would not adequately protect the public, the Municipality may fill the pit of excavation, all at the cost of the person creating or maintaining the pit or excavation.

[Reviser's Note - Section 4.215 was amended by Ordinance 89-01, adopted on 4/13/89, which reworded this section for clarity. Section 4.215 (a)(b)(c) were amended and (d) added with adoption of Ordinance 96-03 on September 12, 1996]

Section 4.215 City Curfew

[Reviser's Note: Chapter 4, Article 2, Section 4.215 was deleted. (a) No person under eighteen years of age may be in any public place of the municipality between the hours of 11:00 p.m. and 6:00 a.m. Sunday, Monday, Tuesday, Wednesday, Thursday and between the hours of 1:00 a.m. and 6:00 a.m. Friday and Saturday. (b) The legal guardian of any Minor who violates a curfew shall be fined not more than \$100.00 for the first such offense and not more than \$250.00 for each subsequent offense. (c) Any Minor who violates a curfew will serve five hours of community service for the first offense and two hours or community service for any subsequent offense.

(d)EXCEPTION. The following shall constitute valid exceptions to this chapter: (1) When a juvenile is accompanied by a parent or guardian or such juvenile. (2) When a juvenile is accompanied by a person at least twenty-one years of age and authorized by a parent of guardian of such juvenile to designate period of time and purpose within a specified area. (3) When a juvenile is performing, without detour of stop, an errand at the written direction of the juvenile's parents or guardian. The written directions must be timed, dated, and signed by the parent or guardian, must include a description of the errand and must be carried on the person of the juvenile. (4) When a juvenile is exercising right protected by the First Amendment of the Alaska or United States Constitutions, by first delivering to the Mayor a written communication, signed by the juvenile and countersigned, if practicable, by a parent or guardian or the juvenile with their home address and telephone number, specifying when, where and in what manner the juvenile will be in a public place during hours when this chapter is applicable to said minor in the exercise of the First Amendment right specified in such communication. (5) When a juvenile is returning home without stop or detour from and within one hour of the termination of a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. If the event is not commercial in nature or does not have a fixed, publicly known time at which it will or does end, the sponsoring organization must register the event with the Mayor at least twenty-four hours in advance, informing that Mayor of the time that such event is scheduled to begin, the place at which it shall be held, the time at which it shall end, and the name of the sponsoring organization. (6) When Authorized by a special permit from the Mayor carried on the person of the juvenile thus authorized, as follows. When necessary, nighttime activities of a juvenile may be inadequately provided for by other provisions of the chapter, then recourse may be had to the Mayor for a special permit as the circumstances warrant. Upon the findings of reasonable necessity for the use of a public place to the extent warranted by a written application signed by a juvenile and by a parent or guardian for the juvenile, if feasible. (7) When the juvenile is legally employed and carried a current written confirmation of employment executed by the juvenile's employer on a form provided by the municipality. (8) When the juvenile is, with guardian consent, engaged in interstate travel through the city or originating or terminating in the city. The deletion was made in accordance with Ordinance 2023-15 adopted on 11/14/2023.]

Section 4.220 Consumption in Public of Alcoholic Beverages

[Reviser's Note – The municipality has broad alcoholic beverage regulatory powers under AS 04.21.010]

- (a) Unless a permit has been issued under sub-paragraph (b) of this section, no person shall consume alcoholic beverages on the streets, sidewalks, parking lots, park building entry ways or other public area located in the downtown area of the Municipality.
- (b) The Assembly may on special occasions issue permits authorizing consumption of alcoholic beverages in the downtown area of the Municipality during the hours and days specified in the permit.

- (c) A person who violates this section is guilty of a violation and, upon conviction, is punishable by a fine of not more than \$100.00. A person who commits a second offense within one year of conviction is punishable by a fine of \$250.00 or imprisonment for seven days or both. A person who commits a third or subsequent offense within one year of a conviction under this section, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$500.00 or imprisonment for not more than thirty days or both.

Section 4.225 Sale of Alcohol on Election Day

- (a) The provisions of Alaska Statutes 04.16.070 shall not apply to the Municipality of Nenana
- (b) Unless otherwise in violation of the law or the Charter of Ordinances of the Municipality of Nenana, it shall not be unlawful to sell, barter, give, consume, or dispose of alcoholic beverages on licensed premises on the day of a state or local special, primary, general, or optional election, before or after the polls are closed.
- (c) This section shall not authorize the sale, barter, consumption, or disposal of alcoholic beverages otherwise prohibited by law, Charter of Ordinance

[Revisors Note: Ordinance No. 2019-02 An Ordinance of the City of Nenana Exercising the Right of the City Under AS 17.38.110(a) o Prohibit Commercial Marijuana Sales within the Limits of the City of Nenana, Alaska and Enacting a New Section in the City Code of Ordinance was adopted on March 4th 2019]

Section 4.228 Marijuana Sales, Cultivation and Processing Prohibited

The operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores is prohibited within the city limits of the City of Nenana.

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ARTICLE 3 - ABONADONED PROPERTY

Section 4.305 Definitions

- (a) "Abandon" and "abandoned" mean, for the purpose of Section 4.310 - 4.315, personal property that has been left in a place other than on real property belonging to the owner of the personal property, when the owner has demonstrated no intent to reclaim that personal property. If a person fails to assert ownership of personal property for sixty days that person shall be presumed to have abandoned that property.
- (b) "Personal property" and "property" mean all property by real property and fixtures and includes property of no value; personal property does not include motor vehicles.

Section 4.310 Unlawful to Abandon Property; Penalty

- (a) No person shall abandon any personal property upon any public property or upon the private property or another without the owner's permission.
- (b) Any person abandoning property in violation of this section shall be fined \$50.00 for each offense and shall pay the costs of disposing of the abandoned property.

Section 4.315 Disposition of Lost or Abandoned Property

- (a) Any personal property lost or abandoned within the Municipality may be impounded by the Municipality.
- (b) If the owner of impounded property can be discovered, the owner shall be notified that the property has been impounded and will be disposed of unless claimed. The owner claiming impounded property shall pay the cost of impoundment, if any, as a condition to the release of that property.
- (c) If impounded property is not claimed within thirty days, the property may be sold at public auction. The Municipal Clerk shall post a notice of sale in three public places within the Municipality at least ten days before the sale. Such notice shall contain the date, time and place of the sale and a brief description of the property to be sold.
- (d) If impounded property is deemed unsalable by the Municipal Clerk, it may be disposed of in any manner convenient to the Municipality.

[Reviser's Note - Sections 4.410 et seq. Provide for the disposition of abandoned vehicles.]

Section 4.320 Accumulation of Refuse or Garbage Prohibited

- (a) No owner or tenant shall permit any uncovered or unsightly accumulation of refuse or garbage to exist on his or her land.
- (b) Any person who permits any uncovered or unsightly accumulation of refuse or garbage to remain on his or her land may be ordered by the Municipality to dispose of such refuse or garbage and may be fined five dollars for each day the refuse or garbage remains, if he or she fails to do so. The total fine under this section shall not exceed \$500.00.
- (c) At its option, and in addition to the penalties under (b) the Municipality may remove any uncovered or unsightly accumulation of refuse or garbage at the expense of the person allowing such accumulation to remain on his or her land if the Municipality gives that person at least ten days actual notice that it will do so.

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ARTICLE 4 – ABANDONED VEHICLES

Section 4.405 Definitions

- (a) “Vehicle” means a device by which a person or property may be transported upon a highway or travel way, except devices used exclusively upon rails or tracks.

Section 4.410 Unlawful to Abandon Vehicle

No person may abandon a vehicle upon a highway, street, public property, or private property within the Municipality of Nenana

Reviser’s Note – AS 28.11.100 provides that a “municipality may adopt an ordinance establishing procedures for the abatement and removal from private or public property, as a public nuisance or a health or safety hazard, a wrecked, dismantled, or inoperative vehicle or a vehicle otherwise presumed to be abandoned.” This is a recodification of AS 28.11

Section 4.415 Presumption of Abandonment

A vehicle is presumed abandoned which has been left unattended standing, parked upon or within ten feet of a traveled portion of a street in excess of 48 hours; or a vehicle left standing or parked on private property in excess of 24 hours; or upon other public property for more than 320 days without consent of the owner or person in charge of the property.

Section 4.420 Removal of Abandoned Vehicles

- (a) An authorized Municipal employee or any person under contract with the Municipality may remove or cause to be removed to a place or storage any abandoned vehicle.
- (b) Removal of an abandoned vehicle from private property shall be upon the written request of the owner or person in lawful possession or control of the property, on a form prescribed by the Municipal Clerk.
- (c) A written report describing the vehicle, the date, time and place of removal, the grounds for removal and the place of impoundment of the vehicle shall be made by the municipal employee or person under contract with the Municipality and kept by the Municipal Clerk. A copy of the report shall be given to the person storing the vehicle.
- (d) Notice of impoundment of the vehicle shall be made pursuant to Section 4.425.

Section 4.425 Notice to Owners and Lienholders

- (a) The Municipality, within thirty days of impoundment, or within such longer time as is necessary to obtain written confirmation of the vehicle's current registered owner or lienholder, if any, shall give notice of impoundment. Written notification by registered or certified mail, return receipt requested, shall be sent to the vehicle owner of record and all lienholders of record. If the Municipality knows or has reason to believe that the registered or legal owner of an impounded vehicle is residing at an address other than the address shown on the vehicle registration, the notification shall also be sent to that address.
- (b) If the vehicle is not registered in the state of, if the name and address of the registered or legal owner or lienholder cannot be ascertained, notice shall be given by publication. The notice shall be published once a week for four consecutive weeks in a newspaper of general circulation in the Municipality. A notice containing the same information as the published notice shall be posted at the Municipal Clerk's office for the same period of time. The published and posted notice shall include:
 - (1) A description of the vehicle by make, model, color and identification, number;
 - (2) The name of the registered or legal owner and lienholders, if known;
 - (3) The date on which the vehicle was impounded;
 - (4) A statement that unless the vehicle is reclaimed within thirty days of the date of the notice, all right, title, and interest in the vehicle will be forfeited and title shall vest in the Municipality of Nenana, Alaska.

Section 4.430 Vesting of Title

Title to the impounded vehicle shall vest in the Municipality of Nenana, Alaska as provided in AS 28.11.050.

Section 4.435 Redemption

A person may redeem a vehicle impounded under this ordinance prior to auction pursuant to Section 4.440 of this chapter by paying to the Municipality the charges or towing, storage, notice and other costs of impoundment.

Section 4.440 Disposal of Abandoned Vehicles

Upon satisfaction of the notice requirements of impoundment prescribed by Section 4.325, a vehicle may be sold at public auction twenty days after notice of that auction as provided by AS 28.11.070. Disposal of the vehicle under this section shall not prevent the Municipality from instituting a civil action against a person named in AS 28.11.010, if liable, for costs exceeding receipts for the disposal for the vehicle

Section 4.445 Disposal Procedures

- (a) The Mayor, with the advice and consent of the Assembly, shall designate a storage area for abandoned vehicles.
- (b) The Municipality may contract for the towing, storage and auction of abandoned vehicles.

Section 4.450 Opportunity for Hearing

- (a) Unless immediate action in impounding a vehicle is necessary for the protection of the health, safety, or welfare of the public, the Municipality shall give notice of the opportunity for a hearing before the Municipality impounds a vehicle. If action is required under this title and prior opportunity for a hearing cannot be afforded, the Municipality shall promptly give notice of the opportunity for a hearing as soon after the action as possible to the person concerned.
- (b) The notice under this section shall state the reason for the Municipality's proposed action and provide for a reasonable response date specified in the notice. The hearing shall be considered waived if there is not a request for a hearing by the response date specified in the notice.

Section 4.455 Hearings and Appeals

- (a) All hearings required under this chapter shall be conducted by a hearing officer appointed by the mayor, with the advice and consent of the Assembly.
 - (1) Qualifications for hearing officer are that the person be a municipal voter of the Municipality of Nenana, Alaska and have no personal or financial interest in the outcome of the proceedings.
 - (2) Procedures followed shall be consistent with due process of law. Hearings shall be informal and technical rules of evidence shall not apply. Proceedings at the hearings shall be recorded. The hearing officer shall not be required to file a full opinion or make a formal finding of fact, but the hearing officer shall state the reasons for the decision and the facts relied upon
 - (3) The hearing shall be held at the municipal offices unless another location is agreed to by the hearing officer, the Municipality, and the person requesting the hearing. The hearing officer shall grant a delay or continuance of the hearing only upon a showing of good cause. Failure to attend the requested hearing will be considered a waiver of the hearing and the Municipality may take appropriate action.

- (4) If at the close of the hearing the hearing officer finds that the record supports the impoundment of the vehicle, the officer may so order.
- (c) A person aggrieved by the decision of the hearing officer may appeal to the Assembly sitting as board of appeals. Appeal must be filed with the Municipal Clerk within ten days of the decisions by the hearing officer. The board of appeals shall conduct a hearing de novo. Timely filing of an appeal made prior to an impoundment ordered by the hearing officer will stay the order of impoundment until after the appeal has been heard by the board of appeals.
- (d) Any assembly member with a personal or financial interest in the outcome or who acted as a hearing officer shall not sit as a member of the board of appeals. If less than four assembly members are present and eligible to sit on the board, up to three municipal voters may be appointed by the mayor or mayor pro tem to sit as board of appeals members.
- (e) A person aggrieved by a decision of the Assembly sitting as a board of appeals may, within thirty days, initiate a proceeding in district court pursuant to AS 28.05.141.

Section 4.460 Towing and Storage Lien on Impounded Vehicles

Persons authorized by contract or other official order to remove an abandoned vehicle have a lien upon the vehicle towed, moved, or stored by them in their possession, in accordance with AS 28.11.090.

Section 4.465 Disposition of Proceeds of Sale

The proceeds from the sale of an abandoned vehicle under this chapter, after deducting the cost of impounding, advertising, and selling of the vehicle, shall be deposited in the Municipality's general fund.

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ARTICLE 5 - MOTOR VEHICLES

Section 4.505 Definitions

- (a) "Motor vehicle" means a vehicle that is self-propelled except one propelled by human or animal power.
- (b) "Snow machine" means a vehicle propelled by mechanical power, supported in part by skis, belt, cleats or low-pressure tire, and designed primarily to travel over ice or snow, and includes "three and four wheelers" and all-terrain/track vehicles.
- (c) "Safe speed" means that maximum rate of travel at which a reasonable person would operate a motor vehicle or snow machine under conditions prevailing at that time and never exceeding the posted speed limit.
- (d) "Driver/Operator" means a person with a valid state of Alaska drivers license [AS 28.15.011(b)].

Section 4.510 Snow Vehicles

- (a) The definitions under this section are the same as under Section 4.505
- (b) Motor Vehicle Law Applicable: A person operating a snow machine upon or along a Nenana City roadway shall be granted the same rights and is subjected to the same duties applicable to the driver of other motor vehicles by the traffic regulations, statutes, and ordinances, except as to special regulations in this chapter. Snow machines shall be registered as required by state law.
- (c) Hours of Operation: No snow machine shall be operated within the municipality between the hours of 11:00 p.m. and 6:00 a.m. except in going to or returning from an evening ride or activity outside of the city or to use the vehicle as transportation to work.
- (d) Operation rules:
 - (1) A snow machine operating in the city limits shall operate at a "Safe Speed" at all times.
 - (2) Snow machines shall travel only in single file on streets and alleys.
 - (3) A snow machine shall carry passengers only when adequately equipped to do so.
 - (4) Snow machines shall not tow any person or persons, by may carry additional passengers by sled or skid, the tongue of which is attached directly to the snow machine and is designed to do so. Towed device must have reflectors on side a rear to be used after sunset.

- (5) Both driver and passengers under 19 years of age shall wear helmets while operating a snow machine in the city limits. Windshields or eye protection is required.
- (6) A snow machine shall not pass any vehicle while traveling on the streets of Nenana, except to pass a vehicle parked or standing, and then with due care and signals.
- (7) Snow machines shall not be operated on school grounds, public parks, ski trails, or on private property without permission of the owner of said property, further, no snow machine shall be operated on that part of the highway that comes into town and ends at "A" Street.
- (8) Periodically, the city will close certain streets or areas during the construction season or during emergency situations. These areas will be announced and posted at the location and at the Office of the Municipality Clerk.
- (e) Required Equipment:
 - (1) Lights and Reflectors: At least one headlight, aimed and sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead. One red light, one stop-signal light and one red reflector, which must be mounted upon the rear of the vehicle. The lights must be visible from a distance of at least 600 feet.
 - (2) Brakes: Snow machines must be equipped with brakes which will control the movement, stop, and hold the vehicle under normal driving conditions.
 - (3) Throttle: Snow machines will be equipped with a throttle which when released by hand, will return the engine speed to idle and disengaged the clutch.
 - (4) Muffler: Snow machines will be equipped with an exhaust muffler in good working order.
 - (5) Other Equipment: All snow machines will have snow flaps behind tracks or wheels, protective shield over all moving parts and a spark arrester.
- (f) Penalties: Any person who violates any section of the ordinance is guilty of a violation and upon conviction is punishable by a fine of not more than \$100 for each offense.
- (g) Enforcement: This ordinance will be enforced by any means legally available to the Municipality of Nenana

[NOTE: besides all the motor vehicle regulations, statutes, and ordinances, the State requires operators of snow vehicles to register their machine and to report accidents resulting in injury, or death of a person or property damage other than to his snow machine, the estimated amount of \$100 or more]

[Reviser's Note – Section 4.510 was codified with the adoption of Ordinance 86-18]

Section 4.515 Speed Limit

- (a) It shall be a violation for any person to operate any vehicle above the posted speed limit or in excess of a safe speed, whichever shall be lessor.
- (b) The posted speed limit shall be set by the Assembly by resolution.
- (c) Notice of a change in the posted speed limit shall be posted in three conspicuous places about the Municipality at least one week before its effective date. Notice shall not be required when an emergency situation, as determined by the mayor, or his designee exists.

[Reviser's Note – AS 29.32.210 provides that a municipality may regulate: "vehicle, pedestrian, and other traffic and licensing and operation of motor vehicles, including snow vehicles and off-highway vehicles, and operators," consistently with AS 28.01.010]

[Reviser's Note – Chapter four, Article 5 of this Code was amended by adoption of Section 4.520 and 4.525 with the adoption of Ordinance 86-02 on 3/13/86]

Section 4.520 Adoption of State Traffic Regulations

- (a) The following state regulations are hereby incorporated by reference into this ordinance:
 - (1) 13 AAC 02, Motor Vehicle and Driving Offenses: Rules of the Road;
 - (2) 13 AAC 04, Motor Vehicle and Driving Offenses: Vehicle Equipment and Inspection;
 - (3) 13AAC 06, Inspection of Vehicle;
 - (4) 13AAC 08, Driver Licensing and Safety Responsibility;
 - (5) 13AAC 40.010, Definitions.
- (b) Unless specified otherwise by law, a person convicted of a violation of one of the above-incorporated regulations is guilty of an infraction and is punishable by a fine not to exceed \$300.00.
- (c) An infraction as provided for herein is not considered a criminal offense and may not result in imprisonment; not is a fine imposed for the commission of an infraction considered a penal or criminal punishment; nor may the commission of a single infraction result in the loss of a driver's license or privilege to drive; not does a person cited with an infraction have a right to trial by jury or a court appointed counsel.

[Reviser's Note – AS 28.01.010 provides that a municipality may adopt by reference all or part of title 28 and the regulations adopted under the title. See also AS 29.40.050(b) and (c)]

[NOTE: This ordinance shall no prohibit the municipality from enacting consistent and compatible ordinance, which may be necessary to meet specific local traffic requirements]

Section 4.525 Adoption of State Bail Forfeiture Schedules

The bail forfeiture schedules adopted by the Alaska Supreme Court for motor vehicles and traffic offenses under AS 28.05.151, are insofar as bails mentioned in those schedules relate to infractions incorporated by reference in Section 4.520, incorporated by reference in this ordinance.

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ARTICLE 6 – ANIMAL CONTROL

Section 4.605 Definitions

- (a) “Animal” means all domestic or domesticated members of the animal kingdom, classes Mammalia and Aves.
- (b) “Animal control officer” means a person whom some responsible municipal official has designated to enforce the provisions of this article.
- (c) “At large” means an animal is “at large” when it is off the premises of its owner and is not under control of its owner or some person able to control the animal.
- (d) “Cat” means any domestic or domesticated member of the family Felidae.
- (e) “Municipal pound” means the premises designated by the Municipality for confinement and care of animals found at large within the Municipality.
- (f) “dog” means any of the mammalian family Canidae commonly known as dogs, but not fox, coyote, wolf, or any other game species the taking of which is regulated by the state. Any fox, coyote, or wolf kept as a pet under a valid state permit shall be treated like a dog by these ordinances.
- (g) “Domestic animal” means horses, cattle, pigs, mules, goats, and fowl.
- (h) “Owner” means any person owning, keeping, or harboring an animal within the Municipality.
- (i) “Vicious animal.” An animal is vicious if it has attacked or bitten a human being without provocation or it has been found running at large in a pack of other animals.

Section 4.610 Registration of Dogs

(Repealed April 23, 1981 by Ordinance No. 81-5)

Section 4.615 Registration Fee; Exemption for Sled Dogs

(Repealed April 23, 1981 by Ordinance No. 81-5)

Section 4.620 Time of Registration

(Repealed April 23, 1981 by Ordinance No. 81-5)

Section 4.625 Duration of Registration

(Repealed April 23, 1981 by Ordinance No. 81-5)

Section 4.630 Animals at Large Prohibited

No animal owner shall permit his or her animal to be at large within the Municipality.

Section 4.635 Impounding of animals found at Large; vicious or Rabid Animal

- (a) any animal found at large within the Municipality shall be captured and confined to the municipal pound for a period of seventy-two hours, unless sooner redeemed by its owner.
- (b) Any vicious or rabid animal found at large need not be impounded but may be destroyed by the animal control officer by the most rapid and humane means available if the public safety requires it and the animal cannot be impounded safely.

[Reviser's Comments – If practical, all animals suspected of rabies should be impounded for purposes of quarantine under Section 4.670.]

Section 4.640 Notification to animal Owner Upon Impounding

- (a) Immediately upon impounding any animal, the animal control officer shall make reasonable effort to notify the animal owner of such impoundment and to inform the owner of the conditions upon which the owner may regain custody of the animal.
- (b) If the owner of an impounded animal is not known, the animal control officer shall post a notice and description of the animal at the Municipal Clerk's Office.

Section 4.645 Care of Impounded Animals; Pound Fees

- (a) All animals impounded shall be properly housed, fed, watered and cared for.
- (b) The owners of impounded animals shall pay a pound fee to meet the cost of caring for their animals.
- (c) The Assembly may by resolution adopt a schedule of pound fees.
- (d) The schedule of pound fees shall be posted at the municipal pound and in the Municipal Clerk's Office.

Section 4.650 Redemption of Dogs by Owner

- (a) The animal control officer shall release any animal from the municipal pound upon receipt of satisfactory proof of ownership of the animal and payment of the pound fee due.
- (b) Payment of pound fees shall not relieve an animal owner from liability because of violation of any provision of this article.

Section 4.655 Disposal of Unredeemed Animals

- (a) Any animal remaining in the pound at the end of its seventy-two hour impound period may be held for adoption, sold, or killed, in the discretion of the animal control officer.

- (b) No impounded animal may be placed for adoption, sold or killed until 72 hours after notification under Section 4.640 is made.

Section 4.670 Rabies Control

- (a) Duty to Report Biting Every animal which may have rabies, and which bites a person shall be reported to the animal control officer. The animal control officer shall determine whether the animal shall be quarantined and where. Every physician treating an animal bite shall report the incident to the animal control officer along with any information that might be helpful.
- (b) Quarantine Any animal which, in the judgment of the animal control officer, may have rabies, shall be quarantined for ten days at the municipal pound or on the animal owner's property at the discretion of the animal control officer. The person bitten or that person's parent or guardian may request a quarantine. Notwithstanding this Section, the animal may be destroyed without impoundment or quarantine to protect the public safety as provided for in Section 4.435(b).
- (c) Positive Diagnosis
 - (1) Positive diagnosis of rabies shall be reported to the Alaska Department of Health and Social Services. The animal control officer shall follow all directions of the Department regarding the animal.
 - (2) The officer shall be responsible for disposing of all animals diagnosed as having rabies.
 - (3) The mayor shall have the power to order a thirty-day quarantine of all animals in the Municipality. This quarantine may be extended for not more than an additional six months. No animal shall be removed from the Municipality of Nenana during the quarantine except with the written permission of the mayor.
 - (4) No person shall kill or dispose of an animal suspected of having rabies except in defense of life or limb.
- (d) Immunization No person shall own, keep or harbor a dog, cat, or other animal susceptible to rabies over six months old that has not been immunized for rabies.

Section 4.675 Domestic Animals

No owner of a domestic animal shall permit that domestic animal to be at large within the Municipality. The owner of a domestic animal who permits that animal to be at large commits a separate offense each day on which that animal is at large.

Section 4.680 Offenses and Penalties

- (a) Violations A person who commits any of the following offenses is guilty of a criminal violation, punishable as set out below:
- (1) Permitting, allowing or creating conditions which permit or allow an animal, except a domestic animal, to be at large, including negligence in restraining the animal;
 - (2) Permitting or allowing a domestic animal to be at large in violation of Section 4.675;
 - (3) Failing to immunize an animal against infection from rabies as required by Section 4.670;
 - (4) Violations of Section 4.680(a)(1), upon conviction, shall be punishable as follows:
 - (A) for a first offense in the preceding twelve months, by a fine of \$25.00;
 - (B) for a second offense in the preceding twelve months, by a fine of \$50.00;
 - (C) for a third or more offenses in the preceding twelve months, by a fine of \$75.00;
 - (5) Violations of Section 4.680(a)(2) or (3), upon conviction, shall be punishable by a fine of \$25.00;
 - (6) It shall not be a defense under this section that any preceding offense or offenses involved a different animal or animals.

Reviser's Comments – Section 4.680(a) was substantially modified and amended by Ordinance 81-5 dated April 23, 1981.

- (b) Misdemeanors A person who commits any of the following offenses is guilty of a misdemeanor and, except as noted in this subsection, upon conviction is punishable by a fine of not more than \$500.00.
- (1) Interfering with or preventing an animal control officer from carrying out lawful duties; except that in addition to the fine provided by this subsection a person may be imprisoned for not more than thirty days;
 - (2) Failing to surrender to an animal control officer upon demand an animal suspected of being infected by rabies;
 - (3) Permitting, allowing or negligently or recklessly creating conditions that allow an animal or a domestic animal to be at large, where that animal causes property damage, personal injury to a person or injury to another person; except that upon a second or subsequent conviction, a person in addition to the fine imposed by this subsection, may be imprisoned for not more than thirty days;
 - (4) Falsifying or altering rabies immunization records.

- (c) Civil Costs Not Affected. The prosecution of a person under this section shall not relieve or affect that person's liability for civil damages under this Article.

CHAPTER 4 – PUBLIC HEALTH & SAFETY

Article 7 – Public Nuisances, Fire Hazards and Health Hazards

[Reviser’s Comments – This ordinance was adopted after the 1979 Code revision as Ordinance No. 80-1 on January 26, 1980.]

Section 4.705 Definitions

- (a) “Fire Hazard” means a structure, condition or event existing on private property, which creates a present danger of fire or combustion.
- (b) “Hazard” means a fire hazard or a health hazard.
- (c) “Health hazard” means a structure, condition or event existing on private property, which presents or in the immediate future will present a present danger to the health of the community; the risk of injury to children on or near the property constitutes a “health hazard.”
- (d) “Nuisance” means a structure, condition or event constituting a nuisance per se or nuisance at law under the common law.
- (e) “Record owner of the property” means the person or persons shown on the city property tax roll as having an interest in the property at the date of the first notice under Section 4.70.

Section 4.710 Authority to Correct, Abate or Demolish Public Nuisances and Hazards

The Municipality under the procedures set out in this Article, may correct, abate, or demolish structures on property located within the Municipality where those structures represent a nuisance, fire hazard or health hazard.

Section 4.715 Procedure

No action shall be taken under authority of this Article except upon adoption of an ordinance specifically addressing the property upon which the nuisance or hazard to be corrected, abated, or demolished is located, describing the risk those structures present to the public, and describing the action the Municipality proposes to take with regard to those structures.

[Reviser’s Comments – An ordinance to abate a nuisance or hazard should take substantially the following form:]

ORDINANCE NO. _____ - _____

AN ORDINANCE TO ABATE A (Nuisance, health hazard or fire hazard) EXISTING ON (legal description of property) BY (Description of action to be taken; e.g., demolishing structures on the property)

THE MUNICIPAL ASSEMBLY OF THE MUNICIPALITY OF NENANA, ALASKA FINDS:

1. A (nuisance, health hazard or fire hazard) exists on the property described as (legal description of property) in that (describe why there is a hazard or nuisance; be as specific as possible).
2. The property is within the city limits of the Municipality of Nenana, Alaska.
3. The record owner of the property is (full name of legal owner or owners).
4. Notice of the introduction of this ordinance has been given to the record owner of the property by the Municipal Clerk.
5. (Use only if property is to be demolished.) The assessed value of the structures and improvements constituting the (nuisance or hazard) is (assessed value). The estimated expense of repairing or correcting the (nuisance or hazard) is (estimated expense). That expense is more than one half of the assessed value.
6. The Municipality has authority to abate nuisances and hazards under Code of Ordinances Section 4.710.

NOW, THEREFORE, BE IT ENACTED BY THE MUNICIPAL ASSEMBLY OF THE MUNICIPALITY OF NENANA, ALASKA:

1. A (nuisance, health hazard or fire hazard) exists on (legal description of property).
2. (Use only if property is to be demolished.) The cost of repairing or correcting the nuisance exceeds one-half the assessed value of the structures involved.
3. The Mayor or his designees are authorized and empowered to (describe action to be taken; e.g., burn the structure to the ground).
4. This ordinance shall become effective 30 days from adoption, unless appeal is timely taken by the persons affected.

Section 4.720 Notice to Record Owner

Before an ordinance may be introduced under Section 4.710, and again before that ordinance may be voted upon, the Municipal clerk shall attempt to give written notice of the action or proposed action to all record owners of the property. That written notice shall be sent not more than 30 days and not less than 10 days before the ordinance is introduced and again before the ordinance is voted upon. That written notice shall contain the legal description of the property on which the structures are located, the condition or conditions constituting a nuisance or hazard, the date on which the Municipal Assembly will consider the ordinance, and the action or actions the

Municipality will take if the ordinance is adopted. Notice shall be sent by certified mail to the last known address or addresses of the property owners, or personally delivered to the record owner. Notice also shall be affixed to the structures that are the subject of the ordinance. Actual notice of pending action is not required under this Section.

[Reviser's Comments – Notice under this section should be in substantially the following form:]

NOTICE TO PROPERTY OWNER

To: (All names of record owners and addresses)

NOTICE IS HEREBY GIVEN that the attached ordinance (will be-was) introduced at a meeting of the Municipal assembly of the Municipality of Nenana, Alaska on (date to be introduced or introduced).. This ordinance affects property in which our records show you have an interest. UNLESS YOU TAKE STEPTS TO CURE THE HAZARDS DESCRIBED IN THE ORDINANCE WITHIN 10 DAYS, THE MUNICIPAL ASSEMBLY WILL CONSIDER THIS ORDINANCE AND MAY, IN ITS DISCRETION, ADOPT IT.

YOU HAVE THE RIGHT TO APPEAR AT THE MUNICIPAL ASSEMBLY MEETING AND TO TESTIFY. YOU HAVE THE RIGHT TO HAVE AN ATTORNEY APPEAR ON YOUR BEHALF. YOU MAY SUBMIT A WRITTEN STATEMENT, AS WELL.

DATE OF MUNICIPAL ASSEMBLY MEETING: _____

PLACE OF MUNICIPAL ASSEMBLY MEETING: _____

TIME OF MUNICIPAL ASSEMBLY MEETING: _____

DATED: _____

MAILED: _____

Municipal Clerk

Section 4.725 Limits on Authority

The Municipality may not cause a structure it has determined to be a nuisance or hazard to be demolished unless it has first determined that the expense of repairing, correcting or otherwise abating the nuisance or hazard exceeds fifty percent of the assessed value of the structure. The value of the land shall not be included in calculating the assessed value of the structure.

Section 4.730 Appeals

On enactment of an ordinance described in Section 4.715, the Municipal Clerk immediately shall send notice of the adoption of the ordinance to the record owner of the property together with a copy of the ordinance as adopted. The recorded owner of the property shall have thirty days measured from the date the notice is sent to appeal the adoption of the ordinance. If no appeal is taken within that time, the mayor or his designees shall carry out the actions described in the ordinance. If an appeal is taken

within that thirty-day period, further action under the ordinance shall be stayed until the appeal is resolved.

[Reviser's Comments – Notice must be given to affected property owners that the ordinance has been adopted and that they may appeal within a specified period of time. Notice should be in substantially the following form:]

NOTICE OF ADOPTION OF ORDINANCE AND RIGHT OF APPEAL

To: (All names of record owners and addresses).

NOTICE IS HEREBY GIVEN that the Municipal Assembly of the Municipality of Nenana, Alaska adopted on _____ the ordinance attached to this notice. According to the Municipality's records, you have an interest in the property that will be affected by the ordinance. YOU MAY APPEAL THE ASSEMBLY'S ADOPTION OF THE ORDINANCE. IF YOU WISH TO APPEAL, YOU MUST DO SO WITHIN THIRTY (30) DAYS OF THE DATE OF THIS NOTICE. OTHERWISE, THE MUNICIPALITY WILL TAKE THE ACTION DESCRIBED IN THE ORDINANCE.

DATED: _____

SIGNATURE _____
MUNICIPAL CLERK

LAST DAY TO APPEAL: (Date plus 30 days)

CHAPTER 4 – PUBLIC HEALTH AND SAFETY

Article 8 – Nenana volunteer fire/EMS Departments

[Reviser's Note: Article 8 was added to chapter 4 of the Nenana Code of Ordinances with the Adoption of Ordinance 87-11 on 1-28-88. This entire Article was repealed and re-enacted with the adoption of Ordinance 89-06 on 6-8-89, with reorganized the Fire/EMS Department and created a Fire/EMS Authority.]

[Reviser's Note: The fire/EMS authority was repealed by adoption of Ordinance 90-04 on May 31, 1990, this Section 4.815(b) was amended.]

Section 4.810 Volunteer Fire/EMS Department Establishment

There shall be a Volunteer Fire/EMS Department in and for the Municipality of Nenana to be known as the "Nenana Volunteer Fire/EMS Department". It shall consist of such officers, firefighters, and emergency medical provider personnel as the fire/EMS Chief shall deem necessary for the effective operation of the department. Officers shall be elected and terms specified by the Volunteer General Membership.

Section 4.815 Volunteer Fire/EMS Department

- (a) Organization Members of the Volunteer Fire/EMS Department may organize into a voluntary association with the election of their own officers and by-laws.
- (b) Limitation of Powers of Volunteer Department The functions and duties of the officers of the Volunteer Department shall not interfere with the duties of employees of the Municipality who are charged with responsibility for all Fire/EMS service activities of the Municipality. The voluntary association shall in no way limit the power of the Fire/EMS Chief. All property used by the volunteer Fire/EMS Department is and remains the property of the Municipality of Nenana. Expenses for maintenance, repair or replacement of property shall be paid by check upon proper voucher by the regular Municipal authorities.

CHAPTER 4 – PUBLIC HEALTH AND SAFETY

Article 9 – Mental Health Department

[Revisor's Note: Article 9 of chapter 4 was removed by adoption of Ordinance 2003-02]

CHAPTER 4 - PUBLIC HEALTH AND SAFETY

Article 10 - Regulation of Fireworks

[Revisor's Note: Article 10 was enacted by adoption of Ordinance 92-10 on 9-10-92. Ordinance 92-10 was enacted as Article 9; however, Article 9 was already codified as Mental health Department. The change from Article 9 to Article 10 for codification purposes was authorized by adoption of Resolution 92-24 on 10-15-92.]

Section 4.1010 Fireworks defined

In this article, "fireworks" means every item defined as "fireworks," "salable fireworks," or "dangerous fireworks" in AS 18.72.050 as it currently exists or may be hereafter amended. "Fireworks" includes but is not limited to, roman candles, sky rockets, helicopter type rockets, cylindrical fountains, cone fountains, wheels, illuminating torches and colored fire in any form, dip sticks, mines and shells of which the mortar is an integral part, firecrackers, bottle rockets, and any combination thereof.

Section 4.1015 Prohibitions

- (a) No person shall use or explode fireworks within the City of Nenana, except in the following manner. Fireworks which are designed primarily for vertical flight, i.e. bottle rockets, sky rockets, roman candles, and other skyborne missiles, may only be used or exploded along the bank of the Tanana River between the boar ramp and the pavilion. No fireworks of any kind may be used or exploded anywhere within the city between the hours of 10:00 P.M. and 8:00 A.M. On July 4 and 5 this time limit shall not apply, but on those days skybourne missiles may still only be used or exploded along the bank of the Tanana River, as set forth above.
- (b) Within the City of Nenana, no person shall sell fireworks to any other person who is below the age of 18 years.
- (c) No person shall sell fireworks within the City of Nenana unless the person possesses a currently valid city fireworks permit obtained pursuant to Section 4.1020.
- (d) Within the City of Nenana, no person who is under the age of 18 years shall purchase fireworks.

Section 4.1020 Fireworks Permit

- (a) Every person desiring to sell fireworks within the City of Nenana shall first apply to the mayor or his designee for a permit. Application shall be made in a manner satisfactory to the mayor or his designee and shall contain the applicant's name, business and residence address, business, and residence telephone numbers, and

such other information as the mayor or his designee shall deem necessary. The application shall be accompanied by a copy of a valid permit pursuant to AS 18.72.020, properly endorsed by the state fire marshal, which has not expired. The application shall also be accompanied by a non-refundable application fee of \$250.00. In his discretion, the mayor or his designee may require proof that the insurance policy required under AS 18.72.020 is still in effect.

- (b) A permit shall be valid for one year or for such other time period as the mayor or his designee shall determine to be reasonable under the circumstances.

Section 4.1025 Criminal Penalties

Every person who violates Section 4.915 is guilty of a violation and upon conviction shall be punished by a fine of not more than \$300.00.

Section 4.1030 Civil Enforcement

- (a) The city or an aggrieved person may maintain a civil action to enjoin a person from violating Section 4.1015 and for damages caused by the violation.
- (b) If the mayor or his designee has reasonable grounds to believe that a person has, or is about to, violate Section 4.1015 (b) or (c), the mayor or his designee may notify the person of the city's intent to revoke the permit issued to that person and the reasons therefore. The mayor or his designee shall provide the person a reasonable opportunity to present information and an explanation of the situation. Thereafter if the mayor or his designee still has reasonable grounds to believe that a person has, or is about to, violate Section 4.1015 (b) or (c), the mayor or his designee may revoke the person's fireworks permit.
- (c) The City or an aggrieved person may maintain a civil action to enjoin a person who has violated Section 4.1015 (b) or (c) from selling fireworks within the city and for damages caused by the violation.

Section 4.1035 Confiscation of Fireworks

If a peace officer has probable cause to believe that a person has, or is about to, violate Section 4.1015, the peace officer may confiscate all fireworks in the possession or control of that person. The peace officer shall promptly surrender the fireworks to the City of Nenana. Forfeiture proceedings with respect to the confiscated fireworks may be conducted in accordance with any procedure applicable to the seizure of property by a state or federal law enforcement officer.

CHAPTER 4 - PUBLIC HEALTH & SAFETY

Article 11 -

CHAPTER 4 – PUBLIC HEALTH & SAFETY

Article 12 – Extraterritorial Road Maintenance

[Reviser's Note: Article 12 was enacted by adoption of Ordinance 92-09 on 9-10-92.]

Section 4.1210 Extraterritorial Road Maintenance

Pursuant to authority granted under AS 29.35.020, the city is authorized to maintain streets and roads outside the city limits. The City may utilize funds made available by the State of Alaska for that purpose.