



ORDINANCE 14-03

AN ORDINANCE AMENDING TITLE 1, GENERAL PROVISIONS

WHEREAS, the legislative power of the Aleutians East Borough is vested with the Assembly pursuant to Alaska State Statute 29.20.050; and

WHEREAS The Aleutians East Borough Planning Commission recommends that the Assembly adopt the proposed changes to the Aleutians East Borough Code Title 1, General Provisions.

NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become part of the Aleutians East Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effectiveness. This ordinance shall become effective upon adoption.

Section 4: Adoption by Section. Aleutians East Borough Code, Title 1 General Provisions is hereby repealed and Aleutians East Borough Code, Title 1 General Provisions as annexed hereto as part of this ordinance is hereby adopted as Title 1 of the Code of Ordinances of the Aleutians East Borough.

INTRODUCED: Dec. 12, 2013

ADOPTED: Jan. 16, 2014

Stanley Mack, Mayor

Date: 1/16/14

ATTEST:

Tina Anderson, Clerk

Date: 1/16/14

TITLE 1
GENERAL PROVISIONS

CHAPTERS

- 1.04 CODE ADOPTION
- 1.08 BOROUGH DATA
- 1.12 INTERPRETATION AND USE OF ORDINANCE CODE
- 1.20 ORDINANCE -- RESOLUTION -- TECHNICAL CODES
- 1.24 PENALTIES
- 1.28 FINANCIAL DISCLOSURE

TITLE 1

GENERAL PROVISIONS

Chapter 1.04 -- Borough Code

Section:

1.04 Code Adoption.

1.04 Code Adoption.

There is hereby adopted the "Code of the Aleutians East Borough of Alaska, and shall be sufficient to designate any ordinance adding to, correcting, amending, or amendment of the Code. Ordinances shall be cited by giving the title, chapter and section numbers preceded by the Code."

(Ord. 88-1, Sec. 1.04, part, 1987)

TITLE 1

GENERAL PROVISIONS

Chapter 1.08 -- Borough Data

Sections:

- 1.08.010 Aleutians East Borough, Mayor - Assembly Form.
- 1.08.020 Borough Limits.
- 1.08.030 Borough Seal.

1.08.010 Aleutians East Borough, Mayor - Assembly Form.

- A. The Aleutians East Borough shall continue as a municipal corporation under the name: "Aleutians East Borough."
- B. The government of the Borough shall be that commonly known and designated as the Mayor - Assembly form.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.08.010, part, 1987)

1.08.020 Borough Limits.

The boundaries of the Borough are those set out in the Certificate of Incorporation dated October 23, 1987.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.08.020, part, 1987)

1.08.030 Borough Seal.

The Borough shall have a seal of two concentric circles bearing in the outer circle "Aleutians East Borough, Alaska," "October 23, 1987," and shall depict in the inner circle the word "Seal".

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.08.030, part, 1987)

TITLE 1

GENERAL PROVISIONS

Chapter 1.12 -- Interpretation And Use Of Ordinance Code

Sections:

- 1.12.010 Definitions.
- 1.12.020 Grammatical Interpretation.
- 1.12.030 Ordinances included in the Aleutians East Municipal Code.
- 1.12.040 Amendments to Code - Effect of New Ordinances Amendatory Language.
- 1.12.050 Supplements or Revisions to the Aleutians East Borough Municipal Code.

1.12.010 Definitions:

Whenever the following words and terms are used in the Aleutians East Borough Municipal Code, they shall have the meaning herein ascribed to them unless the context clearly indicates otherwise.

- A. "Administrator" means the Aleutians East Borough Administrator;
- B. "Attorney" means the Borough Attorney;
- C. "Assembly" means the assembly of the Aleutians East Borough;
- D. "Borough" means the Aleutians East Borough;
- E. "Building Official" means the borough building official;
- F. "Clerk" means the Borough Clerk;
- G. "Clerk-treasurer," whenever the reference is to duties not involving money, means the Borough Clerk;
- H. "Code" means the Aleutians East Borough Municipal Code;
- I. "Computation of time" means the time within which an act is to be done. Throughout the Code, wherever a period of time is specified, that period of time shall be computed by excluding the first day and including the last day; and if the last day is Saturday, Sunday or a Borough holiday, that day shall be excluded, except when the term "calendar days" is used where the

period of time shall be strictly computed by excluding the first day and including the last day without excluding weekends or holidays;

- J. "Finance Director" means the Borough Finance Director;
- K. "Judge" or "Magistrate" means the judge of any court of law;
- L. "Law" denotes applicable federal law, the Constitution and Statutes of the State Alaska, the Ordinances of the Borough and, when appropriate, any and all rules and regulations which may be promulgated thereunder;
- M. "May" is permissive;
- N. "Mayor" means the Borough Mayor;
- O. "Month" means calendar month;
- P. "Municipality" means the Aleutians East Borough
- Q. "Municipal Officer or Employee" means an officer or employee of the Borough, whether paid or unpaid, including members of the Assembly, and members of any board or commission;
- R. "Must" and "Shall" - each is mandatory;
- S. "Oath" shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed;"
- T. "Or" is disjunctive and "and" is conjunctive;
- U. "Ordinance" means a law of the Borough, provided that a temporary or special law, administrative action, order or directive, may be in the form of a resolution;
- V. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant of the entirety, or agent in charge for any of the foregoing, of the whole or a part of such building or land;
- W. "Peace Officer" means any officer of the state police, members of the police force of any incorporated borough or borough, United States Marshals and their deputies, and other officers whose duty it is to enforce and preserve the public peace;

- X. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them;
- Y. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
- Z. "Presiding Officer: The Mayor is the Presiding Officer at meetings of the Assembly;
- AA. "Property" includes real and personal property;
- BB. "Published" or "public noticed" means posting in two public places within each community of the Borough as well as on the Borough's public notice page of its website.
- CC. "Real property" includes lands, tenements and hereditaments;
- DD. "Registered mail" includes certified mail. When the use of registered mail is authorized or required by this Code, certified mail may be used unless expressly prohibited;
- EE. "Sidewalk" means that portion of a street between the curb line and adjacent property line intended for the use of pedestrians;
- FF. "Signature" or "subscription" includes mark when the person cannot write, with his name written near the mark by a witness who writes his own name near the person's name, but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto;
- GG. "State" means the state of Alaska;
- HH. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, parking areas, or other public ways which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of the state of Alaska;
- II. "Tenant" and "occupant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others;
- JJ. "Title of Office." Use of the title of any officer, employee, department, board or commission of the borough and borough;

KK. "Treasurer" whenever the reference to the duties involving money, means the borough finance director;

LL. "Written" includes printed, or typewritten; and,

MM. "Year" means a calendar year.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.12.010, part, 1987)

1.12.020 Grammatical Interpretation

The following grammatical rules shall apply in the Aleutians East Borough Municipal Code and the Ordinances of the Borough:

- A. Gender. Any gender includes the other genders;
- B. Singular and Plural. The singular number includes the plural and the plural includes the singular;
- C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable;
- D. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language; and,
- E. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.12.020, part, 1987)

1.12.030 Ordinances Included in the Aleutians East Borough Municipal Code:

The Assembly, with the advice and assistance of the Borough Attorney, shall cause each ordinance and resolution having the force and effect of law to be printed as promptly as possible following its adoption in the following manner:

- A. Ordinances enacted by the Borough Assembly that are permanent in nature shall be inserted in the Aleutians East Borough Municipal Code when properly prepared and authenticated by the Borough Clerk.

- B. Emergency, bond, temporary and appropriation ordinances and resolutions shall not be included in the Aleutians East Borough Municipal Code, but shall be retained by the Borough Clerk in the form enacted.
- C. All titles to ordinances, all enacting and repealing clauses, all declarations of emergency, and all purpose, validity and construction clauses shall be omitted from the Code unless from their nature it may be necessary to retain some of them to preserve the full meaning and intent of the ordinance.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.12.030, part, 1987)

1.12.040 Amendments to Code - Effects of New Ordinances
Amendatory Language.

- A. All ordinances passed subsequent to this Code which amends, repeal or in any affect this Code, may be provided with numbers in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.
- B. Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Borough Municipal Code is hereby amended to read as follows: "_____." The new section shall then be set out in full as desired.
- C. In the event a new section not heretofore existing in the code, is to be added by an ordinance, the following language shall be used: "That the Aleutians East Borough Municipal Code is hereby amended to add a section, to be numbered _____, which said section reads as follows:" The new section shall then be set out in full as desired.
- D. All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.12.040, part, 1987)

1.12.050 Supplements or Revisions to the Aleutians East Borough
Municipal Code.

The Aleutians East Borough Municipal Code shall be supplemented at regular intervals, or if the assembly deems that supplementation of the Code is unnecessary, the Code shall be revised and printed every five years.

(Ord. 14-03 (Amended Ord. 88-11), Sec. 1.12.050, part, 1987)

TITLE 1

GENERAL PROVISIONS

Chapter 1.20 -- Ordinance--Resolutions--Technical Codes

Sections:

1.20.010	Acts of the Assembly.
1.20.020	Acts Required to be by Ordinance.
1.20.030	Ordinance Procedure.
1.20.040	Ordinance Form and Content.
1.20.050	Emergency Ordinances.
1.20.060	Signature.
1.20.070	Ordinances Confined to Single Subject.
1.20.080	Repeal Shall Not Revive Any Ordinances.
1.20.090	Act by Agents.
1.20.100	Codes of Regulations.
1.20.110	Formal Acts by Resolution.
1.20.120	Resolutions - Reading - Hearing - Final Passage Posting.
1.20.130	Rules and Regulations.

1.20.010 Acts of the Assembly.

The Assembly shall act only by ordinance, resolution or order. Laws of a general, uniform and permanent nature shall be reduced to ordinance; laws of a temporary or special character shall be reduced to resolution. When the Assembly expresses anything by way of command, the form of expression shall be "ordered"; when it expresses opinions, principles, facts or propositions, the form shall be "resolved."

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.20.010, part 1987)

1.20.020 Acts Required to be by Ordinance.

In addition to other actions which AS Title 29 requires to be by ordinance, the Assembly shall use ordinances to:

- A. Establish, alter or abolish Borough departments;
- B. Fix the compensation of members of the Assembly;
- C. Provide for a fine or other penalty, or establish rules or regulations for violation of which a fine or other penalty is imposed;

- D. Provide for levying of taxes;
- E. Make appropriations and supplemental appropriations or transfer appropriations;
- F. Grant, renew, or extend a franchise;
- G. Regulate the rate charged by a borough public utility; and
- H. Adopt, modify or repeal the Comprehensive Plan, zoning and subdivision ordinances, building and housing codes, and the official map.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.20.020, part, 1987)

1.20.030 Ordinance Procedure.

- A. An ordinance may be introduced if it is in writing and substantially in the form required in Chapters 12 and 20 of this Title.
- B. The following procedure governs the enactment of all ordinances except emergency ordinances:
 - 1. An ordinance may be introduced by a member or committee of the governing body, or by the Mayor.
 - 2. An ordinance shall be set by the governing body for a public hearing by the affirmative vote of a majority of the votes authorized on the question.
 - 3. At least five days before the public hearing a summary of the ordinance shall be published in accordance with the publication requirements of Sec. 1.12.010 with a notice of the time and place for the hearing.
 - 4. Copies of the ordinances shall be available to all persons present at the hearing, or the ordinance shall be read in full.
 - 5. During the hearing the governing body shall hear all interested persons wishing to be heard.
 - 6. After the public hearing the governing body shall consider the ordinance, and may adopt it with or without amendment. If an amendment to the ordinance is so substantial as to change the basic character of the ordinance, the ordinance, as amended, shall be treated as newly introduced and shall be scheduled for a public

hearing to occur after publication of the summary and notice required in subsection B (3) of this section.

7. The governing body shall print and make available copies of an ordinance that is adopted.
- C. An ordinance takes effect immediately upon adoption or at a later date specified in the ordinance.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.20.030, part, 1987)

1.20.040 Ordinance Form and Content.

All ordinances enacted by the Assembly shall be in substantially the following form:

- A. The proposed ordinance shall have a heading and number.
- B. Title: A short summary of the ordinance's provisions shall be included in a title at the head of the ordinance. The title shall make reference to any penalties imposed by the ordinance.
- C. Enacting clause: The enacting clause shall read: "BE IT ENACTED BY THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH:"
- D. Substantive part of the ordinance: The provisions of the ordinance will follow the enacting clause.
- E. Signatures: Appropriate places shall be provided for the signatures of the Mayor and Borough Clerk.
- F. Attestation: The enactment and passage date of the ordinance shall be attested by the Borough Clerk.
- G. Code section numbers: Ordinances which amend, add to or repeal sections of the Aleutians East Borough Municipal Code shall refer to the Code sections by number.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.20.040, part, 1987)

1.20.050 Emergency Ordinance.

- A. To meet a public emergency the Assembly may adopt ordinances effective on adoption. Every emergency ordinance must contain a finding by the Assembly that an emergency exists and a statement of the facts

upon which the finding is based. The ordinance may be adopted, amended and adopted, or rejected at the meeting to which it is introduced. The affirmative vote of all members present, or the affirmative vote of three-fourths of the total membership, whichever is less, is required for adoption. The Assembly must print and make available copies of adopted emergency ordinances.

B. An emergency ordinance may not be used to levy taxes to grant, renew or extend a franchise, or to regulate the rate charged by a public utility for its service.

C. Emergency ordinances are effective for sixty days.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.20.050, part, 1987)

1.20.060 Signature.

Each ordinance shall be signed by the Mayor at its adoption and attested by the Borough Clerk.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.20.060, part, 1987)

1.20.070 Ordinances Confined to Single Subjects.

Every ordinance shall be confined to one subject unless it is an appropriation ordinance or one codifying, revising, or rearranging existing ordinances. Ordinances for appropriations shall be confined to appropriation. The subject of each ordinance shall be expressed in the title.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.20.070, part, 1987)

1.20.080 Repeal Shall Not Revive Any Ordinance.

The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.20.080, part, 1987)

1.20.090 Acts by Agents.

When an act is required by ordinance and the act may be done as well by an agent as by the principal, such requirement shall be construed as to require and include all such acts performed by an authorized agent.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.20.090, part, 1987)

1.20.100 Codes of Regulations.

The Assembly may in a single ordinance adopt or amend by reference provisions of a standard published code of regulations. The regular ordinance procedure applies except that neither the ordinance nor its amendments need be distributed to the public or read in full at the hearings. For a period of fifteen days before adoption at least five copies of the Code must be made available for public inspection at a time and place set out in the hearing notice. Only the adopting ordinance need be printed after adoption. The Assembly shall provide for the adopted Code to be sold to the public.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.20.100, Part, 1987)

1.20.110 Formal Acts by Resolution.

A. Formal acts by the Assembly not required by law to be enacted by ordinance and not being acts of a general and permanent nature may be adopted by resolution. A resolution shall have:

1. The heading "Aleutians East Borough, Alaska";
2. The space for a number to be assigned -- "Resolution, No.";
3. A short and concise title descriptive of its subject and purpose;
4. Short premises or whereas clauses descriptive of the reasons for the resolution, of necessary;
5. The resolving clause "Be it Resolved";
6. Provision for signature after the date, and designated lines for the signatures of the mayor; and,
7. An attestation to be signed by the Clerk.

B. All resolutions adopted by the Assembly whether at the instance of the Assembly, shall conform to the requirements set forth in (A.) above.

C. Resolutions shall not be included in the AEB Municipal Code .

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.20.110, part, 1987)

1.20.120. Resolution--Adoption--Effective Date--Posting.

- A. Every resolution shall be introduced in writing and may be adopted by the Assembly upon introduction and with or without amendments.
- B. Unless specifically stated within the resolution or otherwise required by law, a resolution becomes effective-immediately upon adoption.
- C. Upon adoption of a resolution, a copy of the resolution shall be posted on the public bulletin board at the Borough headquarters within the Borough, as well as the Borough's website for at least fourteen days. Failure to post the resolution as required under this subsection does not affect the validity or enforceability of the resolution.

(Ord. 14-03 (Amended Ord. 92-6), Sec. 1.20.120, part, 1987)

1.20.130 Rules and Regulations.

Any rule or regulation made by any administrative officer or board or commission shall be published in accordance with the publication requirements of Sec. 1.12.010.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.20.130, part, 1987)

TITLE 1

GENERAL PROVISIONS

Chapter 1.24 -- Penalties

Sections:

1.24.010	General Penalty.	
1.24.020	Administrative Enforcement Action.	
1.24.030	Administrative Inspections.	1.24.040
Authorization and Collection.		Penalty Surcharge

1.24.010 **General Penalty.**

A. Every act prohibited by the ordinance of this Borough is unlawful. Unless another penalty is expressly provided by an ordinance, every person convicted of a violation of any of the ordinances of this Borough, or any rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000) per violation. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

(Ord. 14-03 (Amended Ord. 88-1), Sec. 1.24.010, part, 1987)

B. Notwithstanding the availability of any other remedy, the Borough or an aggrieved person may institute a civil action against a person who violates a borough ordinance or any order issued under the AEBMC. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the Superior Court shall grant the injunction as provided in AS 29.25.070(b) or any successor law.

1.24.020 **Administrative Enforcement Action.**

For provisions authorizing the Assembly to prescribe penalties for violation of codified ordinances not to exceed a fine of \$1,000 per violation, see AS 29.25.070.

A. The Administrator may order:

1. The discontinuation of unlawful uses of land or structures;

2. The removal or abatement of unlawful structures, or any unlawful additions or alternations thereto;
 3. The discontinuation of construction or other preparatory activity leading to an unlawful structure or an unlawful use of a land or structure;
 4. Compliance with a permit condition or compliance with AEBMC requirements;
 5. Cleanup and remediation; and
 6. When necessary to ensure compliance with this title, the suspension or revocation of permits, or other borough land use entitlements.
- B. Upon complaint by a citizen, or upon his own initiative, the Administrator may, after investigation, initiate State of Federal criminal proceedings against any person for the violation of this title.

1.24.030 Administrative Inspections.

The Administrator or his designee may conduct both announced and unannounced inspections necessary to enforce the AEBMC and land use permit terms and conditions.

1.24.040 Penalty Surcharge Authorization and Collection.

The surcharge required to be imposed pursuant to AS 12.55.039 is authorized and shall be imposed as a surcharge on penalties imposed for the violation of an ordinance, Code provision, or regulation of the Aleutians East Borough brought under a citation or criminal complaint that would require a proceeding in the Alaska Court System if the defendant were to enter a plea of not guilty. The court may impose and collect the surcharge on all penalties imposed by the court where fines are paid to the court. For all criminal proceedings in which the fine is collected by the Borough, the surcharge imposed shall be collected by the Borough with the payment of the fine and regularly paid over to the appropriate agency of the state less any collection and administration fee or reimbursement authorized by the state to be retained by the Borough.
(Ord. 14-03 (Amended Ord. 99-01), new section 1.24.020)

TITLE 1

GENERAL PROVISIONS

Chapter 1.28 – Financial Disclosure

Sections:

1.28 Financial Disclosure

1.28 Financial Disclosure

- A. Financial disclosure is required by all Aleutians East Borough Assembly members, Aleutians East Borough School Board members, Planning Commission members and the Aleutians East Borough Mayor.
- B. Each elected or appointed official shall complete and file with the clerk a report of financial disclosure and business interest, the Aleutians East Borough Financial Disclosure form, no later than April 15 of each year.

(Ord. 14-03 (Amended Ord. 12-03), New Sec. 1.28)